

INDEX

ACCIDENT.

Definitions, 40-2.
Fraud in connection with, 6-5.1
Hit and run, 29-3.
Insured and his own vehicle, involving, 32-3.
Insured and his relatives, involving, 32-2.
Insured as passenger in third party's vehicle, involving, 32-3.
Notice of, see **Notice**.

ADJUSTER, INSURANCE.

See **Insurance Agent**.

AGENT, INSURANCE.

See **Insurance Agent**.

ANSWER.

Uninsured motorist lawsuit—
Insurance carrier and uninsured motorist, 36-7.
Insurance carrier only, 36-6.
Uninsured motorist only, 36-5.

APPEAL RIGHTS.

Commissioner, review by, 39-3.
Court of appeals, 39-5.
Evidence, 39-2.
Operating record, 39-1.
Superior court, appeal to, 39-4.
Third party, injured, 2-7.

ARBITRATION.

Medical payments coverage disputes, 21-4.
Obligation of insurer to arbitrate, 12-6.
Underinsured motorist lawsuits—
Generally, 36-1.
Prejudicial delay, waiver, 31-8.
Waiver of, 12-6, 31-8.

ASSIGNED RISK.

North Carolina reinsurance facility—
Cancellation, 26-5.
Default judgments, 26-4.
Generally, 26-1.
Hearings, 26-6.
Insurer, service on, 26-2.

ASSIGNED RISK —Cont'd.

North Carolina reinsurance facility—Cont'd.
Intervene, insurer entitled to, 26-3.
Limitation of actions, 26-4.1.
Policy form, 3-5.

ASSIGNMENT.

Collision coverage, 16-4, 16-5.
Loan receipt distinguished, 16-5.
Underinsured rights, 34-2.
Uninsured rights, 34-1.

AUTOMOBILE DEALERS.

See **Dealers**.

AUTOMOBILES.

All-terrain vehicles, 4-8.
Homeowner's policy liability re, complaint for declaratory judgment alleging, form, 41-1
Business—
Exclusion from liability coverage, 10-6.
Stacking coverage, 33-7.
Used in, 10-10.
Dealers, see **Dealers**.
Designer of vehicle, complaint alleging fraud by, form, 41-5.
Driver's license—
Financial responsibility, proof required, 37-6.
Suspension of, 38-1.
Go-carts, 5-7.
Government owned, 10-7, 29-4, 29-8
Highway vehicles, underinsured, 29-7
Insured vehicle—
Medical payments coverage, 22-1.
Occupants and permissive drivers, 28-5.
Standard automobile policy, 22-1.
Loading and unloading, liability coverage, 9-3.
Motor vehicle, defined, 5-1.
Motorized land conveyances, 5-7.
Non-owned, 5-5, 5-6.
Other insurance, 16-8.
Occupying, defined, 22-2.

AUTOMOBILES —Cont'd.

Operation, maintenance and use of,
injury from, 9-1, 22-2.
Owned—
Additional, 5-3.
Defined, 5-1, 5-2.
Generally, 5-2.
Insurable interest, 5-2.
Newly acquired, 5-3.
Replacement, 5-5.
Temporary substitute, 5-4.
Private passenger motor vehicle,
defined, 5-1.
Rental vehicles, 4-4, 4-7.
State or federal government, vehicles
owned by, 10-7, 29-4, 29-8.
Struck by an automobile, meaning of,
9-2.
Subrogation for damage to, 19-1.
Thrown objects, injury from, 9-4.1.
Uninsured, see **Uninsured Motorist
Coverage.**

BAD FAITH.

Refusal of insurer to pay, 2-5.2.
Refusal of insurer to settle, 2-5.3, 25-3.

BANKRUPTCY.

See also **Insured.**
Insurer, of, 29-5.
Uninsured motorist, of, 29-6.

BODILY INJURY.

Benefits, limits of, 9-5.
Liability coverage, 7-1.
Benefits, limits of, 9-5.
Exclusion of, 10-3.
Willful or intentional injury, 10-4.
Scope of coverage, 9-5.
Wrongful death, 9-5.

BROKER, INSURANCE.

See **Insurance Broker.**

BURDEN OF PROOF.

Insured, duty to cooperate, 13-1.
Insured, on, 13-5.
Insurer, on, 13-5.
Prejudice to insured, 14-7.

BUSINESS AUTOMOBILE POLICY.

Umbrella policy, 30-10.

CANCELLATION OF POLICY.

Delivery of notice, 6-1.

**CANCELLATION OF
POLICY —Cont'd.**

Method, 6-1.
North Carolina reinsurance facility,
26-5.
Premium finance companies, by, 6-3.
Termination, automatic or otherwise,
6-7.

CAR DEALERS.

See **Dealers.**

CARS.

See **Automobiles.**

CHANGE IN COVERAGE.

Generally, 6-6.

CHILDREN.

Medical expenses of child, parents'
claim for, uninsured/underinsured
motorist coverage, 28-7.
Medical payments coverage—
Resident relatives, 21-1.
Statute of limitations, 23-4.

CLAIMS.

Calculating amount of, 17-2. See also
Comprehensive Coverage.
Defense of liability claims, see **Defense
of Claims.**
Settlement of, see **Settlement of Claims.**

CO-INSURER.

Subrogation, 18-2.

COLLISION COVERAGE.

Assignments, 16-4, 16-5.
Collision, defined, 16-1.
Exclusions, 16-7.
Loan receipt, 16-4.
Real party in interest, 16-6.
Subrogation, 18-1.
Agreements, 16-4.
Co-insurer, 18-2.
Other jurisdictions, 19-1.
Total loss, salvage vehicles, 16-3.

**COMMISSIONER OF MOTOR
VEHICLES.**

See **Motor Vehicles, Commissioner of.**

COMPLAINTS.

See **Forms.**

COMPREHENSIVE COVERAGE.

- Calculating amount of claim, 15-3.
- Deductible, 15-2.
- In general, 15-1.
- Subrogation, 18-1.
- Other jurisdictions, 19-1.

CONDITIONS PRECEDENT.

