



South Carolina Department of Insurance

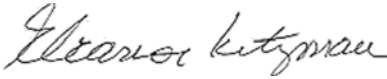
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MARK SANFORD
Governor

ELEANOR KITZMAN
Director of Insurance

BULLETIN NUMBER 2006-03

TO: Insurers Writing Automobile Property and Casualty Insurance in South Carolina

FROM: Eleanor Kitzman, Director 

SUBJECT: Recent Changes in South Carolina Law Concerning Increases in Minimum Liability Limits and Offers of Additional Uninsured and Optional Underinsured Motorist Insurance Coverage Requirements

DATE: July 7, 2006

SECTION I: PURPOSE

The purpose of this bulletin is to address recent changes in South Carolina law governing minimum automobile liability insurance limits and the offering of additional uninsured and optional underinsured motorist insurance coverage. This bulletin supersedes and replaces South Carolina Department of Insurance Bulletin 1999-01 on this subject and South Carolina Department of Insurance Bulletin 2006-01 regarding the decision in *Floyd v. Nationwide Mutual Insurance Company*, 367 S.C.253, 626 S.E.2d 6 (2005).

SECTION II: INCREASE IN MINIMUM AUTOMOBILE LIABILITY INSURANCE LIMITS

Effective January 1, 2007, the minimum automobile liability insurance limits that insurers are required to offer are increased as set forth below:

- \$25,000 because of bodily injury to one person in any one accident and, subject to the limit for one person;
- \$50,000 because of bodily injury to two or more persons in any one accident; and
- \$25,000 because of injury to or destruction of property of others in any one accident.

See 2006 S.C. Rat. No. 377, § 3. These are minimum requirements. Insurers are **not** precluded from issuing, selling or delivering a policy providing liability coverage in excess of these requirements.

The increased minimum limits *only* apply to new or renewal policies with effectives dates of coverage on or after January 1, 2007. It does **not** apply to in-force policies unless those policies cancel mid-term after January 1, 2007. If a minimum limits policy cancels mid-term and is reinstated within the insurer's established reinstatement guidelines, it may be reinstated at the old minimum limits. If the policy cancels mid-term and is re-written, it must be written with the increased minimum limits. Insurers that already have approved rate filings with factors for 25/50/25 and that are not seeking an increase for those limits or any other rates at January 1, 2007 do not need to make any rate filing with the Department. Insurers seeking an increase in their

25/50/25 rates or that do not have approved rates for 25/50/25 must make a rate filing with the Department. Additionally, if an insurer's forms refer to 15/30/10 or 15/30/15 policy limits, new forms and/or an endorsement must be filed. Please submit filing by November 1, 2006 to insure a January 1, 2007 effective date.

SECTION III: WHAT CONSTITUTES A MEANINGFUL OFFER OF OPTIONAL UNDERINSURED MOTORIST COVERAGE

Section 38-77-350 requires the Director to "approve a form which automobile insurers shall use in offering optional coverages required to be offered pursuant to law to applicants for automobile insurance policies." The statute further provides that if the "form is properly completed and executed by the named insured it is conclusively presumed that there was an informed, knowing selection of coverage and neither the insurance company nor any insurance agents has any liability to the named insured or any other insured under the policy for the insured's failure to purchase any optional coverage or higher limits." See S.C. Code Ann. §38-77-350 (B) (2002). Pursuant to South Carolina Department of Insurance Bulletin 1999-01, effective March 1, 1999, the Department promulgated SCDOI Form Number 2006, *Offer of Additional Uninsured Motorist Coverage and Optional Underinsured Motorist Coverage*.

In December 2005, the South Carolina Supreme Court held that the insured had to personally mark the selection and sign the form for it to be considered an informed and knowing selection of optional insurance coverage. See *Floyd v. Nationwide Mutual Insurance Company*, 367 S.C.253, 626 S.E.2d 6 (2005). The South Carolina General Assembly effectively reversed the *Floyd* decision with the enactment of 2006 S.C. Rat. No. 377, §1 amending §38-77-350. Effective June 14, 2006, an insurer or representative of the insurer may complete the form for the named insured. If the form is signed by the named insured after it has been completed by the producer or representative of the insurer, it is conclusively presumed that there was an informed, knowing selection of coverage and neither the insurance company nor an insurance agent is liable to the named insured or another insured under the policy for the insured's failure to purchase optional coverage or higher limits. See 2006 S.C. Rat. No. 377, §1.

