

ASSEMBLY, No. 1274

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen COLLINS and MORAN

1 AN ACT concerning automobile insurance and revising various parts  
2 of the statutory law.

3

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

6

7 1. (New section) As used in sections 1 through 5 of this act:

8 "Automobile" means a private passenger automobile of a private  
9 passenger or station wagon type that is owned or hired and is neither  
10 used as a public or livery conveyance for passengers nor rented to  
11 others with a driver; and a motor vehicle with a pickup body, a  
12 delivery sedan, a van, or a panel truck or a camper type vehicle used  
13 for recreational purposes owned by an individual or by husband and  
14 wife who are residents of the same household, not customarily used in  
15 the occupation, profession or business of the insured other than  
16 farming or ranching. An automobile owned by a farm family  
17 copartnership or corporation, which is principally garaged on a farm  
18 or ranch and which otherwise meets the definitions contained in this  
19 section, shall be considered a private passenger automobile owned by  
20 two or more relatives resident in the same household.

21 "Commissioner" means the Commissioner of Insurance.

22 "Hospital expenses" means:

23 (1) The cost of a semiprivate room, based on rates customarily  
24 charged by the institution in which the recipient of benefits is confined;

25 (2) The cost of board, meals and dietary services;

26 (3) The cost of other hospital services, such as operating room;  
27 medicines, drugs, anesthetics; treatments with X-ray, radium and other  
28 radioactive substances; laboratory tests, surgical dressings and  
29 supplies; and other medical care and treatment rendered by the  
30 hospital;

31 (4) The cost of treatment by a physiotherapist;

32 (5) The cost of medical supplies, such as prescribed drugs and

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 medicines; blood and blood plasma; artificial limbs and eyes; surgical  
2 dressings, casts, splints, trusses, braces, crutches; rental of wheelchair,  
3 hospital bed or iron lung; oxygen and rental of equipment for its  
4 administration.

5 "Medical expenses" means expenses for medical treatment, surgical  
6 treatment, dental treatment, professional nursing services, hospital  
7 expenses, rehabilitation services, X-ray and other diagnostic services,  
8 prosthetic devices, ambulance services, medication and other  
9 reasonable and necessary expenses resulting from the treatment  
10 prescribed by persons licensed to practice medicine and surgery  
11 pursuant to R.S. 45:9-1 et seq., dentistry pursuant to R.S. 45:6-1 et  
12 seq., psychology pursuant to P.L.1966, c. 282 (C. 45:14B-1 et seq.)  
13 or chiropractic pursuant to P.L.1953, c. 233 (C. 45:9-41.5 et seq.) and  
14 P.L.1989, c.153 (C.45.9-41.17 et seq.) or by persons similarly licensed  
15 in other states and nations or any nonmedical remedial treatment  
16 rendered in accordance with a recognized religious method of healing.

17 "Named insured" means the person or persons identified as the  
18 insured in the policy and, if an individual, his or her spouse, if the  
19 spouse is named as a resident of the same household, except that if the  
20 spouse ceases to be a resident of the household of the named insured,  
21 coverage shall be extended to the spouse for the full term of any policy  
22 period in effect at the time of the cessation of residency.

23 "Pedestrian" means any person who is not occupying, entering into,  
24 or alighting from a vehicle propelled by other than muscular power and  
25 designed primarily for use on highways, rails and tracks.

26

27 2. (New section) a. Every automobile liability insurance policy  
28 insuring an automobile against loss resulting from liability for bodily  
29 injury, death and property damage sustained by any person arising out  
30 of the ownership, operation, maintenance or use of an automobile shall  
31 provide automobile medical payment coverage. The automobile  
32 medical payment coverage shall provide for the payment of benefits  
33 without regard to negligence, liability or fault of any kind, to the  
34 named insured and members of his family residing in his household  
35 who sustained bodily injury as a result of an accident while occupying,  
36 entering into, alighting from, using or being struck as a pedestrian by  
37 an automobile, to other persons sustaining bodily injury while  
38 occupying, entering into, alighting from or using the automobile of the  
39 named insured with the permission of the named insured, and to  
40 pedestrians who are without automobile medical payment coverage  
41 and who sustain bodily injury caused by the named insured's  
42 automobile or who are struck by an object propelled by or from that  
43 automobile, provided that the coverage shall apply only to automobile  
44 accidents which occur during the policy period and within the United  
45 States of America, its territories or possessions, or Canada.  
46 Automobile medical payment coverage shall provide compensation to

1 injured persons for reasonable and necessary expenses incurred from  
2 the date of the automobile accident for medical expenses.