- Cooperation by insured, 13-1.
- Notice of accident to insurer, 14-1.
- Underinsured/uninsured motorist coverage—
 - Defenses, notice to creditors, 31-6.
 - Duty of agent to advise as to, 31-9.
 - “John Doe” cases, reporting to Commissioner of Public Safety, 31-2.
- Judgment against uninsured motorist, 31-4.
- Notice requirements, 31-1. See also **Notice.**
- Requirements to benefit from coverage, 31-1.1.
- Service requirements, 31-3.

CONFLICTS OF LAW.

- Policy of insurance, interpretation and construction of, 3-2.

CONSORTIUM.

- Liability coverage of bodily injury, 9-5.
- Limitation on, 9-8.
- Loss of, 9-10.

CONTRACTS.

- Conflicts of law, 3-2.
- Estoppel, 3-3.
- Policy of insurance, governed by contract law, 1-1.
- Statutory provisions, at variance with, 1-2.
- Subrogation, 2-6.
- Third parties, injured, 2-7.
- Underinsured motorist coverage—
 - Generally, 30-5.
 - Family member exclusions, out of state contract, 32-4.1.
- Waiver, 3-3.

CONVERSION.

- Exclusion from policy, 10-13.
- Mortgagee, rights of, 8-9.

COOPERATION CLAUSE.

- Burden of proof, 13-5.

COOPERATION CLAUSE —Cont'd.

- Insured with insurer, 13-1.
- Intentional failure to cooperate, 13-2.
- Misrepresentation as failure to cooperate, 13-6.
- Reimbursement to insurer, 13-4.
- Trial, appearance of insured at, 13-3.
- Willful failure to cooperate, 13-2.

COUNTIES.

- Governmental immunity, 10-12.
- Health provider's lien on personal injury recovery of recipient, 14A-1.

COVERAGE.

- See also **Liability Coverage.**
- Certification of, 7-6.
- Collision coverage, see **Collision Coverage.**
- Comprehensive coverage, see **Comprehensive Coverage.**
- Establishing rates—
 - Classifications, 40-1.
 - Insurance points—
 - Experience period, 40-5.
 - Statutory provisions, 40-2.
 - Recoupment surcharge, 40-4.
- Excess, 7-3, 33-5.
- Homeowner's policy, 4-6.
- Liability coverage, see **Liability Coverage.**
- Medical payments, see **Medical Payments Coverage.**
- Motor vehicles, rental of, 4-4.
- Multiple insurance coverage—
 - Dealers' exception, 4-2.
 - Primary, 4-1.
 - Secondary, 4-1.
 - Taxicab operators, 4-3.
- Omnibus clause, 4-1. See also **Omnibus Clause.**
- Out-of-state, 9-9.
- Stacking of, see **Stacking.**
- Trailers, 4-5.
- Uninsured motorists, see **Uninsured Motorist Coverage.**

CRIMINAL JUDGMENT.

- See **Punitive Damages.**

DAMAGES.

- Collection of, 1-6.

DEALERS.

Multiple insurance coverage, dealers' exception, 4-2.

DECLARATORY JUDGMENT.

Complaints for, see **Forms**.

Liability insurer, determination of duty to defend, 11-3.

Underinsured/uninsured motorist lawsuit, 36-8.

DEDUCTIBLE.

Collision coverage, 16-2.

Comprehensive coverage, 15-2.

Settlement for amount close to deductible, 2-5.3.

DEFENSE OF CLAIMS.

See also **Conditions Precedent**.

Declaratory action regarding duty to defend, 11-3.

Duty of insurer, breach of, 11-2, 11-3.

Estoppel, 11-4.

Excess carrier, 11-2.

Exhaustion of limits, 11-5.

Multiple insureds, 11-2.

Multiple suits, 11-5.

No legal action provisions, 11-7.

Payment of judgment, distinguished from, 11-2.

Refusal to defend, 11-3.

Reservation of rights, 11-4.

Settlement by insurer, bar to further claims, pleading, 12-8.

Underinsured motorist lawsuits—

Release of tort-feasor, 36-7.1.

Third party complaint, 36-7.2.

Waiver—

Denial of coverage, waiver of right, 11-1.

Implication, by, 11-4.

Non-waiver agreements, 11-4.

Notice requirements, 11-4.

Refusal to defend, effect of, 11-3.

Withdrawal from, 11-1.

DELIVERY.

Cancellation of policy, of, 6-1.

Nonrenewal notice, 6-2.

Policy of insurance, necessity of, 3-1.

Renewal notice, 6-2.

DISABILITY BENEFITS.

Reduction of amount payable due to receipt of, 32-6.

DRAM SHOP LIABILITY.

Complaint for negligent entrustment, 41-15.

DRIVER'S LICENSE.

Financial responsibility, proof required, 37-6.

Suspension of, 37-1, 38-1.

DUTIES.

See **Conditions Precedent**.

EMPLOYEES.

Liability insurance—

Exclusion from coverage, 10-5.

Vicarious responsibility of insured, 8-6.

Underinsured motorist coverage, fleet insurer, 30-9.

ESTOPPEL.

Coverage, creation of, 3-3.

EVIDENCE.

Appeal rights, 39-2.

EXCLUSIONS.

See also **Collision Coverage**.

Business and garage policies, 28-6.

Business or occupation, 10-10.

Collision coverage, 16-7.

Conversion or secretion of vehicle, 10-13.

Generally, 10-1.

Intentional injuries, 10-4.

Liability coverage—

Automobile business, 10-6.

Bodily injury to insured, 10-3.

Defined, 10-1.

Employee of insured, injury to, 10-5.

Entitlement exclusion, family members, 10-1.1.

Objects thrown from vehicle, 9-4.1.

Medical payments coverage, 21-3.

Owned or furnished for regular use, other than covered auto, 10-11.

Property of insured, 10-2.

Secretion of vehicle, 10-13.

Self-insurers, 10-8.

State or federal government, vehicles owned by, 10-7.

EXCLUSIONS —Cont'd.**Underinsured motorist coverage—**

Fraud, 27-7.

Interstate Commerce Commission permit/certificates, employee exclusion, 27-8.

Uninsured motorist coverage—**Accidents—**

Insured, involving, 32-2, 32-3.

Motor vehicle, insured's, 32-3.

Relative, involving, 32-2, 32-4.2.

Generally, 32-5.

Interstate Commerce Commission permit/certificates, employee exclusion, 27-8.

Motor vehicle regularly used by insured, 32-1.

Out of state contract, law, 32-4.1.

Property damage, recovery, 32-4.

