

Automobile Insurance Work Group:
BANKRUPT INSURANCE COMPANIES

SB 926

Prepared by Tom Mortland
Work Group Member

From the Offices of the Executive Director
David R. Kenagy
and
Deputy Director
Wendy J. Johnson

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I. Introductory Summary

The proposed legislation would cover a gap in auto insurance coverage caused by a restrictive definition of an “uninsured vehicle.” The current definition of “uninsured vehicle” includes a vehicle for which the insurance company writing liability coverage at the time of the accident becomes bankrupt, but only if the insurance company becomes bankrupt within two years of the date of the accident.

The modified definition proposed in SB 926 would define “uninsured vehicle” to include a vehicle for which the insurance company writing liability coverage at the time of the accident becomes bankrupt, without regard to when that bankruptcy occurs. Language requiring that the bankruptcy occur within two years is deleted from the statute by SB 926.

II. History of the Project

The Oregon Law Commission in 2003 created a Study Group to consider automobile insurance issues and to prioritize the same for possible remedial legislation. In 2004, the Commission approved the creation of a Work Group to consider issues identified by the Study Group. The Work Group¹ identified five problem areas appropriate for legislation in 2005.

¹ The membership included the following:

Martha Walters, Chair	John Bachofner
Justice Edwin Peterson	Joel Devore
Senator Charlie Ringo	Stephen Murrell
Dean Heiling	Tom Mortland
Neal Jackson	Richard Lane

One of the five problem areas identified as appropriate for legislative action is the definition of “uninsured vehicle” which precludes UM/UIM claims where the liability insurer becomes insolvent more than two years after an accident.

III. Statement of the Problem

ORS 742.504(2)(i) currently defines “uninsured vehicle” to include a vehicle with respect to which there is collectible bodily injury liability insurance applicable at the time of the accident, but the liability insurance company within two years of the date of the accident becomes voluntarily or involuntarily declared bankrupt, or a receiver is appointed for such company, or the insurer becomes insolvent. Under this definition a UM/UIM claim is valid and timely if, but only if, the liability insurer’s bankruptcy or insolvency occurs within two years of the accident. If the bankruptcy or insolvency occurs after two years a UM/UIM claim is no longer timely.

Insurer insolvencies can occur at any time, however, and there is no justifiable reason for invalidating UM/UIM claims which arise because of an insurer insolvency occurring more than two years following an accident. The insured seeking UM/UIM benefits has no control over the timing of the liability insurer’s insolvency and should not be arbitrarily foreclosed from a claim where the insolvency occurs beyond two years, as is the case now.

IV. Objectives of the Proposal

SB 926 removes this arbitrary restriction by eliminating language requiring that insolvency of the liability insurer occur within two years following an accident. The modified definition of “uninsured vehicle” provides that a vehicle is uninsured in the event of the liability insurer’s insolvency, regardless of when that occurs.

V. The Proposal

The solution proposed by the work group is SB 926.

VI. Conclusion

SB 926 would expand the definition of “uninsured vehicle” to include a vehicle for which the liability insurer becomes insolvent, regardless of when that insolvency occurs.

VII. Amendment Note

The bill was amended in the House to resolve wording conflicts in SB 926 caused by SB 925 (also an OLC auto insurance bill). The amendments were technical Legislative Counsel- generated amendments to ensure the text of ORS 742.504 will not have conflicting wording in SB 925 and SB 926. The focus of SB 926 remains removing the “within two years” reference in ORS 742.504(2)(i).