

P.L. 1997, CHAPTER 280, *approved January 6, 1998*
Senate, No. 96 (*First Reprint*)

1 **AN ACT** concerning collection of certain surcharges, amending and
2 supplementing P.L.1995, c.9 and amending P.L.1983, c.65.

3

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

6

7 1. Section 2 of P.L.1995, c.9 (C.2B:19-2) is amended to read as
8 follows:

9 2. The Legislature finds and declares that:

10 a. The Judiciary routinely enters judgments and court orders
11 setting forth assessments, surcharges, fines and restitution against
12 litigants pursuant to statutory law.

13 b. The enforcement of court orders is crucial to ensure respect for
14 the rule of law and credibility of the court process.

15 c. Despite monitoring of judgments and court orders by probation
16 divisions and other segments of the Judiciary responsible for doing so,
17 many orders are not complied with because there is a lack of central
18 coordination, funding, automation, and control.

19 d. The Judiciary has successfully developed a hearing officer
20 program in child support enforcement and a pilot criminal enforcement
21 court project, which is in the process of being expanded, that have
22 demonstrated significant increases in collections and compliance.

23 e. The Governor's Management Review Commission has reviewed
24 the collections process in New Jersey and made recommendations
25 supporting the establishment and funding of a Statewide
26 comprehensive enforcement program operated by the Judiciary.

27 f. Upon passage of this act, the Supreme Court and the Chief
28 Justice will establish a Statewide comprehensive enforcement program
29 within the present structure of the Superior Court which will provide
30 for the enforcement of court orders and oversee collection of
31 court-ordered fines, assessments, surcharges and judgments in the

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted January 29, 1996.

1 civil, criminal and family divisions, the Tax Court and in certain
2 municipal court matters as provided in section 6 of this act. The
3 comprehensive enforcement program will provide for the collection of
4 certain surcharges administratively imposed by the Division of Motor
5 Vehicles as provided in section 6 of this act. The comprehensive
6 enforcement program will utilize the child support hearing officer
7 model and the pilot project criminal enforcement court model,
8 supported by a Statewide automation system designed to increase
9 collections, compliance and accountability.

10 (cf: P.L.1995, c.9, s.2)

11

12 2. Section 4 of P.L.1995, c.9 (C.2B:19-4) is amended to read as
13 follows:

14 4. a. Subject to the approval of the Director of the Division of
15 Budget and Accounting, the Administrative Office of the Courts is
16 authorized to deduct an amount up to 25% of all moneys collected
17 through the comprehensive enforcement program, except for victim
18 restitution and for [Violent Crimes] Victims of Crime Compensation
19 Board assessments, for deposit in the "Comprehensive Enforcement
20 Program Fund" established pursuant to section 3 of [this act]
21 P.L.1995, c.9 (C.2B:19-3) to fund the comprehensive enforcement
22 program, the CAPS computer system, enforced community service,
23 and other programs employed to collect court ordered financial
24 obligations. The Administrative Office of the Courts shall promulgate
25 a schedule for the deduction of collections to be deposited in the
26 "Comprehensive Enforcement Program Fund."

27 b. [Of the funds deposited in the "Comprehensive Enforcement
28 Program Fund," no more than \$550,000.00 annually shall be allocated
29 to fund the comprehensive enforcement program.] (Deleted by
30 amendment, P.L. , c.)(now pending before the Legislature as this
31 bill)

32 (cf: P.L.1995, c.9, s.4)

33

34 3. Section 6 of P.L.1995, c.9 (C.2B:19-6) is amended to read as
35 follows:

36 6. a. All matters involving the collection of moneys in the Superior
37 Court and Tax Court which have not been resolved in accordance with
38 an order of the court may be transferred, pursuant to court rule, to the
39 comprehensive enforcement program for such action as may be
40 appropriate.

41 b. (1) A municipal court may request that all matters which have
42 not been resolved in accordance with an order of that court be
43 transferred to the comprehensive enforcement program for such action
44 as may be appropriate. All moneys collected through the
45 comprehensive enforcement program which result from the enforcing
46 of orders transferred from any municipal court shall be subject to the

1 25% deduction authorized pursuant to section 4 of this act except for
2 moneys collected in connection with the enforcement of orders related
3 to parking violations.

