# On Law

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## Do You Have Appropriate Motor Vehicle Coverage?


Robert L. Blamer

Since 1972 Michigan has operated under a No-Fault law for accidents that occur involving the use, operation or maintenance of a motor vehicle. This article explains the No-Fault law, along with some tips to ensure you have appropriate motor vehicle coverage.

When you purchase automobile insurance you obtain certain minimum, standard coverages. If you do not buy motor vehicle insurance for a vehicle you own and are injured while driving that vehicle, you do not have any rights to No-Fault benefits, nor rights against a negligent driver. Although automobile insurance is mandatory, it is estimated that as many as 30% of the drivers on today's roads are driving without insurance.

No-Fault benefits cover three main areas of economic loss:

- medical expenses that are reasonable, related to the accident and necessary for your care and rehabilitation treatment for the rest of your life;
- a certain percentage of your wage loss for three years up to a maximum dollar amount; and
- household services for things you used to do around the home but can no longer do because of the accident. Household services are limited to $20 per day for a maximum of three years.

If another driver is negligent and you sustain injury as a result of that negligence, you may have other rights against that driver for your pain and suffering and other non-economic loss if your injury is serious enough. In the event of a death there may also be survivors' benefits.

Keep reading for an explanation of three important motor vehicle coverages.

### Liability Protection

Liability protection is the amount you are insured in the event you get sued for causing injury to another person. The minimum coverage automatically included in your policy is referred to as a 20/40 policy, meaning insurance coverage is for $20,000 per injured person and $40,000 per accident total. This amount is certainly not sufficient should you become liable to someone who has sustained life long injuries or is disabled for more than three years. Coverage can be increased from 20/40 to 100/300 ($100,000 per injured person and $300,000 per accident total) with very little adjustment to your premium, around $20 per year.

If you do not have the following two coverages, you need to get them. If your insurance company does not offer these coverages, switch companies. It is that important.

### Uninsured Motorist Coverage

The first type of coverage is uninsured motorist (UM) coverage. If you get struck by an uninsured motorist, you might not be able to recover any money for your injuries from the uninsured motorist, even if s/he is entirely at fault. UM coverage would step in to cover your pain and suffering and non-economic loss to the extent of the policy limits. Keep in mind you can only get uninsured motorist coverage to the extent of your liability coverage. This is another reason why increasing from a 20/40 policy to a higher policy is important.

### Underinsured Motorist Coverage

Underinsured motorist coverage is fairly new to Michigan, but is a valuable coverage that is crucial for your protection. If a driver is negligent and causes you or someone in your car serious injury, your underinsured motorist coverage steps in to make up the difference between what is available on the negligent driver's policy and the amount of your coverage. For example, if you have $100,000 underinsured motorist coverage and are seriously injured by a negligent driver who has a 20/40 minimum, once the negligent driver's insurance company pays you the $20,000, you now have under your own policy an additional $80,000 of coverage.

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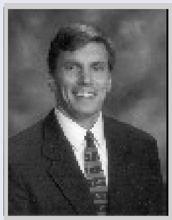
# Michigan Economic Changes in 2009


Christopher Schultz

Through the economic downturn that we are experiencing in Michigan there have been significant legal and tax changes, which impact all of us individually and as business owners. This article, which concentrates on changes the State of Michigan has made, is the second in a four-part series on the legal and tax changes that have occurred in 2009.

**Loan Modification on Mortgages**. Homeowners threatened by foreclosure on their principal residence now have some assistance in getting loan modification agreements with their lenders. Under new Michigan law, prior to the commencement of a mortgage foreclosure by advertisement for property located in Michigan, the lender must send a notice to the homeowner designating a contact person and the availability of loan modification agreements. If the homeowner or their representative contacts the lender within 14 days, the homeowner will have 90 days to negotiate a loan modification.

The standard for eligibility for loan modifications is that your housing expense (principal, interest and taxes) must exceed 38% of your gross monthly income. If this standard is met, the lender must make a loan modification to decrease the housing expenses below 38%.

Modification options include:

- lowering the interest rate to as low as 3%,
- increasing the term of the loan to up to 40 years,
- waiving part of the principal owed,
- waiving fees and
- adding a balloon payment to the end of the loan

**Increased Fees.** In Michigan, several measures have been taken to increase state revenues or reduce the cost of operating. One change is an increase in the filing fees with the Michigan Tax Tribunal, which is where most property tax assessments are ultimately heard. The filing fees, motion fees and other fees associated with the Michigan Tax Tribunal have all increased. The typical cost increase is from a $50 filing fee to $250 filing fee, or more, depending on the amount in controversy.

**State Transfer Tax on Real Estate Transactions**. Michigan has also imposed a state transfer tax on transactions that were previously exempt from the state transfer tax on real estate transactions. The change has a retroactive effective date of January 1, 2007. Prior to the Amendment, owners of real estate were taxed on the transfer of their interest in the real estate. The tax was not applicable to the transfer of an interest in a business, company or trust that owned the real estate because the actual ownership of the real estate remained in that business, company or trust. Under the new law, if 90% of the Fair Market Value of any business entity or trust consists of real estate and the owner transferred 80% or more of his, her or its interest in that entity, then the state transfer tax is applicable on the transfer. The state transfer tax on sales of real estate is imposed at the rate of $7.50 per $1,000 of value. The change in the state law does not have a similar amendment to the county transfer tax.

