

39:6A-4

LEGISLATIVE HISTORY CHECKLIST

NJSA 39:6A-4 et al. (Limits no fault insurance company liability to \$75,000; excess carried by UCJ Fund)

Laws of 1977 Chapter 310

Bill No. S1380

Sponsor(s) Garramone, Merlino, Cafiero

Date Introduced April 12, 1976

Committee: Assembly Judiciary

Senate Commerce, Banking & Insurance

Amended during passage Yes ~~NR~~

Amendments during passage denoted by asterisks

Date of passage: Assembly April 18, 1977

Senate Dec. 14, 1976

Date of approval January 8, 1978

Following statements are attached if available:

Sponsor statement Yes ~~NR~~

Committee Statement: Assembly Yes ~~NR~~

Senate Yes ~~NR~~

Fiscal Note ~~YES~~ No

Veto message ~~YES~~ No

Message on signing Yes ~~NR~~

Following were printed:

Reports Yes ~~NR~~

Hearings Yes ~~NR~~

Bill mentioned in:

974.90 Purola, Laurine
A939 Automobile insurance in N.J.;
1977c the issues (A staff report to the
Banking and Insurance Committee)
2-8-77.
(pp 13-16)

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(over)

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See:

- 974.90 N.J. Legislature. Commerce, Banking & Insurance
A939 Committee.
1977b Public hearing on automobile insurance.
Held 2-16-77.
- 974.90 N.J. Legislature. Commission to Study the N.J.
A939 Automobile Reparation Reform Act.
1977f No fault automobile insurance reform in
N.J.
(See Chapter 6, pp. 49-61)
- 974.90 N.J. Legislature. No-Fault Study Commission.
A939 Public hearing. Held July 21, 1977,
1977e July 28, 1977. Trenton and Elizabeth, N.J.

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[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1380

STATE OF NEW JERSEY

INTRODUCED APRIL 12, 1976

By Senators GARRAMONE, MERLINO and CAFIERO

Referred to Committee on Judiciary

AN ACT concerning recovery for medical expenses incurred in automobile accidents, to amend the "New Jersey Automobile Reparation Reform Act," approved June 20, 1972 (P. L. 1972, c. 70), and amending and supplementing the "Unsatisfied Claim and Judgment Fund Law," approved May 10, 1952 (P. L. 1952, c. 174) **and making an appropriation therefor**.

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

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

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

4 Every automobile liability insurance policy insuring an auto-
5 mobile as defined in this act against loss resulting from liability
6 imposed by law for bodily injury, death and property damage
7 sustained by any person arising out of ownership, operation, main-
8 tenance or use of an automobile shall provide additional coverage,
9 as defined herein below, under provisions approved by the Com-
10 missioner of Insurance, for the payment of benefits without regard
11 to negligence, liability or fault of any kind, to the named insured
12 and members of his family residing in his household who sustained
13 bodily injury as a result of an accident involving an automobile,
14 to other persons sustaining bodily injury while occupying the
15 automobile of the named insured or while using such automobile
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 "Additional coverage" means and includes:

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

20 a. Medical expense benefits. Payment of all reasonable medical
21 expenses incurred as a result of personal injury sustained in an
22 automobile accident. In the event of death, payment shall be made
23 to the estate of the decedent. *In the event benefits paid by an*
24 *insurer pursuant to this subsection are in excess of *~~[\$25,000.00]~~**
25 **\$75,000.00* on account of personal injury to any one person in any*
26 *one accident, such excess shall be paid by the insurer in consultation*
27 *with the Unsatisfied Claim and Judgment Fund Board and shall be*
28 *reimbursable to the insurer from the Unsatisfied Claim and Judg-*
29 *ment Fund pursuant to section 2 of this act.*

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

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

45 d. Survivor benefits. In the event of the death of an income
46 producer as a result of injuries sustained in an accident entitling
47 such person to benefits under section 4 of this act, the maximum
48 amount of benefits which could have been paid to the income pro-
49 ducer, but for his death, under section 4 b. shall be paid to the
50 surviving spouse, or in the event there is no surviving spouse, then
51 to the surviving children, and in the event there are no surviving
52 spouse or surviving children, then to the estate of the income
53 producer.

