

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2

2679 SLC HB 7 (FILE 2)

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important that the board be advised when the reserve is changed or the file closed. The fund will reimburse insurers on a quarterly basis.

An unusually long period between the filing of Reimbursement Forms will result in delayed action on the part of the fund. Claims should be submitted promptly on a quarterly basis, or semi-annually, if relatively small in amount.

FORMS USED BY BOARD IN E.M.B. CASES
CASES INVOLVING REIMBURSEMENT OF INSURERS FOR EXCESS MEDICAL BENEFITS

UC-321 - Notice Form.

This is the first form to be filed with the board by the insurer anticipating reimbursement of medical expense benefits from the fund as soon as practical where the potential exposure to the insurer exceeds \$75,000.

UC-322(6/81) Report Form.

To be filed with the board by the insurer anticipating reimbursement from the fund of medical expense benefits as soon as the insurer's payment exceeds \$50,000. The form calls for attaching a copy of the application for benefits submitted by or on behalf of the injured party, a copy of the accident report received, and a copy of the police report.

UC-323(3/79) Reimbursement and Reserve Form.

To be filed with the board by insurer seeking reimbursement from the fund when the payment level has exceeded \$75,000. The form should be submitted quarterly and any change in reserves should be reported immediately. This form calls for the attachment of the record of payments. The personal injury payment record is acceptable if kept on a daily basis and contains information as to date paid, amount paid, name of party paid and services rendered. If that record is not submitted, a copy of each medical expense draft issued is to be submitted.

NOTICE FORM

February, 1982

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Form shall be completed by Carrier anticipating reimbursement of Medical Expense Benefits from the Fund. A separate form shall be completed for each claim, i.e. each person.

PLEASE PRINT OR TYPE

NAME OF CARRIER SEEKING REIMBURSEMENT FROM THE FUND _____
 ADDRESS _____

NAME OF NAMED INSURED _____
 ADDRESS _____

CARRIER'S FILE NUMBER _____	POLICY NUMBER ON WHICH MEDICAL BENEFIT PAYMENTS ARE BEING MADE _____	EFFECTIVE AND TERMINATION DATE OF POLICY From _____ To _____
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Are there any other applicable policies such as Medicare, Workmen's Compensation, or other applicable automobile policies that cover this loss? Yes No If yes, furnish the following:

NAME OF CARRIER _____	NAME OF INSURED _____
POLICY NUMBER _____	AMOUNT PAID ON CLAIM \$ _____

NAME OF INJURED PERSON _____ ADDRESS _____	AGE OF INJURED PERSON _____
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DESCRIPTION OF INJURIES _____

PROGNOSIS AS TO INJURIES _____

AMOUNT OF MEDICAL BENEFIT PAYMENTS MADE TO DATE \$ _____	TOTAL AMOUNT OF EXPECTED FUTURE MEDICAL BENEFIT PAYMENTS \$ _____
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Recommended reserve for total value of claim to its ultimate disposition including the \$75,000 threshold. _____ Date on which the \$75,000 threshold may be reached.

DATE OF ACCIDENT _____	LOCATION OF ACCIDENT _____
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DESCRIPTION OF ACCIDENT _____

Is this claim in litigation? Yes No If yes, attach a copy of the complaint and answer. Present status of the litigation _____

NAME OF SUPERVISOR RESPONSIBLE FOR INVESTIGATION FILE _____	LOCATION OF THE INVESTIGATION CLAIM, & LEGAL FILE _____
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REPORT FORM

This form shall be completed by Carrier anticipating reimbursement from the Fund of Medical Expense Benefits.

This form shall be sent to the Fund at the time Carrier has made claim payments in a total amount of \$50,000 and the Carrier expects the claim payments will exceed a total of \$75,000.

If a Notice Form has not been submitted, such form shall be completed and accompany this form.

PLEASE PRINT OR TYPE

NAME OF CARRIER SEEKING REIMBURSEMENT FROM THE FUND _____ CARRIER'S FILE NUMBER _____
ADDRESS _____

NAME OF INSURED _____ DATE OF ACCIDENT _____
ADDRESS _____

NAME OF INJURED PERSON _____ AGE OF INJURED PERSON _____
ADDRESS _____

PROGNOSIS AS TO INJURIES _____

Amount of Medical Benefit Payments Made to Date \$ _____

*DATE PAID	AMOUNT PAID	NAME OF PARTY PAID	SERVICES RENDERED
*(attach PIP claim payment record, if kept on a daily basis and contains information required or copies of all medical expense drafts issued to date)			

Total Amount of Anticipated Payments during Next Two Years . . . \$ _____

Recommended Reserve for Total Value of Claim to Its Ultimate
Disposition Including the \$75,000 Threshold \$ _____

Date on Which the \$75,000 Threshold May Be Reached _____

Attach copy of the application for benefits (PIP form) submitted by or on behalf of injured party, the accident report received from the insured or on his behalf and a copy of the police report.

NAME OF SUPERVISOR RESPONSIBLE FOR INVESTIGATION FILE _____ LOCATION OF THE INVESTIGATION, CLAIM, & LEGAL FILE _____

PHONE # _____

Completed by _____ Title _____ Date _____

REIMBURSEMENT & RESERVE FORM

February, 1982
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This form shall be completed by Carrier seeking reimbursement from the Fund for Medical Expense Benefits in excess of \$75,000. A separate form shall be submitted for each claim.

If a Report Form has not been sent to the Fund, such form shall be completed and accompany this form.

PLEASE PRINT OR TYPE

NAME OF CARRIER SEEKING REIMBURSEMENT FROM THE FUND	CARRIER'S FILE NUMBER
ADDRESS	

NAME OF INSURED	UCJ FILE NUMBER
ADDRESS	

NAME OF INJURED PERSON
ADDRESS

SET FORTH PROGNOSIS AS TO INJURY AND EXPECTED FUTURE MEDICAL BENEFIT PAYMENTS

Date on Which the \$75,000 Threshold Was Reached _____

Recommended Reserve for Total Value of Claim to its Ultimate Disposition, Not Including the \$75,000 Threshold \$ _____

Recommended Reserve for the Following Two Years after the \$75,000 Threshold Has Been Reached \$ _____

Total Amount of Expected Claim Payments During the Next 90 Days \$ _____

If this is the first reimbursement sought from the Fund, give the following information on payments made on behalf of the injured party from inception of claim. (On subsequent forms, list payments not previously reported.)

DATE PAID	AMOUNT PAID	NAME OF PARTY PAID

Amount of Reimbursement Now Sought from the Fund Under this Claim \$ _____

Amount of Reimbursement Previously Received, If Any \$ _____

No further reimbursement on this claim anticipated. We have closed our medical expense coverage file.

COMPLETED BY _____	TITLE _____	DATE COMPLETED _____
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REGULATIONS CONCERNING E.M.B.
(EXCESS MEDICAL BENEFIT) CLAIMS

N.J.A.C. - New Jersey Annotated Code

N.J.A.C. 13:18-10.1 Notification of potential for payment of excess medical expense benefits

An automobile liability insurance carrier shall, as soon as practical, notify the Unsatisfied Claim and Judgment Fund on forms provided by the fund of all claims for medical expense benefits, as defined in N.J.S.A. 39:6A-2(e), where the potential exposure to the carrier exceeds \$75,000 on account of personal injury to any one person in any one accident occurring after 12:00 A.M. on February 19, 1978.

N.J.A.C. 13:18-10.2 Report of such claims when the carrier has paid a least \$50,000 for medical expense benefits

In cases where the potential exposure to the automobile liability insurance carrier exceeds \$75,000, the carrier shall report on forms provided by the fund whenever medical expense benefits in a total amount of \$50,000 have been paid on account of personal injury to any one person in any one accident.

N.J.A.C. 13:18-10.3 Notice of change in the amount of reserves

Whenever an automobile liability insurance carrier has paid medical expense benefits on account of personal injury to any one person in any one accident in a total amount of \$50,000, said carrier shall notify the fund of any changes in the amount of reserves established for payment of the claim or closing of the file.

N.J.A.C. 13:18-10.4 Supplemental form to be submitted to the fund

A reimbursement and reserve form shall be filed with the fund within 90 days after an automobile insurance liability carrier has paid medical expense benefits on account of personal injury to any one person in any one accident in a total amount of \$75,000. Such form shall be filed each quarter that the carrier seeks reimbursement.

N.J.A.C. 13:18-10.5 Carrier's continuing obligation to investigate claims

An automobile liability insurance carrier shall be required to discharge its duty of investigating claims where the potential exposure to the carrier exceeds \$75,000. Said carrier's duty and obligation with regard to claim handling shall exist and continue to exist notwithstanding this regulation. The fund manager may direct such investigations as often as he deems necessary. All expenses relating to the investigation of claims, including expenses for medical examinations and file maintenance, are the responsibility of the automobile liability insurance carrier.

N.J.A.C. 39:18-10.6 Reimbursement of excess medical expense benefits paid by insurers

(a) Carriers shall submit to the fund itemized accounts with supporting documentation of claim payments as soon as practicable after the close of the quarter for which reimbursement is sought. The fund shall reimburse automobile liability insurance carriers for excess medical benefits on a quarterly basis. Carriers shall not be reimbursed for interest, attorney fees or punitive damages.

(b) The fund shall not reimburse a carrier for excess medical expense benefits if it is determined that there are multiple insurance policies applicable to a claim unless a carrier or carriers have expended medical benefits in an amount exceeding \$75,000 per policy on account of personal injury to any one person in any one accident.

(b) Where the fund has reimbursed a carrier for excess medical expense benefits and thereafter determines that there were or are multiple insurance policies applicable to the underlying claim, the carrier shall return all moneys paid from the fund. The carrier(s) shall apportion the medical benefits payment and make individual application to the fund where the potential exposure to the carrier(s) exceeds \$75,000 per policy on account of personal injury to any one person in any one accident.

(d) Whenever a carrier recovers amounts expended by it for medical benefits it shall not be reimbursed for excess medical expense benefits unless it has fully repaid the amount previously reimbursed by the fund.

N.J.A.C. 39:18-10.7 Audits

Upon request of the fund, the carrier(s) shall present for audit at the direction of the fund manager at a New Jersey location all policy and claim records on which notice of potential for payment of excess medical expense benefits have been submitted.

THE NEW JERSEY UNSATISFIED CLAIM
AND JUDGMENT FUND LAW.

MANAGER'S ANNUAL REPORT
TO THE
UNSATISFIED CLAIM AND JUDGMENT
FUND BOARD

July 1, 1982

Sal E. Capozzi
Manager

June 30, 1983

August 9, 1983

MEMBERS OF THE BOARD

1982 -- 1983

James G. Tretter, Chairman
State Farm Insurance Companies
Representing Independent Mutual and other Companies

Frank R. Montgomery
Allstate Insurance Company
Representing Independent Stock Companies

Donald F. Leypoldt
New Jersey Manufacturers Insurance Company
Representing Mutual Company Rating Organization Members

M. Barry Isenburg
Travelers Insurance Company
Representing Stock Company Rating Organization Members

Clifford W. Snedeker
Director of the Division of Motor Vehicles

Joseph F. Murphy
Commissioner of the Department of Insurance

MANAGER'S ANNUAL REPORT TO EHE UNSATISFIED

CLAIM AND JUDGMENT FUND BOARD

1982 - 83 In Review

This annual report is issued to cover the State fiscal year July 1, 1982 to June 30, 1983.

Total payments from the Fund, on uninsured and hit-run accidents, during the twenty-eighth year of operation ending June 30, 1983, amounted to \$2,460,811.90. This is an increase of \$248,975.93 over the previous fiscal year. The number of claims closed with payment from the Fund decreased to 445 in 1982-83, as compared to 530 for the prior fiscal year. Included in the total payments is an amount of \$591,533.44 paid on 297 personal injury protection payments on 134 open claims.

Legislation enacted in 1983 (L. 1983, C125) permitted advances from the Fund to the Division of Motor Vehicles of those sums necessary for implementation of the New Jersey Merit Rating Plan (Joint Underwriters Association).

Legislation enacted in 1977 (L. 1977, Chapt. 310, Senate 1380) continues to have a substantial impact on the Fund. The act added the responsibility of reimbursing insurers when their payments for medical expense benefits exceed \$75,000. The accident victim continues to receive full compensation for medical expenses from the insurance company, but the specific insurance company is relieved of the financial burden of unlimited medical expense coverage. The Fund, through its assessment of all automobile insurance companies, passes these losses on to all insurance companies in relationship to the percentage of automobile insurance written in this State. The insurance companies, in turn, reflect the assessment in their rate structure.

The legislation was effective January 5, 1978, but was made applicable commencing with accidents occurring after 12:00 A.M. on the forty-fifth day following its enactment. It is, therefore, applicable to accidents occurring on and after 12:00 A.M. on February 19, 1978.

The rules to implement this legislation were published in the March 9, 1978 issue of the New Jersey Register, page 31 (cite 10 N.J.R. 119 (c), N.J.A.C. 13:18-10).

The claims filed were initially slow in developing, but activity picked up in fiscal year 1980 and substantially increased during the fiscal years of 1981, 1982, and 1983. As of June 30, 1983, the Fund had received 1,427 notices of potential claims exceeding \$75,000. Of these, 420 reached the \$50,000 claim payment level which is the level at which the Fund sets up a claim file and a reserve. As of June 30, 1983, the two-year reserves on 757 pending claims are \$55,680,571.00, and the ultimate reserves are \$147,060,237.00. There is also a substantial incurred but not reported factor which an independent actuarial survey has evaluated at \$268,716,000.00 as of December 31, 1982. There has been \$12,740,596.06 paid on 527 reimbursements to insurers during this fiscal year involving 300 claims (cases).

The substantial increase in the volume of excess medical expense claims has resulted in a substantial increase in the time of the Board and the Board's office being devoted to this activity. The chart below reflects the increased activity and see also Exhibit H on page 15.

Excess Medical Benefit Claims Filed

<u>Fiscal Years -</u>	<u>*1978-80</u>	<u>1980-81</u>	<u>1981-82</u>	<u>1982-83</u>
Notices Received -	238	309	438	442
Report Forms Received -	132	162	244	304
Reimb. Forms Received -	58	185	333	536
Reimb. Paid - Payments -	57	191	337	527
Claims or Cases -	40	102	184	300
Claims Pending -	126	153	217	261
2-Year Reserve -	\$ 9,947,592	\$10,242,314	\$16,751,421	\$18,739,244
**Ultimate Reserve -	\$27,190,985	\$23,216,370	\$40,462,519	\$56,190,363

* Effective date of legislation - 2-19-78.

** Does not include a substantial incurred but not reported factor.

Legislation enacted in 1973 continues to have a great impact on the Fund. The legislation affects not only the claim volume, but the substantive remedy.

The two principal items that affected claim volume were the enactment of the mandatory uninsured motorist endorsement (L.1972 C.204, paragraph 1, effective January 1, 1973 - N.J.S.A. 17:28-1.1 and 1.2) and compulsory motor vehicle liability insurance (L.1972 C.197, paragraph 1, effective January 1, 1973 - N.J.S.A. 39:6B-1). The mandatory uninsured motorist endorsement transferred the responsibility for handling the claim of the "insured" motorist from the Fund to the automobile liability insurance companies.

Legislation was enacted, however, which increased the activity on those claims which remain eligible for payment from the Fund (pedestrians who do not own an automobile, passengers in uninsured motor vehicles who do not own an automobile, certain out-of-State residents, certain property damage claims, etc.). At the same time that "no fault" legislation, providing for personal injury protection benefits, was enacted as to insured automobiles, the Fund Law was amended to provide "no fault" benefits to claimants who are eligible to claim against the Fund (L.1972 C.198, paragraph 10, effective January 1, 1973 - N.J.S.A. 39:6-86-1 et seq.).

Additionally, the enactment of comparative negligence (L.1972 C.45 - N.J.S.A.-59:9-4) has increased the number of claims the Fund will have to pay.

Other specific amendments to the Fund Law included the elimination of the fee for registering an uninsured motor vehicle and providing for insurers to fund both claim payment and administrative expenses (L.1972, Chapt. 18, paragraph 1, effective December 26, 1972).

Additionally, legislation (L.1972 Chapt. 198, paragraphs 3, 4 and 5, effective January 1, 1973 - N.J.S.A. 39:6-69, 73 & 84) increased the limits available from the Fund from \$10,000 on account of injury or death of one person to \$15,000; increased the limits available for injury or death to more than one person, in

any one accident, from \$20,000 to \$30,000. This is in accord with the increased limits required under N. J. Motor Vehicle liability policies and the uninsured motorist endorsement.

Claims Involving Uninsured and Hit-Run Motorists Filed in 1982 - 83

There were 8,226 Notices of Intention to Make Claim filed in 1982 - 83. Of these, it appeared that 1,736 could be claims eligible to collect from the Fund. The Board assigned these claims and 133 reopened claims to insurance companies for investigation and defense. The decision of the New Jersey Supreme Court in Feuchtbaum vs. Constantini, 59 N.J. 167, which permits substituted service, continues to require the reopening of a substantial number of closed files. As of June 30, 1983, there were 2,479 claims pending for which a reserve of \$10,795,886.00 was being carried.

