

SENATE, No. 2090

STATE OF NEW JERSEY

INTRODUCED MAY 15, 1997

By Senator CARDINALE

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. This act shall be known and may be cited as the "Automobile
8 Insurance Consumer's Choice Act of 1997."

9

10 2. (New section) The Legislature finds and declares:

11 a. The original purpose of the "no-fault" system of automobile
12 insurance system was to ensure that persons injured in automobile
13 accidents were compensated for medical expenses, lost wages and
14 other economic losses promptly, without regard to fault.

15 b. In the event of an automobile accident, the public interest is
16 served by requiring motorists to have: (1) insurance that will pay
17 certain economic losses, such as necessary medical expenses and lost
18 wages promptly and without regard to fault, and (2) insurance
19 coverage to ensure that drivers can be held responsible for the
20 economic damages caused by their actions.

21 c. The coverages that are required to be purchased should only be
22 those that are essential to protecting these public interests, especially
23 if those losses would otherwise have to be paid by other private or
24 public sources and thus increase the costs to all New Jersey residents.

25 d. While it is important to ensure that all drivers maintain certain
26 essential insurance necessary to protect the public interest, it is also
27 important to ensure that consumers can afford automobile insurance
28 that meets their personal needs.

29 e. It is important that consumers have greater flexibility and choice
30 in determining: (1) the amount and types of coverage that they need
31 to protect their assets; and (2) whether and to what extent they want
32 to be able to receive payments to compensate for pain and suffering
33 resulting from an automobile accident.

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 3. Section 2 of P.L.1952, c.174 (C.39:6-62) is amended to read as
2 follows:

3 2. Definitions. As used in this act:

4 "Executive director" means the official designated by and serving
5 at the pleasure of the commissioner to administer to and be in charge
6 of the Unsatisfied Claim and Judgment Fund and who shall be
7 responsible to the Unsatisfied Claim and Judgment Fund Board.

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

10 "Commissioner" means the Commissioner of Banking and
11 Insurance.

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

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

16 "Qualified person" means a resident of this State or the owner of a
17 motor vehicle registered in this State or a resident of another state,
18 territory, or federal district of the United States or province of Canada
19 or of a foreign country, in which recourse is afforded, to residents of
20 this State, of substantially similar character to that provided for by this
21 act; provided, however, that no person shall be a qualified person
22 [where such person is an insured under a policy provision providing
23 coverage for damages sustained by the insured as a result of the
24 operation of an uninsured motor vehicle in a form authorized to be
25 included in automobile liability policies of insurance delivered or
26 issued for delivery in this State, pursuant to the provisions of, or any
27 supplement to, chapter 28 of Title 17 of the Revised Statutes or in a
28 form substantially similar thereto] who, at the time of the automobile
29 accident resulting in damages to that person, is required to maintain
30 personal injury protection coverage mandated by section 4 of P.L.
31 1972, c. 70 (C. 39:6A-4).

32 "Uninsured motor vehicle" means a motor vehicle as to which there
33 is not in force a liability policy meeting the requirements of section 3,
34 or 26 of the "Motor Vehicle Security-Responsibility Law," P.L.1952,
35 c.173 (C.39:6-25 or C.39:6-48), and which is not owned by a holder
36 of a certificate of self-insurance under said law.

37 "Person" includes natural persons, firms, copartnerships,
38 associations and corporations.

39 "Insurer" means any insurer authorized in this State to write the
40 kinds of insurance specified in paragraphs d. and e. of R.S.17:17-1.

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

1 "Registration license year" means the period beginning June 1,
2 1956, and ending May 31, 1957, and each subsequent 12 month
3 period, beginning June 1 and ending the following May 31.

4 (cf: P.L.1985, c.148, s.3)

5
6 4. Section 9 of P.L.1952, c 174 (C.39:6-69) is amended to read as
7 follows:

8 9. a. When any qualified person recovers a valid judgment in any
9 court of competent jurisdiction in this State against any other person,
10 who was the operator or owner of a motor vehicle, other than an
11 automobile as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), for
12 injury to, death of, any person or persons, or a similar valid judgment
13 in such court against such a defendant for an amount in excess of
14 \$500.00, exclusive of interest and costs, for damage to property,
15 except property of others in charge of such operator or owner or such
16 operator's or owner's employees, arising out of the ownership,
17 maintenance, operation or use of the motor vehicle in this State on or
18 after April 1, 1955, and any amount remains unpaid thereon in the case
19 of a judgment for bodily injury or death, or any amount in excess of
20 \$500.00 remains unpaid thereon in case of a judgment for damage to
21 property, such judgment creditor may, upon the termination of all
22 proceedings, including reviews and appeals in connection with such
23 judgment, file a verified claim in the court in which the judgment was
24 entered, and upon 10 days' written notice to the board may apply to
25 the court for an order directing payment out of the fund, of the amount
26 unpaid upon such judgment for bodily injury or death, which does not
27 exceed, or upon such judgment for damage to property, which exceeds
28 the sum of \$500.00 and does not exceed--

29 [(a)] (1) The maximum amount or limit of \$15,000.00, exclusive
30 of interest and costs, on account of injury to, or death of, one person,
31 in any one accident, and

32 [(b)] (2) The maximum amount or limit, subject to such limit for
33 any one person so injured or killed, of \$30,000.00, exclusive of
34 interest and costs, on account of injury to, or death of, more than one
35 person, in any one accident, and

36 [(c)] (3) The maximum amount or limit of \$5,000.00, exclusive of
37 interest and costs, for damage to property in any one accident.

38 b. When any qualified person recovers a valid judgment in any
39 court of competent jurisdiction in this State against any other person
40 who was the operator or owner of an automobile, as defined in section
41 2 of P.L.1972, c.70 (C.39:6A-2), for economic loss, arising out of the
42 ownership, maintenance, operation or use of the automobile in this
43 State on or after the effective date of P.L. , c. (now before the
44 Legislature as this bill), and any amount remains unpaid thereon, that
45 judgment creditor may, upon the termination of all proceedings,
46 including reviews and appeals in connection with that judgment, and

1 upon 10 days' written notice to the board, may apply to the court for
2 an order directing payment out of the fund, of the amount unpaid upon
3 the judgment for economic loss, which does not exceed the maximum
4 amount or limit of \$15,000, exclusive of interest and costs, for
5 economic loss in any one accident.

6 (cf: P.L.1988, c.119,s.15)

7

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (n) [In order to recover for noneconomic loss, as defined in section
30 2 of P.L.1972, c.70 (C.39:6A-2) for accidents to which the benefits of
31 sections 7 and 10 of P.L.1972, c.198 (C.39:6-86.1 and C.39:6-86.4)
32 apply, the injured person shall have sustained an injury described in
33 subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8).] Deleted by
34 amendment. P.L. , c. .)

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

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

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

1 6. Section 13 of P.L.1952, c.174 (C.39:6-73) is amended to read
2 as follows:

3 13. a. Except with respect to medical expense benefits paid
4 pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1), no order shall
5 be made for the payment of a claim pursuant to subsection a. of
6 section 9 of P.L.1952, c.174 (C.39:6-69) and the treasurer shall make
7 no payment, out of the fund, of

8 [(a)] (1) Any claim for damage to property for less than \$500.00,

9 [(b)] (2) The first \$500.00 of any judgment for damage to property
10 or of the unsatisfied portion thereof, or

11 [(c)] (3) The unsatisfied portion of any judgment which, after
12 deducting \$500.00 therefrom if the judgment is for damage to
13 property, exceeds

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

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

21 [(3)] (c) the maximum amount or limit of \$5,000.00, exclusive of
22 interest and costs, for damage to property in any one accident;
23 provided, that such maximum amounts shall be reduced by any amount
24 received or recovered as specified in subsection (m) of section 10 of
25 P.L.1952, c.174 (C.39:6-70).

26 [(d)] (4) Any claim for damage to property which includes any sum
27 greater than the difference between said maximum amounts and the
28 sum of \$500.00, and any amount paid out of the fund in excess of the
29 amount so authorized may be recovered by the treasurer in an action
30 brought to him against the person receiving the same.

31 b. No order shall be made for payment of a claim pursuant to
32 subsection b. of section 9 of P.L.1952, c.174 (C.39:6-69) and the
33 treasurer shall make no payment out of the fund of the unsatisfied
34 portion of any judgment which exceeds the maximum limit of \$15,000,
35 exclusive of interest and costs, for economic loss in any one accident;
36 provided that the maximum amount shall be reduced by any amount
37 received or recovered as specified in subsection (m) of section 10 of
38 P.L.1952, c.174 (C.39:6-70).

39 Any claim for economic loss which includes any amount paid out of
40 the fund in excess of the amount so authorized may be recovered by
41 the treasurer in an action brought by him against the person receiving
42 the same.

43 (cf: P.L.1988, c.119, s.16)

44

45 7. Section 24 of P.L.1952, c.174 (C.39:6-84) is amended to read
46 as follows:

1 24. a. When a judgment is obtained against the commissioner, in
2 an action brought under [this act] P.L.1952, c.174 (C.39:6-61 et seq.
3 for a claim arising out of the ownership, maintenance, operation or use
4 of a motor vehicle, other than an automobile, upon the determination
5 of all proceedings including appeals and reviews, the court shall make
6 an order directed to the treasurer directing him to pay out of the fund
7 to the plaintiff in the action the amount thereof which does not exceed
8 \$15,000.00, exclusive of interest and costs, on account of injury to, or
9 death of, one person and, subject to such limits for the death of, or
10 injury to, any one person, does not exceed \$30,000.00, exclusive of
11 interest and costs, on account of the injury to, or death of, more than
12 one person, in any one accident, provided that such maximum amount
13 shall be reduced by any amount received or recovered by the plaintiff
14 as specified in subparagraph (m) of section 10 of P.L.1952, c.174
15 (C.39:6-70).

