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LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:28-1.4 et al.; 39:6-25 et al. (Automobile insurance-- massive revision)

LAWS OF: 1988 **CHAPTER:** 119

Bill No: S2637

Sponsor(s): Lesniak & Dalton

Date Introduced: June 13, 1988

Committee: Assembly: _____

Senate: Labor & Industry

Amended during passage: Yes Amendments during passage denoted by superscript numbers - see first page of bill for explanation

Date of Passage: Assembly: June 29, 1988; Re-enacted 9-1-88

Senate: June 20, 1988; Re-enacted 8-4-88

Date of Approval: September 8, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: Yes (Veto message & recommended text changes were printed separately - both are attached)

Message on signing: Yes

Following were printed:

Reports: No

Hearings: Yes

(Over)

974.90 New Jersey. Legislature. Senate. Labor, Industry &
A939 Professions Committee.
1988a Public hearing on...S2637 (and other bills),
held 6-15-88. Trenton, 1988.
 (Hearing scheduled for 6-16-88 was not held.)

See newspaper clipping file in NJ Reference Department, under:
"NJ - Insurance, Automobile - 1988"

See also:

Stern, Bruce.
What to expect from the verbal threshold.
122 NJLJ 890, October 6, 1988

[1988]

S2637 (ORIGINAL)

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1 based upon industrywide aggregate averages and other relevant
2 data and factors to be utilized in the review and evaluation of the
3 loss, expense and financial data contained in a rate filing; and

4 d. The format, data specifications and other requirements for
5 informational filings made pursuant to section 32 of this act.

6 34. Sections 12 and 13 of P.L. 1983, c. 362 (C. 39:6A-4.2 and
7 39:6A-4.3) and section 4 of P.L. 1984, c. 40 (C. 39:6A-4.4) are
8 repealed.

9 35. This act shall take effect on January 1, 1989, except that
10 section 19 shall take effect immediately, however, no provision
11 of this act shall take effect until the enactment of Senate Bill
12 No. 124 of 1988.

13

14 *SPONSORS'* STATEMENT

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16
17 This bill would revise the law concerning private passenger
18 automobile insurance. It is designed to promote availability and
19 affordability of automobile insurance in the voluntary market in
20 this State. Among its provisions, the bill would change the
21 mechanism for providing medical expense and other personal
22 injury protection benefits for injuries resulting from automobile
23 accidents by mandating that insureds carry medical expense
24 benefit coverage over \$75,000. This coverage is to be provided
25 by insurers for one year and by the Unsatisfied Claim and
26 Judgment Fund or a contract servicer during subsequent years
27 with payment for coverage made at the time of motor vehicle
28 registration. Insurers will still be required to offer coverage for
29 medical expenses incurred below \$75,000 as well as income
30 continuation, essential services, death and funeral expense
31 benefits. The purpose of this change is to shift the costs of
32 medical expenses to available health insurance which is to
33 become primary coverage for automobile related medical
34 expenses.

35 The bill also requires that every named insured select either a
36 a basic tort threshold of \$750 tied to a medical Consumer Price
37 Index, or an optional verbal threshold, with an acknowledgment of
38 the choice of the insured to protect products.

39 The bill makes several modifications to the law affecting the

1 New Jersey Automobile Full Insurance Underwriting Association
2 ("JUA") including: providing for a reconstituted Board of
3 Directors comprised of nine persons (seven public members with
4 the Commissioner of Insurance and the Director of the Division
5 of Motor Vehicles serving ex-officio) to be served by two
6 advisory boards (one with eight member company and servicing
7 carrier representatives, the other with six producer
8 representatives); and depopulation of the JUA through
9 incremental increases in the JUA rate base upon realization of
10 established depopulation goals, with the commissioner being
11 directed to assign risks in the voluntary market if necessary to
12 achieve the prescribed depopulation goals.

13 Finally, the bill establishes several regulatory mechanisms,
14 among which are: permitting the nonrenewal of insurance
15 policies under certain circumstances; requiring the commissioner
16 to establish a flex-rate band for automobile insurance; requiring
17 that insurers inform insureds about the rating of policies and
18 notify the Division of Motor Vehicles upon cancellation of an
19 insured's coverage; providing a basic \$500.00 deductible for
20 collision and comprehensive coverages; and calling upon the
21 commissioner to study and report on the territories and caps used
22 in rating auto insurance and to promulgate data reporting and
23 tracking specifications for use in rate and informational filings.

25

INSURANCE

27

Insurance - Automobile

29 Revises automobile insurance laws.

SENATE SLI COMMITTEE

STATEMENT TO

SENATE, No. 2637

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 1988

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate, No. 2637.

This bill revises the law concerning private passenger automobile insurance, effective January 1, 1989. Its provisions effect the following major areas: the no-fault tort thresholds; the payment and provision of medical expense benefits and other personal injury protection benefits coverage; the New Jersey Automobile Full Insurance Underwriting Association (JUA); and the regulation of insurers writing private passenger automobile insurance. Following are of the major provisions of this bill.

The bill requires that every named insured select either a tort threshold of \$750 tied to a medical Consumer Price Index, or a verbal threshold which precludes suits for pain and suffering as the result of an automobile accident unless the injured person sustains bodily injury resulting in death, serious impairment of body function or permanent serious disfigurement. No insurer may issue or renew an automobile insurance policy if the named insured fails to select one of these thresholds. Selection of a threshold must be made on the coverage selection form which states the percentage difference in the premium rates or the dollar savings between the two tort thresholds. The bill provides protection for producers by deeming a properly completed and executed coverage selection form to be prima facie evidence of the named insured's knowing selection of the tort threshold indicated on the form. Any person who fails to maintain mandatory medical expense benefits coverage will be subject to the verbal tort threshold while a professional pedestrian will be subject to the \$750 tort threshold.

The bill alters the mechanism for providing medical expense and other PIP benefits for injuries resulting from automobile accidents. The bill mandates that medical expense benefits coverage for losses under \$10,000 and for catastrophic losses over \$75,000 be provided.

For all accidents occurring prior to January 1, 1990 the catastrophic coverage is to be provided through automobile insurers. For all accidents occurring on or after January 1, 1990, the catastrophic coverage will be provided by the Unsatisfied Claim and Judgment Fund, or a servicer under contract with the Commissioner of Insurance. Beginning January 1, 1990, payment for medical expense benefits coverage for catastrophic losses over \$75,000 will be made through a fee collected by the Division of Motor Vehicles at the time of automobile registration. The fee is to be determined by the commissioner on an annual basis and equitably apportioned among all registrants of private passenger automobiles. Coverage for losses in the amount of \$10,000 or less is to be provided by automobile insurers and subject to a \$250 deductible and 20% copayment.

All automobile insurers are required to offer medical expense benefits coverage in excess of \$10,000 and up to \$75,000 to each named insured. The bill provides that any health insurance coverage or benefits, including Medicaid and Medicare, is primary coverage for a person injured in an automobile accident who has selected additional optional medical expense benefits coverage.

In addition to the offer of medical expense benefits coverage between \$10,000 and \$75,000, insurers must offer optional coverage for income continuation, essential services, death and funeral expense benefits. These additional PIP benefits are provided as mandatory coverage under current law.

The bill reconstitutes the JUA Board of Directors to provide for a public board with insurance industry advisory boards. The new board is to be comprised of nine persons: seven public members with backgrounds in insurance law or practices, five of whom are to be appointed by the Governor with the advice and consent of the Senate (no more than three of whom are to be of the same political party), one to be appointed by the President of the Senate and one to be appointed by the Speaker of the General Assembly; with the Director of the Division of Motor Vehicles and the Commissioner of Insurance, or their designees, serving as ex officio, non-voting members. Public members are to be paid for their services and reimbursed for reasonable expenses from moneys of the association as provided in the plan of operation. During their tenure on the board, public members are prohibited from being affiliated with or employed by the insurance industry.

The board will be served by two industry advisory boards: the member company and servicing carrier advisory board and the producer advisory board. The member company and servicing carrier advisory board is to be comprised of eight member company and servicing carrier representatives appointed by the Governor from recommendations made by appropriate insurers, non-insurer servicing carriers and trade associations. The producer advisory board is to be comprised of six producer representatives appointed by the Governor from recommendations made by appropriate trade associations. Advisory Board members are to be compensated for necessary and reasonable expenses incurred in the performance of their duties as board members.

The bill provides for the depopulation of the JUA through incremental increases in the JUA rate base upon realization of established depopulation goals. The formula is as follows: if in year one (on January 1, 1990) the JUA writes no more than 40% of all private passenger automobiles in the State, there is to be a 15% rate level differential from Insurance Services Office (ISO) rates; year two (on January 1, 1991) would have a 30% depopulation goal with a 30% rate differential; year three (January 1, 1992) would have a 25% depopulation goal and a 40% rate differential; and if on January 1, 1993, the JUA writes no more than 20% of all private passenger automobiles in the State, rates are to be set based on the JUA's actual experience. No JUA rate increase can be made that would result in revenues that exceed the expenses and obligations of the JUA. The commissioner is directed to assign risks if necessary to achieve the prescribed depopulation goals.

In order to encourage depopulation of the JUA and expansion of the voluntary market, the bill permits the non-renewal of automobile insurance policies in a manner similar to that contained in New York law. During each calendar year, an insurer may non-renew up to 2% of the total number of the insurer's voluntary market policies in force at the end of the previous year for each of their rating territories. For every two newly insured automobiles written voluntarily by an insurer in each territory during a calendar year, the insurer may non-renew one additional policy in that territory in excess of the generally applicable 2% per territory limitations. This "two-for-one" take-out provision is to be subject to a fair and nondiscriminatory formula adopted by the Commissioner of Insurance.

In addition, the bill provides for "flex-rating" by requiring the Commissioner of Insurance to establish a Statewide average rate change percentage to be used by automobile insurers. This will permit automobile insurance filers to effect a Statewide average rate change within the flex-band without prior approval by the commissioner or intervention by the Public Advocate. An informational filing in support of the rate change will have to be made upon implementation of a rate change within the flex-band. The flex-band can be changed annually by the commissioner. If an insurer wants to impose a rate outside the flex-band, the rate must receive the prior approval of the commissioner.

The commissioner is charged with monitoring and reporting on the use of flex-rating and the rate relief afforded under the JUA depopulation plan. The report, which is to be made to the Senate Labor, Industry and Professions Committee and the Assembly Insurance Committee no later than July 1, 1992, is to provide an evaluation on the use of these rating mechanisms and their impact on the availability and affordability of private passenger automobile insurance and the depopulation of the JUA.

The bill also requires the commissioner to conduct a review of the territories used by insurers in establishing automobile insurance rates and of the caps presently imposed on rates in certain territories. The review, which is to include an evaluation of the number of territories and an examination of the actuarial soundness of the caps is to be made to the Governor and the Senate Labor, Industry and Professions Committee and the Assembly Insurance Committee no later than June 1, 1989.

The bill places certain limitations on the use of rating bureaus in the collection of data and the setting of automobile insurance rates. It requires that all insurers file independently for approval of their own expenses. In addition, insurers whose total written car years insured, on a calendar basis, exceeds 2% on January 1, 1989, 1.5% on January 1, 1990, and 1% on January 1, 1991, of the total written car years insured in the voluntary market are precluded from using a rating bureau to make their rates. These insurers may, however, continue to be members or subscribers of a rating bureau or may use a rating bureau in making rates for other lines of insurance. Rating bureaus are precluded from using the loss experience of any excluded insurer in setting rates or compiling statistical experience for

non-excluded members, and precluded from using the expense experience of any member in setting rates.

The bill implements an annual informational filing requirement on the experience of every insurer writing private passenger automobile insurance in this State regardless of whether they file for an adjustment in rates. In addition, the bill empowers the commissioner to require the filing of rate filing data and standard ratemaking methodology and other standards of measure in uniform formats. This will enable the Department of Insurance to utilize the uniform standard data reporting and tracking specifications designed for informational filings.

The bill requires that automobile insurers provide policyholders with information, as part of the written notice supplied at the time of issuance or renewal of coverage, concerning the rating practices of the insurer. This information is to include, among other things, a description of the specific rating classifications used in determining the rates and premiums of the policy, an explanation of the extent that rates or premiums vary among insureds on the basis of the insurer's rating classifications, a description of the insurer's underwriting rules, and information regarding the rights of an insured to obtain documentation from the insurer regarding the determination of the policyholder's premiums and on filing a complaint with the commissioner. In addition, the commissioner is to annually publish a representative sample of automobile insurance rates for each territory in the State which may be distributed by insurers to all named insureds at the commissioner's discretion. These are similar to disclosure requirements presently in force in Michigan.

The bill provides for the following increases in the penalties for operating a motor vehicle without mandatory liability insurance: for a first conviction, a fine of \$300.00 and a court determined period of mandatory community service, and a mandatory one-year driver's license suspension (the current penalty is a fine of \$100.00 to \$300.00 or 30 to 60 days in jail at the discretion of the court, or both, and a mandatory six-month suspension); and for the second and each subsequent conviction, a fine of \$500.00, a mandatory 14 days imprisonment and a mandatory 30 days community service, and a mandatory license suspension of two years (the current penalty is a fine of \$250.00 to \$500.00, 90 to 180 days imprisonment at the

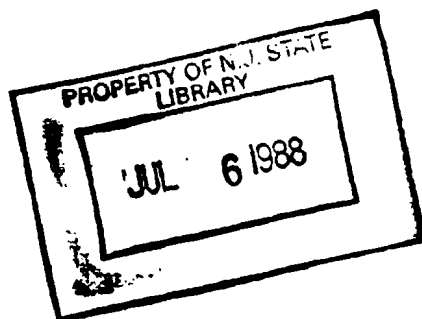
court's discretion, a mandatory 30 days community service and a two-year license suspension).

The bill also requires that insurers notify the Division of Motor Vehicles (DMV) of the cancellation of a private passenger automobile insurance policy and that DMV notify the person whose policy was cancelled of the penalties for driving without mandatory liability insurance.

The bill provides a \$500 deductible for collision and comprehensive coverages, unless the named insured has specifically chosen a lower deductible. In the case of uninsured and underinsured motorist coverage and collision and comprehensive coverage and for persons insured by the JUA, the deductible amount may not be less than \$250, which is the applicable mandatory deductible for these coverages under current law.

The effective date of the bill is tied to the enactment into law of Senate Bill No. 124 of 1988, sponsored by Senator Russo, which revises the excess profits law.

In addition to several technical amendments, the committee amended the bill to provide that, beginning January 1, 1993, automobile insurers provide offers of coverage in the voluntary market to all good drivers who request such coverage. At the same time, the "flex-rating" provision will expire and a "file and use" rating system will be implemented to permit automobile insurers to set rates for New Jersey business without obtaining prior approval of the commissioner. This system is modeled after the "Essential Insurance" system utilized in Michigan. In addition, committee amendments provide a five-tiered rating system for bad drivers in the JUA and provide for the promulgation of medical fee schedules for the payment of medical expense benefits in a manner similar to that currently used by hospital diagnostic related group (DRG) fee schedules. The committee's amendment also provided for mandatory medical expense benefits up to \$10,000 with a \$250 deductible and 20% copayment.



STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

August 4, 1988

SENATE BILL NO. 2637 (3rd Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 2637 (3rd Reprint) with my objections for reconsideration.

Automobile insurance reform has been a top priority of mine for years. It is a subject which, although endlessly debated, has eluded resolution. The recommendations which follow are the product of lengthy negotiations between the leadership of the Senate and the Assembly. These negotiations resulted in a compromise agreement between the parties on all the important issues. This agreement provides for an optional verbal threshold, the continuation of unlimited medical benefits, retention of mandatory liability coverage and various reforms to the Joint Underwriters Association (JUA), including mandatory depopulation, increased rates for JUA drivers and flex rating in the voluntary market. These recommendations not only will reduce rates for good drivers and make automobile insurance more equitable for all drivers, they also can be supported and passed by both Houses of the Legislature. In accepting this agreement, I have made certain concessions in the name of compromise so that the citizens of this State can achieve some relief from ever-increasing insurance rates. I ask that every legislator and every interest group make similar concessions. It is time to put aside our differences and to do right by the citizens of New Jersey; they deserve and demand no less.

Given the present structure of our automobile insurance system, spiralling costs and the unfair treatment of good drivers are inevitable. The "no fault" system adopted in 1972 is grossly out of balance. The implicit promise of any "no fault" system is prompt payment of medical bills without regard to fault in exchange for a significant limitation on frivolous lawsuits for non-economic damages, such as pain and suffering. This system has never been implemented in New Jersey. While we supposedly enacted a "no fault" system in 1972, this system maintained the old fault system through its adoption of an unrealistically low \$200 monetary obstacle to litigation. The inevitable result was a more

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expensive system, as we simply placed a costly new layer on the existing fault system.

A related problem with New Jersey's current auto insurance system is the vast number of good drivers who have been placed in the Joint Underwriters Association (JUA). The JUA was created to ensure that drivers who cannot obtain insurance in the voluntary market do not pay rates substantially higher than drivers outside the JUA with similar records. However, the cost of our out-of-balance insurance system, in combination with various rate-making factors, resulted in the insurance industry's refusal to write voluntary policies except for the safest risks. As a result, over one-half of New Jersey's drivers (approximately two million individuals) are in the JUA and a large percentage of those individuals have never had an accident or a serious traffic violation. The ever-increasing costs of our out-of-balance insurance system, coupled with the artificially low rates maintained for even the bad drivers in the JUA, has caused a deficit of approximately \$2.5 billion in the JUA and cash flow problems which have reached a critical point. The result has been repeated and costly surcharges on all drivers in order to keep the foundering JUA afloat.

While the present bill goes a long way toward addressing the above concerns, it falls short in several critical areas. As noted, a viable "no fault" insurance system requires a significant limitation on lawsuits. The present bill provides a choice between a verbal threshold, which would limit lawsuits to cases of serious injury or death, and a monetary threshold of \$750. The bill places the two alternatives on equal footing and the insured is required to affirmatively choose one or the other.

It always has been my position that a pure, mandatory verbal threshold, like that contained in the Second Reprint of this bill which was passed by the Assembly on June 29, 1988, is a necessary component of any true, long-term auto insurance reform. I stand steadfastly behind that position. However, both Senate President John Russo and the Senate's key spokesman for insurance,

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Senator Lesniak, have told me that a universal mandatory threshold cannot pass in the Senate. The Senate's overwhelming rejection of the previous version of this bill (before it was amended by the Senate to remove the mandatory verbal threshold language added by the Assembly) confirms their contention.

Nevertheless, a better compromise than that contained in the present bill, and one which can be supported and passed in both Houses, has been reached. That compromise is to make the verbal threshold the basic liability coverage in every automobile insurance policy the law of the land in New Jersey. At the same time, individual insureds will be permitted to opt for a monetary threshold, at a higher cost, if they so choose. I recommend adoption of a zero dollar threshold option. In effect, the zero dollar threshold will allow individuals to opt into a pure fault liability system, a choice which will be reflected in their higher premiums. The purpose of the zero dollar option is to remove the incentive to inflate medical bills--thereby placing an unnecessary burden on PIP coverage--in order to reach some specified monetary threshold. I believe the citizens of New Jersey recognize that when their medical bills are being promptly paid, without regard to fault, they lose next to nothing in relinquishing the ability to sue for pain and suffering for non-serious injuries only and, consequently, the vast majority will maintain the base verbal threshold.

The verbal threshold contained in this recommendation is patterned after that in force in New York State. (See New York Insurance Law §§5102, 5104). This verbal threshold specifically sets forth those injuries which will be considered "serious." Lawsuits for non-economic injuries, such as pain and suffering, will be allowed for these enumerated "serious injuries" only. It is my intention that the term "serious injury," as defined in this recommendation, shall be construed in a manner that is consistent with the New York Court of Appeals' decision in Licari v. Elliot, 57 N.Y. 2d 230 (1982). Whether a plaintiff has sustained a "serious injury" must be decided by the court, and not the jury. Otherwise, the bill's essential purpose of closing the courthouse door to all lawsuits except those involving bona fide serious injuries will be diluted and the bill's effectiveness will be greatly diminished. In addition, strict construction of the verbal threshold is essential; any judicial relax-

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tion of this plain language will impede the intent of maintaining the substantial benefits of no-fault at an affordable price.

If the basic liability coverage in New Jersey is the verbal threshold, we also must maintain the other side of the no fault equation, that is, prompt payment of medical bills without regard to fault. The present bill would put a \$10,000 cap on PIP benefits and establish a catastrophic fund to pay medical bills in excess of \$75,000 through a \$25 registration fee to be paid to the Division of Motor Vehicles. The medical bills incurred in the \$10,000 to \$75,000 range would be borne by the insured, or by his health insurance carrier, if he has such insurance and if it provides adequate coverage. As a matter of public policy, it is important to maintain prompt and unlimited payment of medical costs; this is "no fault's" greatest attribute and the reason why it was initially adopted. The change from this system to the one reflected in the present bill would create inconvenience and confusion and would expose a significant portion of the population, who have no health insurance, to liability which could be financially devastating. All this would be done at little or no advantage to the insured.

I do agree, however, that medical benefits should be subject to reasonable cost containment. Accordingly, I support the deductibles, co-payments and medical fee schedule set forth in Senate Bill No. 2637 (3rd Reprint), except that the co-payment shall apply only to the first \$5,000 of coverage. Superimposing these traditional health system cost-containment mechanisms on PIP coverage will reduce fraud and over-utilization while maintaining the essential ingredient of providing adequate and complete health coverage without regard to fault. I am pleased that the parties have agreed to retain this important ingredient of the "no-fault" system.

Similarly, I am pleased that agreement could be reached with regard to JUA reform. Presently, the bill provides for depopulation of the JUA over a four-year period. At the end of that period, the JUA is to be self-sustaining, that is, the bad drivers remaining will pay rates warranted by their driving records and will not be further subsidized by the good drivers in the voluntary

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market. The bill also gives the industry rate flexibility as an incentive to depopulate the JUA and as a mechanism to promote competition in the industry. The bill is tied to a tough Excess Profits Law (Senate Bill No. 124) which is patterned on my conditional veto of Senate Bill No. 3090 in the 202nd term; this law will ensure that the industry does not abuse this rate-making flexibility and that any rate increase is justified.

In addition to flex rating, the bill allows insurance companies to terminate two percent of those drivers who they presently insure, whether those drivers are insured pursuant to the mandatory depopulation quotas of this bill or previously were insured by the company. Furthermore, the bill provides that for every two new policies written in the voluntary market, the insurer shall be permitted to refuse to renew one additional policy over and above the two percent limitation. In the spirit of compromise I have agreed to this "two-for-one" credit. However, the "two-for-one" credit, as presented in the bill, is ambiguous and could be read in a manner which would defeat the goal of depopulating the JUA. Consequently, I have made changes which I believe incorporate the intent of the sponsors and which make it clear that the "two-for-one" credit applies only after the designated quotas have been both achieved and maintained.

With flex rating, the ability to drop two percent of their present business, and the "two-for-one" credit, the mandatory depopulation provisions of the bill do not unduly burden insurance companies. The other incentives in the present bill simply give too much to the industry and would aggravate the basic inequities this bill seeks to resolve. For these reasons, I recommend deleting the "special credits" for policies which are subject to class and territorial caps and the designation of a three-tiered rating system (preferred, standard and non-standard) in the voluntary market.

Finally, the provisions in the present bill which require that a \$175 residual market equalization charge (RMEC) shall be charged to all insureds should be deleted. Imposition of any RMEC is more appropriately left to the JUA Board of Directors and the Commissioner of Insurance, who has the staff,

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data and expertise to calculate the needs, if any, of the JUA. It is my hope that this bill will make all future RMECs unnecessary.

Various other technical amendments were made to facilitate the agreement outlined above.

Therefore, I herewith return Senate Bill No. 2637 (3rd Reprint) and recommend that it be amended as per the annexed attachment. Due to the interest in this matter, I have taken the unusual step of reprinting the amended sections of the bill with my changes incorporated therein.

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel

CONDITIONAL VETO

to

SENATE, NO. 2637 (3R)

(Sponsored by Senator Lesniak)

OMIT SECTION 1 IN ITS ENTIRETY

REPLACE SECTION 2 TO READ:

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

18. Any insurer authorized to transact or transacting automobile or motor vehicle insurance business in this State, or controlling or controlled by, or under common control by, or with, an insurer authorized to transact or transacting insurance business in this State, which sells a policy providing automobile or motor vehicle liability insurance coverage, or any similar coverage, in any other state or in any province of Canada, shall include in each policy coverage to satisfy at least the liability insurance requirements of section 1 of P.L. 1972, c. 197 (C. 39:6B-1) or section 3 of P.L. 1972, c. 70 (C. 39:6A-3), the uninsured motorist insurance requirements of subsection a. of section 2 of P.L. 1968, c. 385 (C. 17:28-1.1), and personal injury protection benefits coverage pursuant to section 4 of P.L. 1972, c. 70 (C. 39:6A-4) ⁴[and subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1)]⁴ or of section 19 of P.L. 1983, c. 362 (C. 17:28-1.3), whenever the automobile or motor vehicle insured under the policy is used or operated in this State.

Any liability insurance policy subject to this section shall be construed as providing the coverage required herein, and any named insured, and any immediate family member as defined in section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1), under that policy, shall be subject to the tort option specified in subsection ⁴[b.]⁴ of section 8 of P.L. 1972, c. 70 (C. 39:6A-8).

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

Matter underlined thus is new matter.

⁴Governor's Conditional Veto Proposed Amendments.

Each insurer authorized to ~~transact or transacting~~ automobile or motor vehicle insurance business in this State and subject to the provisions of this section shall, within 30 days of the effective date of [this amendatory and supplementary act] P.L. 1985, c. 520, file and maintain with the Department of Insurance written certification of compliance with the provisions of this section.

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

(cf: P.L. 1985, c. 520, s. 18)

OMIT SECTIONS 3 THROUGH 5 IN THEIR ENTIRETY

REPLACE SECTION 6 TO READ:

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

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

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

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

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

(d) On December 30 in each year, the commissioner shall calculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year. In such calculation, he shall take into consideration the amount presently reserved for pending claims, anticipated payments from the fund during said year, anticipated payments from the fund for medical expenses to be made pursuant to ⁴[subsection a. of]⁴ section 2 of [this act] P.L. 1977, c. 310 (C. 39:6-73.1), during the two years after said year, anticipated amounts to be reserved for claims pending during said year, amounts transferred to the Division of Motor Vehicles pursuant to section 28 of P.L. 1952, c. 174 (C. 39:6-88) [, as amended by this 1983 amendatory act.] and the desirability of maintaining a surplus over and above such anticipated payments and present and anticipated reserves, such surplus not to exceed the amount actually paid from the fund during the 12 full calendar months immediately preceding the date of calculation. Such probable amount which will be needed to carry out the provisions of this act shall be assessed against insurers for such year's contributions to the fund. Such probable amount needed shall be apportioned among such insurers in the proportion that the net direct written premiums of each bear to the aggregate net direct

written premiums of all insurers, including the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.), during the preceding calendar year as shown by the records of the commissioner. Each insurer shall pay the sum so assessed to the treasurer on or before March 31, next following.

(e) Whenever any of the provisions of this act concerning the method and sources of assessments on insurers, including the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.), the maximum amounts payable from the fund, eligibility or qualifications of claimants, or amounts to be deducted from payments made from the fund are amended by law, between January 1 and April 30 in any year, the commissioner may, if he deems it necessary, rescind any assessment on insurers, including the New Jersey Automobile Full Insurance Underwriting Association, created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.), made on December 30 of the preceding year. He shall then, within 15 days of the adoption of such amendment, recalculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year, in accordance with the provisions of subsection (d) of this section. If, in his judgment, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall determine the contributions of insurers, if any, in accordance with the provisions of subsection (d) of this section. In the event of a rescission and reassessment subsequent to March 1 in any year, insurers shall pay the sum so assessed, if any, to the treasurer within 90 days of the date of such assessment.

⁴(f) On September 1, 1989 and each year thereafter, the commissioner shall calculate the probable amount which will be needed to carry out the provisions of subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), during the ensuing calendar year; establish the fee to be charged for each private passenger automobile to be registered during the ensuing year; and immediately notify the Director of the Division of Motor Vehicles of the amount of the fee. The fee shall be equitably

apportioned among all registrants of private passenger automobiles during each calendar year. The calculation shall take into consideration the amount reserved for pending claims, anticipated payments from the fund for medical expenses to be made during the succeeding two year period, anticipated amounts to be reserved for claims pending during said year, and the desirability of maintaining a surplus, over and above the anticipated payments and present and anticipated reserves. No surplus shall exceed the amount actually paid from the fund for the purpose of carrying out the provisions of subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), during the 12 full calendar months immediately preceding the date of calculation, except that for the registration license year beginning January 1, 1990, the surplus shall not exceed the amount actually paid from the fund for the purpose of carrying out the provisions of subsection a. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), during the 12 full calendar months immediately preceding the date of calculation.

(g) The commissioner shall review the reserves maintained pursuant to subsections (e) and (f) of this section for actuarial soundness and report his findings, including any recommended modifications, to the Legislature no later than January 1, 1991.⁴
(cf: P.L. 1985, c. 148, s. 4)

OMIT SECTION 7 IN ITS ENTIRETY

REPLACE SECTION 8 TO READ:

⁴[8.] 3.⁴ Section 4 of P.L. 1972, c. 70 (C. 39:6A-4) is amended to read as follows:

4. Personal injury protection coverage, regardless of fault.

Every automobile liability insurance policy insuring an automobile as defined in this act against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of ownership, operation, maintenance or use of an automobile shall provide personal injury protection coverage, as defined hereinbelow, under provisions approved by the Commissioner of Insurance, for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household who sustained bodily injury as a result of

an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, [being struck] caused by an automobile or by an object propelled by or from an automobile, to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with the permission of the named insured, and to pedestrians, sustaining bodily injury caused by the named insured's automobile or struck by an object propelled by or from such automobile.

"Personal injury protection coverage" means and includes:

a. Medical expense benefits. Payment of all reasonable medical expenses ⁴[up to \$10,000.00 and in excess of \$75,000.00]⁴ incurred as a result of personal injury sustained in an automobile accident ⁴[occurring prior to January 1, 1990; and payment of all reasonable medical expenses up to \$10,000.00 incurred as a result of personal injury sustained in an automobile accident occurring on or after January 1, 1990]⁴. In the event of death, payments shall be made to the estate of the decedent. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000.00 on account of personal injury to any one person in any one accident ⁴[occurring prior to January 1, 1990]⁴, such excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to ⁴[subsection a. of]⁴ section 2 of P.L. 1977, c. 310 (C. 39:6-73.1).

⁴[b. [Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100.00. Such sum shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200.00, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.] (Deleted by amendment, P.L. . . . c. . . .)(now pending in the Legislature as this bill)

c. [Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute

essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380.00, on account of injury to any one person in any one accident.] (Deleted by amendment, P.L. . . c.)(now pending in the Legislature as this bill)

d. [Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under section 4 of this act, the maximum amount of benefits which could have been paid to the income producer, but for his death, under section 4 b. shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under section 4 c. of this act, the maximum amount of benefits which could have been paid such person, under section 4 c., shall be paid to the person incurring the expense of providing such essential services.] (Deleted by amendment, P.L. . . c.)(now pending in the Legislature as this bill)

e. [Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.] (Deleted by amendment, P.L. . . c.)(now pending in the Legislature as this bill)

Benefits payable under this section shall:

(1) [Be subject to any deductibles or exclusions elected by the policyholder pursuant to section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3);] (Deleted by amendment, P.L. . . c.)(now pending in the Legislature as this bill)

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100.00. Such sum shall be payable during the life of the injured person

and shall be subject to an amount or limit of \$5,000.00, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380.00, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under this section, the maximum amount of benefits which could have been paid to the income producer, but for his death, under subsection b. of this section shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under subsection c. of this section, the maximum amount of benefits which could have been paid such person, under subsection c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.

Benefits payable under this section shall:

(1) Be subject to any deductibles or exclusions elected by the policyholder pursuant to section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3);⁴

(2) Not be assignable, except to a provider of service benefits under this section, nor subject to levy, execution, attachment or other process for satisfaction of debts.

Medical expense benefit payments ⁴(up to \$10,000.00)⁴ shall be subject to a deductible of \$250.00 on account of injury ⁴(to any one person)⁴ in any one accident and a copayment of 20% of ⁴(the) any⁴ benefits payable ⁴(in excess of the deductible amount) between \$250.00 and \$5,000.00.

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

(cf: P.L. 1984, c. 40, s. 3)

OMIT SECTION 9 IN ITS ENTIRETY

REPLACE SECTION 10 TO READ:

⁴[10.] 1.⁴ Section 14 of P.L. 1985, c. 520 (C. 39:6A-4.5) is amended to read as follows:

14. Any person who, at the time of an automobile accident resulting in injuries to that person, is required but fails to maintain medical expense benefits coverage mandated by section 4 of P.L. 1972, c. 70 (C. 39:6A-4) ⁴(for)⁴ [section 1 of P.L. c. (C.) (now pending before the Legislature as Assembly Bill No. 2883 of 1984)] ⁴(subsection b. of section 10 of P.L. 1977, c. 310 (C. 39:6-73.1),)⁴ shall:

a. For the purpose of filing an action for recovery of noneconomic loss, as defined in section 2 of P.L. 1972, c. 70 (C. 39:6A-2), be subject to the tort option specified in subsection ⁴(b.) a.⁴ of section 8 of P.L. 1972, c. 70 (C. 39:6A-8)(:.)

b. [In the event of a recovery for noneconomic loss pursuant to an arbitration award, judicial judgment or voluntary settlement, be subject to the setoff option as set forth in subsection c. of section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3), except that the amount of the setoff shall be payable to the New Jersey Automobile Insurance Risk Exchange established pursuant to section 15 of P.L. 1983, c. 362 (C. 39:6A-21).] (Deleted by amendment, P.L. . c.)(now pending in the Legislature as this bill)

(cf: P.L. 1985, c. 520, s. 14)

OMIT SECTIONS 11 AND 12 IN THEIR ENTIRETY

REPLACE SECTION 13 TO READ:

⁴[13.] 5.⁴ Section 7 of P.L. 1972, c. 198 (C. 39:6-86.1) is amended to read as follows:

7. When any person qualified to receive payments under the provisions of the "Unsatisfied Claim and Judgment Fund Law"

suffers bodily injury or death [through being struck.] as a pedestrian, as defined in section 2 of P.L. 1972, c. 70 (C. 39:6A-2), caused by a motor vehicle, including an automobile as defined in section 2 of P.L. 1972, c. 70 (C. 39:6A-2), and a motorcycle, or by an object propelled therefrom, or arising out of an accident while occupying, entering into, alighting from, or using an automobile, registered or principally garaged in this State for which personal injury protection benefits under the "New Jersey Automobile Reparation Reform Act," P.L. 1972, c. 70 (C. 39:6A-1 et seq.), or section 19 of [this 1983 amendatory and supplementary act] P.L. 1983, c. 362 (C. 17:28-1.3), would be payable to such person if personal injury protection coverage were in force and the damages resulting from such accident or death are not satisfied due to the personal injury protection coverage not being in effect with respect to such accident, then in such event the Unsatisfied Claim and Judgment Fund shall provide, under the following conditions, the following benefits:

a. Medical expense benefits. Payment of all reasonable medical expenses ⁴[up to \$10,000.00 and in excess of \$75,000.00]⁴ incurred as a result of personal injury sustained in a motor vehicle accident. In the event of death, payment shall be made to the estate of the decedent.

Medical expense benefit payments ⁴[up to \$10,000.00]⁴ shall be subject to a deductible of \$250.00 on account of injury ⁴[to any one person]⁴ in any one accident and a copayment of 20% of ⁴[the] any⁴ benefits payable ⁴[in excess of the deductible amount] between \$250.00 and \$5,000.00⁴.

⁴[b. [Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100.00. Such sums shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200.00, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.] (Deleted by amendment, P.L. . c. .)(now pending in the Legislature as this bill]

c. ~~[Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380.00, on account of injury to any one person in any one accident.] (Deleted by amendment, P.L. . . . c. . . .)(now pending in the Legislature as this bill)]~~

d. [Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under section 7 of this act, the maximum amount of benefits which could have been paid to the income producer, but for his death, under section 7 b. shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under section 7 c. of this act, the maximum amount of benefits which could have been paid such person, under section 7 c., shall be paid to the person incurring the expense of providing such essential services.] ~~(Deleted by amendment, P.L. . . . c. . . .)(now pending in the Legislature as this bill)]~~

e. [Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.] ~~(Deleted by amendment, P.L. . . . c. . . .)(now pending in the Legislature as this bill)]~~

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100.00. Such sums shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200.00, on account of injury to any one person in any one accident, except

that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380.00, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under this section, the maximum amount of benefits which could have been paid to the income producer, but for his death, under subsection b. of this section shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under subsection c. of this section, the maximum amount of benefits which could have been paid such person, under subsection c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.⁴

Provided, however, that no benefits shall be paid under this section unless the person applying for benefits has demonstrated that he is not disqualified by reason of the provisions of subsection (a), (c), (d) or (l) of section 10 of P.L. 1952, c. 174 (C. 39:6-70), or any other provision of law.

(cf: P.L. 1983, c. 362, s. 3)

REPLACE SECTION 14 TO READ:

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

8. Tort exemption: limitation on the right to noneconomic loss.

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

a. Every owner, registrant, operator or occupant of an automobile to which section 4, personal injury protection coverage, regardless of fault, applies, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain the coverage mandated by this act, or is a person who has a right to receive benefits under section 4 of [this act] P.L. 1972, c. 70 (C. 39:6A-4), as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State, ⁴[if the bodily injury is confined solely to the soft tissue of the body and the medical expenses incurred or to be incurred by such injured person or the equivalent value thereof for the reasonable and necessary treatment of such bodily injury is less than [\$200.00.] \$750.00, which amount shall be adjusted annually on January 1 of each year following the effective date of this 1988 amendatory and supplementary act by the Commissioner of Insurance to reflect increases or decreases in the national consumer price index for the professional services component of medical care services, all urban consumers, U.S. city average, and which amount shall be exclusive of hospital expenses, X-rays and other diagnostic medical expenses. The adjusted rate shall apply to any claim for noneconomic loss arising from any automobile accident occurring on or after the adjustment date. There shall be no exemption from tort liability if the injured party has sustained death, permanent disability, permanent significant disfigurement, permanent loss of any bodily function or loss of a body member in whole or in part, regardless of the right of any person to receive benefits under section 4 of [this act] P.L. 1972, c. 70 (C.

39:6A-4. Bodily injury confined solely to the soft tissue, for the purpose of this section, means injury in the form of sprains, strains, contusions, lacerations, bruises, hematomas, cuts, abrasions, scrapes, scratches and tears confined to the muscles, tendons, ligaments, cartilages, nerves, fibers, veins, arteries and skin of the human body) unless that person has sustained a personal injury which results in death; dismemberment; significant disfigurement; a fracture; loss of a fetus; permanent loss of use of a body organ, member, function or system; permanent consequential limitation of use of a body organ or member; significant limitation of use of a body function or system; or a medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute that person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment¹; or

b. As an alternative to the basic tort option specified in subsection a. of this section, every owner, registrant, operator, or occupant of an automobile to which section 4 of P.L. 1972, c. 70 (C. 39:6A-4) applies, and every person or organization legally responsible for his acts or omissions, ⁴[is hereby exempted from tort liability] shall be liable⁴ for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain the coverage mandated by P.L. 1972, c. 70 (C. 39:6A-1 et seq.) or is a person who has a right to receive benefits under section 4 of that act (C. 39:6A-4), as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State ⁴[.]⁴ [if the medical expenses incurred or to be incurred by that injured person, or the equivalent value thereof, for the reasonable and necessary treatment of the bodily injury, is less than \$1,500.00, which amount shall be adjusted annually on January 1 of each year following the operative date of this act by the Commissioner of Insurance to reflect increases or decreases in the national Consumer Price Index for the professional services component of medical care services, all urban consumers, U.S. city average, and which amount shall be exclusive of hospital expenses, X-rays

and other diagnostic medical expenses. The adjusted rate shall apply to any claim for noneconomic loss arising from any automobile accident occurring on or after the adjustment date. There shall be no exemption from tort liability if the injured party has sustained death, permanent disability, permanent significant disfigurement, permanent loss of any bodily function or loss of a body member in whole or in part, regardless of the right of any person to receive benefits under section 4 of P.L. 1972, c. 70 (C. 39:6A-4)] ⁴[unless that person has sustained personal injury which results in death, serious impairment or body function or permanent serious disfigurement]⁴.

The tort option provisions of subsection a. of this section shall also apply to the right to recover for noneconomic loss of any person eligible for benefits pursuant to section 4 of P.L. 1972, c. 70 (C. 39:6A-4) but who is not required to maintain personal injury protection coverage and is not an immediate family member, as defined in section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1), under an automobile insurance policy.

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

[The tort option provisions of subsection b. of this section shall remain inoperative until July 1, 1984, and shall apply to accidents occurring on or after that date.

If any provision of subsection b. of this section shall be deemed to be unconstitutional, the provisions of the entire subsection shall be deemed null and void, and without further effect, but the decision of the court shall not affect the validity of any other provision of this act.]

⁴The tort option provisions of subsections a. and b. of this section as provided in this 1988 amendatory and supplementary act shall apply to automobile insurance policies issued or renewed on or after January 1, 1989 and as otherwise provided by law.⁴

(cf: P.L. 1985, c. 520, s. 15)

REPLACE SECTION 15 TO READ:

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

14.1. Election of tort option. a. Election of a tort option pursuant to section 8 of P.L. 1972, c. 70 (C. 39:6A-8) shall be in

writing ~~and signed~~ by the named insured on [a form approved by the Commissioner of Insurance] the coverage selection form required by section 17 of P.L. 1983, c. 362 (C. 39:6A-23). The form shall state the percentage difference in the premium rates or the dollar savings between the two tort options. The tort option elected shall apply to the named insured and any immediate family member residing in the named insured's household. "Immediate family member" means the spouse of the named insured and any child of the named insured or spouse residing in the named insured's household, who is not a named insured under another automobile insurance policy.

b. If the named insured fails to elect, in writing, [any] ⁴~~either~~ any⁴ of the tort options offered pursuant to section 8 of P.L. 1972, c. 70 (C. 39:6A-8), [the named insured shall be deemed to elect the tort option of subsection a. of that section 8] ⁴~~the~~ insurer shall not issue or renew the automobile policy. No [new] automobile policy [issued on or after July 1, 1984, in the State] shall be issued or renewed on or after January 1, 1989 in this State by an insurer unless the named insured has elected one of the tort options provided in section 8] the named insured shall be deemed to elect the tort option of subsection a. of that section ⁴8⁴.

c. The tort option elected by a named insured ⁴for an automobile policy issued or renewed⁴ on or after January 1, 1989 shall continue in force as to subsequent renewal or replacement policies until the insurer or its authorized representative receives a properly executed form electing the other tort option.

d. The tort option elected by the named insured shall apply to all automobiles owned by the named insured and to any immediate family member who is not a named insured under another automobile insurance policy, except that in the case where more than one policy is applicable to the named insured or immediate family member, and the policies have different tort options, the tort option elected by the injured named insured shall apply or, in the case of an immediate family member who is not a named insured and is injured in an accident involving an automobile to which a policy issued to a named insured in the household of the injured immediate family member applies, the tort option elected by that named insured shall apply.

e. [A properly completed and executed coverage selection form indicating selection of a tort threshold as required by subsection a. of this section shall be prima facie evidence of the named insured's knowing selection of the tort threshold option indicated on the form] Notwithstanding any other provision of law to the contrary, no person, including, but not limited to, an insurer, an insurance producer as defined in section 2 of P.L. 1987. c. 293 (C. 17:22A-2), a servicing carrier or non-insurer servicing carrier acting in that capacity pursuant to P.L. 1983. c. 65 (C. 17:30E-1 et seq.), and the New Jersey Automobile Full Insurance Underwriting Association created pursuant to P.L. 1983. c. 65 (C. 17:30E-1 et seq.), shall be liable in an action for damages on account of the election of a tort option by a named insured or on account of the tort option imposed pursuant to subsection b. of this section or otherwise imposed by law. Nothing in this subsection shall be deemed to grant immunity to any person causing damage as the result of his willful, wanton or grossly negligent act of commission or omission⁴.

In the case of automobile insurance policies in force on [July January 1, [1984] 1989, notice of the tort options available pursuant to the aforesaid section 8 shall be given in accordance with section 17 of [this 1983 amendatory and supplementary act] P.L. 1983. c. 362 (C. 39:6A-23).

(cf: P.L. 1983: c. 362, s. 14.1)

REPLACE SECTION 16 TO READ:

⁴[16.] 8.⁴ (New section) ⁴a.⁴ Within 180 days of the effective date of this ⁴[1988 amendatory and supplementary act] section⁴, the commissioner shall promulgate regulations providing the following with regard to private passenger automobile insurance:

⁴[a.] (1)⁴ Rate filing data and information specifications in a standard format:

⁴[b. (1)] (2) (a)⁴ A standard ratemaking methodology, and

⁴[(2)] (b)⁴ Uniform standards on ratemaking methodologies, data compilation, data evaluation and data submission:

⁴[c.] (3)⁴ Standards of efficiency and other standards of measure based upon industrywide aggregate averages and other relevant data and factors to be utilized in the review and evaluation of the loss, expense and financial data contained in a rate filing; and

⁴[d.] (4)⁴ The format, data specifications and other requirements for any informational filings ⁴[required by the commissioner] made pursuant to subsection b. of this section⁴.

⁴b. Notwithstanding any provision of law to the contrary, on July 1, 1989 and annually thereafter, every insurer writing private passenger automobile insurance in this State shall make an informational filing on their private passenger automobile insurance with the commissioner regardless of whether they file for an adjustment in their automobile insurance rates.⁴

REPLACE SECTION 17 TO READ:

⁴[17.] 9.⁴ Section 3 of P.L. 1972, c. 70 (C. 39:6A-3) is amended to read as follows:

3. Compulsory automobile insurance coverage: limits. Every owner or registered owner of an automobile registered or principally garaged in this State shall maintain automobile liability insurance coverage, under provisions approved by the Commissioner of Insurance, insuring against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, maintenance, operation or use of an automobile wherein such coverage shall be at least in:

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

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

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

No licensed insurance carrier shall refuse to renew the required coverage stipulated by this act [without] except in accordance with the provisions of section ⁴[35] 26⁴ of P.L. . c. 1C. [now pending in the Legislature as this bill] or with the consent of the Commissioner of Insurance.³

(cf: P.L. 1972, c. 203, s. 2)

OMIT SECTION 18 IN ITS ENTIRETY

INSERT NEW SECTION 10 TO READ:

⁴10. (New section) The Commissioner of Insurance shall, within 180 days after the effective date of this 1988 amendatory

and supplementary act, promulgate medical fee schedules on a regional basis for the reimbursement of health care providers providing services or equipment for medical expense benefits for which payment is required to be made under the personal injury protection coverage provided for in section 4 of P.L. 1972, c. 70 (C. 39:6A-4). These fee schedules shall be promulgated on the basis of the type of injury sustained or service provided, and shall be reviewed biannually by the commissioner.⁴

REPLACE SECTION 19 TO READ:

³[23.] ⁴[19.]³ 11.⁴ Section 2 of P.L. 1968, c. 385 (C. 17:28-1.1) is amended to read as follows:

2. a. [No] ³[Every] No³ motor vehicle liability policy or renewal of such policy of insurance, including a liability policy for an automobile as defined in section [2 of P.L. 1972, c. 70 (C. 39:6A-2)] ³[1 of P.L. c. (C.) (now pending in the Legislature as this bill)] 2 of P.L. 1972, c. 70 (C. 39:6A-2)³, insuring against loss resulting from liability imposed by law for bodily injury or death, sustained by any person arising out of the ownership, maintenance or use of a motor vehicle, [shall be] ³[which is] shall be³ issued in this State with respect to any motor vehicle registered or principally garaged in this State [unless it includes] ³[shall include] unless it includes³ coverage in limits for bodily injury or death as follows:

(1) an amount or limit of [\$15,000.00] ³[\$10,000.00] \$15,000.00³, exclusive of interest and costs on account of injury to, or death of, one person, in any one accident, and

(2) an amount or limit, subject to such limit for any one person so injured or killed, of [\$30,000.00] ³[\$20,000.00] \$30,000.00³, exclusive of interest and costs, on account of injury to or death of more than one person, in any one accident.

under provisions approved by the Commissioner of Insurance, for payment of all or part of the sums which the insured or his legal representative shall be legally entitled to recover as damages from the operator or owner of an uninsured motor vehicle, or hit and run motor vehicle, as defined in section 18 of P.L. 1952, c. 174 (C. 39:6-78), because of bodily injury, sickness or disease, including death resulting therefrom, sustained by the insured, caused by accident and arising out of the ownership,

maintenance or use of such uninsured or hit and run motor vehicle anywhere within the United States or Canada; except that uninsured motorist coverage shall provide that in order to recover for non-economic loss, as defined in [section 2 of P.L. 1972, c. 70 (C. 39:6A-2)] ³[section 2 of P.L. c. (C.) (now pending in the Legislature as this bill)] section 2 of P.L. 1972, c. 70 (C. 39:6A-2)³, for accidents to which the benefits of section [4] ³[2] ⁴(C. 39:6A-4)³ of that act apply [(C. 39:6A-4)], the ⁴tort option elected pursuant to section 8 (C. 39:6A-8) of that act shall apply to that ⁴injured person ⁴[shall have sustained an injury]⁴ [or incurred the medical expenses] ⁴[³or incurred the medical expenses³ described]⁴ [under the tort option elected pursuant to section 8 of that act (C. 39:6A-8)] ³[in section 18 of P.L. .c. (C.) (now pending in the Legislature as this bill)] ⁴[under the tort option elected pursuant to section 8 of that act (C. 39:6A-8)]³⁴.

All motor vehicle liability policies shall also include coverage for the payment of all or part of the sums which persons insured thereunder shall be legally entitled to recover as damages from owners or operators of uninsured motor vehicles, other than hit and run motor vehicles, because of injury to or destruction to the personal property of such insured, with a limit in the aggregate for all insureds involved in any one accident of \$5,000.00, and subject, for each insured, to an exclusion of the first [\$250.00] \$500.00 of such damages.

b. Uninsured and underinsured motorist coverage shall be provided as an option by an insurer to the named insured up to at least the following limits: \$250,000.00 each person and \$500,000.00 each accident for bodily injury; \$100,000.00 each accident for property damage or \$500,000.00 single limit, subject to an exclusion of the first [\$250.00] \$500.00 of such damage to property for each accident, except that the limits for uninsured and underinsured motorist coverage shall not exceed the insured's motor vehicle liability policy limits for bodily injury and property damage, respectively.

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

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

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

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

(2) "uninsured motor vehicle" means:

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

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

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

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

³[(3) "Automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch shall be considered to be a private passenger automobile owned by two or more relatives resident in the same household.]³

(cf: P.L. 1983, c. 362, s. 1)

RENUMBER SECTIONS 20 THROUGH 24 AS AS SECTIONS 12 THROUGH 16

OMIT SECTION 25 IN ITS ENTIRETY

INSERT NEW SECTION 17 TO READ:

17. Section 17 of P.L. 1985. c. 65 (C. 17:30E-5) is amended to read as follows:

17. a. Within 45 days after the effective date of this 1988 amendatory and supplementary act, there shall be appointed a reconstituted board of directors, and within 30 days after the appointment of the reconstituted board, the commissioner shall call the first, or organizational, meeting of the [association, which shall seat the] reconstituted board of directors. The board shall consist of [17] nine persons, [14] five of whom shall be appointed by the Governor with the advice and consent of the Senate, however, no more than three of the Governor's appointees shall be of the same political party, one of whom shall be appointed by the Speaker of the General Assembly, and one by the President of the Senate: the Director of the Division of Motor Vehicles in the Department of Law and Public Safety, or his designee, and the Commissioner of Insurance, or his designee, shall be [an] ex officio [member] members of the board. [Of the] The board members appointed by the Governor, [eight shall represent member companies, three shall represent producers, and three shall be public members] the President and the Speaker shall be persons with a background in insurance law or practices, specifically with regard to automobile insurance in New Jersey, who shall not, during their tenure on the board be affiliated with or employed by any producer, insurer servicing carrier or non-insurer servicing carrier, or any trade association or other entity representing the interests of any producer, insurer servicing carrier or non-insurer servicing carrier in this State. Members of the board may, during their tenure on the board, be affiliated with or employed by a non-servicing carrier member company. The Governor shall name two surrogates for each director appointed to the board from a list submitted to him by each appointee. Members of the board shall be compensated from the moneys of the association for their services, pursuant to standards and procedures set forth in the plan of operation. The initial appointment of the board members appointed by the President and Speaker shall be for a term of one year. The initial term of two of the board members appointed by the Governor shall be for a term of two years. The initial term of the

remaining three board members appointed by the Governor shall be for a term of three years. After the initial appointments, all directors shall be appointed for terms of three years or until such time as a successor is appointed and duly qualified. Any vacancy in the membership of the board shall be filled in the same manner as the initial appointment for the unexpired term of the director to be replaced.

Within 20 days of the appointment of the reconstituted board of directors, the Governor, upon consultation with the Commissioner of Insurance, shall appoint two advisory boards to serve the board of directors. The first advisory board, to be known as the member company and servicing carrier advisory board, shall be comprised of eight representatives of member companies, servicing carriers and non-insurer servicing carriers. The second advisory board, to be known as the producer advisory board, shall be comprised of six producer representatives. In appointing the representatives of the member [companies] company and servicing carrier advisory board, the Governor shall select two persons from a list of not fewer than three persons nominated by the American Insurance Association, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; two persons from a list of not fewer than three persons nominated by the Alliance of American Insurers, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; two persons from a list of not less than three persons nominated by the National Association of Independent Insurers, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; and two persons from the officers or employees of any insurers which are licensed in this State and are not members or subscribers of any of the above-mentioned organizations or from the officers or employees of any noninsurer servicing carriers, as provided for in section 24 of P.L. 1983, c. 65 (C. 17:30E-12). All nominations made by the associations shall

include at least one representative of an insurer which is not and does not intend to be a servicing carrier. In appointing the [producer] representatives of the producer advisory board, the Governor shall select [one person] two persons from a list of not fewer than three nominated by the Professional Insurance Agents Association or its successor organization; [one person] two persons from a list of not fewer than three nominated by the Independent Insurance Agents Association or its successor organization; and [one person] two persons from a list of not fewer than three nominated by the Insurance Brokers Association or its successor organization. The Governor shall name two surrogates for each [director on the] advisory board member from a list submitted to him by each appointee. [The Governor shall, with the advice and consent of the Senate, also appoint three public members to the board. The Speaker of the General Assembly and the President of the Senate shall each appoint a public member. The commissioner or his designated representative shall be entitled to attend and participate in all meetings of the board or any of its committees.]

Each trade association and producer association shall have 15 days from the effective date of this 1988 amendatory and supplementary act to submit its prescribed list of advisory board [of director] candidates to the Governor. [The Governor shall have 30 days from receipt of each list to select permanent board members from it.] If any of the associations named in this section fails to submit the list from which the Governor is to select advisory board members [of the board of directors] within the time provided in this subsection, the Governor shall appoint temporary advisory board members to represent each association that has failed to submit its list. In selecting temporary advisory board members, the Governor shall be guided by the selection criteria set forth herein. Upon subsequent receipt of the list from the association, the Governor shall select permanent advisory board members to replace temporary board members within 30 days. Such replacement shall become effective immediately. Advisory board members shall each serve for a three year term or until such time as their successor is appointed and qualified. Any vacancy in the membership of the member and servicing carrier or producer advisory board shall be filled in

the same manner as the initial appointment for the unexpired term of the advisory board member to be replaced. Advisory board members shall not be compensated for their services, but shall be reimbursed by the association for any necessary and reasonable expenses incurred in performance of their duties as members of the advisory board.

[The initial appointment of four insurer directors, one producer-group director, and one public member appointed by the Governor shall be for a term of one year. The initial appointments of all other directors shall be for terms of two years. After the initial appointments all directors shall be appointed for terms of two years and shall serve until their successors are appointed and qualified. All appointive vacancies on the board shall be filled in accordance with the above-mentioned procedures and classifications. Appointments to fill vacancies shall be for the unexpired terms of the directors to be replaced. Except in the case of the Director of the Division of Motor Vehicles, directors may be reimbursed from the moneys of the association for reasonable expenses incurred by them as members.]

b. After the board has been appointed, it shall elect from its membership a chairman and shall then meet thereafter at least annually, and as often as the chairman or the plan of operation shall require, or at the request of any ~~five~~ three members of the board or the commissioner. All meetings of the board and of the advisory boards shall be held in New Jersey. Written notice setting forth the meeting agenda shall be provided for each board meeting. Written notice shall be provided, at least five days prior to the date of the meeting, to all directors, each member of the member and servicing carrier advisory board and producer advisory board, the commissioner, and the chairmen of the Assembly [Banking and] Insurance Committee and the Senate Labor, Industry and Professions Committee, or the successors to those committees. Minutes shall be kept of all meetings. A copy of the minutes shall be sent within five business days following the meeting to the commissioner and to the chairmen of the two legislative committees. Each member of the board shall be entitled to one vote. The commissioner, or his designated representative, shall have no right to vote. [Nine] Four voting

members of the board shall constitute a quorum. No votes shall be cast on any matter except at an authorized board meeting. All votes shall be recorded in the minutes of the meeting. No votes shall be cast on any matter not listed as an agenda item in the written notice for that meeting. No member or his surrogate shall be entitled to vote on any matter if not physically present at the meeting at which the vote is taken. A majority of the voting members shall determine any action of the board. No member may serve as chairman for more than two consecutive years.

c. The board shall have and exercise all powers of the association not reserved to the members by the plan of operation or as otherwise provided in this act.⁴

(cf: P.L.1986. c.211. s.2)

RENUMBER SECTION 26 AS SECTION 18

OMIT SECTION 27 IN ITS ENTIRETY

INSERT NEW SECTION 19 TO READ:

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) The application is not made by or on behalf of any insurer by reason of the existence of a policy of insurance, whereby the insurer is liable to pay, in whole or in part, the amount of the judgment and that no part of the amount to be paid out of the fund is sought in lieu of making a claim or receiving a payment which is payable by reason of the existence of such a policy of

insurance and that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of such a policy of insurance.

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

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

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

The board or any insurer to which the action has been assigned may appear and be heard on application and show cause why the order should not be made.⁴

(cf: P.L. 1983, c. 362, s. 2)

OMIT SECTION 28 IN ITS ENIRETY

REPLACE SECTION 29 TO READ:

³[49.] ⁴[29.3] 20.⁴ Section 24 of P.L. 1983, c. 65 (C. 17:30E-12) is amended to read as follows:

24. a. Pursuant to the procedures and standards established in the plan of operation, the board shall solicit, by advertisement in at least two newspapers of general circulation in the State, proposals from members and eligible noninsurers to act as a servicing carrier for the association. Standards may include the submission of a deposit.

All proposals shall be publicly opened by the board, which, after consultation with, and the approval of, the commissioner, shall award a contract to the proposer or proposers, as the case may be, whose proposal, conforming to the solicitation for proposals, is most advantageous to the association and its policyholders in its judgment, upon consideration of price and other factors. ⁴The commissioner may reject any and all bids if he determines that the bid proposals do not serve the best interests of the association. If the bid process does not result in adequate servicing capacity for the association, capacity shall be achieved pursuant to the provisions of subsection e. of this section.⁴

An person who makes, or causes to be made, a false, deceptive, or fraudulent statement in any proposal to be a servicing carrier, or in the course of any proceeding in connection therewith, shall be subject to a fine of not less than \$20,000.00, shall forfeit any fee which may be required to be submitted in conjunction with the proposal, and shall be permanently disqualified from submitting any further proposal under this section.

b. Insurers under common management or ownership may elect to submit an application to act as a servicing carrier in the name of any company in the group which is licensed and authorized to transact automobile insurance in this State. The commissioner may disapprove the action by the board, if he finds that the action is not in the best interests of the association, the insurer, or the purposes of this act, within 20 days of final approval by the board. The disapproval shall be made in writing and shall set forth the reasons for disapproval.

c. Any person other than a member may act as a servicing carrier if: (1) the person meets the standards of eligibility for non-insurer servicing carriers established by the commissioner in the plan of operation, after consultation with the board; and (2) the person is approved by the commissioner as being eligible. The plan of operation shall contain any standards of eligibility which the commissioner may deem appropriate for establishing the qualifications of persons desiring to become noninsurer servicing carriers, which standards may include, but not be limited to, financial soundness, the capacity to perform the services required, experience, and record of past performance. [Notwithstanding the provisions of subsection a. of this section,

noninsurer servicing carriers shall not service, in the aggregate, more than 50% of the policies issued by the association.]

The commissioner shall have the authority to exercise all the powers granted to him by Title 17 of the Revised Statutes, including the powers of examination, with respect to noninsurer servicing carriers deemed to be eligible pursuant to this subsection.

d. The standards of eligibility shall require that every non-insurer servicing carrier: (1) shall have minimum assets of \$10,000,000.00; (2) shall have been in business for at least five years; (3) shall have had at least three years' experience in insurance related fields or activities; and (4) shall be able to demonstrate to the commissioner and the board that it has the capacity to issue and service a minimum of 100,000 private passenger automobile insurance policies.

e. After notice and hearing, the commissioner may require one or more members of the association or member of a group as provided in subsection b. of this section to act as servicing carriers, if he determines that the action is necessary to effectuate the purposes of this act, except that no company having less than 1% of the voluntary private passenger automobile insurance market in this State based on its net written cars years of exposure shall be subject to the provisions of this subsection.

f. Pursuant to procedures established by the commissioner, any member of the association or eligible noninsurer which is acting as a servicing carrier may apply to the commissioner for permission to discontinue acting as a servicing carrier or to reduce its participation. After notice and a hearing, the commissioner may permit such insurer or eligible non-insurer to discontinue acting as a servicing carrier or to reduce its participation, on terms to be imposed by the commissioner, if the commissioner finds that such action is in the best interests of the insurer or eligible noninsurer, the association and the purposes of this act.

g. After notice and hearing, the association may recommend to the commissioner that the authority of a servicing carrier be terminated or the commissioner may terminate the authority of a servicing carrier to act as a servicing carrier, if the association

or the commissioner determines that it is in the best interest of the association.

h. Any order of the commissioner pursuant to this section shall be subject to review by the Appellate Division of the Superior Court.

(cf: P.L.1986, c.211, s.5)

OMIT SECTION 30 IN ITS ENTIRETY

INSERT NEW SECTION 21 TO READ:

⁴21. Section 25 of P.L. 1983, c. 65 (C. 17:30E-13) is amended to read as follows:

25. [The] Notwithstanding the provisions of section 7 of P.L. 1983, c. 65 (C. 17:29A-36), the rates used by the association shall be [the same as those used by the rating bureau which files rates for the greatest number of insurers transacting private passenger automobile insurance in the voluntary market in this State, except that notwithstanding the provisions of section 7 of P.L. 1983, c. 65 (C. 17:29A-36)] as follows:

a. On January 1, 1989, the territorial base rates used by the association for policies issued or renewed following that date shall be adjusted by the commissioner so that they exceed the territorial base rates used by the rating bureau which files rates for the greatest number of insurers transacting private passenger automobile insurance in the voluntary market in this State by 10%.

b. On January 1, 1990, the territorial base rates used by the association for policies issued or renewed following that date shall be adjusted by the commissioner based on the needs of the association pursuant to a filing made with the commissioner by the association no later than October 1, 1989. The commissioner may adjust the association rates so that they exceed the territorial base rates used by the rating bureau which files rates for the greatest number of insurers transacting private passenger automobile insurance in the voluntary market in this State by no more than 20%.

c. On January 1, 1991, the territorial base rates used by the association for policies issued or renewed following that date shall be adjusted by the commissioner based on the needs of the association pursuant to a filing made with the commissioner by

the association no later than October 1, 1990. The commissioner may adjust the association rates so that they exceed the territorial base rates used by the rating bureau which files rates for the greatest number of insurers transacting private passenger automobile insurance in the voluntary market in this State by no more than 30%.

d. January 1, 1992, the territorial base rates used by the association for policies issued or renewed following that date shall be adjusted by the commissioner based on the needs of the association pursuant to a filing made with the commissioner by the association no later than October 1, 1991. The commissioner may adjust the association rates so that they exceed the territorial base rates used by the rating bureau which files rates for the greatest number of insurers transacting private passenger automobile insurance in the voluntary market in this State by no more than 40%.

e. On January 1, 1993, the commissioner shall direct the board to prepare, adopt and file with the commissioner rates which are based upon past and prospective loss experience of the risks underwritten by the association and the expenses attendant thereto, and which maintain the association on a self-sustaining basis. The commissioner shall approve or disapprove the rates filed by the board pursuant to the provisions of P.L. 1944, c. 27 (C. 17:29A-1 et seq.).

Nothing contained in this subsection shall be deemed to affect the commissioner's ability to continue to maintain any flat charges (also known as flat capitation fees or policy constants) pursuant to section 1 of P.L. 1984, c. 1 (C. 17:29A-37.1) or any residual market equalization charge pursuant to section 20 of P.L. 1983, c. 65 (C. 17:30E-8) approved on or before 48 months following the effective date of this 1988 amendatory and supplementary act.

f. Nothing contained in subsections a. through e. of this section shall operate to cause the rates charged by the association to result in revenues to the association which exceed the needs of the association in meeting its obligations and expenses.

g. The commissioner may order the adjustment of association rates in any territory in which the relationship between the rates used by the association and the rates used by insurers in the standard voluntary market is such that the voluntary market is adversely affected [.]

[b.] h. The commissioner may order the establishment of association rates which are higher than the rates which are otherwise provided for by this section, which rates would be applicable to certain drivers, based on their accident or violation records. The rates applicable to these drivers shall be established additively to the rates otherwise authorized for the use of the association, shall be spread equably across all classes and territories and may, at the discretion of the commissioner, vary as to the extent of the at-fault accident or violation records of the drivers.⁴

(cf: P.L.1986, c.211, s.6)

OMIT SECTION 31 IN ITS ENTIRETY

INSERT NEW SECTION 22 TO READ:

⁴22. (New section) Notwithstanding any other provision of law to the contrary, within 60 days of the effective date of this section, the board of directors of the association shall establish rates for collision and comprehensive coverages based on the experience of the association, which shall be filed for approval by the commissioner pursuant to P.L. 1944, c. 27 (C. 17:29A-1 et seq.). Any and all proceedings relating to a filing made pursuant to this section shall be completed on an expedited basis no later than 30 days after the date of the filing, and upon terms and conditions established by the commissioner.⁴

REPLACE SECTION 32 TO READ:

³[52.] ⁴[32.] ^{23.}⁴ (New section) ⁴[Sections 13 to 34 of P.L. 1983, c. 65 (C. 17:30E-1 et seq.) are supplemented as follows:]⁴
a. The ⁴[board] plan of operation⁴ shall ⁴[, within 60 days following the effective date of this 1988 amendatory and supplementary act, contract] provide⁴ for the establishment of an association data bank to facilitate the dissemination of information regarding association risks to all insurers transacting the business of private passenger automobile insurance in the voluntary market.

b. The ⁴[board] plan of operation⁴ shall establish the type of information which may be made available to insurers, which may include, but not be limited to, the name, address, and classification of the insured, a description of the vehicle, the loss history of the insured, the limits of coverage on the policy, and the producer of record.

c. The board shall make this data available to all insurers writing private passenger automobile insurance in the voluntary market in a nondiscriminatory manner to facilitate the insurers' depopulation of the association.

d. ⁴[The establishment of this data bank may be incorporated in the plan of operation of the association, but it shall not require the approval of the commissioner.]⁴ The ⁴data bank, as established in the ⁴plan ⁴,⁴ shall be fully operational within ⁴[five] six⁴ months of the effective date of this ⁴[act] section⁴.

OMIT SECTION 33 IN ITS ENTIRETY

INSERT NEW SECTION 24 TO READ:

⁴24. Section 18 of P.L. 1983, c. 362 (C. 17:29A-15.1) is amended to read as follows:

18. Premium credits shall be provided for each deductible [,] and exclusion [and setoff] on personal injury protection coverage offered in accordance with section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3), and for the tort limitation options on bodily injury liability coverage offered in accordance with section 8 of P.L. 1972, c. 70 (C. 39:6A-8). All premium credits to which this section applies shall be calculated and represented to the insured as a percentage of the applicable premium for each coverage option, and the percentage for each coverage option shall be uniform by filer on a Statewide basis.

The premium charged for each coverage shall be clearly set forth in any policy or endorsement provided the insured.

The percentage rate of commission or rate of other compensation payable by an automobile insurer to [an agent or broker] a producer shall not vary by reason of the selection or nonselection of any option provided in section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70 (C. 39:6A-8).⁴ (cf: P.L.1985, c.520, s.13)

OMIT SECTION 34 IN ITS ENTIRETY

INSERT NEW SECTION 25 TO READ:

⁴25. Section 26 of P.L. 1983, c. 65 (C. 17:30E-14) is amended to read as follows:

26. [The association] a. Within 45 days of the effective date of this 1988 amendatory and supplementary act, the commissioner shall, in the plan of operation, establish procedures to [encourage] govern the voluntary writing of [qualified] applicants and association insureds without the utilization of the association. These procedures shall include [provisions for appropriate incentives to encourage companies to voluntarily write those applicants who are qualified for insurance by the

automobile insurance plan established pursuant to P.L. 1970, c. 215 (C. 17:29D-1) criteria identifying drivers who should be eligible for coverage in the voluntary market. Applicants and association insureds meeting these criteria shall be subject to assignment by the association to member companies, pursuant to an equitable apportionment procedure established in the plan of operation. The procedure shall give due consideration to the increase or decrease in the volume of private passenger automobile non-fleet exposures voluntarily written by member companies in this State since January 1, 1984.

b. (1) Pursuant to the procedures established in the plan of operation under subsection a. of this section, the commissioner shall establish a voluntary market quota, which shall not be less than 60% of the aggregate number of private passenger automobile non-fleet exposures written in the total private passenger automobile insurance market in this State on the effective date of this 1988 amendatory and supplementary act. The quota shall prescribe the number of voluntary market exposures which shall be written by member companies during the 12 month period beginning 60 days after the effective date of this 1988 amendatory and supplementary act.

