

39:6-62 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:6-62 et al

(UCJ Fund--transfer to
Department of Insurance)

LAWS OF: 1985

CHAPTER: 148

Bill No: A1846

Sponsor(s): Adubato and others

Date Introduced: May 7, 1984

Committee: Assembly: Banking and Insurance

Senate: Labor, Industry and Professions

Amended during passage: Yes

Date of Passage: Assembly: October 18, 1984

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Following statements are attached if available:

Sponsor statement: Yes

~~Attached Assembly~~
~~Statement~~
~~to~~

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

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Reports: No

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ASSEMBLY, No. 1846

STATE OF NEW JERSEY

INTRODUCED MAY 7, 1984

By Assemblymen M. ADUBATO, DEVERIN, LARocca and LOVEYS

AN ACT **[**amending the "Unsatisfied Claim and Judgment Fund Law," approved May 10, 1952 (P. L. 1952, c. 174)**]** **concerning the Unsatisfied Claim and Judgment Fund and making certain interdepartmental transfers and revising parts of the statutory law*.*

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

1 **1. (New section) The Unsatisfied Claim and Judgment Fund*
2 *Board in the Division of Motor Vehicles of the Department of Law*
3 *and Public Safety, established pursuant to P. L. 1952, c. 174*
4 *(C. 39:6-61 et seq.), together with all its functions, powers and*
5 *duties, and the Unsatisfied Claim and Judgment Fund, are trans-*
6 *ferred from the Department of Law and Public Safety to the*
7 *Department of Insurance.*

1 *2. (New section) Except as otherwise provided by law, the*
2 *transfer of the Unsatisfied Claim and Judgment Fund Board and*
3 *the Unsatisfied Claim and Judgment Fund to the Department of*
4 *Insurance shall not affect any rights or protection afforded persons*
5 *under any employment contracts or under any pension or retire-*
6 *ment plan, or any outstanding obligations of, or claims against the*
7 *board or fund.**

1 **[1.]* *3.* Section 2 of P. L. 1952, c. 174 (C. 39:6-62) is amended*
2 *to read as follows:*

3 *2. Definitions. As used in this act:*

4 **["Director" means the Director of the Division of Motor*
5 *Vehicles in the Department of Law and Public Safety.]**

6 *["Manager"] "Executive Director" means the official designated*
7 *by, and serving at the pleasure of the *[director]* *commissioner**

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly amendments adopted October 11, 1984.

8 to administer to and be in charge of the Unsatisfied Claim and
 9 Judgment Fund and who shall be responsible to the Unsatisfied
 10 Claim and Judgment Fund Board.

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

13 "Commissioner" means the Commissioner of **[Banking and]**
 14 Insurance.

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

17 ***[**"Unsatisfied Claim and Judgment Fund Fee"**]** means the addi-
 18 tional fee to be collected under this act as a contribution to the
 19 fund from the owner of a motor vehicle upon the registration
 20 thereof in this State.**]***

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

23 "Qualified person" means a resident of this State or the owner of
 24 a motor vehicle registered in this State or a resident of another
 25 State, territory, or federal district of the United States or
 26 Province of Canada or of a foreign country, in which recourse is
 27 afforded, to residents of this State, of substantially similar charac-
 28 ter to that provided for by this act; provided, however, that no
 29 person shall be a qualified person where such person is an insured
 30 under a policy provision providing coverage for damages sustained
 31 by the insured as a result of the operation of an uninsured motor
 32 vehicle in a form authorized to be included in automobile liability
 33 policies of insurance delivered or issued for delivery in this State,
 34 pursuant to the provisions of, or any supplement to, chapter 28 of
 35 Title 17 of the Revised Statutes or in a form substantially similar
 36 thereto.

37 "Uninsured motor vehicle" means a motor vehicle as to which
 38 there is not in force a liability policy meeting the requirements of
 39 **[sections] section 3**, 24, 25, **]** or 26 of the **[Motor Vehicle Security-**
 40 **Responsibility Law** of this State, established pursuant to the pro-
 41 visions of chapter 173 of the laws of 1952, as amended and supple-
 42 mented **]** "*Motor Vehicle Security-Responsibility Law,*" P. L. 1952,
 43 c. 173 (C. 39:6-25 or C. 39:6-48), and which is not owned by a
 44 holder of a certificate of self-insurance under said law.