Waiver of, 10-9.

Willful injury, 10-4.

EXPENSES.

Accident, incurred in, 23-1.

FAMILY PURPOSE DOCTRINE.

Vicarious responsibility of head of household, 8-6.

FELONIES.

See **Penalties.**

FIDUCIARY DUTY.

Agent, insurance, 2-1.

Independent insurance agent, 2-1.

FINANCIAL RESPONSIBILITY.

Bond, proof as, 7-4.

Purpose of, 30-1.

FIREARMS.

Injury from, 9-4.

FLEET COVERAGE.

See **Stacking, Underinsured Motorist Coverage.**

FOREIGN LAW.

Policy of insurance, application to, 3-2.

FORFEITURES.

Construction of policy, forfeiture of coverage, 11-4.

FORMS.

All-terrain vehicle, complaint for declaratory judgment alleging homeowner's policy liability re, 41-13.

Authorized forms, 3-5.

Declaratory judgment, complaint for—
Aggregation of underinsured motorist coverage, 41-4.

All-terrain vehicle, alleging homeowner's coverage re, 41-13.

Insurer's duty to defend, determination of, 41-6.

Liability coverage, alleging lack of, 41-7.

Answer and counterclaim, 41-8.

Reply, 41-9.

Notice, alleging failure to give, 41-11.

Answer and counterclaim, 41-12.

Punitive damages, liability for, 41-10.

Dram shop claim, complaint for negligent entrustment, 41-15.

Hit and run, complaint for declaratory judgment, 41-4.

Homeowner's insurance liability re all-terrain vehicle, complaint for declaratory judgment alleging, 41-13.

Insurer's duty to defend—

Declaratory judgment, complaint for, 41-6.

Failure, complaint alleging, 41-5.

Interpleader, complaint for, disbursement of limited insurance funds, 41-14.

Interview, injured party, 41-22.

Negligence, complaint for, with claims for underinsured coverage, 41-2, 41-3.

Negligent entrustment, dram shop complaint, 41-15.

Notice, complaint for declaratory judgment by underinsured carrier alleging failure to give, 41-11.

Answer and counterclaim, 41-12.

Punitive damages, complaint for declaratory judgment by insurer re liability for, 41-10.

Reply to counterclaim, 41-9.

Standard automobile policy, Appen.

Tender of limits by liability insurer—
Agreement for underinsured insurer to advance liability insurer's limits, 41-17.

FORMS —Cont'd.

- Tender of limits by liability insurer—Cont'd.
 - Limited release and agreement that upon payment of limits action against tort-feasor will survive—
 - Multiple plaintiffs, 41-20.
 - Pending litigation, tort-feasor's insurer released from defense responsibilities, 41-21.
 - Singular plaintiff, 41-18, 41-19.
 - Notice to underinsured insurer, letter, 41-16.
- Underinsured motorist coverage—
 - Declaratory judgment, complaint for—
 - Underinsured carrier, by, alleging failure to give notice, 41-11.
 - Answer and counterclaim, 41-12.
 - Unknown driver, 41-4.
 - Negligence, complaint for, 41-2.
 - Wrongful death, 41-3.
 - Underinsured payments, complaint for, after receipt of uninsured amounts under separate policy, 41-1.
- Vehicle designer, complaint alleging fraud by, 41-5.
- Wrongful death, negligent, complaint for, underinsurance, 41-3.

FRAUD.

- Liability coverage, 6-5.1
- Uninsured or underinsured motorist coverage, 27-7.

GO-CARTS.

- Homeowner's policy coverage, 5-7.

GOOD FAITH.

- Settlement of claim, 12-2.
- Refusal to settle, liability for, 12-3.

GOVERNMENTAL IMMUNITY.

- Generally, 10-12.

HEAD OF HOUSEHOLD.

- Liability coverage, family purpose doctrine, 8-6.

HEARING.

- Appeal, 26-6.
- Request for, 26-6.

HIT AND RUN.

- Complaint for declaratory judgment, form, 41-4.
- Uninsured motorist provision, recovery under, 29-3.

INSURABLE INTEREST.

- Liability coverage, insured automobile, 5-2.

INSURANCE ADJUSTER.

- See **Insurance Agent.**

INSURANCE AGENT.

- Agency, law of, 2-2.
- Defined, 2-1.
- Duty to advise, 31-9.
- Duty to warn, 2-3.
- Fiduciary duty, 2-1.
- Insurance carrier, representing, 2-2.
- Insurance commissioner, licensed by, 2-1.
- Insured, agent for, 2-2.
- Knowledge of agent imputed to insurer, 2-3.1.
- Liability of, 2-2.
- Negligence of, 2-2.
- Obligations of, 2-4.
- Prohibited actions, 2-1.

INSURANCE BROKER.

- See also **Insurance Agent.**
- Defined, 2-1.
- Insurance Commissioner, licensed by, 2-1.

INSURANCE COMMISSIONER.

- Agent, licensing of, 2-1.
- Authority of, 1-3.
- Broker, licensing of, 2-1.
- Service of process upon, 39-6.

INSURANCE COVERAGE.

- See **Liability Coverage.**

INSURANCE GUARANTY ASSOCIATION.

- Purpose, 26A-1.

INSURANCE, POLICY OF.

- See **Policy of Insurance.**

INSURANCE PREMIUMS AND POINTS.

- Coverage, establishing rates for—
 - Classifications, 40-1.
- Insurance points—
 - Experience period, 40-5.
 - Statutory provisions, 40-2.
- Recoupment surcharge, 40-4.

INSURED.