4 (2) Nothing contained in this act shall prevent any municipal court
5 from contracting the services of a private collection agency to collect
6 any moneys which have not been remitted in accordance with an order
7 of that court.

8 c. The Director of the Division of Motor Vehicles may refer
9 matters of surcharges imposed administratively under the New Jersey
10 Merit Rating Plan in accordance with the provisions of section 6 of
11 P.L.1983, c.65 (C.17:29A-35) which have not been satisfied to the
12 comprehensive enforcement program in accordance with the
13 procedures established pursuant to section 4 of P.L. , c.
14 (C.)(now pending before the Legislature as this bill) to be reduced
15 to judgment and for such additional action as may be appropriate. All
16 moneys collected through the comprehensive enforcement program
17 which result from the collection of these surcharge monies shall be
18 subject to the 25% deduction authorized pursuant to section 4 of
19 P.L.1995, c.9 (C.2B:19-4).

20 (cf: P.L.1995,c.9,s.6)

21

22 4. (New section) The Director of the Division of Motor Vehicles
23 and the Administrative Office of the Courts shall develop procedures
24 for the referral of uncollected surcharges imposed administratively by
25 the Division of Motor Vehicles under the New Jersey Merit Rating
26 Plan pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35). These
27 procedures shall include, but shall not be limited to, the following:

28 a. The total dollar amount of uncollected surcharges imposed on
29 a driver and the number of months of delinquency which ¹[shall] may¹
30 result in referral pursuant to section 6 of P.L.1995, c.9 (C.2B:19-6)
31 including procedures for installment payments, procedures for
32 negotiating and implementing new schedules for installment payments
33 and surcharges deferred until the end of a policy term of an automobile
34 insurance policy as permitted by section 6 of P.L.1983, c.65
35 (C.17:29A-35);

36 b. The interval of referral between the Division of Motor Vehicles
37 and the comprehensive enforcement program such as monthly,
38 quarterly or semi-annually and the method of referral such as through
39 the municipal court where the Title 39 violation occurred or directly
40 to the Superior Court;

41 c. The form of notice to be provided by the Division of Motor
42 Vehicles when a surcharge is imposed indicating that an unpaid
43 surcharge may be referred to the comprehensive enforcement program;
44 and

45 d. Procedures for payment to the Division of Motor Vehicles of
46 monies collected and the billing and accounting methods to be used.

1
2 5. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
3 as follows:

4 6. a. A merit rating accident surcharge system for private
5 passenger automobiles may be used in the voluntary market, by the
6 New Jersey Automobile Full Insurance Underwriting Association
7 created pursuant to section 16 of P.L.1983, c.65 (C.17:30E-4), by the
8 Market Transition Facility created pursuant to section 88 of P.L.1990,
9 c.8 (C.17:33B-11), and by any insurance plan established to provide
10 private passenger automobile insurance pursuant to section 1 of
11 P.L.1970, c.215 (C.17:29D-1). No surcharges shall be imposed on or
12 after the operative date of this act, unless there is an at-fault accident
13 within a three-year period immediately preceding the effective date of
14 coverage which results in payment by the insurer of at least a \$300.00
15 claim. All moneys collected under this subsection shall be retained by
16 the insurer assessing the surcharge. Accident surcharges shall be
17 imposed for a three-year period and shall, for each filer, be uniform on
18 a Statewide basis without regard to classification or territory.

19 b. There is created a New Jersey Merit Rating Plan which shall
20 apply to all drivers and shall include, but not be limited to, the
21 following provisions:

22 (1) (a) Plan surcharges shall be levied, beginning on or after
23 January 1, 1984, by the Division of Motor Vehicles on any driver who
24 has accumulated, within the immediately preceding three-year period,
25 beginning on or after February 10, 1983, six or more motor vehicle
26 points, as provided in Title 39 of the Revised Statutes, exclusive of
27 any points for convictions for which surcharges are levied under
28 paragraph (2) of this subsection; except that the allowance for a
29 reduction of points in Title 39 of the Revised Statutes shall not apply
30 for the purpose of determining surcharges under this paragraph.
31 Surcharges shall be levied for each year in which the driver possesses
32 six or more points. Surcharges assessed pursuant to this paragraph
33 shall be \$100.00 for six points, and \$25.00 for each additional point.

