

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**UNINSURED/UNDERINSURED MOTORISTS COVERAGE –
WEST VIRGINIA**

I. **Part C – Uninsured Motorists Coverage** is replaced by the following:

SCHEDULE

Coverage is provided where a premium and a limit of liability are shown for the coverage.

	Uninsured Motorists Coverage		Underinsured Motorists Coverage	
Body Injury Liability	\$	Each Person	\$	Each Person
	\$	Each Accident	\$	Each Accident
Property Damage Liability	\$	Each Accident	\$	Each Accident

INSURING AGREEMENT

A. We will pay compensatory damages which an "insured" is legally entitled to recover from the owner or operator of an "uninsured motor vehicle" or "underinsured motor vehicle" where such coverage is indicated as applicable in the Schedule or in the Declarations because of:

1. "Bodily injury" sustained by an "insured" and caused by an accident; and
2. "Property damage" caused by an accident.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the "uninsured motor vehicle" or "underinsured motor vehicle". We will pay damages under this coverage caused by an accident with an "underinsured motor vehicle" only if **1.** or **2.** below applies:

1. The limits of liability under any bodily injury liability bonds or policies applicable to the "underinsured motor vehicle" have been exhausted by payment of judgments or settlements; or
2. A tentative settlement has been made between an "insured" and the insurer of the "underinsured motor vehicle" and we:
 - a. Have been given prompt written notice of such tentative settlement; and
 - b. Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

Any judgment for damages arising out of a suit brought without our written consent is not binding on us.

- B.** "Insured" as used in this endorsement means:
1. You or any "family member".
 2. Any other person "occupying" or using "your covered auto".
 3. Any person for damages that person is entitled to recover because of "bodily injury" to which this coverage applies sustained by a person described in **1.** or **2.** above.
- C.** "Property damage" as used in this endorsement means injury to or destruction of:
1. "Your covered auto".
 2. Any property owned by a person listed in **1.** or **2.** of "insured" while contained in "your covered auto".
 3. Any other property (except a motor vehicle) owned by an "insured" and located in West Virginia.
- D.** "Underinsured motor vehicle" means a land motor vehicle or trailer of any type to which a liability bond or policy applies at the time of the accident but the amount paid for "bodily injury" or "property damage" to an "insured" under that bond or policy is not enough to pay the full amount the "insured" is legally entitled to recover as damages.

However, "underinsured motor vehicle" does not include any vehicle or equipment:

1. To which a liability bond or policy applies at the time of the accident but the bonding or insuring company legally denies coverage or the bond or policy is uncollectible in whole or in part because the company:
 - a. Is or becomes insolvent.
 - b. Has been placed in receivership.
2. Owned or operated by a self-insurer under any applicable motor vehicle law.

E. "Uninsured motor vehicle" means a land motor vehicle or trailer of any type:

1. To which neither:
 - a. A liability bond or policy; nor
 - b. Cash or securities on file with the West Virginia State Treasurer;apply at the time of the accident.
2. To which a liability bond or policy applies at the time of the accident. In this case its limit for liability must be less than the minimum limit for liability specified by the West Virginia Financial Responsibility Laws.
3. Which is a hit-and-run vehicle whose operator or owner cannot be identified and which hits or which causes an accident resulting in "bodily injury" or "property damage" without hitting:
 - a. You or any "family member";
 - b. A vehicle which you or any "family member" are "occupying";
 - c. "Your covered auto"; or
 - d. Any of your property.

If there is no physical contact with the hit-and-run vehicle the facts of the accident must be proved. We will only accept sufficient evidence other than the testimony of an "insured" making a claim under this or any similar coverage.

4. To which a liability bond or policy applies at the time of the accident but the bonding or insuring company legally denies coverage or the bond or policy is uncollectible in whole or in part because the company:
 - a. Is or becomes insolvent; or
 - b. Has been placed in receivership.

However, "uninsured motor vehicle" does not include any vehicle or equipment owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent.

F. Neither "uninsured motor vehicle" nor "underinsured motor vehicle" includes any vehicle or equipment:

1. Owned by or furnished or available for the regular use of you or any "family member".
2. Operated on rails or crawler treads.
3. Designed mainly for use off public roads while not upon public roads.
4. While located for use as a residence or premises.