16 b. When a judgment is obtained against the commissioner in an
17 action brought under P.L.1952, c.174 (C. 39:6-61 et seq.) for a claim
18 arising out of the ownership, maintenance, operation or use of an
19 automobile, upon the determination of all proceedings including
20 appeals and reviews, the court shall make an order directed to the
21 treasurer directing him to pay the plaintiff in the action the amount
22 thereof which does not exceed \$15,000, exclusive of interest and
23 costs, on account of economic loss in any one accident, provided that
24 the maximum shall be reduced by any amount received or recovered
25 by the plaintiff as specified in subparagraph (m) of section 10 of
26 P.L.1952, c.174 (C.39:6-70).

27 (cf: P.L.1985, c.148, s.17)

28

29 8. Section 2 of P.L.1972, c.70 (C.39:6A-2) is amended to read as
30 follows:

31 2. Definitions. As used in this act:

32 a. "Automobile" means a private passenger automobile of a private
33 passenger or station wagon type that is owned or hired and is neither
34 used as a public or livery conveyance for passengers nor rented to
35 others with a driver; and a motor vehicle with a pickup body, a
36 delivery sedan, a van, or a panel truck or a camper type vehicle used
37 for recreational purposes owned by an individual or by husband and
38 wife who are residents of the same household, not customarily used in
39 the occupation, profession or business of the insured other than
40 farming or ranching. An automobile owned by a farm family
41 copartnership or corporation, which is principally garaged on a farm
42 or ranch and otherwise meets the definitions contained in this section,
43 shall be considered a private passenger automobile owned by two or
44 more relatives resident in the same household.

45 b. "Essential services" means those services performed not for
46 income which are ordinarily performed by an individual for the care

- 1 and maintenance of such individual's family or family household.
- 2 c. "Income" means salary, wages, tips, commissions, fees and
3 other earnings derived from work or employment.
- 4 d. "Income producer" means a person who, at the time of the
5 accident causing personal injury or death, was in an occupational
6 status, earning or producing income.
- 7 e. "Medical expenses" means expenses for medical treatment,
8 surgical treatment, dental treatment, professional nursing services,
9 hospital expenses, rehabilitation services, X-ray and other diagnostic
10 services, prosthetic devices, ambulance services, medication and other
11 reasonable and necessary expenses resulting from the treatment
12 prescribed by persons licensed to practice medicine and surgery
13 pursuant to R.S.45:9-1 et seq., dentistry pursuant to R.S.45:6-1 et
14 seq., psychology pursuant to P.L.1966, c.282 (C.45:14B-1 et seq.) or
15 chiropractic pursuant to [P.L.1953, c.233 (C.45:9-41.1 et seq.)]
16 P.L.1989, c.153 (C.45:9-41.7 et seq.) or by persons similarly licensed
17 in other states and nations or any nonmedical remedial treatment
18 rendered in accordance with a recognized religious method of healing.
- 19 f. "Hospital expenses" means:
- 20 (1) The cost of a semiprivate room, based on rates customarily
21 charged by the institution in which the recipient of benefits is confined;
- 22 (2) The cost of board, meals and dietary services;
- 23 (3) The cost of other hospital services, such as operating room;
24 medicines, drugs, anesthetics; treatments with X-ray, radium and other
25 radioactive substances; laboratory tests, surgical dressings and
26 supplies; and other medical care and treatment rendered by the
27 hospital;
- 28 (4) The cost of treatment by a physiotherapist;
- 29 (5) The cost of medical supplies, such as prescribed drugs and
30 medicines; blood and blood plasma; artificial limbs and eyes; surgical
31 dressings, casts, splints, trusses, braces, crutches; rental of wheelchair,
32 hospital bed or iron lung; oxygen and rental of equipment for its
33 administration.
- 34 g. "Named insured" means the person or persons identified as the
35 insured in the policy and [, if an individual,] his or her spouse, if the
36 spouse is named as a resident of the same household, except that if the
37 spouse ceases to be a resident of the household of the named insured,
38 coverage shall be extended to the spouse for the full term of any policy
39 period in effect at the time of the cessation of residency. For the
40 purpose of electing coverage options provided pursuant to sections 10
41 and 14 of P.L. , c. (C. and)(now before the Legislature
42 as this bill), section 13 of P.L.1983, c.362 (C.39:6A-4.3), section 14
43 of P.L.1985, c.520 (C.39:6A-4.5), section 14.1 of P.L.1983, c.362
44 (C.39:6A-8.1), and section 10 of P.L.1972, c.70 (C.39:6A-10),
45 "named insured" means a natural person.
- 46 h. "Pedestrian" means any person who is not occupying, entering

1 into, or alighting from a vehicle propelled by other than muscular
2 power and designed primarily for use on highways, rails and tracks.
3 i. "Noneconomic loss" means pain, suffering and inconvenience.
4 j. "Motor vehicle" means a motor vehicle as defined in R.S.39:1-1,
5 exclusive of an automobile as defined in subsection a. of this section.
6 k. "Economic loss" means any objectively verifiable pecuniary loss,
7 including, but not limited to: (1) past and future medical expenses, loss
8 of income, expenses for essential services, funeral expenses, less any
9 benefits paid pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4),
10 section 10 of P.L.1972, c.70 (C.39:6A-10) or any other collateral
11 source pursuant to section 1 of P.L.1987, c.326 (C.2A:15-97); and (2)
12 the cost to repair or replace property that was damaged or destroyed.
13 "Economic loss" does not include the deductible and copayment
14 applicable to medical expense benefit payments pursuant to section 4
15 of P.L.1972, c.70 (C.39:6A-4).
16 (cf: P.L.1983, c.362, s.6)

17
18 9. Section 3 of P.L.1972, c.70 (C.39:6A-3) is amended to read as
19 follows:

20 3. Compulsory automobile insurance coverage; limits. Every
21 owner or registered owner of an automobile registered or principally
22 garaged in this State whose automobile liability insurance coverage
23 was issued or renewed prior to the effective date of P.L. , c (now
24 before the Legislature as this bill) shall maintain automobile liability
25 insurance coverage, under provisions approved by the Commissioner
26 of Banking and Insurance, insuring against loss resulting from liability
27 imposed by law for bodily injury, death and property damage sustained
28 by any person arising out of the ownership, maintenance, operation or
29 use of an automobile wherein such coverage shall be at least in:

30 a. an amount or limit of \$15,000.00, exclusive of interest and
31 costs, on account of injury to, or death of, one person, in any one
32 accident; and

33 b. an amount or limit, subject to such limit for any one person so
34 injured or killed, of \$30,000.00, exclusive of interest and costs, on
35 account of injury to or death of, more than one person, in any one
36 accident; and

37 c. an amount or limit of \$5,000.00, exclusive of interest and costs,
38 for damage to property in any one accident.

39 No licensed insurance carrier shall refuse to renew the required
40 coverage stipulated by this act of an eligible person as defined in
41 section 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance with
42 the provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1) or
43 with the consent of the Commissioner of Banking and Insurance.

44 (cf: P.L.1990, c.8, s.3)

45

46 10. (New section) Every owner or registered owner of an

1 automobile registered or principally garaged in this State whose
2 automobile liability insurance expires on or after the effective date of
3 P.L. , c. (now before the Legislature as this bill) shall maintain
4 one of the following types of automobile liability insurance coverage
5 insuring against loss resulting from liability arising out of the
6 ownership, maintenance, operation or use of an automobile, under
7 provisions approved by the Commissioner of Banking and Insurance:

8 a. Basic Coverage, which shall be applicable to policies issued to
9 named insureds electing Option A or B pursuant to subsection a. or b.
10 of section 14 of P.L. , c. (C.)(now before the Legislature as
11 this bill), and which shall be required to be maintained: (1) in an
12 amount or limit of at least \$15,000 single limit coverage, exclusive of
13 interest and costs, for (a) liability on account of economic loss,
14 including property damage, in any one accident in which an exemption
15 from tort liability for noneconomic loss applicable to such options
16 applies, and (b) liability on account of economic and noneconomic
17 loss, including property damage, in any one accident in which the
18 exemption from tort liability for noneconomic loss applicable to such
19 options does not apply; and (2) in an amount or limit to satisfy the
20 minimum requirements for liability for economic and noneconomic loss
21 imposed by any other state or province of Canada, whenever the
22 automobile insured under the policy is used or operated in those
23 jurisdictions.

24 b. (1) Extended Coverage, which shall be applicable to policies
25 issued to named insureds electing Option C or D pursuant to
26 subsection c. or d. of section 14 of P.L. , c. (C.)(now before
27 the Legislature as this bill) and which shall provide coverage for
28 economic and noneconomic loss in an amount or limit of at least:

29 (a) \$15,000, exclusive of interest and costs, on account of injury
30 to, or death of, one person, in any one accident; and

31 (b) \$30,000, exclusive of interest and costs, subject to the limit in
32 subparagraph (a) of paragraph (1) of subsection b. of this section for
33 any one person so injured or killed, on account of injury to or death
34 of, more than one person, in any one accident; and

35 (c) \$5,000, exclusive of interest and costs, for damage to property
36 in any one accident.

37 (2) Extended coverage shall also include coverage for
38 noneconomic loss of any person entitled to recover in a tort action in
39 which the tortfeasor is exempt from tort liability for noneconomic loss
40 as a result of being subject to Option A or B pursuant to subsection a.
41 or b. of section 14 of P.L. , c. (C.)(now before the Legislature
42 as this bill).