<u>Fiscal -</u> <u>Years -</u>	<u>1955-</u> <u>1977</u>	<u>1977-8</u>	<u>1978-9</u>	<u>1979-80</u>	<u>1980-81</u>	<u>1981-82</u>	<u>1982-83</u>
Notice of Intention Received (1)	226,470	4,322	4,866	5,441	5,910	6,749	8,226
Eligible Claims	161,580	1,230	1,068	1,312	1,297	2,008	1,736

(1) Could contain more than one claim, i.e., property damage and bodily injury.

Claims Involving Uninsured and Hit-Run Motorists Disposed of in 1982 - 83

Total claim payments from the Fund exceeded two million dollars, bringing the amount paid out of the Fund since April 1, 1955 to \$86,778,955.98.

In the past year 445 claims were closed with payment of \$1,869,278.46 for an average of \$4,200.63 per claim. The amount paid on Bodily Injury claims was \$1,545,429.17 for an average of \$7,056.75 per claim closed with payment. The Property Damage claim payments amounted to \$189,929.87 for an average of \$1,165.21 per claim closed with payment. Personal Injury protection benefit payments amounted to \$133,919.42 for an average of \$2,125.71 per claim closed with payment.

In addition, the Fund paid out \$591,533.44 on 297 personal injury protection benefit payments without closing the claims, for an average of \$1,991.70 per payment.

During this past year, we closed 1,300 claims without payment from the Fund. These claimants were not qualified to collect from the Fund as the defendant was insured, or not at fault, or financially responsible; or the claimant was covered under an uninsured motorist endorsement, or was not insured, or the claimant's damages did not exceed the deductible, or the claimant did not press the claim.

The Bureau of Compulsory Insurance and Accident Reporting in the Division of Motor Vehicles (charged with administering the Security-Responsibility Law) reported that during fiscal year 1983, they processed 267 release and settlement agreements filed by uninsured motorists. These documents showed that uninsured motorists paid to claimants \$215,362.19 for an average of \$806.60 per claim.

Claim Recovery from Uninsured Motorists

The total recovered in 1982 - 83 was \$841,691.65. The judgments are being reviewed regularly to try to encourage the uninsured debtors to undertake installment payments or to assign them to attorneys for collection. We are also reviving old judgments before the twenty-year statute of limitation expires.

LIST OF ATTACHED EXHIBITS

1. EXHIBIT A, Page 7
Statement of UCJ Claim Closings with payment and without payment for the Fund years dating back to the origin of the Fund on 4-1-55.
2. EXHIBIT B, Page 8 and 9
Income and Disbursement Recapitulation - 4-1-55 to 6-30-83.
3. EXHIBIT C, Page 10
Status Report as to UCJ Claims Received during the fiscal year ending 6-30-83, and cumulative period 4-1-55 to 6-30-83. Also included in this exhibit is the net reserve set up and repayments to the Fund for the fiscal year ending 6-30-83, and cumulative period 4-1-55 to 6-30-83.
4. EXHIBIT D, Page 11
Status Report as to UCJ Claims Closed during fiscal year ending 6-30-83, and cumulative period 4-1-55 to 6-30-83. Also included in this exhibit is the payment from the Fund for the fiscal year ending 6-30-83 and cumulative period 4-1-55 to 6-30-83.
5. EXHIBIT E, Page 12
Statement of Income and Disbursements for the fiscal year 7-1-82 to 6-30-83.
6. EXHIBIT F, Page 13
Balance Sheet as of June 30, 1983.
7. EXHIBIT G, Page 14
UCJ Claims Experience Report covering fiscal year ending 6-30-83 and cumulative period 4-1-55 to 6-30-83. Note the relationship of claims payment to reserve closed with payment.
8. EXHIBIT H, Page 15
Excess Medical Benefits Report covering fiscal year ending 6-30-83, cumulative period 2-19-83 to 6-30-83 and calendar year to date.

EXHIBIT A

UCJ CLAIM CLOSINGS

<u>YEAR</u>	<u>NO. OF CLAIMS CLOSED WITH PAYMENT</u>	<u>TOTAL AMOUNT PAID</u>	<u>NO. OF CLAIMS CLOSED W/O/P</u>
4-1-55 to 6-30-77	40,354	\$76,588,524.25	134,219
7-1-77 to 6-30-78	714	1,397,507.60	750
7-1-78 to 6-30-79	540	1,334,169.92	639
7-1-79 to 6-30-80	529	1,191,665.75	602
7-1-80 to 6-30-81	591	1,594,440.59	752
7-1-81 to 6-30-82	530	2,211,835.97	1,015
7-1-82 to 6-30-83	445	*2,460,811.90	1,300
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TOTALS	43,703	\$86,778,955.98	139,276

* Includes 297 PIPB payments in the amount of \$591,533.44 made on 134 open PIPB claims.

EXHIBIT B
 RECAPITULATION 4-1-55 to 6-30-83
 INCOME

<u>YEAR</u>	<u>ASSESSMENT - INSURANCE COMPANIES</u>	<u>AMOUNT</u>	
3-1-55 to 6-30-77		\$23,034,171.03	
7-1-77 to 6-30-78	1/17 of 1%	389,862.22	
7-1-78 to 6-30-79	1/19 of 1%	437,481.34	
7-1-79 to 6-30-80	13/19 of 1%	6,366,011.76	
7-1-80 to 6-30-81	17/25 of 1%	7,374,558.32	
7-1-81 to 6-30-82	1.34271 %	16,445,799.00	
7-1-82 to 6-30-83	2.73776 %	<u>38,396,538.19</u>	\$ 92,444,421.86

<u>YEAR</u>	<u>ASSESSMENT - UNINSURED MOTORIST FEE</u>		
4-1-55 to 6-30-77		\$43,686,796.99	
	(Fee Requirement Abolished 1-1-73)		
7-1-77 to 6-30-78	" " "	* 34,425.00	
7-1-78 to 6-30-79	" " "	* 29,370.00	
7-1-79 to 6-30-80	" " "	* 18,000.00	
7-1-80 to 6-30-81	" " "	* 15,855.00	
7-1-81 to 6-30-82	" " "	* 13,505.00	
7-1-82 to 6-30-83	" " "	<u>* 10,980.00</u>	\$ 43,808,931.99

CUMULATIVE INCOME -
INTEREST

4-1-55 - 6-30-83

Net Interest on Invest- ments	\$21,836,492.69	
Net Interest on Claims Recoverable	<u>6,899,511.66</u>	\$ 28,736,004.35

CUMULATIVE INCOME -
CLAIMS RECOVERABLE

4-1-55 - 6-30-83

Reimbursement of Fund	\$11,473,389.39	
Excess Recovery	<u>510,358.24</u>	\$ 11,983,747.63

Total \$176,973,105.83

* Fees collected on registrations issued prior to 1-1-73.

EXHIBIT B (CON'T)

DISBURSEMENTS

EMB Reimbursements to Insurance Companies		\$ 27,694,515.18
Claim Payments from Fund		\$ 86,778,955.98
Legal and Related - 4-1-55 to 6-30-80	\$ 348,855.87	
" " " 7-1-80 to 6-30-81	7,924.55	
" " " 7-1-81 to 6-30-82	7,523.81	
" " " 7-1-82 to 6-30-83	<u>3,410.77</u>	\$ 367, .5.00
Administrative Expense - UCJ Fund		
4-1-55 to 6-30-77	\$ 6,076,853.61	
7-1-77 to 6-30-78	406,396.43	
7-1-78 to 6-30-79	424,719.76	
7-1-79 to 6-30-80	433,716.46	
7-1-80 to 6-30-81	530,253.70	
7-1-81 to 6-30-82	615,882.29	
7-1-82 to 6-30-83	<u>636,715.71</u>	\$ 9,124,537.96
Refund of Excess Recovery to Claimants		412,452.34
Refund of Fees to Insured Motorists & Dishonored Checks		112,612.00
Administrative Expense - Ins. Ver. Bur. 7-1-70 to 6-30-71		476,113.04
" " - " " " 7-1-71 to 6-30-72		536,748.02
" " - " " " 7-1-72 to 6-30-73		528,375.46
" " -Comp. Ins. Sec. 7-1-73 to 6-30-74		<u>100,000.00</u>
	Total	\$126,132,024.98

There were 2,479 claims pending on June 30, 1983 which are valued at \$10,795,886.00.

STATUS REPORT
1982-83 FISCAL YEAR
UCJ CLAIMS RECEIVED

EXHIBIT C
NEW JERSEY UNSATISFIED CLAIM AND JUDGMENT FUND

Month of	Eligible Claims Opened	Total Eligible Claims from 4-1-55	Net Reserve Change per Month	Total Net Reserve from 4-1-55	Claims Pending at Month's End	Repayment to Fund	Total Repayment from 4-1-55
July	165	170,573	+ 78,484	10,217,918.00	2,371	86,560.39	17,541,014.09
August	129	170,702	-293,498	10,224,420.00	2,348	67,538.73	17,608,552.82
September	145	170,847	-271,934	9,952,486.00	2,335	59,357.24	17,667,910.06
October	182	171,029	+192,420	10,144,906.00	2,400	70,112.33	17,738,022.39
November	81	171,110	-109,439	10,035,467.00	2,326	82,590.80	17,820,613.19
December	161	171,271	+206,753	10,242,220.00	2,387	54,543.74	17,875,156.93
1983							
January	194	171,465	+361,802	10,604,022.00	2,456	74,955.67	17,950,112.60
February	121	171,586	+ 89,672	10,693,694.00	2,474	58,824.49	18,008,937.09
March	152	171,738	+129,647	10,823,341.00	2,506	79,777.24	18,088,714.33
April	127	171,865	+ 79,779	10,903,120.00	2,529	69,040.23	18,157,754.56
May	120	171,985	-289,467	10,613,653.00	2,444	83,289.21	18,241,043.77
June	159	172,144	+182,233	10,795,886.00	2,479	55,101.58	18,296,145.35
TOTALS FOR YEAR						1,736	841,691.65
CUMULATIVE							
4-1-55							
6-30-83		172,144	+356,452	10,795,886.00	2,479		18,296,145.35

STATUS REPORT
1982-83 FISCAL YEAR
UCJ CLAIMS CLOSED

EXHIBIT D
NEW JERSEY UNSATISFIED CLAIM AND JUDGMENT FUND

Month of	*Total Payment from Fund	No. of Claims Closed with Payment	Cumulative Payment 4-1-55 to Month's End	Cumulative No. of Claims Closed with Payment 4-1-55 to Month's End	No. of Claims Closed W/O Payment	Cumulative No. of Claims Closed W/O Payment
July	\$ 194,388.05	51	\$84,512,532.13	43,309	106	138,082
August	225,086.27	45	84,737,618.40	43,354	111	138,193
September	292,473.96	42	85,030,092.36	43,396	133	138,326
October	115,416.00	28	85,145,508.36	43,424	101	138,427
November	218,153.85	39	85,363,662.21	43,463	130	138,557
December	240,825.89	38	85,604,488.10	43,501	73	138,630
1983						
January	112,876.09	16	85,717,364.19	43,517	126	138,756
February	202,263.76	33	85,919,627.95	43,550	74	138,830
March	155,740.14	47	86,075,358.09	43,597	78	138,908
April	205,857.38	26	86,281,225.47	43,623	93	139,001
May	272,649.59	39	86,553,875.06	43,662	180	139,181
June	225,080.92	41	86,778,955.98	43,703	95	139,276
TOTALS FOR YEAR	*\$2,460,811.90	445			1,300	
CUMULATIVE 4-1-55 6-30-83	*Includes 297 PIPB Payments W/O Closing in the Amount of \$591,533.44		\$86,778,955.98	43,703		139,276

EXHIBIT E

UNSATISFIED CLAIM AND JUDGMENT FUNDSTATEMENT OF INCOME AND DISBURSEMENTSFOR THE FISCAL YEAR, JULY 1, 1982 TO JUNE 30, 1983

INCOME:

Insurance Company Assessment	\$38,396,538.19
Uninsured Motorist Fee	10,705.00
Installment Payments	841,691.65
Interest from Investments	4,020,850.74
*Adjustments on Claim Payments	<u>(350.59)</u>
TOTAL INCOME	<u>\$43,269,434.99</u>

DISBURSEMENTS:

EMB Reimbursements	\$12,740,596.06
UCJ Claim Payments	2,460,811.90
Administrative Exp. - 1982-83	640,126.48
Attorneys' Collection Expense	<u>36,049.80</u>
TOTAL DISBURSEMENTS	<u>\$15,877,584.24</u>

* Represents net balance of claim payment checks returned for re-deposit over supplemental claim payments made on claims paid by the Fund during the current and previous fiscal years.

STATE OF NEW JERSEY
UNSATISFIED CLAIM AND JUDGMENT FUND BOARD

BALANCE SHEET

June 30, 1983

ASSETS:

CASH IN BANK

NEW JERSEY NATIONAL BANK		*\$ (456,873.10)
PETTY CASH		100.00
INVESTMENTS	4,000,000.00	
PREMIUM AND DISCOUNT ON INVESTMENTS	(4,251.23)	3,995,748.77
CASH MANAGEMENT FUND	54,358,518.90	
ACCRUED INTEREST RECEIVABLE	2,497,507.54	56,856,026.44
RECOVERABLE SUBROGATION		<u>9,955,395.90</u>
TOTAL ASSETS		<u>\$ 70,350,398.01</u>

LIABILITIES:

EXCESS RECOVERY DUE CLAIMANTS		\$ 97,905.90
PREPAID INSURANCE CO. ASSESSMENTS		2,638,177.87
ACCRUED ADMIN. EXPENSE PAYABLE		640,126.48
RESERVE ON PENDING UCJ CLAIMS	10,795,886.00	
LESS POTENTIAL RECOVERABLE	1,417,216.00	9,378,670.00
RESERVE FOR INCURRED BUT NOT REPORTED	2,201,147.00	
LESS POTENTIAL RECOVERABLE CLAIMS	290,992.00	1,910,155.00
RECOMMENDED RESERVES (2YRS., EMB CLAIMS)	55,680,571.00	
***ULTIMATE RESERVE EMB CLAIMS	91,379,666.00	**147,060,237.00
FUND BALANCE	(127,140,290.75)	
GAIN OR LOSS FOR PERIOD	12,765,416.51	<u>(114,374,874.24)</u>
TOTAL LIABILITIES AND FUND BALANCE		<u>\$ 70,350,398.01</u>

* Bank balance reflects status of account adjusted at time payment invoice is sent to State Treasurer's Office rather than when check is issued and cleared by bank.

** Includes Recommended Reserves for two years on Excess Medical Payments.

*** Does not include a substantial incurred but not reported factor. A recent independent actuarial review of the excess medical benefit claims valued the incurred but not reported claims at \$268,716,000 as of December 31, 1982.

() Reflects deficit balance.

FISCAL YEAR - JULY 1, 1982 TO JUNE 30, 1983

		CLOSED CLAIMS									
TYPE CLAIM	New Claims Opened Reserve Changes		Re-Opened		Without Payment		With Payment		Claim Payment	Pending	
	No.	Reserve	No.	Reserve	No.	Reserve	No.	Reserve	Amount	No.	Reserve
BI	735	4,328,677	75	409,490	623	3,218,621	219	1,887,238	\$ 1,545,429.17	-32	-367,692
PD	291	410,565	45	47,565	219	272,604	163	221,815	189,922.87	-46	- 36,289
PIPB	710	2,190,779	13	32,403	458	763,236	63	*699,513	**725,452.86	+202	+760,433
TOTAL	1,736	6,930,021	133	489,458	1,300	4,254,461	445	2,808,566	\$ 2,460,811.90	+124	+356,452

CUMULATIVE FOR PERIOD - APRIL 1, 1955 to present

BI	119,444	183,884,554	11,074	16,594,353	96,980	122,606,905	32,292	69,886,876	\$78,479,930.04	1,246	7,985,126
PD	48,014	14,334,433	2,961	1,127,544	41,934	10,842,854	8,711	4,187,268	4,531,919.02	330	431,855
PIPB	4,491	7,232,264	72	144,613	972	1,213,037	2,688	3,784,935	3,767,106.92	903	2,378,905
TOTAL	171,949	205,451,251	14,107	17,866,510	139,886	134,662,796	43,691	77,859,079	\$86,778,955.98	2,479	10,795,886

* Includes Reserve Reduction in the amount of \$553,663 for 297 PIPB Payments made on 134 Open PIPB Claims.

** Includes 297 PIPB Payments in the amount of \$591,533.44 made on 134 Open PIPB Claims.

EXHIBIT H
 CUMULATIVE REPORT
 EXCESS MEDICAL BENEFITS

June 30, 1983

	<u>FISCAL YEAR</u> JULY, 1982 to JUNE, 1983	<u>CUMULATIVE</u> 2-19-78 to PRESENT	<u>CALENDAR</u> YEAR TO DATE
NOTICE FORMS RECEIVED	442	1,427	253
REPORT FORMS RECEIVED (\$50,000 PAID BY CARRIER SET UP AS A CLAIM & RESERVED)	304	842	159
REOPENED CLAIMS	2	5	1
CLAIMS CLOSED - WITH PAYMENT	22	40	6
WITHOUT PAYMENT	23	50	17
PENDING CLAIMS	261	757	137
RESERVE CHANGES	+32,152,727.00	+ 67,887,713.00	+16,107,973.00
RECOMMENDED RESERVES (2 YEARS)	18,739,244.00	55,680,571.00	9,490,427.00
*ULTIMATE RESERVES (EXCLUDING \$75,000 THRESHOLD)	56,190,363.00	147,060,237.00	26,807,942.00
REIMBURSEMENT & RESERVE FORMS RECEIVED	536	1,112	286
REIMBURSEMENTS PAID FROM FUND			
NUMBER - PAYMENTS	527	1,112	286
CLAIMS	300	370	--
DOLLARS -	\$12,740,596.06	\$ 27,694,515.18	\$ 7,184,800.05

* Does not include a substantial incurred but not reported factor. A recent independent actuarial review of the excess medical benefit claims valued the incurred but not reported claims at \$268,716,000 as of December 31, 1982.