EXCLUSIONS

A. We do not provide Uninsured Motorists Coverage or Underinsured Motorists Coverage for "bodily injury" or "property damage" sustained:

1. By an "insured" while "occupying", or when struck by, any motor vehicle owned by that "insured" which is not insured for this coverage under this Policy. This includes a trailer of any type used with that vehicle.
2. By any "family member" while "occupying", or when struck by, any motor vehicle you own which is insured for this coverage on a primary basis under any other policy.

However, this Exclusion A. applies to Uninsured Motorists Coverage only to the extent that the limits of liability for Uninsured Motorists Coverage exceed the minimum limits of liability required by the West Virginia Safety Responsibility Law.

B. We do not provide coverage under this endorsement for "property damage" or "bodily injury" sustained by any "insured":

1. If that "insured" or the legal representative settles the "bodily injury" or "property damage" claim and such settlement prejudices our right to recover payment.
2. Using a vehicle without a reasonable belief that that "insured" is entitled to do so. This Exclusion B.2. does not apply to a "family member" using "your covered auto" which is owned by you.
3. For the first \$300 of the amount of "property damage" to the property of each "insured" as the result of any one accident with an "uninsured motor vehicle".

C. This coverage shall not apply directly or indirectly to benefit:

1. Any insurer or self-insurer under any of the following or similar law:
 - a. Workers' compensation law; or
 - b. Disability benefits law.

2. Any insurer of property.
- D. We do not provide Uninsured Motorists Coverage or Underinsured Motorists Coverage for punitive or exemplary damages.

LIMIT OF LIABILITY

- A. With respect to the Uninsured Motorists Coverage/Underinsured Motorists Coverage indicated as applicable in the Schedule or in the Declarations for damages caused by an accident with an "uninsured motor vehicle" or "underinsured motor vehicle" respectively:
1. The limit of Bodily Injury Liability shown for each person is our maximum limit of liability for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in any one accident.
 2. Subject to this limit for each person, the limit of Bodily Injury Liability shown for each accident is our maximum limit of liability for all damages for "bodily injury" resulting from any one accident.
 3. The limit of Property Damage Liability shown for each accident is our maximum limit of liability for all "property damage" resulting from any one accident.

The limits of liability applicable to Uninsured Motorists Coverage or Underinsured Motorists Coverage are the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles or premiums shown in the Schedule or in the Declarations; or
4. Vehicles involved in the accident.

However, if an accident is caused by a vehicle which is both an "uninsured motor vehicle" and an "underinsured motor vehicle" and both Uninsured Motorists Coverage and Underinsured Motorists Coverage apply under this endorsement, our maximum limit of liability for all damages resulting from that accident shall not exceed the sum of:

1. The Limit Of Liability for Uninsured Motorists Coverage; and
2. The Limit Of Liability for Underinsured Motorists Coverage;

shown in the Schedule or in the Declarations.

- B. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and Part A of this Policy.

- C. We will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.

OTHER INSURANCE

If there is other applicable insurance similar to the insurance provided by this endorsement, we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a vehicle you do not own, including any vehicle while used as a temporary substitute for "your covered auto", shall be excess over any other collectible insurance similar to the insurance provided by this endorsement.

ADDITIONAL DUTIES

A person seeking coverage under this endorsement must also promptly:

1. Send us copies of the legal papers if a suit is brought; and
2. Notify us in writing of a tentative settlement between the "insured" and the insurer of the "underinsured motor vehicle" and allow us 30 days to advance payment to that "insured" in an amount equal to the tentative settlement to preserve our rights against the insurer, owner or operator of such "underinsured motor vehicle".

- II. Part F – General Provisions is amended as follows:

- A. The following is added to the **Our Right To Recover Payment** Provision:

Our Right To Recover Payment

We shall be entitled to a recovery under Paragraph A. or B. for Uninsured Motorists Coverage and Underinsured Motorists Coverage only after the person has been fully compensated for damages.

Our rights do not apply under Paragraph A. with respect to Underinsured Motorists Coverage if we:

1. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of an "underinsured motor vehicle"; and
2. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

1. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Underinsured Motorists Coverage; and
2. We also have a right to recover the advanced payment.

Our rights do not apply under Paragraph **A.** with respect to damages caused by an accident with an "uninsured motor vehicle" to which a liability bond or policy applies at the time of the accident but the bonding or insuring company is or becomes insolvent or has been placed in receivership.

B. The following is added to the **Two Or More Auto Policies** Provision:

Two Or More Auto Policies

1. This provision does not apply to **Uninsured/Underinsured Motorists Coverage.**
2. No one will be entitled to receive duplicate payments for the same elements of loss under Uninsured/Underinsured Motorists Coverage.