(2) At the end of the first 12 month period following the effective date of this 1988 amendatory and supplementary act, the commissioner shall prescribe a second quota, which shall take effect no later than 60 days following the end of that period and which shall not be less than 70% of the aggregate number of private passenger automobile non-fleet exposures written in the total private passenger automobile insurance market in this State at the end of the first 12 month period following the effective date of this 1988 amendatory and supplementary act. The quota shall prescribe the number of voluntary market exposures which shall be written by member companies during the 12 month period described in this paragraph.

(3) At the end of the second 12 month period following the effective date of this 1988 amendatory and supplementary act, the commissioner shall prescribe a third quota, which shall take effect no later than 60 days following the end of that period and which shall not be less than 75% of the aggregate number of

private passenger automobile non-fleet exposures written in the total private passenger automobile insurance market in this State at the end of the second 12 month period following the effective date of this 1988 amendatory and supplementary act. The quota shall prescribe the number of voluntary market exposures which shall be written by member companies during the 12 month period described in this paragraph.

(4) No later than 60 days following the end of the third 12 month period following the effective date of this 1988 amendatory and supplementary act, the commissioner shall prescribe such a quota that will result, at the end of the fourth 12 month period following the effective date of this 1988 amendatory and supplementary act, in the volume of exposures written in the voluntary market equaling no less than 80% of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State, or such volume of exposures in excess of 80% that the commissioner determines should be considered eligible for coverage in the voluntary market. The quota shall prescribe the number of voluntary market exposures which shall be written by member companies during the 12 month period described in this paragraph. After the period established in this paragraph, the association shall not write any risk for a period longer than three years, unless, at the end of that time, the insured has presented evidence that he has been rejected by at least two insurers in the voluntary market.

c. In the event that any of the quotas established by the commissioner pursuant to subsection b. of this section have not been met by the end of any 12 month period, the commissioner shall direct the association to assign the balance of the exposures needed to meet the applicable quota to member companies in a manner consistent with the apportionment procedure established pursuant to subsection a. of this section. A member company which exceeds its apportionment share for any 12 month period shall receive credit for the excess against the following year's obligation.

d. If, at any time after the period established in paragraph (4) of subsection b. of this section, the volume of exposures written in the voluntary market equals less than 80% of the aggregate

number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State or such volume of exposures in excess of 80% that the commissioner determines should be eligible for coverage in the voluntary market, the commissioner shall direct the association to assign eligible applicants and association insureds to member companies on an equitable basis.

e. For the purposes of this section, any exposure written in the voluntary market by an affiliate of the insurer to which an apportioned share has been assigned shall be credited against that share.

f. The total number of exposures written in the voluntary market, net of exposures cancelled or nonrenewed, by a member company at the end of the applicable period shall be utilized in determining whether the member company has written its apportionment share in the voluntary market for purposes of complying with any quotas established by the commissioner pursuant to this section.

g. The commissioner may excuse a member company from meeting any of its obligations under this section that he determines would result in the member company being in an unsafe or unsound condition.

h. Any member company that does not write its apportionment share of any quota established by the commissioner pursuant to subsection b. or c. of this section within the applicable time period shall be precluded from nonrenewing automobile insurance policies pursuant to section 26 of this 1988 amendatory and supplementary act during the immediately following 12 month period.

i. In addition to the requirements of subsection a. of this section, the procedures governing the increase in voluntary market volume shall:

(1) establish guidelines and criteria for determining whether a person is a qualified applicant as defined in section 15 of P.L. 1983, c. 65 (C. 17:30E-3), and procedures for the issuance of automobile insurance through the voluntary market to persons found not to be qualified applicants for association coverage, and for the referral of persons determined not to be eligible for association coverage to alternative residual market mechanisms;

(2) include provisions ensuring that servicing carriers do not obtain any unfair advantage over other member companies in the selection of qualified applicants and association insureds to be written as voluntary business;

(3) neither prohibit nor require member companies to write association business through association producers of record, provided, however, that where a member company elects not to service such business through the association producer of record, the procedures shall address the manner in which the association shall transfer the business to the member company, and shall establish reasonable compensation in an amount sufficient to offset the actual expenses incurred by the association producer in conjunction with the transfer which shall be paid by the association upon transfer of the business to the member company; and

(4) provide for financial disincentives to applicants who, without good cause, reapply for coverage in the association after being placed in the voluntary market.⁴

(cf: P.L.1986, c.211, s.7)

REPLACE SECTION 35 TO READ:

³[55.] ⁴[35.] 26.⁴ (New section) a. Notwithstanding the provisions of section ³[2 of this 1988 amendatory and supplementary act] 3 of P.L. 1972, c. 70 (C. 39:6A-3)³, a licensed insurer may, in accordance with subsections b. and c. of this section, refuse to renew a policy of private passenger automobile insurance that provides coverage required to be maintained pursuant to ³[that section] P.L. 1972, c. 70 (C. 39:6A-1 et seq.)³.

b. For each calendar year period, an insurer may issue notices of intention not to renew an automobile insurance policy in the voluntary market in an amount not to exceed 2% of the total number of voluntary market automobile insurance policies of the insurer, rounded to the nearest whole number, which are in force at the end of the previous calendar year in each of the insurer's rating territories in use in this State.

c. For every two newly insured automobiles which an insurer voluntarily writes in each territory during each calendar year period, the insurer shall be permitted to refuse to renew one additional policy of automobile insurance in that territory in excess of the 2% limitation established by subsection b. of this section, subject to a fair and nondiscriminatory formula

developed by rule or regulation of the commissioner. For the purposes of this section, "voluntarily writes" shall not include any [policy] exposure voluntarily written by or assigned to an insurer to meet any quota established pursuant to [subsection a. of section 3[54] 34] of this 1988 amendatory and supplementary act, but shall not include any policy assigned to the insurer by the commissioner pursuant to subsection c. of that] section 26 of P.L. 1983, c. 65 (C. 17:30E-14)⁴.

d. The provisions of this section shall not apply to any cancellation made pursuant to paragraph (A) of section 2 of P.L. 1968, c. 58 (C. 17:29C-7).

e. The commissioner shall monitor the implementation and operation of this section and shall report his findings, including any legislative proposals, to the Senate Labor, Industry and Professions Committee and the Assembly Insurance Committee, or their successors, within three years of the effective date of this act.⁴

REPLACE SECTION 36 TO READ:

3[56.] 4[36.3] 27.⁴ Section 2 of P.L. 1968, c. 158 (C. 17:29C-7) is amended to read as follows:

2. (A) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) Nonpayment of premium or nonpayment of a residual market equalization charge imposed pursuant to the provisions of section 3[47] 4[27] of P.L. . c. (C) (now pending in the Legislature as this bill)] 20 of P.L. 1983, c. 65 (C. 17:30E-8)⁴; or

(b) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period.

(B) This section shall not apply to any policy or coverage which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(C) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding \$100.00 shall not be deemed a cancellation of the coverage or of the policy.

(U) This section shall not apply to nonrenewal.

(cf: P.L.1968. c.158. s.2)

REPLACE SECTION 37 TO READ:

³[57.] ⁴[37.3] 28.⁴ (New section) a. Notwithstanding the provisions of sections 5 and 10 of P.L. 1944. c. 27 (C. 17:29A-5 and 17:29A-10):

(1) Every insurer writing motor vehicle ⁴[insurance] insurance⁴ in this State shall file for approval of their own expenses:

(2) Every insurer writing motor vehicle insurance in this State whose total written car years insured, on a calendar basis, equals or exceeds 2% on January 1, 1989, 1.5% on January 1, 1990, and 1% on January 1, 1991, of the total written car years insured by all insurers writing motor vehicle insurance in this State, for the same calendar year, shall make its own rates for motor vehicle insurance in accordance with the provisions of P.L. 1944. c. 27 (C. 17:29A-1 et seq.) based ⁴[solely]⁴ upon the insurer's own loss experience for those lines.

b. Nothing contained in this section shall be deemed to prohibit any insurer from continuing to be a member or a subscriber of a rating ⁴[bureau] organization⁴ or from becoming a member or subscriber of a rating ⁴[bureau] organization⁴ for any other line of insurance which it may write in this State, but no rating ⁴[bureau] organization⁴ may use the loss experience of any member ⁴[that is]⁴ subject to the provisions of paragraph (2) of subsection a. of this section ⁴[in computing, statistical experience or]⁴ in making its motor vehicle insurance rates for its members not subject to the provisions of paragraph (2) of subsection a. of this section ⁴[and no rating bureau may use the expenses of any member in making its motor vehicle insurance rates] unless such experience is necessary to determine actuarially sound rates⁴.

OMIT SECTION 38 IN ITS ENTIRETY

INSERT NEW SECTION 29 TO READ:

⁴29. (New section) a. In order to effectuate the purposes of this 1988 amendatory and supplementary act, including accomplishing the depopulation of the New Jersey Automobile Full Insurance Underwriting Association, and encouraging competition and addressing the needs of the private passenger automobile insurance voluntary market in this State, the Commissioner of Insurance shall, within 90 days of the effective

date of this act, establish by regulation a Statewide average rate change percentage for use by filers writing private passenger automobile insurance in this State. The Statewide average rate change percentage shall be established with due recognition to changes in the Consumer Price Indices most relevant to changes in the cost of automobile insurance. The commissioner may by regulation annually alter the percentage amount.

b. Notwithstanding any other provision of law to the contrary, commencing July 1, 1989, and annually thereafter, any filer may make a private passenger automobile insurance Statewide average rate change that is not in excess of the amount prescribed by the commissioner pursuant to subsection a. of this section which may be used when filed pursuant to subsection c. of this section. As used in this section, "Statewide average rate change" means the total Statewide premium for all coverages, combined at the rates resulting from the filing divided by the total Statewide premium for all coverages combined at the rates in effect at the time of the filing.

c. A filer may implement a change in rate level, pursuant to subsection b. of this section, in whole or in part, in a single or in multiple filings by making an informational filing with the commissioner in a manner and form approved by the commissioner. The filing shall include a statement of the reason or reasons for the change in rate level, including but not limited to the claim and expense experience of the individual filer.

d. Neither the provisions of subsection c. of section 14 of P.L. 1944, c. 27 (C. 17:29A-14), nor the provisions of section 19 of P.L. 1974, c. 27 (C. 52:27E-18), shall apply to any filing made pursuant to this section.

e. The commissioner shall monitor the implementation and use of flex rating pursuant to this section and shall report his findings to the Senate Labor, Industry and Professions Committee and the Assembly Insurance Committee, or their successors, including any legislative proposals, no later than July 1, 1992. This report shall provide an evaluation of the use of this rating mechanism and its impact on the availability and affordability of private passenger automobile insurance in this State and the depopulation of the New Jersey Automobile Full Insurance Underwriting Association and shall include any legislative proposals or other recommendations of the commissioner.⁴

OMIT SECTION 39 IN ITS ENTIRETY

INSERT NEW SECTION 30 TO READ:

⁴30. (New section) Every insurer writing private passenger automobile insurance in this State shall, within 60 days of the effective date of this section, file for approval by the commissioner pursuant to P.L. 1944, c. 27 (C. 17:29A-1 et seq.), a good driver discount plan applicable to private passenger automobile insurance rates. Any and all proceedings relating to a filing made pursuant to this section shall be completed on an expedited basis no later than 30 days after the date of the filing, and upon terms and conditions established by the commissioner.⁴

OMIT SECTION 30 IN ITS ENTIRETY

INSERT NEW SECTION 31 TO READ:

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

16. Powers of exchange. a. The exchange shall be empowered to raise sufficient moneys (1) to pay its operating expenses, and (2) to compensate members of the exchange for claims paid for noneconomic loss, and associated claim adjustment expenses, which would not have been incurred had the tort limitation option provided in subsection b. of section 8 of P.L. 1972, c. 70 (C. 39:6A-8) or, in the case of policies issued or renewed on or after January 1, 1989, subsection a. of section 8 of P.L. 1972, c. 70 (C. 39:6A-8), been elected by the injured party filing the claim for noneconomic loss.

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

AIRE charge amounts required to be paid to the exchange in accordance with this subsection shall, in the case of those amounts determined by the board of directors to be applicable during the period from July 1, 1984 to the effective date of [this amendatory and supplementary act] P.L. 1985, c. 520, be paid to the exchange within 60 days of that date.

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

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

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

e. The exchange shall have such powers as may be necessary or appropriate to effectuate the purposes of the exchange.⁴

(cf: P.L.1985, c.520, s.11)

OMIT SECTION 41 IN ITS ENTIRETY

INSERT NEW SECTION 32 TO READ:

⁴32. (New section) In order to implement the provisions of section 8 of P.L. 1972, c. 70 (C. 39:6A-8), as amended by this 1988 amendatory and supplementary act, the commissioner shall immediately order the filing of rates for coverage under that section by all insurers transacting private passenger automobile insurance in this State. Any and all proceedings relating to a filing made pursuant to this section shall be completed on an expedited basis no later than 30 days after the date of the filing, and upon terms and conditions established by the commissioner.⁴

OMIT SECTION 42 IN ITS ENTIRETY

INSERT NEW SECTION 33 TO READ:

⁴33. Section 10 of P.L. 1983, c. 65 (C. 17:29A-39) is amended to read as follows:

4. a. Every private passenger automobile insurance policy providing collision and comprehensive coverages, issued or renewed on or after the effective date of this act, shall provide a deductible in a minimum amount of \$500.00 each for collision and comprehensive coverages, unless the named insured selects a lower deductible amount. The minimum deductible established by this subsection shall apply to all policies providing collision and comprehensive coverages unless the named insured provides otherwise in writing on a form approved by the commissioner.

b. The commissioner shall promulgate rules and regulations requiring insurers to offer a range of deductibles up to at least \$2,000.00 for private passenger automobile collision and comprehensive coverages.⁴

(cf: P.L.1985, c.520, s.4)

RENUMBER SECTION 43 AS SECTION 34

REPLACE SECTION 44 TO READ:

³[64.] ⁴[44.³] ^{35.}⁴ Section 17 of P.L. 1983, c. 362 (C. 39:6A-23) is amended to read as follows:

17. [Notice of available coverages and rate credits for deductible, exclusion, setoff and tort limitation options.]

³Written notice - buyer's guide and coverage selection form.³

a. No new automobile insurance policy shall be issued on or after the 180th day following the effective date of [this 1985 amendatory and supplementary act] P.L. 1985, c. 520, unless the application for the policy is accompanied by a written notice identifying and containing a buyer's guide and coverage selection form. The buyer's guide shall contain a brief description of all available policy coverages and benefit limits, and shall identify which coverages are mandatory and which are optional under State law, as well as all [deductible, exclusion, setoff and tort limitation] ³[other]³ options offered by the insurer.

The buyer's guide shall also contain a statement on the possible coordination of other health benefit coverages with the personal [injury] ³[injury]³ protection coverage options, the form and contents of which shall be prescribed by the Commissioner of Insurance.

The coverage selection form shall identify the range of premium rate credit or dollar savings, or both, and shall provide any other information required by the commissioner by regulation.

The applicant shall indicate the options elected on the coverage selection form which shall be signed and returned to the insurer.

b. (Deleted by amendment, P.L. 1985, c. 520.)

c. Any notice of renewal of an automobile insurance policy with an effective date subsequent to July 1, 1984, shall be accompanied by a written notice of all policy coverage information required to be provided under subsection a. of this section.

The Commissioner of Insurance shall, within 45 days following the effective date of this act, promulgate standards for the written notice and buyer's guide required to be provided under this section.

d. Written notices provided by any insurer writing at least 2% of the New Jersey private passenger automobile market, including the New Jersey Automobile Full Insurance Underwriting Association established pursuant to section 16 of P.L. 1983, c. 65 ³[(C. 39:30E-4)] (C. 17:30E-4)³; shall also contain a statement advising that if the insured or applicant has any questions concerning his automobile insurance policy, including questions as to coverage or premiums, he may contact [either] his [agent or broker] producer, or the company directly, by using a toll free

number which shall be set forth in the notice. Written notice shall be given to all insureds of any change in the toll free number.

e. [In addition to the information required pursuant to this section, every insurer shall, at least annually, in conjunction with a renewal notice, a bill, or other notice of payment due issued to a policyholder in conjunction with private passenger automobile insurance, send to each policyholder a written notice of all of the following:

(1) A description of the specific rating classifications by which the rates and premiums for the policy have been determined. The notice shall be of sufficient detail and clarity so that the policyholder can reasonably verify the applicability and accuracy of the rating classifications.

(2) A general explanation of the extent to which rates or premiums vary on the basis of the rating classifications used by the insurer.

(3) Sources and reasonable procedures by which the individual can obtain from the insurer additional information sufficient for the individual to calculate and confirm the accuracy of his or her specific premium.

(4) Relevant information regarding the rights of the insured to appeal the application of the insurer's rating plan in determining his or her premium, to obtain documentation from the insurer regarding the determination of the rate, to appeal the application of the insurer's underwriting rules to the person, to request an informal conference with the insurer, and to file a complaint with the commissioner as an aggrieved person.

(5) A notice that the insured may contact his or her producer to determine if he or she is eligible for insurance from an affiliate of the insurer or under a different rating plan of the insurer which would provide insurance to the insured at a more favorable rate.

(6) Any other relevant information as required by rule or regulation of the commissioner.

(7) With respect to any optional coverage offered or required to be offered pursuant to any provision of law, all election or rejection of options by the insured shall be in writing, on a form approved by the commissioner, and] A properly completed and

executed coverage selection form⁴ shall be prima facie evidence of the named insured's knowing election or rejection of ⁴(the) any⁴ option.

(cf: P.L. 1985, c. 520, s. 5)

RENUMBER SECTION 45 AS SECTION 36

REPLACE SECTION 46 TO READ:

³[66.] ⁴[46.]³ 37.⁴ (New section) The commissioner shall conduct a review of the rating territories employed by insurers in establishing private passenger automobile insurance rates and of the caps imposed on private passenger automobile insurance rates pursuant to section 7 of P.L. 1983, c. 65 (C. 17:29A-36), which review shall include an evaluation of the number of territories which are presently being utilized and an examination of the actuarial ⁴[soundness] and statistical soundness⁴ of those caps, and report his findings, including any legislative proposals, within ⁴[six] 12⁴ months of the effective date of this 1988 amendatory and supplementary act to the Governor and the appropriate standing reference committees of the Legislature.

INSERT NEW SECTIONS 38 THROUGH 44 AS FOLLOWS:

⁴38. Section 13 of P.L. 1983, c. 263 (C. 39:6A-4.3) is amended to read as follows:

13. Personal injury protection coverage deductibles [.] and exclusions [and setoffs]. With respect to personal injury protection coverage provided on an automobile in accordance with section 4 of P.L. 1972, c. 70 (C. 39:6A-4), the automobile insurer shall, at appropriately reduced premiums, provide the following coverage options:

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

b. The option to exclude all benefits offered under subsections b., c., d., and e. of section 4:

c. [A setoff option entitling an automobile insurer paying medical expense benefits under section 4 to reimbursement from, and a lien on, any recovery for noneconomic loss by an injured party pursuant to an arbitration award, judicial judgment or voluntary settlement for the amount of the medical expense benefits paid, not to exceed 20% of the amount of the award, judgment or settlement, including recoveries under uninsured and underinsured motorist coverage, except that if, at the time of the award, judgment or settlement, the amount of medical expense

benefits does not exceed 20% but additional expense benefits of an indeterminate amount are anticipated, the amount of the setoff shall be 20% of the award, judgment or settlement, with the difference between the value of the 20% and the amount of medical expense benefits previously paid to be placed in an interest bearing trust account for use to indemnify the insurer paying the medical expense benefits, as the benefits are paid. Attorney's contingent fees shall be computed on the amount of the award, judgment or settlement, less the amount of the setoff, which setoff shall be, if the medical expense benefit claim of the injured person, as of the date of the award, judgment or settlement is made, is: (1) closed, the amount of medical expense benefits paid, not to exceed 20% of the award, judgment or settlement, or (2) open, 20% of the award, judgment or settlement. Under a contingent fee arrangement, the attorney shall also be entitled to reimbursement out of the amount of the setoff for costs actually incurred in the institution and prosecution of the claim or action, which amount shall in no instance exceed 10% of the amount of the setoff, in a manner to be prescribed by the Supreme Court. Nothing in this subsection shall be construed to prohibit an attorney representing the injured party from recovering from the insurer providing personal injury protection benefits the reasonable cost of any legal services rendered to that insurer primarily in conjunction with the setoff reimbursement.] (Deleted by amendment, P.L. . . c.)(now pending in the Legislature as this bill)

A deductible [.] or exclusion [or setoff] elected by the named insured in accordance with this section shall apply only to the named insured and any resident relative in the named insured's household who is not a named insured under another automobile insurance policy, and not to any other person eligible for personal injury protection benefits required to be provided in accordance with section 4.

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

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

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

[Where a trust account has been established in accordance with subsection c. of this section, any remaining principal and all accrued interest in the trust account at the time the final payment of medical expense benefits is made shall be paid to the party to whom the award, judgment or settlement was made, or to his estate.]

The Commissioner of Insurance shall adopt rules and regulations to effectuate the purposes of this section.
(cf: P.L.1984, c.40, s.1)

39. Section 14 of P.L. 1944, c. 27 (C. 17:29A-14) is amended to read as follows:

14. a. With regard to all property and casualty lines, a filer may, from time to time, alter, supplement, or amend its rates, rating systems, or any part thereof, by filing with the commissioner copies of such alterations, supplements, or amendments, together with a statement of the reason or reasons for such alteration, supplement, or amendment, in a manner and with such information as may be required by the commissioner. If such alteration, supplement, or amendment shall have the effect of increasing or decreasing rates, the commissioner shall determine whether the rates as altered thereby are reasonable, adequate, and not unfairly discriminatory. If the commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate, or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate, or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment.

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

c. If an insurer or rating organization files a proposed alteration, supplement or amendment to its rating system, or any part thereof, which would result in a change in rates, the commissioner may, or upon the request of the filer or the Public

Advocate shall, certify the matter for a hearing. The hearing shall, at the commissioner's discretion, be conducted by himself, by a person appointed by the commissioner pursuant to section 26 of P.L. 1944, c. 27 (C. 17:29A-26), or by the Office of Administrative Law, created by P.L. 1978, c. 67 (C. 52:14F-1 et seq.), as a contested case. The following requirements shall apply to the hearing:

(1) The hearing shall commence within 30 days of the date of the request or decision that a hearing is to be held. The hearing shall be held on consecutive working days, except that the commissioner may, for good cause, waive the consecutive working day requirement. If the hearing is conducted by an administrative law judge, the administrative law judge shall submit his findings and recommendations to the commissioner within 30 days of the close of the hearing. The commissioner may, for good cause, extend the time within which the administrative law judge shall submit his findings and recommendations by not more than 30 days. A decision shall be rendered by the commissioner not later than 60 days, or, if he has granted a 30 day extension, not later than 90 days, from the close of the hearing. A filing shall be deemed to be approved unless rejected or modified by the commissioner within the time period provided herein.

(2) The commissioner, or the Director of the Office of Administrative Law, as appropriate, shall notify all interested parties, including the Public Advocate on behalf of insurance consumers, of the date set for commencement of the hearing, on the date of the filing of the request for a hearing, or within 10 days of the decision that a hearing is to be held.

(3) The insurer or rating organization making a filing on which a hearing is held shall bear the costs of the hearing. (4) The commissioner may promulgate rules and regulations (a) to establish standards for the submission of proposed filings, amendments, additions, deletions and alterations to the rating system of filers, which may include forms to be submitted by each filer; and (b) making such other provisions as he deems necessary for effective implementation of this act.

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

e. In order to meet, as closely as possible, the deadlines in section 17 of P.L. 1983, c. 362 (C. 39:6A-23) for provision of

notice of available optional automobile insurance coverages pursuant to section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70 (C. 39:6A-8), and to implement these coverages, the commissioner may require the use of rates, fixed by him in advance of any hearing, for deductible, exclusion, setoff and tort limitation options, on an interim basis, subject to a hearing and to a provision for subsequent adjustment of the rates, by means of a debit, credit or refund retroactive to the effective date of the interim rates. The public hearing on initial rates applicable to the coverages available under section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70 (C. 39:6A-8) shall not be limited by the provisions of subsection c. of this section governing changes in previously approved rates or rating systems.

(cf: P.L.1985, c.520, s.7)

40. Section 15 of P.L. 1983, c. 65 (C. 17:30E-3) is amended to read as follows:

15. As used in sections 13 to 34 of this act:

a. "Association" means the New Jersey Automobile Full Insurance Underwriting Association.

b. "Automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired, and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes, owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching; and, solely for the purposes of this act, a motorcycle, as defined in R.S. 39:1-1. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definition contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

c. "Automobile insurance" means direct insurance against injury or damage, including the legal liability therefor, arising out of the ownership, operation, maintenance or use of automobiles, including, but not limited to, personal injury protection insurance,

bodily injury liability insurance, property damage liability insurance, physical damage insurance and uninsured and underinsured motorist insurance.

d. "Board" or "board of directors" means the board of directors of the association.

e. "Company" or "member" means an insurer member of the association.

f. "Commissioner" means the Commissioner of Insurance.

g. "Director" means a member of the board of directors of the New Jersey Automobile Full Insurance Underwriting Association.

h. "Net direct car years of liability exposure" means direct bodily injury liability car years of exposure, after deducting returns for cancellations, but without adding reinsurance assumed or deducting reinsurance ceded, as determined by the board and approved by the commissioner.

i. "Net direct car years of physical damage exposure" means direct physical damage car years of exposure, after deducting returns for cancellations, but without adding reinsurance assumed or deducting reinsurance ceded, as determined by the board and approved by the commissioner.

j. "Person" means every natural person.

k. "Plan of operation" means the plan of operation of the association created pursuant to section 18 of this act.

l. "Producer" means an agent or broker licensed to transact the business of automobile insurance in this State.

m. "Qualified applicant" means a person domiciled in New Jersey who is an owner of an automobile registered, or to be registered within 60 days of application, and principally garaged in this State, except that who has been refused coverage in the voluntary market, and who cannot be or is not placed in the voluntary market through the procedures established pursuant to subsection a. of section 26 of P.L. 1983, c. 65 (C. 17:30E-14). Qualified applicant shall also include a member of the United States military forces, if otherwise eligible for insurance coverage issued by the association, [shall be eligible] with respect to an automobile if, at the time the application is made, he is either (1) a nonresident who is stationed in this State, whose automobile is registered in another state and garaged in this

State; or (2) a resident who is stationed in another state, whose automobile is registered in this State and garaged in another state. No person shall, however, be deemed a qualified applicant, if the principal operator of the automobile to be insured does not hold a driver's license which is valid in this State; or if a regular operator of the automobile other than the principal operator does not hold such a license; or if timely payment of premium is not tendered; or if the applicant or principal operator of the automobile does not furnish the information necessary to effect insurance; or if such person [rents or leases] is engaged in the business of renting or leasing automobiles to others or if such person uses automobiles [which are used] for commercial purposes.

n. "Underinsured motorist coverage" means insurance for damages because of bodily injury and property damage caused by accident and arising out of the ownership, maintenance or use of an underinsured automobile. An automobile is underinsured when the sum of the limits of liability under all bodily injury and property damage liability bonds and insurance policies available to a person against whom recovery is sought for bodily injury or property damage is, at the time of the accident, less than the applicable limits of liability afforded under the automobile insurance policy held by the person seeking such recovery.

o. "Residual market equalization charge" means the amount which, when added to all other sources of association income, will cause the association to operate on a no profit, no loss basis.

(cf: P.L.1986, c.211, s.1)

41. Section 22 of P.L. 1983, c. 65 (C. 17:30E-10) is amended to read as follows:

22. a. Association business shall be serviced by producers selected by the board, in accordance with selection procedures and eligibility standards established by the plan of operation [pursuant to rules and regulations promulgated by the commissioner]. The selection procedures shall include an affirmative action program and the establishment of a producer-to-population ratio which shall ensure adequate service on a regional basis. The plan of operation shall also establish procedures to facilitate the transition from the procedures governing producers, which are in effect as of the effective date

of this act, to the selection procedures established by the association pursuant to this subsection.

b. Producers who are exclusive representatives of a company which is a servicing carrier shall be assigned to that carrier for the servicing of association policies. Producers who are not exclusive representatives of a servicing carrier may, at the election of the producer and with the consent of the servicing carrier, contract with the association to do business through any servicing carrier. Producers who are not exclusive representatives of a company which is a servicing carrier, or who have not otherwise established a contractual relationship with a servicing carrier pursuant to this section, shall be assigned to all servicing carriers on an equitable basis by the association, pursuant to the plan of operation. The assignments shall be in proportion to the percentage of association business which each servicing carrier has contracted with the association to accept and shall be balanced among territories. The assignments shall be reviewed at least annually and upon the request of a servicing carrier or producer. Pursuant to the plan of operation, the assignments shall be reallocated if it is found that the allocations are demonstrably inequitable. Reallocations shall be made in a manner to minimize the shifting of producers.

c. Every producer shall be assigned two alternate servicing carriers, pursuant to the plan of operation. In the event that any servicing carrier normally assigned to any producer ceases, as may be provided in the plan of operation, to accept applications temporarily, such applications shall be redistributed by the association to each producer's alternate servicing carrier.

d. In order to minimize disruption of association operations in cases in which a servicing carrier withdraws or will be withdrawing from the service of association business, the association, with the approval of the commissioner, shall be authorized to reallocate all, or any part, of the withdrawing servicing carrier's producers to one or more of the remaining servicing carriers.

(cf: P.L.1986, c.211, s.4)

42. Section 29 of P.L. 1983, c. 65 (C. 17:30E-17) is amended to read as follows:

29. a. The commissioner may suspend or revoke, after notice and a hearing, the certificate of authority of any member insurer

or the license of any agent or broker who willfully fails to comply with the provisions of this act or the regulations or plan of operation promulgated thereunder. In addition to or in lieu of suspension or revocation, any member company violating the provisions of this act or the regulations or plan of operation promulgated thereunder may be fined by the commissioner up to [\$5,000.00] \$10,000.00 for each such violation; and any agent or broker violating the provisions of this act or the regulations or plan of operation promulgated thereunder may be fined by the commissioner up to [\$1,500.00] \$5,000.00 for each violation. These penalties shall be enforced and collected by the commissioner in the name of the State pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.).

b. If, after notice and opportunity to be heard, the board finds that a producer has violated the provisions of this act or the regulations, plan of operation or standards promulgated pursuant to this act, the board shall notify the commissioner and may request the commissioner to temporarily suspend the producer's authority to write new association business. The commissioner may issue an order suspending the producer's authority to write new association business, pending a hearing which shall be held within 20 days of the issuance of the order. If, after a hearing, the commissioner finds that the producer has violated the provisions of this act or the regulations, plan of operation or standards promulgated pursuant to this act, he shall take appropriate disciplinary action, including suspension or revocation of the producer's license or producer's authority to write business for the association, or both.

c. In the event the association sustains a financial loss due to any act or omission of any producer, member company or servicing carrier which violates any statutory, contractual or plan of operation requirement, the commissioner may, in addition or as an alternative to the penalties provided in subsections a. and b. of this section, order the restitution of any moneys owed to the association, and the reimbursement of reasonable costs of investigation and prosecution.

(cf: P.L.1983, c.65, s.29)

43. (New section) The commissioner may, whenever he deems it necessary, make or cause to be made an examination of the finances, operations, methods of conducting business, and all other affairs of the association, its management and its servicing carriers. For the purpose of the examination, the commissioner may authorize, employ or otherwise engage such person, persons or other resources to conduct the examination, or to assist therein, as he deems advisable. The reasonable expenses of the examination shall be determined by the commissioner and shall be paid by the association. The association shall recover all such payments by assessment of its member companies pursuant to an equitable assessment formula established in the plan of operation.

44. Section 12 of P.L. 1972, c. 70 (C. 39:6A-12) is amended to read as follows:

12. Inadmissibility of evidence of losses collectible under personal injury protection coverage. Except as may be required in an action brought pursuant to section 20 of [this 1983 amendatory and supplementary act] P.L. 1983, c. 362 (C. 39:6A-9.1), evidence of the amounts collectible or paid pursuant to sections 4 and 10 of [this act] P.L. 1972, c. 70 (C. 39:6A-4 and 39:6A-10), to an injured person, including the amounts of any deductibles, copayments or exclusions [elected by the named insured pursuant to section 13 of this 1983 amendatory and supplementary act.] otherwise compensated is inadmissible in a civil action for recovery of damages for bodily injury by such injured person.

The court shall instruct the jury that, in arriving at a verdict as to the amount of the damages for noneconomic loss to be recovered by the injured person, the jury shall not speculate as to the amount of the medical expense benefits paid or payable under section 4 to the injured person.

Nothing in this section shall be construed to limit the right of recovery, against the tortfeasor, of uncompensated economic loss sustained by the injured party.⁴

(cf: P.L.1983, c.362, s.11)

REPLACE SECTION 47 TO READ:

³[73.] ⁴[47.3] ^{45.}⁴ (New section) The Commissioner of Insurance may promulgate any rules and regulations which he deems necessary to effectuate the provisions of this 1983 amendatory and supplementary act.

OMIT SECTION 48 IN ITS ENTIRETY

REPLACE SECTION 49 TO READ:

⁴[49.] 46.⁴ This act shall take effect on January 1, 1989,
⁴except that sections 8, 20, 21, 22, 23, 27, 30, 32, 39, 41, 42, 43
and 45 shall take effect immediately,⁴ however, no provision of
this act shall be operative until the enactment into law of Senate
Bill No. 124 of 1988.³

NEWS RELEASE

CN-001

Contact:

CARL GOLDEN
609-292-8956 OR 292-6000 EXT. 207

THURS., SEPT. 8, 1988

Governor Thomas H. Kean today signed two auto insurance reform bills which were the subjects of conditional vetoes concurred in by the Legislature.

The two bills are S-2637, sponsored by Senator Raymond Lesniak, D-Union, makes numerous changes in the insurance system, and S-124, sponsored by Senator John Russo, D-Ocean, which makes changes in reporting dates in the excess profits law affecting auto insurance companies.

"The reform bill which I have signed today represents a first step toward implementing changes in a system which has penalized New Jersey drivers and driven insurance costs beyond the reach of many motorists," Kean said.

"More remains to be done, including favorable action on the bills currently pending before the Assembly to restructure the Joint Underwriting Association," the Governor said.

"I remain convinced, however, that the auto insurance system in New Jersey will not be subjected to significant, long term and long lasting cost savings unless and until a mandatory verbal threshold is enacted," Kean said.

"In the absence of a verbal threshold, a major damper on rising auto insurance costs will remain out of reach," he said.

A COPY OF THE GOVERNOR'S CONDITIONAL VETO MESSAGE, EMBODYING THE CHANGES IN THE LAW, IS ATTACHED.

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[FOURTH REPRINT]

SENATE, No. 2637

LAWS OF 1988, CHAPTER 119

STATE OF NEW JERSEY

Approved Sept. 8, 1988

INTRODUCED JUNE 13, 1988

By Senators LESNIAK and DALTON

1 AN ACT concerning private passenger automobile insurance and
revising parts of statutory law.

3

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

2[1. Section 19 of P.L. 1983, c. 362 (C. 17:28-1.3) is amended
7 to read as follows:

19., Every liability insurance policy issued in this State on a
9 motor vehicle, exclusive of an automobile as defined in section 2
of P.L. 1972, c. 70 (C. 39:6A-2), but including a motorcycle, or on
11 a motorized bicycle, insuring against loss resulting from liability
imposed by law for bodily injury, death, and property damage
13 sustained by any person arising out of the ownership, operation,
maintenance, or use of a motor vehicle or motorized bicycle shall
15 provide personal injury protection coverage benefits, in
accordance with section 4 of P.L. 1972, c. 70 (C. 39:6A-4) ¹[or]
17 and¹ subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1),
to pedestrians who sustain bodily injury in the State caused by the
19 named insured's motor vehicle or motorized bicycle or by being
struck by an object propelled by or from the motor vehicle or
21 motorized bicycle.

(cf: P.L. 1985, c. 520, s. 19)

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

25 18. Any insurer authorized to transact or transacting
automobile or motor vehicle insurance business in this State, or
27 controlling or controlled by, or under common control by, or with,
an insurer authorized to transact or transacting insurance
29 business in this State, which sells a policy providing automobile or
motor vehicle liability insurance coverage, or any similar
31 coverage, in any other state or in any province of Canada, shall
include in each policy coverage to satisfy at least the liability

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLI committee amendments adopted June 16, 1988.

² Assembly floor amendments adopted June 29, 1988.

³ Senate floor amendments adopted June 30, 1988.

⁴ Senate amendments adopted in accordance with Governor's
recommendations August 4, 1988.

1 insurance requirements of section 1 of P.L. 1972, c. 197 (C.
39:6B-1) or section 3 of P.L. 1972, c. 70 (C. 39:6A-3), the
3 uninsured motorist insurance requirements of subsection a. of
section 2 of P.L. 1968, c. 385 (C. 17:28-1.1), and personal injury
5 protection benefits coverage pursuant to section 4 of P.L. 1972,
c. 70 (C. 39:6A-4) ¹[or] and¹ subsection b. of section 2 of P.L.
7 1977, c. 310 (C. 39:6-73.1) or of section 19 of P.L. 1983, c. 362
(C. 17:28-1.3), whenever the automobile or motor vehicle insured
9 under the policy is used or operated in this State.

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

Each insurer authorized to transact or transacting automobile
17 or motor vehicle insurance business in this State and subject to
the provisions of this section shall, within 30 days of the
19 effective date of this amendatory and supplementary act, file and
maintain with the Department of Insurance written certification
21 of compliance with the provisions of this section.

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

(cf: P.L. 1985, c. 520, s. 18)

25 3. Section 8 of P.L. 1983, c. 65 (C. 17:29A-37) is amended to
read as follows:

27 8. a. Every filer making automobile rates in this State shall
apply on a flat and uniform fee basis per insured automobile
29 Statewide those miscellaneous taxes, licenses, and fees, as
defined in the most recent rate filing of an automobile filer, and
31 at least 90% of its general expenses and acquisition, field
supervision, and collection expenses, excluding commissions, as
33 such expenses are defined in the filer's most recent rate filing
with the commissioner.

35 b. The commissioner and the State Treasurer shall issue a
regulation no later than 90 days after the effective date of this
37 act to require automobile filers to calculate and collect taxes for
their insureds paid pursuant to P.L. 1945, c. 132 (C. 54:18A-1 et
39 seq.) and any assessments to be made pursuant to sections 4, 6

1 and 7 of P.L. 1952, c. 174 (C. 39:6-64, 39:6-66 and 39:6-67),
2 exclusive of assessments made to reimburse a filer for medical
3 benefits payable under section 4 of P.L. 1972, c. 70 (C. 39:6A-4)
4 in excess of \$75,000.00, as the result of an accident occurring
5 prior to January 1, 1990, on a flat and uniform fee basis per
6 insured automobile Statewide, which shall take effect on January
7 1, 1984.

(cf: P.L. 1983, c. 65, s. 8)

9 4. Section 8 of P.L. 1974, c. 17 (C. 17:30A-8) is amended to
10 read as follows:

11 8. a. The association shall:

12 (1) Be obligated to the extent of the covered claims against an
13 insolvent insurer incurred, in the case of private passenger
14 automobile insurance, prior to or after the determination of
15 insolvency, but before the policy expiration date or the date upon
16 which the insured replaces the policy or causes its cancellation,
17 or in the case of insurance other than private passenger
18 automobile insurance, covered claims against such insolvent
19 insurer incurred prior to or 90 days after the determination of
20 insolvency, or before the policy expiration date if less than 90
21 days after said determination, or before the insured replaces the
22 policy or causes its cancellation, if he does so within 90 days of
23 the determination, but such obligation shall include only that
24 amount of each covered claim which is less than \$300,000.00 and
25 subject to any applicable deductible contained in the policy,
26 except that the \$300,000.00 limitation shall not apply to a
27 covered claim arising out of insurance coverage mandated by
28 section 4 of P.L. 1972, c. 70 (C. 39:6A-4). In the case of medical
29 expense benefits payable under subsection a. of section [4] 10 of
30 P.L. 1972, c. 70 [(C.39:6A-4)] (C. 39:6A-10), the association shall
31 be liable for payment of benefits in an amount ¹in excess of
32 \$10,000.00 but¹ not to exceed \$75,000.00. Benefits paid in excess
33 of ¹[such amount] \$75,000.00¹ shall be recoverable by the
34 association from the Unsatisfied Claim and Judgment Fund
35 pursuant to the provisions of section 2 of P.L. 1977, c. 310 (C.
36 39:6-73.1). ¹In the case of medical expense benefits payable
37 under subsection a. of section 4 of P.L. 1972, c. 70 (C. 39:6A-4),
38 the association shall be liable for payment of benefits in an
39 amount not to exceed \$10,000.00, subject to a deductible of

1 \$250.00 on account of injury to any one person in any one
2 accident and a copayment of 20% of the benefits payable in
3 excess of the deductible amount.¹ In no event shall the
4 association be obligated to a policyholder or claimant in an
5 amount in excess of the limits of liability stated in the policy of
6 the insolvent insurer from which the claim arises;

7 (2) Be deemed the insurer to the extent of its obligation on the
8 covered claims and to such extent shall have all rights, duties,
9 and obligations of the insolvent insurer as if the insurer had not
10 become insolvent;

11 (3) Assess member insurers in amounts necessary to pay:

12 (a) The obligation of the association under paragraph a. (1) of
13 this section;

14 (b) The expenses of handling covered claims;

15 (c) The cost of examinations under section 13; and

16 (d) Other expenses authorized by this act.

17 The assessments of each member insurer shall be in the
18 proportion that the net direct written premiums of the member
19 insurer for the calendar year preceding the assessment bears to
20 the net direct written premiums of all member insurers for the
21 calendar year preceding the assessment.

22 Each member insurer shall be notified of the assessment not
23 later than 30 days before it is due. No member insurer may be
24 assessed in any year an amount greater than 2% of that member
25 insurer's net direct written premiums for the calendar year
26 preceding the assessment.

27 The association may, subject to the approval of the
28 commissioner, exempt, abate or defer, in whole or in part the
29 assessment of any member insurer, if the assessment would cause
30 the member insurer's financial statement to reflect amounts of
31 capital or surplus less than the minimum amounts required for a
32 certificate of authority by any jurisdiction in which the member
33 insurer is authorized to transact insurance. In the event an
34 assessment against a member insurer is exempted, abated, or
35 deferred, in whole or in part, because of the limitations set forth
36 in this section, the amount by which such assessment is
37 exempted, abated, or deferred, shall be assessed against the other
38 member insurers in a manner consistent with the basis for
39 assessments set forth in this section. If the maximum

1 assessment, together with the other assets of the association,
2 does not provide in any one year an amount sufficient to carry
3 out the responsibilities of the association, the necessary
4 additional funds shall be assessed as soon thereafter as it is
5 permitted by this act. Each member insurer serving as a servicing
6 facility may set off against any assessment, authorized payments
7 made on covered claims and expenses incurred in the payment of
8 such claims by such member insurer;

9 (4) Investigate claims brought against the association and
10 adjust, compromise, settle, and pay covered claims to the extent
11 of the association's obligation and deny all other claims and may
12 review settlements, releases and judgments to which the
13 insolvent insurer or its insureds were parties to determine the
14 extent to which such settlements, releases and judgments may be
15 properly contested;

16 (5) Notify such persons as the commissioner directs under
17 section 10 b. (1);

18 (6) Handle claims through its employees or through one or
19 more insurers or other persons designated as servicing facilities.
20 Designation of a servicing facility is subject to the approval of
21 the commissioner, but such designation may be declined by a
22 member insurer;

23 (7) Reimburse each servicing facility for obligations of the
24 association paid by the facility and for expenses incurred by the
25 facility while handling claims on behalf of the association and
26 shall pay the other expenses of the association authorized by this
27 act;

28 (8) Make loans to the New Jersey Surplus Lines Insurance
29 Guaranty Fund in accordance with the provisions of the "New
30 Jersey Surplus Lines Insurance Guaranty Fund Act," P.L. 1984, c.
31 101 (C. 17:22-6.70 et seq.).

b. The association may:

32 (1) Employ or retain such persons as are necessary to handle
33 claims and perform such other duties of the association;

34 (2) Borrow funds necessary to effect the purposes of this act in
35 accord with the plan of operation;

36 (3) Sue or be sued;

37 (4) Negotiate and become a party to such contracts as are
38 necessary to carry out the purpose of this act;
39

1 (5) Perform such other acts as are necessary or proper to
effectuate the purpose of this act;

3 (6) Refund to the member insurers in proportion of the
contribution of each member insurer that amount by which the
5 assets exceed the liabilities if, at the end of any calendar year,
the board of directors finds that the assets of the association
7 exceed the liabilities as estimated by the board of directors for
the coming year.

9 (cf: P.L. 1984, c. 207, s. 9)

5. R.S. 39:3-8 is amended to read as follows:

11 39:3-8. The applicant for registration for any passenger
automobile manufactured in any model year prior to the 1971
13 model year shall pay to the director for each registration a fee of
\$14.00 for each such vehicle having a manufacturer's shipping
15 weight of less than 2,700 pounds, a fee of \$23.00 for each such
vehicle having a manufacturer's shipping weight of 2,700 pounds
17 or more, but not greater than 3,800 pounds, and a fee of \$44.00
for each vehicle having a manufacturer's shipping weight in
19 excess of 3,800 pounds. The applicant for registration for any
passenger automobile manufactured in model year 1971 and
21 thereafter, except as determined hereinafter, shall pay to the
director for each registration a fee of \$17.00 for each such
23 vehicle having a manufacturer's shipping weight of less than
2,700 pounds, a fee of \$28.00 for each such vehicle having a
25 manufacturer's shipping weight of 2,700 pounds or more, but not
greater than 3,800 pounds, and a fee of \$51.00 for each such
27 vehicle having a manufacturer's shipping weight in excess of
3,800 pounds. The applicant for registration for any 1980 or
29 thereafter model year passenger automobile registered on or
after March 1, 1979 shall pay to the director for each registration
31 a fee of \$25.00 for each such vehicle having a manufacturer's
shipping weight not greater than 3,500 pounds and a fee of \$50.00
33 for each vehicle having a manufacturer's shipping weight in
excess of 3,500 pounds. The director shall determine
35 manufacturer's shipping weight and model year for each
passenger automobile on the basis of the information contained in
37 the certificate of origin, the application for registration or for
renewal of registration, or the records of the division, or any or
39 all of these; and in any case in which the manufacturer's shipping

1 weight of any particular passenger automobile is unavailable, or
in doubt or dispute, the director may require that such
3 automobile be weighed on a scale designated by him, and such
actual weight shall be considered the manufacturer's shipping
5 weight for the purposes of this section; but in all cases the
director's determination of the manufacturer's shipping weight
7 of any such automobile shall be final. The applicant for
registration for a passenger automobile shall also pay to the
9 director the inspection fee fixed in R.S. 39:8-2 in addition to the
fees described hereinabove.

11 An applicant for registration of a private passenger automobile
on or after January 1, 1990, shall also pay to the director a fee
13 established by the Commissioner of Insurance for medical
expenses pursuant to subsection b. of section 2 of P.L. 1977, c.
15 310 (C. 39:6-73.1) during the ensuing registration license year.

The director may also license private utility and house-type
17 semitrailers and trailers with a gross load not in excess of 2,000
pounds at a fee of \$4.00 per annum and all other such utility and
19 house-type semitrailers and trailers at \$9.00 per annum.
Application for such registration shall be made on a blank to be
21 furnished by the division and the application shall contain a
statement to the effect that the vehicle so registered will not be
23 used for the commercial transportation of goods, wares and
merchandise, or for hire.

25 No private utility or house-type semitrailer or trailer with an
outside width of more than 96 inches, a maximum height of 13
27 feet 6 inches, a maximum length for a single vehicle of more than
35 feet, a maximum length for a semitrailer and its towing
29 vehicle of more than 45 feet, and a maximum length for a trailer
and its towing vehicle of more than 50 feet, shall be operated on
31 any highway in this State, except that a vehicle exceeding the
above limitations may be operated when a special permit so to
33 operate is secured in advance from the director. The application
for such permit shall be accompanied by a fee fixed by the
35 director. A special permit issued by the director shall be in the
possession of the operator of the vehicle for which such permit
37 was issued. In computing any dimensions of a vehicle, for the
purposes of this section, there shall not be included in the
39 dimensional limitations safety equipment such as mirrors or

1 lights, provided such appliances do not exceed the overall
limitations established by the director by rule or regulation.

3 (cf: P.L. 1979, c. 3, s. 1)

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

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

7 (a) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

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

9 (c) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

(d) On December 30 in each year, the commissioner shall
11 calculate the probable amount which will be needed to carry out
the provisions of this act during the ensuing registration license
13 year. In such calculation, he shall take into consideration the
amount presently reserved for pending claims, anticipated
15 payments from the fund during said year, anticipated payments
from the fund for medical expenses to be made pursuant to
17 subsection a. of section 2 of [this act] P.L. 1977, c. 310 (C.
39:6-73.1), during the two years after said year, anticipated
19 amounts to be reserved for claims pending during said year,
amounts transferred to the Division of Motor Vehicles pursuant
21 to section 28 of P.L. 1952, c. 174 (C. 39:6-88) [, as amended by
this 1983 amendatory act,] and the desirability of maintaining a
23 surplus over and above such anticipated payments and present and
anticipated reserves, such surplus not to exceed the amount
25 actually paid from the fund during the 12 full calendar months
immediately preceding the date of calculation. Such probable
27 amount which will be needed to carry out the provisions of this
act shall be assessed against insurers for such year's
29 contributions to the fund. Such probable amount needed shall be
apportioned among such insurers in the proportion that the net
31 direct written premiums of each bear to the aggregate net direct
written premiums of all insurers¹, including the New Jersey
33 Automobile Full Insurance Underwriting Association, created
pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.),¹ during the
35 preceding calendar year as shown by the records of the
commissioner. Each insurer shall pay the sum so assessed to the
37 treasurer on or before March 31, next following.

(e) Whenever any of the provisions of this act concerning the
39 method and sources of assessments on insurers ¹, including the

1 New Jersey Automobile Full Insurance Underwriting Association,
2 created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.)¹, the
3 maximum amounts payable from the fund, eligibility or
4 qualifications of claimants, or amounts to be deducted from
5 payments made from the fund are amended by law, between
6 January 1 and April 30 in any year, the commissioner may, if he
7 deems it necessary, rescind any assessment on insurers¹,
8 including the New Jersey Automobile Full Insurance Underwriting
9 Association, created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et
10 seq.)¹, made on December 30 of the preceding year. He shall
11 then, within 15 days of the adoption of such amendment,
12 recalculate the probable amount which will be needed to carry
13 out the provisions of this act during the ensuing registration
14 license year, in accordance with the provisions of subsection (d)
15 of this section. If, in his judgment, the estimated balance of the
16 fund at the beginning of the next registration license year will be
17 insufficient to meet such needs, he shall determine the
18 contributions of insurers, if any, in accordance with the
19 provisions of subsection (d) of this section. In the event of a
20 rescission and reassessment subsequent to March 1 in any year,
21 insurers shall pay the sum so assessed, if any, to the treasurer
22 within 90 days of the date of such assessment.

23 (f) On September 1, 1989 and each year thereafter, the
24 commissioner shall calculate the probable amount which will be
25 needed to carry out the provisions of subsection b. of section 2 of
26 P.L. 1977, c. 310 (C. 39:6-73.1), during the ensuing calendar year;
27 establish the fee to be charged for each private passenger
28 automobile to be registered during the ensuing year; and
29 immediately notify the Director of the Division of Motor
30 Vehicles of the amount of the fee. The fee shall be equitably
31 apportioned among all registrants of private passenger
32 automobiles during each calendar year. The calculation shall
33 take into consideration the amount reserved for pending claims,
34 anticipated payments from the fund for medical expenses to be
35 made during the succeeding two year period, anticipated amounts
36 to be reserved for claims pending during said year, and the
37 desirability of maintaining a surplus, over and above the
38 anticipated payments and present and anticipated reserves. No
39 surplus shall exceed the amount actually paid from the fund for

1 the purpose of carrying out the provisions of subsection b. of
2 section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), during the 12 full
3 calendar months immediately preceding the date of
4 calculation¹[.Except], except¹ that for the registration license
5 year beginning January 1, 1990, the surplus shall not exceed the
6 amount actually paid from the fund for the purpose of carrying
7 out the provisions of subsection a. of section 2 of P.L. 1977, c.
8 310 (C. 39:6-73.1), during the 12 full calendar months
9 immediately preceding the date of calculation.

10 (g) The commissioner shall review the reserves maintained
11 pursuant to subsections (e) and (f) of this section for actuarial
12 soundness and report his findings, including any recommended
13 modifications, to the Legislature no later than January 1, 1991.
(cf: P.L. 1985, c. 148, s. 4)

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

16 2. a. In the event medical expense benefits paid by an insurer,
17 in accordance with subsection a. of section [4a.] 4 of P.L. 1972, c.
18 70 (C. 39:6A-4), are in excess of \$75,000.00 on account of
19 personal injury to any one person in any one accident occurring
20 prior to January 1, 1990, the Unsatisfied Claim and Judgment
21 Fund shall assume such excess and reimburse the insurer therefor
22 in accordance with rules and regulations promulgated by the
23 commissioner; provided, however, that this provision is not
24 intended to broaden the coverage available to accidents involving
25 uninsured or hit-and-run automobiles, to provide extraterritorial
26 coverage, or to pay excess medical expenses.

27 b. In the event of accidents occurring on or after January 1,
28 1990, payment shall be provided for all reasonable medical
29 expenses in excess of \$75,000.00 incurred as a result of personal
30 injury sustained in an automobile accident occurring on or after
31 January 1, 1990. Payment of benefits shall be made without
32 regard to negligence, liability or fault of any kind, to the named
33 registrant of a private passenger automobile and members of his
34 family residing in his household who sustained bodily injury as a
35 result of an accident while occupying, entering into, alighting
36 from or using an automobile, or as a pedestrian, caused by an
37 automobile or by an object propelled by or from an automobile, to
38 other persons sustaining bodily injury while occupying, entering
39

1 into, alighting from or using the automobile of the named
2 registrant, with the permission of the named registrant, and to
3 pedestrians, sustaining bodily injury caused by the named
4 registrant's automobile or struck by an object propelled by or
5 from such automobile. Payment of benefits shall be made by the
6 Unsatisfied Claim and Judgment Fund or any other legal entity
7 under contract with the Commissioner of Insurance to provide
8 such services. No contract shall be executed by the
9 commissioner unless awarded as the result of an open bidding
10 process.

11 (cf: P.L. 1985, c. 148, s. 9)

12 8. Section 4 of P.L. 1972, c. 70 (C. 39:6A-4) is amended to
13 read as follows:

14 4. Personal injury protection coverage, regardless of fault.

15 Every automobile liability insurance policy insuring an
16 automobile as defined in this act against loss resulting from
17 liability imposed by law for bodily injury, death and property
18 damage sustained by any person arising out of ownership,
19 operation, maintenance or use of an automobile shall provide
20 personal injury protection coverage, as defined hereinbelow,
21 under provisions approved by the Commissioner of Insurance, for
22 the payment of benefits without regard to negligence, liability or
23 fault of any kind, to the named insured and members of his family
24 residing in his household who sustained bodily injury as a result of
25 an accident ¹[occurring prior to January 1, 1990,]¹ while
26 occupying, entering into, alighting from or using an automobile,
27 or as a pedestrian, caused by an automobile or by
28 an object propelled by or from an automobile, to other persons
29 sustaining bodily injury while occupying, entering into, alighting
30 from or using the automobile of the named insured, with the
31 permission of the named insured, and to pedestrians, sustaining
32 bodily injury caused by the named insured's automobile or struck
33 by an object propelled by or from such automobile.

34 "Personal injury protection coverage" ¹[for accidents occurring
35 prior to January 1, 1990,]¹ means and includes:

36 a. Medical expense benefits. Payment of all reasonable
37 medical expenses ¹up to \$10,000.00 and¹ in excess of \$75,000.00
38 incurred as a result of personal injury sustained in an automobile
39 accident occurring prior to January 1, 1990 ¹; and payment of all

1 reasonable medical expenses up to \$10,000.00 incurred as a result
2 of personal injury sustained in an automobile accident occurring
3 on or after January 1, 1990¹. In the event of death, payments
4 shall be made to the estate of the decedent. In the event
5 benefits paid by an insurer pursuant to this subsection are in
6 excess of \$75,000.00 on account of personal injury to any one
7 person in any one accident occurring prior to January 1, 1990, such
8 excess shall be paid by the insurer in consultation with the
9 Unsatisfied Claim and Judgment Fund Board and shall be
10 reimbursable to the insurer from the Unsatisfied Claim and
11 Judgment Fund pursuant to subsection a. of section 2 of P.L.
12 1977, c. 310 (C. 39:6-73.1).

13 b. [Income continuation benefits. The payment of the loss of
14 income of an income producer as a result of bodily injury
15 disability, subject to a maximum weekly payment of \$100.00.
16 Such sum shall be payable during the life of the injured person
17 and shall be subject to an amount or limit of \$5,200.00, on
18 account of injury to any one person in any one accident, except
19 that in no case shall income continuation benefits exceed the net
20 income normally earned during the period in which the benefits
21 are payable.] (Deleted by amendment, P.L. , c.)(now
22 pending in the Legislature as this bill)

23 c. [Essential services benefits. Payment of essential services
24 benefits to an injured person shall be made in reimbursement of
25 necessary and reasonable expenses incurred for such substitute
26 essential services ordinarily performed by the injured person for
27 himself, his family and members of the family residing in the
28 household, subject to an amount or limit of \$12.00 per day. Such
29 benefits shall be payable during the life of the injured person and
30 shall be subject to an amount or limit of \$4,380.00, on account of
31 injury to any one person in any one accident.] (Deleted by
32 amendment, P.L. , c.)(now pending in the Legislature as
33 this bill)

34 d. [Death benefits. In the event of the death of an income
35 producer as a result of injuries sustained in an accident entitling
36 such person to benefits under section 4 of this act, the maximum
37 amount of benefits which could have been paid to the income
38 producer, but for his death, under section 4 b. shall be paid to the
39 surviving spouse, or in the event there is no surviving spouse, then

1 to the surviving children, and in the event there are no surviving
spouse or surviving children, then to the estate of the income
3 producer.

In the event of the death of one performing essential services
5 as a result of injuries sustained in an accident entitling such
person to benefits under section 4 c. of this act, the maximum
7 amount of benefits which could have been paid such person, under
section 4 c., shall be paid to the person incurring the expense of
9 providing such essential services.] (Deleted by amendment,
P.L. . c. .)(now pending in the Legislature as this bill)

11 e. [Funeral expenses benefits. All reasonable funeral, burial
and cremation expenses, subject to a maximum benefit of
13 \$1,000.00, on account of the death to any one person in any one
accident shall be payable to decedent's estate.] (Deleted by
15 amendment, P.L. , c. .)(now pending in the Legislature as
this bill)

17 Benefits payable under this section shall:

(1) [Be subject to any deductibles or exclusions elected by the
19 policyholder pursuant to section 13 of P.L.1983, c. 362 (C.
39:6A-4.3);] (Deleted by amendment, P.L. , c. .)(now pending
21 in the Legislature as this bill)

(2) Not be assignable, except to a provider of service benefits
23 under this section, nor subject to levy, execution, attachment or
other process for satisfaction of debts.

25 ¹Medical expense benefit payments up to \$10,000.00 shall be
subject to a deductible of \$250.00 on account of injury to any one
27 person in any one accident and a copayment of 20% of the
benefits payable in excess of the deductible amount.¹

29 (cf: P.L.1984, c.40, s.3)

9. Section 1 of P.L. 1983, c. 212 (C. 39:6A-4.1) is amended to
31 read as follows:

1. When a named insured is the owner and only designated
33 operator of two or more automobiles and the only licensed driver
residing in the household, he shall be charged a reduced personal
injury protection premium, and additional ¹[medical expense]
35 personal injury protection¹ benefit premium, if applicable, for
37 each automobile listed in addition to the principal automobile on
the policy in an amount determined by the commissioner for [the]
39 personal injury protection benefits provided in section 4 of P.L.

1 1972, c. 70 (C. 39:6A-4), and additional ¹[medical expense]
2 personal injury protection¹ benefits provided pursuant to section
3 10 of P.L. 1972, c. 70 (C. 39:6A-10). Three years after the initial
4 reduction in such premiums the personal injury protection
5 premium and additional ¹[medical expense] personal injury
6 protection¹ benefit premium for such additional automobiles
7 shall be determined by the loss experience of the rate filer with
8 respect to the payment of personal injury protection benefits
9 which are attributable to such additional automobiles.

(cf: P.L. 1983, c. 212, s. 1)

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

13 14. Any person who, at the time of an automobile accident
14 resulting in injuries to that person, is required but fails to
15 maintain medical expense benefits coverage mandated by section
16 4 of P.L. 1972, c. 70 (C. 39:6A-4) or [section 1 of P.L. c.
17 (C.)] (now pending before the Legislature as Assembly
18 Bill No. 2883 of 1984)] subsection b. of section 10 of P.L. 1977, c.
19 310 (C. 39:6-73.1), shall:

20 a. For the purpose of filing an action for recovery of
21 noneconomic loss, as defined in section 2 of P. L. 1972, c. 70 (C.
22 39:6A-2), be subject to the tort option specified in subsection b.
23 of section 8 of P.L. 1972, c. 70 (C. 39:6A-8)[;] .

24 b. [In the event of a recovery for noneconomic loss pursuant to
25 an arbitration award, judicial judgment or voluntary settlement,
26 be subject to the setoff option as set forth in subsection c. of
27 section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3), except that the
28 amount of the setoff shall be payable to the New Jersey
29 Automobile Insurance Risk Exchange established pursuant to
30 section 15 of P. L. 1983, c. 362 (C. 39:6A-21).] (Deleted by
31 amendment, P.L. , c. .)(now pending in the Legislature as
32 this bill)

33 (cf: P.L. 1985, c. 520, s. 14)

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

36 5. Payment of personal injury protection coverage benefits and
37 additional ¹[medical expense] personal injury protection¹
38 coverage benefits.

39 a. An insurer may require written notice to be given as soon as

1 practicable after an accident involving an automobile with
2 respect to which the policy affords personal injury protection
3 coverage benefits required by this act or additional ¹[medical
4 expense] personal injury protection¹ coverage benefits pursuant
5 to section 10 of P.L. 1972, c. 70 (C. 39:6A-10).

6 b. Personal injury protection coverage benefits and additional
7 ¹[medical expense] personal injury protection¹ coverage benefits
8 shall be overdue if not paid within 30 days after the insurer is
9 furnished written notice of the fact of a covered loss and of the
10 amount of same. If such written notice is not furnished to the
11 insurer as to the entire claim, any partial amount supported by
12 written notice is overdue if not paid within 30 days after such
13 written notice is furnished to the insurer. Any part or all of the
14 remainder of the claim that is subsequently supported by written
15 notice is overdue if not paid within 30 days after such written
16 notice is furnished to the insurer; provided, however, that any
17 payment shall not be deemed overdue where, within 30 days of
18 receipt of notice of the claim, the insurer notifies the claimant
19 or his representative in writing of the denial of the claim or the
20 need for additional time, not to exceed 45 days, to investigate
21 the claim, and states the reasons therefor. The written notice
22 stating the need for additional time to investigate the claim shall
23 set forth the number of the insurance policy against which the
24 claim is made, the claim number, the address of the office
25 handling the claim and a telephone number, which is toll free or
26 can be called collect, or is within the claimant's area code. For
27 the purpose of determining interest charges in the event the
28 injured party prevails in a subsequent proceeding where an insurer
29 has elected a 45 day extension pursuant to this subsection,
30 payment shall be considered overdue at the expiration of the 45
31 day period or, if the injured person was required to provide
32 additional information to the insurer, within 10 business days
33 following receipt by the insurer of all the information requested
34 by it, whichever is later.

35 For the purpose of calculating the extent to which any benefits
36 are overdue, payment shall be treated as being made on the date
37 a draft or other valid instrument which is equivalent to payment
38 was placed in the United States mail in a properly addressed,
39 postpaid envelope, or, if not so posted, on the date of delivery.

1 c. All overdue payments shall bear interest at the percentage
of interest prescribed in the Rules Governing the Courts of the
3 State of New Jersey for judgments, awards and orders for the
payment of money. All automobile insurers shall provide any
5 claimant with the option of submitting a dispute under this
section to binding arbitration. Arbitration proceedings shall be
7 administered and subject to procedures established by the
American Arbitration Association. If the claimant prevails in the
9 arbitration proceedings, the insurer shall pay all the costs of the
proceedings, including reasonable attorney's fees, to be
11 determined in accordance with a schedule of hourly rates for
services performed, to be prescribed by the Supreme Court of
13 New Jersey.

(cf: P.L. 1983, c. 362, s. 8)

15 12. Section 10 of P.L. 1972, c. 70 (C. 39:6A-10) is amended to
read as follows:

17 10. Additional personal injury protection coverage.

Insurers shall make available to the named insured [covered
19 under section 4,] ¹covered under section 4 of P.L. 1972, c. 70 (C.
39:6A-4)¹ and, at his option, to resident relatives in the
21 household of the named insured, suitable [additional] ¹additional¹
first party coverage for medical expense benefits, ¹and first
23 party coverage for¹ income continuation benefits, essential
services benefits, death benefits and funeral expense benefits [,
25 but the income continuation and essential service benefits shall
cease upon the death of the claimant, and shall not operate to
27 increase the amount of any death benefits payable under section
4 and such additional first party coverage shall be payable only to
29 the extent that the claimant establishes that the amount of loss
sustained exceeds the coverage specified in section 4. The
31 additional coverage shall be offered by the insurer at least
annually on a form prescribed by the Commissioner of Insurance,
33 which shall be attached to or accompany all applications, initial
policies and renewal policies or renewal notices. Income
35 continuation in excess of that provided for in section 4 must be
provided as an option by insurers for disabilities, as long as the
37 disability persists, up to an income level of \$35,000.00 per year,
provided that a. the excess between \$5,200.00 and the amount of
39 coverage contracted for shall be written on the basis of 75% of

1 said difference, and b. regardless of the duration of the disability,
the benefits payable shall not exceed the total maximum amount
3 of income continuation benefits contracted for. Death benefits
provided pursuant to this section shall be payable without regard
5 to the period of time elapsing between the date of the accident
and the date of death, if death occurs within two years of the
7 accident and results from bodily injury from that accident to
which coverage under this section applies. The Commissioner of
9 Insurance is hereby authorized and empowered to establish, by
rule or regulation, the amounts and terms of income continuation
11 insurance to be provided pursuant to this section.] as follows:

a. Medical expense benefits. The payment of all reasonable
13 medical expenses ¹in excess of \$10,000.00 and ¹up to \$75,000.00.
in amounts approved by the commissioner, incurred as a result of
15 personal injury sustained in an automobile accident. In the event
of death, payments shall be made to the estate of the decedent.

17 ¹[With respect to medical expense benefits provided pursuant
to this subsection, the commissioner of insurance may promulgate
19 regulations providing medical expense benefit deductible and
copayment options in amounts determined by the commissioner.]¹

b. Income continuation benefits. The payment of the loss of
21 income of an income producer as a result of bodily injury
23 disability, in an amount not less than \$100.00 per week, for any
one person in any one accident, and not more than an income
25 level established by the commissioner by regulation, which shall
be not less than \$35,000.00 per year. The benefit shall be payable
27 as long as the disability exists, except that, regardless of the
duration of the disability, the benefits payable shall not exceed
29 the total maximum income continuation benefit contracted for,
nor shall the benefits payable exceed the net income normally
31 earned during the period in which the benefits are payable.
Coverage in amounts in excess of \$5,200.00 per year shall be
33 written on the basis of 75% of the differential between \$5,200.00
and the coverage written. Income continuation benefits shall
35 cease upon the death of the claimant, and shall not operate to
increase the amount of any death benefits payable under
37 subsection d. of this section.

c. Essential services benefits. Payment of essential services
39 benefits to an injured person shall be made in reimbursement of

1 necessary and reasonable expenses incurred for the substitute
2 essential services ordinarily performed by the injured person for
3 himself, his family and members of the family residing in the
4 household, subject to an amount or limit of \$12.00 per day. The
5 benefits shall be payable during the life of the injured person and
6 shall be subject to ¹such additional¹ limits ¹as¹ established by
7 the commissioner by regulation, on account of injury to any one
8 person in any one accident. In the event of the death of one
9 performing essential services as a result of injuries sustained in
10 an accident entitling the person to benefits under this subsection,
11 the maximum amount of benefits which could have been paid to
12 that person under this subsection shall be paid to the person
13 incurring the expense of providing the essential services.

14 d. Death benefits. In the event of the death of an income
15 producer as a result of injuries sustained in an accident which
16 entitles the person to collect benefits, the maximum amount of
17 benefits which could have been paid to the income producer, but
18 for his death, under subsection b. of this section shall be paid to
19 the surviving spouse or in the event there is no spouse, then to
20 the surviving children, or in the event there is no surviving spouse
21 or surviving children, then to the estate of the income producer.
22 Death benefits provided pursuant to this subsection shall be
23 payable without regard to the period of time elapsing between
24 the date of the accident and the date of death if death occurs
25 within two years of the accident and results from bodily injury
26 from that accident to which coverage under this subsection
27 applies.

28 e. Funeral expense benefits. All reasonable funeral, burial and
29 cremation expenses, subject to a schedule of maximum benefits
30 established by the commissioner by regulation, on account of the
31 death of any one person in any one accident shall be payable to
32 the decedent's estate.

33 Benefits payable under subsections b. and c. of this section
34 shall cease upon the death of the claimant, and shall not operate
35 to increase the amount of any death benefits payable under
36 subsection d. of this section. Benefit options provided for under
37 this section shall be offered by insurers at least annually ¹[on a
38 form prescribed by the commissioner, which shall be attached to
39 or accompany all applications for coverage, initial policies and

1 renewal policies or renewal notices] as part of the coverage
2 selection form required by section 17 of P.L. 1983, c. 362 (C.
3 39:6A-23)¹. Benefits payable pursuant to this section shall not be
4 assignable, except to a provider of service benefits under this
5 section, nor subject to levy, execution, attachment or other
6 process for satisfaction of debts.