43 (3) Extended coverage shall also provide coverage in an amount or
44 limit to satisfy the minimum requirements for liability for economic and
45 noneconomic loss imposed by any other state or province of Canada,
46 whenever the automobile insured under the policy is used or operated

1 in those jurisdictions.

2 No licensed insurance carrier shall refuse to renew the coverage
3 required by P.L.1972, c.70 (C.39:6A-1 et seq.) of an eligible person
4 as defined in section 25 of P.L.1990, c.8 (C.17:33B-13), except in
5 accordance with the provisions of section 26 of P.L.1988, c.119
6 (C.17:29C-7.1) or with the consent of the Commissioner of Banking
7 and Insurance.

8

9 11. (New section) Every insurer writing automobile insurance in
10 this State, with respect to any policy issued or renewed before the
11 effective date of P.L. , c. (now before the Legislature as this bill)
12 which will expire after that effective date, shall include in those
13 policies an endorsement providing coverage for noneconomic loss
14 payable to an owner, registrant, operator or occupant of the
15 automobile and to any other person entitled to recovery in a tort action
16 in which the tortfeasor is exempt from tort liability for noneconomic
17 loss as a result of being subject to Option A or B pursuant to
18 subsection a. or b. of section 14 of P.L. , c. (C.)(now before
19 the Legislature as this bill). The endorsement shall provide coverage
20 for noneconomic loss in an amount which is at least equal to the
21 named insured's uninsured motorist coverage.

22 b. Under terms and conditions specified by the Commissioner of
23 Banking and Insurance, every insurer shall file a copy of the
24 endorsement and the amount of additional premium to be charged for
25 the endorsement, if any, with the commissioner no later than 90 days
26 before it is to be issued to policyholders. If the commissioner does not
27 disapprove the filing by the end of the 90-day period, it shall be
28 deemed approved.

29

30 12. Section 14 of P.L.1985, c.520 (C.39:6A-4.5) is amended to
31 read as follows:

32 14. a. (1) Any person who, at the time of an automobile accident
33 resulting in injuries to that person, is required but fails to maintain
34 [medical expense benefits coverage] ~~personal injury protection~~
35 coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4) shall
36 [: a. For the purpose of filing an action for recovery of noneconomic
37 loss, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), be subject
38 to the tort option specified in subsection a. of section 8 of P.L.1972,
39 c.70 (C.39:6A-8)] ~~have no cause of action for recovery of economic~~
40 or noneconomic loss sustained as a result of an accident while
41 occupying, entering into, alighting from or using an automobile.

42 (2) Any person who is required to, but fails to maintain personal
43 injury protection coverage mandated by section 4 of P.L.1972, c.70
44 (C.39:6A-4) shall be liable for noneconomic loss to a person who
45 maintains that coverage, or is a person who has the right to receive
46 benefits under section 4 of P.L.1972, c.70 (C.39:6A-4),

1 notwithstanding the fact that the injured person is subject to the tort
2 option in subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8) or
3 Option A, B or C in subsection a., b. or c. of section 14 of P.L. ,
4 c. (C.)(now before the Legislature as this bill), except that the
5 injured person who is subject to Option B in subsection b. of section
6 14 of P.L. , c. (C.)(now before the Legislature as this bill),
7 may elect to receive payment for noneconomic loss under the benefit
8 schedule in lieu of pursuing a cause of action against that operator.

9 b. [(Deleted by amendment, P.L.1988, c.119.)] (1) Any person
10 who is convicted of, or pleads guilty to, operating a motor vehicle in
11 violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a),
12 or a similar statute from any other jurisdiction, in connection with an
13 accident, shall have no cause of action for recovery of economic or
14 noneconomic loss sustained as a result of the accident.

15 (2) Notwithstanding any tort limitations established as a result of
16 the election of subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-
17 8) or Option A, B or C in subsection a., b. or c. of section 14
18 of P.L. , c. (C.)(now before the Legislature as this bill) by
19 either a tortfeasor or an injured party, any person injured in an
20 accident by an operator of an automobile who is convicted of or pleads
21 guilty to a violation of R.S.39:4-50, section 2 of P.L.1981, c.512
22 (C.39:4-50.4a), or a similar statute from any other jurisdiction, shall
23 have a cause of action for recovery of noneconomic loss resulting from
24 any injuries sustained in the accident. Notwithstanding the other
25 provisions of this subparagraph (2), any injured person who is subject
26 to Option B in subsection b. of section 14 of P.L. , c. (C.)(now
27 before the Legislature as this bill) may elect to receive payment for
28 noneconomic loss under the benefit schedule in lieu of instituting an
29 action against the tortfeasor.

30 c. Any person acting with specific intent of causing injury to
31 himself or others in the operation or use of an automobile shall have
32 no cause of action for recovery of economic or noneconomic loss
33 sustained as a result of an accident arising from such conduct and shall
34 be liable for noneconomic loss to any person injured in the accident
35 notwithstanding the tort option pursuant to section 8 of P.L.1972,
36 c.70 (C.39:6A-8) or section 14 of P.L. , c. (C.)(now before
37 the Legislature as this bill) that applies to the injured person, except
38 that the injured person who is subject to Option B in subsection b. of
39 section 14 of P.L. , c. (C.)(now before the Legislature as
40 this bill), may elect to receive payment for noneconomic loss under the
41 benefit schedule in lieu of instituting an action against the tortfeasor.

42 d. Any person who is not required to maintain personal injury
43 protection coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-
44 4) and is not a resident relative in the household of a named insured
45 who has made a selection pursuant to section 14.1 of P.L.1983, c.362
46 (C.39:6A-8.1) under an automobile insurance policy shall be subject

1 to Option D in subsection d. of section 14 of P.L. , c. (C.)(now
2 before the Legislature as this bill).

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

4

5 13. Section 8 of P.L.1972, c 70 (C.39:6A-8) is amended to read as
6 follows:

7 8. Tort exemption; limitation on the right to noneconomic loss.

8 One of the following two tort options shall be elected, in
9 accordance with section 14.1 of P.L.1983, c.362 (C.39:6A-8.1), by
10 any named insured required to maintain personal injury protection
11 coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4):

12 a. Every owner, registrant, operator or occupant of an automobile
13 to which section 4 of P.L.1972, c.70 (C.39:6A-4), personal injury
14 protection coverage, regardless of fault, applies, and every person or
15 organization legally responsible for his acts or omissions, is hereby
16 exempted from tort liability for noneconomic loss to a person who is
17 subject to this subsection and who is either a person who is required
18 to maintain the coverage mandated by this act, or is a person who has
19 a right to receive benefits under section 4 of P.L.1972, c.70
20 (C.39:6A-4), as a result of bodily injury, arising out of the ownership,
21 operation, maintenance or use of such automobile in this State, unless
22 that person has sustained a personal injury which results in death;
23 dismemberment; significant disfigurement; a fracture; loss of a fetus;
24 permanent loss of use of a body organ, member, function or system;
25 permanent consequential limitation of use of a body organ or member;
26 significant limitation of use of a body function or system; or a
27 medically determined injury or impairment of a non-permanent nature
28 which prevents the injured person from performing substantially all of
29 the material acts which constitute that person's usual and customary
30 daily activities for not less than 90 days during the 180 days
31 immediately following the occurrence of the injury or impairment; or

32 b. As an alternative to the basic tort option specified in subsection
33 a. of this section, every owner, registrant, operator, or occupant of an
34 automobile to which section 4 of P.L.1972, c.70 (C.39:6A-4) applies,
35 and every person or organization legally responsible for his acts or
36 omissions, shall be liable for noneconomic loss to a person who is
37 subject to this subsection and who is either a person who is required
38 to maintain the coverage mandated by P.L.1972, c.70 (C.39:6A-1 et
39 seq.) or is a person who has a right to receive benefits under section
40 4 of that act (C.39:6A-4), as a result of bodily injury, arising out of the
41 ownership, operation, maintenance or use of such automobile in this
42 State.

43 The tort option provisions of subsection b. of this section shall also
44 apply to the right to recover for noneconomic loss of any person
45 eligible for benefits pursuant to section 4 of P.L.1972, c.70
46 (C.39:6A-4) but who is not required to maintain personal injury

1 protection coverage and is not an immediate family member, as defined
2 in section 14.1 of P.L.1983, c.362 (C.39:6A-8.1), under an automobile
3 insurance policy.

4 The tort option provisions of subsection a. of this section shall also
5 apply to any person subject to section 14 of P.L.1985, c.520
6 (C.39:6A-4.5).

7 The tort option provisions of subsections a. and b. of this section
8 [as provided in this 1988 amendatory and supplementary act] shall
9 apply to automobile insurance policies issued or renewed [on or after
10 January 1, 1989 and as otherwise provided by law] prior to the
11 effective date of P.L. . c. (now before the Legislature as this bill).
12 (cf: P.L.1990, c.8, s.9)

13

14 14. (New section) Any insurer authorized to transact automobile
15 insurance in this State shall offer the following four tort options for
16 automobile insurance policies issued or renewed on or after the
17 effective date of P.L. , c. (now before the Legislature as this bill).
18 One of the following four tort options shall be elected in accordance
19 with section 14.1 of P.L.1983, c.362 (C.39:6A-8.1), by any named
20 insured required to maintain personal injury protection coverage
21 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4):

22 a. Option A. Economic Choice. Every owner, registrant, operator
23 or occupant of an automobile to which section 4 of P.L.1972, c.70
24 (C.39:6A-4) applies, who is covered by Option A, and every person or
25 organization legally responsible for that person's acts or omissions, is
26 hereby exempt from tort liability for noneconomic loss to a person
27 who is required to maintain the automobile insurance coverage
28 mandated by P.L.1972, c.70 (C.39:6A-1 et seq.), or who has a right
29 to receive benefits under section 4 of P.L.1972, c.70 (C.39:6A-4),
30 arising out of the ownership, operation, maintenance or use of an
31 automobile in this State. No owner, registrant, operator or occupant,
32 who is covered by Option A, shall have a cause of action for
33 noneconomic loss arising out of his ownership, operation, maintenance
34 or use of an automobile in this State, except as otherwise provided
35 pursuant to section 14 of P.L.1985, c.520 (C.39:6A-4.5).

