

1 **SENATE FLOOR VERSION**

2 February 12, 2018

3 SENATE BILL NO. 1321

By: Quinn of the Senate

4 and

5 Moore of the House

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8 An Act relating to motor vehicle insurance; amending
9 36 O.S. 2011, Section 3636, as amended by Section 1,
10 Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2017, Section
11 3636), which relates to uninsured motorist coverage;
12 expanding definition of uninsured motor vehicle to
include underinsured motor vehicle; specifying time
of payment of certain damages; modifying the rights
of subrogation under specified circumstances; and
providing an effective date.

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

16 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, as
17 amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2017,
18 Section 3636), is amended to read as follows:

19 Section 3636. A. No policy insuring against loss resulting
20 from liability imposed by law for bodily injury or death suffered by
21 any person arising out of the ownership, maintenance or use of a
22 motor vehicle shall be issued, delivered, renewed, or extended in
23 this state with respect to a motor vehicle registered or principally
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1 garaged in this state unless the policy includes the coverage
2 described in subsection B of this section.

3 B. The policy referred to in subsection A of this section shall
4 provide coverage therein or supplemental thereto for the protection
5 of persons insured thereunder who are legally entitled to recover
6 damages from owners or operators of uninsured motor vehicles and
7 hit-and-run motor vehicles because of bodily injury, sickness or
8 disease, including death resulting therefrom. Coverage shall be not
9 less than the amounts or limits prescribed for bodily injury or
10 death for a policy meeting the requirements of Section 7-204 of
11 Title 47 of the Oklahoma Statutes, as the same may be hereafter
12 amended; provided, however, that increased limits of liability shall
13 be offered and purchased if desired, not to exceed the limits
14 provided in the policy of bodily injury liability of the insured.
15 Policies issued, renewed or reinstated after November 1, 2014, shall
16 not be subject to stacking or aggregation of limits unless expressly
17 provided for by an insurance carrier. The uninsured motorist
18 coverage shall be upon a form approved by the Insurance Commissioner
19 as otherwise provided in the Insurance Code and may provide that the
20 parties to the contract shall, upon demand of either, submit their
21 differences to arbitration; provided, that if agreement by
22 arbitration is not reached within three (3) months from date of
23 demand, the insured may sue the tort-feasor.

1 C. For the purposes of this coverage the term "uninsured motor
2 vehicle" shall include an insured motor vehicle where the liability
3 insurer thereof is unable to make payment with respect to the legal
4 liability of its insured within the limits specified therein because
5 of insolvency. For the purposes of this coverage the term
6 "uninsured motor vehicle" shall also include an ~~insured~~ underinsured
7 motor vehicle. An "underinsured motor vehicle" is one for which
8 the ~~liability~~ aggregate limits of all applicable liability policies
9 which are less than the amount of the claim of to which the person
10 or persons making such claim are legally entitled to recover,
11 regardless of the amount of coverage of either of the parties
12 policies in relation to each other. Uninsured motorist coverage
13 must provide for payment to the insured of all amounts the insured
14 is legally entitled to recover as damages from the owner or
15 operators of an underinsured motor vehicle, not to exceed the limit
16 specified in the insurance policy, after recovery of all applicable
17 liability coverage from the insurer or insurers of the underinsured
18 motor vehicle.

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

3 E. For purposes of this section, there is no coverage for any
4 insured while occupying a motor vehicle owned by, or furnished or
5 available for the regular use of the named insured, a resident
6 spouse of the named insured, or a resident relative of the named
7 insured, if such motor vehicle is not insured by a motor vehicle
8 insurance policy.

9 F. In the event of payment to any person under the coverage
10 required by this section and subject to the terms and conditions of
11 such coverage, the insurer making such payment shall, to the extent
12 thereof, be entitled to recover the amount paid from the tort-feasor
13 and all applicable liability coverage. In addition, should suit be
14 initiated by the insured, the insurer shall be entitled to the
15 proceeds of any settlement or judgment resulting from the exercise
16 of any rights of recovery of such person against any person or
17 organization legally responsible for the bodily injury for which
18 such payment is made, including the proceeds recoverable from the
19 assets of the insolvent insurer. ~~Provided, however, with respect to~~
20 ~~payments made by reason of the coverage described in subsection C of~~
21 ~~this section,~~ However, when an uninsured motorist insurer must make
22 payment due to the insolvency of the tort-feasor's liability
23 insurer, the uninsured motorist insurer making such payment shall
24 not be entitled to any right of recovery against such tort-feasor

1 for any amount in excess of the proceeds recovered from the assets
2 of the insolvent insurer of said tort-feasor. Provided further,
3 that any payment made by the insured tort-feasor shall not reduce or
4 be a credit against the total liability limits as provided in the
5 insured's own uninsured motorist coverage. Provided further, that
6 if a tentative agreement to settle for liability limits has been
7 reached with an insured tort-feasor, written notice shall be given
8 by certified mail to the uninsured motorist coverage insurer by its
9 insured. Such written notice shall include:

10 1. Written documentation of pecuniary losses incurred,
11 including copies of all medical bills; and

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

1 G. A named insured or applicant shall have the right to reject
2 uninsured motorist coverage in writing. The form signed by the
3 insured or applicant which initially rejects coverage or selects
4 lower limits shall remain valid for the life of the policy and the
5 completion of a new selection form shall not be required when a
6 renewal, reinstatement, substitute, replacement, or amended policy
7 is issued to the same-named insured by the same insurer or any of
8 its affiliates. Any changes to an existing policy, regardless of
9 whether these changes create new coverage, do not create a new
10 policy and do not require the completion of a new form.

11 After selection of limits, rejection, or exercise of the option
12 not to purchase uninsured motorist coverage by a named insured or
13 applicant for insurance, the insurer shall not be required to notify
14 any insured in any renewal, reinstatement, substitute, amended or
15 replacement policy as to the availability of such uninsured motorist
16 coverage or such optional limits. Such selection, rejection, or
17 exercise of the option not to purchase uninsured motorist coverage
18 by a named insured or an applicant shall be valid for all insureds
19 under the policy and shall continue until a named insured requests
20 in writing that the uninsured motorist coverage be added to an
21 existing or future policy of insurance.

22 H. The following are effective on forms required on or after
23 April 1, 2005. The offer of the coverage required by subsection B
24 of this section shall be in the following form which shall be filed

1 with and approved by the Insurance Commissioner. The form shall be
2 provided to the proposed insured in writing separately from the
3 application and shall read substantially as follows:

4 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

5 Oklahoma law gives you the right to buy Uninsured Motorist
6 coverage in the same amount as your bodily injury liability
7 coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT
8 FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE
9 WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD
10 SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR
11 LIABILITY INSURANCE COVERAGE LIMIT.

12 Uninsured Motorist coverage, unless otherwise provided in your
13 policy, pays for bodily injury damages to you, members of your
14 family who live with you, and other people riding in your car who
15 are injured by: (1) an uninsured motorist, (2) a hit-and-run
16 motorist, or (3) an insured motorist who does not have enough
17 liability insurance to pay for bodily injury damages to any insured
18 person. Uninsured Motorist coverage, unless otherwise provided in
19 your policy, protects you and family members who live with you while
20 riding in any vehicle or while a pedestrian. THE COST OF THIS
21 COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

22 You may make one of four choices about Uninsured Motorist
23 Coverage by indicating below what Uninsured Motorist coverage you
24 want:

_____ I want the same amount of Uninsured Motorist coverage as my
bodily injury liability coverage.

_____ I want minimum Uninsured Motorist coverage \$25,000.00 per person/\$50,000.00 per occurrence.

_____ I want Uninsured Motorist coverage in the following amount:

\$ per person/\$ per occurrence.

I want to reject Uninsured Motorist coverage.