7 f. Personal injury protection coverage shall be offered by the
8 insurer at least annually ¹[on a form approved by the
9 Commissioner of Insurance which shall be attached to or
10 accompany all applications, initial policies and renewal policies
11 or renewal notices. The form] as part of the coverage selection
12 form required by section 17 of P.L. 1983, c. 362 (C. 39:6A-23)
13 which¹ shall provide information on the extent of medical
14 expense benefit coverage provided to the insured pursuant to
15 section 4 of P.L. 1972, c. 70 (C. 39:6A-4) or subsection b. of
16 section 10 of P.L. 1977, c. 310 (C. 39:6-73.1); the extent of
17 medical expense benefit coverage available to the insured
18 pursuant to this section; notice of the primacy of any applicable
19 health insurance coverage or benefits pursuant to subsection g. of
20 this section; and shall provide for the signature of the named
21 insured to indicate the insured's acceptance or rejection of the
22 offer of medical expense benefit coverage made pursuant to this
23 section.

24 g. Any health insurance coverage or benefits, including any
25 coverage or benefits provided under any federal or State
26 program, shall be the primary coverage for any person injured in
27 an automobile accident who has elected medical expense
28 coverage benefits pursuant to the provisions of this section.

29 h. The Commissioner of Insurance shall adopt rules and
30 regulations to effectuate the purposes of this section.

31 (cf: P.L. 1985, c. 520, s. 16)

32 13. Section 7 of P.L. 1972, c. 198 (C. 39:6-86.1) is amended to
33 read as follows:

34 7. When any person qualified to receive payments under the
35 provisions of the "Unsatisfied Claim and Judgment Fund Law"
36 suffers bodily injury or death [through being struck,] as a
37 pedestrian, as defined in section 2 of P.L. 1972, c. 70 (C.
38 39:6A-2), caused by a motor vehicle, including an automobile as
39 defined in section 2 of P.L. 1972, c. 70 (C. 39:6A-2), and a

1 motorcycle, or by an object propelled therefrom, or arising out of
2 an accident while occupying, entering into, alighting from, or
3 using an automobile, registered or principally garaged in this
4 State for which personal injury protection benefits under the
5 "New Jersey Automobile Reparation Reform Act," P.L. 1972, c.
6 70 (C. 39:6A-1 et seq.), or section 19 of [this 1983 amendatory
7 and supplementary act] P.L. 1983, c. 362 (C. 17:28-1.3), would be
8 payable to such person if personal injury protection coverage
9 were in force and the damages resulting from such accident or
10 death are not satisfied due to the personal injury protection
11 coverage not being in effect with respect to such accident, then
12 in such event the Unsatisfied Claim and Judgment Fund shall
13 provide, under the following conditions, the following benefits:

14 a. Medical expense benefits. Payment of all reasonable
15 medical expenses ¹up to \$10,000.00 and¹ in excess of \$75,000.00
16 incurred as a result of personal injury sustained in a motor
17 vehicle accident. In the event of death, payment shall be made
18 to the estate of the decedent.

19 ¹Medical expense benefit payments up to \$10,000.00 shall be
20 subject to a deductible of \$250.00 on account of injury to any one
21 person in any one accident and a copayment of 20% of the
22 benefits payable in excess of the deductible amount.¹

23 b. [Income continuation benefits. The payment of the loss of
24 income of an income producer as a result of bodily injury
25 disability, subject to a maximum weekly payment of \$100.00.
26 Such sums shall be payable during the life of the injured person
27 and shall be subject to an amount or limit of \$5,200.00, on
28 account of injury to any one person in any one accident, except
29 that in no case shall income continuation benefits exceed the net
30 income normally earned during the period in which the benefits
31 are payable.] (Deleted by amendment, P.L. , c. .)(now
32 pending in the Legislature as this bill)

33 c. [Essential services benefits. Payment of essential services
34 benefits to an injured person shall be made in reimbursement of
35 necessary and reasonable expenses incurred for such substitute
36 essential services ordinarily performed by the injured person for
37 himself, his family and members of the family residing in the
38 household, subject to an amount or limit of \$12.00 per day. Such
39 benefits shall be payable during the life of the injured person and

1 shall be subject to an amount or limit of \$4,380.00, on account of
2 injury to any one person in any one accident.] (Deleted by
3 amendment, P.L. , c. .)(now pending in the Legislature as
4 this bill)

5 d. [Death benefits. In the event of the death of an income
6 producer as a result of injuries sustained in an accident entitling
7 such person to benefits under section 7 of this act, the maximum
8 amount of benefits which could have been paid to the income
9 producer, but for his death, under section 7 b. shall be paid to the
10 surviving spouse, or in the event there is no surviving spouse, then
11 to the surviving children, and in the event there are no surviving
12 spouse or surviving children, then to the estate of the income
13 producer.

14 In the event of the death of one performing essential services
15 as a result of injuries sustained in an accident entitling such
16 person to benefits under section 7 c. of this act, the maximum
17 amount of benefits which could have been paid such person, under
18 section 7 c., shall be paid to the person incurring the expense of
19 providing such essential services.] (Deleted by amendment,
20 P.L. , c. .)(now pending in the Legislature as this bill)

21 e. [Funeral expenses benefits. All reasonable funeral, burial
22 and cremation expenses, subject to a maximum benefit of
23 \$1,000.00, on account of the death to any one person in any one
24 accident shall be payable to decedent's estate.] (Deleted by
25 amendment, P.L. , c. .)(now pending in the Legislature as
26 this bill)

27 Provided, however, that no benefits shall be paid under this
28 section unless the person applying for benefits has demonstrated
29 that he is not disqualified by reason of the provisions of
30 subsection (a), (c), (d) or (l) of section 10 of P.L. 1952, c. 174 (C.
31 39:6-70), or any other provision of law.
(cf: P.L. 1983, c. 362, s. 3)

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

34 8. Tort exemption; limitation on the right to noneconomic loss.
35 One of the following two tort options shall be elected, in
36 accordance with section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1),
37 by any named insured required to maintain personal injury
38 protection coverage pursuant to section 4 of P.L. 1972, c. 70
39

1 (C. 39:6A-4) ¹[or medical expense benefits pursuant to subsection
2 b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1)]¹:

3 a. Every owner, registrant, operator or occupant of an
4 automobile to which section 4, personal injury protection
5 coverage, regardless of fault, ¹[or subsection b. of P.L. 1977, c.
6 310 (C. 39:6-73.1),]¹ applies, and every person or organization
7 legally responsible for his acts or omissions, is hereby exempted
8 from tort liability for noneconomic loss to a person who is subject
9 to this subsection and who is either a person who is required to
10 maintain the coverage mandated by this act, or is a person who
11 has a right to receive benefits under section 4 of [this act] P.L.
12 1972, c. 70 (C. 39:6A-4) ¹[or subsection b. of P.L. 1977, c. 310
13 (C. 39:6-73.1)]¹, as a result of bodily injury, arising out of the
14 ownership, operation, maintenance or use of such automobile in
15 this State, if the bodily injury is confined solely to the soft tissue
16 of the body and the medical expenses incurred or to be incurred
17 by such injured person or the equivalent value thereof for the
18 reasonable and necessary treatment of such bodily injury is less
19 than [~~\$200.00,~~ \$750.00, which amount shall be adjusted annually
20 on January 1 of each year following the effective date of this act
21 by the Commissioner of Insurance to reflect increases or
22 decreases in the national consumer price index for the
23 professional services component of medical care services, all
24 urban consumers, U.S. city average, and which amount shall be
25 exclusive of hospital expenses, X-rays and other diagnostic
26 medical expenses. The adjusted rate shall apply to any claim for
27 noneconomic loss arising from any automobile accident occurring
28 on or after the adjustment date. There shall be no exemption
29 from tort liability if the injured party has sustained death,
30 permanent disability, permanent significant disfigurement,
31 permanent loss of any bodily function or loss of a body member in
32 whole or in part, regardless of the right of any person to receive
33 benefits under section 4 of [this act] P.L. 1972, c. 70 (C. 39:6A-4)
34 ¹[or subsection b. of P.L. 1977, c. 310 (C. 39:6-73.1)]¹. Bodily
35 injury confined solely to the soft tissue, for the purpose of this
36 section, means injury in the form of sprains, strains, contusions,
37 lacerations, bruises, hematomas, cuts, abrasions, scrapes,
38 scratches and tears confined to the muscles, tendons, ligaments,
39 cartilages, nerves, fibers, veins, arteries and skin of the human
body; or

1. b. As an alternative to the basic tort option specified in
subsubsection a. of this section, every owner, registrant, operator, or
3 occupant of an automobile to which section 4 of P.L. 1972, c. 70
(C. 39:6A-4) ¹[or subsection b. of P.L. 1977, c. 310 (C.
5 39:6-73.1)]¹ applies, and every person or organization legally
responsible for his acts or omissions, is hereby exempted from
7 tort liability for noneconomic loss to a person who is subject to
this subsection and who is either a person who is required to
9 maintain the coverage mandated by P.L. 1972, c. 70 (C. 39:6A-1
et seq.) or is a person who has a right to receive benefits under
11 section 4 of that act (C. 39:6A-4) ¹[, or subsection b. of P.L.
1977, c. 310 (C. 39:6-73.1)]¹, as a result of bodily injury, arising
13 out of the ownership, operation, maintenance or use of such
automobile in this State, [if the medical expenses incurred or to
15 be incurred by that injured person, or the equivalent value
thereof, for the reasonable and necessary treatment of the bodily
17 injury, is less than \$1,500.00, which amount shall be adjusted
annually on January 1 of each year following the operative date
19 of this act by the Commissioner of Insurance to reflect increases
or decreases in the national Consumer Price Index for the
21 professional services component of medical care services, all
urban consumers, U.S. city average, and which amount shall be
23 exclusive of hospital expenses, X-rays and other diagnostic
medical expenses. The adjusted rate shall apply to any claim for
25 noneconomic loss arising from any automobile accident occurring
on or after the adjustment date. There shall be no exemption
27 from tort liability if the injured party has sustained death,
permanent disability, permanent significant disfigurement,
29 permanent loss of any bodily function or loss of a body member in
whole or in part, regardless of the right of any person to receive
31 benefits under section 4 of P.L. 1972, c. 70 (C. 39:6A-4)] unless
that person has sustained personal injury which results in death,
33 serious impairment of body function or permanent serious
disfigurement.

35 The tort option provisions of subsection a. of this section shall
also apply to the right to recover for noneconomic loss of any
37 person eligible for benefits pursuant to section 4 of P.L. 1972, c.
70 (C. 39:6A-4) ¹[or subsection b. of P.L. 1977, c. 310 (C.
39 39:6-73.1)]¹ but who is not required to maintain personal injury

1 protection coverage ¹[or is not entitled to recover medical
2 expenses under subsection b. of P.L. 1977, c. 310 (C. 39:6-73.1)]¹
3 and is not an immediate family member, as defined in section
4 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1), under an automobile
5 insurance policy.

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

8 [The tort option provisions of subsection b. of this section shall
9 remain inoperative until July 1, 1984, and shall apply to accidents
10 occurring on or after that date.

11 If any provision of subsection b. of this section shall be deemed
12 to be unconstitutional, the provisions of the entire subsection
13 shall be deemed null and void, and without further effect, but the
14 decision of the court shall not affect the validity of any other
15 provision of this act.]

16 (cf: P.L. 1985, c. 520, s. 15)

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

19 14.1. Election of tort option. a. Election of a tort option
20 pursuant to section 8 of P.L. 1972, c. 70 (C. 39:6A-8) shall be in
21 writing and signed by the named insured on ¹[a form approved by
22 the Commissioner of Insurance] the coverage selection form
23 required by section 17 of P.L. 1983, c. 362 (C.39:6A-23)¹. The
24 form shall state the percentage difference in the premium rates
25 or the dollar savings between the two tort options. The tort
26 option elected shall apply to the named insured and any
27 immediate family member residing in the named insured's
28 household. "Immediate family member" means the spouse of the
29 named insured and any child of the named insured or spouse
30 residing in the named insured's household, who is not a named
31 insured under another automobile insurance policy.

32 b. If the named insured fails to elect, in writing, [any] either
33 of the tort options offered pursuant to section 8 of P.L. 1972, c.
34 70 (C.39:6A-8), [the named insured shall be deemed to elect the
35 tort option of subsection a. of that section 8] the insurer shall not
36 issue or renew the automobile policy. No [new] automobile policy
37 [issued on or after July 1, 1984, in the State] shall be issued or
38 renewed on or after January 1, 1989 in this State by an
39

1 insurer unless the named insured has elected one of the tort
options provided in section 8.

3 c. The tort option elected by a named insured on or after
4 January 1, 1989 shall continue in force as to subsequent renewal
5 or replacement policies until the insurer or its authorized
representative receives a properly executed form electing the
7 other tort option.

d. The tort option elected by the named insured shall apply to
9 all automobiles owned by the named insured and to any
immediate family member who is not a named insured under
11 another automobile insurance policy, except that in the case
where more than one policy is applicable to the named insured or
13 immediate family member, and the policies have different tort
options, the tort option elected by the injured named insured shall
15 apply or, in the case of an immediate family member who is not a
named insured and is injured in an accident involving an
17 automobile to which a policy issued to a named insured in the
household of the injured immediate family member applies, the
19 tort option elected by that named insured shall apply.

e. A properly completed and executed ¹coverage selection¹
21 form ¹indicating selection of a tort threshold¹ as required by
subsection a. of this section shall be prima facie evidence of the
23 named insured's knowing selection of the tort threshold option
indicated on the form.

25 In the case of automobile insurance policies in force on [July]
January 1, [1984] 1989, notice of the tort options available
27 pursuant to the aforesaid section 8 shall be given in accordance
with section 17 of [this 1983 amendatory and supplementary act]
29 P.L. 1983, c. 362 (C. 39:6A-23).

(cf: P.L. 1983, c. 362, s. 14.1)

31 16. Section 14 of P.L. 1983, c. 65 (C. 17:30E-2) is amended to
read as follows:

33 14. The purpose of this act is to assure to the New Jersey
insurance consumer full access to automobile insurance through
35 normal market outlets [at standard market rates], to encourage
the use of available market facilities, to provide automobile
37 insurance for qualified applicants who cannot otherwise obtain
such insurance, through a full automobile insurance underwriting
39 association, and to require that companies be made whole for

1 losses in excess of regulated rates on all risks not voluntarily
written by providing procedures for the spreading and recoument
3 of losses based on actual experience.

(cf: P.L. 1983, c. 85, s. 14)

5 17. Section 17 of P.L. 1985, c. 65 (C. 17:30E-5) is amended to
read as follows:

7 17. a. Within 45 days after the effective date of this 1988
amendatory and supplementary act, there shall be appointed a
9 reconstituted board of directors, and within 30 days after the
appointment of the reconstituted board, the commissioner shall
11 call the first, or organizational, meeting of the [association,
which shall seat the] reconstituted board of directors. The board
13 shall consist of [17] nine persons, [14] five of whom shall be
appointed by the Governor with the advice and consent of the
15 Senate, however, no more than three of the Governor's
appointees shall be of the same political party, one of whom shall
17 be appointed by the Speaker of the General Assembly, and one by
the President of the Senate; the Director of the Division of Motor
19 Vehicles in the Department of Law and Public Safety, or his
designee, and the Commissioner of Insurance, or his designee,
21 shall be [an] ex officio [member] members of the board. [Of the]
The board members appointed by the Governor, [eight shall
23 represent member companies, three shall represent producers,
and three shall be public members] the President and the Speaker
25 shall be persons with a background in insurance law or practices,
specifically with regard to automobile insurance in New Jersey,
27 who shall not, during their tenure on the board be affiliated with
or employed by any insurer, producer or non-insurer servicing
29 carrier, or any trade association or other entity representing the
interests of any insurer, producer or non-insurer servicing carrier
31 in this State. Members of the board shall be compensated from
the moneys of the association for their services, pursuant to
33 standards and procedures set forth in the plan of operation. The
initial appointment of the board members appointed by the
35 President and Speaker shall be for a term of one year. The initial
term of two of the board members appointed by the Governor
37 shall be for a term of two years. The initial term of the
remaining three board members appointed by the Governor shall
39 be for a term of three years. After the initial appointments, all

1 directors shall be appointed for terms of three years or until such
2 time as a successor is appointed and duly qualified. Any vacancy
3 in the public membership of the board shall be filled in the same
4 manner as the initial appointment for the unexpired term of the
5 director to be replaced.

6 Within 20 days of the appointment of the reconstituted board
7 of directors, the Governor, upon consultation with the
8 Commissioner of Insurance, shall appoint two advisory boards to
9 serve the board of directors. The first advisory board, to be
10 known as the member company and servicing carrier advisory
11 board, shall be comprised of eight representatives of member
12 companies and servicing carriers. The second advisory board, to
13 be known as the producer advisory board, shall be comprised of
14 six producer representatives. In appointing the representatives of
15 the member [companies] company and servicing carrier advisory
16 board, the Governor shall select two persons from a list of not
17 fewer than three persons nominated by the American Insurance
18 Association, or its successor organization, from the officers or
19 employees of insurers which are licensed to transact automobile
20 insurance in this State and which are members or subscribers of
21 that organization; two persons from a list of not fewer than three
22 persons nominated by the Alliance of American Insurers, or its
23 successor organization, from the officers or employees of
24 insurers which are licensed to transact automobile insurance in
25 this State and which are members or subscribers of that
26 organization; two persons from a list of not less than three
27 persons nominated by the National Association of Independent
28 Insurers, or its successor organization, from the officers or
29 employees of insurers which are licensed to transact automobile
30 insurance in this State and which are members or subscribers of
31 that organization; and two persons from the officers or
32 employees of any insurers which are licensed in this State and are
33 not members or subscribers of any of the above-mentioned
34 organizations or from the officers or employees of any noninsurer
35 servicing carriers, as provided for in section 24 of P.L. 1983, c.
36 65 (C. 17:30E-12). All nominations made by the associations shall
37 include at least one representative of an insurer which is not and
38 does not intend to be a servicing carrier. In appointing the
39 [producer] representatives of the producer advisory board, the

1 Governor shall select [one person] two persons from a list of not
fewer than three nominated by the Professional Insurance Agents
3 Association or its successor organization; [one person] two
persons from a list of not fewer than three nominated by the
5 Independent Insurance Agents Association or its successor
organization; and [one person] two persons from a list of not
7 fewer than three nominated by the Insurance Brokers Association
or its successor organization. The Governor shall name two
9 surrogates for each [director on the] advisory board member from
a list submitted to him by each appointee. [The Governor shall,
11 with the advice and consent of the Senate, also appoint three
public members to the board. The Speaker of the General
13 Assembly and the President of the Senate shall each appoint a
public member. The commissioner or his designated
15 representative shall be entitled to attend and participate in all
meetings of the board or any of its committees.]

17 Each trade association and producer association shall have 15
days from the effective date of this 1988 amendatory and
19 supplementary act to submit its prescribed list of advisory board
[of director] candidates to the Governor. [The Governor shall
21 have 30 days from receipt of each list to select permanent board
members from it.] If any of the associations named in this
23 section fails to submit the list from which the Governor is to
select advisory board members [of the board of directors] within
25 the time provided in this subsection, the Governor shall appoint
temporary advisory board members to represent each association
27 that has failed to submit its list. In selecting temporary advisory
board members, the Governor shall be guided by the selection
29 criteria set forth herein. Upon subsequent receipt of the list
from the association, the Governor shall select permanent
31 advisory board members to replace temporary board members
within 30 days. Such replacement shall become effective
33 immediately. Advisory board members shall each serve for a
three year term or until such time as their successor is appointed
35 and qualified. Any vacancy in the membership of the member
and servicing carrier or producer advisory board shall be filled in
37 the same manner as the initial appointment for the unexpired
term of the advisory board member to be replaced. Advisory
39 board members shall not be compensated for their services, but

1 shall be reimbursed by the association for any necessary and
2 reasonable expenses incurred in performance of their duties as
3 members of the advisory board.

4 [The initial appointment of four insurer directors, one
5 producer-group director, and one public member appointed by the
6 Governor shall be for a term of one year. The initial
7 appointments of all other directors shall be for terms of two
8 years. After the initial appointments all directors shall be
9 appointed for terms of two years and shall serve until their
10 successors are appointed and qualified. All appointive vacancies
11 on the board shall be filled in accordance with the
12 above-mentioned procedures and classifications. Appointments to
13 fill vacancies shall be for the unexpired terms of the directors to
14 be replaced. Except in the case of the Director of the Division of
15 Motor Vehicles, directors may be reimbursed from the moneys of
16 the association for reasonable expenses incurred by them as
17 members.]

18 b. After the board has been appointed, it shall elect from its
19 membership a chairman and shall then meet thereafter at least
20 annually, and as often as the chairman or the plan of operation
21 shall require, or at the request of any [five] three members of the
22 board or the commissioner. All meetings of the board and of the
23 advisory boards shall be held in New Jersey. Written notice
24 setting forth the meeting agenda shall be provided for each board
25 meeting. Written notice shall be provided, at least five days
26 prior to the date of the meeting, to all directors, each member of
27 the member and servicing carrier advisory board and producer
28 advisory board, the commissioner, and the chairmen of the
29 Assembly [Banking and] Insurance Committee and the Senate
30 Labor, Industry and Professions Committee, or the successors to
31 those committees. Minutes shall be kept of all meetings. A copy
32 of the minutes shall be sent within five business days following
33 the meeting to the commissioner and to the chairmen of the two
34 legislative committees. Each member of the board shall be
35 entitled to one vote. The commissioner, or his designated
36 representative, shall have no right to vote, nor shall the Director
37 of the Division of Motor Vehicles, or his designated
38 representative. [Nine] Four voting members of the board shall
39 constitute a quorum. No votes shall be cast on any matter except

1 at an authorized board meeting. All votes shall be recorded in
the minutes of the meeting. No votes shall be cast on any matter
3 not listed as an agenda item in the written notice for that
meeting. No member or his surrogate shall be entitled to vote on
5 any matter if not physically present at the meeting at which the
vote is taken. A majority of the voting members shall determine
7 any action of the board. No member may serve as chairman for
more than two consecutive years.

9 c. The board shall have and exercise all powers of the
association not reserved to the members by the plan of operation
11 or as otherwise provided in this act.

(cf: P.L. 1986, c. 211, s. 2)

13 18. Section 25 of P.L. 1983, c. 85 (C. 17:30E-13) is amended to
read as follows:

15 25. The rates used by the association shall be the same as
those used by the rating bureau which files rates for the greatest
17 number of insurers transacting private passenger automobile
insurance in the voluntary market in this State, except that
19 notwithstanding the provisions of section 7 of P.L. 1983, c. 65 (C.
17:29A-36):

21 a. [The commissioner may order the adjustment of association
rates in any territory in which the relationship between the rates
23 used by the association and the rates used by insurers in the
standard voluntary market is such that the voluntary market is
25 adversely affected;] If, on January 1, 1990, the number of
automobiles insured by the association is no greater than 40% of
27 the aggregate number of private passenger automobiles insured in
this State on that date, the territorial base rates used by the
29 association shall be adjusted by the commissioner based upon the
needs of the association. The commissioner may revise the
31 association rates so that they exceed the territorial base rates
used by the rating bureau which files rates for the greatest
33 number of insurers transacting private passenger automobile
insurance in the voluntary market in this State by no more than
35 15%.

b. If, on January 1, 1991, the number of automobiles insured by
37 the association is no greater than 30% of the aggregate number
of private passenger automobiles insured in this State on that
39 date, the territorial base rates used by the association shall be

1 adjusted by the commissioner based upon the needs of the
2 association. The commissioner may revise the association rates
3 so that they exceed the territorial base rates used by the rating
4 bureau which files rates for the greatest number of insurers
5 transacting private passenger automobile insurance in the
6 voluntary market in this State by no more than 30%.

7 c. If, on January 1, 1992, the number of automobiles insured by
8 the association is no greater than 25% of the aggregate number
9 of private passenger automobiles insured in this State on that
10 date, the territorial base rates used by the association shall be
11 adjusted by the commissioner based upon the needs of the
12 association. The commissioner may revise the association rates
13 so that they exceed the territorial base rates used by the rating
14 bureau which files rates for the greatest number of insurers
15 transacting private passenger automobile insurance in the
16 voluntary market in this State by no more than 40%.

17 d. If on January 1, 1993, the number of automobiles insured by
18 the association is no greater than 20% of the aggregate number
19 of private passenger automobiles insured in this State on that
20 date, the commissioner shall direct the board of directors of the
21 association to prepare, adopt and file with the commissioner a
22 risk classification plan and rates which are adequate for the past
23 and prospective loss experience of the risks underwritten by the
24 association and the expenses attendant thereto. The
25 commissioner shall approve or disapprove the plan and rates filed
26 by the board pursuant to the provisions of P.L. 1944, c. 27
27 (17:29A-1 et seq.).

28 e. If the commissioner determines that any depopulation goal
29 contained in this section has not been attained within the time
30 provided, or if the number of automobiles insured by the
31 association is greater than 20% of the aggregate number of
32 private passenger automobiles insured in this State at any time
33 after January 1, 1993, he shall assign risks to insurers in the same
34 proportion that the insurer's aggregate written premium for
35 private passenger automobile insurance on December 1, 1983
36 bears to the aggregate written premium of all insurers writing
37 private passenger automobile insurance on December 1, 1983.
38 However, with regard to any assignment of risks after January 1,
39 1993, the commissioner shall provide for the equitable inclusion

1 in the assignment plan of insurers which have entered the private
2 passenger automobile insurance market after December 1, 1983.
3 Risks shall be assigned by the commissioner until the applicable
4 depopulation goal is reached. When a depopulation goal is
5 reached through assignment pursuant to this subsection, the
6 commissioner may implement the rate relief applicable to
7 attainment of that goal pursuant to this section. An insurer
8 which has depopulated its proportionate share of association risks
9 shall be exempt from assignment of additional risks under this
10 subsection. ¹For purposes of determining whether the
11 depopulation goals of an insurer have been met pursuant to this
12 section, the commissioner shall consider the aggregate premium
13 and the association risks written on a group basis by all members
14 of a group of affiliated companies.¹ The commissioner may
15 exempt from assignment any insurer that he determines has made
16 a good faith effort to participate in the depopulation of the
17 association or that he determines does not have the financial
18 capacity to participate further in the depopulation of the
19 association.

20 f. Nothing in subsections a. through c. of this section shall
21 operate to cause the rates charged by the association to result in
22 revenues to the association which exceed the ¹[need] needs¹ of
23 the association in meeting its obligations and expenses.

24 [b.] g. The commissioner ¹[may] shall¹ order the
25 establishment of ¹five¹ association ¹[rates] rating tiers¹ which
26 are higher than the rates which are otherwise provided for by this
27 section, which rates would be applicable to certain drivers, based
28 on their accident or violation records. The rates applicable to
29 these drivers shall be established additively to the rates
30 otherwise authorized for the use of the association, shall be
31 spread equably across all classes and territories and ¹[may, at the
32 discretion of the commissioner,] shall¹ vary as to the extent of
33 the at-fault accident or violation records of the drivers.

(cf: P.L. 1986, c. 211. s. 6)

34 19. (New section) Within 60 days of the effective date of this
35 section, the board of directors of the association shall establish
36 rates for collision and comprehensive coverages by vehicle class
37 which shall be filed for approval by the commissioner pursuant to
38 P.L. 1944, c. 27 (C. 17:29A-1 et seq.).
39

1 20. Section 2 of P.L. 1968, c. 385 (17:28-1.1) is amended to
read as follows:

3 2. a. No motor vehicle liability policy, or renewal of such
policy of insurance, including a liability policy for an automobile
5 as defined in section 2 of P.L. 1972, c. 70 (C. 39:6A-2), insuring
against loss resulting from liability imposed by law for bodily
7 injury or death, sustained by any person arising out of the
ownership, maintenance or use of a motor vehicle, shall be issued
9 in this State with respect to any motor vehicle registered or
principally garaged in this State unless it includes coverage in
11 limits for bodily injury or death as follows:

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

15 (2) an amount or limit, subject to such limit for any one person
so injured or killed, of \$30,000.00, exclusive of interest and costs,
17 on account of injury to or death of more than one person, in any
one accident, under provisions approved by the Commissioner of
19 Insurance, for payment of all or part of the sums which the
insured or his legal representative shall be legally entitled to
21 recover as damages from the operator or owner of an uninsured
motor vehicle, or hit and run motor vehicle, as defined in section
23 18 of P.L. 1952, c. 174 (C. 39:6-78), because of bodily injury,
sickness or disease, including death resulting therefrom, sustained
25 by the insured, caused by accident and arising out of the
ownership, maintenance or use of such uninsured or hit and run
27 motor vehicle anywhere within the United States or Canada;
except that uninsured motorist coverage shall provide that in
29 order to recover for non-economic loss, as defined in section 2 of
P.L. 1972, c. 70 (C. 39:6A-2), for accidents to which the benefits
31 of section 4 of that act apply (C. 39:6A-4) the injured person
shall have sustained an injury or incurred the medical expenses
33 described under the tort option elected pursuant to section 8 of
that act (C. 39:6A-8).

35 All motor vehicle liability policies shall also include coverage
for the payment of all or part of the sums which persons insured
37 thereunder shall be legally entitled to recover as damages from
owners or operators of uninsured motor vehicles, other than hit
39 and run motor vehicles, because of injury to or destruction to the

1 personal property of such insured, with a limit in the aggregate
for all insureds involved in any one accident of \$5,000.00, and
3 subject, for each insured, to an exclusion of the first [\$250.00]
\$500.00 of such damages, unless the named insured selects a
5 lower deductible in an amount not less than \$250.00.

b. Uninsured and underinsured motorist coverage shall be
7 provided as an option by an insurer to the named insured up to at
least the following limits: \$250,000.00 each person and
9 \$500,000.00 each accident for bodily injury; \$100,000.00 each
accident for property damage or \$500,000.00 single limit, subject
11 to an exclusion of the first \$500.00, unless the named insured
selects a lower deductible in an amount not less than \$250.00, of
13 such damage to property for each accident, except that the limits
for uninsured and underinsured motorist coverage shall not
15 exceed the insured's motor vehicle liability policy limits for
bodily injury and property damage, respectively.

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

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

31 d. Uninsured motorist coverage shall be subject to the policy
terms, conditions and exclusions approved by the Commissioner
33 of Insurance, including but not limited to unauthorized
settlements, nonduplication of coverage, subrogation and
35 arbitration.

e. For the purpose of this section, (1) "underinsured motorist
37 coverage" means insurance for damages because of bodily injury
and property damage resulting from an accident arising out of the
39 ownership, maintenance or use of an underinsured motor vehicle.

1 Underinsured motorist coverage shall not apply to an uninsured
2 motor vehicle. A motor vehicle is underinsured when the sum of
3 the limits of liability under all bodily injury and property damage
4 liability bonds and insurance policies available to a person against
5 whom recovery is sought for bodily injury or property damage is,
6 at the time of the accident, less than the applicable limits for
7 underinsured motorist coverage afforded under the motor vehicle
8 insurance policy held by the person seeking that recovery. A
9 motor vehicle shall not be considered an underinsured motor
10 vehicle under this section unless the limits of all bodily injury
11 liability insurance or bonds applicable at the time of the accident
12 have been exhausted by payment of settlements or judgments.
13 The limits of underinsured motorist coverage available to an
14 injured person shall be reduced by the amount he has recovered
15 under all bodily injury liability insurance or bonds;

(2) "uninsured motor vehicle" means: (a) a motor vehicle with
17 respect to the ownership, operation, maintenance, or use of which
18 there is no bodily injury liability insurance or bond applicable at
19 the time of the accident;

(b) a motor vehicle with respect to the ownership, operation,
21 maintenance, or use of which there is bodily injury liability
22 insurance in existence but the liability insurer denies coverage or
23 is unable to make payment with respect to the legal liability of
24 its insured because the insurer has become insolvent or bankrupt,
25 or the Commissioner of Insurance has undertaken control of the
26 insurer for the purpose of liquidation; or

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

"Uninsured motor vehicle" shall not include an underinsured
29 motor vehicle; a motor vehicle owned by or furnished for the
30 regular use of the named insured or any resident of the same
31 household; a self-insurer within the meaning of any financial
32 responsibility or similar law of the state in which the motor
33 vehicle is registered or principally garaged; a motor vehicle
34 which is owned by the United States or Canada, or a state,
35 political subdivision or agency of those governments or any of the
36 foregoing; a land motor vehicle or trailer operated on rails or
37 crawler treads; a motor vehicle used as a residence or stationary
38 structure and not as a vehicle; or equipment or vehicles designed
39

1 for use principally off public roads, except while actually upon
public roads.

3 (cf: P.L. 1983, c. 362, s. 1)

5 21. Section 4 of P.L. 1985, c. 520 (C. 17:29A-39) is amended to
read as follows:

7 4. a. Every private passenger automobile insurance policy
8 providing collision and comprehensive coverages, issued or
9 renewed on or after the effective date of this act, shall provide a
10 deductible in a minimum amount of \$500.00 each for collision and
11 comprehensive coverages, unless the named insured selects a
12 lower deductible amount. The minimum deductible established by
13 this subsection shall apply to all policies providing collision and
14 comprehensive coverages unless the named insured provides
15 otherwise in writing on a form approved by the commissioner.

16 b. The commissioner shall promulgate rules and regulations
17 requiring insurers to offer a range of deductibles up to at least
18 \$2,000.00 for private passenger automobile collision and
19 comprehensive coverages.

20 (cf: P.L. 1985, c. 520, s. 4)

21 22. Section 27 of P.L. 1983, c. 65 (C. 17:30E-15) is amended to
read as follows:

22 27. A qualified applicant who is eligible for coverage through
23 the association shall be offered and entitled to coverage up to at
24 least the following limits: a. bodily injury liability: \$250,000.00
25 each person, \$500,000.00 each accident; b. property damage
26 liability: \$100,000.00; c. bodily injury and property damage:
27 \$500,000.00 single limit each accident; d. comprehensive and
28 collision coverage; e. uninsured motorist and underinsured
29 motorist coverage: \$250,000.00 each person and \$500,000.00 each
30 accident for bodily injury; \$100,000.00 each accident for
31 property damage or \$500,000.00 single limit, subject to an
32 exclusion of the first \$500.00, unless the named insured selects a
33 lower deductible in an amount not less than \$250.00, of the
34 damage to property for each accident, except that the limits for
35 uninsured and underinsured motorist coverages on association
36 coverage shall not exceed the insured's policy limits for bodily
37 injury and property damage, respectively; f. personal injury
38 protection coverage as required by law; g. additional personal
39 injury protection coverage required to be offered by law; and h.

1 any other automobile insurance required to be offered by law and
subject to the limits stated in the law. Motorcycles shall not be
3 written for the coverages required or required to be offered
pursuant to P.L. 1972, c. 70 (C. 39:6A-1 et seq.).

5 (cf: P.L. 1983, c. 362, s. 23)

7 23. Section 17 of P.L. 1983, c. 362 (C. 39:6A-23) is amended to
read as follows:

9 17. [Notice of available coverages and rate credits for
deductible, exclusion, setoff and tort limitation options] Written
notice - buyer's guide and coverage selection form.

11 a. No new automobile insurance policy shall be issued on or
after the 180th day following the effective date of [this 1985
13 amendatory and supplementary act] P.L. 1985, c. 520, unless the
application for the policy is accompanied by a written notice
15 identifying and containing a buyer's guide and coverage selection
form. The buyer's guide shall contain a brief description of all
17 available policy coverages and benefit limits, and shall identify
which coverages are mandatory and which are optional under
19 State law, as well as all deductible, exclusion, setoff and tort
limitation options offered by the insurer.

21 The buyer's guide shall also contain a statement on the
possible coordination of other health benefit coverages with the
23 personal injury protection coverage options, the form and
contents of which shall be prescribed by the Commissioner of
25 Insurance.

27 The coverage selection form shall identify the range of
premium rate credit or dollar savings, or both, and shall provide
any other information required by the commissioner by regulation.

29 The applicant shall indicate the options elected on the
coverage selection form which shall be signed and returned to the
31 insurer.

b. (Deleted by amendment, P.L. 1985, c. 520)

33 c. Any notice of renewal of an automobile insurance policy
with an effective date subsequent to July 1, 1984, shall be
35 accompanied by a written notice of all policy coverage
information required to be provided under subsection a. of this
37 section.

39 The Commissioner of Insurance shall, within 45 days following
the effective date of this act, promulgate standards for the

1 written notice and buyer's guide required to be provided under
this section.

3 d. Written notices provided by any insurer writing at least 2%
of the New Jersey private passenger automobile market,
5 including the New Jersey Automobile Full Insurance Underwriting
Association established pursuant to section 16 of P.L. 1983, c. 65
7 [(C. 39:30E-4)] (C. 17:30E-4), shall also contain a statement
advising that if the insured or applicant has any questions
9 concerning his automobile insurance policy, including questions as
to coverage or premiums, he may contact either his agent or
11 broker, or the company directly, by using a toll free number
which shall be set forth in the notice. Written notice shall be
13 given to all insureds of any change in the toll free number.

e. In addition to the information required to be provided
15 pursuant to subsections a. and c. of this section, every written
notice accompanying an application or renewal on or after the
17 effective date of this 1988 amendatory and supplementary act
shall provide the following information in the buyer's guide:

19 (1) A description of the specific rating classifications by which
the rates and premiums for the policy have been determined. The
21 description shall be of sufficient detail and clarity so that the
policyholder can reasonably verify the applicability and accuracy
23 of the rating classifications;

(2) A general explanation of the extent to which rate or
25 premiums vary among insureds on the basis of the rating
classifications used by the insurer;

27 (3) Sources and reasonable procedures by which the individual
can obtain from the insurer additional information sufficient for
29 the individual to calculate and confirm the accuracy of his
specific premium;

31 (4) A description of the insurer's underwriting rules;

(5) Relevant information regarding the rights of an insured to
33 obtain documentation from the insurer regarding determination
of the rate and application of the insurer's underwriting rules to
35 the person, and to file with the commissioner a complaint as an
aggrieved person; and

37 (6) Such other relevant information as required by rule or
regulation of the commissioner.

39 ¹f. A properly completed and executed coverage selection

1 form and the payment of any initial or renewal premium shall
2 constitute prima facie evidence of the named insured's actual
3 knowledge and understanding of the availability of benefits,
4 limits and options set forth in the buyer's guide and on the
5 coverage selection form, as well as the benefits, limits and
6 options selected.¹

7 (cf: P.L. 1985, c. 520, s. 5)

8 24. (New section) a. Notwithstanding the provisions of section
9 3 of P.L. 1972, c. 70 (C. 39:6A-3), a licensed insurance carrier
10 may, in accordance with subsections b. and c. of this section,
11 refuse to renew a policy of insurance that provides coverage
12 required to be maintained pursuant to P.L. 1972, c. 70 (C.
13 39:6A-1 et seq.).

14 b. For each calendar year period, an insurer may issue notices
15 of intention not to renew an automobile insurance policy in the
16 voluntary market in an amount not to exceed 2% of the total
17 number of voluntary market automobile insurance policies of the
18 insurer, rounded to the nearest whole number, which are in force
19 at the end of the previous calendar year in each of the insurer's
20 rating territories in use in this State.

21 c. For every two newly insured automobiles which an insurer
22 voluntarily writes in each territory during each calendar year
23 period, the insurer shall be permitted to refuse to renew one
24 additional policy of automobile insurance in that territory in
25 excess of the 2% limitation established by subsection b. of this
26 section, subject to a fair and nondiscriminatory formula
27 developed by rule or regulation of the commissioner.

28 d. The provisions of this section shall not apply to any
29 cancellation made pursuant to paragraph (A) of section 2 of P.L.
30 1968, c. 58 (C. 17:29C-7).

31 25. (New section) a. Notwithstanding the provisions of
32 sections 5 and 10 of P.L. 1944, c. 27 (C. 17:29A-5 and 17:29A-10):

33 (1) Every insurer writing motor vehicle insurance in this State
34 shall file for approval of their own expenses;

35 (2) Every insurer writing motor vehicle insurance in this State
36 whose total written car years insured, on a calendar basis, equals
37 or exceeds 2% on January 1, 1989, 1.5% on January 1, 1990, and
38 1% on January 1, 1991, of the total written car years insured by
39 all insurers writing motor vehicle insurance in this State, for the

1 same calendar year, shall make its own rates for motor vehicle
insurance in accordance with the provisions of P.L. 1944, c. 27
3 (C. 17:29A-1 et seq.), based solely upon the insurer's own loss
experience for those lines.

5 b. Nothing contained in this section shall be deemed to
prohibit any insurer from continuing to be a member or a
7 subscriber of a rating bureau or from becoming a member or
subscriber of a rating bureau for any other line of insurance
9 which it may write in this State, but no rating bureau may use the
loss experience of any member subject to the provisions of
11 paragraph (2) of subsection a. of this section in compiling
statistical experience or in making its motor vehicle insurance
13 rates for its members not subject to the provisions of paragraph
(2) of subsection a. of this section and no rating bureau may use
15 the expenses of any member in making its motor vehicle
insurance rates.

17 26. (New section) a. In order to effectuate the purposes of
this 1988 amendatory and supplementary act, including
19 accomplishing the depopulation of the New Jersey Automobile
Full Insurance Underwriting Association, and encouraging
21 competition and addressing the needs of the private passenger
automobile insurance voluntary market in this State, the
23 Commissioner of Insurance shall, within 90 days of the effective
date of this act, establish by regulation a Statewide average rate
25 change percentage for use by filers writing private passenger
automobile insurance in this State. The commissioner may by
27 regulation annually alter the percentage amount.

b. Notwithstanding any other provision of law to the contrary,
29 commencing July 1, 1989, and annually thereafter, any filer may
make a private passenger automobile insurance Statewide
31 average rate change that is not in excess of the amount
prescribed by the commissioner pursuant to subsection a. of this
33 section which may be used when filed pursuant to subsection c. of
this section. As used in this section, "Statewide average rate
35 change" means the total Statewide premium for all coverages,
combined at the rates resulting from the filing divided by the
37 total Statewide premium for all coverages combined at the rates
in effect at the time of the filing.

39 c. A filer may implement a change in rate level, pursuant to

1 subsection b. of this section, in whole or in part, in a single or in
multiple filings by making an informational filing with the
3 commissioner in a manner and form approved by the
commissioner. The filing shall include a statement of the reason
5 or reasons for the change in rate level, including but not limited
to the claim and expense experience of the individual filer.

7 d. Neither the provisions of section 14 of P.L. 1944, c. 27 (C.
17:29A-14), nor the provisions of section 19 of P.L. 1974, c. 27
9 (C. 52:27E-18), shall apply to any filing made pursuant to this
section.

11 27. (New section) The commissioner shall monitor the
implementation and use of flex rating pursuant to section 26 of
13 this act and rate relief pursuant to section 25 of P.L. 1983, c. 65
(17:30E-13), and shall report his findings to the Senate Labor,
15 Industry and Professions Committee and the Assembly Insurance
Committee, or their successors, including any legislative
17 proposals, no later than July 1, 1992. The report shall provide an
evaluation on the use of these rating mechanisms and their
19 impact on the availability and affordability of private passenger
automobile insurance in this State and the depopulation of the
21 New Jersey Automobile Full Insurance Underwriting Association
and shall include any legislative proposals or other
23 recommendations of the commissioner.

25 28. (New section) a. The commissioner shall annually publish a
representative sample of the private passenger automobile
insurance rates for each territory in this State. The
27 commissioner may by regulation require that this publication be
distributed to all named insureds of private passenger automobile
29 insurance policies by their automobile insurer.

b. The commissioner shall conduct a review of the territories
31 employed by insurers in establishing private passenger automobile
insurance rates and of the caps imposed on private passenger
33 automobile insurance rates pursuant to section 7 of P.L. 1983, c.
65 (C. 17:29A-36), which review shall include an evaluation of the
35 number of territories and an examination of the actuarial
soundness of those caps, and report his findings, including any
37 legislative proposals, within six months of the effective date of
this 1988 amendatory and supplementary act to the Governor and
39 the appropriate standing reference committees of the Legislature.

1 29. Section 1 of P.L. 1968, c. 158 (C. 17:29C-6) is amended to
read as follows:

3 1. As used in this act:

5 (A) "Policy" means an automobile liability, automobile
physical damage or automobile collision policy, or any
7 combination thereof, delivered or issued for delivery in this
State, insuring a single individual or husband and wife resident of
the same household, as named insured, and under which the
9 insured vehicles therein designated are of the following types
only:

11 1. A motor vehicle of the private passenger or station wagon
type that is not used as a public or livery conveyance for
13 passengers, nor rented to others; or

15 2. Any other 4-wheel motor vehicle with a load capacity of
1,500 pounds or less which is not customarily used in the
occupation, profession or business of the insured;

17 provided, however, that this act shall not apply (1) to any
policy issued under an automobile assigned risk plan, or (2) to any
19 policy insuring more than four automobiles, or (3) to any policy
covering garage, automobile sales agency, repair shop, service
21 station or public parking place operation hazards.

23 (B) "Automobile liability coverage" includes only coverage of
bodily injury and property damage liability, medical payments and
uninsured motorists coverage.

25 (C) "Automobile physical damage coverage" includes all
coverage of loss or damage to an automobile insured under the
27 policy except loss or damage resulting from collision or upset.

29 (D) "Automobile collision coverage" includes all coverage of
loss or damage to an automobile insured under the policy
resulting from collision or upset.

31 (E) "Renewal" or "to renew" means the issuance and delivery
by an insurer of a policy replacing at the end of the policy period
33 a policy previously issued and delivered by the same insurer, or
the issuance and delivery of a certificate or notice extending the
35 term of a policy beyond its policy period or term; provided,
however, that any policy with a policy period or term of less than
37 six months shall for the purpose of this act be considered as if
written for a policy period or term of six months. Provided,
39 further, that any policy written for a term longer than one year

1 or any policy with no fixed expiration date, shall for the purpose
of this act, be considered as if written for successive policy
3 periods or terms of one year, and such policy may be terminated
at the expiration of any annual period upon giving 20 days' notice
5 of cancellation prior to such anniversary date, and such
cancellation shall not be subject to any other provisions of this
7 act.

(F) "Nonpayment of premium" means failure of the named
9 insured to discharge when due any of his obligations in connection
with the payment of premiums on a policy, or any installment of
11 such premium, whether the premium is payable directly to the
insurer or its agent or indirectly under any premium finance plan
13 or extension of credit. As used in this section, "payment of
premiums on a policy" includes payment of any residual market
equalization charge imposed pursuant to section 20 of P.L. 1983,
15 c. 65 (17:30E-8).

17 (cf: P.L. 1968, c. 158, s. 1)

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

2. Any owner, or registrant of a motor vehicle registered or
21 principally garaged in this State who operates or causes to be
operated a motor vehicle upon any public road or highway in this
23 State without motor vehicle liability insurance coverage required
by this act, and any operator who operates or causes a motor
25 vehicle to be operated and who knows or should know from the
attendant circumstances that the motor vehicle is without motor
27 vehicle liability insurance coverage required by this act shall be
subject, for the first offense, to a fine of [not less than \$100.00
29 nor more than] \$300.00 [or imprisonment for a term of not less
than 30 days nor more than three months or both, in the
31 discretion of the municipal judge] and a period of community
service to be determined by the court, and shall forthwith forfeit
33 his right to operate a motor vehicle over the highways of this
State for a period of [six months] one year from the date of
35 conviction. Upon subsequent conviction, he shall be subject to a
fine of [not less than \$250.00 nor more than] \$500.00 and [may]
37 shall be subject to imprisonment for a term of [not less than
three months nor more than six months in the discretion of the
39 municipal judge] 14 days and shall be ordered by the court to

1 perform community service for a period of 30 days, which shall
be of such form and on such terms as the court shall deem
3 appropriate under the circumstances, and shall forfeit his right to
operate a motor vehicle for a period of two years from the date
5 of his conviction, and, after the expiration of said period, he may
make application to the Director of the Division of Motor
7 Vehicles for a license to operate a motor vehicle, which
application may be granted at the discretion of the director. The
9 director's discretion shall be based upon an assessment of the
likelihood that the individual will operate or cause a motor
11 vehicle to be operated in the future without the insurance
coverage required by this act. A complaint for violation of this
13 act may be made to a municipal court at any time within six
months after the date of the alleged offense.

15 Failure to produce at the time of trial an insurance
identification card or an insurance policy which was in force for
17 the time of operation for which the offense is charged, creates a
rebuttable presumption that the person was uninsured when
19 charged with a violation of this section.

(cf: P.L. 1987, c. 46, s. 1)

21 31. (New section) Every insurer writing private passenger
automobile insurance in this State, including the New Jersey
23 Automobile Full Insurance Underwriting Association created
pursuant to section 16 of P.L. 1983, c. 65 (C. 17:30E-4), shall,
25 upon the cancellation of any automobile insurance policy required
to be maintained pursuant to the provisions of P.L. 1972, c. 70 (C.
27 39:6A-1 et seq.), send to the Division of Motor Vehicles, on a
form prescribed by the division, a notice of the cancellation,
29 together with the license plate and registration numbers of the
vehicle or vehicles insured by the policy. The division shall then
31 notify the person whose policy was cancelled that he shall be
subject to penalties provided by section 2 of P.L. 1972, c. 197 (C.
33 39:6B-2) and those penalties shall be enumerated.

35 32. (New section) Notwithstanding any provision of law to the
contrary, on July 1, 1989 and annually thereafter, every insurer
writing private passenger automobile insurance in this State shall
37 make an informational filing on their private passenger
automobile insurance experience with the commissioner
39 regardless of whether they file for an adjustment in rates.

1 33. (New section) Within 180 days of the effective date of this
2 1988 amendatory and supplementary act, the commissioner shall
3 promulgate regulations providing the following with regard to
private passenger automobile insurance:

5 a. Rate filing data and information specifications in a standard
format;

7 b. (1) A standard ratemaking methodology, and
8 (2) Uniform standards on ratemaking methodologies, data
9 compilation, data evaluation and data submission;

11 c. Standards of efficiency and other standards of measure
12 based upon industrywide aggregate averages and other relevant
13 data and factors to be utilized in the review and evaluation of the
loss, expense and financial data contained in a rate filing; and

15 d. The format, data specifications and other requirements for
informational filings made pursuant to section 32 of this act.

17 134. (New section) As used in sections 34 through 45 of this
act:

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

21 "Automobile insurance" means insurance for an automobile
22 including coverage for bodily injury liability and property damage
23 liability, comprehensive and collision coverages, uninsured and
24 underinsured motorist coverage, personal injury protection
25 coverage, additional personal injury protection coverage and any
other automobile insurance required by law to be offered or
provided.

27 "Commissioner" means the Commissioner of Insurance.

28 "Declination" means:

29 (1) Refusal by a producer to submit an application on behalf of
an applicant to any of the insurers represented by the producer;

31 (2) Refusal by an insurer to issue an automobile insurance
32 policy to an eligible person upon receipt of an application for
33 automobile insurance;

35 (3) The offer of automobile insurance coverage at higher rates
with a different insurer than that requested by an eligible person;
or

37 (4) The offer of automobile insurance coverage with less
38 favorable terms or conditions than those requested by an eligible
39 person.

1 "Eligible person" means a person who is an owner or registrant
2 of an automobile registered in this State or who holds a valid New
3 Jersey driver's license to operate an automobile, but does not
4 include any person:

5 (1) Whose driver's license to operate an automobile is under
6 suspension or revocation;

7 (2) Who has been convicted within the immediately preceding
8 five-year period of fraud or intent to defraud involving an
9 automobile insurance claim or an application for automobile
10 insurance; or who has been successfully denied, within the
11 immediately preceding five-year period, payment by an insurer of
12 a claim in excess of \$1,000.00 under an automobile insurance
13 policy, if there is evidence of fraud or intent to defraud involving
14 an automobile insurance claim or application;

15 (3) Who has been convicted of theft of a motor vehicle;

16 (4) Whose policy of automobile insurance has been cancelled
17 because of nonpayment of premium or financed premium within
18 the immediately preceding two-year period, unless the premium
19 due on a policy for which application has been made is paid in full
20 before issuance or renewal of the policy;

21 (5) Who fails to obtain or maintain membership in a club, group,
22 or organization, if membership is a uniform requirement of the
23 insurer as a condition of providing insurance, and if the dues,
24 charges, or other conditions for membership are not expressed as
25 a percentage of the insurance premium, and do not vary with
26 respect to the rating classification of the member except for the
27 purpose of offering a membership fee to family units.
28 Membership fees may vary in accordance with the amount or type
29 of coverage if the purchase of additional coverage, either as to
30 type or amount, is not a condition for reduction of dues or fees; or

31 (6) Whose driving record for the three-year period immediately
32 preceding application for, or renewal of, a policy has an
33 accumulation of more than six motor vehicle points as provided in
34 Title 39 of the Revised Statutes or who has been convicted
35 pursuant to R.S. 39:4-50 or section 2 of P.L. 1981, c. 512 (C.
36 39:4-50.4a) or for offenses of a substantially similar nature
37 committed in another jurisdiction.

38 "Insurer" means any insurer authorized or admitted to write
39 automobile insurance in this State, but does not include the New

1 Jersey Automobile Full Insurance Underwriting Association
2 created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.).

3 "Producer" means an insurance producer as defined by section
4 2 of P.L. 1987, c. 293 (C. 17:22A-2).

5 "Underwriting rules" means the written statements, guidelines
6 or criteria of an insurer, phrased in terms understandable to a
7 person of ordinary intelligence, which describe the standards
8 under which the insurer issues, refuses to issue, renews, refuses
9 to renew, or limits coverage for automobile insurance to persons
10 within this State.¹

11 ^{135.} (New section) As a condition of maintaining its
12 certificate of authority, an insurer shall not refuse to insure,
13 refuse to continue to insure, or limit coverage available to an
14 eligible person for automobile insurance, on or after January 1,
15 1993, except in accordance with underwriting rules established
16 pursuant to section 36 of this act.¹

17 ^{136.} (New section) a. An insurer shall put in writing all
18 underwriting rules used by the insurer. An insurer shall not
19 transact automobile insurance in a manner inconsistent with its
20 underwriting rules.

21 b. An insurer shall apply its underwriting rules uniformly and
22 without exception throughout the State, so that every applicant
23 or insured conforming with the underwriting rules will be insured,
24 and so that every applicant not conforming with the underwriting
25 rules will be refused insurance.

26 c. An insurer may establish underwriting rules for new
27 applicants which are different than for renewals of existing
28 insureds only if the applicants or existing insureds are not eligible
29 persons. Underwriting rules pertaining to renewals of existing
30 insureds who are not eligible persons may be based on an
31 obligation, by law or contract, of the insurer not to cancel or
32 nonrenew.

33 d. For informational purposes, an insurer shall file with the
34 commissioner its underwriting rules prior to their use in this
35 State. All filed underwriting rules shall be available for public
36 inspection. If the commissioner finds that an underwriting rule is
37 inconsistent with any applicable provision of law, the
38 commissioner shall, upon notice and hearing, issue an order to
39 prohibit further use of that underwriting rule.

1 e. Nothing in this section shall be construed as prohibiting an
2 insurer from insuring persons who are not eligible persons
3 pursuant to underwriting rules established hereunder.¹

4 137. (New section) a. An insurer or producer, upon making a
5 declination of automobile insurance, shall inform the applicant of
6 each specific reason for the declination. If the application or
7 request for coverage was made in writing, the insurer or producer
8 shall provide the explanation of reasons in writing. If the
9 application or request for coverage was made orally, the insurer
10 or producer may provide the applicant with an oral explanation
11 instead of a written explanation, and shall offer to provide a
12 written explanation if the applicant requests a written
13 explanation within 90 days.

14 b. A refusal, by an insurer or producer, to provide upon request
15 an application form or other means of making an application or
16 request for automobile insurance coverage shall be considered a
17 declination subject to the provisions of this act.¹

18 138. (New section) a. A duly licensed producer licensed to
19 represent one or more insurers shall, as a condition of licensure:

20 (1) Provide each eligible person seeking automobile insurance
21 the lowest available premium quotation for the forms or types of
22 automobile insurance coverages which are offered by the insurers
23 represented by the producer and which are sought by the eligible
24 person;

25 (2) Not attempt to channel an eligible person away from an
26 insurer or insurance coverage with the purpose or effect of
27 avoiding a producer's obligation to submit an application or an
28 insurer's obligation to accept an eligible person; and

29 (3) Upon request, submit an application of the eligible person
30 for automobile insurance to the insurer selected by the eligible
31 person.

32 b. With respect to automobile insurance, an insurer shall not
33 penalize a producer by paying less than normal commissions or
34 normal compensation or salary because of the expected or actual
35 experience resulting from the producer's automobile insurance
36 business or because of the geographic location of automobile
37 insurance business written by the producer.¹

38 139. (New section) a. After providing an opportunity for a
39 hearing, the commissioner shall suspend an insurer's obligation to
40 comply with section 35 of this act, if:

1 (1) A condition exists for which the commissioner may suspend,
2 revoke, or limit the authority of the insurer and the commissioner
3 determines that suspension of all or a part of the insurer's
4 obligations would be in the best interest of the public, the
5 insurer, and the policyholders of the insurer; or

6 (2) The insurer requests suspension and the commissioner finds
7 that requiring the insurer to comply with section 35 of this act
8 would cause the insurer undue financial or administrative
9 hardship.

10 b. If an insurer requests suspension and avers that there is an
11 immediate need to cease its compliance with section 35 of this
12 act because of undue financial or administrative hardship
13 pursuant to paragraph (2) of subsection a. of this section, the
14 insurer's obligation to comply with section 35 of this act shall be
15 suspended 10 business days after the insurer has filed the request
16 and supporting documentation with the commissioner, unless
17 within that time, the commissioner holds a hearing and finds that
18 undue hardship under paragraph (2) of subsection a. of this section
19 will not be caused by continued compliance.

20 c. The suspension provided in subsection a. of this section shall
21 continue until the commissioner, upon the commissioner's own
22 motion or upon request, after providing opportunity for a hearing,
23 orders its revocation.¹

24 ^{140.} (New section) An insurer may at any time suspend its
25 acceptance of all applications for new automobile insurance
26 policies by filing a notice with the commissioner. The notice
27 shall specify the period of the suspension and the method by
28 which the insurer proposes to effect the suspension. A suspension
29 is subject to the disapproval of the commissioner if, after a
30 hearing, the commissioner finds that the suspension does not have
31 a legitimate business purpose which is consistent with the
32 purposes of this act or that the suspension would adversely affect
33 the maintenance of the automobile insurance market.¹

34 ^{141.} (New section) Notwithstanding any other provision of law
35 to the contrary, beginning January 1, 1993, an insurer may use
36 rates for automobile insurance upon the filing of those rates
37 pursuant to the provisions of sections 42 through 45 of this act.¹

38 ^{142.} (New section) a. On or before September 1, 1992, every
39 insurer writing automobile insurance in this State shall make

1 filings for automobile insurance in accordance with section 43 of
2 this act to be effective January 1, 1993.

3 b. The commissioner shall conduct a review of every filing
4 made pursuant to subsection a. of this section on an informal
5 basis, and a dispute with regard to that filing shall not be
6 considered a contested case pursuant to P.L. 1968, c. 410 (C.
7 52:14B-1 et seq.). Neither the provisions of section 14 of P.L.
8 1944, c. 27 (C. 17:29A-14), nor the provisions of section 19 of
9 P.L. 1974, c. 27 (C. 52:27E-18), shall apply to any filing made
10 pursuant to this section. A filing not disapproved by order of the
11 commissioner within 60 calendar days from its date of submission
12 shall be deemed approved.

13 c. A filing which is approved or deemed approved pursuant to
14 subsection b. of this section shall be exempt from review
15 pursuant to the standards set forth in section 44 of this act until
16 July 1, 1993.

17 d. If a filing is disapproved by the commissioner pursuant to
18 subsection b. of this section, the filer shall, within 30 days of the
19 order of disapproval, make a revised filing with the
20 commissioner. The revised filing shall take effect on January 1,
21 1993 and shall be subject to review pursuant to the standards set
22 forth in section 44 of this act on or after January 1, 1993 in the
23 same manner as subsequent filings made pursuant to section 43 of
24 this act.¹

25 ¹43. (New section) a. On the effective date thereof, each
26 insurer shall file with the commissioner every manual of
27 classification, every manual of rules and rates, every rating plan,
28 and every modification of a manual or classification, manual of
29 rules and rates or a rating plan which it proposes to use for
30 automobile insurance. Each filing shall state the character and
31 extent of the coverage contemplated. Each insurer who
32 maintains rates in any part of this State shall at all times
33 maintain rates in effect for all eligible persons meeting the
34 underwriting criteria of the insurer.

35 b. An insurer may satisfy its obligations to make filings
36 pursuant to subsection a. of this section by becoming a member
37 of, or a subscriber to, a rating organization or bureau which
38 makes those filings, to the extent permitted by section 25 of this
39 act, and by filing with the commissioner a copy of its

1 authorization of the rating organization or bureau to make those
2 filings on its behalf. Insurers may file and use deviations from
3 filings made on their behalf, which deviations shall be subject to
4 the provisions of section 44 of this act.

5 c. Each filing shall be accompanied by a certification by or on
6 behalf of the insurer that, to the best of its information and
7 belief, the filing conforms to the requirements of section 44 of
8 this act.

9 d. Each filing shall include information that supports the filing
10 with respect to the requirements of section 44 of this act. The
11 information may include one or more of the following:

12 (1) The experience or judgment of the insurer or rating
13 organization or bureau making the filing;

14 (2) The interpretation of the insurer or rating organization or
15 bureau of any statistical data it relies upon;

16 (3) The experience of other insurers or rating organizations;

17 (4) Any other relevant information.

18 e. A filing and any accompanying information filed pursuant to
19 this section shall be open to public inspection at reasonable times
20 and in a reasonable manner.

21 f. No insurer shall make, issue or renew a policy for
22 automobile insurance in this State except in accordance with
23 filings made pursuant to this section.¹

24 ^{144.} (New section) All rates for automobile insurance shall be
25 made in accordance with the following provisions:

26 a. Rates shall not be excessive, inadequate, or unfairly
27 discriminatory;

28 (1) A rate shall not be held to be excessive unless the rate is
29 unreasonably high for the insurance coverage provided and a
30 reasonable degree of competition does not exist for the insurance
31 to which the rate is applicable;

32 (2) A rate shall not be held to be inadequate unless the rate is
33 unreasonably low for the insurance coverage provided and the
34 continued use of the rate endangers the solvency of the insurer;
35 or unless the rate is unreasonably low for the insurance provided
36 and the use of the rate has or will have the effect of destroying
37 competition among insurers, creating a monopoly, or causing
38 automobile insurance to be unavailable to a significant number of
39 applicants who are in good faith entitled to procure that
40 insurance through ordinary methods;

1 (3) A rate for a coverage is unfairly discriminatory in relation
2 to another rate for the same coverage if the differential between
3 the rates is not reasonably justified by differences in losses,
4 expenses, or both, or by differences in the uncertainty of loss, for
5 the individuals or risks to which the rates apply. A reasonable
6 justification shall be supported by a reasonable classification
7 system, by sound actuarial principles when applicable, and by
8 actual and credible loss and expense statistics or, in the case of
9 new coverages and classifications, by reasonably anticipated loss
10 and expense experience. A rate is not unfairly discriminatory
11 because it reflects differences in expenses for individuals or risks
12 with similar anticipated losses, or because it reflects differences
13 in losses for individuals or risks with similar expenses.

14 b. A determination concerning the existence of a reasonable
15 degree of competition set forth in subsection a. of this section
16 shall take into account a reasonable spectrum of relevant
17 economic tests, including the number of insurers actively engaged
18 in writing automobile insurance, the present availability of such
19 insurance compared to its availability in comparable past periods,
20 the underwriting return of that insurance over a period of time
21 sufficient to assure reliability in relation to the risk associated
22 with that insurance, and the difficulty encountered by new
23 insurers in entering the market in order to compete for the
24 writing of that insurance.¹

25 ¹45. (New section) a. In developing and evaluating rates
26 pursuant to the standards prescribed in section 44 of this act, due
27 consideration shall be given to the past and prospective loss
28 experience within this State; to catastrophic hazards, if any; to a
29 reasonable margin for underwriting profit and contingencies; to
30 dividends, savings or unabsorbed premium deposits allowed or
31 returned by insurers to their policyholders, members or
32 subscribers; to past and prospective expenses, not including any
33 assessments under the law of this State; to assessments under the
34 law of this State; to underwriting practice and judgment; and to
35 all other relevant factors within and outside of this State.

36 b. The systems of expense provisions included in the rates for
37 use by any insurer or group of insurers may differ from those of
38 other insurers or groups of insurers to reflect the requirements of
39 the operating methods of the insurer or group with respect to any

1 subdivision or combination thereof for which subdivision or
2 combination separate expense provisions are applicable.

3 c. Risks may be grouped by classification, including
4 classification by territory, for the establishment of rates and
5 minimum premiums. The classifications may measure differences
6 in losses, expenses, or both.¹

7 ^{146.} Section 3 of P.L. 1972, c. 70 (C. 39:6A-3) is amended to
8 read as follows:

9 3. Compulsory automobile insurance coverage; limits. Every
10 owner or registered owner of an automobile registered or
11 principally garaged in this State shall maintain automobile
12 liability insurance coverage, under provisions approved by the
13 Commissioner of Insurance, insuring against loss resulting from
14 liability imposed by law for bodily injury, death and property
15 damage sustained by any person arising out of the ownership,
16 maintenance, operation or use of an automobile wherein such
17 coverage shall be at least in:

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

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

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

27 No licensed insurance carrier shall refuse to renew the required
28 coverage stipulated by this act [without] except in accordance
29 with the provisions of section 24 of P.L. , c. (C.)(now
30 pending in the Legislature as this bill) or with the consent of the
31 Commissioner of Insurance.¹

(cf: P.L.1972, c.203, s.2)

32 ^{147.} (New section) The Commissioner of Insurance shall,
33 within 180 days after the effective date of this 1988 amendatory
34 and supplementary act, promulgate medical fee schedules on a
35 regional basis for the reimbursement of health care providers
36 providing services or equipment for medical expense benefits for
37 which payment is required to be made under the personal injury
38 protection coverage provided for in section 4 of P.L. 1972, c. 70
39

1 (C. 39:6A-4), section 10 of P.L. 1972, c. 70 (C. 39:6A-10) and
2 subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1).
3 These fee schedules shall be promulgated on the basis of the type
4 of injury sustained and shall be reviewed biannually by the
5 commissioner.¹

6 ¹[34.] 48.¹ Sections 12 and 13 of P.L. 1983, c. 362 (C.
7 39:6A-4.2 and 39:6A-4.3) and section 4 of P.L. 1984, c. 40 (C.
8 39:6A-4.4) are repealed.

9 ¹[35.] 49.¹ This act shall take effect on January 1, 1989,
10 except that section 19 shall take effect immediately ¹and section
11 26 shall expire on January 1, 1993¹, however, no provision of this
12 act shall take effect until the enactment of Senate Bill No. 124
13 of 1988.]²

14 ³[²1. (New section) As used in sections 1 through 20 of this act:

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

29 b. "Replacement services" means those services performed
30 not for income which are ordinarily performed by an individual
31 for the care and maintenance of the individual's family or family
32 household.

33 c. "Income" means salary, wages, tips, commissions, fees and
34 other earnings derived from work or employment.

35 d. "Income producer" means a person who, at the time of the
36 accident causing personal injury or death, was in an occupational
37 status, earning or producing income.

38 e. "Medical expenses" means expenses for medical treatment,
39 surgical treatment, dental treatment, professional nursing

1 services, hospital expenses, rehabilitation services, X-ray and
2 other diagnostic services, prosthetic devices, ambulance services,
3 medication and other reasonable and necessary expenses resulting
4 from the treatment prescribed by persons licensed to practice
5 medicine and surgery pursuant to R.S. 45:9-1 et seq., dentistry
6 pursuant to R.S. 45:6-1 et seq., psychology pursuant to P.L. 1966,
7 c. 282 (C. 45:14B-1 et seq.) or chiropractic pursuant to P.L. 1953,
8 c. 233 (C. 45:9-41.1 et seq.) or by persons similarly licensed in
9 other states and nations or any nonmedical remedial treatment
10 rendered in accordance with a recognized religious method of
11 healing.

f. "Hospital expenses" means:

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

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

17 (3) The cost of other hospital services, such as operating room;
18 medicines, drugs, anesthetics; treatments with X-ray, radium and
19 other radioactive substances; laboratory tests, surgical dressings
20 and supplies; and other medical care and treatment rendered by
21 the hospital;

(4) The cost of treatment by a physiotherapist;

23 (5) The cost of medical supplies, such as prescribed drugs and
24 medicines; blood and blood plasma; artificial limbs and eyes;
25 surgical dressings, casts, splints, trusses, braces, crutches; rental
26 of wheelchair, hospital bed or iron lung; oxygen and rental of
27 equipment for its administration.

g. "Named insured" means the person or persons identified as
29 the insured in the policy and, if an individual, his or her spouse, if
30 the spouse is named as a resident of the same household, except
31 that if the spouse ceases to be a resident of the household of the
32 named insured, coverage shall be extended to the spouse for the
33 full term of any policy period in effect at the time of the
34 cessation of residency.

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

i. "Noneconomic loss" means pain, suffering and inconvenience.
39

1 j. "Motor vehicle" means a motor vehicle as defined in R.S.
2 39:1-1, exclusive of an automobile as defined in subsection a. of
3 this section.]³

4 ³[2. (New section) Every owner or registered owner of an
5 automobile registered or principally garaged in this State shall
6 maintain personal protection coverage, as defined herein, under
7 provisions approved by the Commissioner of Insurance, for the
8 payment of benefits without regard to negligence, liability or
9 fault of any kind, to the named insured and members of his family
10 residing in his household who sustain bodily injury as a result of
11 an accident while occupying, entering into, alighting from or
12 using an automobile, or as a pedestrian, being struck by an
13 automobile or by an object propelled by or from an automobile, to
14 other persons sustaining bodily injury while occupying, entering
15 into, alighting from or using the automobile of the named insured,
16 with the permission of the named insured, and to pedestrians,
17 sustaining bodily injury caused by the named insured's automobile
18 or struck by an object propelled by or from such automobile.