36 b. Option B. Schedule of First Party Benefits for Noneconomic
37 Loss. (1) Every owner, registrant, operator or occupant of an
38 automobile to which section 4 of P.L.1972, c.70 (C.39:6A-4) applies,
39 who is covered by Option B, and every person or organization legally
40 responsible for that person's acts or omissions, is hereby exempt from
41 tort liability for noneconomic loss to a person who is required to
42 maintain the automobile insurance coverage mandated by P.L.1972,
43 c.70 (C.39:6A-1 et seq.), or who has a right to receive benefits under
44 section 4 of P.L.1972, c.70 (C.39:6A-4), arising out of the ownership,
45 operation, maintenance or use of an automobile in this State, except
46 as otherwise provided pursuant to section 14 of P.L.1985, c.520

1 (C.39:6A-4.5). No owner, registrant, operator or occupant, who is
2 covered by Option B, shall have a cause of action for noneconomic
3 loss arising out of the ownership, operation, maintenance or use of an
4 automobile in this State, except as otherwise provided pursuant to
5 section 14 of P.L.1985, c.520 (C.39:6A-4.5). A person, who is
6 covered by Option B, may, as provided in this subsection, receive
7 payment for noneconomic loss for bodily injuries arising out of the
8 ownership, operation, maintenance or use of an automobile in this
9 State, without regard to fault, pursuant to a schedule of benefits
10 promulgated by the Commissioner of Banking and Insurance by
11 regulation. The benefit schedule shall establish a reimbursement
12 amount for noneconomic loss for specific injuries sustained in an
13 automobile accident. Additional benefits for reimbursement for
14 noneconomic loss in multiples of up to three times the basic scheduled
15 amounts may be elected by the named insured. No benefits for
16 noneconomic loss provided for under this subsection shall be payable
17 to an operator of an automobile who suffers injury in an automobile
18 accident and who is convicted of, or pleads guilty to, operating a
19 motor vehicle in violation of R.S.39:4-50, section 2 of P.L.1981, c.512
20 (C.39:4-50.4a) or a similar statute from any other jurisdiction, or to
21 any person acting with specific intent of causing injury to himself or
22 others in the operation of an automobile.

23 (2) The commissioner shall revise the schedule of benefits for
24 reimbursement for noneconomic loss from time to time, but not less
25 than once in every three-year period. Reimbursement shall be made on
26 the basis of the scheduled benefit amounts in effect at the time the
27 injury occurred.

28 c. Option C. Serious Injury Threshold. Every owner, registrant,
29 operator or occupant of an automobile to which section 4 of P.L.1972,
30 c.70 (C.39:6A-4) applies, who is covered by Option C, and every
31 person or organization legally responsible for that person's acts or
32 omissions, shall have no cause of action for noneconomic loss against
33 a person who is either required to maintain the automobile insurance
34 coverage mandated by P.L.1972, c.70 (C.39:6A-1 et seq.), or who has
35 a right to receive benefits under section 4 of P.L.1972, c.70
36 (C.39:6A-4), arising out of the ownership, operation, maintenance or
37 use of an automobile in this State, unless the person covered by Option
38 C has sustained a bodily injury which results in death, serious
39 impairment of body function, or permanent serious disfigurement. For
40 the purposes of this section, serious impairment of body function
41 means an objectively manifested impairment of an important body
42 function that affects the person's general ability to lead his normal life.
43 No owner, registrant, operator or occupant, who is covered by Option
44 C, shall be liable for noneconomic loss arising out of his ownership,
45 operation, maintenance or use of an automobile in this State to any
46 person subject to Option A or B in subsection a. or b. of this section,

1 except as otherwise provided pursuant to section 14 of P.L.1985,
2 c.520 (C.39:6A-4.5). Except as provided in section 14 of P.L.1985,
3 c.520 (C.39:6A-4.5), an owner, registrant, operator or occupant who
4 is subject to Option C and otherwise satisfies the requirements of this
5 subsection shall have a cause of action for noneconomic loss arising
6 out of the ownership, operation, maintenance or use of an automobile
7 in this State against any person not otherwise exempt from such
8 liability pursuant to Option A or B in subsection a. or b. of this
9 section.

10 The issue of whether an injured person has suffered serious
11 impairment of body function or permanent serious disfigurement is a
12 question of law for the court if the court finds either of the following:

13 (1) There is no factual dispute concerning the nature and extent of
14 the person's injuries; or

15 (2) There is a factual dispute concerning the nature and extent of
16 the person's injuries, but the dispute is not material to the
17 determination as to whether the person has suffered a serious
18 impairment of body function or permanent serious disfigurement.
19 However, for a closed-head injury, a question of fact for the jury is
20 created if a licensed allopathic or osteopathic physician who regularly
21 diagnoses or treats closed-head injuries testifies under oath that there
22 may be a serious neurological injury.

23 d. Option D. Full Lawsuit Recovery. Every owner, registrant,
24 operator or occupant of an automobile to which section 4 of P.L.1972,
25 c.70 of P.L.1972, c.70 (C.39:6A-4) applies, who is covered by Option
26 D, and every person or organization legally responsible for that
27 person's acts or omissions, shall not be liable for noneconomic loss to
28 a person who is subject to Option A or B in subsection a. or b. of this
29 section, except as provided in section 14 of P.L.1985, c.520
30 (C.39:6A-4.5). Except as provided in section 14 of P.L.1985, c.520
31 (C.39:6A-4.5), an owner, registrant, operator or occupant who is
32 subject to Option D shall have a cause of action for noneconomic loss
33 arising out of the ownership, operation, maintenance or use of an
34 automobile in this State against any person not otherwise exempt from
35 that liability pursuant to Option A or B in subsection a. or b. of this
36 section.

37 No provision of this section shall be construed to limit the right to
38 receive punitive damages as a measure of relief requested pursuant to
39 section 1 of P.L.1995, c.142 (C.2A:15-5.9 et seq.).

40

41 15. Section 14.1 of P.L.1983, c.362 (C.39:6A-8.1) is amended to
42 read as follows:

43 14.1. Election of tort option. a. Election of a tort option pursuant
44 to section [8 of P.L.1972, c.70 (C.39:6A-8)] 14 of P.L.____, c.____
45 (C.____)(now before the Legislature as this bill) shall be in writing and
46 signed by the named insured on the coverage selection form required

1 by section 17 of P.L.1983, c.362 (C.39:6A-23). The form shall state
2 the percentage difference in the premium rates or the dollar savings
3 ~~[between] among~~ the ~~[two] four~~ tort options. The tort option elected
4 shall apply to the named insured and any ~~[immediate family]~~ member
5 ~~of his family~~ residing in the named insured's household [."Immediate
6 family member" means the spouse of the named insured and any child
7 of the named insured or spouse residing in the named insured's
8 household,] who is not a named insured under another automobile
9 insurance policy.

10 b. If a named insured of an automobile insurance policy issued
11 prior to the effective date of P.L. , c. (now before the Legislature
12 as this bill) has a tort option provided in subsection a. or b. of section
13 8 of P.L.1972, c.70 (C.39:6A-8), and fails to elect, in writing, any of
14 the tort options offered pursuant to section 14 of P.L. , c.
15 (C.)(now before the Legislature as this bill), the named insured shall
16 be deemed to select Option C in subsection c. of section 14 of
17 P.L. , c. (C.)(now before the Legislature as this bill) if the
18 prior tort option was subsection a. of section 8 of P.L.1972, c.70
19 (C.39:6A-8), and Option D in subsection d. of section 14 of P.L. ,
20 c. (now before the Legislature as this bill) if the prior tort option
21 was subsection b. of section 8 of P.L.1972, c.70 (C.39:6A-8). If the
22 named insured fails to elect, in writing, any of the tort options offered
23 pursuant to section 8 of P.L.1972, c.70 (C.39:6A-8), the named
24 insured shall be deemed to elect the tort option of subsection a. of that
25 section 8. If a person is not a named insured of an automobile
26 insurance policy on the day prior to the effective date of P.L. , c.
27 (now before the Legislature as this bill) and fails to elect, in writing,
28 any of the tort options offered pursuant to section 14 of P.L. , c.
29 (C.)(now before the Legislature as this bill), the named insured
30 shall be deemed to elect Option C in subsection c. of that section 14.

31 c. The tort option elected by a named insured for an automobile
32 policy issued or renewed on or after [January 1, 1989] the effective
33 date of P.L. , c. (now before the Legislature as this bill) shall
34 continue in force as to subsequent renewal or replacement policies
35 until the insurer or its authorized representative receives a properly
36 executed form electing the other tort option.

