

1 AN ACT relating to uninsured motor vehicle coverage.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 *(1) Notwithstanding Section 2 of this Act, no automobile liability or motor vehicle*
6 *liability policy of insurance insuring against loss resulting from liability imposed*
7 *by law for bodily injury, including death, or property damage, suffered by any*
8 *person arising out of the ownership, maintenance, or use of a motor vehicle shall*
9 *be delivered or issued for delivery in this state with respect to any motor vehicle*
10 *registered or principally garaged in this state unless:*

11 *(a) Coverage is provided in or supplemental to the policy, in limits matching the*
12 *liability coverage requirement set forth in KRS 304.39-110 under provisions*
13 *approved by the commissioner, for the protection of persons insured under*
14 *the policy who are legally entitled to recover damages arising out of the*
15 *ownership, maintenance, or use of uninsured motor vehicles from owners*
16 *or operators of those vehicles for bodily injury, sickness or disease,*
17 *including death, or property damage; and*

18 *(b) The coverage required by paragraph (a) of this subsection is provided at no*
19 *additional cost to the insured.*

20 *(2) For the purpose of the coverage required by subsection (1) of this section:*

21 *(a) In addition to a motor vehicle that is not covered by any valid policy of*
22 *liability insurance at the time damages occurred, the term "uninsured*
23 *motor vehicle" shall, subject to the terms and conditions of the coverage, be*
24 *deemed to include an insured motor vehicle:*

25 *1. Where the liability insurer of the vehicle is unable to make payment*
26 *with respect to the legal liability of its insured within the limits*
27 *specified in the policy because of insolvency;*

1 2. With liability or policy limits that, under the liability bond or
2 insurance policy applicable at the time of the accident with respect to
3 any person or organization legally responsible for the use of the
4 insured motor vehicle, are less than the limits described in KRS
5 304.39-110; and

6 3. To the extent that the liability or policy limit amounts provided in the
7 liability coverage applicable at the time of the accident is denied by the
8 insurer issuing the coverage; and

9 (b) The term "additional cost to the insured" shall include:

10 1. Any additional, or increase in, premium or expense to the insured for
11 the required coverage or the underlying liability insurance policy that
12 is purchased by the insured; and

13 2. Submitting or including expenses or risks incurred as a result of, or
14 attributable to, the required coverage in any rate development or rate
15 filings related to any insurance offered by the insurer. For the
16 purposes of this subparagraph, "expenses or risks" include loss
17 adjustment expenses and prospective loss costs as defined in KRS
18 304.13-011 and any other expenses or relevant factors furnished in
19 support of a rate filing.

20 (3) (a) Protection against an insurer's insolvency shall be applicable only to
21 accidents:

22 1. Occurring during a policy period in which its insured's uninsured
23 motorist coverage is in effect; and

24 2. Where the liability insurer of the tortfeasor becomes insolvent within
25 one (1) year after the accident.

26 (b) Nothing in this subsection shall be construed to prevent any insurer from
27 affording insolvency protection under terms and conditions more favorable

1 to its insureds than is provided in this section.

2 (4) In the event of payment to any person under the coverage required by this section
 3 and subject to the terms and conditions of that coverage, the insurer making the
 4 payment shall be entitled to the proceeds of any settlement or judgment resulting
 5 from the exercise of any rights of recovery of its insured against any person or
 6 organization legally responsible for the bodily injury or property damage for
 7 which the payment is made, including the proceeds recoverable from the assets of
 8 the insolvent insurer, to the extent of any payment made.

9 (5) All insurance companies offering automobile liability insurance referenced in
 10 subsection (1) of this section shall allow an appropriate reduction in premium
 11 charges to all insureds eligible for a reduction pursuant to subsection (1)(b) of
 12 this section.

13 (6) This section shall expire on December 31, 2020.