SECTION IV: REVISED SCDOI FORM NUMBER 2006

The Department has revised SCDOI Form Number 2006 to reflect both the increase in the minimum liability limits and the revisions to §38-77-350. Attached as Exhibit 1 is a copy of that revised form. It, or another substantially similar form offering additional uninsured or optional underinsured motorist coverage, must be used by insurers for all newly issued automobile insurance policies. Insurers may also wish to have this revised form completed at renewal for existing policies in order to avail themselves of the protections of §38-77-350. If an insurer chooses to use a form other than SCDOI 2006, it must first be submitted to the Office of Forms and Rates for approval at the address listed below.

Carla Lachance
Manager, Forms and Rates
South Carolina Department of Insurance
300 Arbor Lake Drive, Suite 1200
Columbia, South Carolina 29223
Telephone: (803) 737-6230
Fax: (803) 737-6233
Email: clachance@doi.sc.gov

EXHIBIT 1

**STATE OF SOUTH CAROLINA DEPARTMENT OF INSURANCE
SCDOI FORM NUMBER 2006
[REVISED JANUARY 1, 2007]**

**OFFER OF ADDITIONAL UNINSURED MOTORIST COVERAGE
AND OPTIONAL UNDERINSURED MOTORIST COVERAGE**

Automobile liability insurance coverage pays other motor vehicle drivers and their passengers for damages caused by you and for which you are legally responsible. There are two types of automobile liability insurance coverage: bodily injury and property damage. Bodily injury coverage pays for bodily injuries to others inflicted by your motor vehicle. Property damage coverage pays for damages which your motor vehicle causes to other motor vehicles or property.

Under South Carolina law, an insurance company may refuse to write your automobile liability insurance for a number of reasons. If an insurance company decides to write your automobile liability insurance coverage, however, it must provide at least \$25,000 of bodily injury coverage for each person whom you may injure in any single accident and \$50,000 of bodily injury coverage for two or more people whom you may injure in any single accident. The insurance company must also provide at least \$25,000 in property damage coverage for each accident you may cause. You may have seen these limits described as \$25,000/\$50,000/\$25,000 or 25-50-25. These limits are commonly-known as minimum limits. In order to drive your automobile upon the roads of this State, you must have at least these minimum limits of insurance, unless you post a satisfactory bond or pay a \$550 fee to drive uninsured. There is no requirement that an insurance company offer higher than minimum limits of automobile liability insurance coverage. If your insurance company does offer more than the minimum limits, you will be required to pay an additional premium for those increased limits of protection.

An insurer that writes your automobile liability insurance coverage must also offer two additional coverages which will protect you in the event you are damaged in an automobile accident by an at-fault driver who either has no automobile insurance or whose automobile insurance liability limits are less than your damages in that accident. These coverages are termed additional uninsured motorist coverage and optional underinsured motorist coverage, respectively. You may also see them referred to as UM and/or UIM. If you decide to purchase either of these coverages, you will be required to pay an additional premium for each of these coverages.

Uninsured motorist coverage compensates you, or other persons insured under your automobile insurance policy, for amounts which you may be legally entitled to collect as damages from an owner or operator of an at-fault uninsured motor vehicle. An uninsured motor vehicle is a motor vehicle which either has no liability insurance coverage or is operated by a hit-and-run driver. By law, your automobile insurance policy automatically provides uninsured motorist coverage of \$25,000/\$50,000/\$25,000. There is a \$200 deductible for uninsured property damage claims.

You also have the right to buy additional uninsured motorist coverage, in various limits up to the limits of the liability coverage you have purchased. The limits of additional uninsured motorist coverage which your insurance company is authorized to write and for which you are eligible are shown on this form, together with the additional premium for those increased limits. You may not purchase uninsured motorist coverage with limits in excess of your liability limits.

Underinsured motorist coverage compensates you, or other persons insured under your automobile insurance policy, for amounts which you legally may be entitled to collect as damages from an owner or operator of an at-fault underinsured motor vehicle. An underinsured motor vehicle is a motor vehicle which is covered by some

form of liability insurance, but which is insufficient to fully compensate you for your damages.

Your automobile insurance policy does not automatically provide any underinsured motorist coverage. However, you have the right to buy, and your insurance company is required to offer, optional underinsured motorist coverage in various limits up to the limits of liability coverage you have purchased. The limits of optional underinsured motorist coverage which your insurer is authorized to write and for which you are eligible are shown on this form, together with the additional premium for those limits. You may not purchase underinsured motorist coverage with limits in excess of your liability limits.

