



# Rental Vehicle – Primacy of Coverage

\* Indicates updates in laws or regulations for the state

Note: IA, IL, MN and ND have been amended to include provisions addressing loss of use

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## ALABAMA

**Citation** AL ST s 32-7-36

**Summary** Any person, firm, association or corporation licensed and engaged in the business of renting or leasing motor vehicles to be operated on the public highways shall only be required to furnish proof of financial ability to satisfy any judgment or judgments rendered against said person, firm, association or corporation in his or its capacity as owner of the said motor vehicles and shall not be required to furnish proof of its financial ability to satisfy any judgment or judgments rendered against the person to whom the motor vehicle was rented or leased at the time of the accident.

**Case Law** -----

## ALASKA

**Citation** AK ST s 21.96.020(f)(4)

**Summary** An automobile liability insurance policy must provide liability coverage for motor vehicles rented in the U.S or Canada by a person insured under the policy.

Payments from applicable coverage provided will be made in the following order of priority:

(A) from a policy or coverage purchased by the operator from the person who has the vehicle available for rent;

(B) from a policy or coverage covering the operator of a rented vehicle but not purchased from the person who has the vehicle available for rent; and

(C) from a policy or coverage of the person who has the vehicle available for rent.

**Case Law** -----

## \*ARIZONA

**Citation** AZ ST s 28-2166

**Summary** The public liability insurance or the obligation of a self-insured owner pursuant to this section is primary coverage to any other available liability insurance coverage that is available and applicable for any damages and injury caused by a renter unless... It is disclosed in the rental agreement to the renter that either (1) the owner does not extend any of its motor vehicle financial responsibility or provide public liability insurance coverage to the renter, or (2) The renter purchased public liability insurance from the owner that provides coverage.

**Case Law** *Uyleman v. D.S. Rentco*, 981 P.2d 1081 (1999) Statutory financial obligation imposed on car rental agency to respond in damages in amount of \$15,000 for injuries caused by renters or additional authorized drivers, which served as primary coverage to any other available insurance, created situation in which rental car agency served purpose of insurer.  
Car rental agency occupies position of guarantor, not insurer, with respect to injuries to third parties when renter breaches rental contract, and thus may seek indemnification for payments to third parties.

**Citation** AZ ST s 20-1123.01

**Summary** If policy is issued to a person in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing motor vehicles and the car is operated by any person not in such business, the policy is excess.

**Case Law** -----

## ARKANSAS

**Citation** AR ST s 27-19-713

**Summary** Every auto policy must extend coverage to temporary substitute vehicles loaned by a licensed automobile dealer due to breakdown, repair, or servicing. This extension is primary coverage.

**Case Law** -----

## CALIFORNIA

**Citation** CA INS s 11580.9

**Summary** If policy is issued to a person in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing motor vehicles and the car is operated by any person not in such business, the policy is excess.

(b) Where two or more policies apply to the same loss, and one policy affords coverage to a named insured engaged in the business of renting or leasing motor vehicles without operators, it shall be presumed that the insurance afforded by that policy to a person other than the named insured or his or her agent or employee, shall be excess over any other valid insurance. This shall apply only if, at the time of the loss, the involved motor vehicle either: (1) Qualifies as a "commercial vehicle" as that term is used in Section 260 of the Vehicle Code.

(2) Has been leased for a term of six months or longer.

(d) Except as provided in subdivisions (a), (b), and (c), where two or more policies affording valid and collectible liability insurance apply to the same motor vehicle or vehicles in an occurrence out of which a liability loss shall arise, it shall be conclusively presumed that the insurance afforded by that policy in which the motor vehicle is described or rated as an owned automobile shall be primary and the insurance afforded by any other policy or policies shall be excess.

**Case Law** *Mercury Casualty v. Hertz Corp.*, 59 Cal.App. 4<sup>th</sup> 414, 69 Cal. Rptr. 2d 9 (1997). Held that plaintiff's policy was primary, even though defendant was self-insured as the owner of the car. Ins. Code, § 11580.9, subd. (d), did not apply in this case to determine whose liability was primary. Neither plaintiff's policy nor defendant's certificate of self-insurance "described or rated" the rented vehicle. Defendant did not provide liability protection for the insured. The rental agreement made clear that she was solely responsible for obtaining her own liability protection. Thus, the agreement did not constitute a contract of insurance and could not be read in conjunction with defendant's certificate of self-insurance for purposes of the statute.

*Enterprise Rent-A-Car Co. v. Workman's Auto Insurance Co.*, 58 Cal. App. 4<sup>th</sup> 1543, 68 Cal. Rptr. 2d 725 (1997). The rental car company's insurance deposit did not rate nor describe the vehicle and the rental agreement did not provide insurance. Driver's insurance company provided primary coverage for its insured in the underlying third party action, and that respondent car rental company provided secondary coverage.

## COLORADO

**Citation** -----

**Summary** -----

**Case Law** *United States Fidelity & Gaur. Co. v. Budget Rent-A-Car*, 842 P.2d 208 (1992). Because Budget's agreement did not provide its coverage would be excess if other insurance applied, and because every automobile owner was required to carry liability insurance coverage, Budget was primary insurer.

*Allstate v. Avis Rent-A-Car*, 947 P.2d 341 (1997). If there are competing excess clauses in insurance policies, the actual loss is shared between the insurers on a co-primary basis, and public policy required apportionment on an equal basis up to the policy limits of each policy.

## CONNECTICUT

<b>Citation</b>	CT ST s 38a-335
<b>Summary</b>	Each policy issued to an individual covering an automobile shall contain a conspicuous statement specifying whether the policy provides liability, collision or comprehensive coverage for damage to a rented private passenger motor vehicle and, where the policy provides such coverage, the limit of the coverage and whether any deductible amount applies.
<b>Case Law</b>	<i>Hertz v. Chubb Group of Insurers</i> , 1998 WL 83645 (Conn.Super. 1998). Found self-insurance does not constitute "other insurance" for purposes of another insurance clause. Operator's insurance is the primary insurer and Hertz is secondary.

## DELAWARE

<b>Citation</b>	DE ST TI 21 s 6101(a) and (d)
<b>Summary</b>	Requires owners of rental cars to "carry or cause to be carried" a minimum amount of liability insurance for a driver's negligence in operating a rental car. If the owner fails to do so, it is jointly and severally liable with the renter for any damages caused by the renter's negligence. Whenever it appears that the owner has <i>provided or caused to be provided</i> insurance covering the renter, the judge or court shall dismiss, as to the owner, the action brought under this section.
<b>Case Law</b>	<i>Ingerson v. Gikas</i> , 759 F.Supp. 180 (1991). Car rental company was properly dismissed from action involving a lessee's car accident, where lessee had personal insurance in excess of the minimum coverage required by DE ST TI 21 s 6102.  <i>State Farm Mutual Auto. Ins. Co. v. Clarendon Nat. Ins. Co.</i> , 604 A.2d 384 (1992). Primary responsibility for providing liability insurance rests with owner. The possible applications of DE ST TI 21 s 6102 can be made to rental v. loan vehicle situations. In this instance, the car was "loaned" free of charge by the auto dealer and thus considered a loaner and not a rental vehicle.