- Agent for, 2-2.
- Bankruptcy of, 6-5.
- Cancellation of policy, 6-1.
- Cooperation with insurance carrier, 13-1.
 - Intentional failure to cooperate, 13-2.
- Misrepresentation as failure to cooperate, 13-6.
- Trial, failure of insurer to appear at, 13-3.
- Employees of, injury to, exclusion from liability coverage, 10-5.
- Exclusions, 21-3.
- Liability coverage—
 - Financial responsibility, proof of, 8-8.
 - Minors, 8-7.
 - Mortgagees, 8-9.
 - Named insured, 8-2.
 - Permissive user, 8-5.
 - Persons insured, 8-1.
 - Possessive user, 8-5.
 - Residents of same household, 8-4.
 - Spouses, 8-3.
 - Vicariously responsible insured, 8-6.
- Medical payments coverage—
 - Arbitration, 21-4.
 - Named insured, 21-1.
 - Occupants of insured vehicle, 21-2.
 - Pedestrians, 21-1.
 - Resident relatives, 21-1.
- Named, 28-3.
- Notice, duty to give, see **Notice**.
- Omnibus clause, liability insurance, 8-1.
- Permissive users, see **Permissive User**.
- Persons insured, 28-2.
- Proof, burden of, 11-6.
- Renewal of policy, failure to act, 6-2.
- Resident relatives, see **Resident Relatives**.
- Settlement, consent to, 12-4, 12-4.1.
- Trial, appearance at, requirement of, 13-3.
- Uninsured motorist coverage—
 - Bankruptcy of, 29-6.
 - Named insured, 28-3.

INSURED —Cont'd.

- Uninsured motorist coverage—Cont'd.
 - Occupants of insured auto, 28-5.
 - Parents' claims for medical expenses of minor, 28-7.
 - Persons insured, 28-2.
 - Resident relatives, 28-4.

INSURER.

- Agent's knowledge imputed to insurer, 2-3.1.
- Bad faith—
 - Refusal to pay, 2-5.2
 - Refusal to settle, 2-5.3, 25-3.
- Bankruptcy of, 26A-1, 29-5.
- Cancellation of policy, 6-1.
- Defense of liability claims—
 - Breach of duty to defend, 11-3.
 - Complaint, form, 41-5.
- Declaratory action regarding duty to defend, 11-3.
 - Complaint for, form, 41-6.
- Duty of insurer, 11-2.
- Estoppel, 11-4.
- Excess carrier, 11-2.
- Exhaustion of limits, 11-5.
- Multiple insureds, 11-2.
- Multiple suits, 11-5.
- No legal action provisions, 11-7.
- Non-waiver agreements, 11-4.
- Payment of judgment, 11-2.
- Refusal to defend, 11-3.
- Reservation of rights, 11-4.
- Waiver—
 - Denial of coverage, waiver of right, 11-1.
 - Implication, by, 11-4.
 - Non-waiver agreements, 11-4.
 - Notice requirements, 11-4.
 - Refusal to defend, effect of, 11-3.
 - Withdrawal from, 11-1.
- Insolvency of, 26A-1, 29-5.
- Intentional failure to cooperate, 13-2.
- Interpleader, complaint for, form, 41-14.
- Intervene, entitled to, 26-3.
- Investigation of claims, 11-1.
- Legal action against, 2-5.
- Misrepresentation as failure to cooperate, 13-6.
- Newly acquired automobile, notice of purchase, 5-3.
- Notice requirements, see **Notice**.
- Proof, burden of, 11-6.
- Reimbursement to, 13-4.

INSURER —Cont'd.

- Renewal notice, responsibility concerning, 6-2.
- Residence of insurance corporations, 2-5.1.
- Self-insurer, 10-8.
- Service on, 26-2.
- Settlement of claims—
 - Arbitration, 12-6.
 - Care, standard of, 12-2.
 - Consent of insured, without, 12-4.
 - Consent of insurer, without, 12-4.1.
 - Equitable subrogation, 12-7.
 - Pleading settlement by insurer, bar to further claims, 12-8.
 - Proof of loss, 12-5.
 - Refusal to settle, liability for, 12-3.
 - Right to settle, 2-5.3, 12-1.
- Subrogation, see **Subrogation**.
- Trial, rights of insured, 13-3.
- Unfair and deceptive trade practices, 12-9.
- Venue, 2-5.1.
- Willful failure to cooperate, 13-2.

INTENTIONAL INJURIES.

- Exclusion from coverage, liability insurance, 10-4.

INTERSTATE COMMERCE COMMISSION.

- Certificates of convenience, employee exclusion clauses, 27-8.
- Liability insurance policies issued in connection with certificates of convenience, 27-6.

INVESTIGATION OF CLAIM.

- Insurer's right to conduct, 11-1.

JOHN DOE CASES.

- Reporting to Commissioner of Public Safety, 31-2.

JUDGMENT.

- Default judgments, 26-4.
- Interest, 9-11.
- Uninsured motorist, against, 31-4.

LAWSUITS.

- Attorney's fees and costs, 36-10.
- Forms, see **Forms**.
- Insurer, against, see **Insurer**.
- Liability claims, defense of, see **Defense of Claims**.

LAWSUITS —Cont'd.

- Notice of to insurance carrier, 14-5.
- Residence of insurance corporations, 2-5.1.
- Underinsured/uninsured motorist—
 - Answer—
 - Uninsured motorist and uninsured motorist carrier, in the name of, 36-7.
 - Uninsured motorist carrier, in the name of, 36-6.
 - Uninsured motorist, in the name of, 36-5.
 - Arbitration, 36-1.
 - Declaratory judgment actions, 36-8.
 - Known, cannot be found, service on, 36-4.
 - Known, service on, 36-2.
 - Statute of limitations, 36-9.
 - Unknown, service on, 36-3.

LIABILITY COVERAGE.

See also **Cooperation Clause**.

- Automobile, insured—
 - Non-owned, 5-6.
 - Owned—
 - Defined, 5-1.
 - Exclusion of automobile owned or furnished for regular use, other than covered automobile, 10-11.
 - Generally, 5-2.
 - Newly acquired, 5-3.
 - Replacement, 5-5.
 - Temporary substitute, 5-4.
- Benefits, limits of, 9-8.
- Bodily injury—
 - Exclusion from coverage, 10-3.
 - Scope of coverage, 9-5.
- Bond, proof as, 7-4.
- Certification of coverage, 7-6.
- Claim, investigation of, 11-1.
- Consortium, loss of, 9-10.
- Contents of policy, required, 7-2.
- Cooperation of insured, 13-1 — 13-6.
- Defense of claims, see **Defense of Claims**.
- Employers, 8-6.
- Excess coverage, 7-3.
- Exclusions from coverage, see also **Exclusions**.
 - Automobile business, 10-6.
 - Bodily injury to insured, 10-3.
 - Business and garage policies, 28-6.
 - Defined, 10-1.

LIABILITY COVERAGE —Cont'd.

Exclusions from coverage—Cont'd.