14 ➔Section 2. KRS 304.20-020 is amended to read as follows:

15 (1) (a) No automobile liability or motor vehicle liability policy of insurance insuring
 16 against loss resulting from liability imposed by law for bodily injury,
 17 including ~~or~~ death, or property damage, suffered by any person arising out
 18 of the ownership, maintenance, or use of a motor vehicle shall be delivered or
 19 issued for delivery in this state with respect to any motor vehicle registered or
 20 principally garaged in this state unless coverage is provided in ~~therein~~ or
 21 supplemental to the policy ~~thereto~~, in limits matching the liability coverage
 22 requirement ~~for bodily injury or death~~ set forth in KRS 304.39-110 under
 23 provisions approved by the commissioner, for the protection of persons
 24 insured under the policy ~~thereunder~~ who are legally entitled to recover
 25 damages arising out of the ownership, maintenance, or use of uninsured
 26 motor vehicles from owners or operators of those ~~uninsured motor~~ vehicles
 27 for ~~because of~~ bodily injury, sickness or disease, including death, or property

1 damage.~~[resulting therefrom; provided that]~~

2 **(b) Notwithstanding paragraph (a) of this subsection:**

3 **1.** Any named insured shall have the right to reject in writing the~~[such]~~
4 coverage **required by this section**~~;~~ and~~[provided further that]~~ the
5 rejection shall be valid for all insureds under the policy;~~;~~ and

6 **2. Upon rejection of the required coverage by a named insured,** unless
7 the~~[a]~~ named insured requests the~~[such]~~ coverage in writing, the~~[such]~~
8 coverage need not be provided in or supplemental to a renewal,
9 reinstatement, substitute, replacement, or amended policy issued to the
10 same named insured by the same insurer or any of its affiliates or
11 subsidiaries.

12 (2) For the purpose of the~~[this]~~ coverage **required by subsection (1)(a) of this section,**
13 **in addition to a motor vehicle that is not covered by any valid policy of liability**
14 **insurance at the time damages occurred,** the term "uninsured motor vehicle" shall,
15 subject to the terms and conditions of the~~[such]~~ coverage, be deemed to include an
16 insured motor vehicle:

17 **(a)** Where the liability insurer **of the vehicle**~~[thereof]~~ is unable to make payment
18 with respect to the legal liability of its insured within the limits specified **in**
19 **the policy**~~[therein]~~ because of insolvency;~~[an insured motor vehicle]~~

20 **(b)** With **liability or policy limits that**~~[respect to which the amounts provided],~~
21 under the~~[bodily injury]~~ liability bond or insurance policy applicable at the
22 time of the accident with respect to any person or organization legally
23 responsible for the use of the insured~~[such]~~ motor vehicle, are less than the
24 limits described in KRS 304.39-110; and~~[an insured motor vehicle]~~

25 **(c)** To the extent that the **liability or policy limit** amounts provided in the liability
26 coverage applicable at the time of the accident is denied by the insurer **issuing**
27 **the coverage**~~[writing the same].~~

1 (3) (a) Protection against an insurer's insolvency shall be applicable only to
2 accidents:

3 1. Occurring during a policy period in which its insured's uninsured
4 motorist coverage is in effect; and

5 2. Where the liability insurer of the tortfeasor becomes insolvent within
6 one (1) year after the~~[such an]~~ accident.

7 (b) Nothing in this subsection~~[herein contained]~~ shall be construed to prevent any
8 insurer from affording insolvency protection under terms and conditions more
9 favorable to its insureds than is provided in this section~~[hereunder]~~.

10 (4) In the event of payment to any person under the coverage required by this section
11 and subject to the terms and conditions of that~~[such]~~ coverage, the insurer making
12 the~~[such]~~ payment shall~~[, to the extent thereof,]~~ be entitled to the proceeds of any
13 settlement or judgment resulting from the exercise of any rights of recovery of its
14 insured~~[such person]~~ against any person or organization legally responsible for the
15 bodily injury or property damage for which the~~[such]~~ payment is made, including
16 the proceeds recoverable from the assets of the insolvent insurer, to the extent of
17 any payment made.

18 ➔Section 3. The provisions of this Act apply to all automobile liability or motor
19 vehicle liability policies issued or renewed on or after January 1, 2019.

20 ➔Section 4. This Act takes effect on January 1, 2019.