## DISTRICT OF COLUMBIA

<b>Citation</b>	-----
<b>Summary</b>	-----
<b>Case Law</b>	<i>U-haul Co. v. State Farm Mutual Auto Ins. Co.</i> , 616 A.2d 1264 (1992). Only when a lessee has the right of purchase does lessee become an owner without holding legal title to the vehicle. Since truck rental customers do not come within this exception, under the plain language of the DC ST s 50-1301.08, appellant truck rental company remained the "owner" as vehicle titleholder and as such was liable for damage caused by the truck in an accident.  <i>Sharp v. Ward</i> , 2004 WL 1835102 (D.C.Super., 2004) The District's Compulsory/No-Fault Motor Vehicle Insurance Act, requires that the actual owner of a vehicle provide primary liability coverage for any vehicle operated in the District of Columbia. Assuming defendant did knowingly acknowledge his insurance policy would be primary, he cannot unilaterally change the liabilities of his insurer, without their consent. Finally, to allow such a scheme of liability shifting would contravene the current public policy of the District of Columbia.

## FLORIDA

<b>Citation</b>	FL ST s 627.7263
<b>Summary</b>	The valid and collectible liability insurance or personal injury protection insurance providing coverage for the lessor of a motor vehicle for rent or lease is primary unless otherwise stated in at least 10-point type on the face of the rental or lease agreement. Such insurance is primary for the limits of liability and personal injury protection coverage.
<b>Case Law</b>	<i>Glover v. Scamp Auto Rental I, Inc.</i> , 682 So.2d 562 (1996).  FL ST s 627.7263, permits lessors to shift the burden of providing primary insurance coverage for leased vehicles to lessees. However, to shift the burden, the rental agreements must inform the "lessee of the provisions of subsection (1) . . ." In this present case, lessee's failure to name his insurance carrier in a car rental agreement did not invalidate a risk-shifting provision because the provision complied with statute and the failure to include the name did not invalidate the provision.  <i>Rosati v. Vaillancourt</i> , 848 So.2d 467 (Fla.App. 5 Dist., 2003) Where lessor of rental vehicle fails

to properly invoke statute allowing rental agreement to change primary coverage from lessor to lessee, lessor and its insurer, if any, remain primarily responsible for damages caused as result of negligence in use of vehicle.

## GEORGIA

### Citation

GA ST 40-9-102

### Summary

Any person who rents motor vehicles from a U-drive-it owner is required to provide his own insurance, and insurance companies authorized to issue automobile policies in this state shall be required to provide "spot" insurance, which shall be purchased by such person before the U-drive-it owner shall be authorized to turn a motor vehicle over to such person.

### Case Law

*Jordan v. Spirit Rent-A-Car*, 252 Ga. App. 117, 555 SE.2d 734 (2001). U-drive-it car rental companies are not exempt from their duty to insure cars they own, but they enjoy special treatment in terms of priority of coverage on cars rented to the public. Under GA ST 40-9-102, the liability insurance coverage the renter provides is the primary liability coverage in the case of liability arising from the use of the rental car; the U-drive-it owner's liability insurance coverage is then secondary or excess.

*Zurich American Ins. Co. v. General Car & Truck Leasing System, Inc.*, 574 SE2d 914 (2002), Under statute governing insurance for a person renting a U-drive-it vehicle, the renter's liability insurance coverage is primary, and the rental company's liability insurance coverage is secondary or excess.

## HAWAII

### Citation

HI ST s 431:10C-303.5

### Summary

A U-drive rental business' bodily injury and property damage liability coverages shall be secondary to the operator's or renter's motor vehicle insurance policy, provided the U-Drive rental business supply any claimant sustaining accidental harm or damages, as a result of the operation of the rental vehicle, the identity and address of the operator/renter and renter's insurer.

In cases where the U-drive motor vehicle insurance policy is primary because of a renter/operator failure cooperate with the U-drive rental business in providing information or renter insurer's failure to defend a claim, the U-drive rental business may recover from the renter/operator or insurer, the sums the U-drive rental business expended in payments or benefits, along with reasonable attorneys' fees and expenses.

### Case Law

*Bowers v. Alamo Rent-A-Car, Inc.*, 88 Haw. 274, 965 P.2d 1274 (1998). As found under Hawaii's Motor Vehicle Insurance Law-No Fault, public policy did not allow an owner to contractually shift primary responsibility to provide minimum insurance coverage. In this present case, an escape clause in car rental company's rental agreement was void as violative of public policy and the car rental company had a duty to defend the driver for his claim of personal injury and property damage.

**\*\*However**, HI ST s 431:10C-303.5 provides for automatic shifting of primary coverage in a U-drive situation. This statute has no effect on causes of action that arose before its effective date.

## IDAHO

### Citation

ID ST 49-1212(11)(b)

### Summary

If the owner of the motor vehicle receives compensation from or on behalf of the operator for the temporary use of the vehicle, the owner's insurance shall be primary and the operator's insurance shall be secondary or excess.

### Case Law

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## ILLINOIS

### Citation

625 ILCS 5/9-101, 215 ILCS 5/143a

### Summary

Owners of for-rent vehicles must demonstrate financial responsibility by obtaining insurance coverage for said vehicles.

### Case Law

*Farm Bureau v. Alamo Rent A Car*, 319 Ill. App.3d 382, 744 N.E.2d 300 (2000). Insured chose to rely on her own insurance coverage with plaintiff instead of purchasing the liability insurance from Alamo. Neither the language contained in Vehicle Code nor the public policy behind it, barred contract terms that purport to shift primary liability under insurance policies.

*State Farm Mut. Auto. Ins. Co. v. Hertz Claim*, 789 N.E.2d 407 (Ill.App. 5 Dist., 2003) Neither the Vehicle Code nor public policy requires rental car owners' insurers to provide primary liability coverage.

215 ILCS 5/143a (loss of use): An insurance company issuing uninsured motor vehicle property damage coverage may provide that: (i) Property damage losses recoverable thereunder shall be limited to damages caused by the actual physical contact of an uninsured motor vehicle with the insured motor vehicle. (ii) There shall be no coverage for **loss of use** of the insured motor vehicle and no coverage for loss or damage to personal property located in the insured motor vehicle.