37 d. The tort option elected by the named insured shall apply to all
38 automobiles owned by the named insured and to any ~~[immediate~~
39 ~~family]~~ member of his family residing in the named insured's household
40 who is not a named insured under another automobile insurance
41 policy, except that in the case where more than one policy is applicable
42 to the named insured or ~~[immediate]~~ family member, and the policies
43 have different tort options, the tort option elected by the injured
44 named insured shall apply or, in the case of ~~[an immediate]~~ a family
45 member who is not a named insured and is injured in an accident
46 involving an automobile to which a policy issued to a named insured

1 in the household of the injured [immediate] family member applies, the
2 tort option elected by that named insured shall apply.

3 e. Notwithstanding any other provision of law to the contrary, no
4 person, including, but not limited to, an insurer, an insurance producer
5 as defined in section 2 of P.L.1987, c.293 (C.17:22A-2), a servicing
6 carrier or non-insurer servicing carrier acting in that capacity pursuant
7 to P.L.1983, c.65 (C.17:30E-1 et seq.), and the New Jersey
8 Automobile Full Insurance Underwriting Association created pursuant
9 to P.L.1983, c.65 (C.17:30E-1 et seq.), shall be liable in an action for
10 damages on account of the election of a tort option by a named
11 insured or on account of the tort option imposed pursuant to
12 subsection b. of this section or otherwise imposed by law. Nothing in
13 this subsection shall be deemed to grant immunity to any person
14 causing damage as the result of his willful, wanton or grossly negligent
15 act of commission or omission.

16 [In the case of automobile insurance policies in force on January 1,
17 1989, notice] Notice of the tort options available pursuant to [the
18 aforesaid] section [8] 14 of P.L. , c. (now before the Legislature
19 as this bill) shall be given in accordance with section 17 of P.L.1983,
20 c.362 (C.39:6A-23).
21 (cf: P.L.1988, c.119, s.7)

22

23 16. Section 16 of P.L.1983, c.362 (C.39:6A-22) is amended to
24 read as follows:

25 16. Powers of exchange. a. The exchange shall be empowered to
26 raise sufficient moneys (1) to pay its operating expenses, and (2) to
27 compensate members of the exchange for claims paid for noneconomic
28 loss, and associated claim adjustment expenses, which would not have
29 been incurred had the tort limitation option provided in subsection b.
30 of section 8 of P.L.1972, c.70 (C.39:6A-8) or, in the case of policies
31 issued or renewed on or after January 1, 1989 but prior to the effective
32 date of P.L. , c. (now before the Legislature as this bill),
33 subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8), or, in the
34 case of policies issued or renewed on or after the effective date of
35 P.L. , c. (now before the Legislature as this bill), Option C in
36 subsection c. of section 14 of P.L. , c. (C.) (now before the
37 Legislature as this bill), been elected by the injured party filing the
38 claim for noneconomic loss.

39 b. In order to enable the exchange to meet its obligations under
40 subsection a. of this section, every member insurer or servicing carrier
41 of the New Jersey Automobile Full Insurance Underwriting
42 Association shall forward on a monthly basis, within 15 days of the
43 close of the member's accounting month, a charge, to be known as the
44 AIRE charge, in an amount and manner to be prescribed by the board
45 of directors.

46 AIRE charge amounts required to be paid to the exchange in

1 accordance with this subsection shall, in the case of those amounts
2 determined by the board of directors to be applicable during the period
3 from July 1, 1984 to the effective date of P.L.1985, c.520, be paid to
4 the exchange within 60 days of that date.

5 A 10% per annum penalty charge shall be assessed by the exchange
6 on any overdue AIRE charges.

7 c. The board of directors shall establish guidelines by which
8 members or servicing carriers and the exchange may verify the tort
9 limitation options elected by claimants.

10 d. Moneys collected by or otherwise available to the exchange shall
11 be invested as hereinafter provided in section 12 of P.L.1985, c.520
12 (C.39:6A-22.1).

13 e. The exchange shall have such powers as may be necessary or
14 appropriate to effectuate the purposes of the exchange.

15 (cf: P.L.1988, c.119, s.31)

16
17 17. Section 1 of P.L.1972, c.197 (C.39:6B-1) is amended to read
18 as follows:

19 1. Every owner or registered owner of a motor vehicle, other than
20 an automobile, registered or principally garaged in this State shall
21 maintain motor vehicle liability insurance coverage, under provisions
22 approved by the Commissioner of Banking and Insurance, insuring
23 against loss resulting from liability imposed by law for bodily injury,
24 death and property damage sustained by any person arising out of the
25 ownership, maintenance, operation or use of a motor vehicle, other
26 than an automobile, wherein such coverage shall be at least in: a. an
27 amount or limit of \$15,000.00, exclusive of interest and costs, on
28 account of injury to, or death of, one person, in any one accident; and
29 b. an amount or limit, subject to such limit for any one person so
30 injured or killed, of \$30,000.00, exclusive of interest and costs, on
31 account of injury to or death of, more than one person, in any one
32 accident; and c. an amount or limit of \$5,000.00, exclusive of interest
33 and costs, for damage to property in any one accident.

34 For purposes of P.L.1972, c.197 (C.39:6B-1 et seq.), "automobile"
35 means an automobile as defined in section 2 of P.L.1972, c.70
36 (C.39:6A-2).

37 (cf: P.L.1972, c.197, s.1)

38
39 18. Section 2 of P.L.1972, c.197 (C.39:6B-2) is amended to read
40 as follows:

41 2. Any owner or registrant of a motor vehicle, including an
42 automobile, registered or principally garaged in this State who
43 operates or causes to be operated a motor vehicle upon any public
44 road or highway in this State without motor vehicle liability insurance
45 coverage required by this act or section 10 of P.L. , c. (C.)(now
46 before the Legislature as this bill), and any operator who operates or

1 causes a motor vehicle to be operated and who knows or should know
2 from the attendant circumstances that the motor vehicle is without
3 motor vehicle liability insurance coverage required by this act or
4 section 10 of P.L. , c. (C.)(now before the Legislature as this
5 bill) shall be subject, for the first offense, to a fine of [\$300.00] not
6 less than \$300 nor more than \$1000 and a period of community service
7 to be determined by the court, and shall forthwith forfeit his right to
8 operate a motor vehicle over the highways of this State for a period of
9 one year from the date of conviction. Upon subsequent conviction, he
10 shall be subject to a fine of [\$500.00] up to \$5,000 and shall be
11 subject to imprisonment for a term of 14 days and shall be ordered by
12 the court to perform community service for a period of 30 days, which
13 shall be of such form and on such terms as the court shall deem
14 appropriate under the circumstances, and shall forfeit his right to
15 operate a motor vehicle for a period of two years from the date of his
16 conviction, and, after the expiration of said period, he may make
17 application to the Director of the Division of Motor Vehicles for a
18 license to operate a motor vehicle, which application may be granted
19 at the discretion of the director. The director's discretion shall be
20 based upon an assessment of the likelihood that the individual will
21 operate or cause a motor vehicle to be operated in the future without
22 the insurance coverage required by this act. A complaint for violation
23 of this act may be made to a municipal court at any time within six
24 months after the date of the alleged offense.

25 Failure to produce at the time of trial an insurance identification
26 card or an insurance policy which was in force for the time of
27 operation for which the offense is charged[,] creates a rebuttable
28 presumption that the person was uninsured when charged with a
29 violation of this section.

30 [Notwithstanding any provision of P.L.1972, c.197 (C.39:6B-1 et
31 seq.), any person who violates the provisions of that act, from October
32 1, 1990 through January 31, 1991, shall not be subject to any of the
33 penalties or sanctions provided for a first violation of that act if that
34 person produces at the time of trial an insurance identification card or
35 a motor vehicle liability insurance policy which is in force at the time
36 of the trial and the conviction for that person's offense would be the
37 person's first conviction for an offense under that act. The
38 Commissioner of Insurance shall appropriately promote and advertise
39 this limited time amnesty program for first-time offenses under that act
40 throughout the State.]

41 (cf: P.L.1990, c.8, s.49)

42

43 19. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read
44 as follows:

45 2. a. No motor vehicle liability policy or renewal of such policy of
46 insurance, [including] excluding a liability policy for an automobile as

1 defined in section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against
2 loss resulting from liability imposed by law for bodily injury or death,
3 sustained by any person arising out of the ownership, maintenance,
4 operation or use of a motor vehicle, shall be issued in this State with
5 respect to any motor vehicle registered or principally garaged in this
6 State unless it includes coverage in limits for bodily injury or death as
7 follows:

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

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

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

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

38 b. Uninsured and underinsured motorist coverage shall be provided
39 as an option by an insurer to the named insured up to at least the
40 following limits: \$250,000.00 each person and \$500,000.00 each
41 accident for bodily injury; \$100,000.00 each accident for property
42 damage or \$500,000.00 single limit, subject to an exclusion of the first
43 \$500.00 of such damage to property for each accident, except that the
44 limits for uninsured and underinsured motorist coverage shall not
45 exceed the insured's motor vehicle liability policy limits for bodily
46 injury and property damage, respectively.

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

4 c. Uninsured and underinsured motorist coverage provided for in
5 this section shall not be increased by stacking the limits of coverage of
6 multiple motor vehicles covered under the same policy of insurance
7 nor shall these coverages be increased by stacking the limits of
8 coverage of multiple policies available to the insured. If the insured
9 had uninsured motorist coverage available under more than one policy,
10 any recovery shall not exceed the higher of the applicable limits of the
11 respective coverages and the recovery shall be prorated between the
12 applicable coverages as the limits of each coverage bear to the total of
13 the limits.

14 d. Uninsured and underinsured motorist coverage shall be subject
15 to the policy terms, conditions and exclusions approved by the
16 Commissioner of Banking and Insurance, including, but not limited to,
17 unauthorized settlements, nonduplication of coverage, subrogation and
18 arbitration.