3 b. Automobile medical payment coverage shall be in an amount or  
4 limit of at least \$5,000, and additional coverage may be purchased in  
5 \$2,500 increments up to the limits of the policy.

6 c. Benefits payable under this section shall not be assignable,  
7 except to a provider of services for benefits collectible pursuant to this  
8 section, nor shall they be subject to levy, execution, attachment or  
9 other process for satisfaction of debts.

10 d. Automobile medical payment coverage shall be subject to a  
11 deductible of \$250 on account of injury in any one accident and a  
12 copayment of 20% of any benefits payable between \$250 and \$5,000.

13 e. (1) For policies issued or renewed on or after January 1, 1995,  
14 automobile insurers shall provide the option that other health insurance  
15 coverage or benefits of the named insured, including health care  
16 services provided by a health maintenance organization and coverage  
17 or benefits provided under a federal or State program, are the primary  
18 coverage in regard to medical payment coverage pursuant to this  
19 section. If health insurance coverage or benefits are primary, an  
20 automobile insurer providing automobile medical payment coverage  
21 shall be liable for reasonable medical expenses not covered by the  
22 health insurance coverage or benefits up to the limit of the automobile  
23 medical payment coverage. The principles of coordination of benefits  
24 shall apply to automobile medical payment coverage or benefits  
25 pursuant to this subsection.

26 (2) For policies issued or renewed prior to January 1, 1996,  
27 insurers shall offer the option provided by this subsection at a discount  
28 of not less than 25% from the base rate applicable to the first  
29 \$250,000 of automobile medical payment coverage benefits, and for  
30 policies issued or renewed on or after January 1, 1995, insurers shall  
31 offer the option provided by this subsection at an appropriate discount  
32 from the base rate for the amount of medical expense benefit taken.

33 (3) Any named insured who chooses the option provided by this  
34 subsection shall provide proof that he and members of his family  
35 residing in his household are covered by health insurance coverage or  
36 benefits in a manner and to an extent approved by the commissioner.  
37 Nothing in this section shall be construed to require a health insurer,  
38 health maintenance organization or governmental agency to cover  
39 individuals or treatment which is not normally covered under the  
40 applicable benefit contract or plan. If it is determined that an insured  
41 who selected or is otherwise covered by the option provided in this  
42 subsection did not have health insurance in effect at the time of an  
43 accident, medical expense benefits shall be payable by the person's  
44 automobile insurer and shall be subject to any deductible required by  
45 law and an additional deductible in the amount of \$750.

46 (4) An option elected by the named insured in accordance with this

1 subsection section shall apply only to the named insured and any  
2 resident relative in the named insured's household who is not a named  
3 insured under another automobile insurance policy.

4 No insurer or health provider providing benefits to an insured shall  
5 have a right of subrogation for the amount of benefits paid pursuant  
6 to any deductible or copayment under this section.

7

8 3. (New section) a. An insurer may require written notice to be  
9 given as soon as practicable after an accident involving an automobile  
10 with respect to which automobile medical payment coverage benefits  
11 are provided pursuant to section 2 of this act.

12 b. Automobile medical payment coverage benefits shall be overdue  
13 if not paid within 60 days after the insurer is furnished written notice  
14 of the fact of a covered loss and of the amount of that loss. If written  
15 notice is not furnished to the insurer as the entire claim, any partial  
16 amount supported by written notice is overdue if not paid within 60  
17 days after the written notice is furnished to the insurer. Any part or  
18 all of the remainder of the claim that is subsequently supported by  
19 written notice is overdue if not paid within 60 days after the written  
20 notice is furnished to the insurer, except that any payment shall not be  
21 deemed overdue if the insurer has reasonable proof to establish that  
22 the insurer is not responsible for the payment, notwithstanding that  
23 written notice has been furnished to the insurer. For the purpose of  
24 calculating the extent to which any benefits are overdue, payment shall  
25 be treated as being made on the date on which the draft or other valid  
26 instrument which is equivalent to payment was placed in the United  
27 States mail in a properly addressed, postpaid envelope, or, if not so  
28 posted, on the date of delivery.