## INDIANA

### Citation

IN ST 27-8-9-9

### Summary

When a claim arises from the use of a vehicle leased under a written lease, the lessee's policy is primary.

### Case Law

*Pafco Gen. Ins. Co. v. Providence Wash. Ins. Co.*, 587 N.E. 2d 728 (Ind. App. 1992). A lessee agreed to have his insurance be primary by consenting to a rental contract which provided that lessor's liability insurance shall be excess insurance over any other liability insurance coverage available the lessee, applicable after coverage under such other available insurance.

## IOWA

### Citation

IA ST s 321.493

### Summary

1(a) If the vehicle is leased, "owner" means the person to whom the vehicle is issued or assigned. For purposes of this subsection, "leased" means the transfer of the possession or right to possession of a vehicle to a lessee for a valuable consideration for a continuous period of twelve months or more, pursuant to a written agreement.

1(b) The owner of a vehicle with a gross vehicle weight rating of seven thousand five hundred pounds or more who rents the vehicle for less than a year under an agreement which requires an insurance policy covering at least the minimum levels of financial responsibility prescribed by law, shall not be deemed to be the owner of the vehicle for the purpose of determining financial responsibility for the operation of the vehicle or for the acts of the operator in connection with the vehicle's operation.

IA ST § 516D.5 (Loss of Use:) A claim against an authorized driver resulting from damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the **loss of use** of a rental vehicle, must be reasonably and rationally related to the actual loss incurred.

### Case Law

*Westfield v. Economy Fire & Casualty*, 623 N.W.2d 871 (2001). Due to additional language in appellant employer's insurance policy, specifically a hired auto endorsement, the rental car company, driver, and car lease company were all found to be excess coverage and employer was primary.

## KANSAS

### Citation

KS ST s 40-3104

### Summary

Self-insurer shall provide liability coverage arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle, in those instances where the lessee or the rental driver does not have a motor vehicle insurance policy, such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer

### Case Law

*State Farm v. Winney*, 923 P.2d 517 (Kan. Ct. App. 1996)

Winney was a permissive driver of a vehicle owned by Budget at the time of the accident. State Farm points out that although K.S.A. 40-3107(h) allows an owner to exclude from coverage any vehicle while it is being rented, Budget's policy has no such provision. Therefore, Budget's policy of insurance is primary because the insurance policy carried by Budget specifically states it provides primary coverage, while the State Farm policy held by Winney only provides excess coverage for accidents occurring in non-owned cars.

### Citation

KS ST s 40-3107(H)(1)

<b>Summary</b>	(h) Notwithstanding any other provision contained in this section, any insurer may exclude coverage required by subsections (a), (b), (c) and (d) of this section while any insured vehicles are: (1) Rented to others or used to carry persons for a charge.
<b>Case Law</b>	<i>Farm Bureau Mut. Ins. Co., Inc. v. Enterprise Leasing</i> , 58 P.3d 751 (Kan.App., 2002) Driver of rental vehicle had 'motor vehicle liability insurance policy'; self-insured rental company not required to provide liability coverage.

**KENTUCKY**

<b>Citation</b>	KY ST s 304.20-065 KY ST s 190.033 KY Bulletin 90-10
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<b>Summary</b>	All auto policies must extend coverage to insured individuals while operating a vehicle loaned, with or without consideration. According to KY Bulletin 90-10, quoting KY ST s 190.033, the customer's coverage is primary for property damage liability claims arising from the use of a motor vehicle owned by a motor vehicle dealer. In circumstances where a customer's or other person's vehicle is out of use because of breakdown, repair, or servicing and a motor vehicle is loaned, with or without consideration, the coverage mandated by this section shall be in excess of, and be deemed secondary to, the collision, bodily injury, and property damage liability coverage under a customer's or other person's own coverage for that person's own negligence.
<b>Case Law</b>	-----

**LOUISIANA**

<b>Citation</b>	LA R.S. 22:681
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<b>Summary</b>	Every approved insurance company writing automobile liability, physical damage, or collision insurance, shall extend to rental private passenger automobiles any and all such insurance coverage in effect in the original policy or policies. Where an insured has coverage on multiple vehicles, at least one of which has comprehensive and collision insurance coverage, that comprehensive and collision substitute coverage shall apply to the temporary substitute motor vehicle or rental motor vehicle. Such insurance shall be primary. However, if other automobile insurance coverage is purchased by the insured for the temporary substitute or rental motor vehicle, that coverage shall become primary. The coverage purchased by the insured shall not be considered a collateral source.
<b>Case Law</b>	-----

<b>Citation</b>	LA R.S. 22:671
<b>Summary</b>	The primary coverage of a loaner vehicle is the driver's, not the owners. "Loaner vehicle" means a car provided by a vehicle service or sales dealer while the owner's is being repaired.

<b>Case Law</b>	-----
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**MAINE**

<b>Citation</b>	ME ST T. 29-A s 1652
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<b>Summary</b>	Lessor who rents vehicle is jointly and severally liable with the renter for damage caused by the negligence of the renter or the renter's permissive driver.
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<b>Case Law</b>	-----
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<b>Citation</b>	ME ST T. 24-A s 2927
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<b>Summary</b>	A personal auto insurance policy must provide coverage of the obligation of the insured for actual damage to a covered rental vehicle.
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<b>Case Law</b>	-----
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**MARYLAND**

<b>Citation</b>	MD ADC 11.18.01.03
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<b>Summary</b>	The insurance policy or self-insurer shall provide primary coverage to the owner, the lessee, and each person driving or using the motor vehicle, trailer, or semi-trailer with permission of the owner or lessee, notwithstanding any provisions of the rental or lease agreement to the contrary.
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The owner of a motor vehicle, trailer, or semitrailer, which is to be rented or leased for commercial use or leased/rented for a period exceeding 180 days, may satisfy the owner's obligation to provide security by requiring the lessee to procure the security.