- Employee of insured, injury to, 10-5.
- Entitlement exclusion, family members 10-1.1.
- Generally, 10-1.
- Intentional injury, 10-4.
- Property of insured, 10-2.
- Willful injury, 10-4.
- Workers' compensation, employee covered under, 10-5.
- Family purpose doctrine, 8-6.
- Firearms, injury from, 9-4.
- Governmental immunity, 10-12.
- Indemnification of insured, distinguished, 7-1.
- Legal liability, 7-1.
- Loading and unloading of vehicle, 9-3.
- Minimum coverage required, 7-2.
- Money or securities as proof, 7-5.
- Named insured, 8-2.
 - Household residents, 8-4.
 - Spouse as, 8-3.
- Notice requirements—
 - As soon as practicable, 14-4.
 - Condition precedent, 14-1.
 - Justification for failure to give, 14-6.
 - Notice to authorities, 14-2.
 - Suit or other process, 14-5.
 - Who may give notice, 14-3.
- Objects thrown from vehicle, 9-4.1.
- Omnibus clause, 8-1.
- Operation, maintenance and use of automobile, injury from, 9-1.
- Out of state, 9-9, 25-4.
- Overview, 7-1.
- Payment, supplementary, 7-7.
- Permissive user, 8-5.
- Persons insured, 8-1.
- Property damage, 9-6.
- Punitive damages, 9-7.
- Relatives, 8-4.
- Residents of same household, 8-4.
- Settlement of claims, 12-1 — 12-5. See also **Settlement of Claims**.
- Spouse, 8-3.
- Third-party user, 8-5.
- Time and condition of—
 - Assignment, 5-3.
 - Transfer, 5-3.
- Umbrella policies, 27-9.
- Vicarious responsibility of insured, 8-6.

LIABILITY INSURANCE POLICY.See also **Damages**.

- Asset, as an, 1-6.
- Contract, policy as, 1-1.
 - Defined, 1-1.
 - Requirements, 1-1.
- Insurance Commissioner, authority of, 1-3.
- Motor Vehicles, Commissioner of, authority of, 1-4.
- Policy, interpretation of, 1-5.
 - Ambiguity in language, 1-5.
 - Construction of language, 1-5.
- Policy period and territory, 1-7.
 - Coverage, 1-7.
 - Defined, 1-7.
- Policy, transfer of interest in, 1-8.
- Public policy, effect of, 1-2.
- Territory, 1-7.

LIENS.

- Medical services providers, lien on sums recovered for personal injury by recipients, 14A-1.

LOADING AND UNLOADING.

- Liability coverage, 9-3.

LOAN RECEIPTS.

- Assignment, distinguished, 16-5.
- Collision coverage, 16-4.

LOSS OF USE COVERAGE.

- Claim, calculating the amount of, 17-2.
- In general, 17-1.
- Rental car coverage, 17-1.
- Subrogation, 18-1.
 - Other jurisdictions, 19-1.

MAIL.

- Cancellation of policy, notice of, 6-1.
- Renewal of policy, notice of, 6-2.

MARKET VALUE.

- Collision coverage, calculating amount of claim, 16-2.
- Comprehensive coverage, 15-3.

MEDICAL PAYMENTS COVERAGE.

- Arbitration, 21-4.
- Bad faith, 25-2.
- In general, 20-1.
- Insured, defined, 20-1.
- Named insured, persons other than—
 - Family members, 21-1.

MEDICAL PAYMENTS

COVERAGE —Cont'd.

- Named insured, persons other than—Cont'd.
- Occupants, 21-2.
- Other jurisdictions, 25-2.
- Out-of-state no-fault insurance, 25-4.
- Prompt payment, 25-2.
- Stacking, 24-1.
- Standard automobile policy,
 - Exclusions, 22-1.
- Subrogation of, 25-1.
- Time limitations on med-pay claims—
 - Expenses incurred within 3 years of, 23-1.
 - Minors, 23-4.
 - Notice of accident “as soon as practical,” 23-2.
 - Time periods, correlation of, 23-3.
- Trailers, 21-1.
- Underinsured/uninsured motorist coverage—
 - Correlation with, 24-2.
 - Reduction of liability, 30-7.
- Workers' compensation coverage, correlation with, 24-3.

MEDICAL SERVICES PROVIDERS.

- Lien on sums recovered by recipients for personal injury, 14A-1.

MISDEMEANORS.

See **Penalties.**

MISREPRESENTATION.

- Cancellation of policy because of, 6-1.
- Knowledge of agent imputed to insurer, 2-3.1.

MORTGAGES.

- See also **Insured.**
- Mortgagees, rights of, 8-9.

MOTOR VEHICLE SAFETY AND FINANCIAL RESPONSIBILITY ACT.

- Change in coverage, 6-6.

MOTOR VEHICLES.

See **Automobiles.**

MOTOR VEHICLES, COMMISSIONER OF.

- Appeal rights—
 - Court of Appeals, 39-5.

MOTOR VEHICLES,

COMMISSIONER OF —Cont'd.

- Appeal rights—Cont'd.
- Evidence, 39-2.
- Operating record, abstract of, 39-1.
- Superior court, appeal to, 39-4.
- Assignments executed by Commissioner, use in evidence, 39-2.
- Authority of, 1-4.
- Certificates or conveyances, use in evidence, 39-2.
- Review by, 39-3.

MULTIPLE INSURANCE COVERAGE.

- All-terrain vehicles, 4-8.
- Dealer's exception, 4-2.
- Primary and secondary coverage, 4-1.
- Risk allocation, 4-1.

MUNICIPALITIES.

- Governmental immunity, 10-12.
- Health provider's lien on personal injury recovery of medical services recipient, 14A-1.

NAMED INSURED.

- See also **Insured.**
- Liability coverage, 8-2.

NOTICE.

- Authorities, notice to, 14-2.
- Automobile, newly acquired, notice of purchase, 5-3.
- Cancellation or refusal to renew policy, notice of, 6-1.
- Duty of insured to notify insurer—
 - As soon as practicable, 14-4.
 - Condition precedent, 14-1, 31-1.
 - Failure to give notice to underinsured carrier, complaint for declaratory judgment alleging, form, 41-11.
 - Answer and counterclaim, 41-12.
 - “John Doe” accidents, reporting of, 31-2.
 - Justification for failure to give notice, 14-6.
 - Suit or other process, notice of, 14-5.
 - Who may give notice, 14-3.
- Med-pay claims, time limitations on—
 - “As soon as practical,” 23-2.
 - Three years of accident, expenses incurred within, 23-1.
- Renewal of policy, 6-2.
- Service on insurer, 26-2.
- Termination of policy, 6-7.