29 c. All overdue payments shall bear simple interest at the rate of  
30 18% per annum.

31

32 4. (New section) The commissioner shall, within 90 days after the  
33 effective date of this act, promulgate medical fee schedules on a  
34 regional basis for the reimbursement of health care providers providing  
35 services or equipment for automobile medical payment coverage  
36 benefits for which payment is to be made by an insurer as provided in  
37 section 2 of this act. These fee schedules shall be promulgated on the  
38 basis of the type of service provided, and shall incorporate the  
39 reasonable and prevailing fees of 75% of the practitioners within the  
40 region. If, in the case of a specialist provider, there are fewer than 50  
41 specialists within a region, the fee schedule shall incorporate the  
42 reasonable and prevailing fees of the specialist providers on a  
43 Statewide basis. These schedules shall be reviewed biannually by the  
44 commissioner.

45 No health care provider may demand or request any payment from  
46 any person for automobile medical payment coverage benefits in

1 excess of those permitted by the medical fee schedules established  
2 pursuant to this section, nor shall any person be liable to any health  
3 care provider for any amount of money which results from the  
4 charging of fees in excess of those permitted by the medical fee  
5 schedules established pursuant to this section.

6  
7 5. (New section) The automobile medical payment coverage  
8 benefits provided in section 2 of this act shall be payable as loss  
9 accrues, upon written notice of that loss and without regard to  
10 collateral sources, except that benefits collectible under workers'  
11 compensation insurance and employees' temporary disability benefit  
12 statutes, and benefits, in fact collected, that are provided under federal  
13 law to active and retired military personnel shall be deducted from the  
14 benefits collectible under section 2 of this act.

15 If an insurer has paid the benefits provided in section 2 of this act  
16 and the insured is entitled to workers' compensation benefits or  
17 employees' temporary disability benefits but has failed to apply for  
18 them, the insurer may immediately apply for a reimbursement from the  
19 provider of the workers' compensation or temporary disability benefits  
20 for the automobile medical payment coverage benefits which the  
21 insurer paid to the insured.

22 Every insurer writing automobile insurance in this State shall inform  
23 its insureds who have automobile medical payment coverage in this  
24 State, and who are eligible to receive Medicare, of the interrelationship  
25 of the automobile medical payment coverage provided by this act and  
26 Medicare in a manner to be determined by the commissioner.

27  
28 6. (New section) Any person, including any State or federal  
29 governmental agency, paying benefits pursuant to this act as a result  
30 of an accident occurring within this State, shall, within two years of  
31 the filing of the claim, have the right to recover the amount of  
32 payments from the tortfeasor. The determination as to whether a  
33 person is legally entitled to recover the amount of payments and the  
34 amount of recovery, including the costs of processing benefit claims  
35 and enforcing rights granted under this section, shall be by agreement  
36 of the involved parties or, upon failing to agree, by arbitration.

37  
38 7. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read  
39 as follows:

40 2. a. No motor vehicle liability policy or renewal of such policy of  
41 insurance, including a liability policy for an automobile as defined in  
42 section [2 of P.L.1972, c.70 (C.39:6A-2)]1 of P.L. \_\_\_\_\_, c. \_\_\_\_ (C.  
43 \_\_\_\_\_)(pending in the Legislature as this bill), insuring against loss resulting  
44 from liability imposed by law for bodily injury or death, sustained by  
45 any person arising out of the ownership, maintenance or use of a  
46 motor vehicle, shall be issued in this State with respect to any motor

1 vehicle registered or principally garaged in this State unless it includes  
2 coverage in limits for bodily injury or death as follows:

3 (1) an amount or limit of \$15,000.00, exclusive of interest and  
4 costs, on account of injury to, or death of, one person, in any one  
5 accident, and