34 (b) (Deleted by amendment, P.L.1984, c.1.)

35 (2) Plan surcharges shall be levied for convictions (a) under
36 R.S.39:4-50 for violations occurring on or after February 10, 1983,
37 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
38 offenses committed in other jurisdictions of a substantially similar
39 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
40 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.
41 Except as hereinafter provided, surcharges under this paragraph shall
42 be levied annually for a three-year period, and shall be \$1,000.00 per
43 year for each of the first two convictions, for a total surcharge of
44 \$3,000 for each conviction, and \$1,500.00 per year for the third
45 conviction occurring within a three-year period, for a total surcharge
46 of \$4,500 for the third conviction. If a driver is convicted under both

1 R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for
2 offenses arising out of the same incident, the driver shall be assessed
3 only one surcharge for the two offenses.

4 If, upon written notification from the Division of Motor Vehicles,
5 mailed to the last address of record with the division, a driver fails to
6 pay a surcharge levied under this subsection, the license of the driver
7 shall be suspended forthwith until the surcharge is paid to the Division
8 of Motor Vehicles; except that the Division of Motor Vehicles may
9 authorize payment of the surcharge on an installment basis over a
10 period not to exceed 12 months. If a driver fails to pay the surcharge
11 or any installments on the surcharge, the total surcharge shall become
12 due immediately.

13 The director may authorize any person to pay the surcharge levied
14 under this section by use of a credit card, and the director is
15 authorized to require the person to pay all costs incurred by the
16 division in connection with the acceptance of the credit card.

17 In addition to any other remedy provided by law, the director is
18 authorized to utilize the provisions of the SOIL (Setoff of Individual
19 Liability) program established pursuant to P.L.1981, c.239
20 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section
21 that is unpaid on or after the effective date of this act. As an
22 additional remedy, the director may issue a certificate to the Clerk of
23 the Superior Court stating that the person identified in the certificate
24 is indebted under this surcharge law in such amount as shall be stated
25 in the certificate. The certificate shall reference the statute under
26 which the indebtedness arises. Thereupon the clerk to whom such
27 certificate shall have been issued shall immediately enter upon the
28 record of docketed judgments the name of such person as debtor; the
29 State as creditor; the address of such person, if shown in the
30 certificate; the amount of the debt so certified; a reference to the
31 statute under which the surcharge is assessed, and the date of making
32 such entries. The docketing of the entries shall have the same force
33 and effect as a civil judgment docketed in the Superior Court, and the
34 director shall have all the remedies and may take all of the proceedings
35 for the collection thereof which may be had or taken upon the
36 recovery of a judgment in an action, but without prejudice to any right
37 of appeal. Upon entry by the clerk of the certificate in the record of
38 docketed judgments in accordance with this provision, interest in the
39 amount specified by the court rules for post-judgment interest shall
40 accrue from the date of the docketing of the certificate, however
41 payment of the interest may be waived by the director. In the event
42 that the surcharge remains unpaid following the issuance of the
43 certificate of debt and the director takes any further collection action
44 including referral of the matter to the Attorney General or his
45 designee, the fee imposed, in lieu of the actual cost of collection, may
46 be 20 percent of the surcharge or \$200, whichever is greater. The

1 director shall provide written notification to a driver of the proposed
2 filing of the certificate of debt 10 days prior to the proposed filing;
3 such notice shall be mailed to the driver's last address of record with
4 the division.