Proposed	Insured
1. <u>100</u> 2. <u>100</u> 3. <u>100</u> 4. <u>100</u> 5. <u>100</u> 6. <u>100</u> 7. <u>100</u> 8. <u>100</u> 9. <u>100</u> 10. <u>100</u> 11. <u>100</u> 12. <u>100</u> 13. <u>100</u> 14. <u>100</u> 15. <u>100</u> 16. <u>100</u> 17. <u>100</u> 18. <u>100</u> 19. <u>100</u> 20. <u>100</u> 21. <u>100</u> 22. <u>100</u> 23. <u>100</u> 24. <u>100</u> 25. <u>100</u> 26. <u>100</u> 27. <u>100</u> 28. <u>100</u> 29. <u>100</u> 30. <u>100</u> 31. <u>100</u> 32. <u>100</u> 33. <u>100</u> 34. <u>100</u> 35. <u>100</u> 36. <u>100</u> 37. <u>100</u> 38. <u>100</u> 39. <u>100</u> 40. <u>100</u> 41. <u>100</u> 42. <u>100</u> 43. <u>100</u> 44. <u>100</u> 45. <u>100</u> 46. <u>100</u> 47. <u>100</u> 48. <u>100</u> 49. <u>100</u> 50. <u>100</u> 51. <u>100</u> 52. <u>100</u> 53. <u>100</u> 54. <u>100</u> 55. <u>100</u> 56. <u>100</u> 57. <u>100</u> 58. <u>100</u> 59. <u>100</u> 60. <u>100</u> 61. <u>100</u> 62. <u>100</u> 63. <u>100</u> 64. <u>100</u> 65. <u>100</u> 66. <u>100</u> 67. <u>100</u> 68. <u>100</u> 69. <u>100</u> 70. <u>100</u> 71. <u>100</u> 72. <u>100</u> 73. <u>100</u> 74. <u>100</u> 75. <u>100</u> 76. <u>100</u> 77. <u>100</u> 78. <u>100</u> 79. <u>100</u> 80. <u>100</u> 81. <u>100</u> 82. <u>100</u> 83. <u>100</u> 84. <u>100</u> 85. <u>100</u> 86. <u>100</u> 87. <u>100</u> 88. <u>100</u> 89. <u>100</u> 90. <u>100</u> 91. <u>100</u> 92. <u>100</u> 93. <u>100</u> 94. <u>100</u> 95. <u>100</u> 96. <u>100</u> 97. <u>100</u> 98. <u>100</u> 99. <u>100</u> 100. <u>100</u>	1. <u>100</u> 2. <u>100</u> 3. <u>100</u> 4. <u>100</u> 5. <u>100</u> 6. <u>100</u> 7. <u>100</u> 8. <u>100</u> 9. <u>100</u> 10. <u>100</u> 11. <u>100</u> 12. <u>100</u> 13. <u>100</u> 14. <u>100</u> 15. <u>100</u> 16. <u>100</u> 17. <u>100</u> 18. <u>100</u> 19. <u>100</u> 20. <u>100</u> 21. <u>100</u> 22. <u>100</u> 23. <u>100</u> 24. <u>100</u> 25. <u>100</u> 26. <u>100</u> 27. <u>100</u> 28. <u>100</u> 29. <u>100</u> 30. <u>100</u> 31. <u>100</u> 32. <u>100</u> 33. <u>100</u> 34. <u>100</u> 35. <u>100</u> 36. <u>100</u> 37. <u>100</u> 38. <u>100</u> 39. <u>100</u> 40. <u>100</u> 41. <u>100</u> 42. <u>100</u> 43. <u>100</u> 44. <u>100</u> 45. <u>100</u> 46. <u>100</u> 47. <u>100</u> 48. <u>100</u> 49. <u>100</u> 50. <u>100</u> 51. <u>100</u> 52. <u>100</u> 53. <u>100</u> 54. <u>100</u> 55. <u>100</u> 56. <u>100</u> 57. <u>100</u> 58. <u>100</u> 59. <u>100</u> 60. <u>100</u> 61. <u>100</u> 62. <u>100</u> 63. <u>100</u> 64. <u>100</u> 65. <u>100</u> 66. <u>100</u> 67. <u>100</u> 68. <u>100</u> 69. <u>100</u> 70. <u>100</u> 71. <u>100</u> 72. <u>100</u> 73. <u>100</u> 74. <u>100</u> 75. <u>100</u> 76. <u>100</u> 77. <u>100</u> 78. <u>100</u> 79. <u>100</u> 80. <u>100</u> 81. <u>100</u> 82. <u>100</u> 83. <u>100</u> 84. <u>100</u> 85. <u>100</u> 86. <u>100</u> 87. <u>100</u> 88. <u>100</u> 89. <u>100</u> 90. <u>100</u> 91. <u>100</u> 92. <u>100</u> 93. <u>100</u> 94. <u>100</u> 95. <u>100</u> 96. <u>100</u> 97. <u>100</u> 98. <u>100</u> 99. <u>100</u> 100. <u>100</u>

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

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

J. A change in the bodily injury liability coverage due to a change in the amount or limits prescribed for bodily injury or death by a policy meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes shall not be considered an amendment of the bodily injury liability coverage and shall not require the completion of a new form.

K. On the first renewal on or after April 1, 2005, the insurer shall change the Uninsured Motorist coverage limits to \$25,000.00 per person/\$50,000.00 per occurrence and charge the corresponding premium for existing policyholders who have selected Uninsured

Motorist coverage limits less than \$25,000.00 per person/\$50,000.00 per occurrence. At the first renewal on or after April 1, 2005, the insurer shall provide existing policyholders who have selected Uninsured Motorist coverage limits less than \$25,000.00 per person/\$50,000.00 per occurrence a notice of the change of their Uninsured Motorist coverage limits and that notice shall state how such policyholders may reject Uninsured Motorist coverage limits or select Uninsured Motorist coverage with limits higher than \$25,000.00 per person/\$50,000.00 per occurrence. No notice shall be required to existing policyholders who have rejected Uninsured Motorist coverage or have selected Uninsured Motorist coverage limits equal to or greater than \$25,000.00 per person/\$50,000.00 per occurrence. For purposes of this subsection an existing policyholder is a policyholder who purchased a policy from the insurer before April 1, 2005, and such policy renews on or after April 1, 2005.

SECTION 2. This act shall become effective November 1, 2018.

COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
February 12, 2018 - DO PASS