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

10 under provisions approved by the Commissioner of Insurance, for  
11 payment of all or part of the sums which the insured or his legal  
12 representative shall be legally entitled to recover as damages from the  
13 operator or owner of an uninsured motor vehicle, or hit and run motor  
14 vehicle, as defined in section 18 of P.L.1952, c.174 (C.39:6-78),  
15 because of bodily injury, sickness or disease, including death resulting  
16 therefrom, sustained by the insured, caused by accident and arising out  
17 of the ownership, maintenance or use of such uninsured or hit and run  
18 motor vehicle anywhere within the United States or Canada[; except  
19 that uninsured motorist coverage shall provide that in order to recover  
20 for non-economic loss, as defined in section 2 of P.L.1972, c.70  
21 (C.39:6A-2), for accidents to which the benefits of section 4  
22 (C.39:6A-4) of that act apply, the tort option elected pursuant to  
23 section 8 (C.39:6A-8) of that act shall apply to that injured person].

24 All motor vehicle liability policies shall also include coverage for  
25 the payment of all or part of the sums which persons insured  
26 thereunder shall be legally entitled to recover as damages from owners  
27 or operators of uninsured motor vehicles, other than hit and run motor  
28 vehicles, because of injury to or destruction to the personal property  
29 of such insured, with a limit in the aggregate for all insureds involved  
30 in any one accident of \$5,000.00, and subject, for each insured, to an  
31 exclusion of the first \$500.00 of such damages.

32 b. Uninsured and underinsured motorist coverage shall be provided  
33 [as an option] by an insurer to the named insured in amounts or limits  
34 equal to the insured's motor vehicle liability coverage, up to at least  
35 the following limits: \$250,000.00 each person and \$500,000.00 each  
36 accident for bodily injury; \$100,000.00 each accident for property  
37 damage or \$500,000.00 single limit, subject to an exclusion of the first  
38 \$500.00 of such damage to property for each accident[, except that  
39 the limits for uninsured and underinsured motorist coverage shall not  
40 exceed the insured's motor vehicle liability policy limits for bodily  
41 injury and property damage, respectively].

42 Rates for uninsured and underinsured motorist coverage for the  
43 same limits shall, for each filer, be uniform on a Statewide basis  
44 without regard to classification or territory.

45 c. Uninsured and underinsured motorist coverage provided for in  
46 this section shall not be increased by stacking the limits of coverage of

1 multiple motor vehicles covered under the same policy of insurance  
2 nor shall these coverages be increased by stacking the limits of  
3 coverage of multiple policies available to the insured. If the insured  
4 had uninsured motorist coverage available under more than one policy,  
5 any recovery shall not exceed the higher of the applicable limits of the  
6 respective coverages and the recovery shall be prorated between the  
7 applicable coverages as the limits of each coverage bear to the total of  
8 the limits.

9 d. Uninsured and underinsured motorist coverage shall be subject  
10 to the policy terms, conditions and exclusions approved by the  
11 Commissioner of Insurance, including, but not limited to, unauthorized  
12 settlements, nonduplication of coverage~~[,]~~and subrogation and shall  
13 provide for dispute resolution through binding arbitration.

14 e. For the purpose of this section, (1) "underinsured motorist  
15 coverage" means insurance for damages because of bodily injury and  
16 property damage resulting from an accident arising out of the  
17 ownership, maintenance or use of an underinsured motor vehicle.  
18 Underinsured motorist coverage shall not apply to an uninsured motor  
19 vehicle. A motor vehicle is underinsured when the sum of the limits  
20 of liability under all bodily injury and property damage liability bonds  
21 and insurance policies available to a person against whom recovery is  
22 sought for bodily injury or property damage is, at the time of the  
23 accident, less than the applicable limits for underinsured motorist  
24 coverage afforded under the motor vehicle insurance policy held by the  
25 person seeking that recovery. A motor vehicle shall not be considered  
26 an underinsured motor vehicle under this section unless the limits of  
27 all bodily injury liability insurance or bonds applicable at the time of  
28 the accident have been exhausted by payment of settlements or  
29 judgments. The limits of underinsured motorist coverage available to  
30 an injured person shall be reduced by the amount he has recovered  
31 under all bodily injury liability insurance or bonds;

32 (2) "uninsured motor vehicle" means:

33 (a) a motor vehicle with respect to the ownership, operation,  
34 maintenance, or use of which there is no bodily injury liability  
35 insurance or bond applicable at the time of the accident;

36 (b) a motor vehicle with respect to the ownership, operation,  
37 maintenance, or use of which there is bodily injury liability insurance  
38 in existence but the liability insurer denies coverage or is unable to  
39 make payment with respect to the legal liability of its insured because  
40 the insurer has become insolvent or bankrupt, or the Commissioner of  
41 Insurance has undertaken control of the insurer for the purpose of  
42 liquidation; or

43 (c) a hit and run motor vehicle as described in section 18 of P.L.  
44 1952, c. 174 (C. 39:6-78).

