



RULES – IMPLEMENTATION

FEBRUARY 6, 2019

COMMERCIAL AUTOMOBILE

LI-CA-2019-033

## UTAH REVISED COMMERCIAL AUTO RULE TO BECOME EFFECTIVE

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### KEY MESSAGE

We are implementing revisions to Utah Rule 97. Uninsured Motorists Coverage in response to Utah Supreme Court's holding in Dircks v. The Travelers Indemnity Company of America, 416 P.3d 376 (2017).

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### ISO ACTION

In response to the Utah Supreme Court's holding in Dircks v. The Travelers Indemnity Company of America, we are revising Rule 97. Uninsured Motorists Insurance in the Utah Exception Pages to the Commercial Lines Manual to indicate that if liability coverage applies to hired or non-owned automobiles, then Underinsured Motorists Bodily Injury coverage must also be provided.

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### EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies written on or after July 1, 2019.

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### COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Insurance Department.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Insurance Department.

For guidance on submission requirements, consult the ISO State Filing Handbook.

In all correspondence with the Insurance Department on this revision, you should refer to ISO Filing Designation Number CA-2018-RUM1, not this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

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### RATING SOFTWARE IMPACT

No new attributes are being introduced with this revision.

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## POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2018-044](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

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## REVISION DISTRIBUTION

We will issue a Notice to Manualholders with an edition date of 7-19 (or the earliest possible subsequent date), along with any new and/or revised manual pages.

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## RELATED FORMS REVISION

We are announcing in a separate circular the implementation of a corresponding forms revision. Please refer to the Reference(s) block for identification of that circular.

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## RELATED LOSS COSTS REVISION

We are announcing in a separate circular the implementation of a corresponding loss costs revision. Please refer to the Reference(s) block for identification of that circular.

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## REFERENCE(S)

- [LI-CA-2019-034](#) (02/06/2019) Utah Revised Commercial Auto Advisory Prospective Loss Costs To Become Effective
- [LI-CA-2019-032](#) (02/06/2019) Utah Revised Underinsured Motorists Coverage Endorsements To Become Effective
- [LI-CL-2018-044](#) (11/27/2018) Revised Lead Time Requirements Listing

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## ATTACHMENT(S)

Filing [CA-2018-RUM1](#)

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# Revision To Utah Commercial Auto Rule

## About This Filing

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This filing is being made in response to Utah Supreme Court's holding in Dircks v. The Travelers Indemnity Company of America, 416 P.3d 376 (2017).

## Revised Rule

We are revising Rule 97. Uninsured Motorists Insurance.

We have used a format of ~~striking-through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes.

## Related Filing(s)

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The following companion filings are being filed with a concurrent effective date:

- ◆ Forms filing CA-2018-OUM2 contains the related forms filing.
- ◆ Loss Costs filing CA-2018-RUMLC contains the related advisory prospective loss costs filing.

## Background

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In Dircks v. The Travelers Indemnity Company of America, the Utah Supreme Court generally held, in part, that any vehicle covered under the liability provisions of an auto insurance policy must also be covered under the underinsured motorist provisions of that policy, and with equal limits, unless a named insured waives the coverage by signing an acknowledgment form meeting certain statutory requirements.

## Explanation of Changes

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In response to the Utah Supreme Court's holding in Dircks v. The Travelers Indemnity Company of America, we are revising Rule 97. Uninsured Motorists Insurance in the Utah Exception Pages to the Commercial Lines Manual to

- Indicate that if liability coverage applies to hired or non-owned automobiles, then Underinsured Motorists Bodily Injury coverage must also be provided.

- Add reference to, and premium development instruction on, hired and non-owned autos in Paragraph B.

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## 97. UNINSURED MOTORISTS INSURANCE

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The following is added to Rule 97.:

### A. Application

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#### 2. Underinsured Motorists Coverage – Bodily Injury

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- e. If Liability Coverage also applies to hired or non-owned automobiles, Underinsured Motorists Bodily Injury Coverage must be provided for those autos.

#### 3. Uninsured Motorists Coverage – Property Damage

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### B. Premium Development

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2. Identify the exposures in this jurisdiction for which coverage applies and a premium will be charged. Exposures include owned self-propelled vehicles and sets of registration plates not issued to a specific auto (including dealer and transporter plates). For Underinsured Motorists Coverage only, exposures also include employees (for non-owned autos) and the cost of hire (for hired autos), but only if Liability Coverage applies to hired and/or non-owned autos.

- a. Separately determine the premium for each such exposure as follows:

- (1) Determine the exposure type (Private Passenger Type or Other Than Private Passenger Type). For the purposes of this premium development, Private Passenger Types include exposures which are classified under Section III of this division or are explicitly described as Private Passenger Types elsewhere in this division. Unless instructed otherwise, all other exposures are considered to be Other Than Private Passenger Types, even when rating for other coverages is based on Private Passenger Types.
- (2) Within the appropriate loss costs table (single or split limits), locate the column corresponding to the exposure type determined in Paragraph 97.B.2.a.(1).
- (3) From within this column, determine the appropriate loss cost based on the desired limit of coverage.
- (4) For policies (other than Auto Dealers) issued to individual named insureds, add the amount shown in state loss costs Table 97.B.2.a.(4)(LC).
- (5) Refer to the rules applicable to the exposure elsewhere in this division for additional premium development instructions, if any.

- b. For Underinsured Motorists Coverage only, determine the premium for hired autos as follows:

- (1) Determine the estimated cost of hire for each class of autos the insured expects to hire in this state during the policy period.
- (2) Divide the cost of hire by 100.
- (3) Multiply the result by the appropriate hired autos state loss cost in Rule 97. for the desired limit of coverage.
- (4) Refer to the rules applicable to the exposure elsewhere in this division for additional premium development instructions, if any.

- c. For Underinsured Motorists Coverage only, determine the premium for non-owned autos as follows:

- (1) Determine the total number of employees of the insured at all locations within this state.
- (2) Multiply this amount by the appropriate non-owned autos state loss cost in Rule 97. for the desired limit of coverage.
- (3) Refer to the rules applicable to the exposure elsewhere in this division for additional premium development instructions, if any.

- d. Primary, secondary, fleet, operator experience and use rating factors do not apply.

- ee. For Uninsured Motorists Coverage only, do not charge a premium for hired and non-owned autos. For Uninsured and Underinsured Motorists Coverage, ~~Do~~ do not charge a premium for the following:

- (1) Trailers;
- ~~(2) Hired and non-owned autos;~~
- ~~(32)~~ (32) Owned vehicles which have not been assigned registration plates (such as Auto Dealers' inventory); or
- ~~(43)~~ (43) Registration plates used to transport non-owned autos (such as drive-away contractors rated under Rule 69.).

**df.** Do not apply the charge in Table **97.B.2.a.(4)(LC)** for Uninsured Motorists Property Damage Coverage. This charge is also inapplicable to Underinsured Motorists Bodily Injury Coverage, if Uninsured Motorists Bodily Injury Coverage is also provided.

**eg.** For policies (other than Auto Dealers) issued to individual named insureds:

**(1)** Multiply the Uninsured Motorists Bodily Injury Coverage and Underinsured Motorists Bodily Injury Coverage loss costs developed in Paragraph **a.** for the auto with the highest limit **only** by the following factor:

Factor
1.05

**Table 97.B.2.eg.(1) Individual Named Insureds Uninsured And Underinsured Motorists Bodily Injury Coverage Factor**

**(2)** Do not apply this factor to the remainder of autos provided such coverage.