<b>Case Law</b>	Rentals Unlimited Inc. v. Aetna Casualty & Surety Ins. Co., 101 Md. App. 652 (1994). Under MD Regs. Code 18.01.05 (now MD ADC 11.18.01.03), the owner of a rental vehicle had to provide primary coverage to the lessee and driver. This regulation took priority over provisions in either the parties' insurance contracts.
<b>Citation</b>	MD TRANS s 18-102
<b>Summary</b>	A replacement vehicle temporarily rented to use while the renter's own vehicle is not in use, due to a "loss", must have the security required by MD TRANS s 17-103 that is secondary to any other valid collectible insurance which extends coverage to the owner's vehicle. If an owner of a replacement vehicle provides coverage, the agreement signed by the renter shall contain a provision on its face, in at least 10 point bold type, that informs the renter's insurance is primary coverage for the replacement vehicle and the coverage maintained by the owner on the replacement vehicle is secondary.
<b>Case Law</b>	-----
<b>Citation</b>	MD INSURANCE s 19-512
<b>Summary</b>	Personal auto insurance policy includes collision coverage for motor vehicles rented for a period of 30 days or less. Comprehensive coverage for replacement vehicles (see MD TRANS s 18-102 for definition of replacement vehicle) is also covered under that coverage.
<b>Case Law</b>	-----

## MASSACHUSETTS

<b>Citation</b>	MA ST 90 § 32E
<b>Summary</b>	Every lessor shall provide and maintain, during such time as he engages in the business of leasing motor vehicles a motor vehicle liability policy or bond or deposit, which, in addition to providing indemnity, protection or security for personal injuries, shall, except in the case of vehicles leased for a term of more than 30 days, further provide indemnity, protection or security for damage to property as required by the provisions of this chapter.
<b>Case Law</b>	<p><i>Premier Ins. Co. v. Empire Fire &amp; Marine Ins. Co.</i>, 2002 WL 58465 (2002). Like all owners of registered motor vehicles, car rental agencies are required by statute (MA ST 90 s 34A), to provide compulsory bodily injury insurance on rental vehicles they own. The statute expressly requires the policy to provide coverage where, the vehicle is being operated by another person with the insured's express or implied consent. Court held that permitting the registered owner of a vehicle to avoid primary responsibility for compulsory bodily injury coverage via a super escape or composite escape-excess clause was inconsistent with the statutory scheme and violated public policy.</p> <p><i>Alamo Rent-A-Car v. Matchem</i>, 2000 WL 16763 (Suffolk Sup. Ct. 1999) An escape clause in a garage policy does not violate public policy, however; as automobile rental agencies are involved, an escape clause is inconsistent with statute violates public policy. Alamo could not declare itself the insurer of last resort, but is instead the primary insurer with respect to liability losses caused by the rental vehicles it owned.</p> <p><i>Hartford Ins. Co. v. Hertz Corp.</i>, 572 NE.2d 1(1991). Rental company's liability for UIM benefits was primary to any coverage that customer might receive from her own insurer or any other source.</p>

## MICHIGAN

<b>Citation</b>	MI ST 500.3101(1) & (2)(g)
<b>Summary</b>	<p>(1)The owner or registrant of a motor vehicle required to be registered in this state shall maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance.</p> <p>(2)(g) "Owner" means any of the following: (i) A person renting a motor vehicle or having the use thereof, under a lease or otherwise, for a period that is greater than 30 days, or (ii) A person who holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days.</p>
<b>Case Law</b>	<i>Ryder Truck Rental, Inc. v. Auto-Owners Ins. Co., Inc.</i> , 597 N.W.2d 560 (Mich.App. ,1999) Automobile rental contract may lower the liability coverage limit of the owner's insurer, as long as

the owner's insurer remains primary and provides coverage equal to or above the minimum amounts required by the no-fault act.

<b>Citation</b>	MI ST 500.3131
<b>Summary</b>	It is the <i>owner or registrant</i> of a motor vehicle who must provide residual liability insurance under the no-fault act. The requisite residual liability insurance must provide coverage for loss arising from the use of a motor vehicle.
<b>Case Law</b>	<i>Church Mut. Ins. Co. v. Save-a-Buck Car Rental Co.</i> , 151 F.Supp.2d 905 (W.D.Mich., 2000) Car rental agency's liability coverage was not primary over any coverage available to car lessee under her employer's multi-peril policy beyond \$20,000 per person and \$40,000 per accident that agency was required to provide lessee under statute; agency's coverage above those minimums was not "valid and collective insurance available to insured" to which employer's insurer's coverage could be excess under terms of its policy.
<b>Citation</b>	MI ST 257.401
<b>Summary</b>	Liability of lessor is limited to 20/40.
<b>Case Law</b>	-----
<b>Citation</b>	MI ST 500.3125
<b>Summary</b>	A person suffering damage shall first claim benefits from the owners of vehicles, then from the operators of the vehicle.

## MINNESOTA

<b>Citation</b>	MN ST s 65B.49
<b>Summary</b>	Rented vehicles. All commercial automobile liability policies must provide coverage for rented vehicles as required in chapter 65B. This coverage is excess over any and all specific motor vehicle coverage that is applicable.  65B.49 (loss of use): "Subd. 5a. Rental vehicles. (a) Every plan of reparation security, wherever issued, insuring a natural person as named insured, covering private passenger vehicles as defined under section 65B.001, subdivision 3, and pickup trucks and vans as defined under section 168.002 must: (1) provide that all of the obligation for damage and <b>loss of use</b> to a rented private passenger vehicle, including pickup trucks and vans as defined under section 168.002, and rented trucks with a registered gross vehicle weight of 26,000 pounds or less would be covered by the property damage liability portion of the plan..." 5a. (f) also requires personal auto policies must also include coverage for rental vehicles, and advise insured that they may not need to purchase additional coverage from rental company.
<b>Case Law</b>	<i>Hertz Corp. v. State Farm Mutual Insurance Co.</i> , 573 NW.2d 686 (Sup. Ct., Minn. 1998). A car rental agreement that provides that the rental agency is liable only in the event that the renter does not have automobile liability insurance violates Minnesota's No-Fault Act. In determining priority of coverage, the rental agency's coverage is primary. The renter's vehicle coverage arising from his or her own insurance policy is secondary under both Minnesota's insurance statute and the common law "closest to the risk" doctrine.  <i>State Farm Mut. Auto. Ins. Co. v. Universal</i> , 625 N.W.2d 160 (Minn.App., 2001) MN ST s 65B.49 does not prohibit an insurer from contractually providing a lower limit of liability coverage for a permissive driver's use of a motor vehicle than is provided for the owner's liability for such use, so long as the policy provides the statutorily required minimum coverages.  Minnesota No Fault Act provision providing that vehicle owner's liability policy is primary over nonowned vehicle policy only directs which policy is primary and does not negate unambiguous policy language that establishes the amount of coverage applicable to various risks covered in the policy.

## MISSISSIPPI

No statute or case law found.

## MISSOURI

<b>Citation</b>	MO ST 379.201
<b>Summary</b>	Every motor vehicle liability policy must extend coverage to vehicles loaned as demonstration vehicles or while the insured's vehicle is out of use due to repair, breakdown, or servicing. Such extension of liability coverage must include coverage for damage to the loaned vehicle.
<b>Case Law</b>	<i>Irvin v. Rhodes</i> , 929 SW.2d 829 (Mo. Ct. App. 1996). Neither statutory language nor legislative



history prevents a party, who may ultimately be held liable from shifting primary responsibility to a negligent party. Budget’s rental agreement clearly does not extend coverage to the renter, and so renter’s private insurer is primarily liable.