45 "Uninsured motor vehicle" shall not include an underinsured motor  
46 vehicle; a motor vehicle owned by or furnished for the regular use of

1 the named insured or any resident of the same household; a self-insurer  
2 within the meaning of any financial responsibility or similar law of the  
3 state in which the motor vehicle is registered or principally garaged;  
4 a motor vehicle which is owned by the United States or Canada, or a  
5 state, political subdivision or agency of those governments or any of  
6 the foregoing; a land motor vehicle or trailer operated on rails or  
7 crawler treads; a motor vehicle used as a residence or stationary  
8 structure and not as a vehicle; or equipment or vehicles designed for  
9 use principally off public roads, except while actually upon public  
10 roads.

11 (cf: P.L.1988, c.119, s.11)

12

13 8. Section 3 of P.L.1952, c.173 (C.39:6-25) is amended to read as  
14 follows:

15 3. (a) If 20 days after the receipt of a report of a motor vehicle  
16 accident within this State which has resulted in bodily injury or death,  
17 or damage to the property of any one person in excess of \$500.00, the  
18 director does not have on file evidence satisfactory to him that the  
19 person who would otherwise be required to file security under  
20 subsection (b) of this section has been released from liability, or has  
21 been finally adjudicated not to be liable, or has executed a duly  
22 acknowledged written agreement providing for the payment of an  
23 agreed amount in installments with respect to all claims for injuries or  
24 damages resulting from the accident, [and in the event of an accident  
25 involving an automobile, required to have coverage for personal injury  
26 protection benefits pursuant to P.L. 1972, c. 70 (C. 39:6A-1 et seq.),  
27 has also reimbursed or has executed a duly acknowledged written  
28 agreement to pay an agreed amount in installments to reimburse the  
29 Unsatisfied Claim and Judgment Fund for the payment of all personal  
30 injury protection benefits the fund has made or shall make pursuant to  
31 section 7 or section 10 of P.L. 1972, c. 198 (C. 39:6-86.1 and C.  
32 39:6-86.4) by reason of the failure of such person to have the requisite  
33 insurance coverage in effect,]the director shall determine the amount  
34 of security which may be necessary in his judgment to satisfy any  
35 reimbursement, judgment or judgments for damages resulting from  
36 such accident as may be recovered against each operator or owner in  
37 view of the total insurance protection available to the injured party.  
38 The Director of the Division of Motor Vehicles shall promulgate such  
39 rules as may be necessary to set forth those instances where deposit of  
40 security is necessary.

41 (b) The director may, within 90 days after the receipt of such  
42 report of a motor vehicle accident, suspend the license of each  
43 operator and all registrations of each owner of a motor vehicle in any  
44 manner involved in such accident, and if such operator is a nonresident  
45 the privilege of operating a motor vehicle within this State, and if such  
46 owner is a nonresident the privilege of the use within this State of any

1 motor vehicle owned by him, unless such operator or owner or both  
2 shall deposit security in the sum so determined by the director;  
3 provided, notice of such suspension shall be sent by the director to  
4 such operator and owner not less than 10 days prior to the effective  
5 date of such suspension and shall state the amount required as  
6 security. Where erroneous information is given the director with  
7 respect to the matters set forth in paragraph (1), (2) or (3) of  
8 subsection (c) of this section, he may take appropriate action as  
9 hereinbefore provided, within 90 days after receipt by him of correct  
10 information with respect to said matters.