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

38 (2) "uninsured motor vehicle" means:

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

42 (b) a motor vehicle with respect to the ownership, operation,
43 maintenance, or use of which there is bodily injury liability insurance
44 in existence but the liability insurer denies coverage or is unable to
45 make payment with respect to the legal liability of its insured because
46 the insurer has become insolvent or bankrupt, or the Commissioner of

1 Banking and Insurance has undertaken control of the insurer for the
2 purpose of liquidation; or

3 (c) a hit and run motor vehicle as described in section 18 of
4 P.L.1952, c.74 (C.39:6-78).

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

17 f. The provisions of this section shall not apply to the uninsured
18 and underinsured motorist coverages for automobiles, as defined in
19 section 2 of P.L.1972, c.70 (C.39:6A-2).

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

21

22 20. (New section) a. Any insurer authorized to transact
23 automobile insurance in this State shall offer basic coverage in an
24 amount or limit of at least \$15,000, exclusive of interest and costs, on
25 account of loss in any one accident that satisfies the requirements of
26 subsection a. of section 10 of P.L. , c. (C.)(now before
27 the Legislature as this bill), under provisions approved by the
28 Commissioner of Banking and Insurance, for payment of all or part of
29 the sums which the insured or his legal representative shall be legally
30 entitled to recover from the operator or owner of an uninsured motor
31 vehicle, or hit and run motor vehicle, as defined of section 18 of P.L.
32 1952, c. 174 (C.39:6-78), caused by accident and arising out of the
33 ownership, maintenance, operation or use of such uninsured or hit and
34 run vehicle anywhere in the United States or Canada.

35 In addition, insurers shall offer to named insureds extended
36 coverages for loss in at least an amount or limit that satisfies the
37 requirements of subsection b. of section 10 of P.L. , c. (C.)(now
38 before the Legislature as this bill).

39 b. Uninsured and underinsured motorist coverage shall be provided
40 by an insurer as an option to the named insured up to at least the
41 following limits: \$250,000 each person and \$500,000 each accident
42 for bodily injury; \$100,000 each accident for property damage or
43 \$500,000 single limit, subject to an exclusion of the first \$500 of such
44 damage to property for each accident, except that the limits for
45 uninsured and underinsured motorist coverage shall not exceed the
46 insured's automobile liability policy limits for bodily injury and

1 property damage, respectively. If the named insured is subject to
2 Option A or B in subsection a. or b. of section 14 of P.L. , c.
3 (C.)(now before the Legislature as this bill), and fails to elect, in
4 writing, any option offered pursuant to this subsection, the named
5 insured shall be deemed to have rejected uninsured and underinsured
6 motorist coverage. If the named insured is subject to Option C or D
7 in subsection c. or d. of section 14 of P.L. , c. (C.) (now
8 before the Legislature as this bill), and fails to elect, in writing, any
9 option offered pursuant to this subsection, the named insured shall be
10 deemed to elect uninsured and underinsured motorist coverage in
11 amounts or limits equal to the named insured's automobile liability
12 coverage.

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

16 c. Uninsured and underinsured motorist coverage provided for in
17 this section shall not be increased by stacking the limits of coverage of
18 multiple motor vehicles covered under the same policy of insurance,
19 nor shall these coverages be increased by stacking the limits of
20 coverage of multiple policies available to the insured. If the insured
21 had uninsured and underinsured motorist coverage available under
22 more than one policy, any recovery shall not exceed the higher of the
23 applicable limits of the respective coverages and the recovery shall be
24 prorated between the applicable coverages as the limits of each
25 coverage bear to the total of the limits.

26 d. Uninsured and underinsured motorist coverage shall be subject
27 to the policy terms, conditions and exclusions approved by the
28 Commissioner of Banking and Insurance, including, but not limited to,
29 unauthorized settlements, nonduplication of coverage, subrogation and
30 arbitration.

31 e. For the purpose of this section:

32 (1) "underinsured motorist coverage" means insurance for damages
33 resulting from an accident arising out of the ownership, maintenance,
34 operation or use of an underinsured motor vehicle. Underinsured
35 motorist coverage shall not apply to an uninsured motor vehicle. A
36 motor vehicle is underinsured when the sum of the limits of coverage
37 under all bonds and insurance policies available to a person against
38 whom recovery is sought is, at the time of the accident, less than the
39 applicable limits for underinsured motorist coverage afforded under
40 the automobile insurance policy held by the person seeking that
41 recovery. A motor vehicle shall not be considered an underinsured
42 motor vehicle under this section unless the limits of all motor vehicle
43 insurance or bonds applicable at the time of the accident have been
44 exhausted by payment of settlements or judgments. The limits of
45 underinsured motorist coverage available to an injured person shall be
46 reduced by the amount he has recovered under all motor vehicle

1 insurance or bonds;

2 (2) "uninsured motor vehicle" means:

3 (a) a motor vehicle with respect to the ownership, operation,
4 maintenance, or use of which there is no insurance or bond applicable
5 at the time of the accident;

6 (b) a motor vehicle with respect to the ownership, operation,
7 maintenance, or use of which there is insurance in existence but the
8 insurer denies coverage or is unable to make payment with respect to
9 the claims against its insured because the insurer has become insolvent
10 or bankrupt, or the Commissioner of Banking and Insurance has
11 undertaken control of the insurer for the purpose of liquidation; or

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

14 "Uninsured motor vehicle" shall not include an underinsured motor
15 vehicle; a motor vehicle owned by or furnished for the regular use of
16 the named insured or any resident of the same household; a self-insurer
17 within the meaning of any financial responsibility or similar law of the
18 state in which the motor vehicle is registered or principally garaged;
19 a motor vehicle which is owned by the United States or Canada, or a
20 state, political subdivision or agency of those governments or any of
21 the foregoing; a land motor vehicle or trailer operated on rails or
22 crawler treads; a motor vehicle used as a residence or stationary
23 structure and not as a vehicle; or equipment or vehicles designed for
24 use principally off public roads, except while actually upon public
25 roads.

26

27 21. Section 1 of P.L.1970, c.217 (C.17:22-6.14a) is amended to
28 read as follows:

29 1. a. In the event that a policy is canceled by the insurer, either at
30 its own behest or at the behest of the agent or broker of record, the
31 unearned premium, including the unearned commission, shall be
32 returned to the policyholder.

33 b. In the event that a policy of insurance, issued by the automobile
34 insurance plan established pursuant to P.L.1970, c.215 (C.17:29D-1)
35 or any successor thereto, is canceled by reason of nonpayment of
36 premium to the insurer issuing the policy or nonpayment of an
37 installment payment due pursuant to an insurance premium finance
38 agreement, the broker of record for that policy may retain the full
39 annual commission due thereon and, if a premium finance agreement
40 is not involved, the effective date of cancellation of the policy shall be
41 no earlier than 10 days prior to the last full day for which the premium
42 paid by the insured, net of the broker's full annual commission, would
43 pay for coverage on a pro rata basis in accordance with rules
44 established by the commissioner.

45 c. Contracts between insurance companies and agents for the
46 appointment of the agent as the representative of the company shall set

1 forth the rate of commission to be paid to the agent for each class of
2 insurance within the scope of such appointment written on all risks or
3 operations in this State, except:

- 4 (1) Reinsurance.
- 5 (2) Life insurance.
- 6 (3) Annuities.
- 7 (4) Accident and health insurance.
- 8 (5) Title insurance.
- 9 (6) Mortgage guaranty insurance.
- 10 (7) Hospital service, medical service, health service, or dental
11 service corporations, investment companies, mutual benefit
12 associations, or fraternal beneficiary associations.

13 Said rates of commission shall continue in force and effect unless
14 changed by mutual written consent or until termination of said contract
15 as hereinafter provided. Failure to achieve such mutual consent shall
16 require that the agent's contract be terminated as hereinbelow
17 provided. The rate of commission being paid on each class of
18 insurance on the date of enactment hereof shall be deemed to be
19 pursuant to the existing contract between agent and company.

20 d. Termination of any such contract for any reason other than one
21 excluded herein shall become effective after not less than 90 days'
22 notice in writing given by the company to the agent and the
23 Commissioner of Banking and Insurance. No new business or changes
24 in liability on renewal or in force business, except as provided in
25 subsection l. of this section, shall be written by the agent for the
26 company after notice of termination without prior written approval of
27 the company. However, during the term of the agency contract,
28 including the said 90-day period, the company shall not refuse to
29 renew such business from the agent as would be in accordance with
30 said company's current underwriting standards. The company shall,
31 during a period of 12 months from the effective date of such
32 termination, provided the former agent has not been replaced as the
33 broker of record by the insured, and upon request in writing of the
34 terminated agent, renew all contracts of insurance for such agent for
35 said company as may be in accordance with said company's then
36 current underwriting standards and pay to the terminated agent a
37 commission in accordance with the agency contract in effect at the
38 time notice of termination was issued. Said commission can be paid
39 only to the holder of a valid New Jersey insurance producer's license.
40 In the event any risk shall not meet the then current underwriting
41 standards of said company, that company may decline its renewal,
42 provided that the company shall give the terminated agent and the
43 insured not less than 60 days' notice of its intention not to renew said
44 contract of insurance.

