

SENATE, No. 665

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Senator BASSANO

1 AN ACT concerning certain claims against the Unsatisfied Claim and
2 Judgment Fund and amending P.L.1952, c.174.

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

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7 1. Section 10 of P.L.1952, c.174 (C.39:6-70) is amended to read
8 as follows:

9 10. Hearing on application for payment of judgment. The court
10 shall proceed upon such application, in a summary manner, and, upon
11 the hearing thereof, the applicant shall be required to show:

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

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

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

22 (d) He was not at the time of the accident, the owner or registrant
23 of an uninsured motor vehicle, or was not operating a motor vehicle
24 in violation of an order of suspension or revocation,

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

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

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

33 (h) He has caused to be issued a writ of execution upon said
34 judgment and the sheriff or officer executing the same has made a

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

Matter underlined thus is new matter.

1 return showing that no personal or real property of the judgment
2 debtor, liable to be levied upon in satisfaction of the judgment, could
3 be found or that the amount realized on the sale of them or of such of
4 them as were found, under said execution, was insufficient to satisfy
5 the judgment, stating the amount so realized and the balance remaining
6 due on the judgment after application thereon of the amount realized,

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

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

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

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

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

40 (n) In order to recover for noneconomic loss, as defined in section
41 2 of P.L.1972, c.70 (C.39:6A-2) for accidents to which the benefits of
42 sections 7 and 10 of P.L.1972, c.198 (C. 39:6-86.1 and C.39:6-86.4)
43 apply, the injured person shall have sustained an injury described in
44 subsection [a.]b. of section 8 of P.L.1972, c.70 (C.39:6A-8).

45 Whenever the applicant satisfies the court that it is not possible to
46 comply with one or more of the requirements enumerated in

1 subsections (h) and (i) of this section and that the applicant has taken
2 all reasonable steps to collect the amount of the judgment or the
3 unsatisfied part thereof and has been unable to collect the same, the
4 court may dispense with the necessity for complying with such
5 requirements.

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

9 (cf: P.L.1988, c.119, s.19)

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11 2. This act shall take effect immediately and shall apply to any
12 injury occurring on or after that date.

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STATEMENT

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17 This bill amends the "Unsatisfied Claim and Judgment Fund Law,"
18 P.L.1952, c.174 (C.39:6-61 et seq.), so that the "zero dollar" tort
19 threshold will apply to those persons who must recover damages for
20 noneconomic loss from the fund. Presently under the "no-fault law,"
21 P.L.1972, c.70 (C.39:6A-1 et seq.), a person who is eligible for
22 personal injury protection (PIP) benefits as the result of an accident
23 caused by an automobile, but who is not required to maintain such
24 coverage and who is not an immediate family member of a named
25 insured, is granted the "zero dollar" threshold option under subsection
26 b. of section 8 of the no-fault law (C.39:6A-8). This means that the
27 person need not suffer the more serious types of injuries, and therefore
28 need not meet the more onerous "verbal threshold" option as provided
29 in subsection a. of that section to collect for noneconomic loss, also
30 known as "pain and suffering." However, an injured person forced to
31 make a claim against the Unsatisfied Claim and Judgment Fund
32 (UCJF), because he is not required to maintain coverage and is not
33 covered under another policy, is subject to the verbal threshold. This
34 bill changes the law to apply the zero dollar threshold to the UCJF
35 claimant and thus treat the two injured parties in the same manner.

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40 Applies zero dollar threshold to certain claims against UCJF for
41 noneconomic loss.