*Geisner v. Budget Rent A Car of Missouri*, 967 S.W.2d 95 (Mo.App. E.D., 1998) Car lessor with liability insurance coverage for permissive users and self-insured retention (SIR) provided primary liability coverage for lessees, regardless of terms of rental contract; policy stated that SIR was primary coverage and that all of terms and conditions of policy applied equally to it.

**MONTANA**

**Citation** MT ST s 61-6-301(1)

**Summary** Every owner of a motor vehicle which is registered and operated in Montana by the owner or with his permission shall continuously provide insurance against loss resulting from the maintenance or use of a motor vehicle.

**Case Law** *P.C. Rental, Inc. v. Chase Manhattan Bank*, 2000 MT 106, 998 P.2d 1168 (2000). Based on the plain language of the two policies, rental agency’s policy provided primary physical damage coverage, and auto rental insurance issued to the driver through Visa was excess coverage. This case points out that “liability” insurance covers whomever may be construed as an “insured” under the terms of the policy and permission is relevant in determining whether the acts of the driver are insured by the policy. However, “collision” insurance is basically a contract of indemnity, which merely covers physical damage to a specific insured vehicle, irrespective of who is driving.

**Citation** MT ST s 61-6-303

**Summary** Vehicles excepted from MT ST s 61-6-301: owned by gov’t, bonded, self insured, motorcycle, commercial vehicle that is covered by a motor vehicle liability insurance policy, etc... (See statute for complete list.)

**Case Law** -----

**NEBRASKA**

**Citation** NE ST s 25-21,239

**Summary** Owner of leased truck jointly and severally liable with lessee for lessee’s negligence. Statute only applies to leased trucks

**Case Law** *State Farm Mut. Auto. Ins. Co. v. Cheeper’s Rent-A-Car, Inc.*, 614 N.W.2d 302 (2000). Given the mutually repugnant language of renter’s insurance policy and rental company’s rental agreement, the rental company, as the owner of the automobile, has the primary liability in the case and renter’s insurance was excess.

**NEVADA**

**Citation** NV ST 482.295

**Summary** The department or a registered dealer shall not register a vehicle intended to be leased by a short-term lessor until the owner demonstrates to the department his financial ability to respond to damages by providing evidence of insurance as that term is defined in NV ST 485.034

**Case Law** *Alamo Rent-A-Car v. State Farm Mutual Auto. Ins. Co.*, 114 Nev. 154, 953 P.2d 1074 (1998). Drivers’ personal automobile liability policies with insurers is primary insurance and in the absence of such coverage, Alamo will step in and compensate the victim up to the minimum limits. Since there is no statute governing priority, the terms of the secondary liability provision is controlling and the renter’s insurer is primarily liable.

**Citation** NV ST 482.305

**Summary** The short-term lessor of a motor vehicle who permits the short-term lessee to operate the vehicle, and who has not complied with NV ST 482.295 insuring or otherwise covering the short-term lessee against liability arising out of his negligence against liability of the short-term lessee, is jointly and severally liable with the lessee for any damages.

**Case Law** *Salas v. Allstate Rent-A-Car, Inc.*, 14 P.3d 511 (2000). Where the lessee’s personal insurance policy has first been extinguished, lessor may still be required to pay damages to those injured by a lessee of its vehicles. In future cases such as this, when the lessor refuses to insure or otherwise cover the lessee in the minimum statutory amounts or pay damages accordingly, the lessor may be subjecting itself to unlimited joint and several liability with its lessee pursuant to

§482.305(1) & NV ST 485.185.

## NEW HAMPSHIRE

<b>Citation</b>	No citation found.
<b>Summary</b>	-----
<b>Case Law</b>	<p><i>Progressive Northern Ins. Co. v. Enterprise</i>, 821 A.2d 991 (2003) Rental-car company, which was self-insured, was not required under state Financial Responsibility Act to provide primary financial responsibility protection for benefit of its lessee drivers, since nothing in Act required that guarantee by self-insurer to pay any judgment against it be construed to operate for benefit of negligent driver.</p> <p><i>Pawtucket Mut. Ins. Co. v. Hartford Ins. Co.</i>, 787 A.2d 870 (2001) Rental car for use by named insured's employee during vacation with client was rented as part of the named insured's business pursuant to an insured contract, and, thus, the commercial automobile policy provided primary liability coverage to that of employee's personal automobile policy; the named insured paid for the rental to further its business relationship with the client.</p>

## NEW JERSEY

<b>Citation</b>	NJ ST s 45:21-2
<b>Summary</b>	Owner must have insurance which insures against loss from the liability imposed by law upon such owner" for damages due to bodily injury or death suffered by any person other than the owner's employee, or a person in the vehicle as a driver or occupant, arising out of the negligent maintenance, use or operation of the motor vehicle.
<b>Case Law</b>	<p><i>Ambrosio v. Affordable Auto Rental</i>, 704 A.2d 572 (1998). Contradictory provisions in lessor and lessee's policies had effect of canceling each other out, making each party's primary coverage, subject to limits.</p> <p><i>Kattoura v. Patel</i>, 619 A.2d 1031 (1993). Secondary liability provision in the rental agreement supplies the minimum statutory insurance requirement but only in an excess capacity when renter has other collectible primary insurance.</p> <p><i>Robinson v. Coia</i>, 869 A.2d 878 (2005) Avis's coverage by operation of contract and statute (memorialized in the rental agreement) and the renter's "other insurance" clause were each, by their terms, "excess" to the other, the two should be treated as co-primary.</p> <p>An automobile lessor's compliance with statutory obligation to obtain policy of automobile liability insurance does not require lessor's policy or self-insurance to be primary in respect of a lessee's liability to third parties.</p>

## NEW MEXICO

<b>Citation</b>	NM ST s 66-5-207
<b>Summary</b>	A motor vehicle approved as self-insured is exempt from the Mandatory Financial Responsibility Act
<b>Case Law</b>	<p><i>Cordova v. Wolfel</i>, 120 N.M. 557, 903 P.2d 1390 (1995). A vehicle lessor is liable for the negligence of a lessee or a lessee's permittee <i>only to the extent that a statute</i>, administrative regulation, or agreement of the parties imposes such liability. Currently, there is no common law basis for imposing upon a bailor liability for a bailee's negligent operation of a bailed vehicle. Based solely on the inapplicability of the MFRA to self-insured vehicles, insurance protection was not afforded to an unauthorized driver of a self-insured rental vehicle.</p>
<b>Citation</b>	NM ST s 59A-32-23
<b>Summary</b>	When a vehicle owned by a licensed automobile dealer is <i>loaned without a fee</i> to a person for demonstration purposes, as a temporary substitute for that person's vehicle while it is being serviced or repaired, as a promotional courtesy vehicle or as a courtesy vehicle, primary insurance or self-insurance coverage shall be provided by the motor vehicle insurer providing coverage to the person using the demonstration vehicle, temporary substitute vehicle, promotional courtesy vehicle or a courtesy vehicle, and coverage provided by the dealer or the dealer's insurer applies only as excess coverage.
<b>Case Law</b>	

