



September 29, 2011

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Personal Auto Policy Revisions

The Commissioner of Insurance has approved a number of changes to the North Carolina Personal Auto Policy Program which were filed on behalf of member companies of the North Carolina Rate Bureau and the North Carolina Reinsurance Facility.

Enclosed is a copy of the revised policy. It is anticipated that a copy of this form in Microsoft Word format will be available for download from the Rate Bureau's website by October 6, 2011.

The following endorsement has been revised for use in North Carolina.

NC 00 13 08 11 Amendatory Endorsement

Endorsement NC 00 13 is a mandatory endorsement and is required to be attached to the Personal Auto Policy.

These changes are to become effective in accordance with the following Rule of Application:

These changes are applicable to all new and renewal policies written to become effective on or after April 1, 2012.

The North Carolina Personal Auto Policy Program contains copyrighted material of Insurance Services Office used with their permission under a limited copyright license granted by Insurance Services Office to the North Carolina Rate Bureau. Under the terms of the limited copyright license, the Rate Bureau has copyrighted the materials included in the Personal Auto Policy Program, including the manual and all forms, and member companies are advised that when they reprint, copy, or otherwise use any materials included in this program the following notice must appear on the materials: "Copyright, North Carolina Rate Bureau, 2011." This program may be used only by members of the North Carolina Rate Bureau and may be used only in North Carolina.

Please see to it that this circular is brought to the attention of all interested personnel in your company.

Very truly yours,

F. Timothy Lucas

Personal Lines Manager

FTL:dms
Attachment
RF-11-12

Amendatory Endorsement

This endorsement is a part of your policy. Except for the changes it makes, all other terms of the policy remain the same and apply to this endorsement.

1. Part A - LIABILITY COVERAGE

A. Part A is amended as follows:

1. Exclusion A.2. is deleted and replaced by the following:

We do not provide Liability Coverage for any **insured**:

2. For **property damage** to property:

- a. owned in whole or in part by that **insured**; or
- b. being transported by that **insured**;

2. The following Exclusion B.3. is added:

We do not provide Liability Coverage for the ownership, maintenance or use of:

3. Any vehicle while participating in any prearranged, organized, or spontaneous:

- a. racing contest, speed contest, demolition, stunt activity, or competitive driving event, or in practice or preparation for any such contest or use of this type; or
- b. use of a vehicle at a facility designed for racing or high performance driving unless such use is for an activity other than high performance driving, high speed driving, and other than those activities listed in 3.a. above.

This exclusion applies only to the extent that the limit of liability of this policy exceeds the minimum limit required by the financial responsibility law of North Carolina.

- B. The following provision is added following the **Other Insurance** provision:

Appraisal – Diminution in Value

If there is no dispute between the claimant and us regarding the **insured's** liability for the property damage to the claimant's vehicle, but:

- a. the claimant and we fail to agree as to the difference in fair market value of the vehicle immediately before the accident and immediately after the accident; and
- b. the difference in the claimant's and our estimate of the diminution in fair market value is greater than two thousand dollars (\$2,000) or twenty-five percent (25%) of the fair market retail value of the vehicle prior to the accident as determined by the latest edition of the National Automobile Dealers Association Pricing Guide Book or other publications approved by the Commissioner of Insurance, whichever is less; then

on the written demand of either the claimant or us, the dispute regarding the amount of the diminution in value shall be determined by appraisal in accordance with G.S. 20-279.21(d1).

2. Part B – MEDICAL PAYMENTS COVERAGE

The following Exclusion 12. is added:

We do not provide Medical Payments Coverage for any **insured** for **bodily injury**:

12. Sustained while **occupying** any vehicle participating in any prearranged, organized, or spontaneous:

- a. racing contest, speed contest, demolition, stunt activity, or competitive driving event, or in practice or preparation for any such contest or use of this type; or
- b. use of a vehicle at a facility designed for racing or high performance driving unless such use is for an activity other than high performance driving, high speed driving, and other than those activities listed in 12.a. above.

3. Part C1 - UNINSURED MOTORISTS COVERAGE

A. Part C1 is amended as follows:

- A. The third paragraph of **Limit of Liability** is deleted and replaced by the following:

The limits of bodily injury liability shown in the [Schedule or] Declarations for each person and each accident for this coverage shall be reduced by all sums:

1. Paid because of the **bodily injury** by or on behalf of persons or organizations who may be legally responsible. This includes all sums paid under Part A; and
2. Paid or payable because of the **bodily injury** under any disability benefits law or any similar law.

The most we will pay for **bodily injury** damages to an **insured** under this coverage is the lesser of:

1. the limit of bodily injury liability shown in the [Schedule or] Declarations for each person for this coverage reduced by all sums described in items 1. and 2. of the preceding paragraph; or
2. the damages sustained by the **insured** for **bodily injury** reduced by:
 - a. all sums described in items 1. and 2. in the preceding paragraph; and

- b. all sums paid or payable because of the **bodily injury** under any workers' compensation law. However, this reduction does not apply to the extent that an employer's lien is required to be paid under North Carolina's workers' compensation law.

The limit of property damage liability under this coverage shall be reduced by all sums paid because of the **property damage** by or on behalf of persons or organizations who may be legally responsible. This includes all sums payable under Part A.

- B. The **Arbitration** provision is deleted and replaced by the following:

If we and an **insured** do not agree:

1. Whether that **insured** is legally entitled to recover compensatory damages from the owner or operator of an **uninsured motor vehicle**; and/or
2. As to the amount of compensatory damages an **insured** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle**;

then such issue or issues may be settled by arbitration. Neither party is required to arbitrate. However, if both parties agree to arbitration the following procedures will be used:

1. Unless the **insured** and we agree otherwise, arbitration will take place in the county and state in which the **insured** lives.
2. Each party will select a competent arbitrator. The two so selected will select a third competent and disinterested arbitrator. If the third arbitrator is not selected within 30 days from the date the last party selects its arbitrator, the **insured** or we, upon three days notice to the other, may re-

quest a judge of a court of record to name one. The court must be in the county and state in which arbitration is to take place.