OMNIBUS CLAUSE.

Named insured, persons other than—
Occupants of insured motor vehicle,
21-2.

Passengers, 21-2.

Permission—

Express, 21-1.

Implied, 21-1.

Permissive user, see **Permissive User**.

Persons covered by, 8-1.

Residents, defined, 8-4.

Standard automobile policy, 8-2, 8-4.

Vicarious responsibility of insured, 8-6.

**OPERATION, MAINTENANCE OR
USE OF MOTOR VEHICLE.**

Liability coverage, 9-1.

OWNER.

See **Insured**.

PAYMENT.

See **Liability Coverage**.

PEDESTRIANS.

Medical payments coverage, 21-1.

PENALTIES.

Felonies, 38-3.

License, suspension of, 38-1.

Misdemeanors, 38-2.

Registration, revocation of, 38-4.

PERMISSIVE USER.

Liability insurance, 8-1, 8-5.

POINTS.

See **Insurance Premiums and Points**.

POLICY OF INSURANCE.

See also **Liability Insurance Policy**.

Actions, limitation of, 3-4.

Cancellation of, 6-1.

Conflicts of law, 3-2.

Construction of, 1-1.

Statutory provisions, impact on, 1-2.

Contract law—

Application of, 1-1.

Governed by, 1-1.

Controlling law—

Parties, intention of, 3-2.

Place where delivered, 3-2.

POLICY OF INSURANCE —Cont'd.

Controlling law—Cont'd.

Place where made, 3-2, 27-4.

Cooperation clause, 13-1 — 13-6.

Creation of, 3-1 — 3-4.

Death of insured, 1-8.

Defined, 1-1, 3-1.

Delivery of, 3-1.

Estoppel, 3-3.

Exclusions, see **Exclusions**.

Form, 3-5.

Homeowners, 4-6.

Issuance of, 3-1.

Notice requirements, see **Notice**.

Omnibus coverage provisions, 4-1.

Public policy, 1-2.

Release, 6-4.

Renewal of, 3-1.

Statutory provisions, 1-2, 3-1.

POSSESSIVE USER.

See **Permissive User**.

PREMIUM.

See also **Insurance Premiums and**

Points.

Cancellation of policy for nonpayment
of, 6-1. See also **Cancellation of**
Policy.

PREMIUM FINANCE COMPANIES.

Cancellation procedures, 6-3.

PRIMARY COVERAGE.

Multiple insurance coverage, 4-1.

PRIVITY OF CONTRACT.

Generally, 16-6.

Unfair and deceptive trade practices,
12-9.

PROCESS.

See also **Service of Process**.

Default judgments, 26-4.

Intervene, insurer entitled to, 26-3.

Service on insurer, 26-2.

PROHIBITED ACTIONS.

Bad faith—

Refusal of insurer to pay, 2-5.2.

Refusal of insurer to settle, 2-5.3,
25-3.

Discriminatory practices, 37-5.

Financial responsibility—

Failure of proof of, 37-4.

PROHIBITED ACTIONS —Cont'd.**Financial responsibility—Cont'd.**

- False affidavit, 37-2.
- False information, 37-2.
- False report, 37-2.
- No report, 37-2.
- Perjury, 37-2.
- Privilege without proof of, 37-6.

No insurance, 37-1.**Perform, company's failure to, 37-3.****Unfair and deceptive trade practices, 12-9.****PROOF OF LOSS.****See Settlement of Claims.****PROPERTY DAMAGE.****Liability coverage—**

- Benefits, limits of, 9-8.
- Exclusion from coverage, 10-2.
- Scope of coverage, 9-6.

Subrogation, 18-1.**PUBLIC POLICY.****Financial responsibility, 30-1.****Insurance, effect on, 1-2.****Liability coverage—**

- Class of insureds, 8-1.

PUBLIC SAFETY COMMISSIONER.**"John Doe" cases, reporting of, 31-2.****PUNITIVE DAMAGES.****Bad faith—**

- Refusal of insurer to pay, 2-5.2.
- Refusal of insurer to settle, 25-3.

Complaint for declaratory judgment by insurer re liability for, form, 41-10.**Criminal judgment, 9-7.****Liability coverage, scope of, 9-7.****RATE BUREAU, NORTH CAROLINA.****Insurance points—**

- Experience period, 40-5.
- Statutory provisions, 40-2.

Rate classifications, duties re, 40-1.**Recoupment surcharge, 40-4.****REAL PARTY IN INTEREST.****Collision coverage, 16-6.****Defense, 16-6.****Privity of contract, 16-6.****REGISTRATION.****Revocation of, 38-4.****REGULATIONS.****Insurance Commissioner, of, 1-3.****REIMBURSEMENT.****See Insurer.****REINSURANCE FACILITY, NORTH CAROLINA.****Cancellation, 26-5.****Default judgments, 26-4.****Generally, 26-1.****Hearings, 26-6.****Limitation of actions, 26-4.1.****Review, 26-6.****RELEASE.****See Conditions Precedent; Policy of Insurance; Settlement of Claims.****RENEWAL OF POLICY.****Guaranteed renewal, 6-9.****Procedure, 6-2.****RENTAL CARS.****See also Loss of Use Coverage.****Lessors of motor vehicles, insurance required for, 4-4.****RESIDENT RELATIVES.****Children, 21-1.****Liability coverage, 8-1, 8-4.****Medical payments coverage, 21-1.****Spouses, 21-1.****Uninsured motorist coverage, 28-4.****RESPONDEAT SUPERIOR.****Vicarious responsibility of insured, 8-6.****SALVAGE VEHICLES.****See also Collision Coverage.****Total loss, see Collision Coverage.****SANCTIONS.****Prohibited actions—**

- Company's failure to perform, 37-3.
- Discriminatory practices, 37-5.
- False affidavit, 37-2.
- False information, 37-2.
- False report, 37-2.
- Financial responsibility—
 - Failure of proof of, 37-4.
 - Privilege without proof of, 37-6.