45 "Person" includes natural persons, firms, copartnerships, as-
 46 sociations and corporations.

47 "Insurer" means any insurer authorized in this State to write
 48 the kinds of insurance specified in paragraphs d. and e**]**, section
 49 17:17-1 of the Revised Statutes **]**. of R. S. 17:17-1.

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

56 "Registration license year" means the period beginning June 1,
57 1956, and ending May 31, 1957, and each subsequent 12 month
58 period, beginning June 1 and ending the following May 31.

1 *4. Section 3 of P. L. 1952, c. 174 (C. 39:6-63) is amended to
2 read as follows:

3 3. For the purpose of creating and maintaining the fund:

4 (a) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

5 (b) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

6 (c) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

7 (d) On December 30 in each year, [beginning with 1956,] the
8 [director] *commissioner* shall calculate the probable amount which
9 will be needed to carry out the provisions of this act during the
10 ensuing registration license year. In such calculation, he shall take
11 into consideration the amount presently reserved for pending
12 claims, anticipated payments from the fund during said year,
13 anticipated payments from the fund for medical expenses to be
14 made pursuant to section 2 of this act during the two years after
15 said year, anticipated amounts to be reserved for claims pending
16 during said year, amounts transferred to the Division of Motor
17 Vehicles pursuant to section 28 of P. L. 1952, c. 174 (C. 39:6-88), as
18 amended by this 1983 amendatory act, and the desirability of
19 maintaining a surplus over and above such anticipated payments
20 and present and anticipated reserves, such surplus not to exceed
21 the amount actually paid from the fund during the 12 full calendar
22 months immediately preceding the date of calculation. Such
23 probable amount which will be needed to carry out the provisions
24 of this act shall be assessed against insurers for such year's con-
25 tributions to the fund. Such probable amount needed shall be
26 apportioned among such insurers in the proportion that the net
27 direct written premiums of each bears to the aggregate net direct
28 written premiums of all insurers during the preceding calendar
29 year as shown by the records of the commissioner. Each insurer
30 shall pay the sum so assessed to the treasurer on or before March
31 31, next following.

32 (e) Whenever any of the provisions of this act concerning the
33 method and sources of assessments, the maximum amounts payable
34 from the fund, eligibility or qualifications of claimants, or amounts

35 to be deducted from payments made from the fund are amended by
 36 law, between January 1 and April 30 in any year, the **[director]**
 37 *commissioner* may, if he deems it necessary, rescind any assessment
 38 made on December 30 of the preceding year. He shall then, within
 39 15 days of the adoption of such amendment, recalculate the probable
 40 amount which will be needed to carry out the provisions of this act
 41 during the ensuing registration license year, in accordance with the
 42 provisions of subsection (d) of this section. If, in his judgment,
 43 the estimated balance of the fund at the beginning of the next
 44 registration license year will be insufficient to meet such needs, he
 45 shall determine the contributions of insurers, if any, in accordance
 46 with the provisions of subsection (d) of this section. In the event
 47 of a rescission and reassessment subsequent to March 1 in any year,
 48 insurers shall pay the sum so assessed, if any, to the treasurer
 49 within 90 days of the date of such assessment.

1 5. Section 4 of P. L. 1952, c. 174 (C. 39:6-64) is amended to
 2 read as follows:

3 4. Unsatisfied Claim and Judgment Fund Board. There is hereby
 4 established in, but not as a part of, the **[Division of Motor Vehicles]**
 5 of the Department of Law and Public Safety *Department of*
 6 *Insurance*, an Unsatisfied Claim and Judgment Fund Board
 7 consisting of **[the director,]** the commissioner **[,]** and four
 8 representatives of insurers. Such representatives of insurers shall
 9 be designated annually by the commissioner. He shall designate
 10 one representative of each of the following classes of companies:

11 (a) **[Stock company rating organization members]** *the American*
 12 *Insurance Association, or its successor organization;*

13 (b) **[Mutual company rating organization members]** *the Alliance*
 14 *of American Insurers, or its successor organization;*

15 (c) **[Independent stock companies]** *and the National Association*
 16 *of Independent Insurers, or its successor organization;*

17 (d) **[Independent mutual and other companies]** *any insurers*
 18 *which are licensed in this State and are not members or subscribers*
 19 *of any of the above mentioned organizations.*