UNSATISFIED CLAIM

and

JUDGMENT FUND LAW

As Amended to

April 1, 1980

State of New Jersey
Unsatisfied Claim and Judgment Fund Board
137 East State Street
Trenton, New Jersey 08666

CHAPTER 174

AN ACT providing for the establishment, maintenance and administration of an unsatisfied claim and judgment fund for the payment of damages for injury to or death of certain persons and for damages to property arising out of the ownership, maintenance or use of motor vehicles in this State in certain cases.

Title of Act

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Title. This act shall be known and may be cited as the "Unsatisfied Claim and Judgment Fund Law."

C. 39:6-61
Short Title.

2. Definitions. As used in this act:

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

C. 39:6-62
Terms Defined.

"Manager" means the official designated by the director to administer to and be in charge of the Unsatisfied Claim and Judgment Fund, and who shall be responsible to the Unsatisfied Claim and Judgment Fund Board

"Treasurer" means the State Treasurer of New Jersey acting as the custodian of the Unsatisfied Claim and Judgment Fund.

"Commissioner" means the Commissioner of Department of Insurance.

"Unsatisfied Claim and Judgment Fund" or "Fund" means the fund derived from the sources specified in this act.

"Unsatisfied Claim and Judgment Fund Board" or "Board" means the board created in section 4 of this act.

"Qualified person" means a resident of this State or the owner of a motor vehicle registered in this State or a resident of another State,

territory, or Federal district of the United States or Province of Canada or a foreign country, in which recourse is afforded, to residents of this State, of substantially similar character to that provided for by this act; provided, however, that no person shall be a qualified person where such person is an insured under a policy provision providing coverage for damages sustained by the insured as a result of the operation of an uninsured motor vehicle in a form authorized to be included in automobile liability policies of insurance delivered or issued for delivery in this State, pursuant to the provisions of, or any supplement to, chapter 28 of Title 17 of the Revised Statutes or in a form substantially similar thereto.

"Uninsured motor vehicle" means a motor vehicle as to which there is not in force a liability policy meeting the requirements of sections 3, 24, 25 or 26 of the Motor Vehicle Security-Responsibility Law of this State, [N.J.S.A. 39:6-25, 39:6-46 to 39:6-48] established pursuant to the provisions of chapter 173 of the laws of 1952, as amended and supplemented, and which is not owned by a holder of a certificate of self-insurance under said Law.

"Person" includes natural persons, firms, co-partnerships, associations and corporations.

"Insurer" means any insurer authorized in this State to write the kinds of insurance specified in paragraphs d and e, section 17:17-1 of the Revised Statutes.

"Net direct written premiums" means direct gross premiums written on policies, insuring against legal liability for bodily injury or death and for damage to property arising out of the ownership, operation or maintenance of motor vehicles, which are principally garaged in this State, less return premiums thereon and dividend paid to policyholders on such direct business.

"Registration license year" means the period beginning June 1, 1956, and ending May 31, 1957, and each subsequent 12 month period, beginning June 1 and ending the following May 31.

3. Creation and maintenance of fund.

For the purpose of creating and maintaining the fund.

C. 39:6-63
Fund Created and
Maintained.

(a) Deleted by amendment, P.L.1968, c. 323, § 3.)
(b) Deleted by amendment, P.L.1968, c. 323, § 3.)
(c) Deleted by amendment, P.L.1968, c. 323, § 3.)
(d) On December 30 in each year, beginning with 1956, the director shall calculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year. In such calculation, he shall take into consideration the amount presently reserved for pending claims, anticipated payments from the fund during said year, anticipated payments from the fund for medical expenses to be made pursuant to section 2 of this act during the 2 years after said year, anticipated amounts to be reserved for claims pending during said year, and the desirability of maintaining a surplus over and above such anticipated payments and present and anticipated reserves, such surplus not to exceed the amount actually paid from the fund during the 12 full calendar months immediately preceding the date of calculation. Such probable amount which will be needed to carry out the provisions of this act shall be assessed against insurers for such year's contribution to the fund. Such probable amount needed shall be apportioned among such insurers in the proportion that the net direct written premiums of each bears to the aggregate net direct written premiums of all insurers during the preceding calendar year as shown by the records of the commissioner. Each insurer shall pay the sum assessed to the treasurer on or before March 31, next following.

(e) Whenever any of the provisions of this act concerning the method and sources of assessments, the maximum amounts payable from the fund, eligibility or qualifications of claimants, or amounts to be deducted from payments made from the fund are amended by law, between January 1 and April 30 in any year, the director may, if he deems it necessary, rescind any assessment made on December 30 of the preceding year. He shall then, within 15 days of the adoption of such amendment, recalculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year, in accordance with the provisions of subsection (d) of this section. If, in his judgment, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall determine the contributions of insurers, if any, in accordance with the provisions of subsection (d) of this section. In the event of a rescission and

and reassessment subsequent to March 1 in any year, insurers shall pay the sum so assessed, if any, to the treasurer within 90 days of the date of such assessment.

Amended by L.1977, c. 310, § 3, eff. Jan. 5, 1978.

Last additions in text indicated by underline;
last deletions by ~~strikeouts~~.

4. Unsatisfied Claim and Judgment Fund Board

C. 39:6-64
Unsatisfied claim
and judgment fund
board.

There is hereby established in, but not as part of, the Division of Motor Vehicles of the Department of Law and Public Safety, an Unsatisfied Claim and Judgment Fund Board consisting of the director, the commissioner, and four representatives of insurers. Such representatives of insurers shall be designated annually by the commissioner. He shall designate one representative of each of the following classes of companies:

- (a) Stock company rating organization members;
- (b) Mutual company rating organization members;
- (c) Independent stock companies; and
- (d) Independent mutual and other companies.

A person designated as a representative shall be an employee or officer of an insurer of the class which he represents. None of the members of the board shall receive any compensation or remuneration from the fund. Such board shall maintain an office in this State, administer the fund subject to the provisions of this act, determine its cash requirements, and the amounts, if any, available for investment, and shall have the power to employ such clerical and other help as may be necessary to the proper discharge of the duties of the board. The director in the administration of the Motor Vehicle Security-Responsibility Law and the board in the administration of this act shall cooperate in order to avoid duplication and to achieve efficiency and economy. The board shall reimburse the Division of Motor Vehicles semi-annually for the reasonable and appropriate costs and expenses incurred in performing any service for the board under this act. Expenses so incurred by the board or by any department, division or agency of the State on behalf of the board shall

be assessed annually by it, against insurers pro rata in proportion to premium writings as provided in section 3(d).

Rules and regulations.

4.1 The board may, from time to time, adopt, amend and enforce all reasonable rules and regulations necessary or desirable in its opinion in connection with its functions, duties and responsibilities in administering this act.

Notwithstanding the provisions of sections 4, 11 and 13 of chapter 20 of the laws of 1944, the board, with the approval of the Attorney General, shall have the power to engage the services of such attorneys and other persons as may be deemed necessary or desirable for the purpose of suing for, enforcing, collecting and taking any other action for the collection of moneys due to the director or treasurer on any right, claim, agreement, judgment, assignment and other obligation arising out of the application of this act. After repayment to the director or treasurer of all sums paid from the fund and all moneys due to the director and treasurer on any claim, agreement, judgment, assignment or other obligation, the director or treasurer may assign to the original claimant, judgment debtor or other person entitled thereto all of the right, title and interest that the director or treasurer has in and to the balance due upon such obligation. Any attorney so engaged shall not be deemed an employee of the board or the State of New Jersey, shall not be subject to the Civil Service laws as contained in Title 11 of the Revised States of New Jersey and shall not have any right to continued employment in such capacity. The compensation of an attorney so engaged for services so rendered shall be deemed an expense of the board under section 4 of the act and shall be paid out of the moneys recovered on the obligation in connection with which the services were rendered, upon such terms as may be authorized by the board with the approval of the Attorney General.

5. Notice of accident and intention to file claim.

Any qualified person, or the personal representative of such person, who suffers damages resulting from bodily injury or death or damage

C. 39:6-64.1
Rules and
Regulations;
engaging services
of attorneys.

C. 39:6-65
Notice of acci-
dent and in-
tention to file
claim.

to property arising out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, and whose damages may be satisfied in whole or in part from the fund, shall, except in cases in which the claim is asserted by actions brought under section 18 of this act pursuant to section 19 of this act, within 90 days after the accident, as a condition precedent to the right thereafter to apply for payment from the fund, give notice to the board, in the form and contents of which shall be prescribed by the board, of his intention to make a claim thereon for such damages if otherwise uncollectible; provided, any such qualified person may, in lieu of giving said notice within said time, make proof to the court on the hearing of the application for the payment of a judgment (a) that he was physically incapable of giving said notice within said period and that he gave said notice within 90 days after he became physically capable to do so or in the event he did not become so capable, that a notice was given on his behalf within a reasonable period, or (b) that he gave notice to the board within 15 days of receiving notice that an insurer had disclaimed on a policy of insurance so as to remove or withdraw liability insurance coverage for his claim against a person or persons who allegedly caused him to suffer damages. A copy of the complaint shall be furnished to the board if any action has theretofore been brought for the enforcement of such claim. Such person shall also notify the board of any action thereafter instituted for the enforcement of such claim within 15 days after the institution thereof and such notice shall be accompanied by a copy of the complaint.

The director is hereby authorized and empowered, the provisions of any other law relating to the confidential nature of any reports or information furnished to or filed with the Division of Motor Vehicles notwithstanding, to furnish to the board upon its request, for such use, utilization and purposes as the board may deem reasonably appropriate to administer this act and discharge its functions hereunder, any reports or information filed by any person, or persons claiming benefits under the provisions of this act, that the director has with regard to any accident, and any operator or owner of a motor vehicle involved in any accident, and as to any automobile

or motor vehicle liability insurance or bond carried by an operator or owner of any motor vehicle.

See Regulation

6. Investigation and defense of claims.

(a) The board shall assign to insurers for investigation and defense, all default actions described in section fourteen and all actions against the director brought under section eighteen.

(b) Any time after the receipt of notice of intention to make a claim as provided in section five, the board may also assign such of said claims as in the judgment of the board it is advisable to investigate, to insurers for the purpose of making such investigation. At any time after receipt of notice of the institution of an action against the operator or owner of a motor vehicle as provided in section five the board may also assign such of said actions as in its judgment it is advisable to defend, to insurers for the purpose of conducting such defense.

(c) All assignments made under this section shall be made to insurers in proportion of their premium writings subject to assessment hereunder. Each insurer shall at its own expense (1) make such investigation as may be appropriate to any claim or action and (2) cause to be conducted on behalf of the fund the defense of any action assigned to it.

(d) After consultation with insurers the commissioner shall approve a reasonable plan for such equitable apportionment among such insurers of claims against operators and owners of motor vehicles, for investigation and defense, in accordance with this act. When any such plan has been so approved all insurers shall subscribe thereto and participate therein.

7. Defense of actions against motorists.

The insurer to whom any action has been assigned may through counsel enter an appearance on behalf of the defendant, file a defense, appear at the trial or take such other steps as it may deem appropriate on the behalf

C. 39:6-66
Investigation
and defense
of claims.

C. 39:6-67
Defense of
actions against
motorists.

and in the name of the defendant, and may thereupon, on the behalf and in the name of the defendant, conduct his defense, take recourse to any appropriate method of review on behalf of, and in the name of, the defendant, and all such acts shall be deemed to be the acts of such defendant; provided, however, that nothing contained herein shall deprive defendant of the right to also employ his own counsel and defend the action. All expenses incurred by such insurer in connection with any review prosecuted or defended by it from a judgment rendered in such action, shall be borne by the fund, and its attorneys' fees in connection therewith, unless agreed to between the board and the attorney, shall be subject to approval by the court.

8. Co-operation of defendant.

In any case in which an insurer has assumed under this act, the defense of any action, the defendant shall cooperate with such insurer in the defense of such action. In the event of his failure to do so, such insurer may apply to the court for an order directing such co-operation.

9. Application for payment of judgment.

When any qualified person recovers a valid judgment in any court of competent jurisdiction in this State, against any other person, who was the operator or owner of a motor vehicle, for injury to, death of, any person or persons, or a similar valid judgment in such court against such a defendant for an amount in excess of \$100.00, exclusive of interest and costs, for damages to property, except property of others in charge of such operator or owner or such operator's or owner's employees, arising out of the ownership, maintenance or use of the motor vehicle in this State on or after April 1, 1955, and any amount remains unpaid thereon in the case of a judgment for bodily injury or death, or any amount in excess of \$100.00 remains unpaid thereon in case of a judgment for damage to property, such judgment creditor may, upon the termination of all proceedings, including reviews and appeals in connection with such judgment, file a verified claim in the court in which the judgment was entered and, upon 10 days' written notice to the board, may apply to the court for an order directing payment out of the fund, of the amount unpaid upon such judgment for bodily injury or death, which does not exceed, or upon such judgment for damage to property which exceeds the sum of \$100.00 and does not exceed--

C. 39:6-69
Application
for payment
of judgment.

(a) The maximum amount or limit of \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident, and

(b) The maximum amount or limit, subject to such limit for any one person so injured or killed, of \$30,000.00, exclusive of interest and costs, on account of injury to, or death of, more than one person, in any one accident, and

(c) The maximum amount or limit of \$5,000.00 exclusive of interest and costs, for damage to property in any one accident.

10. Hearing on application for payment of judgment.

C. 39:6-70
Hearing on
application
for payment
of judgment.

The court shall proceed upon such application, in a summary manner, and upon the hearing thereof, the applicant shall be required to show

(a) He is not a person covered with respect to such injury or death by any workmen's compensation law, or the personal representative of such a person,

(b) He is not a spouse, parent or child of the judgment debtor, or the personal representative of such spouse, parent or child,

(c) He was not at the time of the accident, a person (1) operating or riding in a motor vehicle which he had stolen or participated in stealing or (2) operating a motor vehicle without the permission of the owner, and is not the personal representative of such a person,

(d) He was not at the time of the accident, operating or riding in an uninsured motor vehicle owned by him or his spouse, parent or child, and was not operating a motor vehicle in violation of an order of suspension or revocation,

(e) He has complied with all of the requirements of section 5,

(f) The judgment debtor at the time of the accident was not insured under a policy of automobile liability insurance under the terms of which the insurer is liable to pay in whole or in part the amount of the judgment,

(g) He has obtained a judgment as set out in section 9 of this act, stating the amount thereof and the amount owing thereon at the date of the application,

(h) He has caused to be issued a writ of execution upon said judgment and the sheriff or officer executing the same has made a return showing that no personal or real property of the judgment debtor, liable to be levied upon in satisfaction of the judgment, could be found or that the amount realized on the sale of them or of such of them as were found, under said execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized,

(i) He has caused the judgment debtor to make discovery under oath, pursuant to law, concerning his personal property and as to whether such judgment debtor was at the time of the accident insured under any policy or policies of insurance described in subparagraph (f) of this section,

(j) He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of personal or real property or other assets, liable to be sold or applied in satisfaction of the judgment,

(k) By such search he has discovered no personal or real property or other assets, liable to be sold or applied or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be sold and applied and that he has taken all necessary action and proceedings for the realization thereof and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized,

(l) The application is not made by or on behalf of, any insurer by reason of the existence of a policy of insurance, whereby the insurer is liable to pay, in whole or in part, the amount of the judgment and that no part of the amount to be paid out of the fund is sought in lieu of making a claim or receiving a payment which is payable by reason of the existence of such a policy of insurance and that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify

the insurer in respect of any amount paid or payable by the insurer by reason of the existence of such a policy of insurance,

(m) Whether or not he has recovered a judgment in an action against any other person against whom he has a cause of action in respect of his damages for bodily injury or death or damage to property arising out of the accident and what amounts, if any, he has received by way of payments upon the judgment, or by way of settlement of such cause of action, in whole or in part, from or on behalf of such other person.

Whenever the applicant satisfies the court that it is not possible to comply when 1 or more of the requirements enumerated in subparagraph (h) and (i) of this section and that the applicant has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the court may dispense with the necessity for complying with such requirements.

The board or any insurer to which the action has been assigned may appear and be heard on application and show cause why the order should not be made.