54 In the event of the death of one performing essential services as
55 a result of injuries sustained in an accident entitling such person
56 to benefits under section 4 c. of this act, the maximum amount of
57 benefits which could have been paid such person, under section 4 c.,
58 shall be paid to the person incurring the expense of providing such
59 essential services.

60 e. Funeral expenses benefits. All reasonable funeral, burial and
61 cremation expenses, subject to a maximum benefit of \$1,000.00, on

62 account of the death to any one person in any one account shall be
63 payable to decedent's estate.

1 2. (New section) In the event medical expense benefits paid by
2 an insurer, in accordance with section 4 a. of P. L. 1972, c. 70
3 (C. 39:6A-4), are in excess of *~~[\$25,000.00]~~* *\$75,000.00* on
4 account of personal injury to any one person in any one accident, the
5 Unsatisfied Claim and Judgment Fund shall assume such excess
6 and reimburse the insurer therefor in accordance with rules and
7 regulations promulgated by the Director of the Division of Motor
8 Vehicles after consultation with the Commissioner of Insurance*;
9 *provided, however, that this provision is not intended to broaden*
10 *the coverage available to accidents involving uninsured or hit-and-*
11 *run automobiles, to provide extraterritorial coverage, nor to pay*
12 *excess medical expenses*.*

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

3 3. For the purpose of creating and maintaining the fund:
4 (a) (Deleted by amendment, *P. L. 1968, c. 323, § 3.*)
5 (b) (Deleted by amendment, *P. L. 1968, c. 323, § 3.*)
6 (c) (Deleted by amendment, *P. L. 1968, c. 323, § 3.*)
7 (d) On December 30 in each year, beginning with 1956, the
8 director shall calculate the probable amount which will be needed to
9 carry out the provisions of this act during the ensuing registration
10 license year. In such calculation, he shall take into consideration
11 the amount presently reserved for pending claims, anticipated pay-
12 ments from the fund during said year, *anticipated payments from*
13 *the fund for medical expenses to be made pursuant to section 2*
14 *of this act during the 2 years after said year*, anticipated amounts
15 to be reserved for claims pending during said year, and the
16 desirability of maintaining a surplus over and above such antici-
17 pated payments and present and anticipated reserves, such surplus
18 not to exceed the amount actually paid from the fund during the
19 12 full calendar months immediately preceding the date of calcula-
20 tion. Such probable amount which will be needed to carry out the
21 provisions of this act shall be assessed against insurers for such
22 year's contribution to the fund. Such probable amount needed
23 shall be apportioned among such insurers in the proportion that
24 the net direct written premiums of each bears to the aggregate
25 net direct written premiums of all insurers during the preceding
26 calendar year as shown by the records of the commissioner. Each
27 insurer shall pay the sum so assessed to the treasurer on or before
28 March 31, next following.

29 (e) Whenever any of the provisions of this act concerning the
 30 method and sources of assessments, the maximum amounts payable
 31 from the fund, eligibility or qualifications of claimants, or amounts
 32 to be deducted from payments made from the fund are amended
 33 by law, between January 1 and April 30 in any year, the director
 34 may, if he deems it necessary, rescind any assessment made on
 35 December 30 of the preceding year. He shall then, within 15 days
 36 of the adoption of such amendment, recalculate the probable
 37 amount which will be needed to carry out the provisions of this act
 38 during the ensuing registration license year, in accordance with
 39 the provisions of subsection (d) of this section. If, in his judgment,
 40 the estimated balance of the fund at the beginning of the next reg-
 41 istration license year will be insufficient to meet such needs, he shall
 42 determine the contributions of insurers, if any, in accordance with
 43 the provisions of subsection (d) of this section. In the event of
 44 a rescission and reassessment subsequent to March 1 in any year,
 45 insurers shall pay the sum so assessed, if any, to the treasurer
 46 within 90 days of the date of such assessment.

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

3 13. *Except with respect to medical expense benefits paid pursuant*
 4 *to section 2 of this act, no [No] order shall be made for the pay-*
 5 *ment and the treasurer shall make no payment, out of the fund, of*

6 (a) Any claim for damage to property for less than \$100.00.

