

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 1016

By: Quinn

AS INTRODUCED

An Act relating to insurance; 36 O.S. 2011, Section 3636, as amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2018, Section 3636), which relates to uninsured motorist coverage; expanding definition of uninsured vehicle to include underinsured motor vehicle; requiring certain payment for damages; modifying the rights of subrogation in certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, as amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2018, Section 3636), is amended to read as follows:

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

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

22       C. For the purposes of this coverage the term "uninsured motor  
23 vehicle" shall include an insured motor vehicle where the liability  
24 insurer thereof is unable to make payment with respect to the legal

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

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

22 E. For purposes of this section, there is no coverage for any  
23 insured while occupying a motor vehicle owned by, or furnished or  
24 available for the regular use of the named insured, a resident  
25

1 spouse of the named insured, or a resident relative of the named  
2 insured, if such motor vehicle is not insured by a motor vehicle  
3 insurance policy.

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

1 if a tentative agreement to settle for liability limits has been  
2 reached with an insured tort-feasor, written notice shall be given  
3 by certified mail to the uninsured motorist coverage insurer by its  
4 insured. Such written notice shall include:

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

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

19 G. A named insured or applicant shall have the right to reject  
20 uninsured motorist coverage in writing. The form signed by the  
21 insured or applicant which initially rejects coverage or selects  
22 lower limits shall remain valid for the life of the policy and the  
23 completion of a new selection form shall not be required when a  
24 renewal, reinstatement, substitute, replacement, or amended policy

1 is issued to the same-named insured by the same insurer or any of  
2 its affiliates. Any changes to an existing policy, regardless of  
3 whether these changes create new coverage, do not create a new  
4 policy and do not require the completion of a new form.

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

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

22 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

23 Oklahoma law gives you the right to buy Uninsured Motorist  
24 coverage in the same amount as your bodily injury liability  
25

1 coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT  
2 FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE  
3 WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD  
4 SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR  
5 LIABILITY INSURANCE COVERAGE LIMIT.

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

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

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

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

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

24 \$\_\_\_\_\_ per person/\$\_\_\_\_\_ per occurrence.

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

Proposed	Insured
1	1
2	2
3	3
4	4
5	5
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100	100

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



1 such policyholders may reject Uninsured Motorist coverage limits or  
2 select Uninsured Motorist coverage with limits higher than  
3 \$25,000.00 per person/\$50,000.00 per occurrence. No notice shall be  
4 required to existing policyholders who have rejected Uninsured  
5 Motorist coverage or have selected Uninsured Motorist coverage  
6 limits equal to or greater than \$25,000.00 per person/\$50,000.00 per  
7 occurrence. For purposes of this subsection an existing  
8 policyholder is a policyholder who purchased a policy from the  
9 insurer before April 1, 2005, and such policy renews on or after  
10 April 1, 2005.

11 SECTION 2. This act shall become effective November 1, 2019.

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13 57-1-546 CB 4/1/2019 8:16:30 AM  
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