11. Order for payment of judgment.

C. 39:6-71
Order for
Payment

The court shall make an order directed to the treasurer requiring him to make payment from the fund of such sum, if any, as it shall find to be payable upon said claim, pursuant to the provisions of and in accordance with the limitations contained in this act, if the court is satisfied, upon the hearing:

(a) Of the truth of all matters required to be shown by the applicant by section 10,

(b) That the applicant has fully pursued and exhausted all remedies available to him for recovering damages against all persons mentioned in subparagraph (m) of section 10 by

(1) Commencing action against all such persons against whom the applicant might reasonably be considered as having a cause of action in respect of such damages and prosecuting every such action in good faith to judgment and

(2) Taking all reasonable steps available to him to collect on every judgment so obtained and by applying the proceeds of any judgment or recovery so obtained towards satisfaction of the amount due upon the judgment for payment of which the claim is made.

Any amount which the plaintiff has received or can collect by way of payments upon the judgment or by way of settlement of the cause of action, in whole or in part, from or on behalf of any person other than the judgment debtor, described in subparagraph (m) of section 10, shall be deducted from the amount due upon the judgment for payment of which claim is made.

12. Settlement of actions against motorists.

C. 39:6-72
Settlement of
actions against
motorists.

(a) In any action against an operator or owner of a motor vehicle for injury to or death of any person or for damage to property arising out of the ownership, maintenance or use of said vehicle in this State on or after April 1, 1955, pending in any court of competent jurisdiction in this State, a plaintiff may upon notice to the board file a verified petition with the court alleging

(1) The matters set forth in subparagraph (a), (b), (c), (d), (e), and (f) of section 10;

(2) That the petition is not presented on behalf of an insurer under circumstances set forth in subparagraph (1) of section 10;

(3) That he has entered into an agreement with the defendant to settle all claims set forth in the complaint in said action and the amount proposed to be paid to him pursuant thereto;

(4) That the said proposed settlement has been entered into with and by the consent of the county, county district, or Superior Court and approved by the manager of the fund;

(5) That the defendant has executed and delivered to the board a verified statement of his financial condition;

(6) That a judgment against the defendant would be uncollectible;

(7) That the defendant has undertaken in writing to repay to the treasurer the sum that he would be required to pay under such settlement, and has executed a confession of judgment in connection therewith.

If the court be satisfied of the truth of the allegations in said petition and of the fairness of such proposed settlement, it may enter an order approving the same and directing the treasurer, upon receipt of the undertaking and confession of judgment mentioned in subparagraph (7) of this section, to make payment to the plaintiff of the amount agreed to be accepted.

(b) An insurer to whom a claim has been assigned may settle any claim involving the payment of less than \$5,000.00 with the approval of the manager of the fund or any claim involving payment of \$5,000.00 or more with the approval of the board, without court approval, if satisfied.

(1) That the claimant is not a person of the character described in subparagraphs (a), (b), (c), (d), (e), and (f) of section 10;

(2) That the settlement is not made on the behalf of an insurer under circumstances set forth in subparagraph (e) of section 10; and

(3) That a judgment against the owner or operator of the motor vehicle involved in the accident would be uncollectible, and that such owner or operator has consented to such settlement, executed and delivered to the board a verified statement of his financial condition and undertaken in writing to repay to the treasurer the sum to be paid under the settlement, and executed a confession of judgment in connection therewith. Any settlement so made shall be certified by the board to the treasurer, who shall, upon receipt of said undertaking to repay and confession of judgment, make the required payment to claimant out of the fund.

13. Limitation on amounts payable from fund.

Except with respect to medical expense benefits paid pursuant to section 2 of this act, no order shall be made for the payment and the treasurer shall make no payment, out of the fund, of

(a) Any claim for damage to property for less than \$100.00

(b) The first \$100.00 of any judgment for damage to property or of the unsatisfied portion thereof, or

C. 39:6-73
Limitation on
amounts payable
from fund.

(c) The unsatisfied portion of any judgment which, after deducting \$100.00 therefrom if the judgment is for damage to property, exceeds

(1) the maximum or limit of \$15,000.00 exclusive of interest and costs, on account of injury to, or death of, one person in any one accident, and

(2) the maximum amount or limit, subject to such limit for any one person so injured or killed, of \$30,000.00 exclusive of interest and costs, on account of injury to, or death of, more than one person, in any one accident, and

(3) the maximum amount or limit of \$5,000.00, exclusive of interest and costs, for damages to property in any one accident, provided, that such maximum amounts shall be reduced by any amount received or recovered as specified in subparagraph (m) of section 10.2

(d) Any claim for damage to property which includes any sum greater than the difference between said maximum amounts and the sum of \$100.00, and any amount paid out of the fund in excess of the amount so authorized may be recovered by the treasurer in an action brought to him against the person receiving the same.

Amended by L.1977, c. 310, § 4, eff. Jan. 5, 1978.

Last additions in text indicated by underline;
last deletions by ~~strikeouts~~.

13(a). Medical expense benefits in excess of personal injury protection coverage under Automobile Reparation Reform Act; reimbursement of insurer.

In the event medical expense benefits paid by an insurer, in accordance with section 4 a. of P.L.1972, c. 70 (C. 39:6A-4), are in excess of \$75,000.00 on account of personal injury to any one person in any one accident, the Unsatisfied Claim and Judgment Fund shall assume such excess and reimburse the insurer therefore in accordance with rules and regulations promulgated by the Director of the Division of Motor Vehicles after consultation with the Commissioner of Insurance; provided, however, that this provision is not intended to broaden the coverage available to accidents involving uninsured or hit-and-run

C. 39:6-73.1
Medical expense
benefits in excess
of personal injury
protection cover-
age under Auto-
mobile Reparation
Reform Act; reim-
bursement of in-
surer

automobiles, to provide extraterritorial coverage, nor to pay excess medical expenses.

L.1977, c. 310, § 2, eff. Jan. 5, 1978.

14. Default and consent judgments.

C. 39:6-74
Default and consent judgments.

No claim shall be allowed and ordered to be paid out of fund if the court shall find, upon the hearing for the allowance of the claim, that it is founded upon a judgment which was entered by default unless (1) the claimant shall have complied with the requirements of section 5, and (2) prior to the entry of such judgment the board shall have been given notice of intention to enter the judgment and file a claim thereon against the fund and shall have been afforded an opportunity to take such action as it shall deem advisable under section 15..

If the court, upon a hearing for the allowance of any claim against the fund, finds that it was a claim which was not assigned by the board to an insurer in accordance with section 6, or that the action upon such claim was not fully and fairly defended, or that the judgment thereon was entered upon the consent or with the agreement of the defendant, the court shall allow such claim but shall order it to be paid only in such sum as the court shall determine to be justly due and payable out of the fund, on the basis of the actual amount of damages for which the defendant was liable to the plaintiff under the cause of action, upon which the judgment was rendered and reduced by any amount received from any person mentioned in subparagraph (m) of section 10, notwithstanding that the judgment is for a greater amount.

15. Defense of default actions.

C. 39:6-75
Defense of default actions.

When the board receives notice, as provided in section 14, the insurer to which such action has been assigned may through counsel enter an appearance, file an answer, appear at the trial, defend the action or take such other action as it may deem appropriate on the behalf and in the name of the defendant, and take recourse to any appropriate method of review on behalf of, and in the name of, the defendant.

In the event that the time allowed for filing an answer has expired or judgment has been entered by default in any such action, the insurer to

which the action has been assigned shall be granted a reasonable time after the receipt of notice by the board to answer or to make application for relief against the judgment and leave to answer and defend such action.

16. Collusive judgments.

C. 39:6-76
Collusive
judgments.

No claim against the fund shall be allowed in any case in which the court shall find, upon the hearing for the allowance of the claim, that the judgment upon which the claim is founded was obtained by fraud, or by collusion of the plaintiff and of any defendant in the action relating to any other matter affecting the cause of action upon which such judgment is founded or the amount of damages assessed therein.

17. Assignments of judgment to director.

C. 39:6-77
Assignments of
judgment to
director.

The treasurer shall not pay any sum from the fund, in compliance with an order made for that purpose, in any case in which the claim is founded upon a judgment, except a judgment obtained against the director under this act, until the applicant assigns the judgment to the director and, thereupon, the director shall be deemed to have all the rights of the judgment creditor under the judgment and shall enforce and collect the same for the full amount thereof with interest and costs and if more money is collected upon any such judgment than the amount paid out of the fund, the director shall pay the balance, after reimbursing the fund, to the judgment creditor. Upon assignment of a judgment to the director, the board may, on behalf of the director, enter into agreement with the defendant for reimbursement of the fund by lump sum or installment payments, including waiver of interest and subordination of the lien of the judgment where the same is determined to be advantageous in obtaining reimbursement of payments made by the fund. Any such agreement may be annexed to an application for a court order made pursuant to section 27 (b).

18. "Hit and run cases".

C. 39:6-78
"Hit and run"
cases.

When the death of, or personal injury to, any person arises out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, but the identity of the motor vehicle and of the operator and owner thereof cannot be ascertained or it is established that the motor vehicle was at the time

said accident occurred, in the possession of some person other than the owner without the owner's consent and that the identity of such person cannot be ascertained, any qualified person who would have a cause of action against the operator or owner or both in respect to such death or personal injury may bring an action therefor against the director in any court of competent jurisdiction, but no judgment against the director shall be entered in such an action unless the court is satisfied, upon the hearing of the action that -

(a) The claimant has complied with the requirements of section 5,

(b) The claimant is not a person covered with respect to such injury or death by any workmen's compensation law, or the personal representative of such a person,

(c) The claimant was not at the time of the accident operating or riding in an uninsured motor vehicle owned by him or his spouse, parent or child, and was not operating a motor vehicle in violation of an order of suspension or revocation,

(d) The claimant has a cause of action against the operator or owner of such motor vehicle or against the operator who was operating the motor vehicle without the consent of the owner of the motor vehicle,

(e) All reasonable efforts have been made to ascertain the identity of the motor vehicle and of the owner and operator thereof and either that the identity of the motor vehicle and the owner and operator thereof cannot be established, or that the identity of the operator, who was operating the motor vehicle without the owner's consent, cannot be established,

(f) The action is not brought by or on behalf of an insurer under circumstances set forth in paragraph (1) of section 10.

19. Other "Hit and run" cases.

When in an action in respect to the death of, or personal injury to, any person, arising out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, judgment is rendered for the defendant on the

C. 39:6-79
Other "hit and
run" cases.

sole ground that such death or personal injury was occasioned by a motor vehicle -

(a) The identity of which, and of the owner and operator of which, has not been established, or

(b) Which was in the possession of some person other than the owner or his agent without the consent of the owner and the identity of the operator has not been established, such cause shall be stated in the judgment and the plaintiff in such action may within 3 months from the date of the entry of such judgment bring an action upon said cause of action against the director in the manner provided in section 18.

20. Impleading director in "Hit and run" cases.

C. 39:6-80
Impleading
director.

When an action has been commenced in respect of the death or injury of any person arising out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, the plaintiff shall be entitled to make the director a party thereto if the provisions of section 18 or 19 shall apply in any such case, and the plaintiff has made the application and the court has entered the order provided for in section 18.

21. Defense of such actions by director.

C. 39:6-81
Defense of such
actions by
director.

In any action brought under sections 18 and 19 of this act, the director may appear by counsel for the insurer to whom such action has been assigned. He shall for all purposes of the action be deemed to be the defendant. He shall have available to him any and all defenses which would have been available to said operator or owner or both if the action had been brought against them or either of them and process upon them or either of them had been duly served within this State, but he shall be entitled to defend in all cases without asserting any specific facts.

22. Settlement of actions against the director.

C. 39:6-82
Settlement of
actions against
director.

In any action brought against the director pursuant to an order by the court entered in accordance with the provisions of section 18, the plaintiff may file a verified petition alleging that he has entered into an agreement with the board to settle all claims set forth in the complaint in said action and the amount proposed to be paid to him pursuant thereto. If the court be satisfied of the fairness of such proposed settlement, it may enter an order approving

such settlement and enter judgment against the director for the amount so agreed to be paid thereunder.

23. Credits against judgment.

A judgment against the director shall be reduced by any amounts which such plaintiff has received from any person mentioned in subparagraph (m) of section 10. ▼

C. 39:6-83
Credits against judgment.

24. Judgment against director.

When a judgment is obtained against the director, in an action brought under this act, upon the determination of all proceedings including appeals and reviews, the court shall make an order directed to the treasurer directing him to pay out of the fund to the plaintiff in the action the amount thereof which does not exceed \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person and, subject to such limits for the death of, or injury to, any one person, does not exceed \$30,000.00, exclusive of interest and costs, on account of the injury to, or death of, more than one person, in any one accident, provided that such maximum amount shall be reduced by any amount received or recovered by the plaintiff as specified in subparagraph (m) of section 10.

C. 39:6-84
Judgment against director.

24 (a). Increase in payment of maximum amounts from fund; application to accidents on or after January 1, 1973.

The provisions of sections 9, 13 and 24 of the act of which this act is supplementary (C. 39:6-69, 39:6-73 and 39:6-84 as amended by sections 3, 4 and 5 of P.L.1972, c.198 which increases the maximum amounts payable from the fund shall be applicable only to claims made by qualified persons, or the personal representatives of such persons, who suffered damages resulting from bodily injury or death or damage to property arising out of the ownership, maintenance or use of a motor vehicle in this State on or after January 1, 1973; and whose damages may be satisfied in whole or in part from the fund.

C. 39:6-84.1
Increase in payment of maximum amounts from fund; application to accidents on or after January 1, 1973.

L.1975, c. 6, § 1.

25. Subrogation.

When a judgment has been obtained against the

C. 39:6-85
Subrogation.

director in an action brought under this act, the director shall, upon payment from the fund of the amount of the judgment to the extent provided in this act, be subrogated to the cause of action of the judgment creditor against the operator and owner of the motor vehicle by which the accident was occasioned and shall bring an action against either or both of such persons for the amount of the damages sustained by the judgment creditor when and in the event that identity of either or both of such persons shall be established, and shall recover the same out of any funds which would be payable in respect to the death or injury under any policy of insurance, which was in force, at the time of the accident and in the event that more is recovered and collected in any such action than the amount paid out of the fund by reason of the judgment, the treasurer shall pay the balance, after reimbursing the fund, to the judgment creditor.

26.1 Benefits payable in accordance with Automobile Reparation Reform Act; exceptions.

When any person qualified to receive payments under the provisions of the "Unsatisfied Claim and Judgment Fund Law", suffers bodily injury or death arising out of the ownership, maintenance, operation or use of an automobile, as defined in P.L.1972, c. 70 [N.J.S.A. 39:6A-1 to 18] registered or principally garaged in this State for which personal injury protection benefits under the "New Jersey Automobile Reparation Reform Act" would be payable to such person if personal injury protection coverage were in force and the damages resulting from such automobile accident or deaths are not satisfied due to the personal injury protection coverage not being in effect with respect to such automobile accident, then in such event the Unsatisfied Claim and Judgment Fund shall provide, under the following conditions, the following benefits:

a. Medical expense benefits. Payment of all reasonable medical expenses incurred as a result of personal injury sustained in an automobile accident. In the event of death, payment shall be made to the estate of the decedent.

C. 39:6-86.1
Benefits payable in accordance with Automobile Reparation Reform Act; exceptions.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100.00, per week. Such sums shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200.00, on account of injury to any one person, in any one accident.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380.00, on account of injury to any one person in any one accident.

d. Survivor benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under section 7 of this act, the maximum amount of benefits which could have been paid to the income producer, but for his death, under section 7 b. shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under section 7 c. of this act, the maximum amount of benefits which could have been paid such person, under section 7 c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.

Exceptions. Provided, however, that no benefits shall be paid under this section unless the person applying for benefits has demonstrated:

1. he is not a person covered with respect to such injury or death by any workmen's compensation law, or the personal representative of such a person;

2. he is not a spouse, parent or child of the uninsured motorist referred to in 4. of this section, or the personal representative of such spouse, parent or child;

3. he was not, at the time of the accident, a person:

(a) operating or riding in a motor vehicle which he had stolen or participated in stealing; or

(b) operating a motor vehicle without the permission of the owner, and is not the personal representative of such a person;

4. he was not, at the time of the accident, operating or riding in an uninsured motor vehicle owned by him or his spouse, parent or child, and was not operating a motor vehicle in violation of an order of suspension or revocation; and

5. he is not an insurer, and is not bringing this action on behalf of any insurer.

26.2 Payment of benefits.

C. 39:6-86.2
Payment of
benefits.

The benefits provided in sections 7 and 10, shall be payable as loss accrues upon written notice of such loss including reasonable proof of such loss and without regard to collateral sources, except that benefits collectible under employees temporary disability benefit statutes and medicare provided under Federal law, shall be deducted from the benefits collectible under sections 7 and 10.

26.3 Denial of benefits; grounds.

C. 39:6-86.3
Denial of bene-
fits; grounds.

Any qualified person entitled to receive benefits as provided in section 7 of this act shall be precluded from receiving such benefits where such person's conduct contributed to his personal injuries or death in any of the following ways:

a. While committing a high misdemeanor or felony or seeking to avoid lawful apprehension or arrest by a police officer; or

b. While acting with specific intent of causing injury or damage to himself or others.

26.4 Death or injury due to unidentifiable operator or owner, or to operator using automobile without consent of owner; benefits payable; conditions.