20 A person designated as a representative shall be an employee or
 21 officer of an insurer of the class which he represents. None of the
 22 members of the board shall receive any compensation or remuneration
 23 from the fund. Such board shall maintain an office in this
 24 State, administer the fund subject to the provisions of this act,
 25 determine its cash requirements, and the amounts, if any, available
 26 for investment, and shall have the power to employ such clerical
 27 and other help as may be necessary to the proper discharge of the
 28 duties of the board. The **[director]** *Director of the Division of*

29 *Motor Vehicles* in the administration of the Motor Vehicle Security-
30 Responsibility Law and the board in the administration of this act
31 shall cooperate in order to avoid duplication and to achieve efficiency
32 and economy. The board shall reimburse the [Division of Motor
33 Vehicles] *Department of Insurance* semiannually for the reasonable
34 and appropriate costs and expenses incurred in performing any
35 service for the board under this act. Expenses so incurred by the
36 board or by any department, division or agency of the State on
37 behalf of the board shall be assessed annually by it, against insurers
38 pro rata in proportion to premium writings as provided in section
39 3 (d).

1 6. Section 18 of P. L. 1955, c. 1 (C. 39:6-64.1) is amended to read
2 as follows:

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

7 Notwithstanding the provisions of [sections 4, 11 and 13 of
8 chapter 20 of the laws of 1944] *P. L. 1944, c. 20 (C. 52:17A-1 et seq.)*,
9 the board, with the approval of the Attorney General, shall have the
10 power to engage the services of such attorneys and other persons
11 as may be deemed necessary or desirable for the purpose of suing
12 for, enforcing, collecting and taking any other action for the
13 collection of moneys due to the [director] *commissioner* or
14 treasurer on any right, claim, agreement, judgment, assignment
15 and other obligation arising out of the application of this act.
16 After repayment to the [director] *commissioner* or treasurer of
17 all sums paid from the fund and all moneys due to the [director]
18 *commissioner* and treasurer on any one claim, agreement, judgment,
19 assignment or other obligation, the [director] *commissioner* or
20 treasurer may assign to the original claimant, judgment creditor
21 or other person entitled thereto all of the right, title and interest
22 that the [director] *commissioner* or treasurer has in and to the
23 balance due upon such obligation. Any attorney so engaged shall
24 not be deemed an employee of the board or the State of New Jersey,
25 shall not be subject to the Civil Service laws as contained in Title 11
26 of the Revised Statutes of New Jersey and shall not have any
27 right to continued employment in such capacity. The compensation
28 of an attorney so engaged for services so rendered shall be deemed
29 an expense of the board under section 4 of the act and shall be paid
30 out of the moneys recovered on the obligation in connection with
31 which the services were rendered, upon such terms as may be
32 authorized by the board with the approval of the Attorney General.

1 7. Section 5 of P. L. 1952, c. 174 (C. 39:6-65) is amended to read
2 as follows:

3 5. Any qualified person, or the personal representative of such
4 person, who suffers damages resulting from bodily injury or death
5 or damage to property arising out of the ownership, maintenance
6 or use of a motor vehicle in this State on or after April 1, 1955,
7 and whose damages may be satisfied in whole or in part from the
8 fund, shall, except in cases in which the claim is asserted by actions
9 brought under section 18 of this act pursuant to section 19 of this
10 act, within 90 days after the accident, as a condition precedent to
11 the right thereafter to apply for payment from the fund, give notice
12 to the board, the form and contents of which shall be prescribed
13 by the board, of his intention to make a claim thereon for such
14 damages if otherwise uncollectible; provided, any such qualified
15 person may, in lieu of giving said notice within said time, make
16 proof to the court on the hearing of the application for the payment
17 of a judgment (a) that he was physically incapable of giving said
18 notice within said period and that he gave said notice within 90 days
19 after he became physically capable to do so or in the event he did
20 not become so capable, that a notice was given on his behalf within
21 a reasonable period, or (b) that he gave notice to the board within
22 15 days of receiving notice that an insurer had disclaimed on a
23 policy of insurance so as to remove or withdraw liability insurance
24 coverage for his claim against a person or persons who allegedly
25 caused him to suffer damages. A copy of the complaint shall be
26 furnished to the board if an action has theretofore been brought for
27 the enforcement of such claim. Such person shall also notify the
28 board of any action thereafter instituted for the enforcement of
29 such claim within 15 days after the institution thereof and such
30 notice shall be accompanied by a copy of the complaint.