11 (c) This section shall not apply under the conditions stated in  
12 section 4 of this act nor:

13 (1) To such operator or owner, if such owner had in effect, at the  
14 time of such accident, a motor vehicle liability policy with respect to  
15 the motor vehicle involved in such accident;

16 (2) To such operator, if not the owner of such motor vehicle, if  
17 there was in effect at the time of such accident a motor vehicle liability  
18 policy or bond with respect to his operation of motor vehicles not  
19 owned by him;

20 (3) To such operator or owner if the liability of such operator or  
21 owner for damages resulting from such accident is, in the judgment of  
22 the director, covered by any other form of liability insurance policy or  
23 bond; ~~[nor]~~ or

24 (4) To any person qualifying as a self-insurer under section 30 of  
25 this act, or to any person operating a motor vehicle for such  
26 self-insurer.

27 No such policy or bond shall be effective under this section unless  
28 issued by an insurance company or surety company authorized to do  
29 business in this State, except that if such motor vehicle was not  
30 registered in this State, or was a motor vehicle which was registered  
31 elsewhere than in this State at the effective date of the policy or bond,  
32 or the most recent renewal thereof, such policy or bond shall not be  
33 effective under this section unless the insurance company or surety  
34 company if not authorized to do business in this State shall execute a  
35 power of attorney authorizing the director to accept service on its  
36 behalf of notice or process in any action upon such policy or bond  
37 arising out of such accident; provided, however, every such policy or  
38 bond is subject, if the accident has resulted in bodily injury or death,  
39 to a limit, exclusive of interest and costs, of not less than \$15,000.00  
40 because of bodily injury to or death of one person in any one accident  
41 and, subject to said limit for one person, to a limit of not less than  
42 \$30,000.00 because of bodily injury to or death of two or more  
43 persons in any one accident, and, if the accident has resulted in injury  
44 to or destruction of property, to a limit of not less than \$5,000.00  
45 because of injury to or destruction of property of others in any one  
46 accident [and if policy or bond is applicable to an automobile required

1 to have coverage for personal injury protection benefits pursuant to  
2 P.L. 1972, c. 70 (C. 39:6A-1 et seq.), it shall include an amount to  
3 cover personal injury protection benefits as required by that act].

4 (cf: P.L.1988, c.119, s.12)

5

6 9. Section 4 of P.L.1952, c.173 (C.39:6-26) is amended to read as  
7 follows:

8 4. The requirements as to security and suspension in section 3 of  
9 this act shall not apply:

10 (a) to the operator or the owner of a motor vehicle involved in an  
11 accident wherein no injury or damage was caused to the person or  
12 property of any one other than such operator or owner;

13 (b) to the operator or the owner of a motor vehicle legally parked  
14 at the time of the accident;

15 (c) to the owner of a motor vehicle if at the time of the accident the  
16 vehicle was being operated without his permission, express or implied,  
17 or was parked by a person who had been operating such motor vehicle  
18 without such permission; or to the operator if he was a chauffeur or  
19 operator employed by the owner of the motor vehicle and was  
20 operating with the permission of the owner[.];

21 (d) if, prior to the date that the director would otherwise suspend  
22 license and registration or nonresident's operating privilege under  
23 section 3 of this act, there shall be filed with the director evidence  
24 satisfactory to him that the person who would otherwise have to file  
25 security has been released from liability or been finally adjudicated not  
26 to be liable or has executed a duly acknowledged written agreement  
27 providing for the payment of an agreed amount in installments, with  
28 respect to all claims for injuries or damages resulting from the accident  
29 [and with respect to an accident involving an automobile, required to  
30 have coverage for personal injury protection benefits pursuant to  
31 P.L.1972, c.70, has also reimbursed or executed a duly acknowledged  
32 written agreement to pay an agreed amount in installments to  
33 reimburse the Unsatisfied Claim and Judgment Fund for the payments  
34 it has made or shall make pursuant to section 7 or section 10 of  
35 P.L.1972, c.198 (Assembly Bill No. 803 presently pending in the  
36 Legislature) by reason of the failure of such person to have the  
37 requisite insurance coverage in effect].