C. 39:6-86.4
Death or injury
due to un-
identifiable
operator or owner.

When the death of or personal injury to any person arises out of the ownership, maintenance or use of an automobile in this State on or after the effective date of this act, but the identity of the automobile and of the operator and owner thereof cannot be ascertained or it is established that the automobile was at the time said accident occurred, in the possession of some person other than the owner without the owner's consent and that the identity of such person cannot be ascertained, any person qualified to receive payments under the provisions of the "Unsatisfied Claim and Judgment Fund Law" shall be entitled to receive payment under sections 7 and 10 of this act, provided that:

a. The claimant is not a person covered with respect to such injury or death by any workmen's compensation law, or the personal representative of such a person,

b. The claimant was not at the time of the accident operating or riding in an uninsured motor vehicle owned by him or his spouse, parent or child, and was not operating a motor vehicle in violation of an order of suspension or revocation,

c. The claimant was not at the time of the accident:

(1) a person operating or riding in a motor vehicle which he had stolen or participated in stealing, or

(2) operating a motor vehicle without the permission of the owner, and is not the personal representative of such a person,

c. All reasonable efforts have been made to

ascertain the identity of the motor vehicle and of the owner and operator thereof and either that the identity of the motor vehicle and the owner and operator thereof cannot be established, or that the identity of the operator, who was operating the motor vehicle without the owner's consent, cannot be established,

e. The claimant is not a spouse, parent or child of the uninsured motorist referred to in subsection b. of this section, or the personal representative of such spouse, parent or child, or

f. The action or claim is not brought by or on behalf of an insurer.

26.5 Application for benefits; payment

Any qualified person seeking to receive benefits as provided in section 7 and 10 of this act shall comply with the provisions of section 5 of P.L.1952, c. 174 (C. 39:6-65) and payment under these sections shall be payable to the qualified person entitled to receive such benefits, as the loss accrues, upon receipt of reasonable proof of such loss and without the need of a judgment as to damages, or a hearing as provided in section 10 of P.L.1954, c. 174 (C. 39:6-70) or an order for payment as provided in section 11 of P.L.1954, c. 174 (C. 39:6-71).

C. 39:6-86.5
Application for
benefits; payment.

26.6 Recovery of benefits paid by fund.

The director shall be entitled to recover on behalf of the Unsatisfied Claim and Judgment Fund for all payments made by it pursuant to sections 7 and 10 of this act, regardless of fault, from any person who owned or operated the automobile involved in the accident and whose failure to have the required insurance coverage in effect at the time of the accident resulted in the payment of personal injury protection benefits. If the identity of the owner and operator is not ascertained until after personal injury protection benefits have been paid then the director shall be entitled to recover for such payments, regardless of fault, from the operator if he was driving without the owner's permission or from the operator and the owner if he was driving with the owner's

C. 39:6-86.6
Recovery of bene-
fits paid by fund.

permission or, in either case, from the insurer if there is an insurance policy providing personal injury protection benefits that was in effect at the time of the accident with respect to such automobile.

The director is authorized to bring an action, which shall be a summary proceeding, in the County Court of the Superior Court to reduce the right provided by this section to judgment.

27. Registration, etc., not restored until fund is reimbursed.

Where the license or privileges of any person, or the registration of a motor vehicle registered in his name, has been suspended or cancelled under the Motor Vehicle Security-Responsibility Law of this State, and the treasurer has paid from the fund any amount in settlement of a claim or towards satisfaction of a judgment against that person, or for the payment of personal injury protection benefits as provided in section 7 and section 10 of this act, the cancellation or suspension shall not be removed, nor the license, privileges, or registration, restored, nor shall any new license or privilege be issued or granted to, or registration be permitted to be made by, that person until he has

(a) Repaid in full to the treasurer the amount so paid by him together with interest thereon at 6% annum from the date of such payment; and

(b) Satisfied all requirements of said Motor Vehicle Security-Responsibility Law in respect of giving proof of ability to respond in damages for future accidents, provided, that the court in which such judgment was rendered may, upon 10 days' notice to the board, make an order permitting payment of the amount of such person's indebtedness to the fund, to be made in installments, or in the event the fund makes personal injury protection benefit payments, such person and the fund by agreement may provide for repayment to the fund to be made in installments, and in such case, such person's driver's license, or his driving privilege, or registration certificate, if the same have been suspended or revoked, or have expired, may be restored or renewed and shall

C. 39:6-87
Registration, etc.,
not restored until
fund is reimbursed.

remain in effect unless and until such person defaults in making any installment payment specified in such order. In the event of any such default, the director shall upon notice of such default suspend such person's driver's license, or driving privileges or registration certificate until the amount of his indebtedness to the fund has been paid in full.

28. Fund to be held in trust.

C. 39:6-88
Fund held in
trust.

All sums paid to the director as Unsatisfied Claim and Judgment Fund Fees and as additional charges against owners of uninsured motor vehicles shall be remitted to the treasurer within thirty days after the receipt of the same. All sums received by the treasurer pursuant to any of the provisions of this act shall become part of the fund, and shall be held by the treasurer in trust for the carrying out of the purpose of this act and for the payment of the cost of administering this act. Said fund may be invested and reinvested in the same manner as other State funds and shall be disbursed according to the order of the treasurer, as custodian of the fund.

29. Reimbursement of General State Fund.

C. 39:6-89
Reimbursement
of General State
Fund.

The treasurer shall, on or before the thirtieth day of June in each year in which this act has been operative, determine what amount, if any, shall be paid into the General State Fund in repayment, in whole or in part, of the cost paid or incurred by the General State Fund for administering this act during the current fiscal year and such amount shall be transferred from the fund to the General State Fund of the treasury accordingly.

30. Penalty for false statements.

C. 39:6-90
Penalties.

Any person and any agent or servant of such person, who knowingly files with the fund, board or treasurer, or any or either of them, any notice, statement or other document required under this act, which is false or untrue or contains any material misstatement of fact shall be subject to a fine of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), or imprisonment for not more than thirty days, at the discretion of the court.

30.1 Partial invalidity.

C. 39:6-90.1
Partial
invalidity.

In the event any section, term or provision of this act or of the act to which this act is amendatory and supplementary shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term or provision of said acts, but the remaining sections, terms, and provisions shall be and remain in full force and effect.

31. Effective date.

C. 39:6-91
Effective date.

This act shall take effect April first, one thousand nine hundred and fifty-five, except that it shall become effective immediately, so far as to permit the treasurer and director to receive and collect the fees and assessments specified in section three, to permit the taking of such measures and making of such expenditures as shall be necessary to administer the provisions of this act prior to April first, one thousand nine hundred and fifty-five, and to make such preparations as may be necessary to provide for the administration of said act after said date.

REGULATION

Number 1 - August 21, 1969

A Notice of Intention to Make Claim under N.J.S.A. 39:6-65, as amended by Chapter 81, Public Laws of 1963, approved June 4, 1963, shall contain the following information:

1. Claimant's name and address.
2. Date and place of accident.
3. Identity of the operators and the vehicles involved in the accident.

A Notice of Intention to Make Claim under N.J.S.A. 39:6-65 may be filed in a form of the Unsatisfied Claim and Judgment Fund Board designated as a Notice of Intention to Make Claim and Request to Process Claim (Form UCJ 201-72). A Notice of Intention shall be deemed given to the Board on the date a completed notice is received by the Board.

A written notice to the Board in any form that contains the information required in one through three above shall be acceptable as a Notice of Intention. To have the notice processed, the claimant is required to complete Form UCJ 201-72 entitled Notice of Intention to Make Claim and Request to Process Claim.

REGULATION

Number 2 - January 20, 1959

Pursuant to the Formal Opinion No. 1, 1959 of the Attorney General the Unsatisfied Claim and Judgment Fund Board will recognize claims made by New York citizens for bodily injury or death, suffered in accidents occurring in New Jersey on or after January 1, 1959.

Property damage claims of New York citizens should not be recognized for payment from the New Jersey Unsatisfied Claim and Judgment Fund.

St. of Washington - Dept of Licensing

Chapter 46.29 RCW FINANCIAL RESPONSIBILITY

Sections

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46.29.920 Repeals and saving.

Revoked license not to be renewed or restored until proof of financial responsibility given: RCW 46.20.311.

ADMINISTRATION

RCW 46.29.010 Purpose. It is the purpose of this chapter to adopt in substance the provisions of the uniform vehicle code relating to financial responsibility in order to achieve greater uniformity with the laws of other states and thereby reduce the conflicts in law confronting motorists as they travel between states. [1963 c 169 § 1.]

RCW 46.29.020 Definitions. (1) The term "owner" as used in this chapter shall mean registered owner as defined in RCW 46.04.460.

(2) The term "registration" as used in this chapter shall mean the certificate of license registration issued under the laws of this state. [1963 c 169 § 2.]

RCW 46.29.030 Director to administer chapter. (1) The director shall administer and enforce the provisions of this chapter and may make rules and regulations necessary for its administration.

(2) The director shall prescribe and provide suitable forms requisite or deemed necessary for the purposes of this chapter. [1963 c 169 § 3.]

RCW 46.29.040 Court review. Any order of the director under the provisions of this chapter shall be subject to review, at the instance of any party in interest, by appeal to the superior court of Thurston county, or at his option to the superior court of the county of his residence. The scope of such review shall be limited to that prescribed by RCW 7.16.120 governing review by certiorari. Notice of appeal must be filed within ten days after receipt of the notice of such order. The court shall determine whether the filing of the appeal shall operate as a stay of any such order of the director. Upon the filing the notice of appeal the court shall issue an order to the director to show cause why the order should not be reversed or modified. The order to show cause shall be returnable not less than ten nor more than thirty days after the date of service thereof upon the director. The court after hearing the matter may modify, affirm or reverse the order of the director in whole or in part. [1963 c 169 § 4.]

RCW 46.29.050 Driving record and evidence of ability to respond in damages to be furnished—Fees. (1) The department shall upon request furnish any person or his attorney a certified abstract of his driving record, which abstract shall include enumeration of any motor vehicle accidents in which such person has been involved. Such abstract shall indicate the total number of vehicles involved; whether the vehicles were legally parked or moving, and; whether such vehicles were occupied at the time of the accident; and reference to any convictions of said person for violation of the motor vehicle laws as reported to the department; and reference to any findings that the person has committed a traffic infraction which have been reported to the department; and a record of any vehicles registered in the name of such person. The department shall collect for each abstract the sum of one dollar and fifty cents which shall be deposited in the highway safety fund.

(2) The department shall upon request furnish any person who may have been injured in person or property by any motor vehicle, with an abstract of all information of record in the department pertaining to the evidence of the ability of any driver or owner of any motor vehicle to respond in damages. The department shall collect for each abstract the sum of one dollar and fifty cents which shall be deposited in the highway safety fund. [1979 ex.s. c 136 § 63; 1969 ex.s. c 40 § 1; 1967 c 174 § 1; 1963 c 169 § 5.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective date—1967 c 174: "Sections 1, 2, 3 and 4 of this amendatory act shall become effective July 1, 1967." [1967 c 174 § 7.]

Abstract of operating record to be furnished insurance company: RCW 46.57.130.

SECURITY FOLLOWING ACCIDENT

RCW 46.29.060 Application of sections requiring deposit of security and suspensions for failure to deposit

security. The provisions of this chapter, requiring deposit of security and suspensions for failure to deposit security, subject to certain exemptions, shall apply to the driver and owner of any vehicle of a type subject to registration under the motor vehicle laws of this state which is in any manner involved in an accident within this state, which accident has resulted in bodily injury or death of any person or damage to the property of any one person of three hundred dollars or more. [1977 ex.s. c 369 § 1; 1971 ex.s. c 22 § 2; 1963 c 169 § 6.]

RCW 46.29.070 Department to determine amount of security required—Notices. (1) The department, not less than twenty days after receipt of a report of an accident as described in the preceding section, shall determine the amount of security which shall be sufficient in its judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each driver or owner. Such determination shall not be made with respect to drivers or owners who are exempt under succeeding sections of this chapter from the requirements as to security and suspension.

(2) The department shall determine the amount of security deposit required of any person upon the basis of the reports or other information submitted. In the event a person involved in an accident as described in this chapter fails to make a report or submit information indicating the extent of his injuries or the damage to his property within one hundred eighty days after the accident and the department does not have sufficient information on which to base an evaluation of such injuries or damage, then the department after reasonable notice to such person, if it is possible to give such notice, otherwise without such notice, shall not require any deposit of security for the benefit or protection of such person.

(3) The department after receipt of report of any accident referred to herein and upon determining the amount of security to be required of any person involved in such accident or to be required of the owner of any vehicle involved in such accident shall give written notice to every such person of the amount of security required to be deposited by him and that an order of suspension will be made as hereinafter provided not less than twenty days and not more than sixty days after the sending of such notice unless within said time security be deposited as required by said notice. [1981 c 309 § 1; 1979 c 78 § 1; 1963 c 169 § 7.]

Proof of financial security for the future required in addition to security after accident: RCW 46.29.420.

RCW 46.29.080 Exceptions as to requirement of security. The requirements as to security and suspension in this chapter shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy or bond with respect to the vehicle involved in the accident, except that a driver shall not be exempt under this subsection if at the time of the accident the vehicle was

being operated without the owner's permission, express or implied;

(2) To the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy or bond with respect to his driving of vehicles not owned by him;

(3) To the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy or bond as to which there is a bona fide dispute concerning coverage of such driver as evidenced by the pendency of litigation seeking a declaration of said driver's coverage under such policy or bond;

(4) To the driver, whether or not the owner, if there is a bona fide claim on the part of the driver that there was in effect at the time of the accident, an automobile liability policy or bond insuring or covering such driver;

(5) To any person qualifying as a self-insurer under RCW 46.29.630 or to any person operating a vehicle for such self-insurer;

(6) To the driver or the owner of a vehicle involved in an accident wherein no injury or damage was caused to the person or property of anyone other than such driver or owner;

(7) To the driver or owner of a vehicle which at the time of the accident was parked, unless such vehicle was parked at a place where parking was at the time of the accident prohibited under any applicable law or ordinance;

(8) To the owner of a vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such vehicle without such permission, except if the vehicle was operated by his minor child or spouse;

(9) To the owner of a vehicle involved in an accident if at the time of the accident such vehicle was owned by or leased to the United States, this state or any political subdivision of this state or a municipality thereof, or to the driver of such vehicle if operating such vehicle with permission; or

(10) To the driver or the owner of a vehicle in the event at the time of the accident the vehicle was being operated by or under the direction of a police officer who, in the performance of his duties, shall have assumed custody of such vehicle. [1965 c 124 § 1; 1963 c 169 § 8.]

RCW 46.29.090 Requirements as to policy or bond.

(1) No policy or bond is effective under RCW 46.29.080 unless issued by an insurance company or surety company authorized to do business in this state, except as provided in subsection (2) of this section, nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than fifty thousand dollars because of

bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to, or destruction of, property to a limit of not less than ten thousand dollars because of injury to or destruction of property of others in any one accident.

(2) No policy or bond is effective under RCW 46.29.080 with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing such policy or bond is authorized to do business in this state, or if said company is not authorized to do business in this state, unless it executes a power of attorney authorizing the director of licensing to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

(3) The department may rely upon the accuracy of the information in a required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous. [1980 c 117 § 3; 1979 c 158 § 155; 1967 ex.s. c 3 § 1; 1963 c 169 § 9.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: "This amendatory act shall take effect on July 1, 1968." [1967 ex.s. c 3 § 6.]

RCW 46.29.100 Form and amount of security. (1)

The security required under this chapter shall be in such form and in such amount as the department may require, but in no case in excess of the limits specified in RCW 46.29.090 in reference to the acceptable limits of a policy or bond.

(2) Every depositor of security shall designate in writing every person in whose name such deposit is made and may at any time change such designation, but any single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident. [1963 c 169 § 10.]

RCW 46.29.110 Failure to deposit security—

Suspensions. In the event that any person required to deposit security under this chapter fails to deposit such security within ten days after the department has sent the notice as hereinbefore provided, the department shall thereupon suspend:

(1) The driver's license of each driver in any manner involved in the accident;

(2) The driver's license of the owner of each vehicle of a type subject to registration under the laws of this state involved in such accident;

(3) If the driver or owner is a nonresident, the privilege of operating within this state a vehicle of a type subject to registration under the laws of this state;

Such suspensions shall be made in respect to persons required by the department to deposit security who fail to deposit such security except as otherwise provided under succeeding sections of this chapter. [1967 c 32 § 37; 1963 c 169 § 11.]

RCW 46.29.120 Release from liability. (1) A person shall be relieved from the requirement for deposit of security for the benefit or protection of another person injured or damaged in the accident in the event he is released from liability by such other person.

(2) In the event the department has evaluated the injuries or damage to any minor the department may accept, for the purposes of this chapter only, evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of such minor without the approval of any court or judge. [1965 c 124 § 2; 1963 c 169 § 12.]

RCW 46.29.130 Adjudication of nonliability. A person shall be relieved from the requirement for deposit of security in respect to a claim for injury or damage arising out of the accident in the event such person has been finally adjudicated not to be liable in respect to such claim. [1963 c 169 § 13.]