**Increased FUTA Payments**. Due to the high unemployment rate in Michigan, the State was notified that the employer paid portion of the Federal Unemployment Tax Act (FUTA) has increased from .8% to 1.1% in 2009 and 1.4% in 2010. This is a .3% increase each year for the employer.

**Clean Energy Funding.** The State is offering financial assistance to small manufacturing companies to diversify into clean energy and invest in renewable energy systems. Funding is provided in part by the funds received from the federal stimulus dollars.

Christopher G. Schultz

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## Do You Have Appropriate Motor Vehicle Coverage? (cont.)

There are some steps you must go through to be eligible for payment under the underinsured coverage, so be careful and consult an attorney if you think this will be an issue. Underinsured motorist coverage is often written into the policy as part of the uninsured protection.

The minimal cost to obtain additional liability protection, uninsured and undersinsured motorist coverage can be the most valuable investment when you are insuring your vehicles. It is especially important to have this protection in today's tough economy because of the number of people with little or no automobile insurance.

In my practice, I principally represent injured persons and it is very upsetting when a client is seriously injured and didn't spend the extra $20 per year to prevent economic disaster. Please take a look at your policy, call your agent and get the appropriate protection. I would be happy to answer any questions you may have regarding this issue.

Robert L. Blamer

Robert L. Blamer, a partner in the Livonia office, is the head of the plaintiffs personal injury practice area. He focuses his practice on helping injured people in many types of negligence actions, workers compensation and in social security disability claims. He can be reached by calling (734) 261-2400 or via e-mail at rblamer@cmda-law.com.

# Red Flags Rule Imposed
## Upon Businesses by the FTC


Gerald C. Davis

Because of recent escalation in the crime of identity theft, the Federal Trade Commission (FTC) has issued the Red Flags Rule. The Rule is an anti-fraud protection, requiring creditors and financial institutions with covered accounts to implement programs to identify, detect and respond to the warning signs (or red flags) of identity theft. Financial regulatory agencies, including the FTC, developed the Rule, which is required by the Fair and Adequate Credit Transactions Act of 2003 (FACTA).

The rule defines "creditor" as any entity that regularly extends or renews credit, or arranges for others to do so and includes all entities that regularly permit deferred payments for goods or services. While accepting credit cards as a form of payment does not by itself make an entity a creditor, a "financial institution" can be any entity that offers accounts that enable consumers to write checks or make payments to third parties through other means, such as negotiable instruments or telephone transfers.

The FTC will begin enforcing the Red Flags Rule November 1, 2009 against all businesses that may fall within the definition of "creditor." This includes utilities, healthcare providers, lawyers, accountants and other professionals, telecommunications companies, insurance agencies, professional employer organizations, and staffing companies. The sweeping definition of "creditor" covers any entity that accumulates confidential information in a form which is subject to identity theft by the extension of credit, any institution that acquires confidential consumer data, such as social security numbers, addresses, phone numbers, assets, claims experience and health data, or does claims processing, and any business that regularly participates in the decision to extend, renew or continue credit, including setting the terms of credit. Nearly every business and profession accepts deferred payment, or extends credit, in the sale of its goods and services.

The most important consideration is the existence of "covered accounts" and whether consumer accounts exist that permit multiple payments or transactions, or any other accounts for which there is a reasonably foreseeable risk of identity theft. If you have a covered account, you must develop and implement a written program to detect and respond to the red flags of identity theft, taking into consideration the nature of your business and the risks you face, and then update the program periodically. If you do not have any covered accounts, you do not need a written program, but you still need to conduct periodic risk assessments to determine if you have acquired any covered accounts through changes in your business.

The Red Flags Rule applies to governmental agencies and non-profit organizations, to municipalities, cities, counties and other units of government that accept payments from consumers on a deferred basis. Every business, commercial, financial or governmental entity must develop an identity theft prevention program, even if they have already complied with the data security requirements under other statutes or regulations, like the Health Insurance Portability and Accountability Act (HIPAA) or the Gramm-Leach-Bliley Act.

There simply is no shortcut or prototype for developing a program for compliance with the Red Flags Rule. Each business, commercial and governmental entity is unique and requires a mechanism to identify the relevant red flags that apply to its business. The organization must then set up procedures to detect those red flags in each business's day-to-day operations. The program should identify the appropriate response to each red flag.

Some of the red flags are:

- alert notifications and warnings from a credit reporting company.
- suspicious documents.
- suspicious personal identifying information.
- suspicious account activity
- notice from other sources, including telephone calls or other requests to obtain information by telephone, telefax or other response about a business's customers.

Furthermore, each business must consider the vulnerability of its computer system to infiltration from the outside. A business must also consider the legitimacy of use and security of any source of a business's confidential information. For example, many businesses ask for social security numbers for all consumers and customers as a means of identification, even though the full eight digit number is not required and recent legislation has provided a mechanism to satisfy such requests in the disclosure of that type of information.

The fines for noncompliance are heavy. The FTC can seek monetary civil penalties, up to $3,500.00 as the maximum civil penalty per violation. Each instance in which the company has violated the Rule is treated as a separate violation.
Implementation of the program requires some thought about each business's access to such information, identifying the potential risk of intentional or inadvertent disclosure, and formulating a process for each means of disclosure which will prevent such disclosure to avoid identity theft.

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To meld our legal expertise, professional support staff, technical resources and variety of locations to deliver first rate legal services at a fair value to a full range of business, municipal, insurance and individual clients.

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Comments and questions regarding specific articles should be addressed to the attention of the contributing writer. Remarks concerning miscellaneous features should be addressed to the attention of Jennifer Sherman.

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