31 The **[director]** *Director of the Division of Motor Vehicles* is
32 hereby authorized and empowered, the provisions of any other law
33 relating to the confidential nature of any reports or information
34 furnished to or filed with the **[Division of Motor Vehicles]** *division*
35 notwithstanding, to furnish to the board upon its request, for such
36 use, utilization and purposes as the board may deem reasonably
37 appropriate to administer this act and discharge its functions
38 hereunder, any reports or information filed by any person or persons
39 claiming benefits under the provisions of this act, that the director
40 has with regard to any accident, and any operator or owner of a
41 motor vehicle involved in any accident, and as to any automobile
42 or motor vehicle liability insurance or bond carried by an operator
43 or owner of any motor vehicle.*

1 ***[2.]*** *8.* Section 12 of P. L. 1952, c. 174 (C. 39:6-72) is amended
2 to read as follows:

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

9 (1) the matters set forth in subparagraphs (a), (b), (c), (d),
10 (e) and (f) of section 10;

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

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

16 (4) that the said proposed settlement has been entered into
17 with and by the consent of the **[County, county district, or]**
18 Superior Court and approved by the **[manager]** *executive director*
19 of the fund;

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

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

23 (7) that the defendant has undertaken in writing to repay to
24 the treasurer the sum that he would be required to pay under such
25 settlement, and has executed a confession of judgment in con-
26 nection therewith.

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

33 (b) An insurer to whom a claim has been assigned may settle
34 any claim involving the payment of less than \$5,000.00 with the
35 approval of the **[manager]** *executive director* of the fund or any
36 claim involving payment of \$5,000.00 or more with the approval
37 of the board, without court approval, if satisfied.

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

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

43 (3) that a judgment against the owner or operator of the motor
44 vehicle involved in the accident would be uncollectible, and that

45 such owner or operator has consented to such settlement, executed
46 and delivered to the board a verified statement of his financial
47 condition and undertaken in writing to repay to the treasurer the
48 sum to be paid under the settlement, and executed a confession of
49 judgment in connection therewith. Any settlement so made shall
50 be certified by the board to the treasurer, who shall, upon receipt
51 of said undertaking to repay and confession of judgment, make
52 the required payment to claimant out of the fund.

1 *9. Section 2 of P. L. 1977, c. 310 (C. 39:6-73.1) is amended to
2 read as follows:

3 2. In the event medical expense benefits paid by an insurer, in
4 accordance with section 4 a. of P. L. 1972, c. 70 (C. 39:6A-4), are in
5 excess of \$75,000.00 on account of personal injury to any one person
6 in any one accident, the Unsatisfied Claim and Judgment Fund
7 shall assume such excess and reimburse the insurer therefor in
8 accordance with rules and regulations promulgated by the [Director
9 of the Division of Motor Vehicles after consultation with the
10 Commissioner of Insurance] *commissioner*; provided, however,
11 that this provision is not intended to broaden the coverage available
12 to accidents involving uninsured or hit-and-run automobiles, to
13 provide extraterritorial coverage, nor to pay excess medical ex-
14 penses.

1 10. Section 17 of P. L. 1952, c. 174 (C. 39:6-77) is amended to
2 read as follows:

3 17. Assignment of judgments to [director] *commissioner*. The
4 treasurer shall not pay any sum from the fund, in compliance with
5 an order made for that purpose, in any case in which the claim is
6 founded upon a judgment, except a judgment obtained against the
7 [director] *commissioner* under this act, until the applicant assigns
8 the judgment to the [director] *commissioner* and, thereupon, the
9 [director] *commissioner* shall be deemed to have all the rights of
10 the judgment creditor under the judgment and shall enforce and
11 collect the same for the full amount thereof with interest and costs
12 and if more money is collected upon any such judgment than the
13 amount paid out of the fund, the [director] *commissioner* shall pay
14 the balance, after reimbursing the fund, to the judgment creditor.
15 Upon assignment of a judgment to the [director] *commissioner*
16 the board may, on behalf of the [director] *commissioner* enter into
17 agreement with the defendant for reimbursement of the fund by
18 lump sum or installment payments, including waiver of interest
19 and subordination of the lien of the judgment where the same is
20 determined to be advantageous in obtaining reimbursement of
21 payments made by the fund. Any such agreement may be annexed

22 to an application for a court order made pursuant to section 27 (b).

