

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH50495-MH-17 (02/03)

Short Title: Business Recovery Act.

(Public)

Sponsors: Representative Folwell.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO SUBSTITUTE UNINSURED OR UNDERINSURED MOTORIST COVERAGE
3 FOR WORKERS' COMPENSATION COVERAGE WHEN AN EMPLOYEE IS
4 INJURED OR KILLED IN AN EMPLOYER'S VEHICLE DUE TO THE NEGLIGENCE
5 OF AN UNDERINSURED OR UNINSURED THIRD PARTY.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 20-279.21(e) reads as rewritten:

8 "§ 20-279.21. "Motor vehicle liability policy" defined.

9 (e) Uninsured or underinsured motorist coverage that is provided as part of a motor
10 vehicle liability policy shall insure that portion of a loss uncompensated by any workers'
11 compensation law and the amount of an employer's lien determined pursuant to G.S. 97-10.2(h)
12 or ~~(j)~~(j), with the exception of losses described in subsection (p) of this section. In no event
13 shall this subsection be construed to require that coverage exceed the applicable uninsured or
14 underinsured coverage limits of the motor vehicle policy or allow a recovery for damages
15 already paid by workers' compensation. The policy need not insure a loss from any liability for
16 damage to property owned by, rented to, in charge of or transported by the insured."

17 SECTION 2. G.S. 20-279.21 is amended by adding a new subsection to read:

18 "(p) If an employee is injured or killed in an automobile accident while a driver or
19 passenger in the employer's covered vehicle due to the negligence of a third party who is (i) at
20 fault and (ii) uninsured or underinsured, then any uninsured or underinsured motorist coverage
21 provided in the employer's motor vehicle liability policy shall provide compensation for the
22 employee's injury or death in place of the compensation for the injury or death that would
23 otherwise be payable under the employer's workers' compensation insurance. For purposes of
24 this subsection, "employer" and "employee" have the definitions ascribed to them by G.S. 97-2.
25 In no event shall this subsection be construed to allow a recovery from both the motor vehicle
26 liability policy and the workers' compensation policy for the same employee death or injury."

27 SECTION 3. G.S. 97-10.2 reads as rewritten:

28 "§ 97-10.2. Rights under Article not affected by liability of third party; business
29 automobile accident exception; rights and remedies against third parties.

30 (a) ~~The~~ Except as provided by subsection (a1) of this section, the right to compensation
31 and other benefits under this Article for disability, disfigurement, or death shall not be affected
32 by the fact that the injury or death was caused under circumstances creating a liability in some
33 person other than the employer to pay damages therefor, such person hereinafter being referred
34 to as the "third party." The respective rights and interests of the employee-beneficiary under
35 this Article, the employer, and the employer's insurance carrier, if any, in respect of the



1 common-law cause of action against such third party and the damages recovered shall be as set
2 forth in this section.

3 (a1) In the event that the employer has purchased uninsured or underinsured motorist
4 automobile insurance coverage and the employee is injured or killed in an automobile accident
5 while a driver or passenger in the employer's covered vehicle due to the negligence of a third
6 party who is (i) at fault and (ii) uninsured or underinsured, then the employer's uninsured or
7 underinsured motorist automobile insurance coverage in effect at that time shall cover
8 compensation for the employee's injury or death in lieu of coverage of the injury or death under
9 the employer's workers' compensation insurance.

10"

11 **SECTION 4.** This act becomes effective December 1, 2009, and applies to claims
12 arising under insurance policies issued or renewed after that date.