

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## UNINSURED MOTORISTS COVERAGE – VIRGINIA

With respect to the coverage provided by this endorsement, the provisions of the Policy apply unless modified by the endorsement.

### PART C – UNINSURED MOTORISTS COVERAGE

Part C is replaced by the following:

#### Insuring Agreement

**A.** We will pay, in accordance with Va. Code Ann. Section 38.2-2206, damages which an “insured” or an “insured’s” legal representative is legally entitled to recover from the owner or operator of an “uninsured motor vehicle” or an “underinsured motor vehicle” 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 after the limits of liability under any applicable bodily injury liability or property damage liability bonds or policies have been exhausted by payment of judgments or settlements.

**B.** “Property damage” as used in this endorsement means injury to or destruction of:

1. “Your covered auto”;
2. Tangible property contained in “your covered auto”; or
3. Any other tangible property, except a motor vehicle, owned by an “insured” and located in Virginia.

**C.** “Insured” as used in this endorsement means:

1. You or any “family member”;
2. Any other person “occupying” or using “your covered auto”; or
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.

**D.** “Underinsured motor vehicle” means a land motor vehicle or trailer of any type for which the sum of:

1. The limits of liability under all liability bonds or policies; or
2. All deposits of money or securities made to comply with the Virginia Financial Responsibility Law; that is “available for payment” is less than the sum of the limits of liability applicable to the “insured” for Uninsured Motorists Coverage under this Policy or any other policy.

“Available for payment” as used in this paragraph (**D.**) means the amount of liability coverage applicable to the claim of the “insured” as reduced by the payment of any other claims arising out of the same occurrence.

However, “underinsured motor vehicle” does not include any vehicle or equipment to which a bodily injury or property damage liability bond or policy applies at the time of the accident but the bonding or insuring company:

1. Denies coverage; or
2. Is or becomes insolvent.

**E.** “Uninsured motor vehicle” means a land motor vehicle or trailer of any type:

1. To which no liability bond, policy, deposit of money or security applies at the time of the accident in at least the minimum limits required by Va. Code Ann. Section 46.2-472.

2. Which is a hit-and-run vehicle whose operator or owner is unknown 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" or using;
  - c. "Your covered auto"; or
  - d. Any of your property.
3. To which a bodily injury liability bond or policy applies at the time of the accident but the bonding or insuring company:
  - a. Denies coverage; or
  - b. Is or becomes insolvent.
4. For which the owner or operator is immune from liability for negligence under the laws of Virginia or the United States.

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

- F.** In addition, neither "uninsured motor vehicle" nor "underinsured motor vehicle" includes any vehicle:
1. Operated on rails or crawler treads; or
  2. While located for use as a residence or premises.

#### **Exclusions**

- A.** We do not provide Uninsured Motorists Coverage 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 with any person or organization who may be legally liable 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 (**A.2.**) does not apply to a "family member" using "your covered auto" which is owned by you.
  3. For the first \$200 of the total amount of "property damage" if the "property damage" results from an accident with an "uninsured motor vehicle" as defined in Section 2. of the definition of "uninsured motor vehicle".
  4. While "occupying", or when struck by, any vehicle which is designed or can be used for flight.
- B.** This coverage shall not apply directly or indirectly to benefit:
1. Any self-insurer under any workers' compensation or similar law.
  2. Any insurer of property.

#### **Limit Of Liability**

- A.** The limit of Bodily Injury Liability shown in the Declarations for each person for Uninsured Motorists Coverage 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. Subject to this limit for each person, the limit of Bodily Injury Liability shown in the Declarations for each accident for Uninsured Motorists Coverage is our maximum limit of liability for all damages for "bodily injury" resulting from any one accident.

The limit of Property Damage Liability shown in the Declarations for each accident for Uninsured Motorists Coverage is our maximum limit of liability for all "property damage" resulting from any one accident.

This is the most we will pay regardless of the number of:

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

**B. Any damages payable under this coverage:**

1. Shall be reduced by all sums paid because of "bodily injury" or "property damage" by or on behalf of persons or organizations who may be legally responsible.
2. With respect to:
  - a. An employee of a self-insured employer shall be reduced by all sums paid or payable because of the "bodily injury" under workers' compensation or similar law.
  - b. "Property damage" shall be excess over any other collectible insurance provided under:
    - (1) Part **D** of this Policy;
    - (2) Any other policy providing coverage for the "property damage"; or
    - (3) Any Personal Property Coverage provided by this Policy.

**Other Insurance**

If there is other similar insurance available under one or more policies or provisions of coverage and:

- A.** The damages are caused by an accident with an "uninsured motor vehicle", 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:
1. You do not own, including any vehicle while used as a temporary substitute for "your covered auto"; or
  2. Owned by you or any "family member" which is not insured for this coverage under this Policy;
- shall be excess over any other collectible insurance.
- B.** The damages are caused by an accident with an "underinsured motor vehicle", the following priority of policies applies and any amount available for payment shall be credited against such policies in the following order of priority:

<b>First Priority</b>	The Policy applicable to the vehicle the "insured" was "occupying" at the time of the accident.
<b>Second Priority</b>	The Policy applicable to a vehicle not involved in the accident under which the "insured" is a named insured.
<b>Third Priority</b>	The Policy applicable to a vehicle not involved in the accident under which the "insured" is other than a named insured.
If there is more than one policy providing coverage on the same level of priority, we will only pay our share of the loss that must be paid under that priority. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on the same level of priority.	

**Arbitration**

**A.** If we and an "insured" do not agree:

1. Whether that "insured" is legally entitled to recover damages; or
2. As to the amount of damages which are recoverable by that "insured";

from the owner or operator of an "uninsured motor vehicle" or an "underinsured motor vehicle", then the matter may be arbitrated. However, disputes concerning coverage under this Part may not be arbitrated.

Neither party is required to arbitrate. However, if both parties agree to arbitration, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

- B.** We will pay all arbitration expenses if we request the arbitration.
- C.** If an “insured” requests the arbitration, each party will:
  - 1. Pay the expenses it incurs; and
  - 2. Bear the expenses of the third arbitrator equally.
- D.** Unless both parties agree otherwise, arbitration will take place in the county in which the “insured” lives. Local rules of law as to evidence and arbitration procedures will apply. Any decision of the arbitrators will not be binding.

#### **PART E – DUTIES AFTER AN ACCIDENT OR LOSS**

Part **E** is replaced by the following:

- A.** We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B.** A person seeking Uninsured Motorists Coverage, who does not seek or obtain a judgment against the owner or operator of an “uninsured motor vehicle”, must:
  - 1. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
  - 2. Submit, as often as we reasonably require:
    - a.** To physical exams by physicians we select. We will pay for those exams.
    - b.** To recorded statements.
  - 3. Authorize us to obtain:
    - a.** Medical reports; and
    - b.** Other pertinent records.
  - 4. Submit a proof of loss when required by us.
  - 5. If a suit is brought, promptly serve a copy of the process on us in the manner prescribed by law.
  - 6. Take reasonable steps after loss to protect “your covered auto” or any “non-owned auto” and their equipment from further loss. We will pay reasonable expenses incurred to do this.
  - 7. Permit us to inspect and appraise the damaged property before its repair or disposal.
- C.** With respect to an accident caused by an “uninsured motor vehicle” but there was no physical contact with such vehicle, we have no duty to provide Uninsured Motorists Coverage under this Policy unless a person seeking coverage notifies us or the police promptly of the accident, or as soon as reasonably practicable.