3. Each party will pay its chosen arbitrator. Each will pay half of all other expenses of arbitration. Fees and expenses of lawyers and expert witnesses are not considered arbitration expenses and are to be paid by the party hiring these persons.
4. Arbitration will be subject to the rules of procedure and evidence in the county and state in which arbitration is to take place. The arbitrators can only resolve the issues of whether the **insured** is legally entitled to recover compensatory damages from the owner or operator of an **uninsured motor vehicle** and/or the amount of compensatory damages an **insured** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle**. A written decision on which two arbitrators agree will be binding on the **insured** and us.
5. As an alternative, the **insured** and we may agree to arbitrate by rules other than stated above.

4. Part C2 - COMBINED UNINSURED/UNDER-INSURED MOTORISTS COVERAGE

Part C2 is amended as follows:

- A. The fourth and fifth paragraphs of **Limit of Liability** are deleted and replaced by the following:

The limits of bodily injury liability shown in the [Schedule or] Declarations for each person and each accident for this coverage shall be reduced by all sums:

1. Paid because of the **bodily injury** by or on behalf of persons or organizations who may be legally responsible. This in-

cludes all sums paid under Part A; and

2. Paid or payable because of the **bodily injury** under any disability benefits law or any similar law.

The most we will pay for **bodily injury** damages to an **insured** under this coverage is the lesser of:

1. the limit of bodily injury liability shown in the [Schedule or] Declarations for each person for this coverage reduced by all sums described in items 1. and 2. of the preceding paragraph; or
2. the damages sustained by the **insured** for **bodily injury** reduced by:
 - a. all sums described in items 1. and 2. in the preceding paragraph; and
 - b. all sums paid or payable because of the **bodily injury** under any workers' compensation law. However, this reduction does not apply to the extent that an employer's lien is required to be paid under North Carolina's workers' compensation law.

- B. The **Arbitration** provision is deleted and replaced by the following:

If we and an **insured** do not agree:

1. Whether that **insured** is legally entitled to recover compensatory damages from the owner or operator of an **uninsured motor vehicle** or **underinsured motor vehicle**; and/or
2. As to the amount of compensatory damages an **insured** is legally entitled to recover from the owner or operator of an **uninsured** or **underinsured motor vehicle**;

then such issue or issues may be settled by arbitration. Neither party is required to arbitrate.

However, if both parties agree to arbitration, the following procedures will be used:

by rules other than stated above,

1. Unless the **insured** and we agree otherwise, arbitration will take place in the county and state in which the **insured** lives.
2. Each party will select a competent arbitrator. The two so selected will select a third competent and disinterested arbitrator. If the third arbitrator is not selected within 30 days from the date the last party selects its arbitrator, the **insured** or we, upon three days notice to the other, may request a judge of a court of record to name one. The court must be in the county and state in which arbitration is to take place.
3. Each party will pay its chosen arbitrator. Each will pay half of all other expenses of arbitration. Fees and expenses of lawyers and expert witnesses are not considered arbitration expenses and are to be paid by the party hiring these persons.
4. Arbitration will be subject to the rules of procedure and evidence in the county and state in which arbitration is to take place. The arbitrators can only resolve the issues of whether the **insured** is legally entitled to recover compensatory damages from the owner or operator of an **uninsured or underinsured motor vehicle** and/or the amount of compensatory damages an **insured** is legally entitled to recover from the owner or operator of an **uninsured or underinsured motor vehicle**. A written decision on which two arbitrators agree will be binding on the **insured** and us.
5. As an alternative, the **insured** and we may agree to arbitrate

5. PART D - COVERAGE FOR DAMAGE TO YOUR AUTO

Part D is amended as follows:

- A. Exclusion 9 is changed by deleting the following:

This exclusion does not apply to the interests of Loss Payees in **your covered auto**.

- B. The following Exclusion 14 is added:

We will not pay for:

14. Loss to your **covered auto** or any **non-owned auto** while participating in any prearranged, organized, or spontaneous:
 - a. racing contest, speed contest, demolition, stunt activity, or competitive driving event, or in practice or preparation for any such contest or use of this type; or
 - b. use of a vehicle at a facility designed for racing or high performance driving unless such use is for an activity other than high performance driving, high speed driving, and other than those activities listed in 14.a. above.

6. Part F – GENERAL PROVISIONS

Part F is amended as follows:

- A. The following is added to paragraph 4 of the **Cancellation** provision:
 - g. The named **insured** is no longer an eligible risk under G.S. 58-37-1.
 - h. Any other reason permitted by the North Carolina General Statutes.
- B. **Other Termination Provisions** is deleted and replaced by the following:
 1. If the law in effect in North Carolina at the time this policy is issued, renewed or continued:

- a. requires a longer notice period;
- b. requires a special form of or procedure for giving notice;
- c. modifies any of the stated termination reasons; or;
- d. adds any additional termination reasons;

we will comply with those requirements and this policy shall be deemed amended to include any such change in the law.

2. Proof of mailing of any notice shall be sufficient proof of notice.
3. If the named **insured** or a premium finance company cancels this policy, the premium owed or premium refund due will be calculated according to the short rate provisions contained in our manuals. If we cancel this policy, any premium owed or premium refund will be calculated on a pro-rata basis. However, making or offering to make the refund is not a condition of cancellation.
4. The effective date of cancellation stated in the notice shall become the end of the policy period.