RCW 46.29.140 Agreements for payment of damages. (1) Any two or more of the persons involved in or affected by an accident as described in RCW 46.29.060 may at any time enter into a written agreement for the payment of an agreed amount with respect to all claims of any of such persons because of bodily injury to or death or property damage arising from such accident, which agreement may provide for payment in installments, and may file a signed copy thereof with the department.

(2) The department, to the extent provided by any such written agreement filed with it, shall not require the deposit of security and shall terminate any prior order of suspension, or, if security has previously been deposited, the department shall immediately return such security to the depositor or his personal representative.

(3) In the event of a default in any payment under such agreement and upon notice of such default the department shall take action suspending the license of such person in default as would be appropriate in the event of failure of such person to deposit security when required under this chapter.

(4) Such suspension shall remain in effect and such license shall not be restored unless and until:

(a) Security is deposited as required under this chapter in such amount as the department may then determine,

(b) When, following any such default and suspension, the person in default has paid the balance of the agreed amount,

(c) When, following any such default and suspension, the person in default has resumed installment payments under an agreement acceptable to the creditor, or

(d) Three years have elapsed following the accident and evidence satisfactory to the department has been filed with it that during such period no action at law upon such agreement has been instituted and is pending. [1981 c 309 § 2; 1963 c 169 § 14.]

RCW 46.29.150 Payment upon judgment. The payment of a judgment arising out of an accident or the payment upon such judgment of an amount equal to the maximum amount which could be required for deposit under this chapter shall, for the purposes of this chapter, release the judgment debtor from the liability evidenced by such judgment. [1963 c 169 § 15.]

RCW 46.29.160 Termination of security requirement. The department, if satisfied as to the existence of any fact which under RCW 46.29.120, 46.29.130, 46.29.140 or 46.29.150 would entitle a person to be relieved from the security requirements of this chapter, shall not require the deposit of security by the person so relieved from such requirement, or if security has previously been deposited by such person, the department shall immediately return such deposit to such person or to his personal representative. [1963 c 169 § 16.]

RCW 46.29.170 Duration of suspension. Unless a suspension is terminated under other provisions of this chapter, any order of suspension by the department under this chapter shall remain in effect and no license shall be renewed for or issued to any person whose license is so suspended until:

(1) Such person shall deposit or there shall be deposited on his behalf the security required under this chapter, or

(2) Three years have elapsed following the date of the accident resulting in such suspension and evidence satisfactory to the department has been filed with it that during such period no action for damages arising out of the accident resulting in such suspension has been instituted.

An affidavit of the applicant that no action at law for damages arising out of the accident has been filed against him or, if filed, that it is not still pending shall be prima facie evidence of that fact. The department may take whatever steps are necessary to verify the statement set forth in any said affidavit. [1981 c 309 § 3; 1963 c 169 § 17.]

RCW 46.29.180 Application to nonresidents, unlicensed drivers, unregistered vehicles and accidents in other states. (1) In case the driver or the owner of a vehicle of a type subject to registration under the laws of this state involved in an accident within this state has no driver's license in this state, then such driver shall not be allowed a driver's license until he has complied with the requirements of this chapter to the same extent that would be necessary if, at the time of the accident, he had held a license or been the owner of a vehicle registered in this state.

(2) When a nonresident's driving privilege is suspended pursuant to RCW 46.29.110, the department shall transmit a certified copy of the record or abstract of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides, if the law of such other state

provided for action in relation thereto similar to that provided for in subsection (3) of this section.

(3) Upon receipt of such certification that the driving privilege of a resident of this state has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the department to suspend a nonresident's driving privilege had the accident occurred in this state, the department shall suspend the license of such resident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security. [1967 c 32 § 38; 1963 c 169 § 18.]

RCW 46.29.190 Authority of department to decrease amount of security. The department may reduce the amount of security ordered in any case if in its judgment the amount ordered is excessive. In case the security originally ordered has been deposited, the excess deposit over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith. [1965 c 124 § 3; 1963 c 169 § 19.]

RCW 46.29.200 Correction of action by department. Whenever the department has taken any action or has failed to take any action under this chapter by reason of having received erroneous information, then upon receiving correct information within three years after the date of an accident the department shall take appropriate action to carry out the purposes and effect of this chapter. The foregoing, however, shall not be deemed to require the department to reevaluate the amount of any deposit required under this chapter. [1967 c 61 § 1; 1965 c 124 § 4; 1963 c 169 § 20.]

RCW 46.29.210 Custody of security. The department shall place any security deposited with it under this chapter in the custody of the state treasurer. [1963 c 169 § 21.]

RCW 46.29.220 Disposition of security. (1) Such security shall be applicable and available only:

(a) For the payment of any settlement agreement covering any claim arising out of the accident upon instruction of the person who made the deposit, or

(b) For the payment of a judgment or judgments, rendered against the person required to make the deposit, for damages arising out of the accident in an action at law begun not later than three years after the date of the accident.

(2) Every distribution of funds from the security deposits shall be subject to the limits of the department's evaluation on behalf of a claimant. [1981 c 309 § 4; 1963 c 169 § 22.]

RCW 46.29.230 Return of deposit. Upon the expiration of three years from the date of the accident resulting in the security requirement, any security remaining on deposit shall be returned to the person who made such deposit or to his personal representative if an affidavit or other evidence satisfactory to the department has been filed with it:

(1) That no action for damages arising out of the accident for which deposit was made is pending against any person on whose behalf the deposit was made, and

(2) That there does not exist any unpaid judgment rendered against any such person in such an action.

The foregoing provisions of this section shall not be construed to limit the return of any deposit of security under any other provision of this chapter authorizing such return. [1981 c 309 § 5; 1963 c 169 § 23.]

RCW 46.29.240 Matters not to be evidence in civil suits. The report required following an accident, the action taken by the department pursuant to this chapter, the findings, if any, of the department upon which such action is based, and the security filed as provided in this chapter, shall not be referred to in any way, and shall not be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages. [1963 c 169 § 24.]

PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE

RCW 46.29.250 Application of sections requiring deposit of proof of financial responsibility for the future. The provisions of this chapter requiring the deposit of proof of financial responsibility for the future, subject to certain exemptions, shall apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws, or who have failed to pay judgments upon causes of action arising out of ownership, maintenance or use of vehicles of a type subject to registration under the laws of this state, or who having driven or owned a vehicle involved in an accident are required to deposit security under the provisions of RCW 46.29.070. [1963 c 169 § 25.]

RCW 46.29.260 Meaning of "proof of financial responsibility for the future." The term "proof of financial responsibility for the future" as used in this chapter means: Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a vehicle of a type subject to registration under the laws of this state, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the

amount of ten thousand dollars because of injury to or destruction of property of others in any one accident. Wherever used in this chapter the terms "proof of financial responsibility" or "proof" shall be synonymous with the term "proof of financial responsibility for the future." [1980 c 117 § 4; 1967 ex.s. c 3 § 2; 1963 c 169 § 26.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

RCW 46.29.270 Meaning of "judgment" and "state."

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section.

(1) The term "judgment" shall mean: Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any vehicle of a type subject to registration under the laws of this state, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(2) The term "state" shall mean: Any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada. [1963 c 169 § 27.]

RCW 46.29.280 Suspension continues until proof furnished. Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed, the suspension or revocation hereinbefore required shall remain in effect and the department shall not issue to such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. [1979 ex.s. c 136 § 64; 1963 c 169 § 28.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 46.29.290 Action in respect to unlicensed person. If a person has no license, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, no license shall be thereafter issued to such person unless he shall give and thereafter maintain proof of financial responsibility for the future. [1965 c 124 § 5; 1963 c 169 § 29.]

RCW 46.29.300 Action in respect to nonresidents. Whenever the department suspends or revokes a nonresident's driving privilege by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility for the future. [1979 ex.s. c 136 § 65; 1967 c 32 § 39; 1963 c 169 § 30.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 46.29.310 When courts to report nonpayment of judgments. Whenever any person fails within thirty days to satisfy any judgment, then it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state to forward immediately to the department the following:

- (1) A certified copy or abstract of such judgment;
- (2) A certificate of facts relative to such judgment;
- (3) Where the judgment is by default, a certified copy or abstract of that portion of the record which indicates the manner in which service of summons was effectuated and all the measures taken to provide the defendant with timely and actual notice of the suit against him. [1969 ex.s. c 44 § 1; 1963 c 169 § 31.]

RCW 46.29.320 Further action with respect to nonresidents. If the defendant named in any certified copy or abstract of a judgment reported to the department is a nonresident, the department shall transmit those certificates furnished to it under RCW 46.29.310 to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident. [1969 ex.s. c 44 § 2; 1963 c 169 § 32.]

RCW 46.29.330 Suspension for nonpayment of judgments—Hearing after default judgment. The department upon receipt of the certificates provided for by RCW 46.29.310, on a form provided by the department, shall forthwith suspend the license and any nonresident's driving privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section or in other sections of this chapter.

When the certificates transmitted to the department under RCW 46.29.310 indicate that a default judgment has been entered against the defendant but do not indicate clearly that service of summons was on the person of the defendant, then the department shall promptly notify the defendant by first class mail addressed to the address in the department's records under RCW 46.20-.205 (if a nonresident, then to the comparable record in his home state) that within twenty-five days of the mailing date, which shall be indicated on the notice, he may request a hearing on the question of the suspension of his license or nonresident driving privilege. If the defendant does not make a timely request for a hearing, then the suspension shall be forthwith executed. Should

a hearing be timely requested, then the department shall convene a hearing in conformity with chapter 34.04 RCW, as now law or hereafter amended. The defendant's license or nonresident driving privilege shall not be suspended if at such hearing he overcomes the following presumptions:

(a) That he received actual and timely notice of the suit against him.

(b) That he would have received actual and timely notice had he conformed to the provisions of RCW 46.20.205.

(c) That he would have received actual and timely notice had he not thwarted the attempt or attempts to so notify him. [1969 ex.s. c 44 § 3; 1967 c 32 § 40; 1963 c 169 § 33.]

RCW 46.29.340 Exception in relation to government vehicles. The provisions of RCW 46.29.330 shall not apply with respect to any such judgment arising out of an accident caused by the ownership or operation, with permission, of a vehicle owned or leased to the United States, this state or any political subdivision of this state or a municipality thereof. [1963 c 169 § 34.]

RCW 46.29.350 Exception when consent granted by judgment creditor. If the judgment creditor consents in writing, in such form as the department may prescribe, that the judgment debtor be allowed a license or nonresident's driving privilege, the same may be allowed by the department, in its discretion, for six months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in RCW 46.29.400, provided the judgment debtor furnishes proof of financial responsibility. [1967 c 32 § 41; 1963 c 169 § 35.]

RCW 46.29.360 Exception when insurer liable. No license or nonresident's driving privilege of any person shall be suspended under the provisions of this chapter if the department shall find that an insurer was obligated to pay the judgment upon which suspension is based, at least to the extent and for the amounts required in this chapter, but has not paid such judgment for any reason. A finding by the department that an insurer is obligated to pay a judgment shall not be binding upon such insurer and shall have no legal effect whatever except for the purpose of administering this section. If the department finds that no insurer is obligated to pay such a judgment, the judgment debtor may file with the department a written notice of his intention to contest such finding by an action in the superior court. In such a case the license or the nonresident's driving privilege of such judgment debtor shall not be suspended by the department under the provisions of this chapter for thirty days from the receipt of such notice nor during the pendency of any judicial proceedings brought in good faith to determine the liability of an insurer so long as the proceedings are being diligently prosecuted to final judgment by

such judgment debtor. Whenever in any judicial proceedings it shall be determined by any final judgment, decree or order that an insurer is not obligated to pay any such judgment, the department, notwithstanding any contrary finding theretofore made by it, shall forthwith suspend the license and any nonresident's driving privilege of any person against whom such judgment was rendered, as provided in RCW 46.29.330. [1967 c 32 § 42; 1963 c 169 § 36.]

RCW 46.29.370 Suspension to continue until judgments paid and proof given. Such license and nonresident's driving privilege shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in RCW 46.29.350, 46.29.360 and 46.29.400. [1967 c 32 § 43; 1963 c 169 § 37.]

RCW 46.29.390 Payments sufficient to satisfy requirements. (1) Judgments herein referred to are, for the purpose of this chapter only, deemed satisfied:

(a) When twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

(b) When, subject to such limit of twenty-five thousand dollars because of bodily injury to or death of one person, the sum of fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

(c) When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

(2) Payments made in settlements of any claims because of bodily injury, death, or property damage arising from such accident shall be credited in reduction of the amounts provided for in this section. [1980 c 117 § 5; 1979 c 61 § 14; 1967 ex.s. c 3 § 3; 1963 c 169 § 39.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

RCW 46.29.400 Installment payment of judgments—Default. (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying, such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(2) The department shall not suspend a license or nonresident's driving privilege, and shall restore any license or nonresident's driving privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtain such an order permitting the payment of such judgment in installments, and while the payment of any said installments is not in default. [1967 c 32 § 44; 1963 c 169 § 40.]

RCW 46.29.410 Action if breach of agreement. In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the department shall forthwith suspend the license or nonresident's driving privilege of the judgment debtor until such judgment is satisfied, as provided in this chapter. [1967 c 32 § 45; 1963 c 169 § 41.]

RCW 46.29.420 Proof required in addition to deposit of security after accident. Any person required to deposit security under RCW 46.29.070, for the benefit or protection of another person injured or damaged in an accident, shall in addition be required to give proof of financial responsibility for the future. The department shall give written notice of such additional requirement to every such person at the time and in the manner provided in RCW 46.29.070 for giving notice of the requirement for security. [1963 c 169 § 42.]

RCW 46.29.430 Proof required in addition to deposit of security after accident—Suspension or revocation for failure to give proof. In the event that any person required to give proof of financial responsibility under RCW 46.29.420 fails to give such proof within ten days after the department has sent notice as hereinbefore provided, the department shall suspend, or continue in effect any existing suspension or revocation of, the license or any nonresident's driving privilege of such person. [1967 c 32 § 46; 1963 c 169 § 43.]

RCW 46.29.440 Proof required in addition to deposit of security after accident—Suspension to continue until proof given and maintained. Such license or nonresident's driving privilege shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. The furnishing of such proof shall permit such person to operate only a motor vehicle covered by such proof. The department shall endorse appropriate restrictions on the license held by such person or may issue a new license containing such restrictions. [1967 c 32 § 47; 1965 c 124 § 6; 1963 c 169 § 44.]

RCW 46.29.450 Alternate methods of giving proof. Proof of financial responsibility when required under

this chapter, with respect to such a vehicle or with respect to a person who is not the owner of such a vehicle, may be given by filing:

(1) A certificate of insurance as provided in RCW 46.29.460 or 46.29.470;

(2) A bond as provided in RCW 46.29.520;

(3) A certificate of deposit of money or securities as provided in RCW 46.29.550; or

(4) A certificate of self-insurance, as provided in RCW 46.29.630, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he will pay the same amounts that an insurer would have been obliged to pay under an owner's motor vehicle liability policy if it had issued such a policy to said self-insurer. [1963 c 169 § 45.]

RCW 46.29.460 Certificate of insurance as proof. Proof of financial responsibility for the future may be furnished by filing with the department the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle. [1963 c 169 § 46.]

RCW 46.29.470 Certificate furnished by nonresident as proof. A nonresident may give proof of financial responsibility by filing with the department a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the vehicle, or vehicles, owned by such nonresident is registered, or in the state in which such nonresident resides, if he does not own a vehicle, provided such certificate otherwise conforms with the provisions of this chapter, and the department shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

(1) Said insurance carrier shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;

(2) Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued therein. [1963 c 169 § 47.]

RCW 46.29.480 Default by nonresident insurer. If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the department shall not thereafter accept as proof any certificate of said carrier whether

theretofore filed or thereafter tendered as proof, so long as such default continues. [1963 c 169 § 48.]

RCW 46.29.490 "Motor vehicle liability policy" defined. (1) Certification. A "motor vehicle liability policy" as said term is used in this chapter means an "owner's policy" or an "operator's policy" of liability insurance, certified as provided in RCW 46.29.460 or 46.29.470 as proof of financial responsibility for the future, and issued, except as otherwise provided in RCW 46.29.470, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named in the policy as insured.

(2) Owner's policy. Such owner's policy of liability insurance:

(a) Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is to be granted by the policy; and

(b) Shall insure the person named therein and any other person, as insured, using any such vehicle or vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of such vehicle or vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such vehicle as follows: Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and ten thousand dollars because of injury to or destruction of property of others in any one accident.

(3) Operator's policy. Such operator's policy of liability insurance shall insure the person named as insured therein 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, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(4) Required statements in policies. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(5) Policy need not insure workers' compensation, etc. Such motor vehicle liability policy need not insure any liability under any workers' compensation law nor any liability on account of bodily injury or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any such vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(6) Provisions incorporated in policy. Every motor vehicle liability policy is subject to the following provisions which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by this chapter becomes absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy defeats or voids said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

(c) The insurance carrier may settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof is deductible from the limits of liability specified in subdivision (b) of subsection (2) of this section.

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter constitutes the entire contract between the parties.

(7) Excess or additional coverage. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and such excess or additional coverage is not subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" applies only to that part of the coverage which is required by this section.

(8) Reimbursement provision permitted. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(9) Proration of insurance permitted. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(10) Multiple policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carrier which policies together meet such requirements.