7 (b) The first \$100.00 of any judgment for damage to property
 8 or of the unsatisfied portion thereof, or

9 (c) The unsatisfied portion of any judgment which, after deduct-
 10 ing \$100.00 therefrom if the judgment is for damage to property,
 11 exceeds

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

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

19 (3) the maximum amount or limit of \$5,000.00, exclusive of
 20 interest and costs, for damages to property in any one accident,
 21 provided, that such maximum amounts shall be reduced by any
 22 amount received or recovered as specified in subparagraph (m)
 23 of section 10.

24 (d) Any claim for damage to property which includes any sum
 25 greater than the difference between said maximum amounts and the
 26 sum of \$100.00, and any amount paid out of the fund in excess of
 27 the amount so authorized may be recovered by the treasurer in an
 28 action brought to him against the person receiving the same.

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

3 28. Fund to be held in trust. All sums paid to the director as
 4 Unsatisfied Claim and Judgment Fund Fees and as additional
 5 charges against owners of uninsured motor vehicles shall be remit-
 6 ted to the treasurer within 30 days after the receipt of the same.
 7 All sums received by the treasurer pursuant to any of the provi-
 8 sions of this act shall become part of the fund, and shall be held
 9 by the treasurer in trust for the carrying out of the purposes of
 10 this act and for the payment of the cost of administering this act.
 11 Said fund may be invested and reinvested in the same manner as
 12 other State funds and shall be disbursed according to the order
 13 of the treasurer, as custodian of the fund. ***Whenever the Unsatis-**
 14 **fied Claim and Judgment Fund Board certifies to the State Treas-**
 15 **urer that the assets of the fund exceed amounts required to *carry***
 16 ***out the provisions of this act as calculated pursuant to section 3***
 17 ***hereof (C. 39:6-63), [satisfy claims pending and anticipated for***
 18 ***the succeeding 12 months]* the State Treasurer, as custodian of**
 19 **the fund, shall transfer the excess to the General State Fund.]***

1 *6. *There is hereby appropriated the sum of \$45,000.00 to effec-*
 2 *tuate the purposes of this act.**

1 ***6. This act shall take effect immediately and be retroactive to**
 2 **January 1, 1976. It shall be applicable to accidents occurring on**
 3 **or after the effective date.]***

1 *7. *This act shall take effect immediately and be applicable com-*
 2 *mencing with accidents occurring after 12:00 a.m. on the forty-fifth*
 3 *day following its enactment.**

3 28. Fund to be held in trust. All sums paid to the director as
4 Unsatisfied Claim and Judgment Fund Fees and as additional
5 charges against owners of uninsured motor vehicles shall be remit-
6 ted to the treasurer within 30 days after the receipt of the same.
7 All sums received by the treasurer pursuant to any of the provi-
8 sions of this act shall become part of the fund, and shall be held
9 by the treasurer in trust for the carrying out of the purposes of
10 this act and for the payment of the cost of administering this act.
11 Said fund may be invested and reinvested in the same manner as
12 other State funds and shall be disbursed according to the order
13 of the treasurer, as custodian of the fund. Whenever the Unsatis-
14 fied Claim and Judgment Fund Board certifies to the State Treas-
15 urer that the assets of the fund exceed amounts required to *carry*
16 *out the provisions of this act as calculated pursuant to section 3*
17 *hereof (C. 39:6-63), [satisfy claims pending and anticipated for*
18 *the succeeding 12 months]* the State Treasurer, as custodian of
19 the fund, shall transfer the excess to the General State Fund.

1 6. This act shall take effect immediately and be retroactive to
2 January 1, 1976. It shall be applicable to accidents occurring on
3 or after the effective date.

STATEMENT

This bill would amend the no-fault automobile insurance law and amend and supplement the Unsatisfied Claim and Judgment Fund law to limit an insurance company's liability on any one medical expense claim to \$25,000.00 and provide that the Unsatisfied Claim and Judgment Fund cover any portion of a claim exceeding that amount. The bill assures that accident victims will continue to receive full compensation for medical expenses and at the same time relieves insurance companies of the financial burdens of unlimited medical expense coverage under the present law.