If you reject optional underinsured or additional uninsured motorist coverages shown on this form and if you are involved in an automobile accident that is not your fault, this form may be used by your insurance company as evidence against you if you make a claim for additional uninsured motorist coverage or optional underinsured motorist coverage.

If you do not complete this form and return it to your insurance company or insurance agent within 30 days, your insurance company is required by law to add additional uninsured motorist coverage and optional underinsured motorist coverage, in the same limits as your automobile liability insurance, to your automobile insurance policy. You will be required to pay an additional premium for each of these coverages and your policy may be canceled for non-payment of that additional premium.

In the future, if you wish to increase or to decrease your limits of additional uninsured motorist coverage or optional underinsured motorist coverage, you must contact either your insurance agent or your insurance company. You will not be presented with another copy of this form by your insurance agent or insurance company upon the renewal of your automobile liability insurance policy. You will not be presented with another copy of this form by your insurance agent or current insurance company when you extend, change, supersede, or replace your automobile liability insurance policy.

Please read this form carefully. Your insurance agent or your insurance company must answer any questions which you may have. If you have any further questions, you may contact the Department of Insurance at:

Office of Consumer Services
South Carolina Department of Insurance
300 Arbor Lake Drive, Suite 1200, Columbia, SC 29223
Post Office Box 100105 Columbia, South Carolina 29202-3105
(803) 737-6180
(800) 768-3467 E-mail Address: CnsmMail@doi.sc.gov

Offer of Additional Uninsured Motorist Coverage

Minimum uninsured motorist coverage limits of \$25,000/\$50,000/\$25,000 are automatically provided by your insurance policy. If you select additional uninsured motorist coverage, an additional premium will be charged. The schedule below indicates the premium charges for minimum and increased limits:

a. Individual Named Insureds and Partnerships

(1) Split Limits (000's)

	Number of Autos (premium per auto)					
	1	2	3-4	5-9	10-30	>30
25/50/25						
50/100/50						
100/300/50						
250/500/50						

(2) Single Limits

Limit	Number of Autos (premium per auto)					
	1	2	3-4	5-9	10-30	>30
75,000						
150,000						
350,000						
550,000						

Do you wish to purchase additional uninsured motorist coverage? Yes____ No____

If your answer is "no," you must sign here: _____

If your answer is "yes," specify the limits you desire. These limits cannot exceed your automobile insurance liability limits.

_____ I select _____ / _____ / _____ split limits: OR
 _____ I select _____ single limit.

Offer of Optional Underinsured Motorist Coverage

Minimum uninsured motorist coverage limits of \$25,000/\$50,000/\$25,000 are automatically provided by your insurance policy. If you select optional underinsured motorist coverage, an additional premium will be charged. The schedule below indicates the premium charges for minimum and increased limits:

a. Individual Named Insureds and Partnerships

(1) Split Limits (000's)

	Number of Autos (premium per auto)					
	1	2	3-4	5-9	10-30	>30
25/50/25						
50/100/50						
100/300/50						
250/500/50						

(2) Single Limits

Limit	Number of Autos (premium per auto)					
	1	2	3-4	5-9	10-30	>30
75,000						
150,000						
350,000						
550,000						

Do you wish to purchase optional underinsured motorist coverage? Yes____ No____

If your answer is "no," you must sign here: _____

If your answer is "yes," specify the limits you desire. These limits cannot exceed your automobile insurance liability limits.

_____ I select _____ / _____ / _____ split limits: OR

_____ I select _____ single limit.

Applicant's Acknowledgment

By my signature, I acknowledge that I have read – or I have had read to me – the above explanations and offers of additional uninsured motorist coverage and optional underinsured motorist coverage. I understand that the above explanations of these coverages are intended only to be brief descriptions of additional uninsured motorist coverage and optional underinsured motorist coverage, and that payment of benefits under either of these coverages is subject both to the terms and conditions of my automobile insurance policy and the laws of the State of South Carolina.

My signature below further acknowledges that I understand the coverages as they have been explained to me, and the type and amounts of coverage marked on the preceding pages have been selected by me. This is the type and amount of insurance coverage I wish to purchase.

Type or print your name: _____

Your signature: _____

Your address: _____

Today's date: _____