

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1335

By: Lockhart

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5  
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,  
8 Section 3636, as amended by Section 1, Chapter 307,  
9 O.S.L. 2014 (36 O.S. Supp. 2014, Section 3636), which  
10 relates to uninsured motorist coverage; specifying  
11 policies that shall include certain coverage;  
12 requiring uninsured motorist policies to provide  
13 coverage for injury to or destruction of property;  
14 authorizing insurer to recover certain settlements or  
15 judgments; modifying certain form contents; providing  
16 that certain changes in coverages shall not be  
17 considered an amendment to the coverage; requiring  
18 insurer to change certain coverage limits; requiring  
19 insurer to provide certain notice; and providing an  
20 effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, as  
23 amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2014,  
24 Section 3636), is amended to read as follows:

25 Section 3636. A. No policy insuring against loss resulting  
26 from liability imposed by law for bodily injury or death suffered by  
27 any person and injury to or destruction of property arising out of  
28 the ownership, maintenance or use of a motor vehicle shall be  
29 issued, delivered, renewed, or extended in this state with respect

1 to a motor vehicle registered or principally garaged in this state  
2 unless the policy includes the coverage described in subsection B of  
3 this section.

4 B. The policy referred to in subsection A of this section shall  
5 provide coverage therein or supplemental thereto for the protection  
6 of persons insured thereunder who are legally entitled to recover  
7 damages from owners or operators of uninsured motor vehicles and  
8 hit-and-run motor vehicles because of bodily injury, sickness or  
9 disease, ~~including~~ death or injury to or destruction of property  
10 resulting therefrom. Coverage shall be not less than the amounts or  
11 limits prescribed for bodily injury ~~or~~, death and injury to or  
12 destruction of property for a policy meeting the requirements of  
13 Section 7-204 of Title 47 of the Oklahoma Statutes, as the same may  
14 be hereafter amended; provided, however, that increased limits of  
15 liability shall be offered and purchased if desired, not to exceed  
16 the limits provided in the liability policy ~~of bodily injury~~  
17 ~~liability~~ of the insured. Policies issued, renewed or reinstated  
18 after November 1, 2014, shall not be subject to stacking or  
19 aggregation of limits unless expressly provided for by an insurance  
20 carrier. The uninsured motorist coverage shall be upon a form  
21 approved by the Insurance Commissioner as otherwise provided in the  
22 Insurance Code and may provide that the parties to the contract  
23 shall, upon demand of either, submit their differences to  
24 arbitration; provided, that if agreement by arbitration is not

1 reached within three (3) months from date of demand, the insured may  
2 sue the tort-feasor.

3 C. For the purposes of this coverage the term "uninsured motor  
4 vehicle" shall include an insured motor vehicle where the liability  
5 insurer thereof is unable to make payment with respect to the legal  
6 liability of its insured within the limits specified therein because  
7 of insolvency. For the purposes of this coverage the term  
8 "uninsured motor vehicle" shall also include an insured motor  
9 vehicle, the liability limits of which are less than the amount of  
10 the claim of the person or persons making such claim, regardless of  
11 the amount of coverage of either of the parties in relation to each  
12 other.

13 D. An insurer's insolvency protection shall be applicable only  
14 to accidents occurring during a policy period in which its insured's  
15 uninsured motorist coverage is in effect where the liability insurer  
16 of the tort-feasor becomes insolvent within one (1) year after such  
17 an accident. Nothing herein contained shall be construed to prevent  
18 any insurer from according insolvency protection under terms and  
19 conditions more favorable to its insured than is provided hereunder.

20 E. For purposes of this section, there is no coverage for any  
21 insured while occupying a motor vehicle owned by, or furnished or  
22 available for the regular use of the named insured, a resident  
23 spouse of the named insured, or a resident relative of the named  
24

1 insured, if such motor vehicle is not insured by a motor vehicle  
2 insurance policy.