45 e. The agency termination provisions of this act shall not apply to
46 those contracts:

1 (1) in which the agent is paid on a salary basis without commission
2 or where he agrees to represent exclusively one company or to the
3 termination of an agent's contract for insolvency, abandonment, gross
4 and willful misconduct, or failure to pay over to the company moneys
5 due to the company after his receipt of a written demand therefor, or
6 after revocation of the agent's license by the Commissioner of Banking
7 and Insurance; and in any such case the company shall, upon request
8 of the insured, provided he meets the then current underwriting
9 standards of the company, renew any contract of insurance formerly
10 processed by the terminated agent, through an active agent, or directly
11 pursuant to such rules and regulations as may be promulgated by the
12 Commissioner of Banking and Insurance, or

13 (2) which are entered into between a qualified insurer and a UEZ
14 agent pursuant to section 29 of P.L. , c. (C.)(now before the
15 Legislature as Senate, No. 2091 of `1997).

16 f. The Commissioner of Banking and Insurance, on the written
17 complaint of any person stating that there has been a violation of this
18 act, or when he deems it necessary without a complaint, may inquire
19 and otherwise investigate to determine whether there has been any
20 violation of this act.

21 g. All existing contracts between agent and company in effect in
22 the State of New Jersey on the effective date of this act are subject to
23 all provisions of this act.

24 h. The Commissioner of Banking and Insurance may, if he
25 determines that a company is in unsatisfactory financial condition,
26 exclude such company from the provisions of this act.

27 i. Whenever under this act it is required that the company shall
28 renew a contract of insurance, the renewal shall be for a time period
29 equal to one additional term of the term specified in the original
30 contract, but in no event to be less than one year.

31 j. The provisions of subsection b. of this section shall not apply to
32 policies written by the New Jersey Automobile Full Insurance
33 Underwriting Association established pursuant to sections 13 through
34 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

35 k. The New Jersey Automobile Full Insurance Underwriting
36 Association established pursuant to sections 13 through 34 of
37 P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any
38 commission required by subsection b. of this section on any policies
39 written by the association prior to January 1, 1986.

40 l. A company which terminates its contractual relationship with an
41 agent subject to the provisions of subsection d. of this section shall, at
42 the time of the agent's termination, with respect to insurance covering
43 an automobile as defined in subsection a. of section 2 of P.L.1972,
44 c.70 (C.39:6A-2), notify each named insured whose policy is serviced
45 by the terminated agent in writing of the following: (1) that the
46 agent's contractual relationship with the company is being terminated

1 and the effective date of that termination; and (2) that the named
2 insured may (a) continue to renew and obtain service through the
3 terminated agent; or (b) renew the policy and obtain service through
4 another agent of the company.

5 Notwithstanding any provision of this section to the contrary, no
6 insurance company which has terminated its contractual relationship
7 with an agent subject to subsection d. of this section shall, upon the
8 expiration of any automobile insurance policy renewed pursuant to
9 subsection d. of this section which is required to be renewed pursuant
10 to section 3 of P.L.1972, c.70 (C.39:6A-3) or section 10 of P.L. _____,
11 c. _____ (C. _____)(now before the Legislature as this bill), refuse to renew,
12 accept additional or replacement vehicles, refuse to provide changes
13 in the limits of liability or refuse to service a policyholder in any other
14 manner which is in accordance with the company's current
15 underwriting standards, upon the written request of the agent or as
16 otherwise provided in this section, provided the agent maintains a valid
17 New Jersey insurance producer's license and has not been replaced as
18 the broker of record by the insured. However, nothing in this section
19 shall be deemed to prevent nonrenewal of an automobile insurance
20 policy pursuant to the provisions of section 26 of P.L.1988, c.119
21 (C.17:29C-7.1).

22 The company shall pay a terminated agent who continues to service
23 policies pursuant to the provisions of this subsection a commission in
24 an amount not less than that provided for under the agency contract
25 in effect at the time the notice of termination was issued. A terminated
26 agent who continues to service automobile insurance policies pursuant
27 to this subsection shall be deemed to be an insurance broker as defined
28 in section 2 of P.L.1987, c.293 (C.17:22A-2), and not an agent of the
29 company, except that the terminated agent shall have the authority to
30 bind coverage for renewals, additional or replacement vehicles, and for
31 changed limits of liability as provided in this subsection to the same
32 extent as an active agent for the company. The company shall provide
33 the terminated agent with a written copy of its current underwriting
34 guidelines during the time the agent continues to service policies
35 pursuant to this subsection.

36 If a terminated agent who is continuing to service policies pursuant
37 to the provisions of this subsection violates the written underwriting
38 guidelines of the company in such a manner or with such frequency as
39 to substantially affect the company's ability to underwrite or provide
40 coverage, the company may discontinue accepting renewal and service
41 requests from, and paying commissions to, the terminated agent;
42 provided, however, that the company provides the terminated agent
43 with at least 45 days' written notice which shall include a detailed
44 explanation of the reasons for discontinuance. A copy of this notice,
45 along with supporting documentation providing evidence that the
46 terminated agent received proper notice of discontinuance pursuant to

1 this subsection and evidence in support of the company's action, shall
2 be sent by the company to the Division of Enforcement and Consumer
3 Protection in the Department of Banking and Insurance.

4 The provisions of this subsection shall not apply to any policy
5 issued by the New Jersey Automobile Full Insurance Underwriting
6 Association created pursuant to the provisions of P.L.1983, c.65
7 (C.17:30E-1 et seq.).

8 m. A qualified insurer which terminates its contractual relationship
9 with its UEZ agent pursuant to section 29 of P.L. , c. (C.)
10 (now before the Legislature as Senate, No. 2091 of 1997) shall
11 terminate its relationship in accordance with the following provisions:

12 (1) The qualified insurer shall give the UEZ agent at least 60 days'
13 written notice of termination. Notice of termination shall be on a form
14 prescribed by the commissioner and shall indicate the date of
15 termination and the reason for the termination. A copy of the notice
16 of termination shall be sent to the commissioner.

17 (2) Notwithstanding the provisions of this section and section 26
18 of P.L.1988, c.119 (C.17:29C-7.1), a qualified insurer may refuse to
19 renew the business written through a UEZ agent in an orderly and
20 non-discriminatory manner over the course of at least a three-year
21 period provided that such refusals to renew in each year shall not
22 exceed one-third of a terminated UEZ agent's book of business on the
23 effective date of termination of its relationship with its UEZ agent. A
24 qualified insurer intending to refuse renewal business written by a
25 terminated UEZ agent shall notify the commissioner prior to the date
26 of the UEZ agent's termination.

27 (3) The terminated UEZ agent who continues to service
28 automobile insurance policies shall continue to receive commissions
29 for any renewal business pursuant to the terms of the contract in force
30 with the qualified insurer at the time of termination, provided that the
31 UEZ agent maintains a valid New Jersey insurance producer's license
32 and has not been replaced as the broker of record by the insured. A
33 terminated UEZ agent who continues to service automobile insurance
34 policies shall be deemed to be an insurance broker and not the agent
35 of the qualified insurer.

36 (cf: P.L.1989, c.129, s.1)

37
38 22. Section 14 of P.L.1988, c.156 (C.17:29A-15.2) is amended to
39 read as follows:

40 14. Notwithstanding any other provision of law to the contrary, the
41 dollar amount of the commission paid to a producer for [residual
42 bodily injury] liability coverage provided pursuant to section [8 of
43 P.L.1972, c.70 (C.39:6A-8)] 14 of P.L. , c. (C.)(now
44 before the Legislature as this bill) shall be the same whether the named
45 insured elects [the tort option provided for in subsection a. of that
46 section or the tort option provided for in subsection b. of that section]

1 Option A, B, C or D of subsection a., b., c. or d. in section 14 of
 2 P.L. , c. (C.)(now before the Legislature as this bill).
 3 (cf: P.L.1988, c.156, s.14)

4
 5 23. Section 18 of P.L.1985, c.520 (C.17:28-1.4) is amended to
 6 read as follows:

7 8. Any insurer authorized to transact or transacting automobile or
 8 motor vehicle insurance business in this State, or controlling or
 9 controlled by, or under common control by, or with, an insurer
 10 authorized to transact or transacting automobile or motor vehicle
 11 insurance business in this State, which sells a policy providing
 12 automobile or motor vehicle liability insurance coverage, or any similar
 13 coverage, in any other state or in any province of Canada, shall include
 14 [in each policy coverage to satisfy at least the liability insurance
 15 requirements of section 1 of P.L.1972, c.197 (C.39:6B-1) or section
 16 3 of P.L.1972, c.70 (C.39:6A-3), the uninsured motorist insurance
 17 requirements of subsection a. of section 2 of P.L.1968, c.385
 18 (C.17:28-1.1), and personal injury protection benefits coverage
 19 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) or of section 19
 20 of P.L.1983, c.362 (C.17:28-1.3)]; (1) in each motor vehicle liability
 21 insurance policy, other than an automobile insurance policy, coverage
 22 to satisfy at least the liability insurance requirement of section 1 of
 23 P.L.1972, c.197 (C.39:6B-1) and the uninsured motorist requirement
 24 of subsection a. of section 2 of P.L.1968, c.385 (C.17:28-1.1); and (2)
 25 in each automobile liability insurance policy, coverage to satisfy the
 26 requirements of subsection b. of section 10 of P.L. , c. (C.)
 27 (now before the Legislature as this bill) and section 4 of
 28 P.L.1972, c.70 (C.39:6A-4), whenever the automobile or motor
 29 vehicle insured under the policy is used or operated in this State.

30 Any liability insurance policy subject to this section shall be
 31 construed as providing the coverage required herein [, and any] . Any
 32 named insured, and any [immediate family] member [as defined in
 33 section 14.1 of P.L.1983, c.362 (C.39:6A-8.1)] of his family residing
 34 in the named insured's household, under that policy, shall be subject to
 35 [the tort option] Option C specified in subsection [a.] c. of section [8
 36 of P.L.1972, c.70 (C.39:6A-8)] 14 of P.L. , c. (C.)(now
 37 before the Legislature as this bill).