**NEW YORK**

<b>Citation</b>	NY GEN BUS s 396-z
<b>Summary</b>	Provides that lessee is not liable for damages except for in certain circumstances. Transfers the responsibility of damage repair costs from the rental company to the consumer.
<b>Case Law</b>	<p><i>Lane v. Michael</i>, 183 Misc. 2d 793, 706 N.Y.S.2d 827 (2000).</p> <p>Car rental company was required to provide primary coverage up to the minimum statutory limits. To require driver to contribute before defendant car rental company had paid up to the statutory minimum would allow defendant car rental company to circumvent the minimum liability insurance limits required by the state. The indemnification provisions of the rental contract, which allow the rental agency to disclaim liability, including the minimum statutory amount, are void and unenforceable.</p> <p>NY VEH &amp; TRAF s 370</p> <p>The business of renting or leasing rental vehicles shall be subject to the provisions of this section and shall secure a policy of insurance for the liability limits required.</p> <p><i>ELRAC, Inc. v. Ward</i>, 96 N.Y.2d 58, 748 N.E.2d 1, (2001). Self-insured rental company could not seek indemnification from renters to extent that damage fell below required minimum insurance. However, indemnification clause of rental contract was enforceable as to amounts exceeding statutory minimums.</p>

**NORTH CAROLINA**

<b>Citation</b>	NC ST s 20-281
<b>Summary</b>	It shall be unlawful to engage in the business of renting or leasing motor vehicles to the public for operation by the rentee or lessee unless such business has secured insurance for his own liability and that of his rentee or lessee, in the minimum liability limits.
<b>Case Law</b>	<p><i>Hertz Corp. v. New South Ins. Co.</i>, 497 SE.2d 448 (1998). The rental agreement extends only to the minimum limits required by North Carolina law and it provides only secondary coverage where other valid and collectible insurance exists.</p> <p><i>Jeffery v. Snappy Car Rental</i>, 493 SE.2d 767 (1997) Our Supreme Court has "held that this statute (Financial Responsibility Act) is satisfied if the terms of the self-insured's policy exclude coverage in the event the driver of a vehicle is covered under some other policy for the minimum amount of liability coverage required by law."</p> <p><i>Integon Indem. Corp. v. Universal Underwriters Ins. Co.</i>, 507 S.E.2d 66 (1998) Where the rental car driver was in an accident, the fleet insurer was partially liable despite the driver's personal coverage. The fleet insurer provided coverage required by law, and the driver was an individual required by law to be insured. The appellate court found that both insurers were liable in pro rata shares up to the minimum limits required by law for claims arising out of the accident at issue.</p>

**NORTH DAKOTA**

<b>Citation</b>	ND ST 26.1-40-17; ND ST 26.1-40-17.1
<b>Summary</b>	<p>If lessee does not have an applicable automobile insurance policy, then rental company's policy extends to the lessee.</p> <p>If the lessee does have an applicable automobile insurance policy, then the rental car company's policy is excess and limited to the terms of the rental car company's applicable insurance policy. In this situation, the lessee's policy is primary.</p> <p>"1. Every motor vehicle liability insurance policy, as required by section 39-08-20, covering noncommercial private passenger motor vehicles must provide that all of the obligation for damage and <b>loss of use</b> to a rented private passenger vehicle will be covered by the property damage liability portion of the policy and subject to that policy limit."</p>
<b>Case Law</b>	-----

**OHIO**

<b>Citation</b>	OH ST s 4509.101
<b>Summary</b>	This section does not prohibit a motor vehicle renting dealer from entering into a contractual agreement with a person whereby the person renting the motor vehicle agrees to be solely responsible for maintaining proof of financial responsibility or use of the motor vehicle during the

period of the motor vehicle's rental.

**Case Law**

*Erie Ins. Group v. Nationwide Mutual Ins.*, 65 Ohio App. 3d 741; 585 N.E.2d 464 (1989). Ambiguities in the completed rental agreement were to be construed against the rental insurance company. Rental company's insurer provided primary coverage for accident involving third person driving car with lessee's permission. Lessee- and third person's insurers responsible for additional coverage on pro rata basis.

*Progressive Max Ins. Co. v. Empire Fire & Marine Ins.*, 2001 WL 881306 (2001). Held the rental agency's contingent clause was the same as an "excess" clause, which made rental agency equally liable since both parties' policies contained "excess" clauses. Rental agency required to share liability coverage with driver on a pro rata basis for damages.

**OKLAHOMA****Citation**

OK ST T. 47 s 580.2

**Summary**

When a person is driving a automobile with the express permission of a motor vehicle dealer, the driver's policy is primary. This section does not apply in situations where there is a lease charge.

Owner of vehicle may submit a valid binding lease contract between the owner and renter wherein it is agreed that the renter accepts responsibility for loss from any liability imposed by law.

**Case Law**

*Woods v. Budget Rent-A-Car Systems, Inc.*, 825 P.2d 1350 (Okl. 1992) Joint and several liability is imposed upon self-insured owners of for-rent vehicles only when person operating vehicle has owner's permission to do so. Self-insured owner of for-rent vehicle was not subject to joint and several liability for damages arising out of accident where nonpermissive and unauthorized driver was operating for-rent vehicle. Fact that statute provides for self-insured owner of for-rent vehicles to be jointly and severally liable with any person operating vehicle for any damages caused by negligence of any person operating vehicle by or with permission of insured did not mean that self-insured owner of for-rent vehicles had limitless liability; rather, liability was limited by statute.

OK ST T. 47 s 8-101

It shall be unlawful for the owner of any motor vehicle engaged in the business of renting motor vehicles without drivers to rent a motor vehicle without a driver otherwise than as a part of a bona fide transaction involving the sale of such motor vehicle, unless he has previously notified the Department of the intention to so rent such vehicle and has given proof of financial responsibility. The Department shall cancel the registration of any motor vehicle rented without a driver whenever the Department ascertains that the owner has failed or is unable to give and maintain such proof of financial responsibility. Said policy or policies need not cover any liability incurred by the renter of any vehicle to any passenger in such vehicle.