3 F. In the event of payment to any person under the coverage  
4 required by this section and subject to the terms and conditions of  
5 such coverage, the insurer making such payment shall, to the extent  
6 thereof, be entitled to the proceeds of any settlement or judgment  
7 resulting from the exercise of any rights of recovery of such person  
8 against any person or organization legally responsible for the  
9 bodily injury or injury to or destruction of property for which such  
10 payment is made, including the proceeds recoverable from the assets  
11 of the insolvent insurer. Provided, however, with respect to  
12 payments made by reason of the coverage described in subsection C of  
13 this section, the insurer making such payment shall not be entitled  
14 to any right of recovery against such tort-feasor in excess of the  
15 proceeds recovered from the assets of the insolvent insurer of said  
16 tort-feasor. Provided further, that any payment made by the insured  
17 tort-feasor shall not reduce or be a credit against the total  
18 liability limits as provided in the insured's own uninsured motorist  
19 coverage. Provided further, that if a tentative agreement to settle  
20 for liability limits has been reached with an insured tort-feasor,  
21 written notice shall be given by certified mail to the uninsured  
22 motorist coverage insurer by its insured. Such written notice shall  
23 include:  
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1 1. Written documentation of pecuniary losses incurred,  
2 including copies of all medical bills; and

3 2. Written authorization or a court order to obtain reports  
4 from all employers and medical providers. Within sixty (60) days of  
5 receipt of this written notice, the uninsured motorist coverage  
6 insurer may substitute its payment to the insured for the tentative  
7 settlement amount. The uninsured motorist coverage insurer shall  
8 then be entitled to the insured's right of recovery to the extent of  
9 such payment and any settlement under the uninsured motorist  
10 coverage. If the uninsured motorist coverage insurer fails to pay  
11 the insured the amount of the tentative tort settlement within sixty  
12 (60) days, the uninsured motorist coverage insurer has no right to  
13 the proceeds of any settlement or judgment, as provided herein, for  
14 any amount paid under the uninsured motorist coverage.

15 G. A named insured or applicant shall have the right to reject  
16 uninsured motorist coverage in writing. The form signed by the  
17 insured or applicant which initially rejects coverage or selects  
18 lower limits shall remain valid for the life of the policy and the  
19 completion of a new selection form shall not be required when a  
20 renewal, reinstatement, substitute, replacement, or amended policy  
21 is issued to the same-named insured by the same insurer or any of  
22 its affiliates. Any changes to an existing policy, regardless of  
23 whether these changes create new coverage, do not create a new  
24 policy and do not require the completion of a new form.

1 After selection of limits, rejection, or exercise of the option  
2 not to purchase uninsured motorist coverage by a named insured or  
3 applicant for insurance, the insurer shall not be required to notify  
4 any insured in any renewal, reinstatement, substitute, amended or  
5 replacement policy as to the availability of such uninsured motorist  
6 coverage or such optional limits. Such selection, rejection, or  
7 exercise of the option not to purchase uninsured motorist coverage  
8 by a named insured or an applicant shall be valid for all insureds  
9 under the policy and shall continue until a named insured requests  
10 in writing that the uninsured motorist coverage be added to an  
11 existing or future policy of insurance.

12 H. The following are effective on forms required on or after  
13 April 1, 2005. The offer of the coverage required by subsection B  
14 of this section shall be in the following form which shall be filed  
15 with and approved by the Insurance Commissioner. The form shall be  
16 provided to the proposed insured in writing separately from the  
17 application and shall read substantially as follows:

18 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

19 Oklahoma law gives you the right to buy Uninsured Motorist  
20 coverage in the same amount as your ~~bodily injury~~ liability  
21 insurance coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS  
22 VALUABLE RIGHT FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY,  
23 AND OTHER PEOPLE WHO MAY BE HURT WHILE RIDING IN YOUR INSURED  
24 VEHICLE AND FOR THE PROTECTION OF ANY DAMAGE TO YOUR VEHICLE OR

1 PROPERTY. YOU SHOULD SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE  
2 SAME AMOUNT AS YOUR LIABILITY INSURANCE COVERAGE LIMIT.

