

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## WASHINGTON UNDERINSURED MOTORISTS COVERAGE

For a covered "auto" licensed or principally garaged in, or for "garage operations" conducted in, Washington, this endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

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

<b>Named Insured:</b> _____
<b>Endorsement Effective Date:</b> _____ <b>Policy Number:</b> _____
<b>Countersignature Of Authorized Representative</b>
<b>Name:</b> _____
<b>Title:</b> _____
<b>Signature:</b> _____
<b>Date:</b> _____

### SCHEDULE

<b>"Bodily Injury" and "Property Damage"</b>	\$ _____	<b>Each "Accident"</b>
<b>or</b>		
<b>"Bodily Injury"</b>	\$ _____	<b>Each "Accident"</b>
This endorsement provides "bodily injury" and "property damage" underinsured motorists coverage unless an "X" is entered below:		
<input type="checkbox"/> If an "X" is entered in this box, this endorsement provides "bodily injury" underinsured motorists coverage only for the following "autos":		
<b>Description of "autos":</b>		
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

## A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as compensatory damages from the owner or driver of an "underinsured motor vehicle". The damages must result from "bodily injury" or "property damage" sustained by the "insured" caused by an "accident". The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "underinsured motor vehicle".

## B. Who Is An Insured

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are "insureds":
  - a. The Named Insured and any "family members".
  - b. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
  - c. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
2. A partnership, limited liability company, corporation or any other form of organization, then the following are "insureds":
  - a. Anyone "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
  - b. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
  - c. The Named Insured for "property damage" only.

## C. Exclusions

This insurance does not apply to:

1. The benefit of any insurer or self-insurer under any workers' compensation law or any similar disability benefits law.
2. The benefit of any insurer of property.
3. "Bodily injury" sustained by:
  - a. An individual Named Insured while "occupying" any vehicle owned by that Named Insured or made available for that Named Insured's regular use that is not a covered "auto" for Liability Coverage under this Coverage Form;

- b. Any "family member" while "occupying" any vehicle owned by that "family member" or available for that "family member's" regular use that is not a covered "auto" for Liability Coverage under this Coverage Form; or

- c. Any "family member" while "occupying" any vehicle owned by the Named Insured or made available for the Named Insured's regular use that is insured for Liability Coverage on a primary basis under any other Coverage Form or policy.

4. Property contained in or struck by any vehicle owned by or available for the regular use of the Named Insured or any "family member", if the Named Insured is an individual, which is not a covered "auto" for Liability Coverage under this Coverage Form.

5. The first \$300 of the amount of "property damage" to the property of each "insured" as the result of any one "accident" caused by a hit-and-run vehicle as described in Paragraph 5.d. of the definition of "underinsured motor vehicle". In all other cases, this insurance does not apply to the first \$100 of the amount of "property damage" to the property of each "insured" as the result of any one "accident".

6. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.

7. "Bodily injury" or "property damage" to an "insured" while operating or "occupying" a motorcycle or motor driven cycle which is not a covered "auto" for Liability Coverage under this Coverage Form.

8. Punitive or exemplary damages.

9. "Bodily injury" or "property damage" arising directly or indirectly out of:

- a. War, including undeclared or civil war;

- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### D. Limit Of Insurance

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the limit shown in the Schedule or in the Declarations.
2. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Liability Coverage Form, Medical Payments Coverage Endorsement or Personal Injury Protection Coverage Endorsement attached to this Coverage Part.

We will not make a duplicate payment under this Coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible.

#### E. Changes In Conditions

The conditions are changed for Washington Underinsured Motorists Coverage as follows:

1. **Other Insurance** in the Business Auto and Garage Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Truckers and Motor Carrier Coverage Forms are replaced by the following:

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

- a. The maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any coverage form or policy providing coverage on either a primary or excess basis.
- b. Any insurance we provide with respect to a vehicle the Named Insured does not own shall be excess over any other collectible underinsured motorists insurance providing coverage on a primary basis.
- c. If the coverage under this Coverage Form is provided:

- (1) On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.