When any suit or action is brought against the owner of a for-rent motor vehicle upon a liability under this title, it shall be the duty of the judge of the court before whom the case is pending to cause a preliminary hearing to be had, for the purpose of determining whether the owner has obtained and there is in full force and effect, a policy or policies of insurance covering the person operating the vehicle under a rental agreement. When it appears that the owner has obtained such policy or policies and that the same are in full force and effect, the judge or magistrate before whom such action is pending shall dismiss the action as to the owner of the motor vehicle.

**OREGON****Citation**

OR St s 30.135

**Summary**

Person in the business of selling, renting, leasing or repairing motor vehicles and the motor vehicle is provided to another person in the course of that business, is not liable for any injury, death or damage that arises out of the use of that motor vehicle by the other person unless the person providing the vehicle is negligent in maintaining the vehicle

**Case Law**

*Neal v. Johnson*, 962 P.2d 706 (Or.App.,1998) Rental car company was not liable to person injured by operation of rented automobile, on theory that it was obliged to provide liability insurance on the rented car pursuant to the financial responsibility law, where person driving at the time of the accident did not have renter's permission to drive the car.

**PENNSYLVANIA**

**Citation** PA ST T. 75 P.S. s 1725

**Summary** Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles.

**Case Law** *Donegal Mutual Ins. Co. v. Long*, 564 A.2d 937 (Pa. Super. Ct. 1989), *Aff'd*, 597 A.2d 1124 (1991). Pursuant to terms of rental agreement, lessor had primary responsibility for liabilities arising from accident. Lessee's insurance was excess.

**Citation** PA ST 73 P.S. s 2152

**Summary** It is the duty of the lessor of motor vehicles to ensure that, in the event the rented vehicle is not returned during the contracted period, all liability or first party coverage continues until such time the vehicle is reported stolen.

**Case Law**

**Citation** PA ST 73 P.S. s 2153

**Summary** Failure of a person engaged in the rental of motor vehicle to comply shall render such person responsible for the minimum limits of financial responsibility set forth in the Motor Vehicle Responsibility Law.

**Case Law**

**RHODE ISLAND**

**Citation** RI ST s 31-3-20

**Summary** A motor vehicle dealer may loan a car to a person whose car is being serviced, provided that the person has proof of insurance which will cover the loaner vehicle. The motor vehicle dealer is not liable for damage caused by the driver.

**Case Law** *Ryan v. Knoller*, 695 A.2d 990 (R.I., 1997) Where rental agency's liability policy and driver's personal automobile policy each contained provision that policy was excess insurance over any other liability insurance available, policies applied on pro rata basis.

**Citation** RI ST s 27-7-6

**Summary** For liability assumed under a written contract, coverage shall be provided under the property damage liability section of an insured's private passenger automobile insurance policy. Property damage coverage shall extend to a rented motor vehicle, under 10,000 lbs, without regard to negligence for a period not to exceed 60 consecutive days.

**Case Law** -----

**SOUTH CAROLINA**

**Citation** No Citation.

**Summary** -----

**Case Law** *Traveler's Indem. Co. v. Dees*, 235 F. Supp. 515 (1964).

Dealer's garage liability policy provides primary coverage of an auto driven by a prospective customer.

*Southern Home Ins. Co. v. Burdette's Leasing Service, Inc.*, 268 S.C. 472, 234 S.E.2d 870 (1977). Construing the Motor Vehicle Financial Responsibility Act, self-insured lessor of rental automobiles must provide coverage for persons using its rental automobile with its express or implied consent. Any effort on the part of the rental company to relieve itself of a liability imposed by law is void, at least insofar as an injured third party's claim is concerned.

*Dorman v. Allstate Ins. Co.*, 504 S.E.2d 127 (S.C.App.,1998) Car lessee was not entitled to grant permission to spouse who was not listed as an authorized driver on the rental contract, and, thus, lessee's automobile insurance policy provided no collision coverage for rental vehicle driven by spouse; policy defined covered substitute vehicles to include nonowned vehicle used with permission of the owner.

*General Acc. Ins. Co. v. Safeco Ins. Companies*, 443 S.E.2d 813 (1994) Four insurance companies sought declaration of extent of their liability for damages arising from injuries resulting when rental car struck pedestrian. The Court found coverage under all four policies,

declared rental car's insurer primary carrier and other insurers excess carriers.

**SOUTH DAKOTA**

- Citation** SD ST 58-23-4
- Summary** If lessee does not have an applicable automobile insurance policy, then rental company's policy extends to the lessee.  
If the lessee does have an applicable automobile insurance policy, then the rental car company's policy is excess and limited to the terms of the rental car company's applicable insurance policy. In this situation, the lessee's policy is primary.
- Case Law** *Stover v. Critchfield*, 510 N.W.2d 681 (1994). The negligence of an agent may be imputed to a principal; however, where the relationship is that of a bailor and bailee, the "general rule is that a bailor is not liable to third persons for their injuries resulting from the bailee's negligent use of the property bailed." Court found no existing basis to impose vicarious liability on the owner of a vehicle based on financial responsibility laws.  
*Auto Owners Ins. Co. v. Enterprise Rent-A-Car*, 663 N.W.2d 208 (2003) Automobile insurer of the operator of a rental car that was involved in a collision brought a declaratory judgment action to determine whether it or the self-insured automobile rental company had the duty to provide primary coverage on the rental car. The Supreme Court held that the self-insured automobile rental company, rather than the operator's automobile insurer, had duty to provide primary liability coverage up to mandatory minimum amounts on the rental vehicle.

**TENNESSEE**

- Citation** TN ST s 56-7-1101
- Summary** When a claim arises out of the operation of a leased vehicle, and the lease agreement provides that coverage for the vehicle shall be provided by the lessee, the agreement controls.
- Case Law** -----
- Citation** TN ST s 56-7-1110
- Summary** Rental car company, offering for sale insurance coverage or collision damage waivers, shall state clearly on the rental contract that the purchaser of the insurance coverage or collision damage waiver offered may be covered for such claims on the purchaser's personal motor vehicle insurance policy, and that if such coverage exists under the renter's personal insurance policy, and the coverage is confirmed, the renter may require the rental car company to submit any claims to the renter's personal insurance carrier as the renter's agent.
- Case Law** -----

**TEXAS**

- Citation** TX INS § 1952.252
- Summary** A policy of garage insurance may contain a provision stating that customers are not insureds under the policy, and that garage insurance shall not apply to garage customers, except to the extent that other valid and collectible insurance is not equal to the financial responsibility limits.
- Case Law** *Rice v. Alamo Rent-A-Car, Inc*, 987 SW.2d 231 (1999). Neither statute nor case law imposes upon Alamo, the self-insurer, a duty to defend or to assume all the duties of an insurer; nor does it make the provisions of the standard Texas automobile policy applicable to self-insurers. A self-insurer, does not provide "other valid and collectible insurance" to the drivers of its cars who carry their own liability insurance coverage.
- Citation** TX BUS & COM § 91.001, TX BUS & COM § 91.051, 91.052
- Summary** A rental company, renting vehicles for 30 days or less, may provide its renters with optional damage waivers, relinquishing liability for all or a part of any damage to a rented vehicle from authorized drivers. Rental agreement must contain a required disclosure notice (language provided in statute) in at least a 10 point font regarding mandatory charge notice, prohibitions, etc., in particular stating that the damage waiver is not insurance.
- Case Law** See Also *Hertz Corp. v. Robineau*, 6 SW. 3d 332 (1999). Absent contract terms to the contrary, a self-insurer did not provide "other valid and collectible insurance" to the drivers of its cars as the term was used in auto liability insurance policy.