(11) Binders. Any binder issued pending the issuance of a motor vehicle liability policy is deemed to fulfill the requirements for such a policy. [1980 c 117 § 6; 1967 ex.s. c 3 § 4; 1963 c 169 § 49.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

RCW 46.29.500 Notice of cancellation or termination of certified policy. When an insurance carrier has certified a motor vehicle liability policy under RCW 46.29.460 or 46.29.470 the insurance so certified shall not

be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified shall be filed in the department, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any vehicle designated in both certificates. [1963 c 169 § 50.]

RCW 46.29.510 Chapter not to affect other policies.

(1) This chapter shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are endorsed to conform with the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(2) This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of vehicles not owned by the insured. [1963 c 169 § 51.]

RCW 46.29.520 Bond as proof. Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties each owning real estate within this state, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by a judge of the superior court, which said bond shall be conditioned for payment of the amounts specified in RCW 46.29.260. Such bond shall be filed with the department and shall not be cancellable except after ten days written notice to the department. [1963 c 169 § 52.]

RCW 46.29.530 When bond shall constitute a lien. Before a bond with individual sureties is accepted by the department it shall be recorded as other instruments affecting real property in the county or counties wherein any real estate scheduled in such bond is located. Such bond shall constitute a lien from the date of such recording in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damage because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a vehicle of a type subject to registration under the laws of this state after such bond was filed. [1963 c 169 § 53.]

RCW 46.29.540 Action on bond. If a judgment, rendered against the principal on any bond described in RCW 46.29.520, shall not be satisfied within thirty days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an

action or actions in the name of the state against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond. Such an action to foreclose a lien shall be prosecuted in the same manner as an action to foreclose a mortgage on real estate. [1963 c 169 § 54.]

RCW 46.29.550 Money or securities as proof. Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him sixty thousand dollars in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of sixty thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the department shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides. [1980 c 117 § 7; 1967 ex.s. c 3 § 5; 1963 c 169 § 55.]

Effective date—1980 c 117: See note following RCW 48.22.030.

Effective date—1967 ex.s. c 3: See note following RCW 46.29.090.

RCW 46.29.560 Application of deposit. Such deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a vehicle of a type subject to registration under the laws of this state after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid. Any interest or other income accruing to such money or securities, so deposited, shall be paid by the state treasurer to the depositor, or his order, as received. [1963 c 169 § 56.]

RCW 46.29.570 Owner may give proof for others. The owner of a motor vehicle may give proof of financial responsibility on behalf of his employee or a member of his immediate family or household in lieu of the furnishing of proof by any said person. The furnishing of such proof shall permit such person to operate only a motor vehicle covered by such proof. The department shall endorse appropriate restrictions on the license held by such person, or may issue a new license containing such restrictions. [1963 c 169 § 57.]

RCW 46.29.580 Substitution of proof. The department shall consent to the cancellation of any bond or certificate of insurance or the department shall direct

and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter. [1963 c 169 § 58.]

RCW 46.29.590 Other proof may be required. Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the department shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license and registration pending the filing of such other proof. [1963 c 169 § 59.]

RCW 46.29.600 Duration of proof—When proof may be canceled or returned. (1) The department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the department shall waive the requirement of filing proof, in any of the following events:

(a) At any time after three years from the date such proof was required when, during the three-year period preceding the request, the department has not received record of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed which would require or permit the suspension or revocation of the license of the person by or for whom such proof was furnished; or

(b) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

(c) In the event the person who has given proof surrenders his license to the department;

(2) Provided, however, that the department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has within one year immediately preceding such request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been canceled or returned under subdivision (1)(c) of this section applies for a license within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such three-year period. [1979 ex.s. c 136 § 66; 1963 c 169 § 60.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

VIOLETIONS OF THIS CHAPTER

RCW 46.29.605 Suspension of registration, notice—Surrender of license plates—Penalties. (1) Whenever the involvement in a motor vehicle accident in this state results in the driving privilege of a person being suspended for failure to pay a judgment or deposit security, the department shall suspend the Washington registration of the motor vehicle if the person driving at the time of the accident was also the registered owner of the motor vehicle.

(2) A notice of suspension shall be mailed by first class mail to the owner's last known address of record in the department and shall be effective notwithstanding the owner's failure to receive the notice.

(3) Upon suspension of the registration of a motor vehicle, the registered owner shall surrender all vehicle license plates registered to the vehicle. The department shall destroy the license plates and, upon reinstatement of the registration, shall issue new vehicle license plates as provided in RCW 46.16.270.

(4) Failure to surrender license plates under subsection (3) of this section is a misdemeanor punishable by imprisonment for not less than one day nor more than five days and by a fine of not less than fifty dollars nor more than two hundred fifty dollars.

(5) No vehicle license plates or certificate of ownership or registration for a motor vehicle may be issued and no vehicle license may be renewed during the time the registration of the motor vehicle is suspended.

(6) Any person who operates a vehicle in this state while the registration of the vehicle is suspended is guilty of a gross misdemeanor and upon conviction thereof shall be imprisoned for not less than two days nor more than five days and fined not less than one hundred dollars nor more than five hundred dollars. [1981 c 309 § 6.]

RCW 46.29.610 Surrender of license—Penalty.

(1) Any person whose license shall have been suspended under any provision of this chapter, or whose policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, shall immediately return his license to the department. If any person shall fail to return to the department the license as provided herein, the department shall forthwith direct any peace officer to secure possession thereof and to return the same to the department.

(2) Any person wilfully failing to return [a] license as required in paragraph (1) of this section shall be guilty of a misdemeanor. [1963 c 169 § 61.]

Rules of court: Bail in traffic offense cases—Mandatory appearance—ICrR 2.09.

RCW 46.29.620 Forged proof—Penalty. Any person who shall forge, or, without authority, sign any evidence of proof of financial responsibility for the future, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be guilty of a gross misdemeanor. [1963 c 169 § 62.]

Rules of court: Bail in traffic offense cases—Mandatory appearance—JCrR 2.09.

RCW 46.29.625 Driving when license suspended or revoked until proof of ability to respond in damages furnished—Penalty. Any person whose driver's license or other privilege to operate a motor vehicle has been suspended or revoked and restoration thereof or issuance of a new license is contingent upon the furnishing of proof of ability to respond in damages and who in the absence of full authorization from the director, drives a motor vehicle upon any highway shall be punished by imprisonment for not less than ten days nor more than six months and there may be imposed in addition thereto a fine of not more than five hundred dollars. [1969 ex.s. c 281 § 21.]

Rules of court: Bail in traffic offense cases—Mandatory appearance—JCrR 2.09.

Revoked license not to be renewed or restored until proof of financial responsibility given: RCW 46.20.311.

MISCELLANEOUS PROVISIONS RELATING TO FINANCIAL RESPONSIBILITY

RCW 46.29.630 Self-insurers. (1) Any person in whose name more than twenty-five vehicles are registered in this state may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided in subsection (2) of this section.

(2) The department may, in its discretion, upon the application of such a person, issue a certificate of self-insurance when it is satisfied that such person is possessed and will continue to be possessed of ability to pay judgment obtained against such person. Such certificate may be issued authorizing a person to act as a self-insurer for either property damage or bodily injury, or both.

(3) Upon not less than five days' notice and a hearing pursuant to such notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance. [1963 c 169 § 63.]

RCW 46.29.640 Chapter not to prevent other process. Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for

relief upon the other processes provided by law. [1963 c 169 § 64.]

RCW 46.29.900 Construction—1963 c 169. RCW 46.29.010 through 46.29.640 shall be codified as a single chapter of the Revised Code of Washington. RCW 46.29.010 through 46.29.050 shall be captioned "ADMINISTRATION." RCW 46.29.060 through 46.29.240 shall be captioned "SECURITY FOLLOWING ACCIDENT." RCW 46.29.250 through 46.29.600 shall be captioned "PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE." RCW 46.29.610 through 46.29.620 shall be captioned "VIOLATIONS OF THIS CHAPTER." RCW 46.29.630 through 46.29.640 shall be captioned "MISCELLANEOUS PROVISIONS RELATING TO FINANCIAL RESPONSIBILITY." Such captions and subsection headings, as used in this chapter, do not constitute any part of the law. [1963 c 169 § 67.]

RCW 46.29.910 Severability—1963 c 169. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1963 c 169 § 68.]

Reviser's note: Chapter 169, Laws of 1963 also amended RCW 46.52.130 and 46.52.140.

RCW 46.29.920 Repeals and saving. Sections 46.24.010 through 46.24.910 and sections 46.28.010 through 46.28.200, chapter 12, Laws of 1961 and RCW 46.24.010 through 46.24.910 and RCW 46.28.010 through 46.28.200 are each repealed.

Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder. [1963 c 169 § 69.]

ILLINOIS LEGISLATIVE COUNCIL

RESEARCH MEMORANDUM FILE 9-273

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NO-FAULT MOTOR VEHICLE INSURANCE

Summary

No-fault motor vehicle insurance is protection policyholders receive from their own insurance companies to compensate them for economic loss suffered as a result of motor vehicle accidents, regardless of the policyholders' fault in the accident. There are no-fault motor vehicle insurance laws in 23 states.

No-fault motor vehicle insurance coverages extend to the named insured, the insured's family, authorized occupants of the insured vehicle, and, except in Texas and Virginia, pedestrians struck by the insured motor vehicle. In 16 states all registered vehicles are required to carry no-fault insurance; 3 other states require only passenger motor vehicles to carry no-fault insurance. Many no-fault insurance states also limit coverage to accidents occurring in a specific territorial area. For example, pedestrians injured outside the state in which the insured vehicle is registered are not insured under the no-fault coverage of the vehicle.

No-fault motor vehicle insurance programs provide benefits to cover medical expenses, lost wages, expenses incurred in replacing household services provided by the injured beneficiary (except in Virginia), and survivors' benefits (in most of the states). These benefits are generally subject to various types of limits. Only Delaware requires motor vehicles to carry no-fault insurance that provides benefits to cover property damage.

There are other aspects of no-fault motor vehicle insurance prevalent in many no-fault plans.

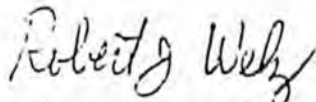
-- Besides the minimum no-fault motor vehicle insurance benefits that each state requires, optional insurance coverage providing for additional benefits and deductibles often must be offered.

- Benefits can often be reduced by collateral sources, such as workers' compensation benefits.
- Benefit payments must be made by an insurer within 30 days of notification of an expense.
- The right of a no-fault beneficiary to bring a lawsuit is limited in 15 states.
- Mandatory arbitration for certain types of disputes relating to no-fault insurance is imposed in 7 states.
- Subrogation and reimbursement of insurers is allowed.

The Illinois Supreme Court has held that a 1971 Illinois no-fault law violated the Illinois Constitution. The court stated that the law constituted special legislation because it applied to passenger automobiles only, and that mandatory arbitration violates the right to trial by jury and the prohibition against fee officers in the judicial system. Currently, bills to provide for no-fault automobile insurance are on the House Insurance Committee Interim Study Calendar and in the House Rules Committee.

Proponents of no-fault motor vehicle insurance attack the concept of negligence as applied to motor vehicle accidents. They argue that motor vehicle accident cases clog the court system and cost much more than they would under a no-fault system. A 1977 U.S. Department of Transportation study of existing systems concluded that "no-fault automobile insurance works."

Opponents of no-fault motor vehicle insurance argue that elimination of the fault system of recovery is a retrogression to the early common law notion of absolute liability, which was abandoned by the courts in the 19th century. They object to the deduction of collateral benefits under no-fault insurance laws from recovery, arguing that these collateral benefits rightfully belong to the beneficiary.



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NO-FAULT MOTOR VEHICLE INSURANCE

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The "No-Fault" Insurance Concept

Discontent with the system of assessing financial responsibility for the injuries resulting from automobile accidents on the basis of negligence reached such proportions during the 1970's that more than 100 "no-fault" automobile insurance proposals competed for adoption as public policy. These plans are called "no-fault" because they all embody in varying degrees the principle that bodily injury and property damage claims arising from motor vehicle accidents should be settled in the same way as collision and medical payments claims, that is, without regard to the negligence of the drivers and other parties involved. In short, they would extend direct or "first party" insurance to areas where "third party" insurance, protection against legal liability determined according to tort law rules, has long prevailed.

No-Fault Motor Vehicle Insurance in Other States

Twenty-five states enacted no-fault motor vehicle insurance legislation between 1970 and 1976. An Illinois no-fault insurance law was passed in 1971, but the Illinois Supreme Court held the law unconstitutional in 1972. Since 1976 no additional states have adopted no-fault insurance; and one state, Nevada, repealed its law.¹ In 20 of the 23 states motor vehicle insurance coverage is compulsory.²

<u>State</u>	<u>Year effec- tive</u>	<u>compul- sory</u>	<u>State</u>	<u>Year effec- tive</u>	<u>compul- sory</u>
Arkansas	1974	No	Massachusetts	1971	Yes
Colorado	1974	Yes	Michigan	1973	Yes
Connecticut	1973	Yes	Minnesota	1975	Yes
Delaware	1972	Yes	New Jersey	1972	Yes
Florida	1972	Yes	New York	1974	Yes
Georgia	1975	Yes	North Dakota	1976	Yes
Hawaii	1974	Yes	Oregon	1972	Yes
Kansas	1974	Yes	Pennsylvania	1975	Yes
Kentucky	1975	Yes	South Carolina	1974	Yes
Maryland	1973	Yes	South Dakota	1972	No
			Texas	1973	Yes
			Utah	1974	Yes
			Virginia	1973	No

Details of the provisions of the laws in these states and of three proposals pending in Illinois are summarized in Appendix A.

No-Fault Coverage

The "faults" from which the new developments would largely absolve the motoring public are those of simple negligence or carelessness. The rationale for this is the theory that the negligence concept is difficult to apply with even-handed justice under modern driving conditions. However, there are exceptions for those who injure themselves and others intentionally or in the course of acting illegally or criminally.

Persons Covered. All no-fault motor vehicle insurance laws with some exceptions, require the insurer to pay for the economic loss of:

- the named insured;
- the insured's household family members;
- authorized occupants and operators of the insured's motor vehicle; and
- pedestrians struck by the insured's motor vehicle.

In Texas and Virginia the no-fault insurance law does not require the insurer to provide coverage to pedestrians struck by insured's motor vehicle.

In some states, insurers may refuse to provide benefits to individuals who are injured under the following circumstances.

People who intentionally caused the injury may be denied benefits in 15 states.

Arkansas	Massachusetts	Oregon
Florida	Minnesota	Pennsylvania
Kansas	New Jersey	South Carolina
Kentucky	New York	Texas
Maryland	North Dakota	Utah

People injured while in a known stolen vehicle or in a vehicle without the owner's consent may be denied benefits in 11 states.

Georgia	Michigan	Pennsylvania
Kansas	Minnesota	South Carolina
Kentucky	New York	Utah
Maryland	North Dakota	

People committing a crime or fleeing arrest at the time of injury may be denied benefits in 10 states.

Arkansas	Massachusetts	South Carolina
Florida	New Jersey	Texas
Hawaii	New York	Utah
Maryland		

People injured while competing in a race may be denied benefits in 4 states.

Minnesota	North Dakota	Oregon
New York		

People who were intoxicated at the time of the accident may be denied benefits in 3 states.

Florida	Massachusetts	New York
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In Georgia, people injured by a war, insurrection, or nuclear bomb may be denied benefits.

Vehicles Covered. Sixteen states have made no-fault insurance coverage mandatory for all registered motor vehicles, except that some states exempt motorcycles, mopeds, and primarily off-road vehicles from the mandatory coverage.

Colorado	Kentucky	New Jersey
Delaware	Maryland	New York
Florida	Massachusetts	North Dakota
Georgia	Michigan	Pennsylvania
Hawaii	Minnesota	Utah
Kansas		

Three states, Connecticut, Oregon, and South Carolina, require only pasenger motor vehicles to have no-fault insurance coverage.

Territorial Coverage. No-fault motor vehicle insurance coverage is often made madatory for accidents occurring in certain geographical areas. In Kansas and Florida, the insured and the insured's family must be covered for accidents in the United States and Canada; while in 8 other states the insured, insured's family, and occupants of insured's motor vehicle must be covered for accidents in the United States and Canada.

Connecticut
 Delaware
 Georgia

Kansas
 Kentucky
 Michigan

Minnesota
 North Dakota

Colorado, Kansas, New York, and Florida do not require no-fault coverage for pedestrians struck by the insured's vehicle or occupants of insured's vehicle injured outside of the state, unless the occupant is the insured or a member of insured's family. Nine additional states do not require coverage of pedestrians struck by insured's vehicle outside the state.

Connecticut
 Delaware
 Georgia

Hawaii
 Kansas
 Kentucky

Michigan
 Minnesota
 North Dakota

Utah limits no-fault coverage to motor vehicle accidents occurring in Utah.

No-Fault Benefits

All no-fault motor vehicle insurance laws mandate benefits covering medical expenses incurred and wages lost because of motor vehicle accidents. All states except Virginia require benefits for expenses for the cost of household services formerly provided by the injured beneficiaries. Certain types of expenses incurred by the deceased's heirs are also covered, such as funeral expenses. Only Delaware requires motor vehicle owners to carry no-fault insurance covering property damage.

