

LAWS OF DELAWARE  
VOLUME 84  
CHAPTER 67  
152nd GENERAL ASSEMBLY  
FORMERLY  
SENATE BILL NO. 139

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO UNDERINSURANCE MOTORIST COVERAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 39, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3902A. Notice of settlement offer to underinsured motor vehicle insurer.

(a)(1) If an attorney representing an injured individual, or an unrepresented injured individual, receives a written offer from a motor vehicle liability insurer, or that insurer's authorized agent, to settle a claim for bodily injury or death, and the amount of the settlement offer, in combination with any other settlements arising out of the same occurrence, would exhaust the bodily injury or death limits of all applicable liability insurance policies and bonds, the attorney or unrepresented individual may send to the injured individual's underinsured motor vehicle insurer notice of the settlement offer by certified mail or electronic mail.

(2) The notice must include a copy of the motor vehicle liability insurer's written settlement offer, the motor vehicle liability insurer's proposed release, and the motor vehicle liability insurer's declaration page for the applicable liability insurance policy.

(b) Within 60 days after receipt of the notice under subsection (a) of this section, the underinsured motor vehicle insurer shall send to the attorney representing an injured individual, or the unrepresented injured individual, one of the following by certified mail or electronic mail:

(1) Written consent to accept the settlement offer.

(2) Written refusal to consent to the acceptance of the settlement offer outlining the good faith reasons for the refusal.

(c)(1) The injured individual may accept the motor vehicle liability insurer's settlement offer and execute releases in favor of the motor vehicle liability insurer and the motor vehicle liability insurer's insured without prejudice to any claim the injured individual may have against the underinsured motor vehicle insurer if one of the following applies:

a. The injured individual receives written consent under paragraph (b)(1) of this section to accept the settlement offer.

b. The underinsured motorist insurer does not comply with subsection (b) of this section.

(2) If consent or no response is provided by the underinsured motor vehicle insurer within 60 days of receipt of the notice under subsection (a) of this section, the underinsured motor vehicle insurer cannot deny the validity of any underinsured motorist coverage on the basis that other liability insurance existed for a given claim.

(d) Written consent by any underinsured motor vehicle insurer to acceptance of a settlement offer under paragraph (b)(1) of this section may not be construed to limit the right of the underinsured motor vehicle insurer to raise any issue relating to liability as to the cause of the underlying accident or damages in an action against the underinsured motor vehicle insurer.

(e) Nothing in this section may be construed as requiring consent from an underinsured motor vehicle insurer for any person to establish the validity of an underinsured motor vehicle claim.

Approved June 29, 2023