1 11. Section 18 of P. L. 1952, c. 174 (C. 39:6-78) is amended to
2 read as follows:

3 18. When the death of, or personal injury to, any person arises
4 out of ownership, maintenance or use of a motor vehicle in this
5 State on or after April 1, 1955, but the identity of the motor vehicle
6 and of the operator and owner thereof cannot be ascertained or it
7 is established that the motor vehicle was at the time said accident
8 occurred, in the possession of some person other than the owner
9 without the owner's consent and that the identity of such person
10 cannot be ascertained, any qualified person who would have a
11 cause of action against the operator or owner or both in respect to
12 such death or personal injury may bring an action therefor against
13 the **[director]** *commissioner* in any court of competent jurisdiction,
14 but no judgment against the **[director]** *commissioner* shall be
15 entered in such an action unless the court is satisfied, upon the
16 hearing of the action, that—

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

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

21 (c) The claimant was not at the time of the accident the owner
22 or registrant of an uninsured motor vehicle, or was not operating
23 a motor vehicle in violation of an order of suspension or revocation,

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

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

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

1 12. Section 19 of P. L. 1952, c. 174 (C. 39:6-79) is amended to
2 read as follows:

3 19. When in an action in respect to the death of, or personal
4 injury to, any person, arising out of the ownership, maintenance
5 or use of a motor vehicle in this State on or after April 1, 1955,
6 judgment is rendered for the defendant on the sole ground that
7 such death or personal injury was occasioned by a motor vehicle—

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

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

1 13. Section 20 of P. L. 1952, c. 174 (C. 39:6-80) is amended to
2 read as follows:

3 20. Impleading **[director]** *commissioner* in "hit-and-run" cases.
4 When an action has been commenced in respect of the death or
5 injury of any person arising out of the ownership, maintenance or
6 use of a motor vehicle in this State on or after April 1, 1955, the
7 plaintiff shall be entitled to make the **[director]** *commissioner* a
8 party thereto if the provisions of sections 18 or 19 shall apply in
9 any such case, and the plaintiff has made the application and the
10 court has entered the order provided for in section 18.

1 14. Section 21 of P. L. 1952, c. 174 (C. 39:6-81) is amended to
2 read as follows:

3 21. Defense of such actions by **[director]** *commissioner*. In any
4 action brought under sections 18 and 19 of this act, the **[director]**
5 *commissioner* may appear by counsel for the insurer to whom such
6 action has been assigned. He shall for all purposes of the action be
7 deemed to be the defendant. He shall have available to him any
8 and all defenses which would have been available to said operator
9 or owner or both if the action had been brought against them or
10 either of them and process upon them or either of them had been
11 duly served within this State, but he shall be entitled to defend
12 in all cases without asserting any specific facts.

1 15. Section 22 of P. L. 1952, c. 174 (C. 39:6-82) is amended to
2 read as follows:

3 22. Settlement of actions against the **[director]** *commissioner*.
4 In any action brought against the **[director]** *commissioner* pursuant
5 to an order by the court entered in accordance with the provisions
6 of section 18, the plaintiff may file a verified petition alledging that
7 he has entered into an agreement with the board to settle all claims
8 set forth in the complaint in said action and the amount proposed
9 to be paid to him pursuant thereto. If the court be satisfied of the
10 fairness of such proposed settlement, it may enter an order
11 approving such settlement and enter a judgment against the

12 **[director]** *commissioner* for the amount so agreed to be paid
13 thereunder.

1 16. Section 23 of P. L. 1952, c. 174 (C. 39:6-83) is amended to
2 read as follows:

3 23. Credits against judgment. A judgment against the **[director]**
4 *commissioner* shall be reduced by any amounts which such plaintiff
5 has received from any person mentioned in subparagraph (m) of
6 section 10.

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

3 24. When a judgment is obtained against the **[director]** *commis-*
4 *sioner*, in an action brought under this act, upon the determination
5 of all proceedings including appeals and reviews, the court shall
6 make an order directed to the treasurer directing him to pay out of
7 the fund to the plaintiff in the action the amount thereof which does
8 not exceed, \$15,000.00 exclusive of interest and costs, on account
9 of injury to, or death of, one person and, subject to such limits for
10 the death of, or injury to, any one person, does not exceed,
11 \$30,000.00 exclusive of interest and costs, on account of the injury
12 to, or death of, more than one person, in any one accident, provided
13 that such maximum amount shall be reduced by any amount received
14 or recovered by the plaintiff as specified in subparagraph (m) of
15 section 10.