The Unsatisfied Claim and Judgment Fund is maintained through an assessment against automobile insurance carriers who in turn reflect the assessment in the rate structure. The assessment requirement for the present responsibilities of the fund is about $\frac{1}{2}$ of 1%. Any increased assessment necessitated by this bill would be insignificant.

ASSEMBLY COMMERCE, BANKING AND INSURANCE
COMMITTEE

STATEMENT TO
SENATE, No. 1380

—◆—
STATE OF NEW JERSEY
—◆—

DATED: FEBRUARY 10, 1977

This bill would amend the no-fault automobile insurance law and modify the law establishing the Unsatisfied Claim and Judgment Fund to provide that an insurance company's liability on any one medical expense claim not exceed \$75,000.00. The remainder of the payment would be made from the Unsatisfied Claim and Judgment Fund, to which insurers contribute in proportion to their percentage of the market.

This bill has a two-fold purpose. First, it alleviates the burden of larger claims which falls on smaller companies, many of which have limited resources. In addition, the bill has another effect upon the rate-making procedure. At present, when an insurer receives what it believes to be a potentially large claim, it sets aside a considerable sum of money as a reserve for such loss. This, in turn, is taken into consideration for ratemaking purposes even though the money has not actually been paid out. This legislation would eliminate this distortion by eliminating the need for the larger reserve. At present, the smaller companies reinsure certain of these risks at a high premium, which, in turn, has an impact upon the rates that they charge.

The Insurance Department and the smaller insurance companies support the bill. The American Insurance Association, which represents the larger casualty insurers, opposes it.

The Banking and Insurance Committee has amended this legislation in several respects. The effective date has been changed to permit a 45-day lead time. The committee has also added a \$45,000.00 appropriation. In addition, the provisions of present law permit the transfer of funds from the Unsatisfied Claim and Judgment Fund to the general fund have been eliminated.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1380

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 1976

This bill amends the no-fault automobile insurance law and also amends and supplements the Unsatisfied Claim and Judgment Fund law to provide a limit on an insurance company's liability on any one medical expense claim; this liability is presently unlimited. The committee amended the bill to place the liability limit at \$75,000.00. The Unsatisfied Claim and Judgment Fund will cover any portion of a claim exceeding \$75,000.00. The bill assures that accident victims will continue to receive full compensation for medical expenses and at the same time relieves insurance companies of the financial burdens of unlimited medical expense coverage under the present law.

The Unsatisfied Claim and Judgment Fund is maintained through an assessment against automobile insurance carriers who in turn reflect the assessment in the rate structure. The assessment requirement for the present responsibilities of the fund is about $\frac{1}{2}$ of 1%. Any increased assessment necessitated by this bill would be insignificant.

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MAR 07 1978

FOR FURTHER INFORMATION

JANUARY 5, 1978

185 W. State Street
Trenton, N. J.

ANNE BURNS

Governor Brendan Byrne today signed into law S-1380, sponsored by Senator Raymond Garramone (D-Bergen). The bill amends the no-fault insurance law and the Unsatisfied Claim and Judgement Fund law by limiting an insurance company's liability on any one medical expense claim to \$75,000.

One of the major no-fault reform issues in New Jersey has been the absence of any limitation on company liability for first-party medical expenses under the Personal Injury Protection (PIP) mandated by law. The original No-Fault Study Commission recommended against a limitation believing that coverage for catastrophic cases was desirable and that the number of these cases was low enough to keep overall claims costs affordable. This has proven true; however, there has been another problem.

Prior to S-1380, in accident cases involving major permanent disabilities, insurance companies were required to pay all medical hospital rehabilitation expenses for the duration of the disabled person's life. In order to protect against all eventualities, insurance companies have been forced to maintain very large loss reserves which in the end may not bear any close relation to the actual expenses paid.

The reserving problem has had an adverse effect on the medium to smaller-sized insurance companies. They do not have the sufficient capital resources to maintain large reserves and so must buy reinsurance to cover their liability.

The cost of reinsurance which is not State regulated for PIP medical payments is very high.

S-1380 caps the liability limit at \$75,000 and shifts liability for any excess costs to the Unsatisfied Claim and Judgement Fund. The Fund will maintain reserves sufficient to pay anticipated amounts needed through assessments against auto insurers.