38 (cf: P.L.1972, c. 199, s.2)

39

40 10. Section 5 of P.L.1952, c.173 (C.39:6-27) is amended to read  
41 as follows:

42 5. The license and registration and nonresident's operating privilege  
43 suspended as provided in section three of this act shall remain so  
44 suspended and shall not be renewed nor shall any such license or  
45 registration be issued to such person until:

46 (a) such person shall deposit or there shall be deposited on his

1 behalf the security required under said section 3 of this act; or

2 (b) one year shall have elapsed following the date of such  
3 suspension and evidence satisfactory to the director has been filed with  
4 him that during such period no action for damages arising out of the  
5 accident has been instituted; or

6 (c) evidence satisfactory to the director has been filed with him of  
7 a release from liability, or a final adjudication of nonliability, or a duly  
8 acknowledged written agreement, in accordance with section 4(d) of  
9 P.L.1952, c. 173 (C. 39:6-26) [and with respect to an automobile  
10 required to have coverage for personal injury protection benefits  
11 pursuant to P.L.1972, c. 70 has filed evidence satisfactory to the  
12 director that he has also met the additional requirements of section  
13 4(d) of P.L.1952, c. 173 (C. 39:6-26) pertaining to such automobile];  
14 provided, however, in the event there shall be any default in the  
15 payment of any installment under any duly acknowledged written  
16 agreement, then, upon notice of such default, the director shall  
17 forthwith suspend the license and registration or nonresident's  
18 operating privilege of such person defaulting which shall not be  
19 restored unless [and until]

20 (1) such person deposits and thereafter maintains security as  
21 required under said section 3 of this act in such amount as the director  
22 may then determine; or

23 (2) one year shall have elapsed following the date when such  
24 security was required and during such period no action upon such  
25 agreement has been instituted in a court in this State.

26 Subsections 5(b) and 5(c)(1) of this section shall not apply to  
27 amounts in reimbursement of the Unsatisfied Claim and Judgment  
28 Fund which remain unpaid after 1 year.

29 (cf: P.L.1972, c.199, s.3)

30

31 11. Section 8 of P.L.1952, c.173 (C.39:6-30) is amended to read  
32 as follows:

33 8. Security deposited in compliance with the requirements of this  
34 act shall be applicable only to the payment of a judgment or judgments  
35 rendered against the person or persons on whose behalf the deposit  
36 was made, for damages arising out of the accident in question in a civil  
37 action, begun not later than 1 year after the date of such accident, or  
38 within 1 year after the date of deposit of any security under  
39 subparagraph (c) of section 5 of this act, or to the payment in  
40 settlement, agreed to by the depositor, of a claim or claims arising out  
41 of such accident [or to the reimbursement of the Unsatisfied Claim and  
42 Judgment Fund for the payment of personal injury protection benefits  
43 pursuant to section 7 or section 10 of P.L.1972, c.192 (Assembly Bill  
44 No. 803 presently pending in the Legislature)]. Such deposit or any  
45 balance thereof shall be returned to the depositor or his personal  
46 representative when evidence satisfactory to the director has been filed

1 with him that there has been a release from liability, or a final  
2 adjudication of nonliability, or a duly acknowledged agreement in  
3 accordance with subparagraph (d) of section 4 of this act[, and in the  
4 event of an accident involving an automobile required to have  
5 coverage for personal injury protection benefits pursuant to P.L.1972,  
6 c.70, if the depositor has also met the additional requirements of  
7 section 4(d) of P.L.1952, c.173 (C. 39:6-26) pertaining to such  
8 automobile or whenever, after the expiration of 1 year (1) from the  
9 date of the accident, or (2) from the date of any security under  
10 subparagraph (c) of section 5 of this act, the director shall be given  
11 reasonable evidence that there is no such action pending and no  
12 judgment rendered in such action left unpaid and no amount in  
13 reimbursement, to the Unsatisfied Claim and Judgment Fund for  
14 payment of personal injury protection benefits, remains unpaid by such  
15 person].