1 18. Section 25 of P. L. 1952, c. 174 (C. 39:6-85) is amended to
2 read as follows:

3 25. Subrogation. When judgment has been obtained against the
4 **[director]** *commissioner* in an action brought under this act, the
5 **[director]** *commissioner* shall, upon payment from the fund of the
6 amount of the judgment to the extent provided in this act, be
7 subrogated to the cause of action of the judgment creditor against
8 the operator and owner of the motor vehicle by which the accident
9 was occasioned and shall bring an action against either or both of
10 such persons for the amount of the damage sustained by the
11 judgment creditor when and in the event that the identity of either
12 or both of such persons shall be established, and shall recover the
13 same out of any funds which would be payable in respect to the
14 death or injury under any policy of insurance, which was in force,
15 at the time of the accident and in event that more is recovered and
16 collected in any such action than the amount paid out of the fund
17 by reason of the judgment, the treasurer shall pay the balance,
18 after reimbursing the fund, to the judgment creditor.

1 19. Section 12 of P. L. 1972, c. 198 (C. 39:6-86.6) is amended to
2 read as follows:

3 12. The **[director]** *commissioner* shall be entitled to recover on
4 behalf of the Unsatisfied Claim and Judgment Fund for all pay-
5 ments made by it pursuant to section 7 and 10 of this act, regardless
6 of fault, from any person who owned or operated the automobile
7 involved in the accident and whose failure to have the required
8 insurance coverage in effect at the time of the accident resulted in
9 the payment of personal injury protection benefits. If the identity
10 of the owner and operator is not ascertained until after personal
11 injury protection benefits have been paid then the **[director]**
12 *commissioner* shall be entitled to recover for such payments,
13 regardless of fault, from the operator if he was driving without
14 the owner's permission or from the operator and the owner if he
15 was driving with the owner's permission or, in either case, from
16 the insurer if there is an insurance policy providing personal injury
17 protection benefits that was in effect at the time of the accident
18 with respect to such automobile.

19 The **[director]** *commissioner* is authorized to bring an action,
20 which shall be a summary proceeding, in the **[County Court or the]**
21 Superior Court to reduce the right provided by this section to
22 judgment.

1 20. Section 27 of P. L. 1952, c. 174 (C. 39:6-87) is amended to
2 read as follows:

3 27. Registration, etc., not restored until fund is reimbursed.
4 Where the license or privileges of any person, or the registration
5 of a motor vehicle registered in his name, has been suspended or
6 cancelled under the Motor Vehicle Security-Responsibility Law of
7 this State, and the treasurer has paid from the fund any amount in
8 settlement of a claim or towards satisfaction of a judgment against
9 that person, or for the payment of personal injury protection bene-
10 fits as provided in section 7 and section 10 of this act, the cancella-
11 tion or suspension shall not be removed, nor the license, privileges,
12 or registration, restored, nor shall any new license or privilege
13 be issued or granted to, or registration be permitted to be made
14 by, that person until he has

15 (a) Repaid in full to the treasurer the amount so paid by him
16 together with interest thereon at 8% per annum from the date of
17 such payment; and

18 (b) Satisfied all requirements of said Motor Vehicle Security-
19 Responsibility Law in respect of giving proof of ability to respond
20 in damages for future accidents, provided, that the court in which
21 such judgment was rendered may, upon 10 days' notice to the
22 board, make an order permitting payment of the amount of such
23 person's indebtedness to the fund, to be made in installments, or

24 in the event the fund makes personal injury protection benefit
25 payments, such person and the fund by agreement may provide
26 for repayment to the fund to be made in installments, and in such
27 case, such person's driver's license, or his driving privileges, or
28 registration certificate, if the same have been suspended or re-
29 voked, or have expired, may be restored or renewed and shall
30 remain in effect unless and until such person defaults in making
31 any installment payment specified in such order. In the event of
32 any such default, the [director] *Director of the Division of Motor*
33 *Vehicles* shall upon notice of such default suspend such person's
34 driver's license, or driving privileges or registration certificate
35 until the amount of his indebtedness to the fund has been paid in
36 full.