5 All moneys collectible under this subsection b. shall be billed and
6 collected by the Division of Motor Vehicles except as provided in
7 P.L. c. (C.) (now pending before the Legislature as this bill) for
8 the collection of unpaid surcharges. Of the moneys collected: 10%, or
9 the actual cost of administering the collection of the surcharge,
10 whichever is less, shall be retained by the Division of Motor Vehicles
11 until August 31, 1996; five percent, or the actual cost of administering
12 the cancellation notification system established pursuant to section 50
13 of P.L.1990, c.8 (C.17:33B-41), whichever is less, shall be retained by
14 the Division of Motor Vehicles until August 31, 1996; and prior to
15 October 1, 1991, the remainder shall be remitted to the New Jersey
16 Automobile Full Insurance Underwriting Association and on or after
17 October 1, 1991 until August 31, 1996, the remainder shall be remitted
18 to the New Jersey Automobile Insurance Guaranty Fund created
19 pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5). Commencing
20 on September 1, 1996, or such earlier time as the Commissioner of
21 Insurance shall certify to the State Treasurer that amounts on deposit
22 in the New Jersey Automobile Insurance Guaranty Fund are sufficient
23 to satisfy the current and anticipated financial obligations of the New
24 Jersey Automobile Full Insurance Underwriting Association, all plan
25 surcharges collected by the Division of Motor Vehicles under this
26 subsection b. shall be remitted to the Division of Motor Vehicles
27 Surcharge Fund for transfer to the Market Transition Facility Revenue
28 Fund, as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12),
29 for the purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until
30 such a time as all the Market Transition Facility bonds, notes and
31 obligations issued pursuant to that section 4 of that act and the costs
32 thereof are discharged and no longer outstanding. From the date of
33 certification by the Commissioner of Insurance that the moneys
34 collectible under this subsection are no longer needed to fund the
35 association or at such a time as all Market Transition Facility bonds,
36 notes and obligations issued pursuant to section 4 of P.L.1994, c.57
37 (C.34:1B-21.4) and the costs thereof are discharged and no longer
38 outstanding moneys collectible under this subsection shall, subject to
39 appropriation, be remitted to the New Jersey Property-Liability
40 Insurance Guaranty Association created pursuant to section 6 of
41 P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans
42 made by that association to the New Jersey Automobile Insurance
43 Guaranty Fund pursuant to paragraph (10) of subsection a. of section
44 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments
45 shall be subject to and dependent upon appropriation by the State
46 Legislature.

1 (3) In addition to any other authority provided in P.L.1983, c.65
2 (C.17:29A-33 et al.), the commissioner, after consultation with the
3 Director of the Division of Motor Vehicles, is specifically authorized
4 (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in
5 accordance with paragraph (1)(a) of this subsection, surcharges for
6 motor vehicle violations or convictions for which motor vehicle points
7 are not assessed under Title 39 of the Revised Statutes, or (c) to
8 reduce the number of points for which surcharges may be assessed
9 below the level provided in paragraph (1)(a) of this subsection, except
10 that the dollar amount of all surcharges levied under the New Jersey
11 Merit Rating Plan shall be uniform on a Statewide basis for each filer,
12 without regard to classification or territory. Surcharges adopted by the
13 commissioner on or after January 1, 1984 for motor vehicle violations
14 or convictions for which motor vehicle points are not assessable under
15 Title 39 of the Revised Statutes shall not be retroactively applied but
16 shall take effect on the date of the New Jersey Register in which notice
17 of adoption appears or the effective date set forth in that notice,
18 whichever is later.

19 c. No motor vehicle violation surcharges shall be levied on an
20 automobile insurance policy issued or renewed on or after January 1,
21 1984, except in accordance with the New Jersey Merit Rating Plan,
22 and all surcharges levied thereunder shall be assessed, collected and
23 distributed in accordance with subsection b. of this section.

24 d. (Deleted by amendment, P.L.1990, c.8.)

25 e. The Commissioner of Insurance and the Director of the Division
26 of Motor Vehicles as may be appropriate, shall adopt any rules and
27 regulations necessary or appropriate to effectuate the purposes of this
28 section.

29 (cf: P.L.1994, c.64, s.1)

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31 6. This act shall take effect on the 90th day after enactment except
32 for section 4 which shall take effect immediately.

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37 Includes certain surcharges imposed by DMV in matters handled by
38 court enforcement program.