

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2386

Introduced by

Senators Kelsh, Fischer, Urlacher, Yockim

1 A BILL for an Act to amend and reenact subsection 2 of section 26.1-40-15.1, section
2 26.1-40-15.6, and subsection 3 of section 26.1-41-13 of the North Dakota Century Code,
3 relating to the payment of uninsured and underinsured motor vehicle coverages.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 26.1-40-15.1 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. "Underinsured motor vehicle" means a motor vehicle for which there is a bodily
8 injury liability insurance policy, or bond providing equivalent liability protection, in
9 effect at the time of the accident, but the applicable limit of bodily injury liability of
10 ~~such~~ the policy or bond:

11 a. ~~Is less than the applicable limit for underinsured motorist coverage under the~~
12 ~~insured's policy; or~~

13 b. ~~Has been reduced by payments to other persons injured in the accident to an~~
14 ~~amount less than the limit for underinsured motorist coverage under the~~
15 ~~insured's policy. is less than the amount needed to compensate the insured~~
16 for actual damages.

17 **SECTION 2. AMENDMENT.** Section 26.1-40-15.6 of the North Dakota Century Code
18 is amended and reenacted as follows:

19 **26.1-40-15.6. Limitations.** The uninsured and underinsured coverages provided for in
20 sections 26.1-40-15.1 through 26.1-40-15.7 do not apply to bodily injury, sickness, disease, or
21 death resulting therefrom of an insured:

22 1. While occupying a motor vehicle owned by, furnished or available for the regular
23 use of the insured, a resident spouse, or resident relative, if such motor vehicle is

- not described in the policy under which a claim is made, or is not a newly acquired or replacement motor vehicle covered under the terms of the policy;
2. While operating or occupying a motor vehicle without the specific permission of the owner thereof, or without a reasonable belief that the insured is entitled to do so;
3. For damages for pain, suffering, mental anguish, inconvenience, or other noneconomic loss which could not have been recovered had the owner or operator of the motor vehicle responsible for such loss maintained the security required under any applicable state no-fault law;
4. For punitive, exemplary, or other noncompensatory damages;
5. With respect to which the applicable statute of limitations has expired on the insured's claim against the uninsured or underinsured motorist;
- ~~6. Until the limits of all bodily injury liability policies and bonds that apply have been exhausted by payment of settlements or judgments, or such limits or the remaining part of them have been offered to the insured in writing;~~
- ~~7.~~ Where the insured, without the written consent of the insurer, shall make any agreement or settlement with any person who may be legally liable therefor, if such agreement adversely affects the rights of the insurer. The insurer is not bound by any agreement or settlement without its prior knowledge and consent. This limitation does not apply to underinsured motorist coverage where the insured has advised the insurer, in compliance with subsection 2 of section 26.1-40-15.5, and the insurer has failed to advance the required payment to protect its right of reimbursement and subrogation; and
- ~~8.~~ 7. If the insured has failed to report the accident to the proper law enforcement authorities as soon as practicable.

SECTION 3. AMENDMENT. Subsection 3 of section 26.1-41-13 of the North Dakota Century Code is amended and reenacted as follows:

3. An insurer, health maintenance organization, or nonprofit health service corporation, other than a basic no-fault insurer, authorized to do business in this state may coordinate any benefits it is obligated to pay for economic loss incurred as a result of accidental bodily injury, with the first ~~five~~ ten thousand dollars of basic no-fault benefits. A basic no-fault insurer authorized to do business in this

1 state may coordinate any benefits it is obligated to pay for medical expenses
2 incurred as a result of accidental bodily injury in excess of ~~five~~ ten thousand
3 dollars. An insurer, health maintenance organization, or nonprofit health service
4 corporation, ~~other than a basic no-fault insurer~~, may not coordinate benefits unless
5 it provides those persons who purchase benefits from it with an equitable reduction
6 or savings in the direct or indirect cost of purchased benefits. The commissioner
7 shall approve any coordination of benefits plan.