



Current Articles 2008 – January

New Auto Endorsement

The Financial Services Commission has recently introduced several new or revised endorsements and policy forms, all to be effective Jan. 1, 2008. These changes are all as a result of Bill 18 and the vicarious liability of persons who rent vehicles. As outlined in my article of October 2006, Bill 18 limits the liability of the lessor to \$1,000,000 and also established a priority of payment rule. If a liability claim is made against a driver, renter (lessee) or owner (lessor) of a rented vehicle, the insurance available for the person who rented the vehicle responds first followed by the insurance of the driver of the rented vehicle and lastly the owner of the rented vehicle.

The first new endorsement is the O.E.F 98A – Excluded Driver, and to be used with the S.P.F. 6, Non-Owned Auto Policy. This is an Excluded Driver Endorsement excluding coverage for **the insured** when a rented or leased or other non-owned automobile is being driven by the person named in the endorsement. This is similar to the OPCF 28 and requires that both the Named Insured and excluded driver sign the endorsement. This endorsement addresses a concern that a driver who was excluded under the employer's O.A.P 1, might drive a rented vehicle and be protected under the employers S.P.F.6 for their vicarious liability as an employer of that driver. The O.E.F. 98A will prevent this.

Another new endorsement and to be also used with the S.P.F. 6, Non-owned Auto Policy is the O.E.F. 98B – Reduction of Coverage for Lessees or Drivers of Leased Vehicles. This endorsement provides coverage to partners, officers or employees of the Insured for the vicarious liability of renters of **short term (30 days or less)** vehicle rentals, if such vehicle is rented in the business of the Insured. It also clarifies that the S.P.F.6 applies as excess over the underlying coverage available to the partner, officer or employee of the Insured. As a broker, you should request **this endorsement be attached to ALL Non-Owned Auto policies.**

A new endorsement has been introduced for the S.P.F. 7 – Excess Auto Policy and again as a result of Bill 18. The O.E.F. 110 – Reduced Coverage for Lessees or Drivers of Leased Vehicles is issued to automobile lessors. It maintains the S.P.F. 7 as an excess policy and limits the coverage of the S.P.F. 7 available to the lessee and driver. Without the O.E.F. 110 attached to an S.P.F. 7, the lessee or driver of a rented or leased vehicle would be entitled to the full limits under the S.P.F. 7. The O.E.F. 110 limits the coverage available to the lessee and driver under the S.P.F. 7 to \$1 million (unless a higher amount is stated on the endorsement) less any first loss auto liability, any underlying excess insurance, insurance to respond to the liability of the lessee and insurance to respond to the liability of the driver. In effect this endorsement will literally remove coverage under the S.P.F. 7 for the driver or lessee.

The O.E.F. 120 – Reduction of Coverage for Lessee or Driver of Leased Vehicles has been introduced for the S.P.F. 8- Lessor's Contingent Policy. This endorsement limits the coverage to the Named Insured only. No other person, whether lessee, driver, or other would be entitled to any coverage when this endorsement is attached to the S.P.F. 8

All of the new endorsements that reduce coverage require the signature of the Insured. In addition the O.E.F. 98A requires the signature of the Named Insured and Excluded Driver, similar to the OPCF 28.

Although these endorsements will not be used as frequently as the endorsements for the OAP 1, their use is of extreme importance to understand and discuss the effects to your commercial auto clients.

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