19 "Personal protection coverage" means and includes:

20 a. Medical expense benefits. Payment of all reasonable
21 medical expenses incurred as a result of personal injury sustained
22 in an automobile accident, except that all medical payments for
23 the first \$1,500.00 of chiropractic treatment, the first \$1,500.00
24 of physical therapy, and the first \$1,500.00 of payments for the
25 purchase of medical appliances and equipment shall be subject to
26 a 20% coinsurance payment by the insured. For the purposes of
27 this subsection, "the first \$1,500.00" shall be deemed to be the
28 first \$1,500.00 in excess of any deductible which may be
29 applicable to any policy pursuant to the provisions of this
30 subsection. At the option of the insured, medical expense
31 benefits provided pursuant to this subsection may, at an
32 appropriately reduced premium, be subject to deductibles in
33 amounts of \$500.00, \$1,000.00 and \$2,500.00 for any one
34 accident. In the event of death, payments shall be made to the
35 estate of the decedent. In the event benefits paid by an insurer
36 pursuant to this subsection are in excess of \$75,000.00 on account
37 of personal injury to any one person in any one accident, the
38 excess shall be paid by the insurer in consultation with the
39 Unsatisfied Claim and Judgment Fund Board and shall be

1 reimbursable to the insurer from the Unsatisfied Claim and
2 Judgment Fund pursuant to section 2 of P.L. 1977, c. 310 (C.
3 39:6-73.1).

4 b. Wage loss benefits. The payment of the loss of income of
5 an income producer as a result of bodily injury disability, subject
6 to a maximum weekly payment of \$100.00. This sum shall be
7 payable during the life of the injured person and shall be subject
8 to an amount or limit of \$5,200.00, for injury to any one person in
9 any one accident, except that in no case shall wage loss benefits
10 exceed the net income normally earned during the period in which
11 the benefits are payable.

12 c. Replacement services benefits. Payment of replacement
13 services benefits to an injured person shall be made in
14 reimbursement of necessary and reasonable expenses incurred for
15 the replacement of services ordinarily performed by the injured
16 person for himself, his family and members of the family residing
17 in the household, subject to an amount or limit of \$12.00 per day.
18 These benefits shall be payable during the life of the injured
19 person and shall be subject to an amount or limit of \$4,380.00, for
20 injury to any one person in any one accident.

21 d. Death benefits. In the event of the death of an income
22 producer as a result of injuries sustained in an accident entitling
23 that person to benefits under this section, the maximum amount
24 of benefits which could have been paid to the income producer,
25 but for his death, under subsection b. of this section shall be paid
26 to the surviving spouse, or in the event there is no surviving
27 spouse, then to the surviving children, and in the event there are
28 no surviving spouse or surviving children, then to the estate of
29 the income producer.

30 In the event of the death of a person to whom the benefits of
31 subsection c. of this section apply as a result of injuries sustained
32 in an accident, the maximum amount of benefits which could
33 have been paid to that person under that subsection shall be paid
34 to the person incurring the expense of providing the replacement
35 services.

36 e. Funeral expense benefits. All reasonable funeral, burial and
37 cremation expenses, subject to a maximum benefit of \$1,000.00,
38 for the death to any one person in any one accident shall be
39 payable to decedent's estate.

1 Benefits payable under this section shall:

3 (1) Be subject to any deductibles elected by the policyholder
pursuant to this act;

5 (2) Not be assignable, except to a provider of service benefits
under this section, nor subject to any levy, execution, attachment
or other process for satisfaction of debts.

7 No licensed insurer shall refuse to renew the required coverage
stipulated by this section without the consent of the
9 Commissioner of Insurance, except as provided in section 55 of
P.L. , c. (C.), (now pending in the Legislature as this bill).

11 Evidence of insurance coverage shall be issued for each insured
automobile and shall be carried with the vehicle at all times.]³

13 ⁴[³1. Section 19 of P.L. 1983, c. 362 (C. 17:28-1.3) is amended
to read as follows:

15 19. Every liability insurance policy issued in this State on a
motor vehicle, exclusive of an automobile as defined in section 2
17 of P.L. 1972, c. 70 (C. 39:6A-2), but including a motorcycle, or on
a motorized bicycle, insuring against loss resulting from liability
19 imposed by law for bodily injury, death, and property damage
sustained by any person arising out of the ownership, operation,
21 maintenance, or use of a motor vehicle or motorized bicycle shall
provide personal injury protection coverage benefits, in
23 accordance with section 4 of P.L. 1972, c. 70 (C. 39:6A-4) and
subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), to
25 pedestrians who sustain bodily injury in the State caused by the
named insured's motor vehicle or motorized bicycle or by being
27 struck by an object propelled by or from the motor vehicle or
motorized bicycle.

29 (cf: P.L. 1985, c. 520, s. 19)]⁴

31 ⁴[^{2.} 1.⁴ Section 18 of P.L. 1985, c. 520 (C. 17:28-1.4) is
amended to read as follows:

33 18. Any insurer authorized to transact or transacting
automobile or motor vehicle insurance business in this State, or
controlling or controlled by, or under common control by, or with,
35 an insurer authorized to transact or transacting insurance
business in this State, which sells a policy providing automobile or
37 motor vehicle liability insurance coverage, or any similar
coverage, in any other state or in any province of Canada, shall
39 include in each policy coverage to satisfy at least the liability

1 insurance requirements of section 1 of P.L. 1972, c. 197 (C.
2 39:6B-1) or section 3 of P.L. 1972, c. 70 (C. 39:6A-3), the
3 uninsured motorist insurance requirements of subsection a. of
4 section 2 of P.L. 1968, c. 385 (C. 17:28-1.1), and personal injury
5 protection benefits coverage pursuant to section 4 of P.L. 1972,
6 c. 70 (C. 39:6A-4) ⁴[and subsection b. of section 2 of P.L. 1977, c.
7 310 (C. 39:6-73.1)]⁴ or of section 19 of P.L. 1983, c. 362 (C.
8 17:28-1.3), whenever the automobile or motor vehicle insured
9 under the policy is used or operated in this State.

10 Any liability insurance policy subject to this section shall be
11 construed as providing the coverage required herein, and any
12 named insured, and any immediate family member as defined in
13 section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1), under that
14 policy, shall be subject to the tort option specified in subsection
15 ⁴[b.] a.⁴ of section 8 of P.L. 1972, c. 70 (C. 39:6A-8).

16 Each insurer authorized to transact or transacting automobile
17 or motor vehicle insurance business in this State and subject to
18 the provisions of this section shall, within 30 days of the
19 effective date of [this amendatory and supplementary act] P.L.
20 1985, c. 520, file and maintain with the Department of Insurance
21 written certification of compliance with the provisions of this
22 section.

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

25 (cf: P.L. 1985, c. 520, s. 18)

26 ⁴[3. Section 8 of P.L. 1983, c. 65 (C. 17:29A-37) is amended to
27 read as follows:

28 8. a. Every filer making automobile rates in this State shall
29 apply on a flat and uniform fee basis per insured automobile
30 Statewide those miscellaneous taxes, licenses, and fees, as
31 defined in the most recent rate filing of an automobile filer, and
32 at least 90% of its general expenses and acquisition, field
33 supervision, and collection expenses, excluding commissions, as
34 such expenses are defined in the filer's most recent rate filing
35 with the commissioner.

36 b. The commissioner and the State Treasurer shall issue a
37 regulation no later than 90 days after the effective date of [this
38 act] P.L. 1983, c. 65 to require automobile filers to calculate and
39 collect taxes for their insureds paid pursuant to P.L. 1945, c. 132

1 (C. 54:18A-1 et seq.) and any assessments to be made pursuant to
2 sections 4, 6 and 7 of P.L. 1952, c. 174 (C. 39:6-64, 39:6-66 and
3 39:6-67), exclusive of assessments made to reimburse a filer for
4 medical benefits payable under section 4 of P.L. 1972, c. 70 (C.
5 39:6A-4) in excess of \$75,000.00, as the result of an accident
6 occurring prior to January 1, 1990, on a flat and uniform fee basis
7 per insured automobile Statewide, which shall take effect on
8 January 1, 1984.

9 (cf: P.L. 1983, c. 65, s. 8)]⁴

10 ⁴[4. Section 8 of P.L. 1974, c. 17 (C. 17:30A-8) is amended to
11 read as follows:

12 8. a. The association shall:

13 (1) Be obligated to the extent of the covered claims against an
14 insolvent insurer incurred, in the case of private passenger
15 automobile insurance, prior to or after the determination of
16 insolvency, but before the policy expiration date or the date upon
17 which the insured replaces the policy or causes its cancellation,
18 or in the case of insurance other than private passenger
19 automobile insurance, covered claims against such insolvent
20 insurer incurred prior to or 90 days after the determination of
21 insolvency, or before the policy expiration date if less than 90
22 days after said determination, or before the insured replaces the
23 policy or causes its cancellation, if he does so within 90 days of
24 the determination, but such obligation shall include only that
25 amount of each covered claim which is less than \$300,000.00 and
26 subject to any applicable deductible contained in the policy,
27 except that the \$300,000.00 limitation shall not apply to a
28 covered claim arising out of insurance coverage mandated by
29 section 4 of P.L. 1972, c. 70 (C. 39:6A-4). In the case of medical
30 expense benefits payable under subsection a. of section [4] 10 of
31 P.L. 1972, c. 70 [(C. 39:6A-4)] (C. 39:6A-10), the association shall
32 be liable for payment of benefits in an amount in excess of
33 \$10,000.00 but not to exceed \$75,000.00. Benefits paid in excess
34 of [such amount] \$75,000.00 shall be recoverable by the
35 association from the Unsatisfied Claim and Judgment Fund
36 pursuant to the provisions of section 2 of P.L. 1977, c. 310 (C.
37 39:6-73.1). In the case of medical expense benefits payable under
38 subsection a. of section 4 of P.L. 1972, c. 70 (C. 39:6A-4), the
39 association shall be liable for payment of benefits in an amount

1 not to exceed \$10,000.00, subject to a deductible of \$250.00 on
2 account of injury to any one person in any one accident and a
3 copayment of 20% of the benefits payable in excess of the
4 deductible amount. In no event shall the association be obligated
5 to a policyholder or claimant in an amount in excess of the limits
6 of liability stated in the policy of the insolvent insurer from
7 which the claim arises;

(2) Be deemed the insurer to the extent of its obligation on the
8 covered claims and to such extent shall have all rights, duties,
9 and obligations of the insolvent insurer as if the insurer had not
10 become insolvent;

(3) Assess member insurers in amounts necessary to pay:

13 (a) The obligation of the association under paragraph a. (1) of
14 this section;

15 (b) The expenses of handling covered claims;

(c) The cost of examinations under section 13; and

17 (d) Other expenses authorized by this act.

The assessments of each member insurer shall be in the
18 proportion that the net direct written premiums of the member
19 insurer for the calendar year preceding the assessment bears to
20 the net direct written premiums of all member insurers for the
21 calendar year preceding the assessment.

23 Each member insurer shall be notified of the assessment not
24 later than 30 days before it is due. No member insurer may be
25 assessed in any year an amount greater than 2% of that member
26 insurer's net direct written premiums for the calendar year
27 preceding the assessment.

The association may, subject to the approval of the
28 commissioner, exempt, abate or defer, in whole or in part the
29 assessment of any member insurer, if the assessment would cause
30 the member insurer's financial statement to reflect amounts of
31 capital or surplus less than the minimum amounts required for a
32 certificate of authority by any jurisdiction in which the member
33 insurer is authorized to transact insurance. In the event an
34 assessment against a member insurer is exempted, abated, or
35 deferred, in whole or in part, because of the limitations set forth
36 in this section, the amount by which such assessment is
37 exempted, abated, or deferred, shall be assessed against the other
38 member insurers in a manner consistent with the basis for

1 assessments set forth in this section. If the maximum
assessment, together with the other assets of the association,
3 does not provide in any one year an amount sufficient to carry
out the responsibilities of the association, the necessary
5 additional funds shall be assessed as soon thereafter as it is
permitted by this act. Each member insurer serving as a servicing
7 facility may set off against any assessment, authorized payments
made on covered claims and expenses incurred in the payment of
9 such claims by such member insurer;

(4) Investigate claims brought against the association and
11 adjust, compromise, settle, and pay covered claims to the extent
of the association's obligation and deny all other claims and may
13 review settlements, releases and judgments to which the
insolvent insurer or its insureds were parties to determine the
15 extent to which such settlements, releases and judgments may be
properly contested;

(5) Notify such persons as the commissioner directs under
17 section 10 b. (1);

(6) Handle claims through its employees or through one or
19 more insurers or other persons designated as servicing facilities.
Designation of a servicing facility is subject to the approval of
21 the commissioner, but such designation may be declined by a
23 member insurer;

(7) Reimburse each servicing facility for obligations of the
25 association paid by the facility and for expenses incurred by the
facility while handling claims on behalf of the association and
27 shall pay the other expenses of the association authorized by this
act;

(8) Make loans to the New Jersey Surplus Lines Insurance
29 Guaranty Fund in accordance with the provisions of the "New
Jersey Surplus Lines Insurance Guaranty Fund Act," P.L. 1984, c.
31 101 (C. 17:22-6.70 et seq.).

b. The association may:

(1) Employ or retain such persons as are necessary to handle
35 claims and perform such other duties of the association;

(2) Borrow funds necessary to effect the purposes of this act in
37 accord with the plan of operation;

(3) Sue or be sued;

39 (4) Negotiate and become a party to such contracts as are

1 necessary to carry out the purpose of this act;

2 (5) Perform such other acts as are necessary or proper to
3 effectuate the purpose of this act;

4 (6) Refund to the member insurers in proportion of the
5 contribution of each member insurer that amount by which the
6 assets exceed the liabilities if, at the end of any calendar year,
7 the board of directors finds that the assets of the association
8 exceed the liabilities as estimated by the board of directors for
9 the coming year.

(cf: P.L. 1984, c. 207, s. 9)]⁴

11 ⁴[5. R.S. 39:3-8 is amended to read as follows:

12 39:3-8. The applicant for registration for any passenger
13 automobile manufactured in any model year prior to the 1971
14 model year shall pay to the director for each registration a fee of
15 \$14.00 for each such vehicle having a manufacturer's shipping
16 weight of less than 2,700 pounds, a fee of \$23.00 for each such
17 vehicle having a manufacturer's shipping weight of 2,700 pounds
18 or more, but not greater than 3,800 pounds, and a fee of \$44.00
19 for each vehicle having a manufacturer's shipping weight in
20 excess of 3,800 pounds. The applicant for registration for any
21 passenger automobile manufactured in model year 1971 and
22 thereafter, except as determined hereinafter, shall pay to the
23 director for each registration a fee of \$17.00 for each such
24 vehicle having a manufacturer's shipping weight of less than
25 2,700 pounds, a fee of \$28.00 for each such vehicle having a
26 manufacturer's shipping weight of 2,700 pounds or more, but not
27 greater than 3,800 pounds, and a fee of \$51.00 for each such
28 vehicle having a manufacturer's shipping weight in excess of
29 3,800 pounds. The applicant for registration for any 1980 or
30 thereafter model year passenger automobile registered on or
31 after March 1, 1979 shall pay to the director for each registration
32 a fee of \$25.00 for each such vehicle having a manufacturer's
33 shipping weight not greater than 3,500 pounds and a fee of \$50.00
34 for each vehicle having a manufacturer's shipping weight in
35 excess of 3,500 pounds. The director shall determine
36 manufacturer's shipping weight and model year for each
37 passenger automobile on the basis of the information contained in
38 the certificate of origin, the application for registration or for
39 renewal of registration, or the records of the division, or any or

1 all of these; and in any case in which the manufacturer's shipping
weight of any particular passenger automobile is unavailable, or
3 in doubt or dispute, the director may require that such
automobile be weighed on a scale designated by him, and such
5 actual weight shall be considered the manufacturer's shipping
weight for the purposes of this section; but in all cases the
7 director's determination of the manufacturer's shipping weight
of any such automobile shall be final. The applicant for
9 registration for a passenger automobile shall also pay to the
director the inspection fee fixed in R.S. 39:8-2 in addition to the
11 fees described hereinabove.

An applicant for registration of a private passenger automobile
13 on or after January 1, 1990, shall also pay to the director a fee
established by the Commissioner of Insurance for medical
15 expenses pursuant to subsection b. of section 2 of P.L. 1977, c.
310 (C. 39:6-73.1) during the ensuing registration license year.

17 The director may also license private utility and house-type
semitrailers and trailers with a gross load not in excess of 2,000
19 pounds at a fee of \$4.00 per annum and all other such utility and
house-type semitrailers and trailers at \$9.00 per annum.
21 Application for such registration shall be made on a blank to be
furnished by the division and the application shall contain a
23 statement to the effect that the vehicle so registered will not be
used for the commercial transportation of goods, wares and
25 merchandise, or for hire.

No private utility or house-type semitrailer or trailer with an
27 outside width of more than 96 inches, a maximum height of 13
feet 6 inches, a maximum length for a single vehicle of more than
29 35 feet, a maximum length for a semitrailer and its towing
vehicle of more than 45 feet, and a maximum length for a trailer
31 and its towing vehicle of more than 50 feet, shall be operated on
any highway in this State, except that a vehicle exceeding the
33 above limitations may be operated when a special permit so to
operate is secured in advance from the director. The application
35 for such permit shall be accompanied by a fee fixed by the
director. A special permit issued by the director shall be in the
37 possession of the operator of the vehicle for which such permit
was issued. In computing any dimensions of a vehicle, for the
39 purposes of this section, there shall not be included in the

1 dimensional limitations safety equipment such as mirrors or
lights, provided such appliances do not exceed the overall
3 limitations established by the director by rule or regulation.

(cf: P.L. 1979, c. 3, s. 1)]⁴

5 ⁴[6.] 2.⁴ Section 3 of P.L. 1952, c. 174 (C. 39:6-63) is
amended to read as follows:

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

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

9 (b) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

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

11 (d) On December 30 in each year, the commissioner shall
calculate the probable amount which will be needed to carry out
13 the provisions of this act during the ensuing registration license
year. In such calculation, he shall take into consideration the
15 amount presently reserved for pending claims, anticipated
payments from the fund during said year, anticipated payments
17 from the fund for medical expenses to be made pursuant to
⁴[subsection a. of]⁴ section 2 of [this act] P.L. 1977, c. 310 (C.
19 39:6-73.1), during the two years after said year, anticipated
amounts to be reserved for claims pending during said year,
21 amounts transferred to the Division of Motor Vehicles pursuant
to section 28 of P.L. 1952, c. 174 (C. 39:6-88) [, as amended by
23 this 1983 amendatory act,] and the desirability of maintaining a
surplus over and above such anticipated payments and present and
25 anticipated reserves, such surplus not to exceed the amount
actually paid from the fund during the 12 full calendar months
27 immediately preceding the date of calculation. Such probable
amount which will be needed to carry out the provisions of this
29 act shall be assessed against insurers for such year's
contributions to the fund. Such probable amount needed shall be
31 apportioned among such insurers in the proportion that the net
direct written premiums of each bear to the aggregate net direct
33 written premiums of all insurers, including the New Jersey
Automobile Full Insurance Underwriting Association, created
35 pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.), during the
preceding calendar year as shown by the records of the
37 commissioner. Each insurer shall pay the sum so assessed to the
treasurer on or before March 31, next following.

39 (e) Whenever any of the provisions of this act concerning the

1 method and sources of assessments on insurers, including the New
2 Jersey Automobile Full Insurance Underwriting Association,
3 created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.), the
4 maximum amounts payable from the fund, eligibility or
5 qualifications of claimants, or amounts to be deducted from
6 payments made from the fund are amended by law, between
7 January 1 and April 30 in any year, the commissioner may, if he
8 deems it necessary, rescind any assessment on insurers, including
9 the New Jersey Automobile Full Insurance Underwriting
10 Association, created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et
11 seq.), made on December 30 of the preceding year. He shall then,
12 within 15 days of the adoption of such amendment, recalculate
13 the probable amount which will be needed to carry out the
14 provisions of this act during the ensuing registration license year,
15 in accordance with the provisions of subsection (d) of this
16 section. If, in his judgment, the estimated balance of the fund at
17 the beginning of the next registration license year will be
18 insufficient to meet such needs, he shall determine the
19 contributions of insurers, if any, in accordance with the
20 provisions of subsection (d) of this section. In the event of a
21 rescission and reassessment subsequent to March 1 in any year,
22 insurers shall pay the sum so assessed, if any, to the treasurer
23 within 90 days of the date of such assessment.

24 ⁴[(f) On September 1, 1989 and each year thereafter, the
25 commissioner shall calculate the probable amount which will be
26 needed to carry out the provisions of subsection b. of section 2 of
27 P.L. 1977, c. 310 (C. 39:6-73.1), during the ensuing calendar year;
28 establish the fee to be charged for each private passenger
29 automobile to be registered during the ensuing year; and
30 immediately notify the Director of the Division of Motor
31 Vehicles of the amount of the fee. The fee shall be equitably
32 apportioned among all registrants of private passenger
33 automobiles during each calendar year. The calculation shall
34 take into consideration the amount reserved for pending claims,
35 anticipated payments from the fund for medical expenses to be
36 made during the succeeding two year period, anticipated amounts
37 to be reserved for claims pending during said year, and the
38 desirability of maintaining a surplus, over and above the
39 anticipated payments and present and anticipated reserves. No

1 surplus shall exceed the amount actually paid from the fund for
2 the purpose of carrying out the provisions of subsection b. of
3 section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), during the 12 full
4 calendar months immediately preceding the date of calculation,
5 except that for the registration license year beginning January 1,
6 1990, the surplus shall not exceed the amount actually paid from
7 the fund for the purpose of carrying out the provisions of
8 subsection a. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1),
9 during the 12 full calendar months immediately preceding the
10 date of calculation.

11 (g) The commissioner shall review the reserves maintained
12 pursuant to subsections (e) and (f) of this section for actuarial
13 soundness and report his findings, including any recommended
14 modifications, to the Legislature no later than January 1, 1991.]⁴

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

16 ⁴[7. Section 2 of P.L. 1977, c. 310 (C. 39:6-73.1) is amended to
17 read as follows:

18 2. a. In the event medical expense benefits paid by an insurer,
19 in accordance with subsection a. of section [4a.] 4 of P.L. 1972, c.
20 70 (C. 39:6A-4), are in excess of \$75,000.00 on account of
21 personal injury to any one person in any one accident occurring
22 prior to January 1, 1990, the Unsatisfied Claim and Judgment
23 Fund shall assume such excess and reimburse the insurer therefor
24 in accordance with rules and regulations promulgated by the
25 commissioner; provided, however, that this provision is not
26 intended to broaden the coverage available to accidents involving
27 uninsured or hit-and-run automobiles, to provide extraterritorial
28 coverage, or to pay excess medical expenses.

29 b. In the event of accidents occurring on or after January 1,
30 1990, payment shall be provided for all reasonable medical
31 expenses in excess of \$75,000.00 incurred as a result of personal
32 injury sustained in an automobile accident occurring on or after
33 January 1, 1990. Payment of benefits shall be made without
34 regard to negligence, liability or fault of any kind, to the named
35 registrant of a private passenger automobile and members of his
36 family residing in his household who sustained bodily injury as a
37 result of an accident while occupying, entering into, alighting
38 from or using an automobile, or as a pedestrian, caused by an
39 automobile or by an object propelled by or from an automobile, to

1 other persons sustaining bodily injury while occupying, entering
2 into, alighting from or using the automobile of the named
3 registrant, with the permission of the named registrant, and to
4 pedestrians, sustaining bodily injury caused by the named
5 registrant's automobile or struck by an object propelled by or
6 from such automobile. Payment of benefits shall be made by the
7 Unsatisfied Claim and Judgment Fund or any other legal entity
8 under contract with the Commissioner of Insurance to provide
9 such services. No contract shall be executed by the
10 commissioner unless awarded as the result of an open bidding
11 process.

(cf: P.L. 1985, c. 148, s. 9)]⁴

13 ⁴[8.] 3.⁴ Section 4 of P.L. 1972, c. 70 (C. 39:6A-4) is amended
to read as follows:

15 4. Personal injury protection coverage, regardless of fault.

16 Every automobile liability insurance policy insuring an
17 automobile as defined in this act against loss resulting from
18 liability imposed by law for bodily injury, death and property
19 damage sustained by any person arising out of ownership,
20 operation, maintenance or use of an automobile shall provide
21 personal injury protection coverage, as defined hereinbelow,
22 under provisions approved by the Commissioner of Insurance, for
23 the payment of benefits without regard to negligence, liability or
24 fault of any kind, to the named insured and members of his family
25 residing in his household who sustained bodily injury as a result of
26 an accident while occupying, entering into, alighting from or
27 using an automobile, or as a pedestrian, [being struck] caused
28 by an automobile or by an object propelled by or from an
29 automobile, to other persons sustaining bodily injury while
30 occupying, entering into, alighting from or using the automobile
31 of the named insured, with the permission of the named insured,
32 and to pedestrians, sustaining bodily injury caused by the named
33 insured's automobile or struck by an object propelled by or from
34 such automobile.

35 "Personal injury protection coverage" means and includes:

36 a. Medical expense benefits. Payment of all reasonable
37 medical expenses ⁴[up to \$10,000.00 and in excess of \$75,000.00]⁴
38 incurred as a result of personal injury sustained in an automobile
39 accident ⁴[occurring prior to January 1, 1990; and payment of all

1 reasonable medical expenses up to \$10,000.00 incurred as a result
2 of personal injury sustained in an automobile accident occurring
3 on or after January 1, 1990]⁴. In the event of death, payments
4 shall be made to the estate of the decedent. In the event
5 benefits paid by an insurer pursuant to this subsection are in
6 excess of \$75,000.00 on account of personal injury to any one
7 person in any one accident ⁴[occurring prior to January 1, 1990]⁴,
8 such excess shall be paid by the insurer in consultation with the
9 Unsatisfied Claim and Judgment Fund Board and shall be
10 reimbursable to the insurer from the Unsatisfied Claim and
11 Judgment Fund pursuant to ⁴[subsection a. of]⁴ section 2 of P.L.
12 1977, c. 310 (C. 39:6-73.1).

13 ⁴b. [Income continuation benefits. The payment of the loss of
14 income of an income producer as a result of bodily injury
15 disability, subject to a maximum weekly payment of \$100.00.
16 Such sum shall be payable during the life of the injured person
17 and shall be subject to an amount or limit of \$5,200.00, on
18 account of injury to any one person in any one accident, except
19 that in no case shall income continuation benefits exceed the net
20 income normally earned during the period in which the benefits
21 are payable.] (Deleted by amendment, P.L. , c.)(now
22 pending in the Legislature as this bill)

23 c. [Essential services benefits. Payment of essential services
24 benefits to an injured person shall be made in reimbursement of
25 necessary and reasonable expenses incurred for such substitute
26 essential services ordinarily performed by the injured person for
27 himself, his family and members of the family residing in the
28 household, subject to an amount or limit of \$12.00 per day. Such
29 benefits shall be payable during the life of the injured person and
30 shall be subject to an amount or limit of \$4,380.00, on account of
31 injury to any one person in any one accident.] (Deleted by
32 amendment, P.L. , c.)(now pending in the Legislature as
33 this bill)

34 d. [Death benefits. In the event of the death of an income
35 producer as a result of injuries sustained in an accident entitling
36 such person to benefits under section 4 of this act, the maximum
37 amount of benefits which could have been paid to the income
38 producer, but for his death, under section 4 b. shall be paid to the
39 surviving spouse, or in the event there is no surviving spouse, then

1 to the surviving children, and in the event there are no surviving
2 spouse or surviving children, then to the estate of the income
3 producer.

4 In the event of the death of one performing essential services
5 as a result of injuries sustained in an accident entitling such
6 person to benefits under section 4 c. of this act, the maximum
7 amount of benefits which could have been paid such person, under
8 section 4 c., shall be paid to the person incurring the expense of
9 providing such essential services.] (Deleted by amendment,
P.L. , c. .)(now pending in the Legislature as this bill)

11 e. [Funeral expenses benefits. All reasonable funeral, burial
and cremation expenses, subject to a maximum benefit of
12 \$1,000.00, on account of the death to any one person in any one
13 accident shall be payable to decedent's estate.] (Deleted by
14 amendment, P.L. , c. .)(now pending in the Legislature as
15 this bill)

16 Benefits payable under this section shall:

17 (1) [Be subject to any deductibles or exclusions elected by the
18 policyholder pursuant to section 13 of P.L. 1983, c. 362 (C.
19 39:6A-4.3);] (Deleted by amendment, P.L. , c. .)(now pending
20 in the Legislature as this bill)]

21 b. Income continuation benefits. The payment of the loss of
22 income of an income producer as a result of bodily injury
23 disability, subject to a maximum weekly payment of \$100.00.
24 Such sum shall be payable during the life of the injured person
25 and shall be subject to an amount or limit of \$5,200.00, on
26 account of injury to any one person in any one accident, except
27 that in no case shall income continuation benefits exceed the net
28 income normally earned during the period in which the benefits
29 are payable.

30 c. Essential services benefits. Payment of essential services
31 benefits to an injured person shall be made in reimbursement of
32 necessary and reasonable expenses incurred for such substitute
33 essential services ordinarily performed by the injured person for
34 himself, his family and members of the family residing in the
35 household, subject to an amount or limit of \$12.00 per day. Such
36 benefits shall be payable during the life of the injured person and
37 shall be subject to an amount or limit of \$4,380.00, on account of
38 injury to any one person in any one accident.
39

1 d. Death benefits. In the event of the death of an income
2 producer as a result of injuries sustained in an accident entitling
3 such person to benefits under this section, the maximum amount
4 of benefits which could have been paid to the income producer,
5 but for his death, under subsection b. of this section shall be paid
6 to the surviving spouse, or in the event there is no surviving
7 spouse, then to the surviving children, and in the event there are
8 no surviving spouse or surviving children, then to the estate of
9 the income producer.

10 In the event of the death of one performing essential services
11 as a result of injuries sustained in an accident entitling such
12 person to benefits under subsection c. of this section, the
13 maximum amount of benefits which could have been paid such
14 person, under subsection c., shall be paid to the person incurring
15 the expense of providing such essential services.

16 e. Funeral expenses benefits. All reasonable funeral, burial
17 and cremation expenses, subject to a maximum benefit of
18 \$1,000.00, on account of the death to any one person in any one
19 accident shall be payable to decedent's estate.

20 Benefits payable under this section shall:

21 (1) Be subject to any deductibles or exclusions elected by the
22 policyholder pursuant to section 13 of P.L. 1983, c. 362 (C.
23 39:6A-4.3);⁴

24 (2) Not be assignable, except to a provider of service benefits
25 under this section, nor subject to levy, execution, attachment or
26 other process for satisfaction of debts.

27 Medical expense benefit payments ⁴[up to \$10,000.00]⁴ shall be
28 subject to a deductible of \$250.00 on account of injury ⁴[to any
29 one person]⁴ in any one accident and a copayment of 20% of
30 ⁴[the] any⁴ benefits payable ⁴[in excess of the deductible amount]
31 between \$250.00 and \$5,000.00.

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

35 (cf: P.L. 1984, c. 40, s. 3)

36 ⁴[9. Section 1 of P.L. 1983, c. 212 (C. 39:6A-4.1) is amended
37 to read as follows:

38 1. When a named insured is the owner and only designated
39 operator of two or more automobiles and the only licensed driver

1 residing in the household, he shall be charged a reduced personal
2 injury protection premium, and additional personal injury
3 protection benefit premium, if applicable, for each automobile
4 listed in addition to the principal automobile on the policy in an
5 amount determined by the commissioner for [the] personal injury
6 protection benefits provided in section 4 of P.L. 1972, c. 70
7 (C. 39:6A-4), and additional personal injury protection benefits
8 provided pursuant to section 10 of P.L. 1972, c. 70 (C. 39:6A-10).
9 Three years after the initial reduction in such premiums the
10 personal injury protection premium and additional personal injury
11 protection benefit premium for such additional automobiles shall
12 be determined by the loss experience of the rate filer with
13 respect to the payment of personal injury protection benefits
14 which are attributable to such additional automobiles.

15 (cf: P.L. 1983, c. 212, s. 1)]⁴

16 ⁴[10.] ⁴4. Section 14 of P.L. 1985, c. 520 (C. 39:6A-4.5) is
17 amended to read as follows:

18 14. Any person who, at the time of an automobile accident
19 resulting in injuries to that person, is required but fails to
20 maintain medical expense benefits coverage mandated by section
21 4 of P.L. 1972, c. 70 (C. 39:6A-4) ⁴[or]⁴ [section 1 of P.L.,
22 c. (C.) (now pending before the Legislature as
23 Assembly Bill No. 2883 of 1984)] ⁴[subsection b. of section 10 of
P.L. 1977, c. 310 (C. 39:6-73.1),]⁴ shall:

24 a. For the purpose of filing an action for recovery of
25 noneconomic loss, as defined in section 2 of P.L. 1972, c. 70 (C.
26 39:6A-2), be subject to the tort option specified in subsection
27 ⁴[b.] ⁴a. of section 8 of P.L. 1972, c. 70 (C. 39:6A-8)[;].

28 b. [In the event of a recovery for noneconomic loss pursuant to
29 an arbitration award, judicial judgment or voluntary settlement,
30 be subject to the setoff option as set forth in subsection c. of
31 section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3), except that the
32 amount of the setoff shall be payable to the New Jersey
33 Automobile Insurance Risk Exchange established pursuant to
34 section 15 of P.L. 1983, c. 362 (C. 39:6A-21).] (Deleted by
35 amendment, P.L. , c. .)(now pending in the Legislature as
36 this bill)

37 (cf: P.L.1985, c.520, s.14)

38 ⁴[11. Section 5 of P.L. 1972, c. 70 (C. 39:6A-5) is amended to

1 read as follows:

2 5. Payment of personal injury protection coverage benefits and
3 additional personal injury protection coverage benefits.

4 a. An insurer may require written notice to be given as soon as
5 practicable after an accident involving an automobile with
6 respect to which the policy affords personal injury protection
7 coverage benefits required by this act or additional personal
8 injury protection coverage benefits pursuant to section 10 of P.L.
9 1972, c. 70 (C. 39:6A-10).

10 b. Personal injury protection coverage benefits and additional
11 personal injury protection coverage benefits shall be overdue if
12 not paid within 30 days after the insurer is furnished written
13 notice of the fact of a covered loss and of the amount of same.
14 If such written notice is not furnished to the insurer as to the
15 entire claim, any partial amount supported by written notice is
16 overdue if not paid within 30 days after such written notice is
17 furnished to the insurer. Any part or all of the remainder of the
18 claim that is subsequently supported by written notice is overdue
19 if not paid within 30 days after such written notice is furnished to
20 the insurer; provided, however, that any payment shall not be
21 deemed overdue where, within 30 days of receipt of notice of the
22 claim, the insurer notifies the claimant or his representative in
23 writing of the denial of the claim or the need for additional time,
24 not to exceed 45 days, to investigate the claim, and states the
25 reasons therefor. The written notice stating the need for
26 additional time to investigate the claim shall set forth the
27 number of the insurance policy against which the claim is made,
28 the claim number, the address of the office handling the claim
29 and a telephone number, which is toll free or can be called
30 collect, or is within the claimant's area code. For the purpose of
31 determining interest charges in the event the injured party
32 prevails in a subsequent proceeding where an insurer has elected
33 a 45 day extension pursuant to this subsection, payment shall be
34 considered overdue at the expiration of the 45 day period or, if
35 the injured person was required to provide additional information
36 to the insurer, within 10 business days following receipt by the
37 insurer of all the information requested by it, whichever is later.

38 For the purpose of calculating the extent to which any benefits
39 are overdue, payment shall be treated as being made on the date

1 a draft or other valid instrument which is equivalent to payment
was placed in the United States mail in a properly addressed,
3 postpaid envelope, or, if not so posted, on the date of delivery.

c. All overdue payments shall bear interest at the percentage
5 of interest prescribed in the Rules Governing the Courts of the
State of New Jersey for judgments, awards and orders for the
7 payment of money. All automobile insurers shall provide any
claimant with the option of submitting a dispute under this
9 section to binding arbitration. Arbitration proceedings shall be
administered and subject to procedures established by the
11 American Arbitration Association. If the claimant prevails in the
arbitration proceedings, the insurer shall pay all the costs of the
13 proceedings, including reasonable attorney's fees, to be
determined in accordance with a schedule of hourly rates for
15 services performed, to be prescribed by the Supreme Court of
New Jersey.

17 (cf: P.L. 1983, c. 362, s. 8)]⁴

19 ⁴[12. Section 10 of P.L. 1972, c. 70 (C. 39:6A-10) is amended
to read as follows:

10. Additional personal injury protection coverage.

21 Insurers shall make available to the named insured covered
under section 4[,] of P.L. 1972, c. 70 (C. 39:6A-4) and, at his
23 option, to resident relatives in the household of the named
insured, suitable additional first party coverage for medical
25 expense benefits, and first party coverage for income
continuation benefits, essential services benefits, death benefits
27 and funeral expense benefits [, but the income continuation and
essential service benefits shall cease upon the death of the
29 claimant, and shall not operate to increase the amount of any
death benefits payable under section 4 and such additional first
31 party coverage shall be payable only to the extent that the
claimant establishes that the amount of loss sustained exceeds
33 the coverage specified in section 4. The additional coverage shall
be offered by the insurer at least annually on a form prescribed
35 by the Commissioner of Insurance, which shall be attached to or
accompany all applications, initial policies and renewal policies
37 or renewal notices. Income continuation in excess of that
provided for in section 4 must be provided as an option by
39 insurers for disabilities, as long as the disability persists, up to an

1 income level of \$35,000.00 per year, provided that a. the access
2 between \$5,200.00 and the amount of coverage contracted for
3 shall be written on the basis of 75% of said difference, and b.
4 regardless of the duration of the disability, the benefits payable
5 shall not exceed the total maximum amount of income
6 continuation benefits contracted for. Death benefits provided
7 pursuant to this section shall be payable without regard to the
8 period of time elapsing between the date of the accident and the
9 date of death, if death occurs within two years of the accident
10 and results from bodily injury from that accident to which
11 coverage under this section applies. The Commissioner of
12 Insurance is hereby authorized and empowered to establish, by
13 rule or regulation, the amounts and terms of income continuation
14 insurance to be provided pursuant to this section.] as follows:

15 a. Medical expense benefits. The payment of all reasonable
16 medical expenses in excess of \$10,000.00 and up to \$75,000.00, in
17 amounts approved by the commissioner, incurred as a result of
18 personal injury sustained in an automobile accident. In the event
19 of death, payments shall be made to the estate of the decedent.

20 b. Income continuation benefits. The payment of the loss of
21 income of an income producer as a result of bodily injury
22 disability, in an amount not less than \$100.00 per week, for any
23 one person in any one accident, and not more than an income
24 level established by the commissioner by regulation, which shall
25 be not less than \$35,000.00 per year. The benefit shall be payable
26 as long as the disability exists, except that, regardless of the
27 duration of the disability, the benefits payable shall not exceed
28 the total maximum income continuation benefit contracted for,
29 nor shall the benefits payable exceed the net income normally
30 earned during the period in which the benefits are payable.
31 Coverage in amounts in excess of \$5,200.00 per year shall be
32 written on the basis of 75% of the differential between \$5,200.00
33 and the coverage written. Income continuation benefits shall
34 cease upon the death of the claimant, and shall not operate to
35 increase the amount of any death benefits payable under
36 subsection d. of this section.

37 c. Essential services benefits. Payment of essential services
38 benefits to an injured person shall be made in reimbursement of
39 necessary and reasonable expenses incurred for the substitute

1 essential services ordinarily performed by the injured person for
2 himself, his family and members of the family residing in the
3 household, subject to an amount or limit of \$12.00 per day. The
4 benefits shall be payable during the life of the injured person and
5 shall be subject to such additional limits as established by the
6 commissioner by regulation, on account of injury to any one
7 person in any one accident. In the event of the death of one
8 performing essential services as a result of injuries sustained in
9 an accident entitling the person to benefits under this subsection,
10 the maximum amount of benefits which could have been paid to
11 that person under this subsection shall be paid to the person
12 incurring the expense of providing the essential services.

13 d. Death benefits. In the event of the death of an income
14 producer as a result of injuries sustained in an accident which
15 entitles the person to collect benefits, the maximum amount of
16 benefits which could have been paid to the income producer, but
17 for his death, under subsection b. of this section shall be paid to
18 the surviving spouse or in the event there is no spouse, then to
19 the surviving children, or in the event there is no surviving spouse
20 or surviving children, then to the estate of the income producer.
21 Death benefits provided pursuant to this subsection shall be
22 payable without regard to the period of time elapsing between
23 the date of the accident and the date of death if death occurs
24 within two years of the accident and results from bodily injury
25 from that accident to which coverage under this subsection
26 applies.

27 e. Funeral expense benefits. All reasonable funeral, burial and
28 cremation expenses, subject to a schedule of maximum benefits
29 established by the commissioner by regulation, on account of the
30 death of any one person in any one accident shall be payable to
31 the decedent's estate.

32 Benefits payable under subsections b. and c. of this section
33 shall cease upon the death of the claimant, and shall not operate
34 to increase the amount of any death benefits payable under
35 subsection d. of this section. Benefit options provided for under
36 this section shall be offered by insurers at least annually as part
37 of the coverage selection form required by section 17 of P.L.
38 1983, c. 362 (C. 39:6A-23). Benefits payable pursuant to this
39 section shall not be assignable, except to a provider of service

1 benefits under this section, nor subject to levy, execution,
2 attachment or other process for satisfaction of debts.

3 f. Personal injury protection coverage shall be offered by the
4 insurer at least annually as part of the coverage selection form
5 required by section 17 of P.L. 1983, c. 362 (C. 39:6A-23) which
6 shall provide information on the extent of medical expense
7 benefit coverage provided to the insured pursuant to section 4 of
8 P.L. 1972, c. 70 (C. 39:6A-4) or subsection b. of section 10 of
9 P.L. 1977, c. 310 (C. 39:6-73.1); the extent of medical expense
10 benefit coverage available to the insured pursuant to this section;
11 notice of the primacy of any applicable health insurance coverage
12 or benefits pursuant to subsection g. of this section; and shall
13 provide for the signature of the named insured to indicate the
14 insured's acceptance or rejection of the offer of medical expense
15 benefit coverage made pursuant to this section.

16 g. Any health insurance coverage or benefits, including any
17 coverage or benefits provided under any federal or State
18 program, shall be the primary coverage for any person injured in
19 an automobile accident who has elected medical expense
20 coverage benefits pursuant to the provisions of this section.

21 h. The Commissioner of Insurance shall adopt rules and
22 regulations to effectuate the purposes of this section.
23 (cf: P.L. 1985, c. 520, s. 16)]⁴

24 ⁴[13.] 5.⁴ Section 7 of P.L. 1972, c. 198 (C. 39:6-86.1) is
25 amended to read as follows:

26 7. When any person qualified to receive payments under the
27 provisions of the "Unsatisfied Claim and Judgment Fund Law"
28 suffers bodily injury or death [through being struck,] as a
29 pedestrian, as defined in section 2 of P.L. 1972, c. 70 (C.
30 39:6A-2), caused by a motor vehicle, including an automobile as
31 defined in section 2 of P.L. 1972, c. 70 (C. 39:6A-2), and a
32 motorcycle, or by an object propelled therefrom, or arising out of
33 an accident while occupying, entering into, alighting from, or
34 using an automobile, registered or principally garaged in this
35 State for which personal injury protection benefits under the
36 "New Jersey Automobile Reparation Reform Act," P.L. 1972, c.
37 70 (C. 39:6A-1 et seq.), or section 19 of [this 1983 amendatory
38 and supplementary act] P.L. 1983, c. 362 (C. 17:28-1.3), would be
39 payable to such person if personal injury protection coverage

1 were in force and the damages resulting from such accident or
2 death are not satisfied due to the personal injury protection
3 coverage not being in effect with respect to such accident, then
4 in such event the Unsatisfied Claim and Judgment Fund shall
5 provide, under the following conditions, the following benefits:

6 a. Medical expense benefits. Payment of all reasonable
7 medical expenses ⁴[up to \$10,000.00 and in excess of \$75,000.00]⁴
8 incurred as a result of personal injury sustained in a motor
9 vehicle accident. In the event of death, payment shall be made
10 to the estate of the decedent.

11 Medical expense benefit payments ⁴[up to \$10,000.00]⁴ shall be
12 subject to a deductible of \$250.00 on account of injury ⁴[to any
13 one person]⁴ in any one accident and a copayment of 20% of
14 ⁴[the] any⁴ benefits payable ⁴[in excess of the deductible amount]
15 between \$250.00 and \$5,000.00⁴.

16 ⁴[b. [Income continuation benefits. The payment of the loss of
17 income of an income producer as a result of bodily injury
18 disability, subject to a maximum weekly payment of \$100.00.
19 Such sums shall be payable during the life of the injured person
20 and shall be subject to an amount or limit of \$5,200.00, on
21 account of injury to any one person in any one accident, except
22 that in no case shall income continuation benefits exceed the net
23 income normally earned during the period in which the benefits
24 are payable.] (Deleted by amendment, P.L. , c. .)(now
25 pending in the Legislature as this bill)

26 c. [Essential services benefits. Payment of essential services
27 benefits to an injured person shall be made in reimbursement of
28 necessary and reasonable expenses incurred for such substitute
29 essential services ordinarily performed by the injured person for
30 himself, his family and members of the family residing in the
31 household, subject to an amount or limit of \$12.00 per day. Such
32 benefits shall be payable during the life of the injured person and
33 shall be subject to an amount or limit of \$4,380.00, on account of
34 injury to any one person in any one accident.] (Deleted by
35 amendment, P.L. , c. .)(now pending in the Legislature as
36 this bill)

37 d. [Death benefits. In the event of the death of an income
38 producer as a result of injuries sustained in an accident entitling
39 such person to benefits under section 7 of this act, the maximum

1 amount of benefits which could have been paid to the income
2 producer, but for his death, under section 7 b. shall be paid to the
3 surviving spouse, or in the event there is no surviving spouse, then
4 to the surviving children, and in the event there are no surviving
5 spouse or surviving children, then to the estate of the income
6 producer.

7 In the event of the death of one performing essential services
8 as a result of injuries sustained in an accident entitling such
9 person to benefits under section 7 c. of this act, the maximum
10 amount of benefits which could have been paid such person, under
11 section 7 c., shall be paid to the person incurring the expense of
12 providing such essential services.] (Deleted by amendment,
13 P.L. , c. .)(now pending in the Legislature as this bill)

14 e. [Funeral expenses benefits. All reasonable funeral, burial
15 and cremation expenses, subject to a maximum benefit of
16 \$1,000.00, on account of the death to any one person in any one
17 accident shall be payable to decedent's estate.] (Deleted by
18 amendment, P.L. , c. .)(now pending in the Legislature as
19 this bill)]

20 b. Income continuation benefits. The payment of the loss of
21 income of an income producer as a result of bodily injury
22 disability, subject to a maximum weekly payment of \$100.00.
23 Such sums shall be payable during the life of the injured person
24 and shall be subject to an amount or limit of \$5,200.00, on
25 account of injury to any one person in any one accident, except
26 that in no case shall income continuation benefits exceed the net
27 income normally earned during the period in which the benefits
28 are payable.

29 c. Essential services benefits. Payment of essential services
30 benefits to an injured person shall be made in reimbursement of
31 necessary and reasonable expenses incurred for such substitute
32 essential services ordinarily performed by the injured person for
33 himself, his family and members of the family residing in the
34 household, subject to an amount or limit of \$12.00 per day. Such
35 benefits shall be payable during the life of the injured person and
36 shall be subject to an amount or limit of \$4,380.00, on account of
37 injury to any one person in any one accident.

38 d. Death benefits. In the event of the death of an income
39 producer as a result of injuries sustained in an accident entitling

1 such person to benefits under this section, the maximum amount
2 of benefits which could have been paid to the income producer,
3 but for his death, under subsection b. of this section shall be paid
4 to the surviving spouse, or in the event there is no surviving
5 spouse, then to the surviving children, and in the event there are
6 no surviving spouse or surviving children, then to the estate of
7 the income producer.

8 In the event of the death of one performing essential services
9 as a result of injuries sustained in an accident entitling such
10 person to benefits under subsection c. of this section, the
11 maximum amount of benefits which could have been paid such
12 person, under subsection c., shall be paid to the person incurring
13 the expense of providing such essential services.

14 e. Funeral expenses benefits. All reasonable funeral, burial
15 and cremation expenses, subject to a maximum benefit of
16 \$1,000.00, on account of the death to any one person in any one
17 accident shall be payable to decedent's estate.⁴

18 Provided, however, that no benefits shall be paid under this
19 section unless the person applying for benefits has demonstrated
20 that he is not disqualified by reason of the provisions of
21 subsection (a), (c), (d) or (l) of section 10 of P.L. 1952, c. 174 (C.
22 39:6-70), or any other provision of law.

23 (cf: P.L. 1983, c. 362, s. 3)

24 ⁴[14.] 6.⁴ Section 8 of P.L. 1972, c. 70 (C. 39:6A-8) is
25 amended to read as follows:

26 8. Tort exemption; limitation on the right to noneconomic loss.
27 One of the following two tort options shall be elected, in
28 accordance with section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1),
29 by any named insured required to maintain personal injury
30 protection coverage pursuant to section 4 of P.L. 1972, c. 70 (C.
31 39:6A-4):

32 a. Every owner, registrant, operator or occupant of an
33 automobile to which section 4, personal injury protection
34 coverage, regardless of fault, applies, and every person or
35 organization legally responsible for his acts or omissions, is
36 hereby exempted from tort liability for noneconomic loss to a
37 person who is subject to this subsection and who is either a person
38 who is required to maintain the coverage mandated by this act, or
39 is a person who has a right to receive benefits under section 4 of

1 [this act] P.L. 1972, c. 70 (C. 39:6A-4), as a result of bodily
2 injury, arising out of the ownership, operation, maintenance or
3 use of such automobile in this State, ⁴[if the bodily injury is
4 confined solely to the soft tissue of the body and the medical
5 expenses incurred or to be incurred by such injured person or the
6 equivalent value thereof for the reasonable and necessary
7 treatment of such bodily injury is less than ~~[\$200.00.]~~ \$750.00,
8 which amount shall be adjusted annually on January 1 of each
9 year following the effective date of this 1988 amendatory and
10 supplementary act by the Commissioner of Insurance to reflect
11 increases or decreases in the national consumer price index for
12 the professional services component of medical care services, all
13 urban consumers, U.S. city average, and which amount shall be
14 exclusive of hospital expenses, X-rays and other diagnostic
15 medical expenses. The adjusted rate shall apply to any claim for
16 noneconomic loss arising from any automobile accident occurring
17 on or after the adjustment date. There shall be no exemption
18 from tort liability if the injured party has sustained death,
19 permanent disability, permanent significant disfigurement,
20 permanent loss of any bodily function or loss of a body member in
21 whole or in part, regardless of the right of any person to receive
22 benefits under section 4 of [this act] P.L. 1972, c. 70 (C.
23 39:6A-4). Bodily injury confined solely to the soft tissue, for the
24 purpose of this section, means injury in the form of sprains,
25 strains, contusions, lacerations, bruises, hematomas, cuts,
26 abrasions, scrapes, scratches and tears confined to the muscles,
27 tendons, ligaments, cartilages, nerves, fibers, veins, arteries and
28 skin of the human body.] unless that person has sustained a
29 personal injury which results in death; dismemberment;
30 significant disfigurement; a fracture; loss of a fetus; permanent
31 loss of use of a body organ, member, function or system;
32 permanent consequential limitation of use of a body organ or
33 member; significant limitation of use of a body function or
34 system; or a medically determined injury or impairment of a
35 non-permanent nature which prevents the injured person from
36 performing substantially all of the material acts which constitute
37 that person's usual and customary daily activities for not less
38 than 90 days during the 180 days immediately following the
39 occurrence of the injury or impairment⁴; or

1 b. As an alternative to the basic tort option specified in
2 subsection a. of this section, every owner, registrant, operator, or
3 occupant of an automobile to which section 4 of P.L. 1972, c. 70
4 (C. 39:6A-4) applies, and every person or organization legally
5 responsible for his acts or omissions, ⁴[is hereby exempted from
6 tort liability] shall be liable⁴ for noneconomic loss to a person
7 who is subject to this subsection and who is either a person who is
8 required to maintain the coverage mandated by P.L. 1972, c. 70
9 (C. 39:6A-1 et seq.) or is a person who has a right to receive
10 benefits under section 4 of that act (C. 39:6A-4), as a result of
11 bodily injury, arising out of the ownership, operation,
12 maintenance or use of such automobile in this State ⁴[,]⁴ [if the
13 medical expenses incurred or to be incurred by that injured
14 person, or the equivalent value thereof, for the reasonable and
15 necessary treatment of the bodily injury, is less than \$1,500.00,
16 which amount shall be adjusted annually on January 1 of each
17 year following the operative date of this act by the Commissioner
18 of Insurance to reflect increases or decreases in the national
19 Consumer Price Index for the professional services component of
20 medical care services, all urban consumers, U.S. city average,
21 and which amount shall be exclusive of hospital expenses, X-rays
22 and other diagnostic medical expenses. The adjusted rate shall
23 apply to any claim for noneconomic loss arising from any
24 automobile accident occurring on or after the adjustment date.
25 There shall be no exemption from tort liability if the injured
26 party has sustained death, permanent disability, permanent
27 significant disfigurement, permanent loss of any bodily function
28 or loss of a body member in whole or in part, regardless of the
29 right of any person to receive benefits under section 4 of P.L.
30 1972, c. 70 (C. 39:6A-4)] ⁴[unless that person has sustained
31 personal injury which results in death, serious impairment of body
32 function or permanent serious disfigurement]⁴.

33 The tort option provisions of subsection a. of this section shall
34 also apply to the right to recover for noneconomic loss of any
35 person eligible for benefits pursuant to section 4 of P.L. 1972, c.
36 70 (C. 39:6A-4) but who is not required to maintain personal
37 injury protection coverage and is not an immediate family
38 member, as defined in section 14.1 of P.L. 1983, c. 362 (C.
39 39:6A-8.1), under an automobile insurance policy.

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

[The tort option provisions of subsection b. of this section shall
5 remain inoperative until July 1, 1984, and shall apply to accidents
occurring on or after that date.

7 If any provision of subsection b. of this section shall be deemed
to be unconstitutional, the provisions of the entire subsection
9 shall be deemed null and void, and without further effect, but the
decision of the court shall not affect the validity of any other
11 provision of this act.]

⁴The tort option provisions of subsections a. and b. of this
13 section as provided in this 1988 amendatory and supplementary
act shall apply to automobile insurance policies issued or renewed
15 on or after January 1, 1989 and as otherwise provided by law.⁴

(cf: P.L. 1985, c. 520, s. 15)

17 ⁴[15.] 7.⁴ Section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1) is
amended to read as follows:

19 14.1. Election of tort option. a. Election of a tort option
pursuant to section 8 of P.L. 1972, c. 70 (C. 39:6A-8) shall be in
21 writing and signed by the named insured on [a form approved by
the Commissioner of Insurance] the coverage selection form
23 required by section 17 of P.L. 1983, c. 362 (C. 39:6A-23). The
form shall state the percentage difference in the premium rates
25 or the dollar savings between the two tort options. The tort
option elected shall apply to the named insured and any
27 immediate family member residing in the named insured's
household. "Immediate family member" means the spouse of the
29 named insured and any child of the named insured or spouse
residing in the named insured's household, who is not a named
31 insured under another automobile insurance policy.

b. If the named insured fails to elect, in writing, [any] ⁴[either]
33 any⁴ of the tort options offered pursuant to section 8 of P.L.
1972, c. 70 (C. 39:6A-8), [the named insured shall be deemed to
35 elect the tort option of subsection a. of that section 8] ⁴[the
insurer shall not issue or renew the automobile policy. No [new]
37 automobile policy [issued on or after July 1, 1984, in the State]
shall be issued or renewed on or after January 1, 1989 in this
39 State by an insurer unless the named insured has elected one of

1 the tort options provided in section 8] the named insured shall be
2 deemed to elect the tort option of subsection a. of that section
3 8⁴.

4 c. The tort option elected by a named insured ⁴for an
5 automobile policy issued or renewed⁴ on or after January 1, 1989
6 shall continue in force as to subsequent renewal or replacement
7 policies until the insurer or its authorized representative receives
8 a properly executed form electing the other tort option.

9 d. The tort option elected by the named insured shall apply to
10 all automobiles owned by the named insured and to any
11 immediate family member who is not a named insured under
12 another automobile insurance policy, except that in the case
13 where more than one policy is applicable to the named insured or
14 immediate family member, and the policies have different tort
15 options, the tort option elected by the injured named insured shall
16 apply or, in the case of an immediate family member who is not a
17 named insured and is injured in an accident involving an
18 automobile to which a policy issued to a named insured in the
19 household of the injured immediate family member applies, the
20 tort option elected by that named insured shall apply.

21 e. ⁴[A properly completed and executed coverage selection
22 form indicating selection of a tort threshold as required by
23 subsection a. of this section shall be prima facie evidence of the
24 named insured's knowing selection of the tort threshold option
25 indicated on the form] Notwithstanding any other provision of
26 law to the contrary, no person, including, but not limited to, an
27 insurer, an insurance producer as defined in section 2 of P.L.
28 1987, c. 293 (C. 17:22A-2), a servicing carrier or non-insurer
29 servicing carrier acting in that capacity pursuant to P.L. 1983, c.
30 65 (C. 17:30E-1 et seq.), and the New Jersey Automobile Full
31 Insurance Underwriting Association created pursuant to P.L.
32 1983, c. 65 (C. 17:30E-1 et seq.), shall be liable in an action for
33 damages on account of the election of a tort option by a named
34 insured or on account of the tort option imposed pursuant to
35 subsection b. of this section or otherwise imposed by law.
36 Nothing in this subsection shall be deemed to grant immunity to
37 any person causing damage as the result of his willful, wanton or
38 grossly negligent act of commission or omission⁴.

39 In the case of automobile insurance policies in force on [July]

1 January 1, [1984] 1989, notice of the tort options available
2 pursuant to the aforesaid section 8 shall be given in accordance
3 with section 17 of [this 1983 amendatory and supplementary act]
4 P.L. 1983, c. 362 (C. 39:6A-23).

5 (cf: P.L. 1983, c. 362, s. 14.1)

6 ⁴[16.] 8.⁴ (New section) ⁴a.⁴ Within 180 days of the effective
7 date of this ⁴[1988 amendatory and supplementary act] section⁴,
8 the commissioner shall promulgate regulations providing the
9 following with regard to private passenger automobile insurance:

10 ⁴[a.] (1)⁴ Rate filing data and information specifications in a
11 standard format;

12 ⁴[b. (1)] (2) (a)⁴ A standard ratemaking methodology, and
13 ⁴[(2)] (b)⁴ Uniform standards on ratemaking methodologies,
14 data compilation, data evaluation and data submission;

15 ⁴[c.] (3)⁴ Standards of efficiency and other standards of
16 measure based upon industrywide aggregate averages and other
17 relevant data and factors to be utilized in the review and
18 evaluation of the loss, expense and financial data contained in a
19 rate filing; and

20 ⁴[d.] (4)⁴ The format, data specifications and other
21 requirements for any informational filings ⁴[required by the
22 commissioner] made pursuant to subsection b. of this section⁴.

23 ⁴b. Notwithstanding any provision of law to the contrary, on
24 July 1, 1989 and annually thereafter, every insurer writing
25 private passenger automobile insurance in this State shall make
26 an informational filing on their private passenger automobile
27 insurance with the commissioner regardless of whether they file
28 for an adjustment in their automobile insurance rates.⁴

29 ⁴[17.] 9.⁴ Section 3 of P.L. 1972, c. 70 (C. 39:6A-3) is amended
30 to read as follows:

31 3. Compulsory automobile insurance coverage; limits. Every
32 owner or registered owner of an automobile registered or
33 principally garaged in this State shall maintain automobile
34 liability insurance coverage, under provisions approved by the
35 Commissioner of Insurance, insuring against loss resulting from
36 liability imposed by law for bodily injury, death and property
37 damage sustained by any person arising out of the ownership,
38 maintenance, operation or use of an automobile wherein such
39 coverage shall be at least in:

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

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

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

No licensed insurance carrier shall refuse to renew the required
11 coverage stipulated by this act [without] except in accordance
with the provisions of section ⁴[35] ²⁶ of P.L. , c. (C.
13)(now pending in the Legislature as this bill) or with the consent
of the Commissioner of Insurance.

(cf: P.L. 1972, c. 203, s. 2)

³[3.] ⁴[18.³ (New section) The Commissioner of Insurance
17 shall, within 60 days of the effective date of this act, promulgate
a medical fee schedule for the payment of medical expense
19 benefits under section ³[2 of this act] ⁴ of P.L. 1972, c. 70 (C.
21 39:6A-4), section 10 of P.L. 1972, c. 70 (C. 39:6A-10) and
subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1)³,
23 which may be established on a regional basis and which shall be
similar to fee schedules utilized by a health service corporation
established pursuant to the provisions of P.L. 1985, c. 236 (C.
25 17:48E-1 et seq.). The fee schedule shall constitute the
maximum charge for all medical expenses payable by insurers
27 pursuant to the provisions of ³[that]³ section ³[2] ⁴ of P.L. 1972,
c. 70 (C. 39:6A-4), section 10 of P.L. 1972, c. 70 (C. 39:6A-10)
29 and subsection b. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1)³,
and no insurer shall be obligated to reimburse at a higher rate
31 than that provided for in the fee schedule.]⁴

⁴10. (New section) The Commissioner of Insurance shall,
33 within 180 days after the effective date of this 1988 amendatory
and supplementary act, promulgate medical fee schedules on a
35 regional basis for the reimbursement of health care providers
providing services or equipment for medical expense benefits for
37 which payment is required to be made under the personal injury
protection coverage provided for in section 4 of P.L. 1972, c. 70
39 (C. 39:6A-4). These fee schedules shall be promulgated on the

1 basis of the type of injury sustained or service provided, and shall
2 be reviewed biannually by the commissioner.⁴

3 ³[4. (New section) a. A medical expense benefit deductible
4 elected by the named insured in accordance with subsection a. of
5 section 2 of this act shall apply only to the named insured and any
6 resident relative in the named insured's household who is not a
7 named insured under another automobile insurance policy, and not
8 to any other person eligible for personal protection coverage
9 required to be provided in accordance with section 2 of this act.

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

17 c. No insurer or health care provider providing benefits to an
18 insured who has elected a deductible shall have a right of
19 subrogation for the amount of benefits paid pursuant to a
20 deductible elected thereunder.

21 The Commissioner of Insurance shall adopt rules and
22 regulations to effectuate the purposes of this section.

23 5. (New section) Insurers shall make available to the named
24 insured covered under section 2 of this act, and, at his option, to
25 resident relatives in his household, suitable additional first party
26 coverage for wage loss benefits, replacement services benefits,
27 death benefits and funeral expense benefits, but the wage loss
28 and replacement service benefits shall cease upon the death of
29 the claimant, and shall not operate to increase the amount of any
30 death benefits payable under section 2 of this act and any
31 additional first party coverage shall be payable only to the extent
32 that the claimant establishes that the amount of loss sustained
33 exceeds the coverage provided for in section 2. The additional
34 coverage shall be offered by the insurer at least annually on a
35 form prescribed by the Commissioner of Insurance, which shall be
36 attached to or accompany all applications, initial policies and
37 renewal policies or renewal notices. Wage loss benefits in excess
38 of that provided for in section 2 shall be provided as an option by
39 insurers for disabilities, as long as the disability persists, up to an

1 income level established by the commissioner by regulation,
2 provided that: a. the excess between \$5,200.00 and the amount
3 of coverage contracted for shall be written on the basis of 75% of
4 the difference; and b. regardless of the duration of the disability,
5 the benefits payable shall not exceed the total maximum amount
6 of wage loss benefits contracted for. Death benefits provided
7 pursuant to this section shall be payable without regard to the
8 period of time elapsing between the date of the accident and the
9 date of death, if death occurs within two years of the accident
10 and results from bodily injury from that accident to which
11 coverage under this section applies.

12 6. (New section) When a named insured is the owner and only
13 designated operator of two or more automobiles and the only
14 licensed driver residing in the household, he shall be charged a
15 reduced personal protection coverage premium for each
16 automobile listed in addition to the principal automobile on the
17 policy, in an amount determined by the commissioner, for the
18 benefits provided in section 2 of this act. The personal
19 protection coverage premium for additional automobiles shall be
20 determined by the loss experience of the rate filer with respect
21 to the payment of personal injury protection benefits which are
22 attributable to the additional automobiles.

23 7. (New section) The personal protection coverage of the
24 named insured shall be the primary coverage for the named
25 insured and any resident relative in the named insured's
26 household who is not a named insured under an automobile
27 insurance policy of his own. No person shall recover personal
28 protection coverage under more than one automobile insurance
29 policy for injuries sustained in any one accident.

30 8. (New Section) a. An insurer may require written notice to
31 be given as soon as practicable after an accident involving an
32 automobile for which personal protection coverage benefits are
33 payable pursuant to this act.

34 b. Personal protection coverage benefits shall be overdue if
35 not paid within 30 days after the insurer is furnished written
36 notice of the fact of a covered loss and of the amount of the
37 loss. If the written notice is not furnished to the insurer as to the
38 entire claim, any partial amount supported by written notice is
39 overdue if not paid within 30 days after the written notice is

1 furnished to the insurer. Any part or all of the remainder of the
2 claim that is subsequently supported by written notice is overdue
3 if not paid within 30 days after such written notice is furnished to
4 the insurer; except that no payment shall be deemed to be
5 overdue when, within 30 days of receipt of notice of the claim,
6 the insurer notifies the claimant or his representative in writing
7 of the denial of the claim or the need for additional time, not to
8 exceed 45 days, to investigate the claim, and states the reasons
9 therefor. The written notice stating the need for additional time
10 to investigate the claim shall set forth the number of the
11 insurance policy against which the claim is made, the claim
12 number, the address of the office handling the claim and a
13 telephone number, which shall be either toll free or which may be
14 called collect, or is within the claimant's area code. For the
15 purpose of determining interest charges in the event the injured
16 party prevails in a subsequent proceeding where an insurer has
17 elected a 45 day extension pursuant to this subsection, payment
18 shall be considered overdue at the expiration of the 45 day period
19 or, if the injured person was required to provide additional
20 information to the insurer, within 10 business days following
21 receipt by the insurer of all the information requested by it,
22 whichever is later.

23 For the purpose of calculating the extent to which any benefits
24 are overdue, payment shall be treated as being made on the date
25 a draft or other valid instrument which is equivalent to payment
26 was placed in the United States mail in a properly addressed,
27 postpaid envelope, or, if not so posted, on the date of delivery.

28 c. All overdue payments shall bear interest at the percentage
29 of interest prescribed in the Rules Governing the Courts of the
30 State of New Jersey for judgments, awards and orders for the
31 payment of money. All automobile insurers shall provide any
32 claimant with the option of submitting a dispute under this
33 section to binding arbitration. Arbitration proceedings shall be
34 administered and subject to procedures established by the
35 American Arbitration Association. If the claimant prevails in the
36 arbitration proceedings, the insurer shall pay all the costs of the
37 proceedings, including reasonable attorney's fees, to be
38 determined in accordance with a schedule of hourly rates for
39 services performed, to be prescribed by the Supreme Court of

1 New Jersey.

3 9. (New section) The benefits provided in sections 2 and
5 section 5 of this act shall be payable as loss accrues, upon written
7 notice of the loss and without regard to collateral sources, except
9 that benefits collectible under workers' compensation insurance,
11 employees' temporary disability benefit statutes, medicare
13 provided under Federal law, and benefits, in fact collected, that
15 are provided under Federal law to active and retired military
17 personnel, shall be deducted from the benefits collectible under
19 sections 2 and section 5.

21 If an insurer has paid those benefits and the insured is entitled
23 to, but has failed to apply for, workers' compensation benefits or
25 employees' temporary disability benefits, the insurer may
27 immediately apply to the provider of workers' compensation
29 benefits or of employees' temporary disability benefits for a
31 reimbursement of any sections 2 and section 5 benefits it has paid.

17 10. (New section) a. Insurers may exclude a person from
19 benefits under section 2 and section 5 of this act in cases where
21 that person's conduct contributed to his personal injuries or
23 death occurred in any of the following ways:

25 (1) while committing a crime of the first, second or third
27 degree or seeking to avoid lawful apprehension or arrest by a
29 police officer; or

31 (2) while acting with specific intent of causing injury or
33 damage to himself or others.

35 b. An insurer may also exclude from sections 2 and section 5
37 benefits any person having incurred injuries or death, who, at the
39 time of the accident:

1 (1) was the owner or registrant of an automobile registered or
3 principally garaged in this State that was being operated without
5 personal protection coverage;

7 (2) was occupying or operating an automobile without the
9 permission of the owner or other named insured.

11 11. (New section) If two or more insurers are liable to pay
13 benefits under sections 2 and 5 of this act for the same bodily
15 injury, or death, of any one person, the maximum amount payable
17 shall be as specified in sections 2 and 5 if additional first party
19 coverage applies and any insurer paying the benefits shall be
21 entitled to recover from each of the other insurers, only by

1 inter-company arbitration or inter-company agreement, an
2 equitable pro-rata share of the benefits paid.

3 12. (New section) The following shall apply to personal
4 protection coverage benefits:

5 a. Every employer shall, if a request is made by an insurer or
6 the Unsatisfied Claim and Judgment Fund providing personal
7 protection coverage benefits under this act against whom a claim
8 has been made, furnish, in a form approved by the Commissioner
9 of Insurance, a signed statement of the lost earnings since the
10 date of the bodily injury and for a reasonable period before the
11 injury, of the person upon whose injury the claim is based.

