

Renting a Vehicle in Ontario - *The Rules Have Changed*

The Ontario Government passed Bill C18 on March 1, 2006. Bill C18 makes persons renting or leasing vehicles in Ontario, "first in line" to pay in the event of an accident resulting from the negligent use or operation of the leased/rented vehicle. Prior to Bill C18, the Leasing or Rental Company (the owner of the vehicle) was the first to respond to a similar incident.

The new responding order to accidents with rented/leased vehicles is:

- The insurer of the lessee or renter under a contract of Automobile Insurance, where the lessee or renter is a Named Insured under the contract
- A driver's policy or 'drive' other automobile coverage
- The insurance of the owner of the vehicle (the rental or leasing company), which would only pay in excess to the above mentioned policies. The Act also caps the amount that the Leasing Companies are responsible for to generally \$1,000,000, subject to conditions.

While municipalities frequently rely on rental or leased vehicles for their daily business, the vehicles are often rented in the name of the individual employee and not the municipality proper. Under Bill C18, if the employee rents the vehicle in his/her own name, the employee's personal auto policy will be called upon first to respond to an accident with the rented vehicle.

The following examples illustrate the responding auto policies in two different scenarios.

Scenario 1

The employee of Municipality A rents a vehicle in the name of Municipality A and is involved in an accident while on municipal business.

- The Insurer of Municipality A pays first
- If the claim exceeds the Municipality's limits, than any policy where the employee driver is a Named Insured, spouse of the Named Insured or a Named Driver pays next. This would be quite rare in view of the limits most Municipalities purchase.

- If any claim remains, the Rental Company would be next to respond. However, due to the \$1,000,000 cap and the corresponding conditions, it is unlikely to respond.
- Non-owned Auto is in excess of the policies listed above. This is not by virtue of Bill C18 but rather driven by the wordings.

The ability for the employee to rent a vehicle in the name of the Municipality will have to be pre-arranged with the rental/leasing company. The employee will not typically have signing authority at the counter.

Scenario 2

The employee of Municipality B rents a vehicle in his/her own name and is involved in an accident while on municipal business.

- The employee's personal auto insurer would respond first. If the employee is listed on Municipality B's fleet policy, this policy would pro-rate with the employee's policy. If the employee has a spouse with a policy or is a named driver on a policy, that policy would also pro-rate.
- If any claim amount remains, the Rental Company would next respond. However, again due to the \$1,000,000 cap and conditions, this is most unlikely to occur.
- Non-owned Auto is in excess to the policies listed above. As mentioned in Scenario 1, this is not because of Bill C18 but rather driven by the wordings.