**UTAH**

<b>Citation</b>	UT ST s 31A-22-314
<b>Summary</b>	A rental company shall provide its renters with primary coverage meeting the requirements of the Financial Responsibility of Motor Vehicle Owners and Operators Act, unless there is other valid or collectible insurance coverage.
<b>Case Law</b>	<p><i>Chambers v. Agency Rent-A-Car</i>, 878 P.2d 1164 (1994). Self-insured rent-a-car company was primarily responsible for claims that arose from an accident that involved a vehicle owned by the self insured and driven by the renter. The self-insured was responsible for the statutory amount of benefits.</p> <p><i>Li v. Zhang</i>, --- P.3d ----, 2005 WL 1313126 (Utah App.,2005) Statute which requires an automobile rental company to provide its renters with primary coverage, unless there is other valid or collectible insurance coverage, does not relieve lessors of obligation to provide minimum insurance under the Financial Responsibility of Motor Vehicle Owners and Operators Act and only allows lessors to structure their required coverage as secondary or excess to other available coverage when other valid and collectible coverage exists; if the legislature had intended an escape clause for lessors, the statute would not have used the word "primary."</p>

**VERMONT**

<b>Citation</b>	VT ST T. 23 s 800(a)
<b>Summary</b>	Vermont's financial responsibility law. No owner of an automobile may permit the operation of the vehicle upon the highways of the state without having in effect an automobile liability policy or bond, in the amount specified in the statute and covering persons killed or injured in an accident and property damage.
<b>Case Law</b>	<i>Champlain Casualty Co. v. Agency Rent-A-Car</i> , 168 VT 91, 716 A.2d 810 (1998). Renter's responsibility is one imposed by law; its contractual responsibility is to comply with the requirements of the law and no more. Nothing in VT's financial responsibility and compulsory insurance laws requires that the insurance requirements imposed be primary with respect to other available insurance. Court determined that the rental agreement, which specifically required the renter to obtain his own insurance, determined the obligations between the parties and established the renter's personal insurance as primary.
<b>Citation</b>	VT ST T. 23 s 801(c)
<b>Summary</b>	A certificate of self-insurance obtained by a self-insurer shall insure every person operating a motor vehicle, owned by said self-insurer, with his express or implied permission, against loss within statutory liability imposed by law arising out of the operation of said motor vehicle and shall be for the benefit of any person suffering personal injuries or property damage arising out of the use of the motor vehicle with express or implied permission.
<b>Case Law</b>	-----

**VIRGINIA**

<b>Citation</b>	VA ST s 38.2-2205
<b>Summary</b>	If policy is issued to a person in the business of selling, leasing, repairing, servicing, delivering, testing, road testing, parking, or storing motor vehicles and the car is operated by any person not in such business, the policy is inapplicable unless the driver's policy does not meet the financial responsibility limits.
<b>Case Law</b>	<i>Bonner v. Watkins</i> , 51 Va. Cir. 241, 2000 WL 38002 (2000). Lessee's insurer provided primary coverage to driver pursuant to both the language of rental agency insurer's valid policy and VA ST s 38.2-2205(A)(1), VA ST s 38.2-1800. The rental agency insurer only provided excess coverage up to the amounts required under VA ST s 46.2-472.
<b>Citation</b>	VA ST s 38.2-1800
<b>Summary</b>	Definition of " <i>Motor vehicle rental contract insurance agent</i> " means a person who is a selling agent of a motor vehicle rental company and licensed to sell liability coverage to a renter in excess of the rental company's obligations under VA ST s 38.2-2205.
<b>Case Law</b>	-----

**WASHINGTON**

<b>Citation</b>	WA ST 48.115.025
<b>Summary</b>	Insurance may not be offered, sold, or solicited under this section, unless: (6) When the rental car insurance is not the primary source of coverage, the consumer is informed in writing in the form required by subsection (2) of this section that their personal insurance will serve as the primary source of coverage.
<b>Case Law</b>	<i>N.H. Indem. Co. v. Budget Rent-A-Car Sys., Inc.</i> , 64 P.3d 1239 (2003) Super escape clause in car rental agreement making liability coverage provided by self-insured car lessor inapplicable until after exhaustion of all automobile liability insurance and/or any other protection or indemnification, whether primary, excess or contingent, was enforceable and made the liability coverage of the lessee's policy primary despite its excess clause making its coverage excess over any other valid and collectible insurance with respect to non-owned automobile. <i>Rasmussen v. Allstate Ins. Co.</i> , 45 Wash App 635, 726 P.2d 1251 (1986), review denied 107 Wash.2d 1031 (1987). Insurer of rental car was primary insurer where rented vehicle was involved in accident, so that passenger's insurer's liability as excess insurer did not arise until after limits of coverage under owner's policy had been exceeded.

**WEST VIRGINIA**

<b>Citation</b>	WV ST s 33-6-29
<b>Summary</b>	Coverage under lessee's policy is primary and coverage for the owner of the vehicle (rental car company) is secondary.
<b>Case Law</b>	-----

**WISCONSIN**

<b>Citation</b>	WI ST 344.51; WI ST 344.52
<b>Summary</b>	No person shall offer a vehicle for rent without filing a certificate that insurance or bond exists for vehicle. No person complying with section shall be liable for damages caused by the negligent operation of the vehicle by another person. Failure to comply shall make person liable up to statutory limits. Out of state lessor of motor vehicle operated in Wisconsin shall be directly liable for all damages to persons or property, unless the vehicle is covered by statutorily prescribed insurance.
<b>Case Law</b>	<i>Boatright v. Spiewak</i> , 570 N.W.2d 897 (Wis.App.,1997) Self-insurance provided by car lessor was "other collectible insurance" within meaning of "other insurance" provision making liability coverage provided by lessee's policy excess over other collectible insurance.

**WYOMING**

<b>Citation</b>	WY ST s 31-9-405
<b>Summary</b>	An operator's policy of liability insurance shall insure the person named as insured against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him.
<b>Case Law</b>	-----