12 b. Every physician, hospital, clinic or other medical institution
13 providing, before and after the bodily injury upon which a claim
14 for personal protection coverage benefits is based, any products,
15 services or accommodations in relation to that bodily injury or
16 any other injury, or in relation to a condition claimed to be
17 connected with that bodily injury or any other injury, shall, if
18 requested to do so by the insurer or the Unsatisfied Claim and
19 Judgment Fund against whom the claim has been made, furnish a
20 written report of the history, condition, treatment, dates and
21 costs of such treatment of the injured person, and produce and
22 permit the inspection and copying of his or its records regarding
23 that history, condition, treatment dates and costs of treatment.
24 The person requesting the records shall pay all reasonable costs
25 connected therewith.

26 c. The injured person shall be furnished upon demand a copy of
27 all information obtained by the insurer or the Unsatisfied Claim
28 and Judgment Fund under the provisions of this section, and shall
29 pay a reasonable charge, if required by the insurer and the
30 Unsatisfied Claim and Judgment Fund.

31 d. Whenever the mental or physical condition of an injured
32 person covered by personal protection coverage is material to any
33 claim that has been or may be made for past or future personal
34 protection coverage benefits, that person shall, upon request of
35 an insurer or the Unsatisfied Claim and Judgment Fund submit to
36 mental or physical examination by a physician or physicians. The
37 costs of any examinations requested by an insurer or the
38 Unsatisfied Claim and Judgment Fund shall be borne entirely by
39 whomever makes such request. The examination shall be

1 conducted within the municipality of residence of the injured
2 person. If there is no qualified physician to conduct the
3 examination within the municipality of residence of the injured
4 person, then the examination shall be conducted in an area of the
5 closest proximity to the injured person's residence. Personal
6 protection coverage insurers are authorized to include reasonable
7 provisions in personal protection coverage policies for mental and
8 physical examinations of those claiming personal protection
9 coverage benefits.

10 e. If requested by the person examined, a party causing an
11 examination to be made, shall deliver to him a copy of every
12 written report concerning the examination rendered by an
13 examining physician, at least one of which reports shall set out
14 his findings and conclusions in detail. After the request and
15 delivery, the party causing the examination to be made is entitled
16 upon request to receive from the person examined every written
17 report available to him, or his representative, concerning any
18 examination, previously or thereafter made of the same mental
19 or physical condition.

20 f. The injured person, upon reasonable request by the insurer
21 or the Unsatisfied Claim and Judgment Fund shall sign all forms,
22 authorizations or releases for information, which forms shall be
23 approved by the Commissioner of Insurance, which may be
24 necessary to the discovery of the above facts, in order to
25 reasonably prove the injured person's losses.

26 g. In the event of any dispute regarding an insurer's or the
27 Unsatisfied Claim and Judgment Fund's or an injured person's
28 right as to the discovery of facts about the injured person's
29 earnings or about his history, condition, treatment, dates and
30 costs of that treatment, or the submission of the injured person
31 to a mental or physical examination, the insurer, Unsatisfied
32 Claim and Judgment Fund or the injured person may petition a
33 court of competent jurisdiction for an order resolving the dispute
34 and protecting the rights of all parties. The order may be
35 entered on motion for good cause shown giving notice to all
36 persons having an interest therein. The court may protect against
37 annoyance, embarrassment or oppression and may, as justice
38 requires, enter an order compelling or refusing discovery, or
39 specifying conditions of discovery; the court may further order

1 the payment of costs and expenses of the proceeding, as justice
2 requires.

3 13. (New section) An insurer paying personal protection
4 coverage benefits in accordance with section 2 or section 5 of
5 this act, as a result of an accident occurring within this State,
6 shall, within two years of the filing of the claim, have the right
7 to recover the amount of payments from any tortfeasor who was
8 not, at the time of the accident, required to maintain personal
9 protection coverage, other than for pedestrians, under the laws of
10 the State. In the case of an accident occurring in this State
11 involving an insured tortfeasor, the determination as to whether
12 an insurer is legally entitled to recover the amount of payments
13 and the amount of recovery, including the costs of processing
14 benefit claims and enforcing rights granted under this section,
15 shall be made against the insurer of the tortfeasor, and shall be
16 by agreement of the involved insurers, or upon failing to agree,
17 by arbitration.

18 14. (New section) Evidence of the amounts collectible or paid
19 pursuant to sections 2 and 5 of this act to an injured person is
20 inadmissible in a civil action for recovery of damages for bodily
21 injury by the injured person.

22 The court shall instruct the jury that in arriving at a verdict as
23 to the amount of the damages for noneconomic loss to be
24 recovered by the injured person, the jury shall not speculate as to
25 the amount of the medical expense benefits paid or payable under
26 section 2 of this act to the injured person.

27 Nothing in this section shall be construed to limit the right of
28 recovery against the tortfeasor of uncompensated economic loss
29 sustained by the injured party.

30 15. (New section) a. Every action for the payment of the
31 benefits provided for in sections 2 and 5 of this act, except an
32 action by a decedent's estate, shall be commenced not later than
33 two years after the injured person or survivor suffers a loss or
34 incurs an expense and either knows or in the exercise of
35 reasonable diligence should know that the loss or expense was
36 caused by the accident, or not later than four years after the
37 accident, whichever is earlier, provided, however, that if benefits
38 have been paid before then an action for further benefits may be
39 commenced not later than two years after the last payment of

1 benefits.

3 b. Every action by a decedent's estate for the payment of the
5 benefits provided for in sections 2 and 5 of this act shall be
7 commenced not later than two years after death or four years
9 after the accident from which death results, whichever is earlier,
11 provided, however, that if benefits had been paid to the decedent
13 prior to his death then an action may be commenced not later
15 than two years after his death or four years after the last
17 payment of benefits, whichever is earlier, provided, further, that
19 if the decedent's estate has received benefits before then an
21 action for further benefits shall be commenced not later than two
23 years from the last payment of benefits.

13 16. (New section) In any claim or action arising under section 2
15 of this act wherein any person obtains or attempts to obtain from
17 any other person, insurer, or from the Unsatisfied Claim and
19 Judgment Fund any money or other thing of value by:

17 a. falsely or fraudulently representing that the person is
19 entitled to benefits under section 2; or

19 b. falsely and fraudulently making statements or presenting
21 documentation in order to obtain or attempt to obtain benefits
23 under section 2; or

23 c. cooperating, conspiring or otherwise acting in concert with
25 any person seeking to falsely or fraudulently obtain, or attempt
27 to obtain, benefits under section 2; that person may, upon
29 conviction, be fined not more than \$5,000.00, or imprisoned for
31 not more than three years or both, or in the event the sum so
33 obtained or attempted to be obtained is not more than \$500.00,
35 may upon conviction, be fined not more than \$500.00, or
37 imprisoned for not more than six months, or both, as a disorderly
39 person.

31 17. (New section) Every insurer shall make available to every
33 owner or registered owner of an automobile registered or
35 principally garaged in this State a policy of automobile liability
37 insurance coverage, which insures against loss resulting from
39 damage sustained by any person arising out of the ownership,
maintenance, operation or use of an automobile, in at least the
following amounts:

39 a. an amount or limit of \$10,000.00, exclusive of interest and
costs, on account of injury to, or death of, one person, in any one

1 accident; and

3 b. an amount or limit, subject to the limit for any one person
5 so injured or killed, of \$20,000.00, exclusive of interest and costs,
7 on account of injury to, or death of, more than one person, in any
9 one accident.

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

15 18. (New section) Every owner, registrant, or operator of an
17 automobile to which the coverage required by section 2 applies is
19 subject to tort liability for noneconomic loss caused by his
21 ownership, maintenance or use of an automobile to a person to
23 which the benefits of section 2 of this act apply only if that
25 person has suffered death, serious impairment of body function or
27 permanent serious disfigurement.

29 19. (New section) Any owner, or registrant of an automobile
31 registered or principally garaged in this State who operates or
33 causes to be operated an automobile upon any public road or
35 highway in this State without the personal protection coverage
37 required by section 2 of this act, and any operator who operates
39 or causes an automobile to be operated and who knows or should
know from the attendant circumstances that the automobile is
without personal protection coverage required by section 2 of this
act shall be subject, for the first offense, to a fine of not less
than \$100.00 nor more than \$300.00 or imprisonment for a term
of not less than 30 days nor more than three months, or both, in
the discretion of the municipal judge, and shall forfeit his right to
operate a motor vehicle over the highways of this State for a
period of six months from the date of conviction. Upon
subsequent conviction, he shall be subject to a fine of not less
than \$250.00 nor more than \$500.00 and may be subject to
imprisonment for a term of not less than three months nor more
than six months in the discretion of the municipal judge and shall
be ordered by the court to perform community service for a
period of 30 days, which shall be of such form and on terms as the
court shall deem appropriate under the circumstances, and shall
forfeit his right to operate an automobile for a period of two
years from the date of his conviction, and, after the expiration of
this period, he may make application to the Director of the
Division of Motor Vehicles for a license to operate a motor

1 vehicle, which application may be granted at the discretion of the
2 director. The director's discretion shall be based upon an
3 assessment of the likelihood that the individual will operate or
4 cause an automobile to be operated in the future without the
5 insurance coverage required pursuant to section 2 of this act. A
6 complaint for violation of this act may be made to a municipal
7 court at any time within six months after the date of the alleged
8 offense.

9 Failure to produce at the time of trial an insurance
10 identification card or an insurance policy which was in force for
11 the time of operation for which the offense is charged creates a
12 rebuttable presumption that the person was uninsured when
13 charged with a violation of this section.

14 20. (New section) Every person who maintains only the
15 coverage required pursuant to section 2 of this act and who is
16 obligated to pay the residual market equalization charge pursuant
17 to section 47 of P.L. , c. (C.) (now pending in the
18 Legislature as this bill) shall be required to pay the personal
19 protection coverage premium and the residual market
20 equalization charge in full at the inception or renewal of the
21 policy as a condition of the issuance or renewal.

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

24 1. Every owner or registered owner of a motor vehicle, other
25 than an automobile as defined in this section, registered or
26 principally garaged in this State shall maintain motor vehicle
27 liability insurance coverage, under provisions approved by the
28 Commissioner of Insurance, insuring against loss resulting from
29 liability imposed by law for bodily injury, death and property
30 damage sustained by any person arising out of the ownership,
31 maintenance, operation or use of a motor vehicle, other than an
32 automobile, wherein such coverage shall be at least in: a. an
33 amount or limit of [\$15,000.00] ~~\$10,000.00~~, exclusive of interest
34 and costs, on account of injury to, or death of, one person, in any
35 one accident; and b. an amount or limit, subject to such limit for
36 any one person so injured or killed, of [\$30,000.00] ~~\$20,000.00~~,
37 exclusive of interest and costs, on account of injury to or death
38 of, more than one person, in any one accident; and c. an amount
39 or limit of \$5,000.00, exclusive of interest and costs, for damage

1 to property in any one accident.

3 For the purposes of P.L. 1972, c. 197 (C. 39:6B-1 et seq.,
5 "automobile" means a private passenger automobile of a private
7 passenger or station wagon type that is owned or hired and is
9 neither used as a public or livery conveyance for passengers nor
11 rented to others with a driver; and a motor vehicle with a pickup
13 body, a delivery sedan, a van, or a panel truck or a camper type
15 vehicle used for recreational purposes owned by an individual or
17 by husband and wife who are residents of the same household, not
19 customarily used in the occupation, profession or business of the
21 insured other than farming or ranching. An automobile owned by
23 a farm family copartnership or corporation which is principally
25 garaged on a farm or ranch shall be considered a private
27 passenger automobile owned by two or more relatives resident in
29 the same household.

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

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

19 2. Any owner, or registrant of a motor vehicle, other than an
21 automobile, registered or principally garaged in this State who
23 operates or causes to be operated a motor vehicle, other than an
25 automobile, upon any public road or highway in this State without
27 motor vehicle liability insurance coverage required by this act,
29 and any operator who operates or causes a motor vehicle to be
31 operated and who knows or should know from the attendant
33 circumstances that the motor vehicle is without motor vehicle
35 liability insurance coverage required by this act shall be subject,
37 for the first offense, to a fine of not less than \$100.00 nor more
39 than \$300.00 or imprisonment for a term of not less than 30 days
nor more than three months or both, in the discretion of the
municipal judge, and shall forthwith forfeit his right to operate a
motor vehicle over the highways of this State for a period of six
months from the date of conviction. Upon subsequent conviction,
he shall be subject to a fine of not less than \$250.00 nor more
than \$500.00 and may be subject to imprisonment for a term of
not less than three months nor more than six months in the
discretion of the municipal judge and shall be ordered by the
court to perform community service for a period of 30 days,
which shall be of such form and on such terms as the court shall

1 deem appropriate under the circumstances, and shall forfeit his
 2 right to operate a motor vehicle, other than an automobile, for a
 3 period of two years from the date of his conviction, and, after
 4 the expiration of said period, he may make application to the
 5 Director of the Division of Motor Vehicles for a license to
 6 operate a motor vehicle, which application may be granted at the
 7 discretion of the director. The director's discretion shall be
 8 based upon an assessment of the likelihood that the individual will
 9 operate or cause a motor vehicle to be operated in the future
 10 without the insurance coverage required by this act. A complaint
 11 for violation of this act may be made to a municipal court at any
 12 time within six months after the date of the alleged offense.

13 Failure to produce at the time of trial an insurance
 14 identification card or an insurance policy which was in force for
 15 the time of operation for which the offense is charged, creates a
 16 rebuttable presumption that the person was uninsured when
 17 charged with a violation of this section.

(cf: P.L. 1987, c. 46, s. 1)]³

19 ³[23.] ⁴[19.³] ¹¹.⁴ Section 2 of P.L. 1968, c. 385 (C. 17:28-1.1)
 is amended to read as follows:

21 2. a. [No] ³[Every] No³ motor vehicle liability policy or
 22 renewal of such policy of insurance, including a liability policy
 23 for an automobile as defined in section [2 of P.L. 1972, c. 70 (C.
 24 39:6A-2)] ³[1 of P.L. c. (C.) (now pending in the
 25 Legislature as this bill)] 2 of P.L. 1972, c. 70 (C. 39:6A-2)³,
 26 insuring against loss resulting from liability imposed by law for
 27 bodily injury or death, sustained by any person arising out of the
 28 ownership, maintenance or use of a motor vehicle. [shall be]
 29 ³[which is] shall be³ issued in this State with respect to any
 30 motor vehicle registered or principally garaged in this State
 31 [unless it includes] ³[shall include] unless it includes³ coverage in
 limits for bodily injury or death as follows:

33 (1) an amount or limit of [\$15,000.00] ³[\$10,000.00]
 34 \$15,000.00³, exclusive of interest and costs, on account of injury
 35 to, or death of, one person, in any one accident, and

36 (2) an amount or limit, subject to such limit for any one person
 37 so injured or killed, of [\$30,000.00] ³[\$20,000.00] \$30,000.00³,
 38 exclusive of interest and costs, on account of injury to or death
 39 of more than one person, in any one accident,

1 under provisions approved by the Commissioner of Insurance,
2 for payment of all or part of the sums which the insured or his
3 legal representative shall be legally entitled to recover as
4 damages from the operator or owner of an uninsured motor
5 vehicle, or hit and run motor vehicle, as defined in section 18 of
6 P.L. 1952, c. 174 (C. 39:6-78), because of bodily injury, sickness
7 or disease, including death resulting therefrom, sustained by the
8 insured, caused by accident and arising out of the ownership,
9 maintenance or use of such uninsured or hit and run motor vehicle
10 anywhere within the United States or Canada; except that
11 uninsured motorist coverage shall provide that in order to recover
12 for non-economic loss, as defined in [section 2 of P.L. 1972, c. 70
13 (C. 39:6A-2)] ³[section 2 of P.L. c. (C.) (now
pending in the Legislature as this bill)] section 2 of P.L. 1972, c.
14 70 (C. 39:6A-2)³, for accidents to which the benefits of section
15 [4] ³[2] 4 (C. 39:6A-4)³ of that act apply [(C. 39:6A-4)], the ⁴tort
16 option elected pursuant to section 8 (C. 39:6A-8) of that act shall
17 apply to that⁴ injured person ⁴[shall have sustained an injury]⁴ [or
18 incurred the medical expenses] ⁴[or incurred the medical
expenses]³ described]⁴ [under the tort option elected pursuant to
19 section 8 of that act (C. 39:6A-8)] ³[in section 18 of P.L. c.
20 (C.) (now pending in the Legislature as this bill)] ⁴[under the
21 tort option elected pursuant to section 8 of that act (C.
22 39:6A-8)]³]⁴.

23 All motor vehicle liability policies shall also include coverage
24 for the payment of all or part of the sums which persons insured
25 thereunder shall be legally entitled to recover as damages from
26 owners or operators of uninsured motor vehicles, other than hit
27 and run motor vehicles, because of injury to or destruction to the
28 personal property of such insured, with a limit in the aggregate
29 for all insureds involved in any one accident of \$5,000.00, and
30 subject, for each insured, to an exclusion of the first [\$250.00]
31 \$500.00 of such damages.

32 b. Uninsured and underinsured motorist coverage shall be
33 provided as an option by an insurer to the named insured up to at
34 least the following limits: \$250,000.00 each person and
35 \$500,000.00 each accident for bodily injury; \$100,000.00 each
36 accident for property damage or \$500,000.00 single limit, subject
37 to an exclusion of the first [\$250.00] \$500.00 of such damage to
38

1 property for each accident, except that the limits for uninsured
and underinsured motorist coverage shall not exceed the
3 insured's motor vehicle liability policy limits for bodily injury
and property damage, respectively.

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

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

19 d. Uninsured motorist coverage shall be subject to the policy
terms, conditions and exclusions approved by the Commissioner
21 of Insurance, including, but not limited to, unauthorized
settlements, nonduplication of coverage, subrogation and
23 arbitration.

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

1 The limits of underinsured motorist coverage available to an
injured person shall be reduced by the amount he has recovered
3 under all bodily injury liability insurance or bonds;

(2) "uninsured motor vehicle" means:

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

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

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

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

³[(3) "Automobile" means a private passenger automobile of a
31 private passenger or station wagon type that is owned or hired
and is neither used as a public or livery conveyance for
33 passengers nor rented to others with a driver; and a motor vehicle
with a pickup body, a delivery sedan, a van, or a panel truck or a
35 camper type vehicle used for recreational purposes owned by an
individual or by husband and wife who are residents of the same
37 household, not customarily used in the occupation, profession or
business of the insured other than farming or ranching. An
39 automobile owned by a farm family copartnership or corporation

1 which is principally garaged on a farm or ranch shall be
2 considered to be a private passenger automobile owned by two or
3 more relatives resident in the same household.]³

(cf: P.L. 1983, c. 362, s. 1)

5 ³[24.] ⁴[20.³] ⁴12.⁴ Section 3 of P.L. 1952, c. 173 (C. 39:6-25) is
amended to read as follows:

7 3. (a) If 20 days after the receipt of a report of a motor
vehicle accident within this State which has resulted in bodily
9 injury or death, or damage to the property of any one person in
excess of [~~\$200.00~~] \$500.00, the director does not have on file
11 evidence satisfactory to him that the person who would otherwise
be required to file security under subsection (b) of this section
13 has been released from liability, or has been finally adjudicated
not to be liable, or has executed a duly acknowledged written
15 agreement providing for the payment of an agreed amount in
installment with respect to all claims for injuries or damages
17 resulting from the accident, and in the event of an accident
involving an automobile, required to have coverage for personal
19 [injury] ³injury³ protection ³[coverage]³ benefits pursuant to
[P.L.1972, c. 70] ³[section 2 of P.L. , c. (C.)] (now
21 pending in the Legislature as this bill)] P.L. 1972, c. 70
(C.39:6A-1 et seq.)³, has also reimbursed or has executed a duly
23 acknowledged written agreement to pay an agreed amount in
installments to reimburse the Unsatisfied Claim and Judgment
25 Fund for the payment of all personal [injury] ³injury³ protection
³[coverage]³ benefits the fund has made or shall make pursuant
27 to section 7 or section 10 of P.L. 1972, c. 198 (C. 39:6-86.1 and
C. 39:6-86.4) by reason of the failure of such person to have the
29 requisite insurance coverage in effect, the director shall
determine the amount of security which may be necessary in his
31 judgment to satisfy any reimbursement, judgment or judgments
for damages resulting from such accident as may be recovered
33 against each operator or owner in view of the total insurance
protection available to the injured party. The Director of the
35 Division of Motor Vehicles shall promulgate such rules as may be
necessary to set forth those instances where deposit of security is
37 necessary.

(b) The director may, within 90 days after the receipt of such
39 report of a motor vehicle accident, suspend the license of each

1 operator and all registrations of each owner of a motor vehicle in
2 any manner involved in such accident, and if such operator is a
3 nonresident the privilege of operating a motor vehicle within this
4 State, and if such owner is a nonresident the privilege of the use
5 within this State of any motor vehicle owned by him, unless such
6 operator or owner or both shall deposit security in the sum so
7 determined by the director; provided, notice of such suspension
8 shall be sent by the director to such operator and owner not less
9 than 10 days prior to the effective date of such suspension and
10 shall state the amount required as security. Where erroneous
11 information is given the director with respect to the matters set
12 forth in subdivisions 1, 2 or 3 of subsection (c) of this section, he
13 may take appropriate action as hereinbefore provided, within 90
14 days after receipt by him of correct information with respect to
15 said matters.

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

(1) To such operator or owner, if such owner had in effect, at
19 the time of such accident, [an automobile] a motor vehicle
20 liability policy with respect to the motor vehicle involved in such
21 accident;

(2) To such operator, if not the owner of such motor vehicle, if
23 there was in effect at the time of such accident [an automobile] a
24 motor vehicle liability policy or bond with respect to his
25 operation of motor vehicles not owned by him;

(3) To such operator or owner if the liability of such operator
27 or owner for damages resulting from such accident is, in the
28 judgment of the director, covered by any other form of liability
29 insurance policy or bond; nor

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

33 No such policy or bond shall be effective under this section
34 unless issued by an insurance company or surety company
35 authorized to do business in this State, except that if such motor
36 vehicle was not registered in this State, or was a motor vehicle
37 which was registered elsewhere than in this State at the effective
38 date of the policy or bond, or the most recent renewal thereof,
39 such policy or bond shall not be effective under this section

1 unless the insurance company or surety company if not authorized
2 to do business in this State shall execute a power of attorney
3 authorizing the director to accept service on its behalf of notice
4 or process in any action upon such policy or bond arising out of
5 such accident; provided, however, every such policy or bond is
6 subject, if the accident has resulted in bodily injury or death, to a
7 limit, exclusive of interest and costs, of not less than [\$15,000.00]
8 ³[\$10,000.00] \$15,000.00³ because of bodily injury to or death of
9 one person in any one accident and, subject to said limit for one
10 person, to a limit of not less than [\$30,000.00] ³[\$20,000.00]
11 \$30,000.00³ because of bodily injury to or death of two or more
12 persons in any one accident, and, if the accident has resulted in
13 injury to or destruction of property, to a limit of not less than
14 \$5,000.00 because of injury to or destruction of property of
15 others in any one accident and if policy or bond is applicable to
16 an automobile required to have coverage for personal [injury]
17 ³injury³ protection ³[coverage]³ benefits pursuant to [P.L. 1972,
18 c. 70] ³[section 2 of P.L. .c. (C.) (now pending in
19 the Legislature as this bill)] P.L. 1972, c. 70 (C.39:6A-1 et seq.)³,
20 it shall include an amount to cover personal [injury] ³injury³
21 protection ³[coverage]³ benefits as required by that act.
(cf: P.L. 1975, c. 252, s. 1)

22 ³[25. Section 4 of P.L. 1952, c. 173 (C. 39:6-26) is amended to
23 read as follows:

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

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

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

31 (c) to the owner of a motor vehicle if at the time of the
32 accident the vehicle was being operated without his permission,
33 express or implied, or was parked by a person who had been
34 operating such motor vehicle without such permission; or to the
35 operator if he was a chauffeur or operator employed by the owner
36 of the motor vehicle and was operating with the permission of the
37 owner[.];

38 (d) if, prior to the date that the director would otherwise
39

1 suspend license and registration or nonresident's operating
2 privilege under section 3 of this act, there shall be filed with the
3 director evidence satisfactory to him that the person who would
4 otherwise have to file security has been released from liability or
5 been finally adjudicated not to be liable or has executed a duly
6 acknowledged written agreement providing for the payment of an
7 agreed amount in installments, with respect to all claims for
8 injuries or damages resulting from the accident and with respect
9 to an accident involving an automobile, required to have coverage
10 for personal [injury] protection coverage benefits pursuant to
11 [P.L. 1972, c. 70] section 2 of P.L. , c. (C.) (now
12 pending in the Legislature as this bill), has also reimbursed or
13 executed a duly acknowledged written agreement to pay an
14 agreed amount in installments to reimburse the Unsatisfied Claim
15 and Judgment Fund for the payments it has made or shall make
16 pursuant to section 7 or section 10 of P.L. 1972, c. 198
17 [(Assembly Bill No. 803 presently pending in the Legislature)] (C.
18 39:6-86.1 or 39:6-86.4) by reason of the failure of such person to
19 have the requisite insurance coverage in effect.

(cf: P.L. 1972, c. 199, s. 2)]³

21 ³[26. Section 5 of P.L. 1952, c. 173 (C. 39:6-27) is amended to
22 read as follows:

23 5. The license and registration and nonresident's operating
24 privilege suspended as provided in section 3 of this act shall
25 remain so suspended and shall not be renewed nor shall any such
26 license or registration be issued to such person until:

27 (a) such person shall deposit or there shall be deposited on his
28 behalf the security required under said section 3 of this act; or

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

33 (c) evidence satisfactory to the director has been filed with
34 him of a release from liability, or a final adjudication of
35 nonliability, or a duly acknowledged written agreement, in
36 accordance with section 4(d) of P.L. 1952, c. 173 (C. 39:6-26) and
37 with respect to an automobile required to have coverage for
38 personal [injury] protection coverage benefits pursuant to [P.L.
39 1972, c. 70] section 2 of P.L. , c. (C.) (now

1 pending in the Legislature as this bill) has filed evidence
satisfactory to the director that he has also met the additional
3 requirements of section 4(d) of P.L. 1952, c. 173 (C. 39:6-26)
pertaining to such automobile; provided, however, in the event
5 there shall be any default in the payment of any installment
under any duly acknowledged written agreement, then, upon
7 notice of such default, the director shall forthwith suspend the
license and registration or nonresident's operating privilege of
9 such person defaulting which shall not be restored unless and until

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

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

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

19 (cf: P.L. 1972, c. 199, s. 3)]³

³[27. Section 8 of P.L. 1952, c. 173 (C. 39:6-30) is amended to
21 read as follows:

8. Security deposited in compliance with the requirements of
23 this act shall be applicable only to the payment of a judgment or
judgments rendered against the person or persons on whose behalf
25 the deposit was made, for damages arising out of the accident in
question in a civil action, begun not later than one year after the
27 date of such accident, or within one year after the date of
deposit of any security under subparagraph (c) of section 5 of this
29 act, or to the payment in settlement, agreed to by the depositor,
of a claim or claims arising out of such accident or to the
31 reimbursement of the Unsatisfied Claim and Judgment Fund for
the payment of personal [injury] protection coverage benefits
33 pursuant to section 7 or section 10 of P.L. 1972, c. 198
[(Assembly Bill No. 803 presently pending in the Legislature)] (C.
35 39:6-86:1 or 39:6-86.4). Such deposit or any balance thereof shall
be returned to the depositor or his personal representative when
37 evidence satisfactory to the director has been filed with him that
there has been a release from liability, or a final adjudication of
39 nonliability, or a duly acknowledged agreement in accordance

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

(cf: P.L. 1972, c. 199, s. 4)³

17 ³[28.] ⁴[21.³] 13.⁴ Section 13 of P.L. 1952, c. 173 (C. 39:6-35)
is amended to read as follows:

18 13. If a person fails to pay and satisfy every judgment
19 rendered against him for damages because of personal injury or
20 death, or damage to property in excess of [~~\$100.00~~] \$500.00,
21 resulting from the ownership, maintenance, use or operation of a
22 motor vehicle and every judgment based on an agreement or
23 contract made in settlement of damages arising out of a motor
24 vehicle accident, within 60 days after its entry, or if an appeal is
25 taken therefrom within that time, within 60 days after the
26 judgment as entered or modified becomes final, the operator's
27 license and all registration certificates of any such person, other
28 than a chauffeur or operator employed by the owner of a motor
29 vehicle and so acting at the time of the damage, injuries or death
30 resulting in the judgment, shall, upon receiving a certified copy
31 of a transcript of the final judgment from the court in which it
32 was rendered showing it to have been still unsatisfied more than
33 60 days after it became final, be forthwith suspended by the
34 director.

35 If the director is satisfied that a judgment debtor or his
36 insurance carrier was, within the said 60-day period, ready,
37 willing and able to pay the said judgment but was prevented from
38 so doing by reason of the refusal or legal inability of the
39

1 judgment creditor to accept payment, or that the failure to pay
said judgment within the said 60-day period was due to the act or
3 neglect of the judgment debtor's insurance carrier and not to any
fault of the judgment debtor then the director may, in his
5 discretion, extend the 60-day limitation herein prescribed for any
reasonable time necessary to complete the formality of payment
7 of the judgment and shall not suspend the judgment debtor's
driver's license, operating privilege or certificate of registration.

9 The judgment herein mentioned shall be a judgment of a court
of competent jurisdiction of this State or any other state or of a
11 District Court of the United States.

The license and registration certificates shall remain so
13 suspended and shall not be renewed, nor shall a motor vehicle be
thereafter registered in the name of that person while the
15 judgment remains unstayed, unsatisfied, subsisting and until every
such judgment is satisfied or discharged, ³and the person gives
17 proof of financial responsibility to respond in damages for future
accidents as required under section 37 of P.L. , c. (C.)
19 (now pending in the Legislature as this bill),³ except that in
³the³ event that the judgment debtor shall be relieved of liability
21 for payment of said judgment by an adjudication of the court in
which the same was entered, or if the right to enforce said
23 judgment by docketing and revival, or by revival, or by bringing
an action thereon, shall have expired without such revival or the
25 bringing of any such action thereon, the judgment debtor's
license shall be restored to him, and one or more motor vehicles
27 may be registered in his name, upon application to the Division of
Motor Vehicles.

29 A discharge in bankruptcy shall relieve the judgment debtor
from any of the requirements of this act, ³except proof of
31 financial responsibility as required under section 37 of P.L. ,
c. (C.) (now pending in the Legislature as this bill),³
33 provided that the underlying judgment was not based on a willful
or malicious tort.

35 The clerk of the court in which the judgment is rendered, or
the court where it has no clerk, shall forward to the director, at
37 the request of the judgment creditor or his attorney, after the
expiration of the 60 days a certified copy of the judgment or a
39 transcript thereof, as aforesaid.

1 Upon the filing with the court of proof of satisfaction or
2 discharge of a judgment, the nonpayment of which has been
3 previously certified to the director, the clerk of the court, or the
4 court where it has no clerk shall immediately forward notice of
5 such satisfaction or discharge to the director.

6 If the defendant is a nonresident the director shall transmit to
7 the officer in charge of the issuance of driver licenses and
8 registration certificates of the state of which the defendant is a
9 resident a certified copy of the judgment.

10 If after proof is given, another such judgment is recovered
11 against that person for an accident occurring before the proof
12 was given, the license and certificate shall again be and remain
13 suspended, and no other license or certificate shall be issued to
14 him while the judgment so remains unsatisfied and subsisting.

15 (cf: P.L. 1979, c. 169, s. 1)

16 ³[29. Section 14 of P.L. 1952, c. 173 (C. 39:6-36) is amended
17 to read as follows:

18 14. While a final judgment against a nonresident motor vehicle
19 owner or operator is so unstayed, unsatisfied and subsisting for
20 more than 60 days, his privilege of operating a motor vehicle,
21 whether owned by him or not, in this State, shall be withdrawn
22 and shall not be renewed. No operator's or chauffeur's license
23 shall be issued to him nor shall a motor vehicle be registered in
24 his name until every such judgment is stayed, satisfied or
25 discharged as herein provided, and he has given proof of financial
26 responsibility to respond in damages for future accidents pursuant
27 to section 37 of P.L. , c. (C.) (now pending in the
28 Legislature as this bill).

29 (cf: P.L. 1979, c. 169, s. 2)]³

30 ³[30.] ⁴[22.³] ⁴14.⁴ Section 15 of P.L. 1952, c. 173 (C. 39:6-37)
31 is amended to read as follows:

32 15. Whenever it appears to the satisfaction of the director
33 that[;] at the time of a motor vehicle accident resulting in the
34 death of or injury to any person, or damage to property to the
35 extent of [\$100.00] \$500.00, the judgment debtor, against whom a
36 judgment has been obtained as a result of such accident, was
37 insured in an insurance company, authorized to do business in this
38 State, against public liability for injuries or death to one person
39 to the extent of [\$15,000.00] ³[\$10,000.00] \$15,000.00³ and for

1 injuries or death to more than one person to the extent of
 2 [\$30,000.00] ³[\$20,000.00] \$30,000.00³ and for damage to
 3 property to the extent of \$5,000.00 arising out of a single motor
 4 vehicle accident and with respect to an automobile, as defined in
 5 [P.L. 1972, c. 70] ³[section 1 of P.L. ,c. (C.) (now
 6 pending in the Legislature as this bill)] section 2 of P.L. 1972, c.
 7 70 (C. 39:6A-2)³, registered or principally garaged in New Jersey;
 8 personal [injury] ³injury³ protection coverage as provided in [the
 9 "New Jersey Automobile Reparation Reform Act," P.L. 1972, c.
 10 70], ³[section 2 of P.L. , c. (C.) (now pending in the
 11 Legislature as this bill)] the "New Jersey Automobile Reparation
 12 Reform Act," P.L. 1972, c. 70 (C. 39:6A-1 et seq.)³ and that the
 13 judgment has not been paid or the personal [injury] ³injury³
 14 protection ³[coverage]³ benefits have not been paid because,
 15 subsequent to the date of such accident, such insurance company
 16 has become insolvent or bankrupt, or the Commissioner of
 17 Insurance has undertaken control [hereof] thereof for the purpose
 18 of liquidation, he shall not suspend the operator's license and the
 19 registration certificates of such judgment debtor.

(cf: P.L. 1979, c. 169, s. 3)

21 ³[31. Section 16 of P.L. 1952, c. 173 (C. 39:6-38) is amended
 22 to read as follows:

23 16. For the purposes of sections [9 to] 13 and 14 of this act (C.
 24 39:6-35 and 39:6-36) and sections 37 through 44 of P.L. ,
 25 c. (C.) (now pending in the Legislature as this bill),
 26 when:

27 (a) \$10,000.00 has been credited upon any judgment or
 28 judgments rendered in excess of that amount for bodily injury to
 29 or the death of one person as the result of one accident;

30 (b) Subject to the limit of \$10,000.00 for one person so injured
 31 or killed, the sum of \$20,000.00 has been credited upon any
 32 judgment or judgments rendered in excess of that amount for
 33 bodily injury to or the death of more than one person as the result
 34 of one accident; or

35 (c) \$5,000.00 has been credited upon any judgment or
 36 judgments rendered in excess of that amount for damage to
 37 property as the result of one accident--

38 Such payment or payments shall be deemed a satisfaction of
 39 the judgment or judgments.

(cf: P.L. 1958, c. 95, s. 4)]³

1 ³[32. Section 17 of P.L. 1952, c. 173 (C. 39:6-39) is amended to read as follows:

3 17. A judgment debtor to whom this chapter applies may, for the sole purpose of giving authority to the director to authorize
5 the judgment debtor to operate a motor vehicle thereafter, on due notice to the judgment creditor, apply to the court in which
7 the trial judgment was obtained for the privilege of paying the judgment in installments. The court, in its discretion and without
9 prejudice to any other legal remedies which the judgment creditor may have, may so order, fixing the amounts and times of
11 payment of the installments. The director may, in his discretion, while the judgment debtor is not in default in paying the
13 installments, and upon his giving proof of financial responsibility to respond in damages for future accidents pursuant to section 37
15 of P.L. _____, c. _____ (C. _____), (now pending in the Legislature as this bill), restore, or refrain from suspending his license or
17 registration certificate or certificates, or either or both of them. The license or certificate or certificates, or either or both
19 or all of them, shall be suspended as hereinbefore provided when the director is satisfied that the judgment debtor has failed to
21 comply with the terms of the court order.

(cf: P.L. 1979, c. 169, s. 4)]³

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

25 2. Definitions. As used in this act:

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

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

33 "Commissioner" means the Commissioner of Insurance.

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

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

39 "Qualified person" means a resident of this State or the owner of a motor vehicle registered in this State other than a named

1 insured or a member of his family residing in his household who is
2 covered or required to be covered by personal protection
3 coverage pursuant to the provisions of section 2 of P.L. _____,
4 c. _____ (C. _____), (now pending in the Legislature as this bill)
5 or a resident of another state, territory, or federal district of the
6 United States or province of Canada or of a foreign country, in
7 which recourse is afforded, to residents of this State, of
8 substantially similar character to that provided for by this act;
9 provided, however, that no person shall be a qualified person
10 where such person is an insured under a policy provision providing
11 coverage for damages sustained by the insured as a result of the
12 operation of an uninsured motor vehicle in a form authorized to
13 be included in automobile liability policies of insurance delivered
14 or issued for delivery in this State, pursuant to the provisions of,
15 or any supplement to, chapter 28 of Title 17 of the Revised
16 Statutes or in a form substantially similar thereto.

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

23 "Person" includes natural persons, firms, copartnerships,
24 associations and corporations.

25 "Insurer" means any insurer authorized in this State to write
26 the kinds of insurance specified in paragraphs d. and e. of R.S.
27 17:17-1.

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

34 "Registration license year" means the period beginning June 1,
35 1956, and ending May 31, 1957, and each subsequent 12 month
36 period, beginning June 1 and ending the following May 31.

37 (cf: P.L. 1985, c. 148, s. 3)]³

38 ³[34.] ⁴[23.] ³ 15.⁴ Section 9 of P.L. 1952, c. 174 (C. 39:6-69) is
39 amended to read as follows:

1 9. When any qualified person recovers a valid judgment in any
2 court of competent jurisdiction in this State against any other
3 person, who was the operator or owner of a motor vehicle, for
4 injury to, death of, any person or persons, or a similar valid
5 judgment in such court against such a defendant for an amount in
6 excess of [~~\$250.00~~] \$500.00, exclusive of interest and costs, for
7 damage to property, except property of others in charge of such
8 operator or owner or such operator's or owner's employees,
9 arising out of the ownership, maintenance or use of the motor
10 vehicle in this State on or after April 1, 1955, and any amount
11 remains unpaid thereon in the case of a judgment for bodily injury
12 or death, or any amount in excess of [~~\$250.00~~] \$500.00 remains
13 unpaid thereon in case of a judgment for damage to property,
14 such judgment creditor may, upon the termination of all
15 proceedings, including reviews and appeals in connection with
16 such judgment, file a verified claim in the court in which the
17 judgment was entered, and upon 10 days written notice to the
18 board may apply to the court for an order directing payment out
19 of the fund, of the amount unpaid upon such judgment for bodily
20 injury or death, which does not exceed, or upon such judgment for
21 damage to property, which exceeds the sum of [~~\$250.00~~] \$500.00
and does not exceed--

22 (a) The maximum amount or limit of [~~\$15,000.00~~] ³[\$10,000.00]
23 \$15,000.00³, exclusive of interest and costs, on account of injury
24 to, or death of, one person, in any one accident, and

25 (b) The maximum amount or limit, subject to such limit for
26 any one person so injured or killed, of [~~\$30,000.00~~] ³[\$20,000.00]
27 \$30,000.00³, exclusive of interest and costs, on account of injury
28 to, or death of, more than one person, in any one accident, and

29 (c) The maximum amount or limit of \$5,000.00, exclusive of
30 interest and costs, for damage to property in any one accident.

31 (cf: P.L. 1983, c. 362, s. 21)

32 ³[35. Section 10 of P.L. 1952, c. 174 (C. 39:6-70) is amended
33 to read as follows:

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

38 (a) He is not a person covered with respect to such injury or

1 death by any workers' compensation law, or the personal
representative of such a person,

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

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

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

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

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

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

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

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

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

39 (k) By such search he has discovered no personal or real

1 property or other assets, liable to be sold or applied or that he
has discovered certain of them, describing them, owned by the
3 judgment debtor and liable to be so sold and applied and that he
has taken all necessary action and proceedings for the realization
5 thereof and that the amount thereby realized was insufficient to
satisfy the judgment, stating the amount so realized and the
7 balance remaining due on the judgment after application of the
amount realized,

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

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

(n) In order to recover for noneconomic loss, as defined in
27 section [2 of P.L. 1972, c. 70 (C. 39:6A-2)] 1 of P.L. ,
c. (C.). (now pending in the Legislature as this bill) for
29 accidents to which the benefits of sections 7 and 10 of P.L. 1972,
c. 198 (C. 39:6-86.1 and C. 39:6-86.4) apply, the injured person
31 shall have sustained an injury [or incurred the medical expenses
described in subsection a. of section 8 of P.L. 1972, c. 70 (C.
33 39:6A-8)] described in section 18 of P.L. , c. (C.) (now
pending in the Legislature as this bill).

35 Whenever the applicant satisfies the court that it is not
possible to comply with one or more of the requirements
37 enumerated in subparagraphs (h) and (i) of this section and that
the applicant has taken all reasonable steps to collect the amount
39 of the judgment or the unsatisfied part thereof and has been

1 unable to collect the same, the court may dispense with the
necessity for complying with such requirements.

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

(cf: P.L. 1983, c. 362, s. 2)]³

7 ³[36.] ⁴[24.³] ^{16.}⁴ Section 13 of P.L. 1952, c. 174 (C. 39:6-73)
is amended to read as follows:

9 13. Except with respect to medical expense benefits paid
pursuant to section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), no order
11 shall be made for the payment and the treasurer shall make no
payment, out of the fund, of

13 (a) Any claim for damage to property for less than [\$250.00]
\$500.00,

15 (b) The first [\$250.00] \$500.00 of any judgment for damage to
property or of the unsatisfied portion thereof, or

17 (c) The unsatisfied portion of any judgment which, after
deducting [\$250.00] \$500.00 therefrom if the judgment is for
19 damage to property, exceeds

(1) the maximum or limit of [\$15,000.00] ³[\$10,000.00]
21 \$15,000.00³, exclusive of interest and costs, on account of injury
to, or death of, one person in any one accident, and

23 (2) the maximum amount or limit, subject to such limit for any
one person so injured or killed, of [\$30,000.00] ³[\$20,000.00]
25 \$30,000.00³, exclusive of interest and costs, on account of injury
to, or death of, more than one person, in any one accident, and

27 (3) the maximum amount or limit of \$5,000.00, exclusive of
interest and costs, for damage to property in any one accident;
29 provided, that such maximum amounts shall be reduced by any
amount received or recovered as specified in subparagraph (m) of
31 section 10.

(d) Any claim for damage to property which includes any sum
33 greater than the difference between said maximum amounts and
the sum of [\$250.00] \$500.00, and any amount paid out of the fund
35 in excess of the amount so authorized may be recovered by the
treasurer in an action brought to him against the person receiving
37 the same.

(cf: P.L. 1983, c. 362, s. 22)

39 ³[37. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is

1 supplemented as follows:

2 The director shall require as proof of financial responsibility a
3 fully paid policy of insurance providing coverage against loss
4 resulting from liability imposed by law for bodily injury, death,
5 and property damage sustained by a person arising out of the
6 ownership, maintenance, operation or use of a motor vehicle of at
7 least \$10,000.00, exclusive of interest and costs, on account of
8 injury to, or death of, one person, in any one accident, and
9 \$20,000.00, exclusive of interest and costs, on account of injury
10 to, or death of, more than one person in any one accident and
11 \$5,000.00, exclusive of interest and costs, for damage to property
12 in any one accident:

13 a. from a person who is determined to be at fault in an
14 accident in which (1) there is a judgment for bodily injury in
15 excess of \$2,000.00, and damage to property in excess of
16 \$1,500.00, or both, and (2) the tortfeasor is not covered by a
17 policy of liability insurance and the judgment or claim is not
18 otherwise paid by the tortfeasor, or

19 b. from a person whose license to drive has been suspended or
20 revoked because of a conviction or a forfeiture of any bail for the
21 violation of any of the following provisions of law:

22 (1) operating or permitting another person to operate a motor
23 vehicle while under the influence of intoxicating liquor or any
24 narcotic, hallucinogenic or habit-producing drugs, or with a blood
25 alcohol concentration of 0.10% or more as provided in R.S.
26 39:4-50;

27 (2) not stopping at once when involved in an accident,
28 ascertaining injury, rendering assistance and disclosing identity,
29 as provided in R.S. 39:4-129 et. seq.;

30 (3) reckless driving, as provided in R.S. 39:4-96, except in
31 cases where the director determines that requirements should be
32 waived;

33 (4) homicide or assault arising out of the operation of a motor
34 vehicle;

35 (5) other violations constituting cause for suspension or
36 revocation of licenses in this State, except in cases where the
37 director determines that requirements should be waived; or

38 (6) an offense in any other state which, if committed in this
39 State, would be a violation of any of the aforesaid provisions of

1 law of this State.

3 Whenever the director shall require proof of financial
5 responsibility from the owner of an automobile, he shall require
7 proof in the amounts specified for each vehicle owned or
9 registered by that person. Pursuant to regulations promulgated
11 by the director, the insurer providing the policy of insurance shall
13 notify the Division of Motor Vehicles of the issuance and
15 termination of the policy.

17 38. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is
19 supplemented as follows:

21 If a person fails to maintain proof of financial responsibility as
23 required by section 37 of this 1988 amendatory and
25 supplementary act, the director shall, until proof is furnished,
27 suspend or revoke the license of that person to operate a motor
29 vehicle or refuse to return a license which is suspended or
31 revoked, or suspend or revoke the registration of a motor vehicle,
33 or refuse to register a motor vehicle transferred by him, if it
35 shall not appear to the director's satisfaction that the transfer is
37 a bona fide sale, or if a person is not a resident of this State,
39 withdraw his privilege of operating a motor vehicle in this State
41 and the privilege of operation within this State of a motor vehicle
43 owned by him.

45 No appeal taken from the judgment of a court shall act as a
47 stay of an action of the director authorized by this act.

49 The director may suspend or revoke the license of a person or
51 the registration of a motor vehicle where proof of financial
53 responsibility is not furnished or where a person's license or
55 registration is suspended or revoked in any other state.

57 The clerk of the court in which any conviction provided in
59 section 37 of this 1988 amendatory and supplementary act is
61 rendered or other action taken, or the court, where there is no
63 clerk, shall immediately forward to the director a certified copy
65 or transcript of the proceeding. A certified copy or transcript of
67 the conviction or record of other action of the court shall be
69 prima facie evidence of that conviction or record.

71 39. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is
73 supplemented as follows:

75 A person subject to the requirements of the "Motor Vehicle
77 Security-Responsibility Law," P.L. 1952, c. 173 (C. 39:6-23 et
79

1 seq.), and not the owner of the motor vehicle may operate a
2 motor vehicle when he or the owner of the motor vehicle has
3 furnished acceptable proof of financial responsibility to the
4 director.

5 Unless an operator who is not the owner files acceptable proof,
6 his license shall be restricted to operating only the motor
7 vehicles for which the owner has filed proof of financial
8 responsibility.

9 In the event that person is a nonresident, his operating
10 privilege in this State shall be limited to only those motor
11 vehicles for which the owner has furnished to the director
12 acceptable proof of financial responsibility.

13 40. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is
14 supplemented as follows:

15 The director shall, upon written request, furnish a person who
16 sustained personal injury or property damage from a motor
17 vehicle, with information concerning the financial responsibility
18 of the operator or owner of that motor vehicle.

19 41. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is
20 supplemented as follows:

21 An operator or registrant whose operator's license or
22 registration certificate, or both, are suspended pursuant to the
23 "Motor Vehicle Security- Responsibility Law", P.L. 1952, c. 173
24 (C. 39:6-23 et seq.), or whose policy of liability insurance, as
25 required thereunder, has been terminated, shall immediately
26 return to the director his operator's license or registration
27 certificate and the number plates issued thereunder. If a person
28 fails to return these items, the director shall direct any member
29 of the State Police, motor vehicle inspector or other police
30 officer to secure possession of these items and return them to the
31 director's office.

32 42. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is
33 supplemented as follows:

34 The director may cancel the requirement that a person
35 maintain liability and uninsured motorist coverages, as provided
36 in section 37 of this 1988 amendatory and supplementary act, if
37 five years have elapsed since the date of suspension or revocation
38 of the license or registration, and if no right of action or
39 judgment arising out of the ownership, maintenance, operation or

1 use of a motor vehicle is then outstanding against him and
2 remains unpaid by that person.

3 43. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is
4 supplemented as follows:

5 A policy of insurance furnished as proof of financial
6 responsibility as provided in section 37 of this 1988 amendatory
7 and supplementary act shall be a fully paid policy of liability
8 insurance issued by an insurer authorized to transact business in
9 this State, including the New Jersey Automobile Full Insurance
10 Underwriting Association created pursuant to sections 13 to 34 of
11 P.L. 1983, c. 65 (C. 17:30E-1 et seq.), or, in the case of a person
12 not eligible for insurance written by the association, by an
13 eligible surplus lines insurer to the person therein named as
14 insured, or in the case of a nonresident, by an insurer authorized
15 to transact business in any of the states or provinces hereinafter
16 stated. This policy shall:

17 a. Designate, by explicit description or appropriate reference,
18 all motor vehicles covered by the policy, and insure the named
19 insured and any other person using or responsible for the use of a
20 motor vehicle with the express or implied consent of the insured,
21 against loss from the liability imposed upon the insured or other
22 person by law, for injury to or death of a person, other than a
23 person who is covered for injury or death by any workers'
24 compensation law, or damage to property, except property of
25 others in charge of the insured or the insured's employees,
26 growing out of the maintenance, use or operation of the motor
27 vehicle in the United States of America; or

28 b. In the alternative, insure the named insured against loss
29 from liability imposed by law for injury to or death of a person,
30 other than a person who is covered for injury or death by any
31 worker's compensation law, or damage to property, except
32 property of others in charge of the insured or the insured's
33 employees, growing out of the operation or use by the insured of
34 a motor vehicle except a motor vehicle registered in the name of
35 the insured, and occurring while the insured is personally in
36 control, as driver or occupant, of the motor vehicle within the
37 United States of America.

38 The policy shall insure to at least the minimum limits provided
39 for in section 17 of P.L. , c. (C.) (now pending

1 in the Legislature as this bill), or a binder pending the issuance of
2 any policy, or an endorsement to an existing policy as hereinafter
3 provided.

4 This section shall not be construed as preventing the insurance
5 carrier from granting lawful coverage in excess of or in addition
6 to the minimum coverage, nor from embodying in the policy any
7 agreement, provision or stipulation not contrary to the provisions
8 of P.L. 1952, c. 173 (C. 39:6-23 et seq.) or other laws.

9 Separate concurrent policies covering, respectively, bodily
10 injury or death and property damage shall be considered a motor
11 vehicle liability policy within the meaning of this act.

12 44. (New section) P.L. 1952, c. 173 (C. 39:6-23 et seq.) is
13 supplemented as follows:

14 In the case of a nonresident, a policy of insurance as required
15 in section 37 of this 1988 amendatory and supplementary act and
16 issued by an insurer authorized to transact business in the State
17 in which the motor vehicle is registered or primarily garaged
18 shall be considered sufficient if the carrier:

19 a. executes a power of attorney authorizing the director to
20 accept service of notice or process in an action arising out of a
21 motor vehicle accident in this State;

22 b. its governing executive authority duly adopts a resolution
23 providing that its policies shall be deemed to be varied as to
24 comply with the law of this State relating to the terms of motor
25 vehicle liability policies issued; and

26 c. agrees to accept as final and binding any final judgment
27 duly rendered in an action arising out of a motor vehicle accident
28 in a court of competent jurisdiction of this State.

29 This section shall apply to insurers organized and existing under
30 the laws of any other state and not licensed to transact business
31 in this State to the extent and under the same terms and
32 conditions that the laws of the state where the motor vehicle is
33 registered or in which the insured resides recognize certificates
34 of insurers organized and existing under the laws of this State.]³

35 ³[45.] ⁴[25.³ Section 15 of P.L. 1983, c. 65 (C. 17:30E-3) is
36 amended to read as follows:

37 15. As used in sections 13 to 34 of this act:

38 a. "Association" means the New Jersey Automobile Full
39 Insurance Underwriting Association.

1 b. "Automobile" means a private passenger automobile of a
private passenger or station wagon type that is owned or hired,
3 and is neither used as a public or livery conveyance for
passengers nor rented to others with a driver; a motor vehicle
5 with a pickup body, a delivery sedan or a panel truck or a camper
type vehicle used for recreational purposes, owned by an
7 individual or by husband and wife who are residents of the same
household, not customarily used in the occupation, profession or
9 business of the insured other than farming or ranching; and, solely
for the purposes of this act, a motorcycle, as defined in R.S.
11 39:1-1. An automobile owned by a farm family copartnership or
corporation, which is principally garaged on a farm or ranch and
13 otherwise meets the definition contained in this section, shall be
considered a private passenger automobile owned by two or more
15 relatives resident in the same household.

c. "Automobile insurance" means direct insurance against
17 injury or damage, including the legal liability therefor, arising out
of the ownership, operation, maintenance or use of automobiles,
19 including, but not limited to, personal [injury] ³injury³ protection
³[coverage]³ insurance, bodily injury liability insurance, property
21 damage liability insurance, physical damage insurance and
uninsured and underinsured motorist insurance.

23 d. "Board" or "board of directors" means the board of
directors of the association.

25 e. "Company" or "member" means an insurer member of the
association.

27 f. "Commissioner" means the Commissioner of Insurance.

29 g. "Director" means a member of the board of directors of the
New Jersey Automobile Full Insurance Underwriting Association.

31 h. "Net direct car years of liability exposure" means direct
bodily injury liability car years of exposure, after deducting
returns for cancellations, but without adding reinsurance assumed
33 or deducting reinsurance ceded, as determined by the board and
approved by the commissioner.

35 i. "Net direct car years of physical damage exposure" means
direct physical damage car years of exposure, after deducting
37 returns for cancellations, but without adding reinsurance assumed
or deducting reinsurance ceded, as determined by the board and
39 approved by the commissioner.

- 1 j. "Person" means every natural person.
- 2 k. "Plan of operation" means the plan of operation of the
3 association created pursuant to section 18 of this act.
- 4 l. "Producer" means an agent or broker licensed to transact
5 the business of automobile insurance in this State.
- 6 m. "Qualified applicant" means a person domiciled in New
7 Jersey who is an owner of an automobile registered, or to be
8 registered within 60 days of application, and principally garaged
9 in this State, who has been rejected for automobile insurance
10 coverage by at least two insurers writing in the voluntary market,
11 except that a member of the United States military forces, if
12 otherwise eligible for insurance coverage issued by the
13 association, shall be eligible with respect to an automobile if, at
14 the time the application is made, he is either (1) a nonresident
15 who is stationed in this State, whose automobile is registered in
16 another state and garaged in this State; or (2) a resident who is
17 stationed in another state, whose automobile is registered in this
18 State and garaged in another state. No person shall, however, be
19 deemed a qualified applicant, if the principal operator of the
20 automobile to be insured does not hold a driver's license which is
21 valid in this State; or if a regular operator of the automobile
22 other than the principal operator does not hold such a license; or
23 if timely payment of premium is not tendered; or if the principal
24 operator of the automobile does not furnish the information
25 necessary to effect insurance; or if such person rents or leases
26 automobiles to others or automobiles which are used for
27 commercial purposes.
- 28 n. "Underinsured motorist coverage" means insurance for
29 damages because of bodily injury and property damage caused by
30 accident and arising out of the ownership, maintenance or use of
31 an underinsured automobile. An automobile is underinsured when
32 the sum of the limits of liability under all bodily injury and
33 property damage liability bonds and insurance policies available
34 to a person against whom recovery is sought for bodily injury or
35 property damage is, at the time of the accident, less than the
36 applicable limits of liability afforded under the automobile
37 insurance policy held by the person seeking such recovery.
- 38 o. "Residual market equalization charge" means the amount
39 which, when added to all other sources of association income, will

1 cause the association to operate on a no profit, no loss basis,
2 which charge shall include, after the effective date of P.L. .
3 c. (C.) (now pending in the Legislature as this bill), the flat
4 charges, or policy constants, which are in effect as of that
5 effective date.

(cf: P.L. 1986, c. 211, s. 1)]⁴

7 ⁴17. Section 17 of P.L. 1983, c. 65 (C. 17:30E-5) is amended to
8 read as follows:

9 17. a. Within 45 days after the effective date of this 1988
10 amendatory and supplementary act, there shall be appointed a
11 reconstituted board of directors, and within 30 days after the
12 appointment of the reconstituted board, the commissioner shall
13 call the first, or organizational, meeting of the [association,
14 which shall seat the] reconstituted board of directors. The board
15 shall consist of [17] nine persons, [14] five of whom shall be
16 appointed by the Governor with the advice and consent of the
17 Senate, however, no more than three of the Governor's
18 appointees shall be of the same political party, one of whom shall
19 be appointed by the Speaker of the General Assembly, and one by
20 the President of the Senate; the Director of the Division of Motor
21 Vehicles in the Department of Law and Public Safety, or his
22 designee, and the Commissioner of Insurance, or his designee,
23 shall be [an] ex officio [member] members of the board. [Of the]
24 The board members appointed by the Governor, [eight shall
25 represent member companies, three shall represent producers,
26 and three shall be public members] the President and the Speaker
27 shall be persons with a background in insurance law or practices,
28 specifically with regard to automobile insurance in New Jersey,
29 who shall not, during their tenure on the board be affiliated with
30 or employed by any producer, insurer servicing carrier or
31 non-insurer servicing carrier, or any trade association or other
32 entity representing the interests of any producer, insurer
33 servicing carrier or non-insurer servicing carrier in this State.
34 Members of the board may, during their tenure on the board, be
35 affiliated with or employed by a non-servicing carrier member
36 company. The Governor shall name two surrogates for each
37 director appointed to the board from a list submitted to him by
38 each appointee. Members of the board shall be compensated
39 from the moneys of the association for their services, pursuant to

1 standards and procedures set forth in the plan of operation. The
2 initial appointment of the board members appointed by the
3 President and Speaker shall be for a term of one year. The initial
4 term of two of the board members appointed by the Governor
5 shall be for a term of two years. The initial term of the
6 remaining three board members appointed by the Governor shall
7 be for a term of three years. After the initial appointments, all
8 directors shall be appointed for terms of three years or until such
9 time as a successor is appointed and duly qualified. Any vacancy
10 in the membership of the board shall be filled in the same manner
11 as the initial appointment for the unexpired term of the director
12 to be replaced.

13 Within 20 days of the appointment of the reconstituted board
14 of directors, the Governor, upon consultation with the
15 Commissioner of Insurance, shall appoint two advisory boards to
16 serve the board of directors. The first advisory board, to be
17 known as the member company and servicing carrier advisory
18 board, shall be comprised of eight representatives of member
19 companies, servicing carriers and non-insurer servicing carriers.
20 The second advisory board, to be known as the producer advisory
21 board, shall be comprised of six producer representatives. In
22 appointing the representatives of the member [companies]
23 company and servicing carrier advisory board, the Governor shall
24 select two persons from a list of not fewer than three persons
25 nominated by the American Insurance Association, or its
26 successor organization, from the officers or employees of
27 insurers which are licensed to transact automobile insurance in
28 this State and which are members or subscribers of that
29 organization; two persons from a list of not fewer than three
30 persons nominated by the Alliance of American Insurers, or its
31 successor organization, from the officers or employees of
32 insurers which are licensed to transact automobile insurance in
33 this State and which are members or subscribers of that
34 organization; two persons from a list of not less than three
35 persons nominated by the National Association of Independent
36 Insurers, or its successor organization, from the officers or
37 employees of insurers which are licensed to transact automobile
38 insurance in this State and which are members or subscribers of
39 that organization; and two persons from the officers or

1 employees of any insurers which are licensed in this State and are
not members or subscribers of any of the above-mentioned
3 organizations or from the officers or employees of any noninsurer
servicing carriers, as provided for in section 24 of P.L. 1983, c.
5 65 (C. 17:30E-12). All nominations made by the associations shall
include at least one representative of an insurer which is not and
7 does not intend to be a servicing carrier. In appointing the
[producer] representatives of the producer advisory board, the
9 Governor shall select [one person] two persons from a list of not
fewer than three nominated by the Professional Insurance Agents
11 Association or its successor organization; [one person] two
persons from a list of not fewer than three nominated by the
13 Independent Insurance Agents Association or its successor
organization; and [one person] two persons from a list of not
15 fewer than three nominated by the Insurance Brokers Association
or its successor organization. The Governor shall name two
17 surrogates for each [director on the] advisory board member from
a list submitted to him by each appointee. [The Governor shall,
19 with the advice and consent of the Senate, also appoint three
public members to the board. The Speaker of the General
21 Assembly and the President of the Senate shall each appoint a
public member. The commissioner or his designated
23 representative shall be entitled to attend and participate in all
meetings of the board or any of its committees.]

25 Each trade association and producer association shall have 15
days from the effective date of this 1988 amendatory and
27 supplementary act to submit its prescribed list of advisory board
[of director] candidates to the Governor. [The Governor shall
29 have 30 days from receipt of each list to select permanent board
members from it.] If any of the associations named in this
31 section fails to submit the list from which the Governor is to
select advisory board members [of the board of directors] within
33 the time provided in this subsection, the Governor shall appoint
temporary advisory board members to represent each association
35 that has failed to submit its list. In selecting temporary advisory
board members, the Governor shall be guided by the selection
37 criteria set forth herein. Upon subsequent receipt of the list
from the association, the Governor shall select permanent
39 advisory board members to replace temporary board members

1 within 30 days. Such replacement shall become effective
immediately. Advisory board members shall each serve for a
3 three year term or until such time as their successor is appointed
and qualified. Any vacancy in the membership of the member
5 and servicing carrier or producer advisory board shall be filled in
the same manner as the initial appointment for the unexpired
7 term of the advisory board member to be replaced. Advisory
board members shall not be compensated for their services, but
9 shall be reimbursed by the association for any necessary and
reasonable expenses incurred in performance of their duties as
11 members of the advisory board.

[The initial appointment of four insurer directors, one
13 producer-group director, and one public member appointed by the
Governor shall be for a term of one year. The initial
15 appointments of all other directors shall be for terms of two
years. After the initial appointments all directors shall be
17 appointed for terms of two years and shall serve until their
successors are appointed and qualified. All appointive vacancies
19 on the board shall be filled in accordance with the
above-mentioned procedures and classifications. Appointments to
21 fill vacancies shall be for the unexpired terms of the directors to
be replaced. Except in the case of the Director of the Division of
23 Motor Vehicles, directors may be reimbursed from the moneys of
the association for reasonable expenses incurred by them as
25 members.]

b. After the board has been appointed, it shall elect from its
27 membership a chairman and shall then meet thereafter at least
annually, and as often as the chairman or the plan of operation
29 shall require, or at the request of any [five] three members of the
board or the commissioner. All meetings of the board and of the
31 advisory boards shall be held in New Jersey. Written notice
setting forth the meeting agenda shall be provided for each board
33 meeting. Written notice shall be provided, at least five days
prior to the date of the meeting, to all directors, each member of
35 the member and servicing carrier advisory board and producer
advisory board, the commissioner, and the chairmen of the
37 Assembly [Banking and] Insurance Committee and the Senate
Labor, Industry and Professions Committee, or the successors to
39 those committees. Minutes shall be kept of all meetings. A copy

1 of the minutes shall be sent within five business days following
the meeting to the commissioner and to the chairmen of the two
3 legislative committees. Each member of the board shall be
entitled to one vote. The commissioner, or his designated
5 representative, shall have no right to vote. [Nine] Four voting
members of the board shall constitute a quorum. No votes shall
7 be cast on any matter except at an authorized board meeting.
All votes shall be recorded in the minutes of the meeting. No
9 votes shall be cast on any matter not listed as an agenda item in
the written notice for that meeting. No member or his surrogate
11 shall be entitled to vote on any matter if not physically present
at the meeting at which the vote is taken. A majority of the
13 voting members shall determine any action of the board. No
member may serve as chairman for more than two consecutive
15 years.

c. The board shall have and exercise all powers of the
17 association not reserved to the members by the plan of operation
or as otherwise provided in this act.⁴

19 (cf: P.L.1986, c.211, s.2)

³[46.] ⁴[26.3] 18.⁴ Section 14 of P.L. 1983, c. 65 (C. 17:30E-2)
21 is amended to read as follows:

14. The purpose of this act is to assure to the New Jersey
23 insurance consumer full access to automobile insurance through
normal market outlets [at standard market rates], to encourage
25 the use of available market facilities, to provide automobile
insurance for qualified applicants who cannot otherwise obtain
27 such insurance, through a full automobile insurance underwriting
association, and to require that companies be made whole for
29 losses in excess of regulated rates on all risks not voluntarily
written by providing procedures for the spreading and recoupment
31 of losses based on actual experience.

(cf: P.L. 1983, c. 65, s. 14)

33 ³[47.] ⁴[27.3] (New section) Sections 13 to 34 of P.L. 1983, c.
65 (C. 17:30E-1 et seq.) are supplemented as follows:

35 Notwithstanding any provision of law to the contrary and in
lieu of any other residual market charge, including the flat
37 charges, or policy constants, which are being charged to insureds
as of the effective date of this 1988 amendatory and
39 supplementary act, beginning 30 days following the effective date

1 of this act, a residual market equalization charge of \$175.00 shall
2 be charged to all insureds, regardless of coverage, on a per car
3 basis. Notwithstanding the foregoing, a senior citizen who is 65
4 years of age or older and who is a principal operator shall be
5 obligated to pay only that portion of the residual market
6 equalization charge payable pursuant to this section which is
7 equal to the flat charge, or policy constant, which was payable by
8 senior citizens prior to the effective date of this 1988
9 amendatory and supplementary act. Any computation of a
10 residual market equalization charge made after the effective
11 date of this act shall include the flat charges, or policy constants,
12 which are in effect as of the effective date of this act. The
13 ³charge required by this section shall, in the case of insureds
14 carrying only personal protection coverage, be paid in accordance
15 with section 20 of P.L. , c. (C.) (now pending in
16 the Legislature as this bill). In the case of insureds carrying
17 coverage in addition to personal protection coverage, the³
18 residual market equalization charge required by this section shall
19 be remitted by the insurer to the association in full at the
20 inception of the policy period.]⁴

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

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

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

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

32 (c) He was not at the time of the accident a person (1)
33 operating or riding in a motor vehicle which he had stolen or
34 participated in stealing or (2) operating or riding in a motor
35 vehicle without the permission of the owner, and is not the
36 personal representative of such a person.

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

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

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

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

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

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

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

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

37 (l) The application is not made by or on behalf of any insurer by
reason of the existence of a policy of insurance, whereby the
insurer is liable to pay, in whole or in part, the amount of the
39 judgment and that no part of the amount to be paid out of the

1 fund is sought in lieu of making a claim or receiving a payment
2 which is payable by reason of the existence of such a policy of
3 insurance and that no part of the amount so sought will be paid to
4 an insurer to reimburse or otherwise indemnify the insurer in
5 respect of any amount paid or payable by the insurer by reason of
6 the existence of such a policy of insurance,

7 (m) Whether or not he has recovered a judgment in an action
8 against any other person against whom he has a cause of action in
9 respect of his damages for bodily injury or death or damage to
10 property arising out of the accident and what amounts, if any, he
11 has received by way of payments upon the judgment, or by way of
12 settlement of such cause of action, in whole or in part, from or
13 on behalf of such other person,

(n) In order to recover for noneconomic loss, as defined in
15 section 2 of P.L. 1972, c. 70 (C. 39:6A-2) for accidents to which
16 the benefits of sections 7 and 10 of P.L. 1972, c. 198 (C.
17 39:6-86.1 and C. 39:6-86.4) apply, the injured person shall have
18 sustained an injury [or incurred the medical expenses] described
19 in subsection a. of section 8 of P.L. 1972, c. 70 (C. 39:6A-8).

Whenever the applicant satisfies the court that it is not
21 possible to comply with one or more of the requirements
22 enumerated in subparagraphs (h) and (i) of this section and that
23 the applicant has taken all reasonable steps to collect the amount
24 of the judgment or the unsatisfied part thereof and has been
25 unable to collect the same, the court may dispense with the
26 necessity for complying with such requirements.

27 The board or any insurer to which the action has been assigned
28 may appear and be heard on application and show cause why the
29 order should not be made.⁴

(cf: P.L. 1983, c. 362, s. 2)

31 ³[48.] ⁴[28.]³ Section 20 of P.L. 1983, c. 65 (C. 17:30E-8) is
amended to read as follows:

33 20. a. The association shall derive income from the following
34 sources for the payment of expenses, losses, and the provision of
35 adequate, actuarially sound reserves for unpaid losses and loss
36 adjustment expenses, including incurred but not reported losses,
37 in connection with association business: (1) net premiums earned;
38 (2) income generated from any association accident surcharge
39 system permitted or required by law; (3) that percentage of

1 surcharges collected by the Division of Motor Vehicles and
deposited with the association pursuant to subsection b. of
3 section 6 of the "New Jersey Automobile Insurance Reform Act
of 1982" (P.L. 1983, c. 65; C. 17:29A-35); (4) income collected by
5 members of the association and by the association from the
residual market equalization charge [or flat charges (also
7 referred to as capitation fees or policy constants)], levied
pursuant to section ³[47] 27³ of this 1988 amendatory and
9 supplementary act on a per car basis, but not including premiums
for uninsured motorist or towing coverage, or flattened tax and
11 expense fees implemented pursuant to section 8 of P.L. 1983, c.
65 (C. 17:29A-37)) levied on a per car and per coverage basis; and
13 (5) income from investment of moneys collected pursuant to
paragraphs (1), (2), (3) and (4) of this subsection. Residual market
15 equalization charges collected on behalf of the association shall
on a monthly basis be certified to by the carrier and shall be
17 transferred to the association in accordance with the plan of
operation. No producer commissions or premium taxes shall be
19 paid on, or company expenses or servicing carrier compensation
deducted from, the residual market equalization charge. No
21 servicing carrier compensation or commissions shall be paid by
the association on violation surcharges deposited by the Division
23 of Motor Vehicles with the association. All premiums received
by servicing carriers on behalf of the association shall on a
25 monthly basis be certified to by the carrier and shall be
transferred to the association in accordance with the plan of
27 operation. Premiums shall be transferred to the association net
of commissions paid, all premium taxes, and servicing carrier
29 compensation, except as otherwise required by law.