SANCTIONS —Cont'd.**Prohibited actions—Cont'd.**

- No driver's license, 37-6.
- No insurance, 37-1.
- No report, 37-2.
- Perjury, 37-2.

SECONDARY COVERAGE.

- Multiple insurance coverage, 4-1.

SECRETION.

- Invalidation of loss payee's interest, 10-13.

SERVICE OF PROCESS.

- Insurance Commissioner, service upon, 39-6.
- Insurer, on, 26-2.
- Uninsured motorist—
 - Known motorist, 36-2.
 - Known motorist who cannot be found, 36-4.
 - Unknown motorist, 36-3.
- Uninsured motorist coverage carrier—
 - Condition precedent, 31-3.
 - General appearance, 31-3.1.

SERVICE STATION.

- Liability coverage, exclusions, repair of vehicle, 10-6.

SETTLEMENT OF CLAIMS.

- Affecting underinsured motorist claim, 36-11.
- Appeals, 12-2.
- Arbitration, 12-6.
- Attorney fees for refusal of insurer to settle, 12-3.
- Bad faith refusal of insurer to settle, 25-3.
- Care required, 12-2.
- Consent of insured, 12-4, 12-4.1.
- Covenant not to sue, 12-4.
- Deductible amount, settlement amount suspiciously close to, 2-5.3.
- Duty of insurer, 12-2.
- Equitable subrogation, 12-7.
- Good faith, 12-2.
- Health providers, duty of insured's attorney re, 14A-1.
- Pleading settlement by insurer, bar to further claims, 12-8.
- Proof of loss, 12-5.
- Refusal to settle, liability for, 12-3.
- Release of claims, 12-4.

SETTLEMENT OF CLAIMS —Cont'd.

- Reservation of rights against underinsured motorist carrier, 30-4.1.
- Right of insurer to settle, 2-5.3, 12-1.
- Uninsured/underinsured motorist claims—
 - With liability insurer, 36-12.
 - With tort-feasor, 36-11.
- Unfair and deceptive trade practices, 12-9.
- Written consent of insured, without, 12-4.

SPOUSE.

- Liability coverage—
 - Bodily injury, 9-5.
 - Named insured, as, 8-3.
- Medical payments coverage—
 - Resident relative, as, 21-2.

STACKING.

- Aggregating coverage, 33-1.1.
- Commercial vehicles, 33-7.
- Common law and, 33-4.
- Definition of uninsured highway vehicle, 33-8.
- Fleet onto nonfleet policies, 33-9.
- Fleet versus nonfleet policies, 33-10.
- Generally, 33-1.
- Interpolicy stacking, 33-11.
- Statutory restrictions on, 33-2.
- Underinsured motorist coverage, proration of, 33-5.
- Uninsured motorist coverage, 33-1.1.

STANDARD AUTOMOBILE POLICY.

- Cancellation of policy, 6-1.
- Exclusions, named insured, 21-3.
- Form of, Appen.
- Guaranteed renewal, 6-9.
- Medical payments coverage—
 - Exclusions, 22-1.
 - Motorcycles excluded, 22-1.
- Omnibus clause, 8-2.
- Policy period, 1-7.
- Territory, 1-7.
- Uninsured motorist—
 - Generally, 32-5.
 - Workers' compensation coverage, correlation of, 35-1.

STATUTE OF LIMITATIONS.

- Children, 23-4.
- Uninsured motorist claims, 36-9.

SUBROGATION.

Co-insurers, 18-2.
Collision coverage, 18-2, 19-1.
 Subrogation agreements, 16-4.
Comprehensive coverage, 18-2, 19-1.
Equitable subrogation, contribution,
 12-7.
Insured automobile, damage to, 19-1.
Leases, 18-2.
Loss-of-use coverage, 18-1, 19-1.
Medical payments coverage, 25-1.
Real party in interest, 16-6.
Recovery from tortfeasor, right of
 insurer, 18-1.
Underinsured rights, 34-2.
Uninsured rights, 34-1.

SUSPENSION.

License, of, 38-1.

TAXICABS.

Financial responsibility, proof of, 4-3.

TERMINATION OF POLICY.

Generally, 6-7.

THIRD PARTIES.

Injured third parties' rights under
 contract, appeal, 2-7.

THROWN OBJECTS.

Injury from objects thrown from
 vehicle, 9-4.1.

TIME.

Cancellation of policy, 6-1.
Limitations on med-pay claims—
 Notice of accident, 23-2.
 Three years of accident, expenses
 incurred in, 23-1.
 Time periods, correlation of, 23-3.

TITLE.

Assignment of, 5-2.
Transfer of, 5-2.

TRAILERS.

Liability insurance, coverage of, 4-5,
 5-2.
Medical payments coverage, 21-1.

TRIAL.

Insured, failure to appear at, 13-3.

TRUCKS.

Liability insurance, coverage of, 5-2.

UMBRELLA POLICIES.

Business automobile policy, 30-10.
Coverage for amounts beyond limits of
 liability policies, 27-9.
Defined, 27-9.

**UNDERINSURED MOTORIST
COVERAGE.**

See also **Uninsured Motorist Coverage.**

Arbitration—

 Generally, 36-1.

 Prejudicial delay, waiver, 31-8.

Background and purpose, 30-2.

Business and garage policies, 28-6.

Business automobile policy, 30-10.

Conflict between policy and statutory
 provisions, 30-5.

Controlling law, 27-4.

Declaratory judgment action, 36-8.

Defined, 30-1.

Disability benefits, reduction by, 32-6.

Duty of agent to advise, 31-9.

Election of coverage, out-of-state policy
 with liability limits less than N. C.
 minimum limits, 27-5.

Employee exclusion clauses, 27-8.

Employer's multiple-coverage, fleet
 insurer, 30-9.

Family member exclusion clauses,
 32-4.2.

Forms, see **Forms.**

Fraud, 27-7.

Interest, pre-judgment and
 post-judgment, 31-5.

Interstate Commerce Commission—

 Employee exclusion clauses, 27-8.

 Liability insurance policies issued in
 connection with certificates of
 convenience, 27-6.

Medical payments coverage, correlation
 with, 24-2, 30-7.

Motor vehicle, underinsured, 30-1.1.

Out-of-state contract and law, 32-4.1.

Parents' claim for medical expenses of
 child, 28-7.