38 Each insurer authorized to transact or transacting automobile or
 39 motor vehicle insurance business in this State and subject to the
 40 provisions of this section shall, within 30 days of the effective date of
 41 [P.L.1985, c.520] P.L. , c. (now before the Legislature as this
 42 bill), file and maintain with the Department of Banking and Insurance
 43 written certification of compliance with the provisions of this section.

44 "Automobile" means an automobile as defined in section 2 of
 45 P.L.1972, c.70 (C.39:6A-2).

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

1
2 24. Section 13 of P.L.1983, c.362 (C.39:6A-4.3) is amended to
3 read as follows:

4 13. Personal injury protection coverage options. With respect to
5 personal injury protection coverage provided on an automobile in
6 accordance with section 4 of P.L.1972, c.70 (C.39:6A-4), the
7 automobile insurer shall provide the following coverage options:

8 a. Medical expense benefit deductibles in amounts of \$500.00,
9 \$1,000.00 and \$2,500.00 for any one accident;

10 b. [The option to exclude all benefits offered under subsections b.,
11 c., d., and e. of section 4;] (Deleted by amendment, P.L. , c. .)

12 c. (Deleted by amendment, P.L.1988, c.119.)

13 d. For policies issued or renewed on or after January 1, 1991, the
14 option that other health insurance coverage or benefits of the insured,
15 including health care services provided by a health maintenance
16 organization and any coverage or benefits provided under any federal
17 or State program, are the primary coverage in regard to medical
18 expense benefits pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4).
19 If health insurance coverage or benefits are primary, an automobile
20 insurer providing medical expense benefits under personal injury
21 protection coverage shall be liable for reasonable medical expenses not
22 covered by the health insurance coverage or benefits up to the limit of
23 the medical expense benefit coverage. The principles of coordination
24 of benefits shall apply to personal injury protection medical expense
25 benefits coverage pursuant to this subsection.

26 Insurers shall offer the options provided by subsections a. and b. of
27 this section at appropriately reduced premiums. For policies issued or
28 renewed prior to January 1, 1992, insurers shall offer the option
29 provided by subsection d. of this section at a discount of not less than
30 25% from the base rate applicable to the first \$250,000 of medical
31 expense benefit coverage, and for policies issued or renewed on or
32 after January 1, 1992, insurers shall offer the option at an appropriate
33 discount from the base rate for the amount of medical expense benefit
34 coverage taken.

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

1 deductible required by law or otherwise selected as an option pursuant
2 to subsection a. of this section, any copayment required by law and an
3 additional deductible in the amount of \$750.

4 An option elected by the named insured in accordance with this
5 section shall apply only to the named insured and any resident relative
6 in the named insured's household who is not a named insured under
7 another automobile insurance policy [, and not to any other person
8 eligible for personal injury protection benefits required to be provided
9 in accordance with section 4 of P.L.1972, c.70 (C.39:6A-4)].

10 In the case of a medical expense benefit deductible, the deductible
11 elected by the named insured shall be satisfied for any one accident,
12 whether the medical expense benefits are paid or provided, in the
13 amount of the deductible, to the named insured or to one or more
14 resident relatives in the named insured's household who are not named
15 insureds under another insurance policy, or to any combination
16 thereof.

17 Medical expense benefits payable in any amount between the
18 deductible selected pursuant to subsection a. of this section and
19 \$5,000.00 shall be subject to a copayment of 20%.

20 No insurer or health provider providing benefits to an insured who
21 has elected a deductible pursuant to subsection a. of this section shall
22 have a right of subrogation for the amount of benefits paid pursuant
23 to a deductible elected thereunder or any applicable copayment.

24 The Commissioner of Banking and Insurance shall adopt rules and
25 regulations to effectuate the purposes of this section and may
26 promulgate standards applicable to the coordination of personal injury
27 protection medical expense benefits coverage.

28 (cf: P.L.1990, c.8, s.6)

29

30 25. (New section) The Commissioner of Banking and Insurance
31 may promulgate regulations and other administrative processes
32 necessary to effectuate the purposes of this amendatory and
33 supplementary act, including, but not limited to, procedures governing
34 rating system filings to implement this amendatory and supplementary
35 act.

36

37 26. Section 14 of P.L.1972, c.70 (C.39:6A-14) is repealed.

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39 27. This act shall take effect one year following the date of
40 enactment, except that section 25 shall take effect immediately.

STATEMENT

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3 This bill, entitled the "Automobile Insurance Consumer's Choice
4 Act of 1997," is intended to address specific problems of affordability
5 and availability in New Jersey's automobile insurance market. It
6 provides consumers with new, lower cost options that will satisfy
7 compulsory insurance requirements.

8 Current New Jersey law requires that all automobiles maintain
9 insurance, including personal injury protection (PIP), liability and
10 uninsured motorists' (UM) coverage. PIP pays necessary medical
11 expenses up to \$250,000 per person per accident, and reimburses for
12 lost wages and essential services up to a limit selected by the insured.
13 Liability coverage pays both uncovered economic and noneconomic
14 bodily injury and property damage claims to others when the driver is
15 negligent. UM pays the policyholder's own liability claims when
16 injured by another negligent driver who has no liability coverage.

17 If New Jersey law compels all motorists to purchase auto insurance,
18 then it should limit the mandated coverages to those that are essential
19 to the public interest, particularly when paying the cost of automobile
20 insurance strains the resources of its citizens. Payment of direct
21 economic losses resulting from auto accidents is essential to the public
22 interest, since these real losses would be paid from other private or
23 public sources if not compensated through auto insurance. Direct
24 economic losses include payment of necessary medical costs and
25 reimbursement for lost wages and essential services. These losses
26 should be paid to the insured and members of the insured's household
27 promptly and without regard to fault.

28 Additionally, each automobile owner should maintain a minimum
29 amount of insurance coverage to compensate economic losses to
30 others when the driver is at fault. These losses include amounts
31 unpaid by the innocent party's own PIP coverage, as well as the cost
32 to repair or replace damaged property, and the losses to persons who
33 are outside the system because they do not own, or do not reside in a
34 household that owns, an automobile.

35 The bill retains the most important aspect of "no fault," that is, the
36 timely payment of certain economic losses, such as medical expenses
37 and lost wages, to an insured and members of the insured's household
38 in the event of an automobile accident. However, the bill gives a
39 consumer more choice in determining the extent of his or her own
40 insurance coverage.

41 Automobile insurance coverage selections authorized by this bill
42 would include one of the following types:

43 (1) Basic coverage, which would provide at least \$15,000,
44 exclusive of interest and costs, for economic loss in any one accident
45 in which the tort exemption established by this bill applies, provided
46 that whenever the tort exemption does not apply, the minimum

1 coverage would be at least \$15,000, exclusive of interest and costs, for
2 economic and noneconomic loss in any one accident. Furthermore,
3 this policy would have to satisfy the minimum automobile insurance
4 requirements for economic and noneconomic loss of any other state or
5 province of Canada, whenever the automobile is operated in such
6 jurisdictions;

7 (2) Extended coverage, which would provide economic and
8 noneconomic loss coverage of at least \$15,000, exclusive of interest
9 and costs, per person in any one accident; \$30,000, exclusive of
10 interest and costs, for more than one person in any one accident for
11 bodily injury coverage; and \$5,000, exclusive of interest and costs, for
12 property damage coverage in any one accident. In addition, extended
13 coverage would pay the noneconomic losses of persons electing
14 options which permit them to recover for noneconomic loss when a
15 tortfeasor is exempted from liability for noneconomic loss pursuant to
16 this bill. Furthermore, this policy would have to satisfy the minimum
17 automobile insurance requirements for economic and noneconomic
18 loss of any other state or province of Canada, whenever the
19 automobile is operated in such jurisdictions.

20 The bill provides greater choice with regard to limiting lawsuits by
21 allowing consumers to select one of the following four options:

22 Option A: Economic Choice Policy. A consumer selecting Option
23 A could sue for economic loss, but not noneconomic loss. A
24 consumer covered by Option A is exempt from tort liability for
25 noneconomic loss to a person who is either required to maintain PIP
26 coverage or a person who has a right to receive PIP benefits.

27 Option B: Scheduled Benefit Policy. A consumer selecting Option
28 B could sue for economic loss, but not noneconomic loss; however, a
29 consumer covered by Option B would be able to collect a
30 predetermined or scheduled benefit for noneconomic loss from his or
31 her own insurer in accordance with regulations promulgated by the
32 Commissioner. A consumer covered by Option B is exempt from tort
33 liability for noneconomic loss to any person who is either required to
34 maintain PIP coverage or a person who has a right to receive PIP
35 benefits.

36 Option C: Serious Injury Threshold Policy. A consumer selecting
37 Option C could sue for economic loss, and for noneconomic loss if the
38 consumer suffered a serious injury as defined in the bill. A more
39 restrictive verbal threshold is included in this option, which recognizes
40 and addresses the failure of the current verbal threshold to restrict
41 significantly the kinds of injuries intended to be compensated with
42 noneconomic damage awards. An Option C policy would provide
43 coverage for economic and noneconomic losses by Option C or D
44 insureds.

45 Option D: Lawsuit Recovery Policy. A consumer selecting Option
46 D would be able to sue for economic and noneconomic loss without

1 any restriction. An Option D policy would provide coverage for
2 economic and noneconomic losses by Option C or D insureds.

3

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7 "Automobile Insurance Consumer's Choice Act of 1997"