All claims and claim expense payments paid on association
31 business shall be disbursed by the servicing carriers or the
association through drafts drawn on association funds in
33 accordance with the plan of operation. Servicing carriers, as
agents of the association, shall have no individual liability on
35 claims or policies written by the association.

b. At least annually, the board shall file its experience with
37 the commissioner, which experience shall include the projected
income, expenses, losses and reserve requirements of the
39 association for the ensuing year, any adjustment in previously

1 established reserves for unpaid losses and loss adjustment
2 expenses necessary to make such reserves adequate and
3 actuarially sound, and the initial filing shall include the
4 experience of the automobile insurance plan established pursuant
5 to P.L. 1970, c. 215 (C. 17:29D-1). [Except in the case of the
6 initial or other filing applicable to the first year of operation of
7 the association, the board shall include in its filing with the
8 commissioner, for his approval, a computation of the residual
9 market equalization charge per insured vehicle to be collected by
10 each member from its voluntary insureds, exclusive of principal
11 operators 65 years of age or older, and by each servicing carrier
12 from association insureds, exclusive of principal operators 65
13 years of age or older, to offset the anticipated losses of the
14 association.]

15 At the end of the first 12 months of the operation of the
16 association and at least annually thereafter, the board shall also
17 include in its filing with the commissioner a review of the
18 previous year's experience, setting forth the income, losses, and
19 reserve requirements, including any adjustment in previously
20 established reserves for unpaid losses and loss adjustment
21 expenses necessary to make such reserves adequate and
22 actuarially sound, and expenses of the association during the
23 previous year. [If a profit is found by the commissioner to have
24 been realized, such amount shall reduce the residual market
25 equalization charge levied on policyholders pursuant to subsection
26 d. of this section. If a loss is found by the commissioner to have
27 occurred, such amount shall increase the charge levied on
28 policyholders pursuant to subsection d. of this section.] The filing
29 shall be accompanied by such statistics and other information as
30 the commissioner may deem necessary. The commissioner shall,
31 within 60 days of such filing, [approve or disapprove the filing,
32 except that the commissioner may, for good cause, extend by not
33 more than 60 days the period for approving or disapproving the
34 filing. Failure to act within the period allowed for the
35 commissioner's review of the filing, shall be deemed approval of
36 the filing, except that the running of the period shall be tolled by
37 a request for] determine whether the residual market
38 equalization charge which is charged to all insureds pursuant to
39 section ³[47] 27³ of this 1988 amendatory and supplementary act

1 is sufficient to meet the standards established by that section or
2 whether it is in excess of the needs of the association. In the
3 event that the commissioner determines that the charge is
4 excessive, he shall order an appropriate reduction, which shall be
5 applicable to all policies issued or renewed after the date of the
6 commissioner's order. In the event that the commissioner
7 determines that the charge is insufficient, he shall order an
8 increase, which shall be applicable to all policies issued or
9 renewed after the date of his order. The commissioner may
10 request additional information [by the commissioner or until] and
11 if the association notifies the commissioner that it will not
12 provide such additional information, [together with] it shall state
13 the reason for not supplying the information. [Failure to comply
14 with a reasonable request for information may be a ground for
15 disapproving all or part of the filing. If the commissioner
16 disapproves all or part of the filing, he shall state the reasons for
17 such disapproval, and indicate such portion of the filing he
18 approves. Such disapproval shall be subject to review by the
19 Appellate Division of the Superior Court.]

20 c. [The residual market equalization charge last approved by
21 the commissioner shall continue to apply while the application for
22 the revised charge is being processed by the commissioner
23 pursuant to this section.] (Deleted by amendment, P. L. _____,
24 c. _____.)

25 d. The residual market equalization charge per insured vehicle
26 shall be collected following the effective date of such approval,
27 by the insurer from its policyholders, exclusive of principal
28 operators 65 years of age or older, [on a uniform net direct car
29 year of liability exposure basis and a net direct car year of
30 physical damage exposure basis. Any insurer or rating
31 organization making a residual market equalization charge
32 pursuant to this subsection shall, 15 days prior to the date of the
33 implementation of the proposed rate adjustment, make an
34 informational filing with the commissioner, documenting
35 compliance with the established method of distributing such
36 residual market equalization charge] except as provided in
37 section ³[47] 27³ of this 1988 amendatory and supplementary act.

38 e. Any insurer licensed to transact automobile insurance after
39 the effective date of this act shall become a member of the

1 association upon receiving such license and the determination of
any such insurer's participation in the association shall be made
3 as of the date of such membership in the same manner as for all
other members of the association.

5 f. For purposes of this section and any other applicable
provision of law, except as provided in section 2 of P.L. 1968, c.
7 158 (C. 17:29C-7), the residual market equalization charge shall
not be considered insurance premium unless otherwise
9 specifically provided therein.

(cf: P.L. 1985, c. 520, s. 3)]⁴

11 ³[49.] ⁴[29.3] 20.⁴ Section 24 of P.L. 1983, c. 65 (C. 17:30E-12)
is amended to read as follows:

13 24. a. Pursuant to the procedures and standards established in
the plan of operation, the board shall solicit, by advertisement in
15 at least two newspapers of general circulation in the State,
proposals from members and eligible noninsurers to act as a
17 servicing carrier for the association. Standards may include the
submission of a deposit.

19 All proposals shall be publicly opened by the board, which,
after consultation with, and the approval of, the commissioner,
21 shall award a contract to the proposer or proposers, as the case
may be, whose proposal, conforming to the solicitation for
23 proposals, is most advantageous to the association and its
policyholders in its judgment, upon consideration of price and
25 other factors. ⁴The commissioner may reject any and all bids if
he determines that the bid proposals do not serve the best
27 interests of the association. If the bid process does not result in
adequate servicing capacity for the association, capacity shall be
29 achieved pursuant to the provisions of subsection e. of this
section.⁴

31 Any person who makes, or causes to be made, a false,
deceptive, or fraudulent statement in any proposal to be a
33 servicing carrier, or in the course of any proceeding in connection
therewith, shall be subject to a fine of not less than \$20,000.00,
35 shall forfeit any fee which may be required to be submitted in
conjunction with the proposal, and shall be permanently
37 disqualified from submitting any further proposal under this
section.

39 b. Insurers under common management or ownership may elect

1 to submit an application to act as a servicing carrier in the name
of any company in the group which is licensed and authorized to
3 transact automobile insurance in this State. The commissioner
may disapprove the action by the board, if he finds that the
5 action is not in the best interests of the association, the insurer,
or the purposes of this act, within 20 days of final approval by the
7 board. The disapproval shall be made in writing and shall set
forth the reasons for disapproval.

9 c. Any person other than a member may act as a servicing
carrier if: (1) the person meets the standards of eligibility for
11 non-insurer servicing carriers established by the commissioner in
the plan of operation, after consultation with the board; and (2)
13 the person is approved by the commissioner as being eligible. The
plan of operation shall contain any standards of eligibility which
15 the commissioner may deem appropriate for establishing the
qualifications of persons desiring to become noninsurer servicing
17 carriers, which standards may include, but not be limited to,
financial soundness, the capacity to perform the services
19 required, experience, and record of past performance.
[Notwithstanding the provisions of subsection a. of this section,
21 noninsurer servicing carriers shall not service, in the aggregate,
more than 50% of the policies issued by the association.]

23 The commissioner shall have the authority to exercise all the
powers granted to him by Title 17 of the Revised Statutes,
25 including the powers of examination, with respect to noninsurer
servicing carriers deemed to be eligible pursuant to this
27 subsection.

d. The standards of eligibility shall require that every
29 non-insurer servicing carrier: (1) shall have minimum assets of
\$10,000,000.00; (2) shall have been in business for at least five
31 years; (3) shall have had at least three years' experience in
insurance related fields or activities; and (4) shall be able to
33 demonstrate to the commissioner and the board that it has the
capacity to issue and service a minimum of 100,000 private
35 passenger automobile insurance policies.

e. After notice and hearing, the commissioner may require one
37 or more members of the association or member of a group as
provided in subsection b. of this section to act as servicing
39 carriers, if he determines that the action is necessary to

1 effectuate the purposes of this act, except that no company
2 having less than 1% of the ⁴voluntary⁴ private passenger
3 automobile insurance market in this State based on its net
4 written cars years of exposure shall be subject to the provisions
5 of this subsection.

6 f. Pursuant to procedures established by the commissioner, any
7 member of the association or eligible noninsurer which is acting
8 as a servicing carrier may apply to the commissioner for
9 permission to discontinue acting as a servicing carrier or to
10 reduce its participation. After notice and a hearing, the
11 commissioner may permit such insurer or eligible non-insurer to
12 discontinue acting as a servicing carrier or to reduce its
13 participation, on terms to be imposed by the commissioner, if the
14 commissioner finds that such action is in the best interests of the
15 insurer or eligible noninsurer, the association and the purposes of
16 this act.

17 g. After notice and hearing, the association may recommend
18 to the commissioner that the authority of a servicing carrier be
19 terminated or the commissioner may terminate the authority of a
20 servicing carrier to act as a servicing carrier, if the association
21 or the commissioner determines that it is in the best interest of
22 the association.

23 h. Any order of the commissioner pursuant to this section shall
24 be subject to review by the Appellate Division of the Superior
25 Court.

(cf: P.L.1986, c.211, s.5)

27 ³[50.] ⁴[30.]³ Section 25 of P.L. 1983, c. 65 (C. 17:30E-13) is
28 amended to read as follows:

29 25. [The] Notwithstanding the provisions of section 7 of P.L.
30 1983, c. 65 (C. 17:29A-36, the rates used by the association shall
31 be [the same as those used by the rating bureau which files rates
32 for the greatest number of insurers transacting private passenger
33 automobile insurance in the voluntary market in this State,
34 except that notwithstanding the provisions of section 7 of P.L.
35 1983, c. 65 (C. 17:29A-36)] as follows:

36 a. Beginning 90 days after the effective date of this 1988
37 amendatory and supplementary act, the territorial base rates
38 used by the association on policies issued or renewed following
39 that date shall be 10% greater than the territorial base rates

1 which are applicable to standard risks in the voluntary market
2 which are used by the rating bureau which files rates for the
3 greatest number of insurers transacting private passenger
4 automobile insurance in the voluntary market in this State.

5 b. Beginning 12 months following the effective date of this
6 1988 amendatory and supplementary act, the territorial base
7 rates used by the association on policies issued or renewed after
8 that date shall be 20% greater than the territorial base rates
9 which are applicable to standard risks in the voluntary market
10 which are used by the rating bureau which files rates for the
11 greatest number of insurers transacting private passenger
12 automobile insurance in the voluntary market in this State.

13 c. Beginning 24 months following the effective date of this
14 1988 amendatory and supplementary act, the territorial base
15 rates used by the association on policies issued or renewed
16 following that date shall be 30% greater than the territorial base
17 rates which are applicable to standard risks in the voluntary
18 market which are used by the rating bureau which files rates for
19 the greatest number of insurers transacting private passenger
20 automobile insurance in the voluntary market in this State.

21 d. Beginning 36 months following the effective date of this
22 1988 amendatory and supplementary act, the territorial base
23 rates used by the association shall be 40% greater than the
24 territorial base rates which are applicable to standard risks in the
25 voluntary market which are used by the rating bureau which files
26 rates for the greatest number of insurers transacting private
27 passenger automobile insurance in the voluntary market in this
28 State.

29 e. Beginning 48 months following the effective date of this
30 1988 amendatory and supplementary act, the territorial base
31 rates used by the association shall be sufficient to pay the
32 obligations and expenses of the association, and to maintain the
33 association on a self-sustaining basis.

34 f. The commissioner may order the adjustment of association
35 rates in any territory in which the relationship between the rates
36 used by the association and the rates used by insurers in the
37 standard voluntary market is such that the voluntary market is
38 adversely affected;

39 [b.] g. The commissioner may order the establishment of
40 association rates which are higher than the rates which are

1 otherwise provided for by this section, which rates would be
2 applicable to certain drivers, based on their accident or violation
3 records. The rates applicable to these drivers shall be established
4 additively to the rates otherwise authorized for the use of the
5 association, shall be spread equably across all classes and
6 territories and may, at the discretion of the commissioner, vary
7 as to the extent of the at-fault accident or violation records of
8 the drivers.

9 (cf: P.L. 1986, c. 211, s. 6)]⁴

10 ⁴21. Section 25 of P.L. 1983, c. 65 (C. 17:30E-13) is amended
11 to read as follows:

12 25. [The] Notwithstanding the provisions of section 7 of P.L.
13 1983, c. 65 (C. 17:29A-36), the rates used by the association shall
14 be [the same as those used by the rating bureau which files rates
15 for the greatest number of insurers transacting private passenger
16 automobile insurance in the voluntary market in this State,
17 except that notwithstanding the provisions of section 7 of P.L.
18 1983, c. 65 (C. 17:29A-36)] as follows:

19 a. On January 1, 1989, the territorial base rates used by the
20 association for policies issued or renewed following that date
21 shall be adjusted by the commissioner so that they exceed the
22 territorial base rates used by the rating bureau which files rates
23 for the greatest number of insurers transacting private passenger
24 automobile insurance in the voluntary market in this State by
25 10%.

26 b. On January 1, 1990, the territorial base rates used by the
27 association for policies issued or renewed following that date
28 shall be adjusted by the commissioner based on the needs of the
29 association pursuant to a filing made with the commissioner by
30 the association no later than October 1, 1989. The commissioner
31 may adjust the association rates so that they exceed the
32 territorial base rates used by the rating bureau which files rates
33 for the greatest number of insurers transacting private passenger
34 automobile insurance in the voluntary market in this State by no
35 more than 20%.

36 c. On January 1, 1991, the territorial base rates used by the
37 association for policies issued or renewed following that date
38 shall be adjusted by the commissioner based on the needs of the
39 association pursuant to a filing made with the commissioner by

1 the association no later than October 1, 1990. The commissioner
2 may adjust the association rates so that they exceed the
3 territorial base rates used by the rating bureau which files rates
4 for the greatest number of insurers transacting private passenger
5 automobile insurance in the voluntary market in this State by no
6 more than 30%.

7 d. On January 1, 1992, the territorial base rates used by the
8 association for policies issued or renewed following that date
9 shall be adjusted by the commissioner based on the needs of the
10 association pursuant to a filing made with the commissioner by
11 the association no later than October 1, 1991. The commissioner
12 may adjust the association rates so that they exceed the
13 territorial base rates used by the rating bureau which files rates
14 for the greatest number of insurers transacting private passenger
15 automobile insurance in the voluntary market in this State by no
16 more than 40%.

17 e. On January 1, 1993, the commissioner shall direct the board
18 to prepare, adopt and file with the commissioner rates which are
19 based upon past and prospective loss experience of the risks
20 underwritten by the association and the expenses attendant
21 thereto, and which maintain the association on a self-sustaining
22 basis. The commissioner shall approve or disapprove the rates
23 filed by the board pursuant to the provisions of P.L. 1944, c. 27
24 (C. 17:29A-1 et seq.).

25 Nothing contained in this subsection shall be deemed to affect
26 the commissioner's ability to continue to maintain any flat
27 charges (also known as flat capitation fees or policy constants)
28 pursuant to section 1 of P.L. 1984, c. 1 (C. 17:29A-37.1) or any
29 residual market equalization charge pursuant to section 20 of
30 P.L. 1983, c. 65 (C. 17:30E-8) approved on or before 48 months
31 following the effective date of this 1988 amendatory and
32 supplementary act.

33 f. Nothing contained in subsections a. through e. of this
34 section shall operate to cause the rates charged by the
35 association to result in revenues to the association which exceed
36 the needs of the association in meeting its obligations and
37 expenses.

38 g. The commissioner may order the adjustment of association
39 rates in any territory in which the relationship between the rates

1 used by the association and the rates used by insurers in the
2 standard voluntary market is such that the voluntary market is
3 adversely affected [;] .

4 [b.] h. The commissioner may order the establishment of
5 association rates which are higher than the rates which are
6 otherwise provided for by this section, which rates would be
7 applicable to certain drivers, based on their accident or violation
8 records. The rates applicable to these drivers shall be established
9 additively to the rates otherwise authorized for the use of the
10 association, shall be spread equably across all classes and
11 territories and may, at the discretion of the commissioner, vary
12 as to the extent of the at-fault accident or violation records of
13 the drivers.⁴

(cf: P.L.1986, c.211, s.6)

14 ³[51.] ⁴[31.]³ (New section) Sections 13 to 34 of P.L. 1983, c.
15 65 (C. 17:30E-1 et seq.) are supplemented as follows:

16 Notwithstanding the provisions of any other law to the
17 contrary, beginning 12 months following the effective date of this
18 1988 amendatory and supplementary, the physical damage rates
19 charged by the association on vehicles which have a cost when
20 new of \$30,000.00 or more shall not be those rates filed by the
21 rating organization which files rates for the greatest number of
22 insurers writing private passenger automobile insurance in this
23 State, but rather rates which are actuarially determined to be
24 adequate to pay the physical damage claims on those vehicles.]⁴

25 ⁴22. (New section) Notwithstanding any other provision of law
26 to the contrary, within 60 days of the effective date of this
27 section, the board of directors of the association shall establish
28 rates for collision and comprehensive coverages based on the
29 experience of the association, which shall be filed for approval by
30 the commissioner pursuant to P.L. 1944, c. 27 (C. 17:29A-1 et
31 seq.). Any and all proceedings relating to a filing made pursuant
32 to this section shall be completed on an expedited basis no later
33 than 30 days after the date of the filing, and upon terms and
34 conditions established by the commissioner.⁴

35 ³[52.] ⁴[32.]³ ^{23.}⁴ (New section) ⁴[Sections 13 to 34 of P.L.
36 1983, c. 65 (C. 17:30E-1 et seq.) are supplemented as follows:]⁴
37 a. The ⁴[board] plan of operation⁴ shall ⁴[, within 60 days
38 following the effective date of this 1988 amendatory and
39

1 supplementary act, contract] provide⁴ for the establishment of an
2 association data bank to facilitate the dissemination of
3 information regarding association risks to all insurers transacting
4 the business of private passenger automobile insurance in the
5 voluntary market.

6 b. The ⁴[board] plan of operation⁴ shall establish the type of
7 information which may be made available to insurers, which may
8 include, but not be limited to, the name, address, and
9 classification of the insured, a description of the vehicle, the loss
10 history of the insured, the limits of coverage on the policy, and
11 the producer of record.

12 c. The board shall make this data available to all insurers
13 writing private passenger automobile insurance in the voluntary
14 market in a nondiscriminatory manner to facilitate the insurers'
15 depopulation of the association.

16 d. ⁴[The establishment of this data bank may be incorporated
17 in the plan of operation of the association, but it shall not require
18 the approval of the commissioner.]⁴ The ⁴data bank, as
19 established in the⁴ plan ^{4,4} shall be fully operational within
20 ⁴[five] six⁴ months of the effective date of this ⁴[act] section⁴.

21 ³[53.] ⁴[33.³ Section 1 of P.L. 1984, c. 1 (C. 17:29A-37.1) is
amended to read as follows:

22 1. a. All flat charges (also referred to as flat capitation fees
23 or policy constants, but not including premiums for uninsured
24 motorist or towing coverage, or flattened tax and expense fees
25 implemented pursuant to section 8 of P.L. 1983, c. 65 (C.
26 17:29A-37)), authorized by the Commissioner of Insurance for use
27 by all filers, as defined in section 1 of P.L. 1944, c. 27 (C.
28 17:29A-1), writing private passenger automobile insurance in the
29 voluntary and residual markets[, which are collected on a per car
30 and per coverage basis on automobile insurance policies issued or
31 renewed in the voluntary or residual market, with an effective
32 date of January 1, 1984 or thereafter, shall be paid to the New
33 Jersey Automobile Full Insurance Underwriting Association for
34 use for association purposes. All moneys collected from the flat
35 charges shall be certified to by the filers, including servicing
36 carriers of the association, and transferred, net of a pro rata
37 portion of any producer commissions and all premium taxes
38 payable thereon, to the association in accordance with the
39

1 provisions of this subsection and the association's plan of
operation. No other expenses shall be payable to or deductible
3 from the flat charges transferable to the association.

Flat charges collected under this subsection shall be
5 transferred to the association within 10 days of the close of the
month of receipt by the insurer or servicing carrier. In the case
7 of policy premiums paid in accordance with a payment plan or
other installment basis, the insurer shall, within 10 days of the
9 close of the month of receipt of payment, transfer to the
association a proportionate share of the total flat charges on the
11 policy, based on the payment schedule or amount of payment
received.] shall be computed as part of the residual market
13 equalization charge established by section ³[47] 27³ of P.L. , c.
(C.) (now pending in the Legislature as this bill) as herein
15 provided and paid to the New Jersey Automobile Full Insurance
Underwriting Association as provided in section 20 of P.L. 1983,
17 c. 65 (C. 17:30E-8). No later than 30 days following ³[that] the³
effective date of this 1988 amendatory and supplementary act,
19 the amount of the flat charge being collected as of that date
from each insured having full coverage shall be certified to by
21 each filer, and that amount shall thereafter be charged to all
insureds on all policies issued or renewed by that filer after the
23 effective date of this 1988 amendatory and supplementary act as
part of the residual market equalization charge provided for in
25 that section ³[47] 27³. No producer commissions or premium
taxes shall be payable thereon.

27 b. [Flat charges collected on any automobile insurance policy
written in the voluntary or residual market with an effective date
29 prior to January 1, 1984, the policy term of which, however,
extends into 1984, shall be retained by the insurer or filer; except
31 that if a policy subject to this subsection has been canceled for
reasons other than nonpayment of premium, the insurer or filer
33 shall retain only that portion of the flat charges earned on the
policy up to the date of cancellation and shall return any
35 unearned remainder to the policyholder in the same manner as
other unearned premiums.

37 Flat charges shall not be deemed to include any moneys
collected from any residual market equalization charge levied
39 pursuant to section 20 of P.L. 1983, c. 65 (C. 17:30E-8).

1 Flat charges collected in accordance with subsection a. of this
section shall be considered in determining taxable premiums in
3 accordance with P.L. 1945, c. 132 (C. 54:18A-1 et seq.), but shall
not be considered in determining excess profits in accordance
5 with section 2 of P.L. 1983, c. 357 (C. 17:29A-5.3).] Deleted by
amendment, P.L. _____, c. _____.

7 c. The flat charges authorized by the Commissioner of
Insurance for private passenger automobile insurance in the
9 voluntary and residual markets may be imposed upon all insured
motor vehicles other than private passenger automobiles,
11 including motor vehicles insured by the automobile insurance plan
established pursuant to P.L. 1970, c. 215 (C. 17:29D-1), and
13 motor vehicles of a type, as is determined by the Commissioner
of Insurance, which are registered with the Division of Motor
15 Vehicles as self-insured vehicles pursuant to section 30 of P.L.
1952, c. 173 (C. 39:6-52), in accordance with rules and
17 regulations established by the commissioner. In the case of
motor vehicles other than private passenger automobiles which
19 are insured by an insurer in the voluntary market or in any
insurance plan established pursuant to P.L. 1970, c. 215 (C.
21 17:29D-1), the insurer shall forward the flat charge, net of a pro
rata portion of the producer's commission, to the New Jersey
23 Automobile Full Insurance Underwriting Association. In the case
of a self-insurer required to pay a flat charge, the self-insurer
25 shall forward the full amount of the flat charge to the
association. The Division of Motor Vehicles shall not issue a
27 certificate of self-insurance unless the association has certified
that the flat charge has been paid. Failure to pay the flat charge
29 shall constitute a reasonable ground for cancellation of a
certificate of self-insurance pursuant to section 30 of P.L. 1952,
31 c. 173 (C. 39:6-52). Any self-insurer which fails to pay the flat
charge to the association for any self-insured vehicle shall be
33 liable to pay a fine in the amount of \$100.00 per vehicle for the
first offense and \$200.00 for the second and each subsequent
35 offense.

Notwithstanding any other provision of this section, flat
37 charges shall be imposed on such motor vehicles as are
determined by the Commissioner of Insurance, which vehicles
39 have been registered with the Division of Motor Vehicles in

1 accordance with Title 39 of the Revised Statutes as commercial
2 motor vehicles and have been issued commercial license plates or
3 farmers' license plates, and on motor vehicles, of a type
4 determined by the Commissioner of Insurance, which are
5 registered with the Division of Motor Vehicles as self-insured
6 vehicles pursuant to section 30 of P.L. 1952, c. 173 (C. 39:6-52).

7 Any flat charges imposed by order of the commissioner
8 pursuant to this subsection prior to the effective date of this
9 1988 amendatory and supplementary act shall be deemed to be
10 residual market equalization charges and shall continue to be
11 collected in the same amount following the effective date of this
12 1988 act.

13 (cf: P.L. 1987, c. 344, s. 1)]⁴

14 ⁴24. Section 18 of P.L. 1983, c. 362 (C. 17:29A-15.1) is
15 amended to read as follows:

16 18. Premium credits shall be provided for each deductible [.]
17 and exclusion [and setoff] on personal injury protection coverage
18 offered in accordance with section 13 of P.L. 1983, c. 362 (C.
19 39:6A-4.3), and for the tort limitation options on bodily injury
20 liability coverage offered in accordance with section 8 of P.L.
21 1972, c. 70 (C. 39:6A-8). All premium credits to which this
22 section applies shall be calculated and represented to the insured
23 as a percentage of the applicable premium for each coverage
24 option, and the percentage for each coverage option shall be
25 uniform by filer on a Statewide basis.

26 The premium charged for each coverage shall be clearly set
27 forth in any policy or endorsement provided the insured.

28 The percentage rate of commission or rate of other
29 compensation payable by an automobile insurer to [an agent or
30 broker] a producer shall not vary by reason of the selection or
31 nonselection of any option provided in section 13 of P.L. 1983, c.
32 362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70 (C. 39:6A-8),⁴
33 (cf: P.L. 1985, c. 520, s. 13)

34 ³[54.] ⁴[34.]³ (New section) Sections 13 to 34 of P.L. 1983, c.
35 65 (C. 17:30E-1 et seq.) are supplemented as follows:

36 a. (1) Beginning 30 days following the effective date of this
37 1988 amendatory and supplementary act, the commissioner shall
38 establish a depopulation quota, which in any case shall not be less
39 than 20% of the aggregate number of policies written by the

1 association as of the effective date of this act. The quota shall
2 establish the number of policies which shall be written by
3 insurers in the voluntary market during the 12 month period
4 beginning 60 days after the effective date of this act. Every
5 insurer writing private passenger automobile insurance in this
6 State shall be obligated to write a share of the quota in the
7 proportion that the insurer's aggregate net direct written
8 premium for private passenger automobile insurance, including
9 those policies written in the automobile insurance plan
10 established pursuant to P.L. 1970, c. 215 (C. 17:29D-1), as of
11 December 31, 1983, bears to the aggregate net direct written
12 premium of all insurers writing private passenger automobile
13 insurance as of that date. The commissioner shall establish an
14 equitable means of apportioning policies among insurers which
15 were not transacting the business of automobile insurance in this
16 State on December 31, 1983.

17 (2) At the end of the first 12 month period following the
18 effective date of this act, the commissioner shall establish a
19 second depopulation quota, which shall take effect no later than
20 60 days following the end of that period and which shall result in
21 no less than 40% of the aggregate number of policies written by
22 the association as of the effective date of this act being written
23 by insurers in the voluntary market during the subsequent 12
24 month period. Each insurer's quota for that period shall be
25 established on the basis of market share as provided in paragraph
26 (1) of this subsection.

27 (3) At the end of the second 12 month period following the
28 effective date of this act, the commissioner shall establish a
29 third depopulation quota, which shall take effect no later than 60
30 days following the end of that period and which shall result in no
31 less than 60% of the aggregate number of policies written by the
32 association as of the effective date of this act being written by
33 insurers in the voluntary market during the subsequent 12 month
34 period. Each insurer's quota for that period shall be established
35 on the basis of market share as provided in paragraph (1) of this
36 subsection.

37 (4) No later than 60 days following the end of the third 12
38 month period following the effective date of this act the
39 commissioner shall establish such a quota as will result, at the

1 end of the fourth 12 month period following the effective date of
2 this act. in the number of risks being written by the association
3 equalling no more than 20% of the aggregate number of private
4 passenger automobile insurance policies being written in this
5 State, or such number as the commissioner determines cannot be
6 properly written by insurers in the voluntary market. Each
7 insurer's quota for that period shall be established on the basis of
8 market share as provided in paragraph (1) of this subsection.
9 After the period established by this paragraph, the association
10 shall not write any risk for a period longer than three years,
11 unless, at the end of that time, the insured has presented
12 evidence that he has been rejected by two insurers in the
13 voluntary market.

14 b. Any insurer which writes an association risk in the voluntary
15 market which is subject to the classification and territorial caps
16 imposed pursuant to section 7 of P.L. 1983, c. 65 (C. 17:29A-36)
17 shall receive a credit, for a period of three years for each risk so
18 written, against its annual depopulation quota in the ratio of two
19 risks which are not capped to one risk which is subject to a cap.

20 c. In the event that a depopulation quota established by the
21 commissioner pursuant to subsection a. of this section has not
22 been met by the end of any 12 month period, the commissioner
23 shall assign the balance of the policies needed to meet the annual
24 quota to insurers in the voluntary market, which may include
25 risks subject to classification and territorial capping pursuant to
26 section 7 of P.L. 1983, c. 65 (C. 17:29A-36), in which case the
27 credits provided for in subsection b. of this section shall not
28 apply. An insurer which has voluntarily depopulated its
29 proportionate share of association risks shall be exempt from the
30 assignment of risks under this subsection. An insurer which
31 exceeds its quota for any 12 month period shall receive credit for
32 the excess against the following year's obligation.

33 d. The commissioner may excuse any insurer from meeting its
34 obligations under this section if he determines that it would
35 result in the insurer's being in an unsafe or unsound condition.

36 e. For the purposes of this section, any risk written in the
37 voluntary market by an affiliate of the insurer to which a quota
38 has been assigned shall be credited against that quota.]⁴

39 ⁴25. Section 26 of P.L. 1983, c. 65 (C. 17:30E-14) is amended

1 to read as follows:

26. [The association] a. Within 45 days of the effective date of this 1988 amendatory and supplementary act, the commissioner shall, in the plan of operation, establish procedures to [encourage] govern the voluntary writing of [qualified] applicants and association insureds without the utilization of the association. These procedures shall include [provisions for appropriate incentives to encourage companies to voluntarily write those applicants who are qualified for insurance by the automobile insurance plan established pursuant to P.L. 1970, c. 215 (C. 17:29D-1)] criteria identifying drivers who should be eligible for coverage in the voluntary market. Applicants and association insureds meeting these criteria shall be subject to assignment by the association to member companies, pursuant to an equitable apportionment procedure established in the plan of operation. The procedure shall give due consideration to the increase or decrease in the volume of private passenger automobile non-fleet exposures voluntarily written by member companies in this State since January 1, 1984.

b. (1) Pursuant to the procedures established in the plan of operation under subsection a. of this section, the commissioner shall establish a voluntary market quota, which shall not be less than 60% of the aggregate number of private passenger automobile non-fleet exposures written in the total private passenger automobile insurance market in this State on the effective date of this 1988 amendatory and supplementary act. The quota shall prescribe the number of voluntary market exposures which shall be written by member companies during the 12 month period beginning 60 days after the effective date of this 1988 amendatory and supplementary act.

(2) At the end of the first 12 month period following the effective date of this 1988 amendatory and supplementary act, the commissioner shall prescribe a second quota, which shall take effect no later than 60 days following the end of that period and which shall not be less than 70% of the aggregate number of private passenger automobile non-fleet exposures written in the total private passenger automobile insurance market in this State at the end of the first 12 month period following the effective date of this 1988 amendatory and supplementary act. The quota

1 shall prescribe the number of voluntary market exposures which
2 shall be written by member companies during the 12 month period
3 described in this paragraph.

4 (3) At the end of the second 12 month period following the
5 effective date of this 1988 amendatory and supplementary act,
6 the commissioner shall prescribe a third quota, which shall take
7 effect no later than 60 days following the end of that period and
8 which shall not be less than 75% of the aggregate number of
9 private passenger automobile non-fleet exposures written in the
10 total private passenger automobile insurance market in this State
11 at the end of the second 12 month period following the effective
12 date of this 1988 amendatory and supplementary act. The quota
13 shall prescribe the number of voluntary market exposures which
14 shall be written by member companies during the 12 month period
15 described in this paragraph.

16 (4) No later than 60 days following the end of the third 12
17 month period following the effective date of this 1988
18 amendatory and supplementary act, the commissioner shall
19 prescribe such a quota that will result, at the end of the fourth 12
20 month period following the effective date of this 1988
21 amendatory and supplementary act, in the volume of exposures
22 written in the voluntary market equaling no less than 80% of the
23 aggregate number of private passenger automobile non-fleet
24 exposures being written in the total private passenger automobile
25 insurance market in this State, or such volume of exposures in
26 excess of 80% that the commissioner determines should be
27 considered eligible for coverage in the voluntary market. The
28 quota shall prescribe the number of voluntary market exposures
29 which shall be written by member companies during the 12 month
30 period described in this paragraph. After the period established
31 in this paragraph, the association shall not write any risk for a
32 period longer than three years, unless, at the end of that time,
33 the insured has presented evidence that he has been rejected by
34 at least two insurers in the voluntary market.

35 c. In the event that any of the quotas established by the
36 commissioner pursuant to subsection b. of this section have not
37 been met by the end of any 12 month period, the commissioner
38 shall direct the association to assign the balance of the exposures
39 needed to meet the applicable quota to member companies in a

1 manner consistent with the apportionment procedure established
2 pursuant to subsection a. of this section. A member company
3 which exceeds its apportionment share for any 12 month period
4 shall receive credit for the excess against the following year's
5 obligation.

6 d. If, at any time after the period established in paragraph (4)
7 of subsection b. of this section, the volume of exposures written
8 in the voluntary market equals less than 80% of the aggregate
9 number of private passenger automobile non-fleet exposures
10 being written in the total private passenger automobile insurance
11 market in this State or such volume of exposures in excess of 80%
12 that the commissioner determines should be eligible for coverage
13 in the voluntary market, the commissioner shall direct the
14 association to assign eligible applicants and association insureds
15 to member companies on an equitable basis.

16 e. For the purposes of this section, any exposure written in the
17 voluntary market by an affiliate of the insurer to which an
18 apportioned share has been assigned shall be credited against that
19 share.

20 f. The total number of exposures written in the voluntary
21 market, net of exposures cancelled or nonrenewed, by a member
22 company at the end of the applicable period shall be utilized in
23 determining whether the member company has written its
24 apportionment share in the voluntary market for purposes of
25 complying with any quotas established by the commissioner
26 pursuant to this section.

27 g. The commissioner may excuse a member company from
28 meeting any of its obligations under this section that he
29 determines would result in the member company being in an
30 unsafe or unsound condition.

31 h. Any member company that does not write its apportionment
32 share of any quota established by the commissioner pursuant to
33 subsection b. or c. of this section within the applicable time
34 period shall be precluded from nonrenewing automobile insurance
35 policies pursuant to section 26 of this 1988 amendatory and
36 supplementary act during the immediately following 12 month
37 period.

38 i. In addition to the requirements of subsection a. of this
39 section, the procedures governing the increase in voluntary

1 market volume shall:

2 (1) establish guidelines and criteria for determining whether a
3 person is a qualified applicant as defined in section 15 of P.L.
4 1983, c. 65 (C. 17:30E-3), and procedures for the issuance of
5 automobile insurance through the voluntary market to persons
6 found not to be qualified applicants for association coverage, and
7 for the referral of persons determined not to be eligible for
8 association coverage to alternative residual market mechanisms;

9 (2) include provisions ensuring that servicing carriers do not
10 obtain any unfair advantage over other member companies in the
11 selection of qualified applicants and association insureds to be
12 written as voluntary business;

13 (3) neither prohibit nor require member companies to write
14 association business through association producers of record,
15 provided, however, that where a member company elects not to
16 service such business through the association producer of record,
17 the procedures shall address the manner in which the association
18 shall transfer the business to the member company, and shall
19 establish reasonable compensation in an amount sufficient to
20 offset the actual expenses incurred by the association producer in
21 conjunction with the transfer which shall be paid by the
22 association upon transfer of the business to the member company;
23 and

24 (4) provide for financial disincentives to applicants who,
25 without good cause, reapply for coverage in the association after
26 being placed in the voluntary market.⁴

27 (cf: P.L.1986, c.211, s.7)

28 ³[55.] ⁴[35.³] ^{26.}⁴ (New section) a. Notwithstanding the
29 provisions of section ³[2 of this 1988 amendatory and
30 supplementary act] 3 of P.L. 1972, c. 70 (C. 39:6A-3)³, a licensed
31 insurer may, in accordance with subsections b. and c. of this
32 section, refuse to renew a policy of private passenger automobile
33 insurance that provides coverage required to be maintained
34 pursuant to ³[that section] P.L. 1972, c. 70 (C. 39:6A-1 et seq.)³.

35 b. For each calendar year period, an insurer may issue notices
36 of intention not to renew an automobile insurance policy in the
37 voluntary market in an amount not to exceed 2% of the total
38 number of voluntary market automobile insurance policies of the
39 insurer, rounded to the nearest whole number, which are in force

1 at the end of the previous calendar year in each of the insurer's
2 rating territories in use in this State.

3 c. For every two newly insured automobiles which an insurer
4 voluntarily writes in each territory during each calendar year
5 period, the insurer shall be permitted to refuse to renew one
6 additional policy of automobile insurance in that territory in
7 excess of the 2% limitation established by subsection b. of this
8 section, subject to a fair and nondiscriminatory formula
9 developed by rule or regulation of the commissioner. For the
10 purposes of this section, "voluntarily writes" shall ⁴not⁴ include
11 any ⁴[policy] exposure⁴ voluntarily written by ⁴or assigned to⁴ an
12 insurer to meet any quota established pursuant to ⁴[subsection a.
13 of section ³[54] ³⁴ of this 1988 amendatory and supplementary
14 act, but shall not include any policy assigned to the insurer by the
15 commissioner pursuant to subsection c. of that]⁴ section ⁴²⁶ of
16 P.L. 1983, c. 65 (C. 17:30E-14)⁴.

17 d. The provisions of this section shall not apply to any
18 cancellation made pursuant to paragraph (A) of section 2 of P.L.
19 1968, c. 58 (C. 17:29C-7).

20 ⁴e. The commissioner shall monitor the implementation and
21 operation of this section and shall report his findings, including
22 any legislative proposals, to the Senate Labor, Industry and
23 Professions Committee and the Assembly Insurance Committee,
24 or their successors, within three years of the effective date of
25 this act.⁴

26 ³[56.] ⁴[36.³] ²⁷.⁴ Section 2 of P.L. 1968, c. 158 (C. 17:29C-7)
27 is amended to read as follows:

28 2. (A) A notice of cancellation of a policy shall be effective
29 only if it is based on one or more of the following reasons:

30 (a) Nonpayment of premium or nonpayment of a residual
31 market equalization charge imposed pursuant to the provisions of
32 section ³[47] ⁴[27³ of P.L. , c. (C.) (now pending in the
33 Legislature as this bill)] ²⁰ of P.L. 1983, c. 65 (C. 17:30E-8)⁴; or

34 (b) The driver's license or motor vehicle registration of the
35 named insured or of any other operator who either resides in the
36 same household or customarily operates an automobile insured
37 under the policy has been under suspension or revocation during
38 the policy period or, if the policy is a renewal, during its policy
39 period.

1 (B) This section shall not apply to any policy or coverage which
has been in effect less than 60 days at the time notice of
3 cancellation is mailed or delivered by the insurer unless it is a
renewal policy.

5 (C) Modification of automobile physical damage coverage by
the inclusion of a deductible not exceeding \$100.00 shall not be
7 deemed a cancellation of the coverage or of the policy.

(D) This section shall not apply to nonrenewal.

9 (cf: P.L.1968, c.158, s.2)

11 ³[57.] ⁴[37.3] 28.⁴ (New section) a. Notwithstanding the
provisions of sections 5 and 10 of P.L. 1944, c. 27 (C. 17:29A-5
and 17:29A-10):

13 (1) Every insurer writing motor vehicle ⁴[insuance] insurance⁴
in this State shall file for approval of their own expenses:

15 (2) Every insurer writing motor vehicle insurance in this State
whose total written car years insured, on a calendar basis, equals
17 or exceeds 2% on January 1, 1989, 1.5% on January 1, 1990, and
1% on January 1, 1991, of the total written car years insured by
19 all insurers writing motor vehicle insurance in this State, for the
same calendar year, shall make its own rates for motor vehicle
21 insurance in accordance with the provisions of P.L. 1944, c. 27
(C. 17:29A-1 et seq.) based ⁴[solely]⁴ upon the insurer's own loss
23 experience for those lines.

25 b. Nothing contained in this section shall be deemed to
prohibit any insurer from continuing to be a member or a
subscriber of a rating ⁴[bureau] organization⁴ or from becoming a
27 member or subscriber of a rating ⁴[bureau] organization⁴ for any
other line of insurance which it may write in this State, but no
29 rating ⁴[bureau] organization⁴ may use the loss experience of
any member ⁴that is⁴ subject to the provisions of paragraph (2) of
31 subsection a. of this section ⁴[in compiling statistical experience
or]⁴ in making its motor vehicle insurance rates for its members
33 not subject to the provisions of paragraph (2) of subsection a. of
this section ⁴[and no rating bureau may use the expenses of any
35 member in making its motor vehicle insurance rates] unless such
experience is necessary to determine actuarially sound rates⁴.

37 ³[58.] ⁴[38.3] Section 14 of P.L. 1944, c. 27 (C. 17:29A-14) is
amended to read as follows:

39 14. a. With regard to all property and casualty lines, a filer

1 may, from time to time, alter, supplement, or amend its rates,
rating systems, or any part thereof, by filing with the
3 commissioner copies of such alterations, supplements, or
amendments, together with a statement of the reason or reasons
5 for such alteration, supplement, or amendment, in a manner and
with such information as may be required by the commissioner.
7 If such alteration, supplement, or amendment shall have the
effect of increasing or decreasing rates, the commissioner shall
9 determine whether the rates as altered thereby are reasonable,
adequate, and not unfairly discriminatory. If the commissioner
11 shall determine that the rates as so altered are not unreasonably
high, or inadequate, or unfairly discriminatory, he shall make an
13 order approving them. If he shall find that the rates as altered
are unreasonable, inadequate, or unfairly discriminatory, he shall
15 issue an order disapproving such alteration, supplement or
amendment. With respect to private passenger automobile
17 insurance, in addition to or concurrently with the procedure
prescribed for all other property and casualty lines, a filer may,
19 from time to time, alter, supplement or amend its rates, rating
systems or any part thereof by making an informational filing
21 with the commissioner of alterations, supplements or
amendments, together with a statement of the reason or reasons
23 therefor, including, but not limited to, the claim and expense
experience of the individual filer, in accordance with the
25 provisions of subsection f. of this section.

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

27 c. [If] Except in the case of a rate filing made pursuant to
section ³[59] 39³ of P.L. , c. (C.), (now pending in the
29 Legislature as this bill), if an insurer or rating organization files a
proposed alteration, supplement or amendment to its rating
31 system, or any part thereof, which would result in a change in
rates, the commissioner may, or upon the request of the filer or
33 the Public Advocate shall, certify the matter for a hearing. The
hearing shall, at the commissioner's discretion, be conducted by
35 himself or by the Office of Administrative Law, created by P.L.
1978, c. 67 (C. 52:14F-1 et seq.), as a contested case. The
37 following requirements shall apply to the hearing:

39 (1) The hearing shall commence within 30 days of the date of
the request or decision that a hearing is to be held. The hearing

1 shall be held on consecutive working days, except that the
commissioner may, for good cause, waive the consecutive
3 working day requirement. If the hearing is conducted by an
administrative law judge, the administrative law judge shall
5 submit his findings and recommendations to the commissioner
within 30 days of the close of the hearing. The commissioner
7 may, for good cause, extend the time within which the
administrative law judge shall submit his findings and
9 recommendations by not more than 30 days. A decision shall be
rendered by the commissioner not later than 60 days, or, if he has
11 granted a 30 day extension, not later than 90 days, from the close
of the hearing. A filing shall be deemed to be approved unless
13 rejected or modified by the commissioner within the time period
provided herein.

15 (2) The commissioner, or the Director of the Office of
Administrative Law, as appropriate, shall notify all interested
17 parties, including the Public Advocate on behalf of insurance
consumers, of the date set for commencement of the hearing, on
19 the date of the filing of the request for a hearing, or within 10
days of the decision that a hearing is to be held.

21 (3) The insurer or rating organization making a filing on which
a hearing is held shall bear the costs of the hearing.

23 (4) The commissioner may promulgate rules and regulations (a)
to establish standards for the submission of proposed filings,
25 amendments, additions, deletions and alterations to the rating
system of filers, which may include forms to be submitted by
27 each filer; and (b) making such other provisions as he deems
necessary for effective implementation of this act.

29 d. (Deleted by amendment, P.L. 1984, c. 1.)

e. [In order to meet, as closely as possible, the deadlines in
31 section 17 of P.L. 1983, c. 362 (C. 39:6A-23) for provision of
notice of available optional automobile insurance coverages
33 pursuant to section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3) and
section 8 of P.L. 1972, c. 70 (C. 39:6A-8), and to implement these
35 coverages, the commissioner may require the use of rates, fixed
by him in advance of any hearing, for deductible, exclusion,
37 setoff and tort limitation options, on an interim basis, subject to
a hearing and to a provision for subsequent adjustment of the
39 rates, by means of a debit, credit or refund retroactive to the

1 effective date of the interim rates. The public hearing on initial
2 rates applicable to the coverages available under section 13 of
3 P.L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70
4 (C. 39:6A-8) shall not be limited by the provisions of subsection
5 c. of this section governing changes in previously approved rates
6 or rating systems.] (Deleted by amendment, P.L. _____ c. _____.)

7 f. Beginning 180 days following the effective date of this 1988
8 amendatory and supplementary act, a filer may charge rates for
9 private passenger automobile insurance in the voluntary market
10 which are not in excess of the following:

11 (1) For private passenger automobile personal protection
12 coverage, residual bodily injury and property damage insurance,
13 the maximum permissible annual rate increase applicable to each
14 rate level utilized by an insurer in the voluntary market pursuant
15 to section ³[59] 39³ of P.L. _____, c. _____ (C. _____) (now pending
16 in the Legislature as this bill) is a Statewide average rate change
17 of not more than the last published increase in the medical care
18 services components of the national Consumer Price Index, all
19 urban consumers, U.S. city average, plus three percentage points.

20 (2) For private passenger automobile physical damage
21 coverage, the maximum permissible annual rate increase
22 applicable to each rate level utilized by an insurer in the
23 voluntary market pursuant to section ³[59] 39³ of P.L. _____,
24 c. _____ (C. _____) (now pending in the Legislature as this bill) is a
25 Statewide average rate change of not more than the last
26 published increase in the automobile maintenance and repair
27 components of the national Consumer Price Index, U.S. city
28 average, plus three percentage points.

29 (3) Any change in excess of the rate changes permitted by
30 paragraphs (1) and (2) of this subsection shall be subject to the
31 provisions of P.L. 1944, c. 27, (C. 17:29A-1 et seq.)

32 (4) For the purposes of paragraphs (1) and (2) of this
33 subsection, "Statewide average rate change" means the total
34 Statewide premium for all coverages combined at the rates in
35 effect at the time of the filing for each rate level.

(cf: P.L. 1985, c. 520, s. 7)]⁴

36 ⁴29. (New section) a. In order to effectuate the purposes of
37 this 1988 amendatory and supplementary act, including
38 accomplishing the depopulation of the New Jersey Automobile
39

1 Full Insurance Underwriting Association, and encouraging
2 competition and addressing the needs of the private passenger
3 automobile insurance voluntary market in this State, the
4 Commissioner of Insurance shall, within 90 days of the effective
5 date of this act, establish by regulation a Statewide average rate
6 change percentage for use by filers writing private passenger
7 automobile insurance in this State. The Statewide average rate
8 change percentage shall be established with due recognition to
9 changes in the Consumer Price Indices most relevant to changes
10 in the cost of automobile insurance. The commissioner may by
11 regulation annually alter the percentage amount.

12 b. Notwithstanding any other provision of law to the contrary,
13 commencing July 1, 1989, and annually thereafter, any filer may
14 make a private passenger automobile insurance Statewide
15 average rate change that is not in excess of the amount
16 prescribed by the commissioner pursuant to subsection a. of this
17 section which may be used when filed pursuant to subsection c. of
18 this section. As used in this section, "Statewide average rate
19 change" means the total Statewide premium for all coverages,
20 combined at the rates resulting from the filing divided by the
21 total Statewide premium for all coverages combined at the rates
22 in effect at the time of the filing.

23 c. A filer may implement a change in rate level, pursuant to
24 subsection b. of this section, in whole or in part, in a single or in
25 multiple filings by making an informational filing with the
26 commissioner in a manner and form approved by the
27 commissioner. The filing shall include a statement of the reason
28 or reasons for the change in rate level, including but not limited
29 to the claim and expense experience of the individual filer.

30 d. Neither the provisions of subsection c. of section 14 of P.L.
31 1944, c. 27 (C. 17:29A-14), nor the provisions of section 19 of
32 P.L. 1974, c. 27 (C. 52:27E-18), shall apply to any filing made
33 pursuant to this section.

34 e. The commissioner shall monitor the implementation and use
35 of flex rating pursuant to this section and shall report his findings
36 to the Senate Labor, Industry and Professions Committee and the
37 Assembly Insurance Committee, or their successors, including any
38 legislative proposals, no later than July 1, 1992. This report shall
39 provide an evaluation of the use of this rating mechanism and its

1 impact on the availability and affordability of private passenger
2 automobile insurance in this State and the depopulation of the
3 New Jersey Automobile Full Insurance Underwriting Association
4 and shall include any legislative proposals or other
5 recommendations of the commissioner.⁴

6 ³[59.] ⁴[39.³ (New section) P.L. 1944, c. 27 (C. 17:29A-1 et
7 seq.) is supplemented as follows:

8 Notwithstanding the provisions of P.L. 1944, c. 27 (C. 17:29A-1
9 et seq.) to the contrary, every insurer transacting private
10 passenger automobile insurance may file separate rating plans in
11 the voluntary market for preferred, standard and non-standard
12 risks. Within 30 days following the effective date of this 1988
13 amendatory and supplementary act, every insurer writing private
14 passenger automobile insurance in this State which intends to
15 write coverage in the voluntary market using more than one rate
16 level shall file its rates and underwriting rules which are
17 applicable to preferred, standard, or non-standard risks. In the
18 event that one such rate level is in effect as of the effective date
19 of this 1988 amendatory and supplementary act, the insurer may
20 make an initial filing in which the additional rate levels which are
21 filed are expressed as a percentage increase or decrease of the
22 existing rate level. No initial rate filing made pursuant to this
23 section shall be subject to intervention by the Public Advocate.
24 Notwithstanding any other law to the contrary, the rates filed
25 pursuant to this section shall be deemed to be approved if not
26 disapproved by the commissioner within 30 days. Any subsequent
27 modification of any rate level other than that provided for in
28 subsection f. of section 14 of P.L. 1944, c. 27 (C. 17:29A-14), or
29 any initial rate level which is not expressed as a percentage
30 increase or decrease of an existing rate level as provided for in
31 this section, shall be subject to the provisions of P.L. 1944, c. 27
32 (C. 17:29A-1 et seq.).⁴

33 ⁴30. (New section) Every insurer writing private passenger
34 automobile insurance in this State shall, within 60 days of the
35 effective date of this section, file for approval by the
36 commissioner pursuant to P.L. 1944, c. 27 (C. 17:29A-1 et seq.), a
37 good driver discount plan applicable to private passenger
38 automobile insurance rates. Any and all proceedings relating to a
39 filing made pursuant to this section shall be completed on an

1 expedited basis no later than 30 days after the date of the filing,
2 and upon terms and conditions established by the commissioner.⁴

3 ³[60.] ⁴[40.³ (New section) P.L. 1944, c. 27 (C. 17:29A-1 et
4 seq.) is supplemented as follows:

5 a. Insurers shall put in writing all underwriting rules applicable
6 to each rate level. An insurer shall not transact automobile
7 insurance inconsistently with its underwriting rules.

8 b. All underwriting rules applicable to each category of risk in
9 section ³[59] ³⁹³ of this 1988 amendatory and supplementary act
10 shall be filed with the commissioner and shall be subject to his
11 prior approval. All underwriting rules shall be subject to public
12 inspection. Insurers shall apply their underwriting rules uniformly
13 and without exception throughout this State, so that every
14 applicant or insured conforming with the underwriting rules will
15 be insured or renewed, and so that every applicant or insured not
16 conforming with the underwriting rules will be refused insurance
17 or nonrenewed.

18 c. Affiliated insurers shall not adopt underwriting rules for
19 automobile insurance contracts providing identical coverages
20 which would permit a person to be insured for automobile
21 insurance with more than one of the affiliated insurers.

22 d. An insurer with more than one rating plan for automobile
23 insurance contracts providing identical coverages shall not adopt
24 underwriting rules which would permit a person to be insured
25 under more than one of the rating plans.]⁴

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

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

38 b. In order to enable the exchange to meet its obligations
39 under subsection a. of this section, every member insurer or

1 servicing carrier of the New Jersey Automobile Full Insurance
2 Underwriting Association shall forward on a monthly basis, within
3 15 days of the close of the member's accounting month, a
4 charge, to be known as the AIRE charge, in an amount and
5 manner to be prescribed by the board of directors.

6 AIRE charge amounts required to be paid to the exchange in
7 accordance with this subsection shall, in the case of those
8 amounts determined by the board of directors to be applicable
9 during the period from July 1, 1984 to the effective date of [this
10 amendatory and supplementary act] P.L. 1985, c. 520, be paid to
11 the exchange within 60 days of that date.

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

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

17 d. Moneys collected by or otherwise available to the exchange
18 shall be invested as hereinafter provided in section 12 of P.L.
19 1985, c. 520, (C. 39:6A-22.1).

20 e. The exchange shall have such powers as may be necessary or
21 appropriate to effectuate the purposes of the exchange.⁴

(cf: P.L.1985, c.520, s.11)

22 ³[61.] ⁴[41.³ (New section) P.L. 1944, c. 27 (C. 17:29A-1 et
23 seq.) is supplemented as follows:

24 Every insurer which refuses an application for automobile
25 insurance shall inform the applicant the reasons for the refusal in
26 writing, and shall include a statement as to whether the applicant
27 may qualify for insurance from an affiliate of the insurer.]⁴

28 ⁴32. (New section) In order to implement the provisions of
29 section 8 of P.L. 1972, c. 70 (C. 39:6A-8), as amended by this
30 1988 amendatory and supplementary act, the commissioner shall
31 immediately order the filing of rates for coverage under that
32 section by all insurers transacting private passenger automobile
33 insurance in this State. Any and all proceedings relating to a
34 filing made pursuant to this section shall be completed on an
35 expedited basis no later than 30 days after the date of the filing,
36 and upon terms and conditions established by the commissioner.⁴

37 ³[62.] ⁴[42.³ Section 10 of P.L. 1983, c. 65 (C. 17:29A-39) is
38 amended to read as follows:

1 10. a. Every private passenger automobile insurance policy
3 providing collision and comprehensive coverages issued or
renewed on or after the effective date of this section shall
5 provide a deductible of at least \$500.00 each for collision and
comprehensive coverages. Every insurer shall offer a lower
7 deductible amount, which in the case of collision coverage shall
not be less than \$250.00, which optional deductible amount may
9 be elected by the insured in writing on a form approved by the
commissioner.

11 b. The commissioner shall promulgate rules and regulations
12 requiring insurers to offer a range of deductibles up to at least
13 \$2,000.00 for private passenger automobile collision and
14 comprehensive coverages.

(cf: P.L. 1985, c. 520, s. 4)]⁴

15 ⁴33. Section 10 of P.L. 1983, c. 65 (C. 17:29A-39) is amended
16 to read as follows:

17 10. a. Every private passenger automobile insurance policy
providing collision and comprehensive coverages, issued or
19 renewed on or after the effective date of this act, shall provide a
deductible in a minimum amount of \$500.00 each for collision and
21 comprehensive coverages, unless the named insured selects a
lower deductible amount. The minimum deductible established by
23 this subsection shall apply to all policies providing collision and
comprehensive coverages unless the named insured provides
25 otherwise in writing on a form approved by the commissioner.

27 b. The commissioner shall promulgate rules and regulations
28 requiring insurers to offer a range of deductibles up to at least
29 \$2,000.00 for private passenger automobile collision and
30 comprehensive coverages.⁴

(cf: P.L.1985, c.520, s.4)

31 ³[63.] ⁴[43.] ³34. ⁴ Section 27 of P.L. 1983, c. 65 (C. 17:30E-15)
32 is amended to read as follows:

33 27. A qualified applicant who is eligible for coverage through
34 the association shall be offered and entitled to coverage up to at
35 least the following limits: a. bodily injury liability: \$250,000.00
36 each person, \$500,000.00 each accident; b. property damage
37 liability: \$100,000.00; c. bodily injury and property damage:
38 \$500,000.00 single limit each accident; d. comprehensive and
39 collision coverage; e. uninsured motorist and underinsured

1 motorist coverage: \$250,000.00 each person and \$500,000.00 each
2 accident for bodily injury; \$100,000.00 each accident for
3 property damage or \$500,000.00 single limit, subject to an
4 exclusion of the first \$500.00, unless the named insured elects a
5 lower deductible in writing in an amount not less than \$250.00 ^{3,3}
6 of the damage to property for each accident, except that the
7 limits for uninsured and underinsured motorist coverages on
8 association coverage shall not exceed the insured's policy limits
9 for bodily injury and property damage, respectively; f. personal
10 [injury] ^{3injury} protection coverage as required by law; g.
11 additional personal [injury] ^{3injury} protection coverage required
12 to be offered by law; and h. any other automobile insurance
13 required to be offered by law and subject to the limits stated in
14 the law. Motorcycles shall not be written for the coverages
15 required or required to be offered pursuant to [P.L. 1972, c. 70
16 (C. 39:6A-1 et seq.)] ^{3[sections 1 through 20 of P.L. c.}
17 ^{(C.), now pending in the Legislature as this bill)] P.L. 1972, c.}
18 ^{70 (C. 39:6A-1 et seq.)}³.

19 (cf: P.L. 1983, c. 362, s. 23)

20 ^{3[64.]} ^{4[44.3]} ^{35.4} Section 17 of P.L. 1983, c. 362 (C.
21 39:6A-23) is amended to read as follows:

22 17. [Notice of available coverages and rate credits for
23 deductible, exclusion, setoff and tort limitation options.]
24 ^{3Written notice - buyer's guide and coverage selection form.}³

25 a. No new automobile insurance policy shall be issued on or
26 after the 180th day following the effective date of [this 1985
27 amendatory and supplementary act] P.L. 1985, c. 520, unless the
28 application for the policy is accompanied by a written notice
29 identifying and containing a buyer's guide and coverage selection
30 form. The buyer's guide shall contain a brief description of all
31 available policy coverages and benefit limits, and shall identify
32 which coverages are mandatory and which are optional under
33 State law, as well as all [deductible, exclusion, setoff and tort
34 limitation] ^{3[other]}³ options offered by the insurer.

35 The buyer's guide shall also contain a statement on the
36 possible coordination of other health benefit coverages with the
37 personal [injury] ^{3injury} protection coverage options, the form
38 and contents of which shall be prescribed by the Commissioner of
39 Insurance.

1 The coverage selection form shall identify the range of
premium rate credit or dollar savings, or both, and shall provide
3 any other information required by the commissioner by regulation.

The applicant shall indicate the options elected on the
5 coverage selection form which shall be signed and returned to the
insurer.

7 b. (Deleted by amendment, P.L. 1985, c. 520.)

c. Any notice of renewal of an automobile insurance policy
9 with an effective date subsequent to July 1, 1984, shall be
accompanied by a written notice of all policy coverage
11 information required to be provided under subsection a. of this
section.

13 The Commissioner of Insurance shall, within 45 days following
the effective date of this act, promulgate standards for the
15 written notice and buyer's guide required to be provided under
this section.

17 d. Written notices provided by any insurer writing at least 2%
of the New Jersey private passenger automobile market,
19 including the New Jersey Automobile Full Insurance Underwriting
Association established pursuant to section 16 of P.L. 1983, c. 65
21 ³[(C. 39:30E-4)] (C. 17:30E-4)³; shall also contain a statement
advising that if the insured or applicant has any questions
23 concerning his automobile insurance policy, including questions as
to coverage or premiums, he may contact [either] his [agent or
25 broker] producer, or the company directly, by using a toll free
number which shall be set forth in the notice. Written notice
27 shall be given to all insureds of any change in the toll free
number.

29 e. ⁴[In addition to the information required pursuant to this
section, every insurer shall, at least annually, in conjunction with
31 a renewal notice, a bill, or other notice of payment due issued to
a policyholder in conjunction with private passenger automobile
33 insurance, send to each policyholder a written notice of all of the
following:

35 (1) A description of the specific rating classifications by
which the rates and premiums for the policy have been
37 determined. The notice shall be of sufficient detail and clarity so
that the policyholder can reasonably verify the applicability and
39 accuracy of the rating classifications.

1 (2) A general explanation of the extent to which rates or
2 premiums vary on the basis of the rating classifications used by
3 the insurer.

4 (3) Sources and reasonable procedures by which the individual
5 can obtain from the insurer additional information sufficient for
6 the individual to calculate and confirm the accuracy of his or her
7 specific premium.

8 (4) Relevant information regarding the rights of the insured to
9 appeal the application of the insurer's rating plan in determining
10 his or her premium, to obtain documentation from the insurer
11 regarding the determination of the rate, to appeal the application
12 of the insurer's underwriting rules to the person, to request an
13 informal conference with the insurer, and to file a complaint with
14 the commissioner as an aggrieved person.

15 (5) A notice that the insured may contact his or her producer
16 to determine if he or she is eligible for insurance from an
17 affiliate of the insurer or under a different rating plan of the
18 insurer which would provide insurance to the insured at a more
19 favorable rate.

20 (6) Any other relevant information as required by rule or
21 regulation of the commissioner.

22 (7) With respect to any optional coverage offered or required
23 to be offered pursuant to any provision of law, all election or
24 rejection of options by the insured shall be in writing, on a form
25 approved by the commissioner, and] A properly completed and
26 executed coverage selection form⁴ shall be prima facie evidence
27 of the named insured's knowing election or rejection of ⁴[the]
28 any⁴ option.

29 (cf: P.L. 1985, c. 520, s. 5)

30 ³[65.] ⁴[45.³] 36.⁴ (New section) Section 17 of P.L. 1983, c.
31 362 (C. 39:6A-23) is supplemented as follows:

32 Within nine months of the effective date of this 1988
33 amendatory and supplementary act, the Commissioner of
34 Insurance shall cause to have published a representative sample
35 of the premiums being charged by insurers in each territory to
36 facilitate price comparison by insureds or prospective insureds
37 who are seeking new coverage. The commissioner may act to
38 make comparative premium data available to all insureds and
39 prospective insureds.

1 ³[66.] ⁴[46.³] ^{37.}⁴ (New section) The commissioner shall
2 conduct a review of the rating territories employed by insurers in
3 establishing private passenger automobile insurance rates and of
4 the caps imposed on private passenger automobile insurance rates
5 pursuant to section 7 of P.L. 1983, c. 65 (C. 17:29A-36), which
6 review shall include an evaluation of the number of territories
7 which are presently being utilized and an examination of the
8 actuarial ⁴[soundess] and statistical soundness⁴ of those caps, and
9 report his findings, including any legislative proposals, within
10 ⁴[six] ¹²⁴ months of the effective date of this 1988 amendatory
11 and supplementary act to the Governor and the appropriate
12 standing reference committees of the Legislature.

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

15 13. Personal injury protection coverage deductibles [,] and
16 exclusions [and setoffs]. With respect to personal injury
17 protection coverage provided on an automobile in accordance
18 with section 4 of P.L.1972, c. 70 (C. 39:6A-4), the automobile
19 insurer shall, at appropriately reduced premiums, provide the
20 following coverage options:

21 a. Medical expense benefit deductibles in amounts of \$500.00,
22 \$1,000.00 and \$2,500.00 for any one accident;

23 b. The option to exclude all benefits offered under subsections
24 b., c., d., and e. of section 4;

25 c. [A setoff option entitling an automobile insurer paying
26 medical expense benefits under section 4 to reimbursement from,
27 and a lien on, any recovery for noneconomic loss by an injured
28 party pursuant to an arbitration award, judicial judgment or
29 voluntary settlement for the amount of the medical expense
30 benefits paid, not to exceed 20% of the amount of the award,
31 judgment or settlement, including recoveries under uninsured and
32 underinsured motorist coverage, except that if, at the time of the
33 award, judgment or settlement, the amount of medical expense
34 benefits does not exceed 20% but additional expense benefits of
35 an indeterminate amount are anticipated, the amount of the
36 setoff shall be 20% of the award, judgment or settlement, with
37 the difference between the value of the 20% and the amount of
38 medical expense benefits previously paid to be placed in an
39 interest bearing trust account for use to indemnify the insurer

1 paying the medical expense benefits, as the benefits are paid.
Attorney's contingent fees shall be computed on the amount of
3 the award, judgment or settlement, less the amount of the setoff,
which setoff shall be, if the medical expense benefit claim of the
5 injured person, as of the date of the award, judgment or
settlement is made, is: (1) closed, the amount of medical expense
7 benefits paid, not to exceed 20% of the award, judgment or
settlement, or (2) open, 20% of the award, judgment or
9 settlement. Under a contingent fee arrangement, the attorney
shall also be entitled to reimbursement out of the amount of the
11 setoff for costs actually incurred in the institution and
prosecution of the claim or action, which amount shall in no
13 instance exceed 10% of the amount of the setoff, in a manner to
be prescribed by the Supreme Court. Nothing in this subsection
15 shall be construed to prohibit an attorney representing the injured
party from recovering from the insurer providing personal injury
17 protection benefits the reasonable cost of any legal services
rendered to that insurer primarily in conjunction with the setoff
19 reimbursement.] (Deleted by amendment, P.L. , c. .)(now
pending in the Legislature as this bill)

21 A deductible [,] or exclusion [or setoff] elected by the named
insured in accordance with this section shall apply only to the
23 named insured and any resident relative in the named insured's
household who is not a named insured under another automobile
25 insurance policy, and not to any other person eligible for personal
injury protection benefits required to be provided in accordance
27 with section 4.

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

35 Medical expense benefits payable in any amount between the
deductible selected pursuant to subsection a. of this section and
37 \$5,000.00 shall be subject to a copayment of 20%.

No insurer or health provider providing benefits to an insured
39 who has elected a deductible pursuant to subsection a. of this

1 section shall have a right of subrogation for the amount of
benefits paid pursuant to a deductible elected thereunder or any
3 applicable copayment.

[Where a trust account has been established in accordance with
5 subsection c. of this section, any remaining principal and all
accrued interest in the trust account at the time the final
7 payment of medical expense benefits is made shall be paid to the
party to whom the award, judgment or settlement was made, or
9 to his estate.]

The Commissioner of Insurance shall adopt rules and
11 regulations to effectuate the purposes of this section.

(cf: P.L.1984, c.40, s.1)

13 39. Section 14 of P.L. 1944, c. 27 (C. 17:29A-14) is amended to
read as follows:

15 14. a. With regard to all property and casualty lines, a filer
may, from time to time, alter, supplement, or amend its rates,
17 rating systems, or any part thereof, by filing with the
commissioner copies of such alterations, supplements, or
19 amendments, together with a statement of the reason or reasons
for such alteration, supplement, or amendment, in a manner and
21 with such information as may be required by the commissioner.
If such alteration, supplement, or amendment shall have the
23 effect of increasing or decreasing rates, the commissioner shall
determine whether the rates as altered thereby are reasonable,
25 adequate, and not unfairly discriminatory. If the commissioner
shall determine that the rates as so altered are not unreasonably
27 high, or inadequate, or unfairly discriminatory, he shall make an
order approving them. If he shall find that the rates as altered
29 are unreasonable, inadequate, or unfairly discriminatory, he shall
issue an order disapproving such alteration, supplement or
31 amendment.

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

33 c. If an insurer or rating organization files a proposed
alteration, supplement or amendment to its rating system, or any
35 part thereof, which would result in a change in rates, the
commissioner may, or upon the request of the filer or the Public
37 Advocate shall, certify the matter for a hearing. The hearing
shall, at the commissioner's discretion, be conducted by himself,
39 by a person appointed by the commissioner pursuant to section 26

1 of P.L. 1944, c. 27 (C. 17:29A-26), or by the Office of
Administrative Law, created by P.L. 1978, c. 67 (C. 52:14F-1 et
3 seq.), as a contested case. The following requirements shall apply
to the hearing:

5 (1) The hearing shall commence within 30 days of the date of
the request or decision that a hearing is to be held. The hearing
7 shall be held on consecutive working days, except that the
commissioner may, for good cause, waive the consecutive
9 working day requirement. If the hearing is conducted by an
administrative law judge, the administrative law judge shall
11 submit his findings and recommendations to the commissioner
within 30 days of the close of the hearing. The commissioner
13 may, for good cause, extend the time within which the
administrative law judge shall submit his findings and
15 recommendations by not more than 30 days. A decision shall be
rendered by the commissioner not later than 60 days, or, if he has
17 granted a 30 day extension, not later than 90 days, from the close
of the hearing. A filing shall be deemed to be approved unless
19 rejected or modified by the commissioner within the time period
provided herein.