Proration of, 33-5.

Reduction of coverage, other policies,
 30-8.

UNDERINSURED MOTORIST COVERAGE —Cont'd.

Release—

Tort-feasor, release by insured, 31-7,
36-7.1.

Underinsured company, release upon
payment of applicable limits,
30-4.

Settlement—

With liability insurer, 36-12.

With tort-feasor, 30-4.1.

Stacking—

Commercial vehicles, 33-7.

Common law and, 33-4.

Fleet onto nonfleet policies, 33-9.

Fleet versus nonfleet policies, 33-10.

Generally, 33-1.

Interpolicy, 33-11.

Statutory restrictions on, 33-2.

State owned vehicles, 29-8.

Statutory provisions, 30-3, 30-3.1.

Conflict between provisions of policy
and statute, 30-5.

Subrogation or assignment of rights,
34-1, 34-2.

Tender of limits by liability insurer—

Agreement for underinsured insurer
to advance liability insurer's
limits, 41-17.

Limited release and agreement that
upon payment of limits action
against tort-feasor will survive—

Multiple plaintiffs, 41-20.

Pending litigation, tort-feasor's
insurer released from defense
responsibilities, 41-21.

Singular plaintiff, 41-18, 41-19.

Notice to underinsured insurer, letter,
41-16.

Third party complaint, 36-7.2.

Umbrella policies, statutory
requirements under, 27-9.

Uninsured motorist coverage, correlation
with, 24-2.

Workers' compensation benefits,
reductions of coverage by, 30-6,
32-6, 35-1.

UNFAIR AND DECEPTIVE TRADE PRACTICES.

Bad faith—

Refusal of insurer to pay, 2-5.2.

Refusal of insurer to settle, 2-5.3,
25-3.

Discrimination, 37-5.

UNFAIR AND DECEPTIVE TRADE PRACTICES —Cont'd.

Generally, 12-9.

UNINSURED MOTORIST COVERAGE.

Amounts required, 27-2.

Answer—

Underinsured motorist, 36-7.

Underinsured motorist carrier, 36-6,
36-7.

Uninsured motorist, 36-5.

Uninsured motorist and uninsured
motorist carrier, 36-7.

Uninsured motorist carrier only, 36-6.

Arbitration—

Generally, 36-1.

Prejudicial delay, waiver, 31-8.

Attorney's fees and costs, 36-10.

Conditions precedent—

Judgment against uninsured motorist,
31-4.

Notice requirements, 31-1.

Reporting "John Doe" accidents to
Public Safety Commissioner,
31-2.

Service requirements—

General appearance by uninsured
motorist carrier, 31-3.1

Uninsured motorist carrier, 31-3.

Statutory requirements, 31-1.1.

Controlling law, 27-4.

Declaratory judgment action, 36-8.

Disability benefits, reduction by, 32-6.

Election of coverage, out-of-state policy
with liability limits less than N. C.
minimum limits, 27-5.

Exclusions—

Business and garage policies, 28-6.

Family member exclusion clauses,
32-4.2.

Generally, 32-5.

Insured and his automobile, accidents
involving, 32-3.

Insured and his relatives, accidents
involving, 32-2.

Motor vehicle regularly used by
insured, 32-1.

Out-of-state contract and law, 32-4.1.

Property damage, recovery of, 32-4.

Fraud, 27-7.

Hit and run, 29-3.

In general, 27-1.

Insured automobile, occupants,
permissive drivers of, 28-5.

UNINSURED MOTORIST

COVERAGE —Cont'd.

Interstate Commerce Commission—
 Employee exclusion clauses, 27-8.
 Liability insurance policies issued in
 connection with certificates of
 convenience, 27-6.
 Jurisdiction, 36-4.
 Medical payments coverage, correlation
 with, 24-2.
 Named insured, 28-3.
 Parents' claim for medical expenses of
 child, 28-7.
 Persons insured, 28-2.
 Rejection of, 27-3.
 Release of tort-feasor, continuation of
 case, 36-7.1.
 Resident relatives, 28-4.
 Service—
 Known uninsured motorist, 36-2.
 Known uninsured motorist, cannot be
 found, 36-4.
 Unknown uninsured motorist, 36-3.
 Settlement, 36-11, 36-12.
 Stacking—
 Commercial vehicles, 33-7.
 Common law and, 33-4.
 Fleet onto nonfleet policies, 33-9.
 Fleet versus nonfleet policies, 33-10.
 Generally, 33-1.
 Interpolicy, 33-11.
 Statutory restrictions on, 33-2.
 Statute of limitations, 36-9.
 Third-party complaint, defense, 36-7.2.
 Umbrella policies, 27-9.
 Underinsured motorist coverage,
 correlation with, 24-2.
 Uninsured motor vehicle, 28-1.
 Workers' compensation, correlation of
 benefits, 32-6, 35-1.

UNINSURED MOTORISTS.

See also **Uninsured Motorist Coverage.**
 Bankruptcy, 29-6.
 Coverage denied, 29-2.
 Defined, 29-1.
 Government owned vehicles, 29-4, 29-8.
 Hit and run, 29-3.
 Insurer, bankruptcy of, 29-5.
 Owner or operator, unknown, 29-3.
 State owned vehicles, 29-4, 29-8.
 Uninsured motorist carrier, 29-2.

VANS.

Liability insurance, coverage of, 5-2.

VENUE.

Residence of insurance corporations,
 2-5.1.

WAIVER.

Arbitration, 12-6, 31-8.
 Coverage, creation of, 3-3.
 Defense of liability claims by insurer—
 Denial of coverage, waiver of right,
 11-1.
 Non-waiver agreements, 11-4.
 Refusal to defend, effect of, 11-3.
 Exclusions, 10-9.
 Insurer, certification by, 3-3.
 Trial, appearance of insured at, 13-3.

WORKERS' COMPENSATION.

Liability coverage, exclusions from,
 injury to employees of insured,
 10-5.
 Medical payments coverage, correlation
 with, 24-3.
 Underinsured/uninsured motorist
 coverage—
 Correlation of benefits, 35-1.
 Reduction of liability, 30-6, 30-10,
 32-6.

WRONGFUL DEATH.

Bodily injury, 9-5.
 Complaint for, form, 41-3.
 Damages for, 9-5.
 Loss of consortium, 9-10.