3 Uninsured Motorist coverage, unless otherwise provided in your  
4 policy, pays for bodily injury damages to you, members of your  
5 family who live with you, and other people riding in your car ~~who~~  
6 ~~are injured by~~ and damage to your vehicle caused by: (1) an  
7 uninsured motorist, (2) a hit-and-run motorist, or (3) an insured  
8 motorist who does not have enough liability insurance to pay for  
9 bodily injury and property damages to any insured person. Uninsured  
10 Motorist coverage, unless otherwise provided in your policy,  
11 protects you and family members who live with you while riding in  
12 any vehicle or while a pedestrian. THE COST OF THIS COVERAGE IS  
13 SMALL COMPARED WITH THE BENEFITS!

14 You may make one of four choices about Uninsured Motorist  
15 Coverage by indicating below what Uninsured Motorist coverage you  
16 want:

17 \_\_\_\_\_ I want the same amount of Uninsured Motorist coverage as my  
18 bodily injury liability coverage.

19 \_\_\_\_\_ I want minimum Uninsured Motorist coverage:

20 \$25,000.00 per person/\$50,000.00 per occurrence for bodily  
21 injury or death; and

22 \$25,000.00 for injury to or destruction of property.

23 \_\_\_\_\_ I want Uninsured Motorist coverage in the following amount:  
24

1 \$ \_\_\_\_\_ per person/\$ \_\_\_\_\_ per  
2 occurrence for bodily injury; and  
3 \$ \_\_\_\_\_ for injury to or destruction of property.

4 \_\_\_\_\_ I want to reject Uninsured Motorist coverage.

5 \_\_\_\_\_  
6 Proposed Insured

7 THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE  
8 COVERAGE.

9 I. The Insurance Commissioner shall approve a deviation from  
10 the form described in subsection H of this section if the form  
11 includes substantially the same information.

12 J. A change in the bodily injury or injury to or destruction of  
13 property liability coverage due to a change in the amount or limits  
14 prescribed for ~~bodily injury or death~~ for such injuries and damages  
15 by a policy meeting the requirements of Section 7-204 of Title 47 of  
16 the Oklahoma Statutes shall not be considered an amendment of the  
17 ~~bodily injury~~ liability coverage and shall not require the  
18 completion of a new form.

19 K. On the first renewal on or after April 1, 2005, the insurer  
20 shall change the Uninsured Motorist coverage limits to \$25,000.00  
21 per person/\$50,000.00 per occurrence for bodily injury and  
22 \$25,0000.00 for injury to or destruction of property and charge the  
23 corresponding premium for existing policyholders who have selected  
24 Uninsured Motorist coverage limits less than \$25,000.00 per

1 person/\$50,000.00 per occurrence for bodily injury and \$25,000.00  
2 for injury to or destruction of property. At the first renewal on  
3 or after April 1, 2005, the insurer shall provide existing  
4 policyholders who have selected Uninsured Motorist coverage limits  
5 less than \$25,000.00 per person/\$50,000.00 per occurrence for bodily  
6 injury and \$25,000.00 for injury to or destruction of property a  
7 notice of the change of their Uninsured Motorist coverage limits and  
8 that notice shall state how such policyholders may reject Uninsured  
9 Motorist coverage limits or select Uninsured Motorist coverage with  
10 limits higher than \$25,000.00 per person/\$50,000.00 per occurrence  
11 for bodily injury and \$25,000.00 for injury to or destruction of  
12 property. No notice shall be required to existing policyholders who  
13 have rejected Uninsured Motorist coverage or have selected Uninsured  
14 Motorist coverage limits equal to or greater than \$25,000.00 per  
15 person/\$50,000.00 per occurrence for bodily injury and \$25,000.00  
16 for injury to or destruction of property. For purposes of this  
17 subsection an existing policyholder is a policyholder who purchased  
18 a policy from the insurer before April 1, 2005, and such policy  
19 renews on or after April 1, 2005.

20 SECTION 2. This act shall become effective November 1, 2015.  
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22 55-1-5238 AMM 01/13/15  
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