- (2) On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.

#### 2. Duties In The Event Of Accident, Claim, Suit Or Loss is changed by adding the following:

- a. A person seeking Underinsured Motorists Coverage must also promptly notify us in writing of a tentative settlement between the "insured" and the insurer of an "underinsured motor vehicle", and allow us 30 days to advance payment to that "insured" in an amount equal to the tentative settlement to preserve our rights against the insurer, owner or operator of such "underinsured motor vehicle". However, this provision does not apply if failure to notify us does not prejudice our right to recover payment from the person legally responsible for the "accident".

#### 3. Legal Action Against Us is replaced by the following:

- a. No one may bring a legal action against us under this Coverage Form until there has been full compliance with all the terms of this Coverage Form.
- b. Any legal action against us under this Coverage Form must be brought within 1 year after the date on which the cause of action accrues.

#### 4. Transfer Of Rights Of Recovery Against Others To Us is changed by adding the following:

If we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid. We shall be entitled to recovery only after the "insured" has been fully compensated for damages.

Our rights do not apply under this provision with respect to damages caused by an "accident" with an "underinsured motor vehicle" if we:

- a. Have been given prompt notice of a tentative settlement between an "insured" and the insurer of an "underinsured motor vehicle"; and
- b. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- (1) That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Underinsured Motorists Coverage; and
- (2) We also have a right to recover the advanced payment.

5. The following condition is added:

#### **ARBITRATION**

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "underinsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated. Both parties must agree to arbitration. If so agreed, 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. We will pay all arbitration expenses. Arbitration expenses will not include the "insured's" attorney's fees or any expenses incurred in producing evidence or witnesses.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

#### **F. Additional Definitions**

As used in this endorsement:

1. "Property damage" means injury to or destruction of the property of an "insured".
2. "Family member" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
3. "Occupying" means in, upon, getting in, on, out or off.

4. "Suit" means a civil proceeding in which:

- a. Damages because of "bodily injury" or "property damage"; or
- b. A "covered pollution cost or expense" to which this insurance applies, are alleged.

"Suit" includes:

- (1) An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed; or
- (2) Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed.

5. "Underinsured motor vehicle" means a land motor vehicle or "trailer":

- a. For which no liability bond or policy applies at the time of an "accident"; or
- b. For which liability bonds or policies apply at the time of the "accident", but the amount paid under all of the bonds or policies to an "insured" is not enough to pay the full amount an "insured" is legally entitled to recover as damages caused by the "accident"; or
- c. For which all insuring or bonding companies deny coverage or are or become insolvent; or
- d. That is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must either:
  - (1) Hit an "insured", a covered "auto" or a vehicle an "insured" is "occupying"; or
  - (2) Cause "bodily injury" or "property damage" with no physical contact with the "insured" or the vehicle the "insured" was "occupying" at the time of the "accident" provided:
    - (a) The facts of the "accident" can be corroborated by competent evidence other than the testimony of any person having an underinsured motorists coverage claim as a result of such "accident"; and
    - (b) Someone reports the "accident" to the police within 72 hours of the "accident".

However, "underinsured motor vehicle" does not include any vehicle:

- a. Which is a covered "auto" for Liability Coverage. However, if the Named Insured is an individual and that Named Insured or any "family member" sustain damages while "occupying", or when struck by, an "auto" which is a covered "auto" for Liability Coverage under this Coverage Form, this exception to this definition of an "underinsured motor vehicle" does not apply to that Named Insured or any such "family member".
  - b. Owned by a governmental unit or agency. This provision does not apply if the governmental unit or agency is unable to pay damages because of financial inability or insolvency.
6. Whenever the terms "uninsured motorists coverage" or "underinsured motor vehicle" appear in the Coverage Form or any endorsements attached to the Coverage Form, they are replaced by the terms "underinsured motorists coverage" and "underinsured motor vehicle" for covered "autos" licensed in or "garage operations" conducted in Washington.