16 (cf: P.L.1972, c.199, s.4)

17

18 12. Section 18 of P.L.1985, c.520 (C.17:28-1.4) is amended to  
19 read as follows:

20 18. Any insurer authorized to transact or transacting automobile or  
21 motor vehicle insurance business in this State, or controlling or  
22 controlled by, or under common control by, or with, an insurer  
23 authorized to transact or transacting insurance business in this State,  
24 which sells a policy providing automobile or motor vehicle liability  
25 insurance coverage, or any similar coverage, in any other state or in  
26 any province of Canada, shall include in each policy coverage to  
27 satisfy at least the liability insurance requirements of section 1 of P.L.  
28 1972, c. 197 (C. 39:6B-1) or [section 3 of P.L. 1972, c. 70 (C.  
29 39:6A-3),]the uninsured and underinsured motorist insurance  
30 requirements of subsection a. of section 2 of P.L. 1968, c. 385 (C.  
31 17:28-1.1)[, and personal injury protection benefits coverage pursuant  
32 to section 4 of P.L. 1972, c. 70 (C. 39:6A-4) or of section 19 of P.L.  
33 1983, c. 362 (C. 17:28-1.3)], whenever the automobile or motor  
34 vehicle insured under the policy is used or operated in this State.

35 Any liability insurance policy subject to this section shall be  
36 construed as providing the coverage required herein[, and any named  
37 insured, and any immediate family member as defined in section 14.1  
38 of P.L. 1983, c. 362 (C. 39:6A-8.1), under that policy, shall be subject  
39 to the tort option specified in subsection a. of section 8 of P.L. 1972,  
40 c. 70 (C. 39:6A-8)].

41 Each insurer authorized to transact or transacting automobile or  
42 motor vehicle insurance business in this State and subject to the  
43 provisions of this section shall, within 30 days of the effective date of  
44 P.L. 1985, c. 520, file and maintain with the Department of Insurance  
45 written certification of compliance with the provisions of this section.

46 "Automobile" means an automobile as defined in section [2 of P.L.

1 1972, c. 70 (C. 39:6A-2)]1 of P.L. \_\_\_\_, c. \_\_\_\_ (C. \_\_\_\_)(pending before  
2 the Legislature as this bill).

3 (cf: P.L.1988, c.119, s.1)

4

5 13. (New section) The commissioner shall, pursuant to the  
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
7 seq.), promulgate rules and regulations as may be required to  
8 effectuate the purposes of this act.

9

10 14. The following are repealed:

11 P.L.1972, c.70 (C.39:6A-1 et seq.);sections 9 through 11 inclusive  
12 of P.L.1972, c.203 (C.39:6A-19, 39:6A-20 and 39:6A-13.1);

13 section 1 of P.L.1983, c.212 (C.39:6A-4.1);

14 sections 12, 13, 14.1, 18, 19 and 20 of P.L.1983, c.362  
15 (C.39:6A-4.2, 39:6A-4.3, 39:6A-8.1, 17:29A-15.1, 17:28-1.3, and  
16 39:6A-9.1);

17 section 4 of P.L.1984, c.40 (C.39:6A-4.4);

18 section 14 of P.L.1985, c.520 (C.39:6A-4.5);

19 section 10 of P.L.1988, c.119 (C.39:6A-4.6); and

20 section 14 of P.L.1988, c.156 (C.17:29A-15.2).

21

22 15. (New section) Additionally, all acts or parts of acts which are  
23 inconsistent with the provisions of this act are repealed and superseded  
24 to the extent of such inconsistency.

25

26 16. (New section) Sections 1 through 6 and 13 through 15 of this  
27 1994 amendatory and supplementary act (C. \_\_\_\_ ) shall be known and  
28 may be cited as the "Free Market Automobile Insurance Act."

29

30 17. This act shall take effect on the 180th day after enactment.

31

32

33

#### STATEMENT

34

35 This bill repeals the compulsory no-fault automobile insurance law;  
36 retains the requirement for bodily injury and property damage liability  
37 insurance; and makes compulsory, uninsured and underinsured  
38 automobile insurance coverage in the same amounts or limits as an  
39 insured's motor vehicle liability insurance coverage. Additionally, the  
40 bill requires motorists to carry automobile medical payment insurance,  
41 payable regardless of fault, in an amount or limit of at least \$5,000 and  
42 provides insureds with the option to be covered under their health  
43 insurance coverage instead.

44 With respect to uninsured and underinsured motor vehicle  
45 insurance, the bill requires claims disputes to be settled through  
46 binding arbitration. The bill also provides that insurers or those

1 providing automobile medical payment insurance have the right, within  
2 two years from the date of filing a claim, to recover the amount of  
3 payments from any tortfeasor.

4

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7

8 "Free Market Automobile Insurance Act."