1 21. Section 28 of P. L. 1952, c. 174 (C. 39:6-88) is amended to
2 read as follows:

3 28. Fund to be held in trust. [All sums paid to the director as
4 Unsatisfied Claim and Judgment Fund Fees and as additional
5 charges against owners of uninsured motor vehicles shall be re-
6 mitted to the treasurer within 30 days after the receipt of the same.]
7 All sums received by the treasurer pursuant to any of the provisions
8 of this act shall become part of the fund, and shall be held by the
9 treasurer in trust for the carrying out of the purposes of this act
10 and for the payment of the cost of administering this act, and
11 for the payment of the costs of the Division of Motor Vehicles of
12 implementing the New Jersey Merit Rating Plan pursuant to section
13 6 of P. L. 1983, c. 65 (C. 17:29A-35). The [director] *Director of*
14 *the Division of Motor Vehicles* shall certify to the treasurer the
15 amount necessary to implement the New Jersey Merit Rating Plan
16 pursuant to that section, and the treasurer shall thereupon disburse
17 that amount from the fund. Moneys transferred to the Division of
18 Motor Vehicles pursuant to this section shall be repaid, with interest
19 at the prevailing rate as determined by the board, out of sums
20 appropriated to the Division of Motor Vehicles from surcharges
21 assessed in accordance with the New Jersey Merit Rating Plan
22 established pursuant to section 6 of P. L. 1983, c. 65 (C. 17:29A-35).
23 Said fund may be invested and reinvested in the same manner as
24 other State funds and shall be disbursed according to the order of
25 the treasurer, as custodian of the fund.

1 22. Section 1 of P. L. 1983, c. 360 (C. 39:13-1) is amended to
2 read as follows:

3 1. For the purposes of this act:

4 a. "Auto body repair facility" means a business or person who
5 for compensation, engages in the business of repairing, removing,

6 or installing integral component parts of an engine, power train,
7 chassis, or body of an automobile damaged as a result of a collision.

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

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

1 23. Section 2 of P. L. 1983, c. 360 (C. 39:13-2) is amended to
2 read as follows:

3 2. The **[Commissioner of Insurance]** *director* shall establish a
4 system for the licensure of auto body repair facilities. No person
5 may engage in the business of an auto body repair facility unless
6 it is licensed by the **[commissioner]** *director*. An auto body repair
7 facility shall be licensed by the **[commissioner]** *director* upon
8 submission of an application and payment of a reasonable applica-
9 tion fee sufficient to cover the cost of implementing the provisions
10 of this act and to be prescribed by the **[commissioner]** *director*. The
11 **[commissioner]** *director* may require biennial renewal of applica-
12 tion for licensure and may stagger the renewal dates and adjust
13 the application fees accordingly.

1 24. Section 3 of P. L. 1983, c. 360 (C. 39:13-3) is amended to
2 read as follows:

3 3. The **[commissioner]** *director* shall, on his own initiative or in
4 response to complaints, investigate on a continuous basis and
5 gather evidence of violations of this act and of any regulation
6 adopted pursuant to this act by auto body repair facilities.

1 25. Section 4 of P. L. 1983, c. 360 (C. 39:13-4) is amended to
2 read as follows:

3 4. The **[commissioner]** *director* may fine or refuse to grant or
4 may suspend or revoke a license of an auto body repair facility for
5 any of the following acts or omissions related to the conduct of the
6 business of auto body repair done by the auto body repair facility:

- 7 a. Making or authorizing any material written or oral state-
8 ment, which is known to be untrue or misleading;
- 9 b. Causing or allowing a customer to sign any estimate for
10 repairs which does not state the repairs requested by the customer
11 or the automobile's odometer reading at the time of repair;
- 12 c. Failing to provide a customer with a copy of any estimate or
13 document requiring his signature, as soon as a customer signs the
14 estimate or document;
- 15 d. Making false promises or representations intended to in-
16 fluence, persuade, or induce a customer to authorize a repair of an
17 automobile which has been damaged as a result of a collision;
- 18 e. Giving an adjuster or appraiser directly or indirectly any
19 gratuity or other consideration in connection with his appraisal
20 service;
- 21 f. Making appraisals of the cost of repairing an automobile
22 which has been damaged as a result of a collision through the use
23 of photographs, telephone calls, or any manner other than personal
24 inspection;
- 25 g. Making an estimate for repairs or charging for repairs in
26 such amount as to compensate the insured for the cost of the de-
27 ductible applicable under the automobile insurance policy;
- 28 b. A pattern of conduct which includes any of the acts or omis-
29 sions prohibited in this section or any other unconscionable or
30 fraudulent commercial practice prohibited by the **[commissioner]**
31 *director* pursuant to regulations promulgated under the provisions
32 of this act.