21 (2) The commissioner, or the Director of the Office of
Administrative Law, as appropriate, shall notify all interested
23 parties, including the Public Advocate on behalf of insurance
consumers, of the date set for commencement of the hearing, on
25 the date of the filing of the request for a hearing, or within 10
days of the decision that a hearing is to be held.

27 (3) The insurer or rating organization making a filing on which
a hearing is held shall bear the costs of the hearing.

29 (4) The commissioner may promulgate rules and regulations (a)
to establish standards for the submission of proposed filings,
31 amendments, additions, deletions and alterations to the rating
system of filers, which may include forms to be submitted by
33 each filer; and (b) making such other provisions as he deems
necessary for effective implementation of this act.

35 d. (Deleted by amendment, P.L. 1984, c. 1.)

e. In order to meet, as closely as possible, the deadlines in
37 section 17 of P.L. 1983, c. 362 (C. 39:6A-23) for provision of
notice of available optional automobile insurance coverages
39 pursuant to section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3) and

1 section 8 of P.L. 1972, c. 70 (C. 39:6A-8), and to implement these
2 coverages, the commissioner may require the use of rates, fixed
3 by him in advance of any hearing, for deductible, exclusion,
4 setoff and tort limitation options, on an interim basis, subject to
5 a hearing and to a provision for subsequent adjustment of the
6 rates, by means of a debit, credit or refund retroactive to the
7 effective date of the interim rates. The public hearing on initial
8 rates applicable to the coverages available under section 13 of
9 P.L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70
10 (C. 39:6A-8) shall not be limited by the provisions of subsection
11 c. of this section governing changes in previously approved rates
12 or rating systems.

13 (cf: P.L.1985, c.520, s.7)

14 40. Section 15 of P.L. 1983, c. 65 (C. 17:30E-3) is amended to
15 read as follows:

16 15. As used in sections 13 to 34 of this act:

17 a. "Association" means the New Jersey Automobile Full
18 Insurance Underwriting Association.

19 b. "Automobile" means a private passenger automobile of a
20 private passenger or station wagon type that is owned or hired,
21 and is neither used as a public or livery conveyance for
22 passengers nor rented to others with a driver; a motor vehicle
23 with a pickup body, a delivery sedan, a van, or a panel truck or a
24 camper type vehicle used for recreational purposes, owned by an
25 individual or by husband and wife who are residents of the same
26 household, not customarily used in the occupation, profession or
27 business of the insured other than farming or ranching; and, solely
28 for the purposes of this act, a motorcycle, as defined in R.S.
29 39:1-1. An automobile owned by a farm family copartnership or
30 corporation, which is principally garaged on a farm or ranch and
31 otherwise meets the definition contained in this section, shall be
32 considered a private passenger automobile owned by two or more
33 relatives resident in the same household.

34 c. "Automobile insurance" means direct insurance against
35 injury or damage, including the legal liability therefor, arising out
36 of the ownership, operation, maintenance or use of automobiles,
37 including, but not limited to, personal injury protection insurance,
38 bodily injury liability insurance, property damage liability
39 insurance, physical damage insurance and uninsured and

- 1 underinsured motorist insurance.
- 2 d. "Board" or "board of directors" means the board of
3 directors of the association.
- 4 e. "Company" or "member" means an insurer member of the
5 association.
- 6 f. "Commissioner" means the Commissioner of Insurance.
- 7 g. "Director" means a member of the board of directors of the
New Jersey Automobile Full Insurance Underwriting Association.
- 8 h. "Net direct car years of liability exposure" means direct
9 bodily injury liability car years of exposure, after deducting
10 returns for cancellations, but without adding reinsurance assumed
11 or deducting reinsurance ceded, as determined by the board and
12 approved by the commissioner.
- 13 i. "Net direct car years of physical damage exposure" means
14 direct physical damage car years of exposure, after deducting
15 returns for cancellations, but without adding reinsurance assumed
16 or deducting reinsurance ceded, as determined by the board and
17 approved by the commissioner.
- 18 j. "Person" means every natural person.
- 19 k. "Plan of operation" means the plan of operation of the
20 association created pursuant to section 18 of this act.
- 21 l. "Producer" means an agent or broker licensed to transact
22 the business of automobile insurance in this State.
- 23 m. "Qualified applicant" means a person domiciled in New
24 Jersey who is an owner of an automobile registered, or to be
25 registered within 60 days of application, and principally garaged
26 in this State, [except that] who has been refused coverage in the
27 voluntary market, and who cannot be or is not placed in the
28 voluntary market through the procedures established pursuant to
29 subsection a. of section 26 of P.L. 1983, c. 65 (C. 17:30E-14).
30 Qualified applicant shall also include a member of the United
31 States military forces, if otherwise eligible for insurance
32 coverage issued by the association, [shall be eligible] with respect
33 to an automobile if, at the time the application is made, he is
34 either (1) a nonresident who is stationed in this State, whose
35 automobile is registered in another state and garaged in this
36 State; or (2) a resident who is stationed in another state, whose
37 automobile is registered in this State and garaged in another
38 state. No person shall, however, be deemed a qualified applicant,
39

1 if the principal operator of the automobile to be insured does not
2 hold a driver's license which is valid in this State; or if a regular
3 operator of the automobile other than the principal operator does
4 not hold such a license; or if timely payment of premium is not
5 tendered; or if the applicant or principal operator of the
6 automobile does not furnish the information necessary to effect
7 insurance; or if such person [rents or leases] is engaged in the
8 business of renting or leasing automobiles to others or if such
9 person uses automobiles [which are used] for commercial purposes.

10 n. "Underinsured motorist coverage" means insurance for
11 damages because of bodily injury and property damage caused by
12 accident and arising out of the ownership, maintenance or use of
13 an underinsured automobile. An automobile is underinsured when
14 the sum of the limits of liability under all bodily injury and
15 property damage liability bonds and insurance policies available
16 to a person against whom recovery is sought for bodily injury or
17 property damage is, at the time of the accident, less than the
18 applicable limits of liability afforded under the automobile
19 insurance policy held by the person seeking such recovery.

20 o. "Residual market equalization charge" means the amount
21 which, when added to all other sources of association income, will
22 cause the association to operate on a no profit, no loss basis.

23 (cf: P.L.1986, c.211, s.1)

24 41. Section 22 of P.L. 1983, c. 65 (C. 17:30E-10) is amended to
25 read as follows:

26 22. a. Association business shall be serviced by producers
27 selected by the board, in accordance with selection procedures
28 and eligibility standards established by the plan of operation
29 [pursuant to rules and regulations promulgated by the
30 commissioner]. The selection procedures shall include an
31 affirmative action program and the establishment of a
32 producer-to-population ratio which shall ensure adequate service
33 on a regional basis. The plan of operation shall also establish
34 procedures to facilitate the transition from the procedures
35 governing producers, which are in effect as of the effective date
36 of this act, to the selection procedures established by the
37 association pursuant to this subsection.

38 b. Producers who are exclusive representatives of a company
39 which is a servicing carrier shall be assigned to that carrier for

1 the servicing of association policies. Producers who are not
2 exclusive representatives of a servicing carrier may, at the
3 election of the producer and with the consent of the servicing
4 carrier, contract with the association to do business through any
5 servicing carrier. Producers who are not exclusive
6 representatives of a company which is a servicing carrier, or who
7 have not otherwise established a contractual relationship with a
8 servicing carrier pursuant to this section, shall be assigned to all
9 servicing carriers on an equitable basis by the association,
10 pursuant to the plan of operation. The assignments shall be in
11 proportion to the percentage of association business which each
12 servicing carrier has contracted with the association to accept
13 and shall be balanced among territories. The assignments shall be
14 reviewed at least annually and upon the request of a servicing
15 carrier or producer. Pursuant to the plan of operation, the
16 assignments shall be reallocated if it is found that the allocations
17 are demonstrably inequitable. Reallocations shall be made in a
18 manner to minimize the shifting of producers.

19 c. Every producer shall be assigned two alternate servicing
20 carriers, pursuant to the plan of operation. In the event that any
21 servicing carrier normally assigned to any producer ceases, as
22 may be provided in the plan of operation, to accept applications
23 temporarily, such applications shall be redistributed by the
24 association to each producer's alternate servicing carrier.

25 d. In order to minimize disruption of association operations in
26 cases in which a servicing carrier withdraws or will be
27 withdrawing from the service of association business, the
28 association, with the approval of the commissioner, shall be
29 authorized to reallocate all, or any part, of the withdrawing
30 servicing carrier's producers to one or more of the remaining
31 servicing carriers.

(cf: P.L.1986, c.211, s.4)

33 42. Section 29 of P.L. 1983, c. 65 (C. 17:30E-17) is amended to
34 read as follows:

35 29. a. The commissioner may suspend or revoke, after notice
36 and a hearing, the certificate of authority of any member insurer
37 or the license of any [agent or broker] producer who willfully fails
38 to comply with the provisions of this act or the regulations or
39 plan of operation promulgated thereunder. In addition to or in

1 lieu of suspension or revocation, any member company violating
the provisions of this act or the regulations or plan of operation
3 promulgated thereunder may be fined by the commissioner up to
[\$5,000.00] \$10,000.00 for each such violation; and any [agent or
5 broker] producer violating the provisions of this act or the
regulations or plan of operation promulgated thereunder may be
7 fined by the commissioner up to [\$1,500.00] \$5,000.00 for each
violation. These penalties shall be enforced and collected by the
9 commissioner in the name of the State pursuant to "the penalty
enforcement law" (N.J.S. 2A:58-1 et seq.).

11 b. If, after notice and opportunity to be heard, the board finds
that a producer has violated the provisions of this act or the
13 regulations, plan of operation or standards promulgated pursuant
to this act, the board shall notify the commissioner and may
15 request the commissioner to temporarily suspend the producer's
authority to write new association business. The commissioner
17 may issue an order suspending the producer's authority to write
new association business, pending a hearing which shall be held
19 within 20 days of the issuance of the order. If, after a hearing,
the commissioner finds that the producer has violated the
21 provisions of this act or the regulations, plan of operation or
standards promulgated pursuant to this act, he shall take
23 appropriate disciplinary action, including suspension or revocation
of the producer's license or producer's authority to write
25 business for the association, or both.

c. In the event the association sustains a financial loss due to
27 any act or omission of any producer, member company or
servicing carrier which violates any statutory, contractual or plan
29 of operation requirement, the commissioner may, in addition or
as an alternative to the penalties provided in subsections a. and b.
31 of this section, order the restitution of any moneys owed to the
association, and the reimbursement of reasonable costs of
33 investigation and prosecution.

(cf: P.L.1983, c.65, s.29)

35 43. (New section) The commissioner may, whenever he deems
it necessary, make or cause to be made an examination of the
37 finances, operations, methods of conducting business, and all
other affairs of the association, its management and its servicing
39 carriers. For the purpose of the examination, the commissioner

1 may authorize, employ or otherwise engage such person, persons
2 or other resources to conduct the examination, or to assist
3 therein, as he deems advisable. The reasonable expenses of the
4 examination shall be determined by the commissioner and shall be
5 paid by the association. The association shall recover all such
6 payments by assessment of its member companies pursuant to an
7 equitable assessment formula established in the plan of operation.

8 44. Section 12 of P.L. 1972, c. 70 (C. 39:6A-12) is amended to
9 read as follows:

10 12. Inadmissibility of evidence of losses collectible under
11 personal injury protection coverage. Except as may be required
12 in an action brought pursuant to section 20 of [this 1983
13 amendatory and supplementary act] P.L. 1983, c. 362 (C.
14 39:6A-9.1), evidence of the amounts collectible or paid pursuant
15 to sections 4 and 10 of [this act] P.L. 1972, c. 70 (C. 39:6A-4 and
16 39:6A-10), to an injured person, including the amounts of any
17 deductibles, copayments or exclusions [elected by the named
18 insured pursuant to section 13 of this 1983 amendatory and
19 supplementary act.] otherwise compensated is inadmissible in a
20 civil action for recovery of damages for bodily injury by such
21 injured person.

22 The court shall instruct the jury that, in arriving at a verdict as
23 to the amount of the damages for noneconomic loss to be
24 recovered by the injured person, the jury shall not speculate as to
25 the amount of the medical expense benefits paid or payable under
26 section 4 to the injured person.

27 Nothing in this section shall be construed to limit the right of
28 recovery, against the tortfeasor, of uncompensated economic loss
29 sustained by the injured party.⁴

(cf: P.L.1983, c.362, s.11)

30 ³[67. (New section) The Commissioner of Insurance shall act
31 to dissolve the New Jersey Automobile Insurance Risk Exchange
32 created pursuant to section 15 of 1983, c. 362 (C. 39:6A-21) when
33 the exchange's functions have ceased due to the elimination of
34 the tort limitation option in section 8 of P.L. 1972, c. 70 (C.
35 39:6A-8). The commissioner shall notify the Legislature at the
36 time of the dissolution of the exchange.

37 68. (New section) Every insurer transacting automobile
38 insurance in this State shall reduce bodily injury liability
39

1 territorial base rates for new and renewal policies which are
2 subject to the provisions of section 18 of P.L. , c. (C.) (now
3 pending in the Legislature as this bill) in an amount equal to 55%
4 of the bodily injury liability territorial base rate which is
5 applicable as of the effective date of this act to policies
6 containing the tort limitation option in subsection a. of section 8
7 of P.L. 1972, c. 70 (C. 39:6A-8) and a commensurate amount for
8 policies containing the tort limitation option in subsection b. of
9 section 8 of P.L. 1972, c. 70 (C. 39:6A-8).

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

12 2. In the event medical expense benefits paid by an insurer, in
13 accordance with section [4a. of P.L. 1972, c. 70 (C. 39:6A-4)] 2 of
14 P.L. , c. (C.) (now pending in the Legislature as this
15 bill), are in excess of \$75,000.00 on account of personal injury to
16 any one person in any one accident, the Unsatisfied Claim and
17 Judgment Fund shall assume such excess and reimburse the
18 insurer therefor in accordance with rules and regulations
19 promulgated by the commissioner; provided, however, that this
20 provision is not intended to broaden the coverage available to
21 accidents involving uninsured or hit-and-run automobiles, to
22 provide extraterritorial coverage, or to pay excess medical
23 expenses.

(cf: P.L. 1985, c. 148, s. 9)

24 70. Section 10 of P.L. 1975, c. 156 (C. 39:8-18) is amended to
25 read as follows:

26 10. A person who affixes a private inspection approval sticker
27 to a motor vehicle without having reinspected the specific item
28 for which the vehicle was initially rejected, or without having
29 determined that the condition of the item conforms to standards
30 established by law or regulation, shall be guilty of violating the
31 provisions of this chapter, and shall be fined not less than
32 \$1,000.00 or more than \$1,500.00 and shall have the license
33 suspended for a period of at least one year but not more than
34 three years for a first offense or not less than \$2,000.00 or more
35 than \$3,500.00 and shall have the license permanently revoked for
36 a subsequent offense. This section shall be enforced pursuant to
37 R.S. 39:8-9.

38 A person who charges a fee for repair work not performed or

1 performed unnecessarily and affixes a private inspection approval
2 sticker shall be punished under the terms of P.L. 1960, c. 39 (C.
3 56:8-1 et seq.), and any regulation adopted thereunder.

4 A person who affixes a private inspection approval sticker to a
5 motor vehicle without requiring the presentation of an insurance
6 card which indicates that the motor vehicle is insured by a policy
7 of insurance as required by the provisions of P.L. 1972, c. 197 (C.
8 39:6B-1 et seq.) or P.L. , c. (C.), (now pending in the
9 Legislature as this bill) shall be fined not less than \$2,000.00 and
10 shall have the license suspended for a period of at least one year
11 but not more than three years.

(cf: P.L. 1986, c. 22, s. 11)

12 71. Section 7 of P.L. 1972, c. 198 (C. 39:6-86.1) is amended to
13 read as follows:

14 7. When any person qualified to receive payments under the
15 provisions of the "Unsatisfied Claim and Judgment Fund Law"
16 suffers bodily injury or death through being struck, as a
17 pedestrian, as defined in section [2 of P.L. 1972, c. 70 (C.
18 39:6A-2)] 1 of P.L. , c. (C.), (now pending in the
19 Legislature as this bill), by a motor vehicle, including an
20 automobile as defined in section [2 of P.L. 1972, c. 70 (C.
21 39:6A-2)] 1 of P.L. , c. (C.), (now pending in the
22 Legislature as this bill), and a motorcycle, or by an object
23 propelled therefrom, or arising out of an accident while
24 occupying, entering into, alighting from, or using an automobile,
25 registered or principally garaged in this State for which personal
26 [injury] protection coverage benefits under the ["New Jersey
27 Automobile Reparation Reform Act." P.L. 1972, c. 70 (C.
28 39:6A-1 et seq.)] section 1 through 20 of P.L. ,
29 c. (C.) (now pending in the Legislature as this bill), or
30 section 19 of this [1983 amendatory and supplementary act] P.L.
31 1983, c. 362 (C. 17:28-1.3), would be payable to such person if
32 personal [injury] protection coverage were in force and the
33 damages resulting from such accident or death are not satisfied
34 due to the personal [injury] protection coverage not being in
35 effect with respect to such accident, then in such event the
36 Unsatisfied Claim and Judgment Fund shall provide, under the
37 following conditions, the following benefits:

38 a. Medical expense benefits. Payment of all reasonable
39

1 medical expenses incurred as a result of personal injury sustained
2 in a motor vehicle accident. In the event of death, payment shall
3 be made to the estate of the decedent.

4 b. [Income continuation] Wage loss benefits. The payment of
5 the loss of income of an income producer as a result of bodily
6 injury disability, subject to a maximum weekly payment of
7 \$100.00. Such sums shall be payable during the life of the injured
8 person and shall be subject to an amount or limit of \$5,200.00, on
9 account of injury to any one person in any one accident, except
10 that in no case shall [income continuation] benefits exceed the
11 net income normally earned during the period in which the
12 benefits are payable.

13 c. [Essential] Replacement services benefits. Payment of
14 [essential] replacement services benefits to an injured person
15 shall be made in reimbursement of necessary and reasonable
16 expenses incurred for such substitute [essential] necessary
17 services ordinarily performed by the injured person for himself,
18 his family and members of the family residing in the household,
19 subject to an amount or limit of \$12.00 per day. Such benefits
20 shall be payable during the life of the injured person and shall be
21 subject to an amount or limit of \$4,380.00, on account of injury
22 to any one person in any one accident.

23 d. Death benefits. In the event of the death of an income
24 producer as a result of injuries sustained in an accident entitling
25 such person to benefits under this section [7 of this act], the
26 maximum amount of benefits which could have been paid to the
27 income producer, but for his death, under [section 7] subsection b.
28 shall be paid to the surviving spouse, or in the event there is no
29 surviving spouse, then to the surviving children, and in the event
30 there are no surviving spouse or surviving children, then to the
31 estate of the income producer.

32 In the event of the death of one performing [essential]
33 necessary services as a result of injuries sustained in an accident
34 entitling such person to benefits under [section 7] subsection c.
35 [of this act], the maximum amount of benefits which could have
36 been paid such person, under [section 7] that subsection c., shall
37 be paid to the person incurring the expense of providing such
38 [essential] services.

39 e. Funeral expenses benefits. All reasonable funeral, burial

1 and cremation expenses, subject to a maximum benefit of
2 \$1,000.00, on account of the death to any one person in any one
3 accident shall be payable to decedent's estate.

4 Provided, however, that no benefits shall be paid under this
5 section unless the person applying for benefits has demonstrated
6 that he is not disqualified by reason of the provisions of
7 subsection (a), (c), (d) or (l) of section 10 of P.L. 1952, c. 174 (C.
8 39:6-70), or any other provision of law.

9 (cf: P.L. 1983, c. 362, s. 3)

10 72. (New section) R.S. 17:28-1 is supplemented as follows:

11 Any insurer authorized to transact or transacting private
12 passenger automobile insurance in this State, or controlling or
13 controlled by, or under common control by, or with, an insurer
14 authorized to transact or transacting the business of insurance in
15 this State, which sells a policy providing automobile personal
16 protection coverage, or any similar coverage, in any other state
17 or in any province of Canada, shall include in those policies
18 coverage to satisfy the personal protection coverage
19 requirements in section 2 of P.L. _____, c. _____ (C. _____), (now
20 pending in the Legislature as this bill) whenever the automobile
21 insured under the policy is used or operated in this State. Every
22 insurer authorized to transact or transacting private passenger
23 automobile insurance in this State and subject to the provisions of
24 this section shall, within 180 days of the effective date of this
25 1988 amendatory and supplementary act file and maintain with
26 the Department of Insurance written certification of compliance
27 with the provisions of this section.]³

28 ³[73.] ⁴[47.³] 45.⁴ (New section) The Commissioner of
29 Insurance may promulgate any rules and regulations which he
30 deems necessary to effectuate the provisions of this 1988
31 amendatory and supplementary act.

32 ³[74. Section 2 of this 1988 amendatory and supplementary act
33 shall be deemed to supersede the provisions of section 4 and
34 section 10 of P.L. 1972, c. 70 (C. 39:6A-4 and 39:6A-10) and any
35 statutory reference to any benefits payable pursuant to section 4
36 or section 10 of P.L. 1972, c. 70 (C. 39:6A-4 or 39:6A-10) shall be
37 deemed to refer to benefits payable pursuant to section 2 of this
38 act.]³

39 ³[75. Sections 1 through 18 of P.L. 1972, c. 70 (C. 39:6A-1

1 through 39:6A-18), sections 9 through 11 of P.L. 1972, c. 203 (C.
2 39:6A-13.1, 39:6A-19 and 39:6A-20), section 1 of P.L. 1983, c.
3 212 (C. 39:6A-4.1), sections 12, 13, 14.1, 18, and 20 of P.L. 1983,
4 c. 362 (C. 39:6A-4.2, 39:6A-4.3, 39:6A-8.1, and 39:6A-9.1),
5 section 4 of P.L. 1984, c. 40 (C. 39:6A-4.4), and sections 14 and
6 18 of P.L. 1985, c. 520 (C. 39:6A-4.5 and C. 17:28-1.4) are
7 repealed.]³

8 ³[76. This act shall take effect immediately, except that
9 sections 1 through 44, and sections 61, 62, 63, 64, 68, 69, 70, 71,
10 74, and 75 shall take effect 120 days after enactment and shall
11 apply to policies renewed on or after that effective date, and
12 sections 55 and 72 shall take effect 180 days after enactment.]³

13 ⁴[³48. Sections 12 and 13 of P.L. 1983, c. 362 (C. 39:6A-4.2
14 and 39:6A-4.3) and section 4 of P.L. 1984, c. 40 (C. 39:6A-4.4)
15 are repealed.]⁴

16 ⁴[49.] 46.⁴ This act shall take effect on January 1, 1989,
17 ⁴except that sections 8, 20, 21, 22, 23, 27, 30, 32, 39, 41, 42, 43
18 and 45 shall take effect immediately,⁴ however, no provision of
19 this act shall be operative until the enactment into law of Senate
20 Bill No. 124 of 1988.]³

21

23

INSURANCE

Insurance - Automobile

25

Revises automobile insurance laws.

**P.L. 1988, CHAPTER 119, approved September 8, 1988
1988 Senate No. 2637 (Fourth Reprint)**

1 **AN ACT** concerning private passenger automobile insurance and
revising parts of statutory law.

3

5 **New sections of law enacted by P.L. 1988, c. 119 have been
allocated and will be compiled as follows:**

7

8	C. 17:29A-36.2
9	§10 C. 39:6A-4.6
	§22 C. 17:30E-13.1
11	§23 C. 17:30E-6.1
	§26 C. 17:29C-7.1
13	§28 C. 17:29A-6.1
	§29 C. 17:29A-42
15	§30 C. 17:29A-43
	§32 T&E and Note to 39:6A-8, 17:29A-14
17	§36 C. 39:6A-23.1
	§37 T&E and Note to 17:29A-36
19	§43 C. 17:30E-18.1
	§45 C. 17:29A-36.3
21	§46 (Effective date) Note to all sections.

23

25

27

29

31

33 **See Senate, No. 2637 (Fourth Reprint) for full text of law in
bill form.**

35 **An advance law which portrays compilation of new sections and
eliminates sections deleted through the fourth reprint is available.**

1 **AN ACT** concerning private passenger automobile insurance and
revising parts of statutory law.

3

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

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

9 18. Any insurer authorized to transact or transacting
automobile or motor vehicle insurance business in this State, or
controlling or controlled by, or under common control by, or with,
11 an insurer authorized to transact or transacting insurance
business in this State, which sells a policy providing automobile or
12 motor vehicle liability insurance coverage, or any similar
coverage, in any other state or in any province of Canada, shall
15 include in each policy coverage to satisfy at least the liability
insurance requirements of section 1 of P.L. 1972, c. 197 (C.
17 39:6B-1) or section 3 of P.L. 1972, c. 70 (C. 39:6A-3), the
uninsured motorist insurance requirements of subsection a. of
19 section 2 of P.L. 1968, c. 385 (C. 17:28-1.1), and personal injury
protection benefits coverage pursuant to section 4 of P.L. 1972,
21 c. 70 (C. 39:6A-4) ⁴[and subsection b. of section 2 of P.L. 1977, c.
310 (C. 39:6-73.1)]⁴ or of section 19 of P.L. 1983, c. 362 (C.
23 17:28-1.3), whenever the automobile or motor vehicle insured
under the policy is used or operated in this State.

25 Any liability insurance policy subject to this section shall be
construed as providing the coverage required herein, and any
27 named insured, and any immediate family member as defined in
section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1), under that
29 policy, shall be subject to the tort option specified in subsection
⁴[b.] a.⁴ of section 8 of P.L. 1972, c. 70 (C. 39:6A-8).

31 Each insurer authorized to transact or transacting automobile
or motor vehicle insurance business in this State and subject to
33 the provisions of this section shall, within 30 days of the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLI committee amendments adopted June 16, 1988.

² Assembly floor amendments adopted June 29, 1988.

³ Senate floor amendments adopted June 30, 1988.

⁴ Senate amendments adopted in accordance with Governor's
recommendations August 4, 1988.

1 effective date of [this amendatory and supplementary act] P.L.
2 1985, c. 520, file and maintain with the Department of Insurance
3 written certification of compliance with the provisions of this
4 section.

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

7 (cf: P.L. 1985, c. 520, s. 18)

8 2.⁴ Section 3 of P.L. 1952, c. 174 (C. 39:6-63) is amended to
9 read as follows:

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

11 (a) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

12 (b) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

13 (c) (Deleted by amendment, P.L. 1968, c. 323, s. 3.)

14 (d) On December 30 in each year, the commissioner shall
15 calculate the probable amount which will be needed to carry out
16 the provisions of this act during the ensuing registration license
17 year. In such calculation, he shall take into consideration the
18 amount presently reserved for pending claims, anticipated
19 payments from the fund during said year, anticipated payments
20 from the fund for medical expenses to be made pursuant to
21 ⁴[subsection a. of]⁴ section 2 of [this act] P.L. 1977, c. 310 (C.
22 39:6-73.1), during the two years after said year, anticipated
23 amounts to be reserved for claims pending during said year,
24 amounts transferred to the Division of Motor Vehicles pursuant
25 to section 28 of P.L. 1952, c. 174 (C. 39:6-88) [, as amended by
26 this 1983 amendatory act,] and the desirability of maintaining a
27 surplus over and above such anticipated payments and present and
28 anticipated reserves, such surplus not to exceed the amount
29 actually paid from the fund during the 12 full calendar months
30 immediately preceding the date of calculation. Such probable
31 amount which will be needed to carry out the provisions of this
32 act shall be assessed against insurers for such year's
33 contributions to the fund. Such probable amount needed shall be
34 apportioned among such insurers in the proportion that the net
35 direct written premiums of each bear to the aggregate net direct
36 written premiums of all insurers, including the New Jersey
37 Automobile Full Insurance Underwriting Association, created
38 pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.), during the
39 preceding calendar year as shown by the records of the

1 commissioner. Each insurer shall pay the sum so assessed to the
2 treasurer on or before March 31, next following.

3 (e) Whenever any of the provisions of this act concerning the
4 method and sources of assessments on insurers, including the
5 New Jersey Automobile Full Insurance Underwriting Association,
6 created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et seq.), the
7 maximum amounts payable from the fund, eligibility or
8 qualifications of claimants, or amounts to be deducted from
9 payments made from the fund are amended by law, between
10 January 1 and April 30 in any year, the commissioner may, if he
11 deems it necessary, rescind any assessment on insurers, including
12 the New Jersey Automobile Full Insurance Underwriting
13 Association, created pursuant to P.L. 1983, c. 65 (C. 17:30E-1 et
14 seq.), made on December 30 of the preceding year. He shall then,
15 within 15 days of the adoption of such amendment, recalculate
16 the probable amount which will be needed to carry out the
17 provisions of this act during the ensuing registration license year,
18 in accordance with the provisions of subsection (d) of this
19 section. If, in his judgment, the estimated balance of the fund at
20 the beginning of the next registration license year will be
21 insufficient to meet such needs, he shall determine the
22 contributions of insurers, if any, in accordance with the
23 provisions of subsection (d) of this section. In the event of a
24 rescission and reassessment subsequent to March 1 in any year,
25 insurers shall pay the sum so assessed, if any, to the treasurer
26 within 90 days of the date of such assessment.

27 ⁴(f) On September 1, 1989 and each year thereafter, the
28 commissioner shall calculate the probable amount which will be
29 needed to carry out the provisions of subsection b. of section 2 of
30 P.L. 1977, c. 310 (C. 39:6-73.1), during the ensuing calendar year;
31 establish the fee to be charged for each private passenger
32 automobile to be registered during the ensuing year; and
33 immediately notify the Director of the Division of Motor
34 Vehicles of the amount of the fee. The fee shall be equitably
35 apportioned among all registrants of private passenger
36 automobiles during each calendar year. The calculation shall
37 take into consideration the amount reserved for pending claims,
38 anticipated payments from the fund for medical expenses to be
39 made during the succeeding two year period, anticipated amounts

1 to be reserved for claims pending during said year, and the
2 desirability of maintaining a surplus, over and above the
3 anticipated payments and present and anticipated reserves. No
4 surplus shall exceed the amount actually paid from the fund for
5 the purpose of carrying out the provisions of subsection b. of
6 section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), during the 12 full
7 calendar months immediately preceding the date of calculation,
8 except that for the registration license year beginning January 1,
9 1990, the surplus shall not exceed the amount actually paid from
10 the fund for the purpose of carrying out the provisions of
11 subsection a. of section 2 of P.L. 1977, c. 310 (C. 39:6-73.1),
12 during the 12 full calendar months immediately preceding the
13 date of calculation.

14 (g) The commissioner shall review the reserves maintained
15 pursuant to subsections (e) and (f) of this section for actuarial
16 soundness and report his findings, including any recommended
17 modifications, to the Legislature no later than January 1, 1991.]⁴
18 (cf: P.L. 1985, c. 148, s. 4)

19 3.⁴ Section 4 of P.L. 1972, c. 70 (C. 39:6A-4) is amended to
20 read as follows:

21 4. Personal injury protection coverage, regardless of fault.

22 Every automobile liability insurance policy insuring an
23 automobile as defined in this act against loss resulting from
24 liability imposed by law for bodily injury, death and property
25 damage sustained by any person arising out of ownership,
26 operation, maintenance or use of an automobile shall provide
27 personal injury protection coverage, as defined hereinbelow,
28 under provisions approved by the Commissioner of Insurance, for
29 the payment of benefits without regard to negligence, liability or
30 fault of any kind, to the named insured and members of his family
31 residing in his household who sustained bodily injury as a result of
32 an accident while occupying, entering into, alighting from or
33 using an automobile, or as a pedestrian, [being struck] caused by
34 an automobile or by an object propelled by or from an
35 automobile, to other persons sustaining bodily injury while
36 occupying, entering into, alighting from or using the automobile
37 of the named insured, with the permission of the named insured,
38 and to pedestrians, sustaining bodily injury caused by the named
39 insured's automobile or struck by an object propelled by or from
such automobile.

- 1 "Personal injury protection coverage" means and includes:
- 2 a. Medical expense benefits. Payment of all reasonable
- 3 medical expenses ⁴[up to \$10,000.00 and in excess of \$75,000.00]⁴
- 4 incurred as a result of personal injury sustained in an automobile
- 5 accident ⁴[occurring prior to January 1, 1990; and payment of all
- 6 reasonable medical expenses up to \$10,000.00 incurred as a result
- 7 of personal injury sustained in an automobile accident occurring
- 8 on or after January 1, 1990]⁴. In the event of death, payments
- 9 shall be made to the estate of the decedent. In the event
- 10 benefits paid by an insurer pursuant to this subsection are in
- 11 excess of \$75,000.00 on account of personal injury to any one
- 12 person in any one accident ⁴[occurring prior to January 1, 1990]⁴,
- 13 such excess shall be paid by the insurer in consultation with the
- 14 Unsatisfied Claim and Judgment Fund Board and shall be
- 15 reimbursable to the insurer from the Unsatisfied Claim and
- 16 Judgment Fund pursuant to ⁴[subsection a. of]⁴ section 2 of P.L.
- 17 1977, c. 310 (C. 39:6-73.1).
- 18 ⁴[b. [Income continuation benefits. The payment of the loss of
- 19 income of an income producer as a result of bodily injury
- 20 disability, subject to a maximum weekly payment of \$100.00.
- 21 Such sum shall be payable during the life of the injured person
- 22 and shall be subject to an amount or limit of \$5,200.00, on
- 23 account of injury to any one person in any one accident, except
- 24 that in no case shall income continuation benefits exceed the net
- 25 income normally earned during the period in which the benefits
- 26 are payable.] (Deleted by amendment, P.L. , c.)(now
- 27 pending in the Legislature as this bill)
- 28 c. [Essential services benefits. Payment of essential services
- 29 benefits to an injured person shall be made in reimbursement of
- 30 necessary and reasonable expenses incurred for such substitute
- 31 essential services ordinarily performed by the injured person for
- 32 himself, his family and members of the family residing in the
- 33 household, subject to an amount or limit of \$12.00 per day. Such
- 34 benefits shall be payable during the life of the injured person and
- 35 shall be subject to an amount or limit of \$4,380.00, on account of
- 36 injury to any one person in any one accident.] (Deleted by
- 37 amendment, P.L. , c.)(now pending in the Legislature as
- this bill)

1 d. [Death benefits. In the event of the death of an income
2 producer as a result of injuries sustained in an accident entitling
3 such person to benefits under section 4 of this act, the maximum
4 amount of benefits which could have been paid to the income
5 producer, but for his death, under section 4 b. shall be paid to the
6 surviving spouse, or in the event there is no surviving spouse, then
7 to the surviving children, and in the event there are no surviving
8 spouse or surviving children, then to the estate of the income
9 producer.

10 In the event of the death of one performing essential services
11 as a result of injuries sustained in an accident entitling such
12 person to benefits under section 4 c. of this act, the maximum
13 amount of benefits which could have been paid such person, under
14 section 4 c., shall be paid to the person incurring the expense of
15 providing such essential services.] (Deleted by amendment,
P.L. , c.)(now pending in the Legislature as this bill)

16 c. [Funeral expenses benefits. All reasonable funeral, burial
17 and cremation expenses, subject to a maximum benefit of
18 \$1,000.00, on account of the death to any one person in any one
19 accident shall be payable to decedent's estate.] (Deleted by
amendment, P.L. , c.)(now pending in the Legislature as
this bill)

20 Benefits payable under this section shall:

21 (1) [Be subject to any deductibles or exclusions elected by the
22 policyholder pursuant to section 13 of P.L. 1983, c. 362 (C.
23 39:6A-4.3);] (Deleted by amendment, P.L. , c.)(now pending
in the Legislature as this bill)]

24 b. Income continuation benefits. The payment of the loss of
25 income of an income producer as a result of bodily injury
26 disability, subject to a maximum weekly payment of \$100.00.
27 Such sum shall be payable during the life of the injured person
28 and shall be subject to an amount or limit of \$5,200.00, on
29 account of injury to any one person in any one accident, except
30 that in no case shall income continuation benefits exceed the net
31 income normally earned during the period in which the benefits
32 are payable.

33 c. Essential services benefits. Payment of essential services
34 benefits to an injured person shall be made in reimbursement of
35 necessary and reasonable expenses incurred for such substitute
36 benefits.

1 essential services ordinarily performed by the injured person for
2 himself, his family and members of the family residing in the
3 household, subject to an amount or limit of \$12.00 per day. Such
4 benefits shall be payable during the life of the injured person and
5 shall be subject to an amount or limit of \$4,380.00, on account of
6 injury to any one person in any one accident.

7 d. Death benefits. In the event of the death of an income
8 producer as a result of injuries sustained in an accident entitling
9 such person to benefits under this section, the maximum amount
10 of benefits which could have been paid to the income producer,
11 but for his death, under subsection b. of this section shall be paid
12 to the surviving spouse, or in the event there is no surviving
13 spouse, then to the surviving children, and in the event there are
14 no surviving spouse or surviving children, then to the estate of
15 the income producer.

16 In the event of the death of one performing essential services
17 as a result of injuries sustained in an accident entitling such
18 person to benefits under subsection c. of this section, the
19 maximum amount of benefits which could have been paid such
20 person, under subsection c., shall be paid to the person incurring
21 the expense of providing such essential services.

22 e. Funeral expenses benefits. All reasonable funeral, burial
23 and cremation expenses, subject to a maximum benefit of
24 \$1,000.00, on account of the death to any one person in any one
25 accident shall be payable to decedent's estate.

Benefits payable under this section shall:

26 (1) Be subject to any deductibles or exclusions elected by the
27 policyholder pursuant to section 13 of P.L. 1983, c. 362 (C.
28 39:6A-4.3);⁴

29 (2) Not be assignable, except to a provider of service benefits
30 under this section, nor subject to levy, execution, attachment or
31 other process for satisfaction of debts.

32 Medical expense benefit payments ⁴[up to \$10,000.00]⁴ shall be
33 subject to a deductible of \$250.00 on account of injury ⁴[to any
34 one person]⁴ in any one accident and a copayment of 20% of
35 ⁴[the] any⁴ benefits payable ⁴[in excess of the deductible amount]
36 between \$250.00 and \$5,000.00.
37

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

(cf: P.L. 1984, c. 40, s. 3)

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

7 14. Any person who, at the time of an automobile accident
8 resulting in injuries to that person, is required but fails to
9 maintain medical expense benefits coverage mandated by section
4 of P.L. 1972, c. 70 (C. 39:6A-4) ⁴[or]⁴ [section 1 of P.L.,
11 c. (C.) (now pending before the Legislature as
Assembly Bill No. 2883 of 1984)] ⁴[subsection b. of section 10 of
13 P.L. 1977, c. 310 (C. 39:6-73.1),]⁴ shall:

15 a. For the purpose of filing an action for recovery of
noneconomic loss, as defined in section 2 of P.L. 1972, c. 70 (C.
39:6A-2), be subject to the tort option specified in subsection
17 ⁴[b.] a.⁴ of section 8 of P.L. . 72, c. 70 (C. 39:6A-8[.]).

19 b. [In the event of a recovery for noneconomic loss pursuant to
an arbitration award, judicial judgment or voluntary settlement,
be subject to the setoff option as set forth in subsection c. of
21 section 13 of P.L. 1983, c. 362 (C. 39:6A-4,3), except that the
amount of the setoff shall be payable to the New Jersey
23 Automobile Insurance Risk Exchange established pursuant to
section 15 of P.L. 1983, c. 362 (C. 39:6A-21).] (Deleted by
25 amendment, P.L. , c. .)(now pending in the Legislature as
this bill)

27 (cf: P.L.1985, c.520, s.14)

29 5.⁴ Section 7 of P.L. 1972, c. 198 (C. 39:6-86.1) is amended to
read as follows:

31 7. When any person qualified to receive payments under the
provisions of the "Unsatisfied Claim and Judgment Fund Law"
suffers bodily injury or death [through being struck,] as a
33 pedestrian, as defined in section 2 of P.L. 1972, c. 70 (C.
39:6A-2), caused by a motor vehicle, including an automobile as
35 defined in section 2 of P.L. 1972, c. 70 (C. 39:6A-2), and a
motorcycle, or by an object propelled therefrom, or arising out of
37 an accident while occupying, entering into, alighting from, or
using an automobile, registered or principally garaged in this
39 State for which personal injury protection benefits under

1 the "New Jersey Automobile Reparation Reform Act," P.L. 1972,
2 c. 70 (C. 39:6A-1 et seq.), or section 19 of [this 1983 amendatory
3 and supplementary act] P.L. 1983, c. 362 (C. 17:28-1.3), would be
4 payable to such person if personal injury protection coverage
5 were in force and the damages resulting from such accident or
6 death are not satisfied due to the personal injury protection
7 coverage not being in effect with respect to such accident, then
8 in such event the Unsatisfied Claim and Judgment Fund shall
9 provide, under the following conditions, the following benefits:

10 a. Medical expense benefits. Payment of all reasonable
11 medical expenses ⁴[up to \$10,000.00 and in excess of \$75,000.00]⁴
12 incurred as a result of personal injury sustained in a motor
13 vehicle accident. In the event of death, payment shall be made
14 to the estate of the decedent.

15 Medical expense benefit payments ⁴[up to \$10,000.00]⁴ shall be
16 subject to a deductible of \$250.00 on account of injury ⁴[to any
17 one person]⁴ in any one accident and a copayment of 20% of
18 ⁴[the] any⁴ benefits payable ⁴[in excess of the deductible amount]
19 between \$250.00 and \$5,000.00⁴.

20 ⁴[b. [Income continuation benefits. The payment of the loss of
21 income of an income producer as a result of bodily injury
22 disability, subject to a maximum weekly payment of \$100.00.
23 Such sums shall be payable during the life of the injured person
24 and shall be subject to an amount or limit of \$5,200.00, on
25 account of injury to any one person in any one accident, except
26 that in no case shall income continuation benefits exceed the net
27 income normally earned during the period in which the benefits
28 are payable.] (Deleted by amendment, P.L. . c. .)(now
29 pending in the Legislature as this bill)

30 c. [Essential services benefits. Payment of essential services
31 benefits to an injured person shall be made in reimbursement of
32 necessary and reasonable expenses incurred for such substitute
33 essential services ordinarily performed by the injured person for
34 himself, his family and members of the family residing in the
35 household, subject to an amount or limit of \$12.00 per day. Such
36 benefits shall be payable during the life of the injured person and
37 shall be subject to an amount or limit of \$4,380.00, on account of
injury to any one person in any one accident.] (Deleted by

1 amendment, P.L. , c. .)(now pending in the Legislature as
2 this bill)

3 d. [Death benefits. In the event of the death of an income
4 producer as a result of injuries sustained in an accident entitling
5 such person to benefits under section 7 of this act, the maximum
6 amount of benefits which could have been paid to the income
7 producer, but for his death, under section 7 b. shall be paid to the
8 surviving spouse, or in the event there is no surviving spouse, then
9 to the surviving children, and in the event there are no surviving
10 spouse or surviving children, then to the estate of the income
11 producer.

12 In the event of the death of one performing essential services
13 as a result of injuries sustained in an accident entitling such
14 person to benefits under section 7 c. of this act, the maximum
15 amount of benefits which could have been paid such person, under
16 section 7 c., shall be paid to the person incurring the expense of
17 providing such essential services.] (Deleted by amendment,
18 P.L. .)(now pending in the Legislature as this bill)

19 e. [Funeral expenses benefits. All reasonable funeral, burial
20 and cremation expenses, subject to a maximum benefit of
21 \$1,000.00, on account of the death to any one person in any one
22 accident shall be payable to decedent's estate.] (Deleted by
23 amendment, P.L. , c. .)(now pending in the Legislature as
24 this bill)

25 b. Income continuation benefits. The payment of the loss of
26 income of an income producer as a result of bodily injury
27 disability, subject to a maximum weekly payment of \$100.00.
28 Such sums shall be payable during the life of the injured person
29 and shall be subject to an amount or limit of \$5,200.00, on
30 account of injury to any one person in any one accident, except
31 that in no case shall income continuation benefits exceed the net
32 income normally earned during the period in which the benefits
33 are payable.

34 c. Essential services benefits. Payment of essential services
35 benefits to an injured person shall be made in reimbursement of
36 necessary and reasonable expenses incurred for such substitute
37 essential services ordinarily performed by the injured person for
38 himself, his family and members of the family residing in the
39 household, subject to an amount or limit of \$12.00 per

1 day. Such benefits shall be payable during the life of the injured
2 person and shall be subject to an amount or limit of \$4,380.00, on
3 account of injury to any one person in any one accident.

4 d. Death benefits. In the event of the death of an income
5 producer as a result of injuries sustained in an accident entitling
6 such person to benefits under this section, the maximum amount
7 of benefits which could have been paid to the income producer,
8 but for his death, under subsection b. of this section shall be paid
9 to the surviving spouse, or in the event there is no surviving
10 spouse, then to the surviving children, and in the event there are
11 no surviving spouse or surviving children, then to the estate of
12 the income producer.

13 In the event of the death of one performing essential services
14 as a result of injuries sustained in an accident entitling such
15 person to benefits under subsection c. of this section, the
16 maximum amount of benefits which could have been paid such
17 person, under subsection c. shall be paid to the person incurring
18 the expense of providing such essential services.

19 e. Funeral expenses benefits. All reasonable funeral, burial
20 and cremation expenses, subject to a maximum benefit of
21 \$1,000.00 on account of the death to any one person in any one
22 accident shall be payable to decedent's estate.⁴

23 Provided, however, that no benefits shall be paid under this
24 section unless the person applying for benefits has demonstrated
25 that he is not disqualified by reason of the provisions of
26 subsection (a), (c), (d) or (l) of section 10 of P.L. 1952, c. 174 (C.
27 39:6-70), or any other provision of law.

(cf: P.L. 1983, c. 362, s. 3)

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

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

31 One of the following two tort options shall be elected, in
32 accordance with section 14.1 of P.L. 1983, c. 362 (C. 39:6A-8.1),
33 by any named insured required to maintain personal injury
34 protection coverage pursuant to section 4 of P.L. 1972, c. 70 (C.
35 39:6A-4):

36 a. Every owner, registrant, operator or occupant of an
37 automobile to which section 4, personal injury protection

1 coverage, regardless of fault, applies, and every person or
2 organization legally responsible for his acts or omissions, is
3 hereby exempted from tort liability for noneconomic loss to a
4 person who is subject to this subsection and who is either a person
5 who is required to maintain the coverage mandated by this act, or
6 is a person who has a right to receive benefits under section 4 of
7 [this act] P.L. 1972, c. 70 (C. 39:6A-4), as a result of bodily
8 injury, arising out of the ownership, operation, maintenance or
9 use of such automobile in this State, ⁴[if the bodily injury is
10 confined solely to the soft tissue of the body and the medical
11 expenses incurred or to be incurred by such injured person or the
12 equivalent value thereof for the reasonable and necessary
13 treatment of such bodily injury is less than ~~[\$200.00,]~~ \$750.00,
14 which amount shall be adjusted annually on January 1 of each
15 year following the effective date of this 1988 amendatory and
16 supplementary act by the Commissioner of Insurance to reflect
17 increases or decreases in the national consumer price index for
18 the professional services component of medical care services, all
19 urban consumers, U.S. city average, and which amount shall be
20 exclusive of hospital expenses, X-rays and other diagnostic
21 medical expenses. The adjusted rate shall apply to any claim for
22 noneconomic loss arising from any automobile accident occurring
23 on or after the adjustment date. There shall be no exemption
24 from tort liability if the injured party has sustained death,
25 permanent disability, permanent significant disfigurement,
26 permanent loss of any bodily function or loss of a body member in
27 whole or in part, regardless of the right of any person to receive
28 benefits under section 4 of [this act] P.L. 1972, c. 70 (C.
29 39:6A-4). Bodily injury confined solely to the soft tissue, for the
30 purpose of this section, means injury in the form of sprains,
31 strains, contusions, lacerations, bruises, hematomas, cuts,
32 abrasions, scrapes, scratches and tears confined to the muscles,
33 tendons, ligaments, cartilages, nerves, fibers, veins, arteries and
34 skin of the human body] unless that person has sustained a
35 personal injury which results in death; dismemberment;
36 significant disfigurement; a fracture; loss of a fetus; permanent
37 loss of use of a body organ, member, function or system;
permanent consequential limitation of use of a body organ

1 or member; significant limitation of use of a body function or
2 system; or a medically determined injury or impairment of a
3 non-permanent nature which prevents the injured person from
4 performing substantially all of the material acts which constitute
5 that person's usual and customary daily activities for not less
6 than 90 days during the 180 days immediately following the
7 occurrence of the injury or impairment⁴; or

8 b. As an alternative to the basic tort option specified in
9 subsection a. of this section, every owner, registrant, operator, or
10 occupant of an automobile to which section 4 of P.L. 1972, c. 70
11 (C. 39:6A-4) applies, and every person or organization legally
12 responsible for his acts or omissions, ⁴[is hereby exempted from
13 tort liability] shall be liable⁴ for noneconomic loss to a person
14 who is subject to this subsection and who is either a person who is
15 required to maintain the coverage mandated by P.L. 1972, c. 70
16 (C. 39:6A-1 et seq.) or is a person who has a right to receive
17 benefits under section 4 of that act (C. 39:6A-4) as a result of
18 bodily injury, arising out of the ownership, operation,
19 maintenance or use of such automobile in this State ⁴[,]⁴ [if the
20 medical expenses incurred or to be incurred by that injured
21 person, or the equivalent value thereof, for the reasonable and
22 necessary treatment of the bodily injury, is less than \$1,500.00,
23 which amount shall be adjusted annually on January 1 of each
24 year following the operative date of this act by the Commissioner
25 of Insurance to reflect increases or decreases in the national
26 Consumer Price Index for the professional services component of
27 medical care services, all urban consumers, U.S. city average,
28 and which amount shall be exclusive of hospital expenses, X-rays
29 and other diagnostic medical expenses. The adjusted rate shall
30 apply to any claim for noneconomic loss arising from any
31 automobile accident occurring on or after the adjustment date.
32 There shall be no exemption from tort liability if the injured
33 party has sustained death, permanent disability, permanent
34 significant disfigurement, permanent loss of any bodily function
35 or loss of a body member in whole or in part, regardless of the
36 right of any person to receive benefits under section 4 of P.L.
37 1972, c. 70 (C. 39:6A-4)] ⁴[unless that person has sustained
38 personal injury which results in death, serious impairment of body
39 function or permanent serious disfigurement]⁴.

1 The tort option provisions of subsection a. of this section shall
also apply to the right to recover for noneconomic loss of any
3 person eligible for benefits pursuant to section 4 of P.L. 1972, c.
70 (C. 39:6A-4) but who is not required to maintain personal
5 injury protection coverage and is not an immediate family
member, as defined in section 14.1 of P.L. 1983, c. 362 (C.
7 39:6A-8.1), under an automobile insurance policy.

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

11 [The tort option provisions of subsection b. of this section shall
remain inoperative until July 1, 1984, and shall apply to accidents
13 occurring on or after that date.

If any provision of subsection b. of this section shall be deemed
15 to be unconstitutional, the provisions of the entire subsection
shall be deemed null and void, and without further effect, but the
17 decision of the court shall not affect the validity of any other
provision of this act.]

19 ⁴The tort option provisions of subsections a. and b. of this
section as provided in this 1988 amendatory and supplementary
21 act shall apply to automobile insurance policies issued or renewed
on or after January 1, 1989 and as otherwise provided by law.⁴
23 (cf: P.L. 1985, c. 520, s. 15)

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

14.1. Election of tort option. a. Election of a tort option
27 pursuant to section 8 of P.L. 1972, c. 70 (C. 39:6A-8) shall be in
writing and signed by the named insured on [a form approved by
29 the Commissioner of Insurance] the coverage selection form
required by section 17 of P.L. 1983, c. 362 (C. 39:6A-23). The
31 form shall state the percentage difference in the premium rates
or the dollar savings between the two tort options. The tort
33 option elected shall apply to the named insured and any
immediate family member residing in the named insured's
35 household. "Immediate family member" means the spouse of the
named insured and any child of the named insured or spouse
37 residing in the named insured's household, who is not a named
insured under another automobile insurance policy.

1 b. If the named insured fails to elect, in writing, [any] ⁴[either]
2 any⁴ of the tort options offered pursuant to section 8 of P.L.
3 1972, c. 70 (C. 39:6A-8), [the named insured shall be deemed to
4 elect the tort option of subsection a. of that section 8] ⁴[the
5 insurer shall not issue or renew the automobile policy. No [new]
6 automobile policy [issued on or after July 1, 1984, in the State]
7 shall be issued or renewed on or after January 1, 1989 in this
8 State by an insurer unless the named insured has elected one of
9 the tort options provided in section 8] the named insured shall be
10 deemed to elect the tort option of subsection a. of that section
11 8⁴.

12 c. The tort option elected by a named insured ⁴for an
13 automobile policy issued or renewed⁴ on or after January 1, 1989
14 shall continue in force as to subsequent renewal or replacement
15 policies until the insurer or its authorized representative receives
16 a properly executed form electing the other tort option.

17 d. The tort option elected by the named insured shall apply to
18 all automobiles owned by the named insured and to any
19 immediate family member who is not a named insured under
20 another automobile insurance policy, except that in the case
21 where more than one policy is applicable to the named insured or
22 immediate family member, and the policies have different tort
23 options, the tort option elected by the injured named insured shall
24 apply or, in the case of an immediate family member who is not a
25 named insured and is injured in an accident involving an
26 automobile to which a policy issued to a named insured in the
27 household of the injured immediate family member applies, the
28 tort option elected by that named insured shall apply.

29 e. ⁴[A properly completed and executed coverage selection
30 form indicating selection of a tort threshold as required by
31 subsection a. of this section shall be prima facie evidence of the
32 named insured's knowing selection of the tort threshold option
33 indicated on the form] Notwithstanding any other provision of
34 law to the contrary, no person, including, but not limited to, an
35 insurer, an insurance producer as defined in section 2 of P.L.
36 1987, c. 293 (C. 17:22A-2), a servicing carrier or non-insurer
37 servicing carrier acting in that capacity pursuant to P.L. 1983, c.
38 65 (C. 17:30E-1 et seq.), and the New Jersey Automobile Full

1 Insurance Underwriting Association created pursuant to P.L.
 2 1983, c. 65 (C. 17:30E-1 et seq.), shall be liable in an action for
 3 damages on account of the election of a tort option by a named
 4 insured or on account of the tort option imposed pursuant to
 5 subsection b. of this section or otherwise imposed by law.
 6 Nothing in this subsection shall be deemed to grant immunity to
 7 any person causing damage as the result of his willful, wanton or
 8 grossly negligent act of commission or omission⁴.

9 In the case of automobile insurance policies in force on [July]
 10 [January 1, [1984] 1989, notice of the tort options available
 11 pursuant to the aforesaid section 8 shall be given in accordance
 12 with section 17 of [this 1983 amendatory and supplementary act]
 13 P.L. 1983, c. 362 (C. 39:6A-23).

(cf: P.L. 1983, c. 362, s. 14.1)

C. 17:29A-36.2

14 8.⁴ (New section) 4a.⁴ Within 180 days of the effective date of
 15 this 4[1988 amendatory and supplementary act] section⁴, the
 16 commissioner shall promulgate regulations providing the
 17 following with regard to private passenger automobile insurance:
 18 following with regard to private passenger automobile insurance:

19 4[a.] (1)⁴ Rate filing data and information specifications in a
 20 standard format;

21 4[b. (1)] (2) (a)⁴ A standard ratemaking methodology, and

22 4[(2)] (b)⁴ Uniform standards on ratemaking methodologies,
 23 data compilation, data evaluation and data submission;

24 4[c.] (3)⁴ Standards of efficiency and other standards of
 25 measure based upon industrywide aggregate averages and other
 26 relevant data and factors to be utilized in the review and
 27 evaluation of the loss, expense and financial data contained in a
 28 rate filing; and

29 4[d.] (4)⁴ The format, data specifications and other
 30 requirements for any informational filings 4[required by the
 31 commissioner] made pursuant to subsection b. of this section⁴.

32 4b. Notwithstanding any provision of law to the contrary, on
 33 July 1, 1989 and annually thereafter, every insurer writing
 34 private passenger automobile insurance in this State shall make
 35 an informational filing on their private passenger automobile
 36 insurance with the commissioner regardless of whether they file
 37 for an adjustment in their automobile insurance rates.⁴

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

3 3. Compulsory automobile insurance coverage; limits. Every
owner or registered owner of an automobile registered or
5 principally garaged in this State shall maintain automobile
liability insurance coverage, under provisions approved by the
7 Commissioner of Insurance, insuring against loss resulting from
liability imposed by law for bodily injury, death and property
9 damage sustained by any person arising out of the ownership,
maintenance, operation or use of an automobile wherein such
11 coverage shall be at least in:

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

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

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

21 No licensed insurance carrier shall refuse to renew the required
coverage stipulated by this act [without] except in accordance
23 with the provisions of section ⁴[35] 26⁴ of P.L. , c. (C.
)(now pending in the Legislature as this bill) or with the consent
25 of the Commissioner of Insurance.

(cf: P.L. 1972, c. 203, s. 2)

27 **C. 39:6A-4.6**

⁴10. (New section) The Commissioner of Insurance shall,
29 within 180 days after the effective date of this 1988 amendatory
and supplementary act, promulgate medical fee schedules on a
31 regional basis for the reimbursement of health care providers
providing services or equipment for medical expense benefits for
33 which payment is required to be made under the personal injury
protection coverage provided for in section 4 of P.L. 1972, c. 70
35 (C. 39:6A-4). These fee schedules shall be promulgated on the
basis of the type of injury sustained or service provided, and shall
37 be reviewed biannually by the commissioner.⁴

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

1 2. a. [No] ³[Every] No³ motor vehicle liability policy or
 3 renewal of such policy of insurance, including a liability policy
 5 for an automobile as defined in section [2 of P.L. 1972, c. 70 (C.
 7 39:6A-2)] ³[1 of P.L. c. (C.) (now pending in the
 9 Legislature as this bill)] 2 of P.L. 1972, c. 70 (C. 39:6A-2)³,
 11 insuring against loss resulting from liability imposed by law for
 13 bodily injury or death, sustained by any person arising out of the
 15 ownership, maintenance or use of a motor vehicle, [shall be]
 17 ³[which is] shall be³ issued in this State with respect to any
 19 motor vehicle registered or principally garaged in this State
 21 [unless it includes] ³[shall include] unless it includes³ coverage in
 23 limits for bodily injury or death as follows:
 25 (1) an amount or limit of [~~\$15,000.00~~] ³[~~\$10,000.00~~]
 27 \$15,000.00³, exclusive of interest and costs, on account of injury
 29 to, or death of, one person, in any one accident, and
 31 (2) an amount or limit, subject to such limit for any one person
 33 so injured . . . ~~of \$30,000.00~~ ³[~~\$20,000.00~~] \$30,000.00³,
 35 exclusive of interest and costs, on account of injury to or death
 37 of more than one person, in any one accident,
 and the provisions approved by the Commissioner of Insurance,
 for payment of all or part of the sums which the insured or his
 legal representative shall be legally entitled to recover as
 damages from the operator or owner of an uninsured motor
 vehicle, or hit and run motor vehicle, as defined in section 18 of
 P.L. 1952, c. 174 (C. 39:6-78), because of bodily injury, sickness
 or disease, including death resulting therefrom, sustained by the
 insured, caused by accident and arising out of the ownership,
 maintenance or use of such uninsured or hit and run motor vehicle
 anywhere within the United States or Canada; except that
 uninsured motorist coverage shall provide that in order to recover
 for non-economic loss, as defined in [section 2 of P.L. 1972, c. 70
 (C. 39:6A-2)] ³[section 2 of P.L. c. (C.) (now
 pending in the Legislature as this bill)] section 2 of P.L. 1972, c.
 70 (C. 39:6A-2)³, for accidents to which the benefits of section
 [4] ³[2] 4 (C. 39:6A-4)³ of that act apply [(C. 39:6A-4)], the ⁴1ort
 option elected pursuant to section 8 (C. 39:6A-8) of that act shall
 apply to that⁴ injured person ⁴[shall have sustained an

1 injury]⁴ [or incurred the medical expenses] ⁴[³or incurred the
2 medical expenses³ described]⁴ [under the tort option elected
3 pursuant to section 8 of that act (C. 39:6A-8)] ³[in section 18 of
4 P.L. ,c. (C.) (now pending in the Legislature as this
5 bill)] ⁴[under the tort option elected pursuant to section 8 of that
6 act (C. 39:6A-8)]³⁴.

7 All motor vehicle liability policies shall also include coverage
8 for the payment of all or part of the sums which persons insured
9 thereunder shall be legally entitled to recover as damages from
10 owners or operators of uninsured motor vehicles, other than hit
11 and run motor vehicles, because of injury to or destruction to the
12 personal property of such insured, with a limit in the aggregate
13 for all insureds involved in any one accident of \$5,000.00, and
14 subject, for each insured, to an exclusion of the first [~~\$250.00~~]
15 \$500.00 of such damages.

16 b. Uninsured and underinsured motorist coverage shall be
17 provided as an option by an insurer to the named insured up to at
18 least the following limits: \$250,000.00 each person and
19 \$500,000.00 each accident for bodily injury; \$100,000.00 each
20 accident for property damage or \$500,000.00 single limit, subject
21 to an exclusion of the first [~~\$250.00~~] \$500.00 of such damage to
22 property for each accident, except that the limits for uninsured
23 and underinsured motorist coverage shall not exceed the
24 insured's motor vehicle liability policy limits for bodily injury
25 and property damage, respectively.

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

29 c. Uninsured and underinsured motorist coverage provided for
30 in this section shall not be increased by stacking the limits of
31 coverage of multiple motor vehicles covered under the same
32 policy of insurance nor shall these coverages be increased by
33 stacking the limits of coverage of multiple policies available to
34 the insured. If the insured had uninsured motorist coverage
35 available under more than one policy, any recovery shall not
36 exceed the higher of the applicable limits of the respective
37 coverages and the recovery shall be prorated between the
38 applicable coverages as the limits of each coverage bear to the
39 total of the limits.

1 d. Uninsured motorist coverage shall be subject to the policy
terms, conditions and exclusions approved by the Commissioner
3 of Insurance, including, but not limited to, unauthorized
settlements, nonduplication of coverage, subrogation and
5 arbitration.

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

25 (2) "uninsured motor vehicle" means:

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

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

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

"Uninsured motor vehicle" shall not include an underinsured

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

13 ³{(3) "Automobile" means a private passenger automobile of a
14 private passenger or station wagon type that is owned or hired
15 and is neither used as a public or livery conveyance for
16 passengers nor rented to others with a driver; and a motor vehicle
17 with a pickup body, a delivery sedan, a van, or a panel truck or a
18 camper type vehicle used for recreational purposes owned by an
19 individual or by husband and wife who are residents of the same
20 household, not customarily used in the occupation, profession or
21 business of the insured other than farming or ranching. An
22 automobile owned by a farm family copartnership or corporation
23 which is principally garaged on a farm or ranch shall be
24 considered to be a private passenger automobile owned by two or
25 more relatives resident in the same household.}]³

(cf: P.L. 1983, c. 362, s. 1)

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

29 3. (a) If 20 days after the receipt of a report of a motor
30 vehicle accident within this State which has resulted in bodily
31 injury or death, or damage to the property of any one person in
32 excess of [\$200.00] \$500.00, the director does not have on file
33 evidence satisfactory to him that the person who would otherwise
34 be required to file security under subsection (b) of this section
35 has been released from liability, or has been finally adjudicated
36 not to be liable, or has executed a duly acknowledged written
37 agreement providing for the payment of an agreed amount in
38 installment with respect to all claims for injuries or damages
39 resulting from the accident, and in the event of an accident

1 involving an automobile, required to have coverage for personal
[injury] ³injury³ protection ³[coverage]³ benefits pursuant to
3 [P.L.1972, c. 70] ³[section 2 of P.L. , c. (C.) (now
pending in the Legislature as this bill)] P.L. 1972, c. 70
5 (C.39:6A-1 et seq.)³, has also reimbursed or has executed a duly
acknowledged written agreement to pay an agreed amount in
7 installments to reimburse the Unsatisfied Claim and Judgment
Fund for the payment of all personal [injury] ³injury³ protection
9 ³[coverage]³ benefits the fund has made or shall make pursuant
to section 7 or section 10 of P.L. 1972, c. 198 (C. 39:6-86.1 and
11 C. 39:6-86.4) by reason of the failure of such person to have the
requisite insurance coverage in effect, the director shall
determine the amount of security which may be necessary in his
judgment to satisfy any reimbursement, judgment or judgments
15 for damages resulting from such accident as may be recovered
against each operator or owner in view of the total insurance
17 protection available to the injured party. The Director of the
Division of Motor Vehicles shall promulgate such rules as may be
19 necessary to set forth those instances where deposit of security is
necessary.

21 (b) The director may, within 90 days after the receipt of such
report of a motor vehicle accident, suspend the license of each
23 operator and all registrations of each owner of a motor vehicle in
any manner involved in such accident, and if such operator is a
25 nonresident the privilege of operating a motor vehicle within this
State, and if such owner is a nonresident the privilege of the use
27 within this State of any motor vehicle owned by him, unless such
operator or owner or both shall deposit security in the sum so
29 determined by the director; provided, notice of such suspension
shall be sent by the director to such operator and owner not less
31 than 10 days prior to the effective date of such suspension and
shall state the amount required as security. Where erroneous
33 information is given the director with respect to the matters set
forth in subdivisions 1, 2 or 3 of subsection (c) of this section, he
35 may take appropriate action as hereinbefore provided, within 90
days after receipt by him of correct information with respect to
37 said matters.

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

1 (1) To such operator or owner, if such owner had in effect, at
the time of such accident, [an automobile] a motor vehicle
3 liability policy with respect to the motor vehicle involved in such
accident;

5 (2) To such operator, if not the owner of such motor vehicle, if
there was in effect at the time of such accident [an automobile] a
7 motor vehicle liability policy or bond with respect to his
operation of motor vehicles not owned by him;

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

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

No such policy or bond shall be effective under this section
17 unless issued by an insurance company or surety company
authorized to do business in this State, except that if such motor
19 vehicle was not registered in this State, or was a motor vehicle
which was registered elsewhere than in this State at the effective
21 date of the policy or bond, or the most recent renewal thereof,
such policy or bond shall not be effective under this section
23 unless the insurance company or surety company if not authorized
to do business in this State shall execute a power of attorney
25 *authorizing the director to accept service on its behalf of notice*
or process in any action upon such policy or bond arising out of
27 *such accident; provided, however, every such policy or bond is*
subject, if the accident has resulted in bodily injury or death, to a
29 *limit, exclusive of interest and costs, of not less than [\$15,000.00]*
³[\$10,000.00] \$15,000.00³ because of bodily injury to or death of
31 *one person in any one accident and, subject to said limit for one*
person, to a limit of not less than [\$30,000.00] ³[\$20,000.00]
33 *\$30,000.00³ because of bodily injury to or death of two or more*
persons in any one accident, and, if the accident has resulted in
35 *injury to or destruction of property, to a limit of not less than*
\$5,000.00 because of injury to or destruction of property of
37 *others in any one accident and if policy or bond is applicable to*
an automobile required to have coverage for personal [injury]
39 *³injury³ protection ³[coverage]³ benefits pursuant to [P.L., 1972.*

1 c. 70] ³[section 2 of P.L. ,c. (C.) (now pending in
the Legislature as this bill)] P.L. 1972, c. 70 (C.39:6A-1 et seq.)³,
3 it shall include an amount to cover personal [injury] ³injury³
protection ³[coverage]³ benefits as required by that act.
5 (cf: P.L. 1975, c. 252, s. 1)

7 13.⁴ Section 13 of P.L. 1952, c. 173 (C. 39:6-35) is amended to
read as follows:

9 13. If a person fails to pay and satisfy every judgment
rendered against him for damages because of personal injury or
death, or damage to property in excess of [~~\$100.00~~] \$500.00,
resulting from the ownership, maintenance, use or operation of a
motor vehicle and every judgment based on an agreement or
13 contract made in settlement of damages arising out of a motor
vehicle accident, within 60 days after its entry, or if an appeal is
15 taken therefrom within that time, within 60 days after the
judgment as entered or modified becomes final, the operator's
17 license and all registration certificates of any such person, other
than a chauffeur or operator employed by the owner of a motor
19 vehicle and so acting at the time of the damage, injuries or death
resulting in the judgment, shall, upon receiving a certified copy
21 of a transcript of the final judgment from the court in which it
was rendered showing it to have been still unsatisfied more than
23 60 days after it became final, be forthwith suspended by the
director.

25 If the director is satisfied that a judgment debtor or his
insurance carrier was, within the said 60-day period, ready,
27 willing and able to pay the said judgment but was prevented from
so doing by reason of the refusal or legal inability of the
29 judgment creditor to accept payment, or that the failure to pay
said judgment within the said 60-day period was due to the act or
31 neglect of the judgment debtor's insurance carrier and not to any
fault of the judgment debtor then the director may, in his
33 discretion, extend the 60-day limitation herein prescribed for any
reasonable time necessary to complete the formality of payment
35 of the judgment and shall not suspend the judgment debtor's
driver's license, operating privilege or certificate of registration.

37 The judgment herein mentioned shall be a judgment of a court
of competent jurisdiction of this State or any other state or of a
39 District Court of the United States.

1 The license and registration certificates shall remain so
suspended and shall not be renewed, nor shall a motor vehicle be
3 thereafter registered in the name of that person while the
judgment remains unstayed, unsatisfied, subsisting and until every
5 such judgment is satisfied or discharged. ³[and the person gives
proof of financial responsibility to respond in damages for future
7 accidents as required under section 37 of P.L. _____, c. (C. _____)
(now pending in the Legislature as this bill),]³ except that in
9 ³the³ event that the judgment debtor shall be relieved of liability
for payment of said judgment by an adjudication of the court in
which the same was entered, or if the right to enforce said
judgment by docketing and revival, or by revival, or by bringing
13 an action thereon, shall have expired without such revival or the
bringing of any such action thereon, the judgment debtor's
15 license shall be restored to him, and one or more motor vehicles
may be registered in his name, upon application to the Division of
17 Motor Vehicles.