Every state with a no-fault motor vehicle insurance program limits the amount of benefits recoverable by a beneficiary. Some limit the amount of benefits recoverable for specific types of expenses; others limit benefits recoverable for both total expenses and certain specific expenses.

The states with limits on total benefits have set dollar ceilings. Medical benefits are generally limited to a certain dollar amount; however, percentage limits and time limits are also used. Wage loss benefit limits consist of a combination of dollar limits, time limits, and percentage limits. Other types of specific benefits are generally subject to dollar limits and time limits.

Total Benefits. The amount of total benefits that an injured beneficiary may recover is not limited in 10 states.

Arkansas	New Jersey	South Dakota
Colorado	Oregon	Utah
Kansas	Pennsylvania	Virginia
Michigan		

In seven of these states benefits for specific expenses are limited as to the dollar amounts that can be collected: Arkansas, Colorado, Kansas, Oregon, South Dakota, Utah, and Virginia.

In Michigan, New Jersey, and Pennsylvania, benefits for lost wages and substituted services are limited as to the dollar amount that can be collected, while the amount of benefits for medical expenses is not limited.

The 13 remaining states with no-fault insurance provisions limit the amount of total benefits that beneficiaries can collect. These limits range from \$1,000 per person in South Carolina to \$50,000 per person in New York.

<u>State</u>	<u>Limit on total benefits (per person)</u>
Connecticut	\$ 5,000
Delaware	10,000; \$20,000 (per accident)
Florida	10,000
Georgia	5,000
Hawaii	15,000
Kentucky	10,000
Maryland	2,500
Massachusetts	2,000
Minnesota	30,000
New York	50,000
North Dakota	15,000
South Carolina	1,000
Texas	2,500

Benefits for Medical Expenses. A common feature of all no-fault insurance laws is the compensation of motor vehicle accident victims without regard to fault for medical expenses, which generally include medical, surgical, dental, nursing, hospital, ambulance, prosthetic, and rehabilitative expenses. The amount of benefits covering medical expenses is not limited as to the dollar amount in 12 states; however, in Florida,

only 80 percent of medical expenses need to be compensated and in New York, benefits are limited to expenses incurred or which are foreseeable within 1 year of the accident. In the remaining states except Michigan, New Jersey, and Pennsylvania, total benefits are limited and the amount of medical benefits may not exceed the limit on total benefits.

No Dollar Limits on Medical Benefits

<u>State</u>	<u>Limit on total benefits (per person)</u>	<u>Limit on medical benefits</u>
Connecticut	\$ 5,000	None
Delaware	\$10,000 \$20,000 (per accident)	None
Florida	\$10,000	80% of expenses
Hawaii	\$15,000	None
Maryland	\$ 2,500	None
Massachusetts	\$ 2,000	None
Michigan	None	None
New Jersey	None	None
New York	\$50,000	1 year
North Dakota	\$15,000	None
Pennsylvania	None	None
South Carolina	\$ 1,000	None

In the remaining 11 no-fault insurance states, dollar limits have been placed on the amount of benefits an individual can collect for medical expenses. The limits range from \$1,000 in Kentucky to \$25,000 in Colorado. Colorado also provides an additional amount, not to exceed \$25,000, to cover physical rehabilitation expenses incurred within 5 years of the accident.

Dollar Limits on Medical Benefits

<u>State</u>	<u>Limit on total benefits (per person)</u>	<u>Limit on medical benefits (per person)</u>
Arkansas	None	\$ 5,000
Colorado	None	\$25,000 for med. exp.; \$25,000 for rehab. exp.
Georgia	\$ 5,000	\$ 2,500
Kansas	None	\$ 2,000 for med. exp.; \$2,000 for rehab. exp.
Kentucky	\$10,000	\$ 1,000
Minnesota	\$30,000	\$20,000
Oregon	None	\$ 5,000
South Dakota	None	\$ 2,000
Texas	\$ 2,500	\$ 2,500
Utah	None	\$ 2,000
Virginia	None	\$ 2,000

Lost Wages. Injuries sustained as the result of a motor vehicle accident often result in the loss of wages for the injured person. All no-fault motor vehicle insurance states provide for the reimbursement of lost wages. Maryland, South Carolina, and Texas do not place limits on the amount that the injured person can collect. The remaining states place some sort of limit on the amount of benefits that the injured person can collect. These states impose percentage limits, dollar limits, time limits, or a combination of these on the collection of benefits to cover lost wages. Delaware, on the other hand, limits benefits for lost wages to an amount equivalent to the injured person's net wages. A summary of limits on benefits for lost wages follows.

<u>State</u>	<u>Limit on total benefits (per person)</u>	<u>Limit on benefits for lost wages (per person)</u>
Arkansas	None	70% of wages up to \$125/wk. for 1 yr.
Colorado	None	Up to \$125/wk. for 1 yr.
Connecticut	\$ 5,000	85% of wages up to \$200/wk.
Delaware	\$10,000 \$20,000 (per accident)	None--can recover net wages
Florida	\$10,000	60% of wages
Georgia	\$ 5,000	85% of wages up to \$200/wk.
Hawaii	\$15,000	Up to \$800/mo.
Kansas	None	80% of wages up to \$650/mo. for 1 yr.
Kentucky	\$10,000	Up to \$200/wk.
Maryland	\$ 2,500	None
Massachusetts	\$ 2,000	75% of wages
Michigan	None	Up to \$2,049/mo. for 3 yrs.
Minnesota	\$30,000	Up to \$200/wk.
New Jersey	None	Up to \$5,200 for 100 wks.
New York	\$50,000	Up to \$1,000/mo.
North Dakota	\$15,000	Up to \$150/wk.
Oregon	None	70% of wages up to \$750/mo. for 1 yr.
Pennsylvania	None	Up to \$1,000/mo. with a total limit of \$15,000
South Carolina	\$ 1,000	None
South Dakota	None	Up to \$60/wk. for 1 yr.
Texas	\$ 2,500	None
Utah	None	85% of wages up to \$150/wk. for 1 yr.
Virginia	None	Up to \$100/wk. for 1 yr.

Substituted Services. When a person is injured in a motor vehicle accident, the person is often unable to perform household services. All no-fault insurance states except Virginia require insurers to provide no-fault benefits to cover the cost of paying a person from outside the household to perform the household services normally provided by the injured beneficiary.

Six no-fault insurance states do not impose limits on the amount of benefits that can be collected to pay for the replacement of household services. The remaining states impose dollar limits, time limits, or a combination of dollar limits and time limits. A summary of limits on benefits for substituted services follows.

<u>State</u>	<u>Limit on total benefits (per person)</u>	<u>Limit on benefits for substituted household services (per person)</u>
Arkansas	None	Up to \$70/wk. for 1 yr.
Colorado	None	Up to \$15/day for 1 yr.
Connecticut	\$ 5,000	85% of the value of services up to \$200/wk.
Delaware	\$10,000 20,000 (per accident)	None
Florida	\$10,000	None
Georgia	\$ 5,000	Up to \$20/day for 24 mos.
Hawaii	\$15,000	Up to \$800/mo.
Kansas	None	Up to \$12/day for 1 yr.
Kentucky	\$10,000	Up to \$200/wk.
Maryland	\$ 2,500	None
Massachusetts	\$ 2,000	None
Michigan	None	Up to \$20/day for 3 yrs.
Minnesota	\$30,000	Up to \$15/day
New Jersey	None	Up to \$12/day; up to a total of \$4,380
New York	\$50,000	Up to \$25/day for 1 yr.
North Dakota	\$15,000	Up to \$150/wk.
Oregon	None	Up to \$18/day for 1 yr.
Pennsylvania	None	Up to \$25/day for 1 yr.
South Dakota	None	Up to \$30/wk. for 1 yr.
Texas	\$ 2,500	None
Utah	None	Up to \$12/day for 1 yr.
Virginia	None	No coverage

Benefits for Survivors. Nineteen of the 23 no-fault insurance states require benefits for the survivors of deceased motor vehicle accident victims. Insurers in 6 of these states must give survivors lump sum payments ranging from \$1,000 in Colorado to \$10,000 in South Dakota. The remaining 13 states provide the survivor with benefits to replace lost wages and household services that the deceased would have rendered to the survivors. Generally, the amount that can be collected by a survivor is subject to the same or similar dollar and time limits imposed on lost wages and replacement services benefits that can be collected by injured beneficiaries.

Payment specifically for burial expenses is provided in 19 states. Five of these 19 states do not impose any limits on the amount of benefits that can be used to cover burial expenses. The remaining 14 states have limits ranging from \$1,000 in 8 states to \$2,000 in Connecticut and Delaware. A summary of burial expenses and survivors' benefits follows.

<u>State</u>	<u>Benefits for burial expenses (per person)</u>	<u>Survivors' benefits (per person)</u>
Arkansas	None ^{1/}	\$5,000
Colorado	None ^{1/}	\$1,000
Connecticut	\$2,000	up to \$200/wk.
Delaware	\$2,000	None
Florida	\$1,750	None
Georgia	\$1,500	Lost wages and substituted household services
Hawaii	\$1,500	Lost wages and substituted household services
Kansas	\$1,000	Lost wages and substituted household services
Kentucky	\$1,000	Lost wages and substituted household services
Maryland	^{2/}	Lost wages and substituted household services

<u>State</u>	<u>Benefits for burial expenses (per person)</u>	<u>Survivors' benefits (per person)</u>
Massachusetts	<u>2/</u>	Lost wages and substituted household services
Michigan	\$1,000	Lost wages and household services up to \$1,475 for 3 yrs.
Minnesota	\$1,250	Up to \$200/wk. for lost wages; up to \$200/wk. for household services
New Jersey	\$1,000	Whatever decedent could have collected
New York	None ^{1/}	\$2,000
North Dakota	\$1,000	Lost wages and substituted household services
Oregon	\$1,000	None
Pennsylvania	\$1,500	Lost wages and household services up to \$5,000
South Carolina	<u>2/</u>	None
South Dakota	None ^{1/}	\$10,000
Texas	<u>2/</u>	Lost wages and substituted household services
Utah	\$1,000	\$2,000
Virginia	<u>2/</u>	\$2,000 for expenses incurred within 1 yr. of death

1/ Lump-sum survivors' benefits provided instead.

2/ No limits are placed on funeral expenses, but such expenses may not exceed limits on total benefits.

Property Damage. Only Delaware requires motor vehicle owners to maintain no-fault insurance benefits covering expenses related to property damages. These benefits cover property damage other than damage to vehicles, trailers, boats, and like objects and are limited to \$5,000 for all property damage incurred in one accident.

Seven states require all no-fault insurers to offer insurance coverage with benefits to cover property damage, including damage to motor vehicles.

Colorado	Maryland	Pennsylvania
Georgia	Massachusetts	South Carolina
Hawaii		

In Colorado benefits can be collected if the accident occurs in the United States, Canada, or Mexico. In South Carolina benefits for property damage are subject to a \$200 deductible.

Optional Benefits. No-fault insurance states often require insurers to offer motor vehicle owners additional benefits or benefits subject to deductibles. For example, Colorado no-fault insurers must give motor vehicle owners the option of purchasing no-fault insurance that provides total benefits of \$100,000. Florida no-fault insurers must offer motor vehicle owners the option of purchasing no-fault insurance with up to a \$2,000 deductible to be assessed against the maximum benefits recoverable of \$10,000.

Treatment of Collateral Sources

The amount of no-fault benefits can be reduced by the amount of various collateral sources of benefits available to beneficiaries in 18 of the 23 no-fault insurance states:

Colorado	Kentucky	New York
Connecticut	Maryland	North Dakota
Florida	Massachusetts	Oregon
Georgia	Michigan	Pennsylvania
Hawaii	Minnesota	South Carolina
Kansas	New Jersey	Utah

In Michigan, benefits can be reduced by the amount of state and federal benefits that the beneficiary receives. Benefits can be reduced by the amount of workers' compensation benefits that the beneficiary receives in the 17 other states. Other collateral sources that can be used to reduce no-fault benefits

include various social security benefits, military benefits, and other governmental benefits.

Payments of Claims

Payment procedures are specified in 20 states.

Arkansas	Kansas	New York
Colorado	Kentucky	North Dakota
Connecticut	Maryland	Oregon
Florida	Massachusetts	Pennsylvania
Georgia	Michigan	South Carolina
Hawaii	Minnesota	Texas
	New Jersey	Utah

Insurers must make payment of claims within a specified period of time after notice of the claim is received, unless the insurer, in good faith, challenges the claim. Oregon requires insurers to make "prompt" payments. In Connecticut, payments are late if not paid to the beneficiary within 15 working days of the claim.³ In Utah, payments are late if not paid within 35 days of the claim. In the remaining 17 states, claims are late if they are not paid within 30 days of the claim, except that benefits for lost wages are late in Kansas if not paid within 2 weeks of the claim.

Late Payments. Interest rates or penalties on late payments by insurers are imposed by 14 states. Rates range from 10 percent in New Jersey to up to 25 percent in Georgia. Also, if payments are over 60 days late in Georgia, a beneficiary who sues the insurer can collect additional punitive damages if the insurer withheld payment in bad faith.

<u>State</u>	<u>Annual interest rate</u>	<u>State</u>	<u>Annual interest rate</u>
Connecticut	12%	Minnesota	15%
Florida	10	New Jersey	10
Georgia	up to 25	New York	24
Hawaii	18	North Dakota	18
Kansas	18	Pennsylvania	18
Maryland	18	Texas	12
Michigan	12	Utah	18

Tort Limitations

The ability of a no-fault insurer to bring a tort action to recover for economic losses and noneconomic losses (pain and suffering) is limited in 15 states:

Colorado	Kansas	New Jersey
Connecticut	Kentucky	New York
Florida	Massachusetts	North Dakota
Georgia	Michigan	Pennsylvania
Hawaii	Minnesota	Utah

Generally, economic losses cannot be recovered in a tort action unless no-fault benefits, including the addition of deductibles, would be insufficient to cover economic losses arising from the accident. A no-fault beneficiary cannot bring a tort action to recover noneconomic loss unless the beneficiary suffers a serious injury or death. (See Appendix B.)

Arbitration

Some insurance states provide for permissive, and sometimes mandatory, arbitration. Only 7 states have some form of mandatory arbitration:

Colorado	Massachusetts	New York
Delaware	Minnesota	Utah
Georgia		

All of these states, except Georgia, impose mandatory arbitration of disputes between insurers. In Colorado and New York, disputes between an insurer and a beneficiary must be arbitrated if the beneficiary requests arbitration. In Georgia, disputes between an insurer and a beneficiary must be arbitrated if either party requests arbitration.

Subrogation and Reimbursement Provisions

In situations where the party collecting no-fault benefits also has some other legal claim, the no-fault insurer that pays the benefits often has the right to be subrogated to the claim or reimbursed in an amount equal to benefits received. When an insurer is subrogated to a beneficiary's legal claim, the insurer is placed in the same legal position as the insured beneficiary. Thus, if the insured has a right to bring a lawsuit against a person or has a right to workers' compensation benefits, the insurer also has a right, because of subrogation, to bring the lawsuit or collect the compensation benefits in the name of the insured beneficiary for the benefit of the insurer.

In Connecticut, Delaware, Hawaii, Massachusetts, New Jersey, and South Carolina, a no-fault insurer is subrogated to all the legal rights or claims of the no-fault beneficiary. However, in Hawaii the insurer is subrogated to the beneficiary's right to collect for liability in an amount equal to 50 percent of no-fault benefits paid. In South Carolina, an insurer is subrogated only if the beneficiary agrees to the subrogation in writing after the insurer provides the beneficiary with written notice of the beneficiary's right to deny the insurer of all rights to subrogation.

Kansas and Kentucky provide that the insurer is subrogated to the right of the beneficiary to bring a tort action. In Kansas, the insurer has only a right to collect judgment benefits and no right to bring a tort action in the name of the beneficiary until 18 months after the right to bring the lawsuit accrues, at which time the insurer receives the right to bring the lawsuit. Florida, Georgia, Minnesota, New York, and North Dakota provide that an insurer is subrogated to the beneficiary's right to bring a tort action but only if one of the vehicles involved in the accident is a commercial or large vehicle.⁴

Arkansas and Michigan require reimbursement of an insurer from tort liability benefits to the extent of benefits paid; Oregon and Utah require reimbursement of no-fault insurers by liability insurers; and Pennsylvania requires reimbursement from all sources. In Maryland and Texas insurers do not have a right of subrogation.

No-Fault Insurance Bills Introduced in Illinois

Illinois passed a no-fault insurance law in 1971, effective January 1, 1972.⁵ On April 17, 1972 the Illinois Supreme Court held the law unconstitutional.⁶ It was repealed in 1975.

The 1972 Illinois no-fault law required all passenger automobile motorists owning five or fewer automobiles to maintain no-fault insurance coverage that would provide benefits to (1) the insured; (2) members of the insured's household family; (3) occupants and drivers of insured's automobile; and (4) pedestrians struck by the automobile.

The law required reimbursement of (1) medical, hospital, and funeral expenses up to \$2,000; (2) 85 percent of lost income, up to \$150 a week for 1 year;