1 26. Section 5 of P. L. 1983, c. 360 (C. 39:13-5) is amended to
2 read as follows:

3 5. Upon refusal to grant a license or suspension or revocation
4 of a license of an auto body repair facility, the **[commissioner]**
5 *director* shall notify the auto body repair facility in writing by
6 registered mail. The auto body repair facility shall be given a
7 hearing by the **[commissioner]** *director* if, within 60 days there-
8 after, it files with the **[commissioner]** *director* a written request for
9 a hearing concerning the refusal to grant a license or suspension
10 or revocation of the license.

1 27. Section 6 of P. L. 1983, c. 360 (C. 39:13-6) is amended to
2 read as follows:

3 6. The **[commissioner]** *director* may impose upon an auto body
4 repair facility violating this act a civil penalty of not more than
5 \$2,000.00 for the first offense and not more than \$5,000.00 for the
6 second and each subsequent offense. The civil penalty shall be
7 issued for and recovered by and in the name of the **[commissioner]**

8 *director* and shall be collected and enforced by summary proceed-
9 ings pursuant to "the penalty enforcement law" (N. J. S. 2A:58-1
10 et seq.).

1 28. Section 7 of P. L. 1983, c. 360 (C. 39:13-7) is amended to
2 read as follows:

3 7. The **Commissioner of Insurance** *director* shall promulgate
4 rules and regulations necessary to effectuate the purposes of this
5 act.

1 ***[3.]*** *29.* This act shall take effect immediately.

STATEMENT

This bill amends the "Unsatisfied Claim and Judgment Fund Law" so as to authorize the appointment of an executive director who shall administer and be in charge of the fund, and shall be responsible to the fund board. The executive director shall be appointed by, and serve at the pleasure of the Director of the Division of Motor Vehicles.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1846

STATE OF NEW JERSEY

DATED: JUNE 25, 1984

Assembly Bill No. 1846 authorizes the appointment of an executive director to manage and administer the Unsatisfied Claim and Judgment Fund. The executive director shall be appointed by, and serve at the pleasure of, the Director of the Division of Motor Vehicles.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1846

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1984

This bill transfers the Unsatisfied Claim and Judgment Fund and its board from the Division of Motor Vehicles in the Department of Law and Public Safety to the Department of Insurance and transfers the responsibility of licensing and regulating auto body repair facilities from the Department of Insurance to the Division of Motor Vehicles. In addition, the current "manager" of the Unsatisfied Claim and Judgment Fund is replaced by an "executive director," who would be appointed by, and serve at the pleasure of, the Commissioner of Insurance, to manage and administer the Fund.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

Contact: CARL GOLDEN
609-292-8956

TRENTON, N.J. 08625

Release: THURS., APRIL 25, 198

Governor Thomas H. Kean today signed legislation to transfer the Unsatisfied Claim and Judgment Fund from the Division of Motor Vehicles to the Department of Insurance and to provide for the appointment of an executive director to administer the fund.

The legislation, A-1846, was sponsored by Assemblyman Michael Adubato, D-Essex.

It also transfers the duty of licensing auto body shops from the Department of Insurance to the Division of Motor Vehicles.

Other bills signed by the Governor today are:

A-3228, sponsored by Assemblyman Harold Colburn, R-Burlington, to provide a supplemental appropriation of \$1.45 million from a Federal Veterans' Administration grant to construct a New Jersey Veterans' Cemetery in Arneytown, Burlington County.

S-139, sponsored by Senator Walter Rand, D-Camden, to increase the membership of the State Commission on Cancer Research from nine to eleven members by adding two public members.

S-2042, sponsored by Senator Wayne Dumont, R-Warren, to increase the membership of the State Board of Professional Engineers and Land Surveyors from eight to ten.

S-2252, sponsored by Senator Raymond Lesniak, D-Union, to permit consumers to place money for funeral expenses in a trust.

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