A discharge in bankruptcy shall relieve the judgment debtor
19 from any of the requirements of this act, ³[except proof of
financial responsibility as required under section 37 of P.L. _____,
21 c. (C. _____) (now pending in the Legislature as this bill),]³
provided that the underlying judgment was not based on a willful
23 or malicious tort.

The clerk of the court in which the judgment is rendered, or
25 the court where it has no clerk, shall forward to the director, at
the request of the judgment creditor or his attorney, after the
27 expiration of the 60 days a certified copy of the judgment or a
transcript thereof, as aforesaid.

29 Upon the filing with the court of proof of satisfaction or
discharge of a judgment, the nonpayment of which has been
31 previously certified to the director, the clerk of the court, or the
court where it has no clerk shall immediately forward notice of
33 such satisfaction or discharge to the director.

If the defendant is a nonresident the director shall transmit to
35 the officer in charge of the issuance of driver licenses and
registration certificates of the state of which the defendant is a
37 resident a certified copy of the judgment.

1 If after proof is given, another such judgment is recovered
2 against that person for an accident occurring before the proof
3 was given, the license and certificate shall again be and remain
4 suspended, and no other license or certificate shall be issued to
5 him while the judgment so remains unsatisfied and subsisting.

(cf: P.L. 1979, c. 169, s. 1)

7 14.⁴ Section 15 of P.L. 1952, c. 173 (C. 39:6-37) is amended to
8 read as follows:

9 15. Whenever it appears to the satisfaction of the director
10 that[;] at the time of a motor vehicle accident resulting in the
11 death of or injury to any person, or damage to property to the
12 extent of [~~\$100.00~~] \$500.00, the judgment debtor, against whom a
13 judgment has been obtained as a result of such accident, was
14 insured in an insurance company, authorized to do business in this
15 State, against public liability for injuries or death to one person
16 to the extent of [~~\$15,000.00~~] ³[\$10,000.00] \$15,000.00³ and for
17 injuries or death to more than one person to the extent of
18 [~~\$30,000.00~~] ³[\$20,000.00] \$30,000.00³ and for damage to
19 property to the extent of \$5,000.00 arising out of a single motor
20 vehicle accident and with respect to an automobile, as defined in
21 [P.L. 1972, c. 70] ³[section 1 of P.L. ,c. (C.) (now
22 pending in the Legislature as this bill)] section 2 of P.L. 1972, c.
23 70 (C. 39:6A-2)³, registered or principally garaged in New Jersey;
24 personal [injury] ³injury³ protection coverage as provided in [the
25 "New Jersey Automobile Reparation Reform Act," P.L. 1972, c.
26 70], ³[section 2 of P.L. , c. (C.) (now pending in the
27 Legislature as this bill)] the "New Jersey Automobile Reparation
28 Reform Act," P.L. 1972, c. 70 (C. 39:6A-1 et seq.)³ and that the
29 judgment has not been paid or the personal [injury] ³injury³
30 protection ³[coverage]³ benefits have not been paid because,
31 subsequent to the date of such accident, such insurance company
32 has become insolvent or bankrupt, or the Commissioner of
33 Insurance has undertaken control [hereof] thereof for the purpose
34 of liquidation, he shall not suspend the operator's license and the
35 registration certificates of such judgment debtor.

(cf: P.L. 1979, c. 169, s. 3)

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

1 9. When any qualified person recovers a valid judgment in any
2 court of competent jurisdiction in this State against any other
3 person, who was the operator or owner of a motor vehicle, for
4 injury to, death of, any person or persons, or a similar valid
5 judgment in such court against such a defendant for an amount in
6 excess of [~~\$250.00~~] \$500.00, exclusive of interest and costs, for
7 damage to property, except property of others in charge of such
8 operator or owner or such operator's or owner's employees,
9 arising out of the ownership, maintenance or use of the motor
10 vehicle in this State on or after April 1, 1955, and any amount
11 remains unpaid thereon in the case of a judgment for bodily injury
12 or death, or any amount in excess of [~~\$250.00~~] \$500.00 remains
13 unpaid thereon in case of a judgment for damage to property,
14 such judgment creditor may, upon the termination of all
15 proceedings, including reviews and appeals in connection with
16 such judgment, file a verified claim in the court in which the
17 judgment was entered, and upon 10 days' written notice to the
18 board may apply to the court for an order directing payment out
19 of the fund, of the amount unpaid upon such judgment for bodily
20 injury or death, which does not exceed, or upon such judgment for
21 damage to property, which exceeds the sum of [~~\$250.00~~] \$500.00
and does not exceed--

22 (a) The maximum amount or limit of [~~\$15,000.00~~] ³[\$10,000.00]
23 \$15,000.00³, exclusive of interest and costs, on account of injury
24 to, or death of, one person, in any one accident, and

25 (b) The maximum amount or limit, subject to such limit for
26 any one person so injured or killed, of [~~\$30,000.00~~] ³[\$20,000.00]
27 \$30,000.00³, exclusive of interest and costs, on account of injury
28 to, or death of, more than one person, in any one accident, and

29 (c) The maximum amount or limit of \$5,000.00, exclusive of
30 interest and costs, for damage to property in any one accident.

(cf: P.L. 1983, c. 362, s. 21)

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

33 13. Except with respect to medical expense benefits paid
34 pursuant to section 2 of P.L. 1977, c. 310 (C. 39:6-73.1), no order
35 shall be made for the payment and the treasurer shall make no
36 payment, out of the fund, of
37

1 (a) Any claim for damage to property for less than [~~\$250.00~~]
2 \$500.00.

3 (b) The first [~~\$250.00~~] \$500.00 of any judgment for damage to
4 property or of the unsatisfied portion thereof, or

5 (c) The unsatisfied portion of any judgment which, after
6 deducting [~~\$250.00~~] \$500.00 therefrom if the judgment is for
7 damage to property, exceeds

8 (1) the maximum or limit of [~~\$15,000.00~~] ³[\$10,000.00]
9 \$15,000.00³, exclusive of interest and costs, on account of injury
10 to, or death of, one person in any one accident, and

11 (2) the maximum amount or limit, subject to such limit for any
12 one person so injured or killed of [~~\$30,000.00~~] ³[\$20,000.00]
13 \$30,000.00³, exclusive of interest and costs, on account of injury
14 to, or death of, more than one person, in any one accident, and

15 (3) the maximum amount or limit of \$5,000.00, exclusive of
16 interest and costs, for damage to property in any one accident;
17 provided, that such maximum amounts shall be reduced by any
18 amount received or recovered as specified in subparagraph (m) of
19 section 10.

20 (d) Any claim for damage to property which includes any sum
21 greater than the difference between said maximum amounts and
22 the sum of [~~\$250.00~~] \$500.00, and any amount paid out of the fund
23 in excess of the amount so authorized may be recovered by the
24 treasurer in an action brought to him against the person receiving
25 the same.

(cf: P.L. 1983, c. 362, s. 22)

27 ⁴17. Section 17 of P.L. 1983, c. 65 (C. 17:30E-5) is amended to
28 read as follows:

29 17. a. Within 45 days after the effective date of this 1988
30 amendatory and supplementary act, there shall be appointed a
31 reconstituted board of directors, and within 30 days after the
32 appointment of the reconstituted board, the commissioner shall
33 call the first, or organizational, meeting of the [association,
34 which shall seat the] reconstituted board of directors. The board
35 shall consist of [17] nine persons, [14] five of whom shall be
36 appointed by the Governor with the advice and consent of the
37 Senate, however, no more than three of the Governor's
38 appointees shall be of the same political party, one of whom shall
39 be appointed by the Speaker of the General Assembly, and one by

1 the President of the Senate; the Director of the Division of Motor
2 Vehicles in the Department of Law and Public Safety, or his
3 designee, and the Commissioner of Insurance, or his designee,
4 shall be [an] ex officio [member] members of the board. [Of the]
5 The board members appointed by the Governor, [eight shall
6 represent member companies, three shall represent producers,
7 and three shall be public members] the President and the Speaker
8 shall be persons with a background in insurance law or practices,
9 specifically with regard to automobile insurance in New Jersey,
10 who shall not, during their tenure on the board be affiliated with
11 or employed by any producer, insurer servicing carrier or
12 non-insurer servicing carrier, or any trade association or other
13 entity representing the interests of any producer, insurer
14 servicing carrier or non-insurer servicing carrier in this State.
15 Members of the board may, during their tenure on the board, be
16 affiliated with or employed by a non-servicing carrier member
17 company. The Governor shall name two surrogates for each
18 director appointed to the board from a list submitted to him by
19 each appointee. Members of the board shall be compensated
20 from the moneys of the association for their services, pursuant to
21 standards and procedures set forth in the plan of operation. The
22 initial appointment of the board members appointed by the
23 President and Speaker shall be for a term of one year. The initial
24 term of two of the board members appointed by the Governor
25 shall be for a term of two years. The initial term of the
26 remaining three board members appointed by the Governor shall
27 be for a term of three years. After the initial appointments, all
28 directors shall be appointed for terms of three years or until such
29 time as a successor is appointed and duly qualified. Any vacancy
30 in the membership of the board shall be filled in the same manner
31 as the initial appointment for the unexpired term of the director
32 to be replaced.

33 Within 20 days of the appointment of the reconstituted board
34 of directors, the Governor, upon consultation with the
35 Commissioner of Insurance, shall appoint two advisory boards to
36 serve the board of directors. The first advisory board, to be
37 known as the member company and servicing carrier advisory
38 board, shall be comprised of eight representatives of member
39 companies, servicing carriers and non-insurer servicing carriers.

1 The second advisory board, to be known as the producer advisory
2 board, shall be comprised of six producer representatives. In
3 appointing the representatives of the member [companies]
4 company and servicing carrier advisory board, the Governor shall
5 select two persons from a list of not fewer than three persons
6 nominated by the American Insurance Association, or its
7 successor organization, from the officers or employees of
8 insurers which are licensed to transact automobile insurance in
9 this State and which are members or subscribers of that
10 organization; two persons from a list of not fewer than three
11 persons nominated by the Alliance of American Insurers, or its
12 successor organization, from the officers or employees of
13 insurers which are licensed to transact automobile insurance in
14 this State and which are members or subscribers of that
15 organization; two persons from a list of not less than three
16 persons nominated by the National Association of Independent
17 Insurers, or its successor organization, from the officers or
18 employees of insurers which are licensed to transact automobile
19 insurance in this State and which are members or subscribers of
20 that organization; and two persons from the officers or
21 employees of any insurers which are licensed in this State and are
22 not members or subscribers of any of the above-mentioned
23 organizations or from the officers or employees of any noninsurer
24 servicing carriers, as provided for in section 24 of P.L. 1983, c.
25 65 (C. 17:30E-12). All nominations made by the associations shall
26 include at least one representative of an insurer which is not and
27 does not intend to be a servicing carrier. In appointing the
28 [producer] representatives of the producer advisory board, the
29 Governor shall select [one person] two persons from a list of not
30 fewer than three nominated by the Professional Insurance Agents
31 Association or its successor organization; [one person] two
32 persons from a list of not fewer than three nominated by the
33 Independent Insurance Agents Association or its successor
34 organization; and [one person] two persons from a list of not
35 fewer than three nominated by the Insurance Brokers Association
36 or its successor organization. The Governor shall name two
37 surrogates for each [director on the] advisory board member from
38 a list submitted to him by each appointee. [The Governor shall,
39 with the advice and consent of the Senate, also appoint three

1 public members to the board. The Speaker of the General
2 Assembly and the President of the Senate shall each appoint a
3 public member. The commissioner or his designated
4 representative shall be entitled to attend and participate in all
5 meetings of the board or any of its committees.]

6 Each trade association and producer association shall have 15
7 days from the effective date of this 1988 amendatory and
8 supplementary act to submit its prescribed list of advisory board
9 [of director] candidates to the Governor. [The Governor shall
10 have 30 days from receipt of each list to select permanent board
11 members from it.] If any of the associations named in this
12 section fails to submit the list from which the Governor is to
13 select advisory board members [of the board of directors] within
14 the time provided in this subsection, the Governor shall appoint
15 temporary advisory board members to represent each association
16 that has failed to submit its list. In selecting temporary advisory
17 board members, the Governor shall be guided by the selection
18 criteria set forth herein. Upon subsequent receipt of the list
19 from the association, the Governor shall select permanent
20 advisory board members to replace temporary board members
21 within 30 days. Such replacement shall become effective
22 immediately. Advisory board members shall each serve for a
23 three year term or until such time as their successor is appointed
24 and qualified. Any vacancy in the membership of the member
25 and servicing carrier or producer advisory board shall be filled in
26 the same manner as the initial appointment for the unexpired
27 term of the advisory board member to be replaced. Advisory
28 board members shall not be compensated for their services, but
29 shall be reimbursed by the association for any necessary and
30 reasonable expenses incurred in performance of their duties as
31 members of the advisory board.

32 [The initial appointment of four insurer directors, one
33 producer-group director, and one public member appointed by the
34 Governor shall be for a term of one year. The initial
35 appointments of all other directors shall be for terms of two
36 years. After the initial appointments all directors shall be
37 appointed for terms of two years and shall serve until their
38 successors are appointed and qualified. All appointive vacancies
39 on the board shall be filled in accordance with the

1 18.⁴ Section 14 of P.L. 1983, c. 65 (C. 17:30E-2) is amended to
read as follows:

3 14. The purpose of this act is to assure to the New Jersey
insurance consumer full access to automobile insurance through
5 normal market outlets [at standard market rates], to encourage
the use of available market facilities, to provide automobile
7 insurance for qualified applicants who cannot otherwise obtain
such insurance, through a full automobile insurance underwriting
9 association, and to require that companies be made whole for
losses in excess of regulated rates on all risks not voluntarily
11 written by providing procedures for the spreading and recoupment
of losses based on actual experience.

13 (cf: P.L. 1983, c. 65, s. 14)

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

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

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

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

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

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

33 (e) He has complied with all of the requirements of section 5.

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

(g) He has obtained a judgment as set out in section 9 of this

1 act, stating the amount thereof and the amount owing thereon at
the date of the application,

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

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

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

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

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

1 (m) Whether or not he has recovered a judgment in an action
2 against any other person against whom he has a cause of action in
3 respect of his damages for bodily injury or death or damage to
4 property arising out of the accident and what amounts, if any, he
5 has received by way of payments upon the judgment, or by way of
6 settlement of such cause of action, in whole or in part, from or
7 on behalf of such other person,

(n) In order to recover for noneconomic loss, as defined in
9 section 2 of P.L. 1972, c. 70 (C. 39:6A-2) for accidents to which
10 the benefits of sections 7 and 10 of P.L. 1972, c. 198 (C.
11 39:6-86.1 and C. 39:6-86.4) apply, the injured person shall have
12 sustained an injury [or incurred the medical expenses] described
13 in subsection a. of section 8 of P.L. 1972, c. 70 (C. 39:6A-8).

Whenever the applicant satisfies the court that it is not
14 possible to comply with one or more of the requirements
15 enumerated in subparagraphs (h) and (i) of this section and that
16 the applicant has taken all reasonable steps to collect the amount
17 of the judgment or the unsatisfied part thereof and has been
18 unable to collect the same, the court may dispense with the
19 necessity for complying with such requirements.

20 The board or any insurer to which the action has been assigned
21 may appear and be heard on application and show cause why the
22 order should not be made.⁴

(cf: P.L. 1983, c. 362, s. 2)

23 20.⁴ Section 24 of P.L. 1983, c. 65 (C. 17:30E-12) is amended
24 to read as follows:

25 24. a. Pursuant to the procedures and standards established in
26 the plan of operation, the board shall solicit, by advertisement in
27 at least two newspapers of general circulation in the State,
28 proposals from members and eligible noninsurers to act as a
29 servicing carrier for the association. Standards may include the
30 submission of a deposit.

31 All proposals shall be publicly opened by the board, which,
32 after consultation with, and the approval of, the commissioner,
33 shall award a contract to the proposer or proposers, as the case
34 may be, whose proposal, conforming to the solicitation for
35 proposals, is most advantageous to the association and its
36 policyholders in its judgment, upon consideration of price and
37 other factors. ⁴The commissioner may reject any and all bids if
38

1 he determines that the bid proposals do not serve the best
2 interests of the association. If the bid process does not result in
3 adequate servicing capacity for the association, capacity shall be
4 achieved pursuant to the provisions of subsection e. of this
5 section.⁴

6 Any person who makes, or causes to be made, a false,
7 deceptive, or fraudulent statement in any proposal to be a
8 servicing carrier, or in the course of any proceeding in connection
9 therewith, shall be subject to a fine of not less than \$20,000.00,
10 shall forfeit any fee which may be required to be submitted in
11 conjunction with the proposal, and shall be permanently
12 disqualified from submitting any further proposal under this
13 section.

14 b. Insurers under common management or ownership may elect
15 to submit an application to act as a servicing carrier in the name
16 of any company in the group which is licensed and authorized to
17 transact automobile insurance in this State. The commissioner
18 may disapprove the action by the board, if he finds that the
19 action is not in the best interests of the association, the insurer,
20 or the purposes of this act, within 20 days of final approval by the
21 board. The disapproval shall be made in writing and shall set
22 forth the reasons for disapproval.

23 c. Any person other than a member may act as a servicing
24 carrier if: (1) the person meets the standards of eligibility for
25 non-insurer servicing carriers established by the commissioner in
26 the plan of operation, after consultation with the board; and (2)
27 the person is approved by the commissioner as being eligible. The
28 plan of operation shall contain any standards of eligibility which
29 the commissioner may deem appropriate for establishing the
30 qualifications of persons desiring to become noninsurer servicing
31 carriers, which standards may include, but not be limited to,
32 financial soundness, the capacity to perform the services
33 required, experience, and record of past performance.
34 [Notwithstanding the provisions of subsection a. of this section,
35 noninsurer servicing carriers shall not service, in the aggregate,
36 more than 50% of the policies issued by the association.]

37 The commissioner shall have the authority to exercise all the
38 powers granted to him by Title 17 of the Revised Statutes,
39 including the powers of examination, with respect to noninsurer

1 servicing carriers deemed to be eligible pursuant to this
subsubsection.

3 d. The standards of eligibility shall require that every
non-insurer servicing carrier: (1) shall have minimum assets of
5 \$10,000,000.00; (2) shall have been in business for at least five
7 years; (3) shall have had at least three years' experience in
insurance related fields or activities; and (4) shall be able to
9 demonstrate to the commissioner and the board that it has the
capacity to issue and service a minimum of 100,000 private
passenger automobile insurance policies.

11 e. After notice and hearing, the commissioner may require one
or more members of the association or member of a group as
13 provided in subsection b. of this section to act as servicing
carriers, if he determines that the action is necessary to
15 effectuate the purposes of this act, except that no company
having less than 1% of the ⁴voluntary⁴ private passenger
17 automobile insurance market in this State based on its net
written cars years of exposure shall be subject to the provisions
19 of this subsection.

f. Pursuant to procedures established by the commissioner, any
21 member of the association or eligible noninsurer which is acting
as a servicing carrier may apply to the commissioner for
23 permission to discontinue acting as a servicing carrier or to
reduce its participation. After notice and a hearing, the
25 commissioner may permit such insurer or eligible non-insurer to
discontinue acting as a servicing carrier or to reduce its
27 participation, on terms to be imposed by the commissioner, if the
commissioner finds that such action is in the best interests of the
29 insurer or eligible noninsurer, the association and the purposes of
this act.

31 g. After notice and hearing, the association may recommend
to the commissioner that the authority of a servicing carrier be
33 terminated or the commissioner may terminate the authority of a
servicing carrier to act as a servicing carrier, if the association
35 or the commissioner determines that it is in the best interest of
the association.

37 h. Any order of the commissioner pursuant to this section shall
be subject to review by the Appellate Division of the Superior
39 Court.

(cf: P.L.1986, c.211, s.5)

1 **21. Section 25 of P.L. 1983, c. 65 (C. 17:30E-13) is amended**
to read as follows:

3 **25. [The] Notwithstanding the provisions of section 7 of P.L.**
1983, c. 65 (C. 17:29A-36), the rates used by the association shall
5 **be [the same as those used by the rating bureau which files rates**
for the greatest number of insurers transacting private passenger
7 **automobile insurance in the voluntary market in this State,**
except that notwithstanding the provisions of section 7 of P.L.
9 **1983, c. 65 (C. 17:29A-36)] as follows:**

11 **a. On January 1, 1989, the territorial base rates used by the**
association for policies issued or renewed following that date
shall be adjusted by the commissioner so that they exceed the
13 **territorial base rates used by the rating bureau which files rates**
for the greatest number of insurers transacting private passenger
15 **automobile insurance in the voluntary market in this State by**
10%.

17 **b. On January 1, 1990, the territorial base rates used by the**
association for policies issued or renewed following that date
19 **shall be adjusted by the commissioner based on the needs of the**
association pursuant to a filing made with the commissioner by
21 **the association no later than October 1, 1989. The commissioner**
may adjust the association rates so that they exceed the
23 **territorial base rates used by the rating bureau which files rates**
for the greatest number of insurers transacting private passenger
25 **automobile insurance in the voluntary market in this State by no**
more than 20%.

27 **c. On January 1, 1991, the territorial base rates used by the**
association for policies issued or renewed following that date
29 **shall be adjusted by the commissioner based on the needs of the**
association pursuant to a filing made with the commissioner by
31 **the association no later than October 1, 1990. The commissioner**
may adjust the association rates so that they exceed the
33 **territorial base rates used by the rating bureau which files rates**
for the greatest number of insurers transacting private passenger
35 **automobile insurance in the voluntary market in this State by no**
more than 30%.

37 **d. On January 1, 1992, the territorial base rates used by the**
association for policies issued or renewed following that date
39 **shall be adjusted by the commissioner based on the needs of the**

1 association pursuant to a filing made with the commissioner by
2 the association no later than October 1, 1991. The commissioner
3 may adjust the association rates so that they exceed the
4 territorial base rates used by the rating bureau which files rates
5 for the greatest number of insurers transacting private passenger
6 automobile insurance in the voluntary market in this State by no
7 more than 40%.

8 e. On January 1, 1993, the commissioner shall direct the board
9 to prepare, adopt and file with the commissioner rates which are
10 based upon past and prospective loss experience of the risks
11 underwritten by the association and the expenses attendant
12 thereto, and which maintain the association on a self-sustaining
13 basis. The commissioner shall approve or disapprove the rates
14 used by the board pursuant to the provisions of P.L. 1944, c. 27
15 (C. 17:29A-1 et seq.).

16 Nothing contained in this subsection shall be deemed to affect
17 the commissioner's ability to continue to maintain any flat
18 charges (also known as flat capitation fees or policy constants)
19 pursuant to section 1 of P.L. 1984, c. 1 (C. 17:29A-37.1) or any
20 residual market equalization charge pursuant to section 20 of
21 P.L. 1983, c. 65 (C. 17:30E-8) approved on or before 48 months
22 following the effective date of this 1988 amendatory and
23 supplementary act.

24 f. Nothing contained in subsections a. through e. of this
25 section shall operate to cause the rates charged by the
26 association to result in revenues to the association which exceed
27 the needs of the association in meeting its obligations and
28 expenses.

29 g. The commissioner may order the adjustment of association
30 rates in any territory in which the relationship between the rates
31 used by the association and the rates used by insurers in the
32 standard voluntary market is such that the voluntary market is
33 adversely affected [;].

34 [b.] h. The commissioner may order the establishment of
35 association rates which are higher than the rates which are
36 otherwise provided for by this section, which rates would be
37 applicable to certain drivers, based on their accident or violation
38 records. The rates applicable to these drivers shall be established
39 additively to the rates otherwise authorized for the use of the

1 association, shall be spread equably across all classes and
territories and may, at the discretion of the commissioner, vary
3 as to the extent of the at-fault accident or violation records of
the drivers.⁴

5 (cf: P.L.1986, c.211, s.6)

C. 17:30E-13.1

7 ⁴22. (New section) Notwithstanding any other provision of law
to the contrary, within 60 days of the effective date of this
9 section, the board of directors of the association shall establish
rates for collision and comprehensive coverages based on the
11 experience of the association, which shall be filed for approval by
the commissioner pursuant to P.L. 1944, c. 27 (C. 17:29A-1 et
13 seq.). Any and all proceedings relating to a filing made pursuant
to this section shall be completed on an expedited basis no later
15 than 30 days after the date of the filing, and upon terms and
conditions established by the commissioner.⁴

17 C. 17:30E-6.1

19 ⁴23. (New section) ⁴[Sections 13 to 34 of P.L. 1983, c. 65 (C.
17:30E-1 et seq.) are supplemented as follows:]⁴ a. The ⁴[board]
21 plan of operation⁴ shall ⁴[, within 60 days following the effective
date of this 1988 amendatory and supplementary act, contract]
23 provide⁴ for the establishment of an association data bank to
facilitate the dissemination of information regarding association
25 risks to all insurers transacting the business of private passenger
automobile insurance in the voluntary market.

27 b. The ⁴[board] plan of operation⁴ shall establish the type of
information which may be made available to insurers, which may
29 include, but not be limited to, the name, address, and
classification of the insured, a description of the vehicle, the loss
31 history of the insured, the limits of coverage on the policy, and
the producer of record.

33 c. The board shall make this data available to all insurers
writing private passenger automobile insurance in the voluntary
35 market in a nondiscriminatory manner to facilitate the insurers'
depopulation of the association.

37 d. ⁴[The establishment of this data bank may be incorporated
in the plan of operation of the association, but it shall not require
the approval of the commissioner.]⁴ The ⁴data bank, as
39 established in the⁴ plan ^{4,4} shall be fully operational within

1 ~~4~~[five] ~~six~~⁴ months of the effective date of this ~~4~~[act] section⁴.

3 ⁴24. Section 18 of P.L. 1983, c. 362 (C. 17:29A-15.1) is
amended to read as follows:

5 18. Premium credits shall be provided for each deductible [,]
and exclusion [and setoff] on personal injury protection coverage
7 offered in accordance with section 13 of P.L. 1983, c. 362 (C.
39:6A-4.3), and for the tort limitation options on bodily injury
9 liability coverage offered in accordance with section 8 of P.L.
1972, c. 70 (C. 39:6A-8). All premium credits to which this
11 section applies shall be calculated and represented to the insured
as a percentage of the applicable premium for each coverage
option, and the percentage for each coverage option shall be
13 uniform by filer on a Statewide basis.

15 The premium charged for each coverage shall be clearly set
forth in any policy or endorsement provided the insured.

17 The percentage rate of commission or rate of other
compensation payable by an automobile insurer to [an agent or
broker] a producer shall not vary by reason of the selection or
19 nonselection of any option provided in section 13 of P.L. 1983, c.
362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70 (C. 39:6A-8).⁴
21 (cf: P.L.1985, c.520, s.13)

23 ⁴25. Section 26 of P.L. 1983, c. 65 (C. 17:30E-14) is amended
to read as follows:

25 26. [The association] a. Within 45 days of the effective date
of this 1988 amendatory and supplementary act, the
commissioner shall, in the plan of operation, establish procedures
27 to [encourage] govern the voluntary writing of [qualified]
applicants and association insureds without the utilization of the
29 association. These procedures shall include [provisions for
appropriate incentives to encourage companies to voluntarily
31 write those applicants who are qualified for insurance by the
automobile insurance plan established pursuant to P.L. 1970, c.
33 215 (C. 17:29D-1)] criteria identifying drivers who should be
eligible for coverage in the voluntary market. Applicants and
35 association insureds meeting these criteria shall be subject to
assignment by the association to member companies, pursuant to
37 an equitable apportionment procedure established in the plan of
operation. The procedure shall give due consideration to the

1 increase or decrease in the volume of private passenger
2 automobile non-fleet exposures voluntarily written by member
3 companies in this State since January 1, 1984.

4 b. (1) Pursuant to the procedures established in the plan of
5 operation under subsection a. of this section, the commissioner
6 shall establish a voluntary market quota, which shall not be less
7 than 60% of the aggregate number of private passenger
8 automobile non-fleet exposures written in the total private
9 passenger automobile insurance market in this State on the
10 effective date of this 1988 amendatory and supplementary act.
11 The quota shall prescribe the number of voluntary market
12 exposures which shall be written by member companies during the
13 12 month period beginning 30 days after the effective date of this
14 1988 amendatory and supplementary act.

15 (2) At the end of the first 12 month period following the
16 effective date of this 1988 amendatory and supplementary act,
17 the commissioner shall prescribe a second quota, which shall take
18 effect no later than 60 days following the end of that period and
19 which shall not be less than 70% of the aggregate number of
20 private passenger automobile non-fleet exposures written in the
21 total private passenger automobile insurance market in this State
22 at the end of the first 12 month period following the effective
23 date of this 1988 amendatory and supplementary act. The quota
24 shall prescribe the number of voluntary market exposures which
25 shall be written by member companies during the 12 month period
26 described in this paragraph.

27 (3) At the end of the second 12 month period following the
28 effective date of this 1988 amendatory and supplementary act,
29 the commissioner shall prescribe a third quota, which shall take
30 effect no later than 60 days following the end of that period and
31 which shall not be less than 75% of the aggregate number of
32 private passenger automobile non-fleet exposures written in the
33 total private passenger automobile insurance market in this State
34 at the end of the second 12 month period following the effective
35 date of this 1988 amendatory and supplementary act. The quota
36 shall prescribe the number of voluntary market exposures which
37 shall be written by member companies during the 12 month period
38 described in this paragraph.

1 (4) No later than 60 days following the end of the third 12
2 month period following the effective date of this 1988
3 amendatory and supplementary act, the commissioner shall
4 prescribe such a quota that will result, at the end of the fourth 12
5 month period following the effective date of this 1988
6 amendatory and supplementary act, in the volume of exposures
7 written in the voluntary market equaling no less than 80% of the
8 aggregate number of private passenger automobile non-fleet
9 exposures being written in the total private passenger automobile
10 insurance market in this State, or such volume of exposures in
11 excess of 80% that the commissioner determines should be
12 considered eligible for coverage in the voluntary market. The
13 quota shall prescribe the number of voluntary market exposures
14 which shall be written by member companies during the 12 month
15 period described in this paragraph. After the period established
16 in this paragraph, the association shall not write any risk for a
17 period longer than three years, unless, at the end of that time,
18 the insured has presented evidence that he has been rejected by
19 at least two insurers in the voluntary market.

20 c. In the event that any of the quotas established by the
21 commissioner pursuant to subsection b. of this section have not
22 been met by the end of any 12 month period, the commissioner
23 shall direct the association to assign the balance of the exposures
24 needed to meet the applicable quota to member companies in a
25 manner consistent with the apportionment procedure established
26 pursuant to subsection a. of this section. A member company
27 which exceeds its apportionment share for any 12 month period
28 shall receive credit for the excess against the following year's
29 obligation.

30 d. If, at any time after the period established in paragraph (4)
31 of subsection b. of this section, the volume of exposures written
32 in the voluntary market equals less than 80% of the aggregate
33 number of private passenger automobile non-fleet exposures
34 being written in the total private passenger automobile insurance
35 market in this State or such volume of exposures in excess of 80%
36 that the commissioner determines should be eligible for coverage
37 in the voluntary market, the commissioner shall direct the
38 association to assign eligible applicants and association insureds
39 to member companies on an equitable basis.

1 e. For the purposes of this section, any exposure written in the
2 voluntary market by an affiliate of the insurer to which an
3 apportioned share has been assigned shall be credited against that
4 share.

5 f. The total number of exposures written in the voluntary
6 market, net of exposures cancelled or nonrenewed, by a member
7 company at the end of the applicable period shall be utilized in
8 determining whether the member company has written its
9 apportionment share in the voluntary market for purposes of
10 complying with any quotas established by the commissioner
11 pursuant to this section.

12 g. The commissioner may excuse a member company from
13 meeting any of its obligations under this section that he
14 determines would result in the member company being in an
15 unsafe or unsound condition.

16 h. Any member company that does not write its apportionment
17 share of any quota established by the commissioner pursuant to
18 subsection b. or c. of this section within the applicable time
19 period shall be precluded from nonrenewing automobile insurance
20 policies pursuant to section 26 of this 1988 amendatory and
21 supplementary act during the immediately following 12 month
22 period.

23 i. In addition to the requirements of subsection a. of this
24 section, the procedures governing the increase in voluntary
25 market volume shall:

26 (1) establish guidelines and criteria for determining whether a
27 person is a qualified applicant as defined in section 15 of P.L.
28 1983, c. 65 (C. 17:30E-3), and procedures for the issuance of
29 automobile insurance through the voluntary market to persons
30 found not to be qualified applicants for association coverage, and
31 for the referral of persons determined not to be eligible for
32 association coverage to alternative residual market mechanisms;

33 (2) include provisions ensuring that servicing carriers do not
34 obtain any unfair advantage over other member companies in the
35 selection of qualified applicants and association insureds to be
36 written as voluntary business;

37 (3) neither prohibit nor require member companies to write
38 association business through association producers of record,
39 provided, however, that where a member company elects

1 not to service such business through the association producer of
2 record, the procedures shall address the manner in which the
3 association shall transfer the business to the member company,
4 and shall establish reasonable compensation in an amount
5 sufficient to offset the actual expenses incurred by the
6 association producer in conjunction with the transfer which shall
7 be paid by the association upon transfer of the business to the
8 member company; and

9 (-) provide for financial disincentives to applicants who,
10 without good cause, reapply for coverage in the association after
11 being placed in the voluntary market.⁴

12 (cf: P.L. 1986, c. 211, s. 7)

13 C. 17:29C-7.1

14 26.⁴ (New section) a. Notwithstanding the provisions of
15 section ³[2 of this 1988 amendatory and supplementary act] 3 of
16 P.L. 1972, c. 70 (C. 39:6A-3)³, a licensed insurer may, in
17 accordance with subsections b. and c. of this section, refuse to
18 renew a policy of private passenger automobile insurance that
19 provides coverage required to be maintained pursuant to ³[that
20 section] P.L. 1972, c. 70 (C. 39:6A-1 et seq.)³.

21 b. For each calendar year period, an insurer may issue notices
22 of intention not to renew an automobile insurance policy in the
23 voluntary market in an amount not to exceed 2% of the total
24 number of voluntary market automobile insurance policies of the
25 insurer, rounded to the nearest whole number, which are in force
26 at the end of the previous calendar year in each of the insurer's
27 rating territories in use in this State.

28 c. For every two newly insured automobiles which an insurer
29 voluntarily writes in each territory during each calendar year
30 period, the insurer shall be permitted to refuse to renew one
31 additional policy of automobile insurance in that territory in
32 excess of the 2% limitation established by subsection b. of this
33 section, subject to a fair and nondiscriminatory formula
34 developed by rule or regulation of the commissioner. For the
35 purposes of this section, "voluntarily writes" shall ⁴not⁴ include
36 any ⁴[policy] exposure⁴ voluntarily written by ⁴or assigned to⁴ an
37 insurer to meet any quota established pursuant to ⁴[subsection a.
38 of section ³[54] 34³ of this 1988 amendatory and supplementary
39 act, but shall not include any policy assigned to the insurer by

1 the commissioner pursuant to subsection c. of that]⁴ section ⁴²⁶
of P.L. 1983, c. 65 (C. 17:30E-14)⁴.

3 d. The provisions of this section shall not apply to any
cancellation made pursuant to paragraph (A) of section 2 of P.L.
5 1968, c. 58 (C. 17:29C-7).

⁴e. The commissioner shall monitor the implementation and
7 operation of this section and shall report his findings, including
any legislative proposals, to the Senate Labor, Industry and
9 Professions Committee and the Assembly Insurance Committee,
their successors, within three years of the effective date of
11 this act.⁴

13 27.⁴ Section 2 of P.L. 1968, c. 158 (C. 17:29C-7) is amended to
read as follows:

15 2. (A) A notice of cancellation of a policy shall be effective
only if it is based on one or more of the following reasons:

17 (a) Nonpayment of premium or nonpayment of a residual
market equalization charge imposed pursuant to the provisions of
19 section ^{3[47]} ^{4[27³} of P.L. , c. (C.) (now pending in the
Legislature as this bill)] 20 of P.L. 1983, c. 65 (C. 17:30E-8)⁴; or

21 (b) The driver's license or motor vehicle registration of the
named insured or of any other operator who either resides in the
23 same household or customarily operates an automobile insured
under the policy has been under suspension or revocation during
25 the policy period or, if the policy is a renewal, during its policy
period.

27 (B) This section shall not apply to any policy or coverage which
has been in effect less than 60 days at the time notice of
cancellation is mailed or delivered by the insurer unless it is a
29 renewal policy.

31 (C) Modification of automobile physical damage coverage by
the inclusion of a deductible not exceeding \$100.00 shall not be
deemed a cancellation of the coverage or of the policy.

33 (D) This section shall not apply to nonrenewal.

(cf: P.L.1968, c.158, s.2)

35 C. 17:29A-6.1

37 28.⁴ (New section) a. Notwithstanding the provisions of
sections 5 and 10 of P.L. 1944, c. 27 (C. 17:29A-5 and 17:29A-10):

39 (1) Every insurer writing motor vehicle ^{4[insuance]} insurance⁴
in this State shall file for approval of their own expenses;

1 (2) Every insurer writing motor vehicle insurance in this State
2 whose total written car years insured, on a calendar basis, equals
3 or exceeds 2% on January 1, 1989, 1.5% on January 1, 1990, and
4 1% on January 1, 1991, of the total written car years insured by
5 all insurers writing motor vehicle insurance in this State, for the
6 same calendar year, shall make its own rates for motor vehicle
7 insurance in accordance with the provisions of P.L. 1944, c. 27
8 (C. 17:29A-1 et seq.) based ⁴[solely]⁴ upon the insurer's own loss
9 experience for those lines.

10 b. Nothing contained in this section shall be deemed to
11 prohibit any insurer from continuing to be a member or a
12 subscriber of a rating ⁴[bureau] organization⁴ or from becoming a
13 member or subscriber of a rating ⁴[bureau] organization⁴ for any
14 other line of insurance which it may write in this State, but no
15 rating ⁴[bureau] organization⁴ may use the loss experience of
16 any member ⁴that is⁴ subject to the provisions of paragraph (2) of
17 subsection a. of this section ⁴[in compiling statistical experience
18 or]⁴ in making its motor vehicle insurance rates for its members
19 not subject to the provisions of paragraph (2) of subsection a. of
20 this section ⁴[and no rating bureau may use the expenses of any
21 member in making its motor vehicle insurance rates] unless such
22 experience is necessary to determine actuarially sound rates⁴.

23 **C. 17:29A-42**

24 ⁴29. (New section) a. In order to effectuate the purposes of
25 this 1988 amendatory and supplementary act, including
26 accomplishing the depopulation of the New Jersey Automobile
27 Full Insurance Underwriting Association, and encouraging
28 competition and addressing the needs of the private passenger
29 automobile insurance voluntary market in this State, the
30 Commissioner of Insurance shall, within 90 days of the effective
31 date of this act, establish by regulation a Statewide average rate
32 change percentage for use by filers writing private passenger
33 automobile insurance in this State. The Statewide average rate
34 change percentage shall be established with due recognition to
35 changes in the Consumer Price Indices most relevant to changes
36 in the cost of automobile insurance. The commissioner may by
37 regulation annually alter the percentage amount.

1 **b. Notwithstanding any other provision of law to the contrary,**
2 **commencing July 1, 1989, and annually thereafter, any filer may**
3 **make a private passenger automobile insurance Statewide**
4 **average rate change that is not in excess of the amount**
5 **prescribed by the commissioner pursuant to subsection a. of this**
6 **section which may be used when filed pursuant to subsection c. of**
7 **this section. As used in this section, "Statewide average rate**
8 **change" means the total Statewide premium for all coverages,**
9 **combined at the rates resulting from the filing divided by the**
10 **total Statewide premium for all coverages combined at the rates**
11 **in effect at the time of the filing.**

12 **c. A filer may implement a change in rate level, pursuant to**
13 **subsection b. of this section, in whole or in part, by a single or in**
14 **multiple filings by making an informational filing with the**
15 **commissioner in a manner and form approved by the**
16 **commissioner. The filing shall include a statement of the reason**
17 **or reasons for the change in rate level, including but not limited**
18 **to the claim and expense experience of the individual filer.**

19 **d. Neither the provisions of subsection c. of section 14 of P.L.**
20 **1944, c. 27 (C. 17:29A-14), nor the provisions of section 19 of**
21 **P.L. 1974, c. 27 (C. 52:27E-18), shall apply to any filing made**
22 **pursuant to this section.**

23 **e. The commissioner shall monitor the implementation and use**
24 **of flex rating pursuant to this section and shall report his findings**
25 **to the Senate Labor, Industry and Professions Committee and the**
26 **Assembly Insurance Committee, or their successors, including any**
27 **legislative proposals, no later than July 1, 1992. This report shall**
28 **provide an evaluation of the use of this rating mechanism and its**
29 **impact on the availability and affordability of private passenger**
30 **automobile insurance in this State and the depopulation of the**
31 **New Jersey Automobile Full Insurance Underwriting Association**
32 **and shall include any legislative proposals or other**
33 **recommendations of the commissioner.⁴**

34 **C. 17:29A-43**

35 **⁴30. (New section) Every insurer writing private passenger**
36 **automobile insurance in this State shall, within 60 days of the**
37 **effective date of this section, file for approval by the**
38 **commissioner pursuant to P.L. 1944, c. 27 (C. 17:29A-1 et seq.), a**

1 good driver discount plan applicable to private passenger
2 automobile insurance rates. Any and all proceedings relating to a
3 filing made pursuant to this section shall be completed on an
4 expedited basis no later than 30 days after the date of the filing,
5 and upon terms and conditions established by the commissioner.⁴

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

8 16. Powers of exchange. a. The exchange shall be empowered
9 to raise sufficient moneys (1) to pay its operating expenses, and
10 (2) to compensate members of the exchange for claims paid for
11 noneconomic loss, and associated claim adjustment expenses,
12 which would not have been incurred had the tort limitation option
13 provided in subsection 7 of section 8 of P.L. 1972, c. 70 (C.
14 39:6A-8) or in the case of policies issued or renewed on or after
15 January 1, 1989, subsection a. of section 8 of P.L. 1972, c. 70 (C.
16 39:6A-8), been elected by the injured party filing the claim for
17 noneconomic loss.

18 b. In order to enable the exchange to meet its obligations
19 under subsection a. of this section, every member insurer or
20 servicing carrier of the New Jersey Automobile Full Insurance
21 Underwriting Association shall forward on a monthly basis, within
22 15 days of the close of the member's accounting month, a
23 charge, to be known as the AIRE charge, in an amount and
24 manner to be prescribed by the board of directors.

25 AIRE charge amounts required to be paid to the exchange in
26 accordance with this subsection shall, in the case of those
27 amounts determined by the board of directors to be applicable
28 during the period from July 1, 1984 to the effective date of [this
29 amendatory and supplementary act] P.L. 1985, c. 520, be paid to
30 the exchange within 60 days of that date.

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

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

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

1 e. The exchange shall have such powers as may be necessary or
appropriate to effectuate the purposes of the exchange.⁴

3 (cf: P.L.1985, c.520, s.11)

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5 ⁴32. (New section) In order to implement the provisions of
7 section 8 of P.L. 1972, c. 70 (C. 39:6A-8), as amended by this
9 1988 amendatory and supplementary act, the commissioner shall
11 immediately order the filing of rates for coverage under that
13 section by all insurers transacting private passenger automobile
15 insurance in this State. Any and all proceedings relating to a
17 filing made pursuant to this section shall be completed on an
19 expedited basis no later than 30 days after the date of the filing,
21 and upon terms and conditions established by the commissioner.⁴

⁴33. Section 10 of P.L. 1983, c. 65 (C. 17:29A-39) is amended
to read as follows.

10. a. Every private passenger automobile insurance policy
17 providing collision and comprehensive coverages, issued or
19 renewed on or after the effective date of this act, shall provide a
21 deductible in a minimum amount of \$500.00 each for collision and
23 comprehensive coverages, unless the named insured selects a
25 lower deductible amount. The minimum deductible established by
27 this subsection shall apply to all policies providing collision and
29 comprehensive coverages unless the named insured provides
31 otherwise in writing on a form approved by the commissioner.

b. The commissioner shall promulgate rules and regulations
requiring insurers to offer a range of deductibles up to at least
\$2,000.00 for private passenger automobile collision and
comprehensive coverages.⁴

(cf: P.L.1985, c.520, s.4)

⁴34. Section 27 of P.L. 1983, c. 65 (C. 17:30E-15) is amended
to read as follows:

27. A qualified applicant who is eligible for coverage through
the association shall be offered and entitled to coverage up to at
least the following limits: a. bodily injury liability: \$250,000.00
each person, \$500,000.00 each accident; b. property damage
liability: \$100,000.00; c. bodily injury and property damage:
\$500,000.00 single-limit each accident; d. comprehensive and
collision coverage; e. uninsured motorist and underinsured

1 motorist coverage: \$250,000.00 each person and \$500,000.00 each
 2 accident for bodily injury; \$100,000.00 each accident for
 3 property damage or \$500,000.00 single limit, subject to an
 4 exclusion of the first \$500.00, unless the named insured elects a
 5 lower deductible in writing in an amount not less than \$250.00^{3,3}
 6 of the damage to property for each accident, except that the
 7 limits for uninsured and underinsured motorist coverages on
 8 association coverage shall not exceed the insured's policy limits
 9 for bodily injury and property damage, respectively; f. personal
 10 [injury] ^{3injury}³ protection coverage as required by law; g.
 11 additional personal [injury] ^{3injury}³ protection coverage required
 12 to be offered by law; and h. any other automobile insurance
 13 required to be offered by law and subject to the limits stated in
 14 the law. Motorcycles shall not be written for the coverages
 15 required or required to be offered pursuant to [P.L. 1972, c. 70
 16 (C. 39:6A-1 et seq.)] ^{3sections 1 through 20 of P.L. c.}
 17 (C.), now pending in the Legislature as this bill ^{3P.L. 1972, c.}
 18 70 (C. 39:6A-1 et seq.)³.

19 (cf: P.L. 1983, c. 362, s. 23)

20 35.⁴ Section 17 of P.L. 1983, c. 362 (C. 39:6A-23) is amended
 21 to read as follows:

22 17. [Notice of available coverages and rate credits for
 23 deductible, exclusion, setoff and tort limitation options.]

³Written notice - buyer's guide and coverage selection form.³

24 a. No new automobile insurance policy shall be issued on or
 25 after the 180th day following the effective date of [this 1985
 26 amendatory and supplementary act] P.L. 1985, c. 520, unless the
 27 application for the policy is accompanied by a written notice
 28 identifying and containing a buyer's guide and coverage selection
 29 form. The buyer's guide shall contain a brief description of all
 30 available policy coverages and benefit limits, and shall identify
 31 which coverages are mandatory and which are optional under
 32 State law, as well as all [deductible, exclusion, setoff and tort
 33 limitation] ^{3[other]}³ options offered by the insurer.

34 The buyer's guide shall also contain a statement on the
 35 possible coordination of other health benefit coverages with the
 36 personal [injury] ^{3injury}³ protection coverage options, the form
 37 and contents of which shall be prescribed by the Commissioner of
 38 Insurance.
 39

1 The coverage selection form shall identify the range of
premium rate credit or dollar savings, or both, and shall provide
3 any other information required by the commissioner by regulation.

The applicant shall indicate the options elected on the
5 coverage selection form which shall be signed and returned to the
insurer.

7 b. (Deleted by amendment, P.L. 1985, c. 520.)

c. Any notice of renewal of an automobile insurance policy
9 with an effective date subsequent to July 1, 1984, shall be
accompanied by a written notice of all policy coverage
11 information required to be provided under subsection a. of this
section.

13 The Commissioner of Insurance shall, within 45 days following
the effective date of this act, promulgate standards for the
15 written notice and buyer's guide required to be provided under
this section.

17 d. Written notices provided by any insurer writing at least 2%
of the New Jersey private passenger automobile market,
19 including the New Jersey Automobile Full Insurance Underwriting
Association established pursuant to section 16 of P.L. 1983, c. 65
21 ³[(C. 39:30E-4)¹ (C. 17:30E-4)³]; shall also contain a statement
advising that if the insured or applicant has any questions
23 concerning his automobile insurance policy, including questions as
to coverage or premiums, he may contact [either] his [agent or
25 broker] producer, or the company directly, by using a toll free
number which shall be set forth in the notice. Written notice
27 shall be given to all insureds of any change in the toll free
number.

29 e. ⁴[In addition to the information required pursuant to this
section, every insurer shall, at least annually, in conjunction with
31 a renewal notice, a bill, or other notice of payment due issued to
a policyholder in conjunction with private passenger automobile
33 insurance, send to each policyholder a written notice of all of the
following:

35 (1) A description of the specific rating classifications by
which the rates and premiums for the policy have been
37 determined. The notice shall be of sufficient detail and clarity so
that the policyholder can reasonably verify the applicability and
39 accuracy of the rating classifications.

1 (2) A general explanation of the extent to which rates or
3 premiums vary on the basis of the rating classifications used by
 the insurer.

5 (3) Sources and reasonable procedures by which the individual
7 can obtain from the insurer additional information sufficient for
 the individual to calculate and confirm the accuracy of his or her
 specific premium.

9 (4) Relevant information regarding the rights of the insured to
11 appeal the application of the insurer's rating plan in determining
13 his or her premium, to obtain documentation from the insurer
 regarding the determination of the rate, to appeal the application
 of the insurer's underwriting rules to the person, to request an
 informal conference with the insurer, and to file a complaint with
 the commissioner as an aggrieved person.

15 (5) A notice that the insured may contact his or her producer
17 to determine if he or she is eligible for insurance from an
19 affiliate of the insurer or under a different rating plan of the
 insurer which would provide insurance to the insured at a more
 favorable rate.

21 (6) Any other relevant information as required by rule or
 regulation of the commissioner.

23 (7) With respect to any optional coverage offered or required
25 to be offered pursuant to any provision of law, all election or
27 rejection of options by the insured shall be in writing, on a form
 approved by the commissioner, and] A properly completed and
 executed coverage selection form⁴ shall be prima facie evidence
 of the named insured's knowing election or rejection of ⁴[the]
 any⁴ option.

29 (cf: P.L. 1985, c. 520, s. 5)

 C. 39:6A-23.1

31 36.⁴ (New section) Section 17 of P.L. 1983, c. 362 (C.
 39:6A-23) is supplemented as follows:

33 Within nine months of the effective date of this 1988
35 amendatory and supplementary act, the Commissioner of
37 Insurance shall cause to have published a representative sample
39 of the premiums being charged by insurers in each territory to
 facilitate price comparison by insureds or prospective insureds
 who are seeking new coverage. The commissioner may act to
 make comparative premium data available to all insureds and
 prospective insureds.

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2 37.⁴ (New section) The commissioner shall conduct a review
3 of the rating territories employed by insurers in establishing
4 private passenger automobile insurance rates and of the caps
5 imposed on private passenger automobile insurance rates pursuant
6 to section 7 of P.L. 1983, c. 65 (C. 17:29A-36), which review shall
7 include an evaluation of the number of territories which are
8 presently being utilized and an examination of the actuarial
9 ⁴[soundness] and statistical soundness⁴ of those caps, and report
10 his findings, including any legislative proposals, within ⁴[six] 12⁴
11 months of the effective date of this 1988 amendatory and
12 supplementary act to the Governor and the appropriate standing
13 reference committees of the Legislature.

14 ⁴38. Section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3) is amended
15 to read as follows:

16 13. Personal injury protection coverage deductibles [.] and
17 exclusions [and setoffs]. With respect to personal injury
18 protection coverage provided on an automobile in accordance
19 with section 4 of P.L.1972, c. 70 (C. 39:6A-4), the automobile
20 insurer shall, at appropriately reduced premiums, provide the
21 following coverage options:

22 a. Medical expense benefit deductibles in amounts of \$500.00,
23 \$1,000.00 and \$2,500.00 for any one accident;

24 b. The option to exclude all benefits offered under subsections
25 b., c., d., and e. of section 4;

26 c. [A setoff option entitling an automobile insurer paying
27 medical expense benefits under section 4 to reimbursement from,
28 and a lien on, any recovery for noneconomic loss by an injured
29 party pursuant to an arbitration award, judicial judgment or
30 voluntary settlement for the amount of the medical expense
31 benefits paid, not to exceed 20% of the amount of the award,
32 judgment or settlement, including recoveries under uninsured and
33 underinsured motorist coverage, except that if, at the time of the
34 award, judgment or settlement, the amount of medical expense
35 benefits does not exceed 20% but additional expense benefits of
36 an indeterminate amount are anticipated, the amount of the
37 setoff shall be 20% of the award, judgment or settlement, with
38 the difference between the value of the 20% and the amount of
39 medical expense benefits previously paid to be placed in an

1 interest bearing trust account for use to indemnify the insurer
2 paying the medical expense benefits, as the benefits are paid.
3 Attorney's contingent fees shall be computed on the amount of
4 the award, judgment or settlement, less the amount of the setoff,
5 which setoff shall be, if the medical expense benefit claim of the
6 injured person, as of the date of the award, judgment or
7 settlement is made, is: (1) closed, the amount of medical expense
8 benefits paid, not to exceed 20% of the award, judgment or
9 settlement, or (2) open, 20% of the award, judgment or
10 settlement. Under a contingent fee arrangement, the attorney
11 shall also be entitled to reimbursement out of the amount of the
12 setoff for costs actually incurred in the institution and
13 prosecution of the claim or action, which amount shall in no
14 instance exceed 10% of the amount of the setoff, in a manner to
15 be prescribed by the Supreme Court. Nothing in this subsection
16 shall be construed to prohibit an attorney representing the injured
17 party from recovering from the insurer providing personal injury
18 protection benefits the reasonable cost of any legal services
19 rendered to that insurer primarily in conjunction with the setoff
20 reimbursement.] (Deleted by amendment, P.L. , c.)(now
21 pending in the Legislature as this bill)

22 A deductible [,] or exclusion [or setoff] elected by the named
23 insured in accordance with this section shall apply only to the
24 named insured and any resident relative in the named insured's
25 household who is not a named insured under another automobile
26 insurance policy, and not to any other person eligible for personal
27 injury protection benefits required to be provided in accordance
28 with section 4.

29 In the case of a medical expense benefit deductible, the
30 deductible elected by the named insured shall be satisfied for any
31 one accident, whether the medical expense benefits are paid or
32 provided, in the amount of the deductible, to the named insured
33 or to one or more resident relatives in the named insured's
34 household who are not named insureds under another insurance
35 policy, or to any combination thereof.

36 Medical expense benefits payable in any amount between the
37 deductible selected pursuant to subsection a. of this section and
38 \$5,000.00 shall be subject to a copayment of 20%.

39 No insurer or health provider providing benefits to an insured

1 who has elected a deductible pursuant to subsection a. of this
2 section shall have a right of subrogation for the amount of
3 benefits paid pursuant to a deductible elected thereunder or any
4 applicable copayment.

5 [Where a trust account has been established in accordance with
6 subsection c. of this section, any remaining principal and all
7 accrued interest in the trust account at the time the final
8 payment of medical expense benefits is made shall be paid to the
9 party to whom the award, judgment or settlement was made, or
10 to his estate.]

11 The Commissioner of Insurance shall adopt rules and
12 regulations to effectuate the purposes of this section.

13 (cf: P.L.1984, c.40, s.1)

14 39. Section 14 of P.L. 1944, c. 27 (C. 17:29A-14) is amended to
15 read as follows:

16 14. a. With regard to all property and casualty lines, a filer
17 may, from time to time, alter, supplement, or amend its rates,
18 rating systems, or any part thereof, by filing with the
19 commissioner copies of such alterations, supplements, or
20 amendments, together with a statement of the reason or reasons
21 for such alteration, supplement, or amendment, in a manner and
22 with such information as may be required by the commissioner.
23 If such alteration, supplement, or amendment shall have the
24 effect of increasing or decreasing rates, the commissioner shall
25 determine whether the rates as altered thereby are reasonable,
26 adequate, and not unfairly discriminatory. If the commissioner
27 shall determine that the rates as so altered are not unreasonably
28 high, or inadequate, or unfairly discriminatory, he shall make an
29 order approving them. If he shall find that the rates as altered
30 are unreasonable, inadequate, or unfairly discriminatory, he shall
31 issue an order disapproving such alteration, supplement or
32 amendment.

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

34 c. If an insurer or rating organization files a proposed
35 alteration, supplement or amendment to its rating system, or any
36 part thereof, which would result in a change in rates, the
37 commissioner may, or upon the request of the filer or the Public
38 Advocate shall, certify the matter for a hearing. The hearing
39 shall, at the commissioner's discretion, be conducted by himself,

1 by a person appointed by the commissioner pursuant to section 26
2 of P.L. 1944, c. 27 (C. 17:29A-26), or by the Office of
3 Administrative Law, created by P.L. 1978, c. 67 (C. 52:14F-1 et
4 seq.), as a contested case. The following requirements shall apply
5 to the hearing:

6 (1) The hearing shall commence within 30 days of the date of
7 the request or decision that a hearing is to be held. The hearing
8 shall be held on consecutive working days, except that the
9 commissioner may, for good cause, waive the consecutive
10 working day requirement. If the hearing is conducted by an
11 administrative law judge, the administrative law judge shall
12 submit his findings and recommendations to the commissioner
13 within 30 days of the close of the hearing. The commissioner
14 may, for good cause, extend the time within which the
15 administrative law judge shall submit his findings and
16 recommendations by not more than 30 days. A decision shall be
17 rendered by the commissioner not later than 60 days, or, if he has
18 granted a 30 day extension, not later than 90 days, from the close
19 of the hearing. A filing shall be deemed to be approved unless
20 rejected or modified by the commissioner within the time period
21 provided herein.

22 (2) The commissioner, or the Director of the Office of
23 Administrative Law, as appropriate, shall notify all interested
24 parties, including the Public Advocate on behalf of insurance
25 consumers, of the date set for commencement of the hearing, on
26 the date of the filing of the request for a hearing, or within 10
27 days of the decision that a hearing is to be held.

28 (3) The insurer or rating organization making a filing on which
29 a hearing is held shall bear the costs of the hearing.

30 (4) The commissioner may promulgate rules and regulations (a)
31 to establish standards for the submission of proposed filings,
32 amendments, additions, deletions and alterations to the rating
33 system of filers, which may include forms to be submitted by
34 each filer; and (b) making such other provisions as he deems
35 necessary for effective implementation of this act.

36 d. (Deleted by amendment, P.L. 1984, c. 1.)

37 e. In order to meet, as closely as possible, the deadlines in
38 section 17 of P.L. 1983, c. 362 (C. 39:6A-23) for provision of
39 notice of available optional automobile insurance coverages

1 pursuant to section 13 of P.L. 1983, c. 362 (C. 39:6A-4.3) and
3 section 8 of P.L. 1972, c. 70 (C. 39:6A-8), and to implement these
5 coverages, the commissioner may require the use of rates, fixed
7 by him in advance of any hearing, for deductible, exclusion,
9 setoff and tort limitation options, on an interim basis, subject to
11 a hearing and to a provision for subsequent adjustment of the
13 rates, by means of a debit, credit or refund retroactive to the
effective date of the interim rates. The public hearing on initial
rates applicable to the coverages available under section 13 of
P.L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P.L. 1972, c. 70
(C. 39:6A-8) shall not be limited by the provisions of subsection
c. of this section governing changes in previously approved rates
or rating systems.

(cf: P.L.1985, c.520, s.7)

15 40. Section 15 of P.L. 1983, c. 65 (C. 17:30E-3) is amended to
read as follows:

17 15. As used in sections 13 to 34 of this act:

19 a. "Association" means the New Jersey Automobile Full
Insurance Underwriting Association.

21 b. "Automobile" means a private passenger automobile of a
23 private passenger or station wagon type that is owned or hired,
25 and is neither used as a public or livery conveyance for
27 passengers nor rented to others with a driver; a motor vehicle
29 with a pickup body, a delivery sedan, a van, or a panel truck or a
camper type vehicle used for recreational purposes, owned by an
individual or by husband and wife who are residents of the same
household, not customarily used in the occupation, profession or
business of the insured other than farming or ranching; and, solely
for the purposes of this act, a motorcycle, as defined in R.S.
39:1-1. An automobile owned by a farm family copartnership or
corporation, which is principally garaged on a farm or ranch and
otherwise meets the definition contained in this section, shall be
considered a private passenger automobile owned by two or more
relatives resident in the same household.

35 c. "Automobile insurance" means direct insurance against
37 injury or damage, including the legal liability therefor, arising out
of the ownership, operation, maintenance or use of automobiles,
including, but not limited to, personal injury protection insurance,
39 bodily injury liability insurance, property damage liability

1 insurance, physical damage insurance and uninsured and
underinsured motorist insurance.

3 d. "Board" or "board of directors" means the board of
directors of the association.

5 e. "Company" or "member" means an insurer member of the
association.

7 f. "Commissioner" means the Commissioner of Insurance.

9 g. "Director" means a member of the board of directors of the
New Jersey Automobile Full Insurance Underwriting Association.

11 h. "Net direct car years of liability exposure" means direct
bodily injury liability car years of exposure, after deducting
returns for cancellations, but without adding reinsurance assumed
13 or deducting reinsurance ceded, as determined by the board and
approved by the commissioner.

15 i. "Net direct car years of physical damage exposure" means
direct physical damage car years of exposure, after deducting
17 returns for cancellations, but without adding reinsurance assumed
or deducting reinsurance ceded, as determined by the board and
19 approved by the commissioner.

j. "Person" means every natural person.

21 k. "Plan of operation" means the plan of operation of the
association created pursuant to section 18 of this act.

23 l. "Producer" means an agent or broker licensed to transact
the business of automobile insurance in this State.

25 m. "Qualified applicant" means a person domiciled in New
Jersey who is an owner of an automobile registered, or to be
27 registered within 60 days of application, and principally garaged
in this State, except that] who has been refused coverage in the
29 voluntary market, and who cannot be or is not placed in the
voluntary market through the procedures established pursuant to
31 subsection a. of section 26 of P.L. 1983, c. 65 (C. 17:30E-14).
Qualified applicant shall also include a member of the United
33 States military forces, if otherwise eligible for insurance
coverage issued by the association, [shall be eligible] with respect
35 to an automobile if, at the time the application is made, he is
either (1) a nonresident who is stationed in this State, whose
37 automobile is registered in another state and garaged in this
State; or (2) a resident who is stationed in another state, whose
39 automobile is registered in this State and garaged in another

1 state. No person shall, however, be deemed a qualified applicant,
2 if the principal operator of the automobile to be insured does not
3 hold a driver's license which is valid in this State; or if a regular
4 operator of the automobile other than the principal operator does
5 not hold such a license; or if timely payment of premium is not
6 tendered; or if the applicant or principal operator of the
7 automobile does not furnish the information necessary to effect
8 insurance; or if such person [rents or leases] is engaged in the
9 business of renting or leasing automobiles to others or if such
10 person uses automobiles [which are used] for commercial purposes.

11 n. "Underinsured motorist coverage" means insurance for
12 damages because of bodily injury and property damage caused by
13 accident and arising out of the ownership, maintenance or use of
14 an underinsured automobile. An automobile is underinsured when
15 the sum of the limits of liability under all bodily injury and
16 property damage liability bonds and insurance policies available
17 to a person against whom recovery is sought for bodily injury or
18 property damage is, at the time of the accident, less than the
19 applicable limits of liability afforded under the automobile
20 insurance policy held by the person seeking such recovery.

21 o. "Residual market equalization charge" means the amount,
22 which, when added to all other sources of association income, will
23 cause the association to operate on a no profit, no loss basis.
(cf: P.L.1986, c.211, s.1)

24 41. Section 22 of P.L. 1983, c. 65 (C. 17:30E-10) is amended to
25 read as follows:

26 22. a. Association business shall be serviced by producers
27 selected by the board, in accordance with selection procedures
28 and eligibility standards established by the plan of operation
29 [pursuant to rules and regulations promulgated by the
30 commissioner]. The selection procedures shall include an
31 affirmative action program and the establishment of a
32 producer-to-population ratio which shall ensure adequate service
33 on a regional basis. The plan of operation shall also establish
34 procedures to facilitate the transition from the procedures
35 governing producers, which are in effect as of the effective date
36 of this act, to the selection procedures established by the
37 association pursuant to this subsection.

1 b. Producers who are exclusive representatives of a company
3 which is a servicing carrier shall be assigned to that carrier for
5 the servicing of association policies. Producers who are not
7 exclusive representatives of a servicing carrier may, at the
9 election of the producer and with the consent of the servicing
11 carrier, contract with the association to do business through any
13 servicing carrier. Producers who are not exclusive
15 representatives of a company which is a servicing carrier, or who
17 have not otherwise established a contractual relationship with a
19 servicing carrier pursuant to this section, shall be assigned to all
21 servicing carriers on an equitable basis by the association,
23 pursuant to the plan of operation. The assignments shall be in
25 proportion to the percentage of association business which each
27 servicing carrier has contracted with the association to accept
29 and shall be balanced among territories. The assignments shall be
31 reviewed at least annually and upon the request of a servicing
33 carrier or producer. Pursuant to the plan of operation, the
35 assignments shall be reallocated if it is found that the allocations
37 are demonstrably inequitable. Reallocations shall be made in a
39 manner to minimize the shifting of producers.

21 c. Every producer shall be assigned two alternate servicing
23 carriers, pursuant to the plan of operation. In the event that any
25 servicing carrier normally assigned to any producer ceases, as
27 may be provided in the plan of operation, to accept applications
29 temporarily, such applications shall be redistributed by the
31 association to each producer's alternate servicing carrier.

27 d. In order to minimize disruption of association operations in
29 cases in which a servicing carrier withdraws or will be
31 withdrawing from the service of association business, the
33 association, with the approval of the commissioner, shall be
35 authorized to reallocate all, or any part, of the withdrawing
37 servicing carrier's producers to one or more of the remaining
39 servicing carriers.

(cf: P.L.1986, c.211, s.4)

35 42. Section 29 of P.L. 1983, c. 65 (C. 17:30E-17) is amended to
37 read as follows:

37 29. a. The commissioner may suspend or revoke, after notice
39 and a hearing, the certificate of authority of any member insurer
or the license of any [agent or broker] producer who willfully fails

1 to comply with the provisions of this act or the regulations or
2 plan of operation promulgated thereunder. In addition to or in
3 lieu of suspension or revocation, any member company violating
4 the provisions of this act or the regulations or plan of operation
5 promulgated thereunder may be fined by the commissioner up to
6 ~~[\$5,000.00]~~ \$10,000.00 for each such violation; and any [agent or
7 broker] producer violating the provisions of this act or the
8 regulations or plan of operation promulgated thereunder may be
9 fined by the commissioner up to ~~[\$1,500.00]~~ \$5,000.00 for each
10 violation. These penalties shall be enforced and collected by the
11 commissioner in the name of the State pursuant to "the penalty
enforcement law" (N.J.S. 2A:58-1 et seq.).

13 b. If, after notice and opportunity to be heard, the board finds
14 that a producer has violated the provisions of this act or the
15 regulations, plan of operation or standards promulgated pursuant
16 to this act, the board shall notify the commissioner and may
17 request the commissioner to temporarily suspend the producer's
18 authority to write new association business. The commissioner
19 may issue an order suspending the producer's authority to write
20 new association business, pending a hearing which shall be held
21 within 20 days of the issuance of the order. If, after a hearing,
22 the commissioner finds that the producer has violated the
23 provisions of this act or the regulations, plan of operation or
standards promulgated pursuant to this act, he shall take
25 appropriate disciplinary action, including suspension or revocation
26 of the producer's license or producer's authority to write
27 business for the association, or both.

29 c. In the event the association sustains a financial loss due to
30 any act or omission of any producer, member company or
31 servicing carrier which violates any statutory, contractual or plan
32 of operation requirement, the commissioner may, in addition or
33 as an alternative to the penalties provided in subsections a. and b.
34 of this section, order the restitution of any moneys owed to the
35 association, and the reimbursement of reasonable costs of
investigation and prosecution.

(cf: P.L.1983. c.65. s.29)

37 C. 17:30E-18.1

39 43. (New section) The commissioner may, whenever he deems
it necessary, make or cause to be made an examination of the

1 finances, operations, methods of conducting business, and all
2 other affairs of the association, its management and its servicing
3 carriers. For the purpose of the examination, the commissioner
4 may authorize, employ or otherwise engage such person, persons
5 or other resources to conduct the examination, or to assist
6 therein, as he deems advisable. The reasonable expenses of the
7 examination shall be determined by the commissioner and shall be
8 paid by the association. The association shall recover all such
9 payments by assessment of its member companies pursuant to an
10 equitable assessment formula established in the plan of operation.

11 44. Section 12 of P.L. 1972, c. 70 (C. 39:6A-12) is amended to
12 read as follows:

13 12. Inadmissibility of evidence of losses collectible under
14 personal injury protection coverage. Except as may be required
15 in an action brought pursuant to section 20 of [this 1983
16 amendatory and supplementary act] P.L. 1983, c. 362 (C.
17 39:6A-9.1), evidence of the amounts collectible or paid pursuant
18 to sections 4 and 10 of [this act] P.L. 1972, c. 70 (C. 39:6A-4 and
19 39:6A-10), to an injured person, including the amounts of any
20 deductibles, copayments or exclusions [elected by the named
21 insured pursuant to section 13 of this 1983 amendatory and
22 supplementary act,] otherwise compensated is inadmissible in a
23 civil action for recovery of damages for bodily injury by such
24 injured person.

25 The court shall instruct the jury that, in arriving at a verdict as
26 to the amount of the damages for noneconomic loss to be
27 recovered by the injured person, the jury shall not speculate as to
28 the amount of the medical expense benefits paid or payable under
29 section 4 to the injured person.

30 Nothing in this section shall be construed to limit the right of
31 recovery, against the tortfeasor, of uncompensated economic loss
32 sustained by the injured party.⁴

33 (cf: P.L.1983, c.362, s.11)

34 C. 17:29A-36.3

35 45.⁴ (New section) The Commissioner of Insurance may
36 promulgate any rules and regulations which he deems necessary
37 to effectuate the provisions of this 1988 amendatory and
supplementary act.

