

39:6A-24 to 39:6A-35

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:6A-24 to 39:6A-35 (Automobiles--accident claims--arbitration)

LAWS OF: 1983

CHAPTER 358

BILL NO: A3822

Sponsor(s): Deverin and others

Date Introduced: September 6, 1983

Committee: Assembly: -----

Senate: -----

Amended during passage: No

Date of Passage: Assembly: September 6, 1983

Senate: September 15, 1983

Date of Approval: October 4, 1983

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

974.901 New Jersey Administrative Office of The Courts.
A926 Automobile arbitration: report to the Governor and Legislature
... March, 1986, Trenton, 1986.

(OVER)

Comment on need for legislation in:

974.90 New Jersey. Legislature. No-Fault Study Commission.
A939 Public hearing held 7-21-77. Trenton, 1977.
1977e (see vol. 1--p.46).

For background see:

974.90 Hanssler, Herman
A939 An assessment of the New Jersey no-fault automobile reformation act.
1982a December, 1982. Trenton, 1982.
(See especially pp. 17-19)

See newspaper clippings attached.

ASSEMBLY, No. 3822

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 6, 1983

By Assemblymen DEVERIN, ADUBATO, KOSCO
and KARCHER

AN ACT providing for the arbitration of certain automobile accident
claims in certain cases.

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

1 1. The purpose and intent of this act is to establish an informal
2 system of settling tort claims arising out of automobile accidents
3 in an expeditious, and least costly manner, and to ease the burdens
4 and congestion of the State's courts.

1 2. a. Any cause of action filed in the Superior Court after the
2 operative date of this act, for the recovery of noneconomic loss, as
3 defined in section 2 of P. L. 1972, c. 70 (C. 39:6A-2), or the recovery
4 of uncompensated economic loss, other than for damages to prop-
5 erty, arising out of the operation, ownership, maintenance or use of
6 an automobile, as defined in that section 2, shall be submitted, except
7 as hereinafter provided, to arbitration by the assignment judge of
8 the court in which the action is filed, if the court determines that the
9 amount in controversy is \$15,000.00 or less, exclusive of interest and
10 costs; provided that if the action is for recovery for both non-
11 economic and economic loss, the controversy shall be submitted to
12 arbitration if the court determines that the amount in controversy
13 for noneconomic loss is \$15,000.00 or less, exclusive of interest and
14 costs.

15 b. Notwithstanding that the amount in controversy of an action
16 for noneconomic loss is in excess of \$15,000.00, the court may refer
17 the matter to arbitration, if all of the parties to the action consent
18 in writing to arbitration and the court determines that the con-

19 troversy does not involve novel legal or unduly complex factual
20 issues.

21 No cause of action determined by the court to be, upon proper
22 motion of any party to the controversy, frivolous, insubstantial or
23 without actionable cause shall be submitted to arbitration.

24 The provisions of this section shall not apply to any controversy
25 on which an arbitration decision was rendered prior to the filing of
26 the action.

27 The provisions of this section shall apply to any cause of action,
28 subject to this section, filed prior to the operative date of this act,
29 if a pretrial conference has not been concluded thereon.

1 3. Submission of a controversy to arbitration shall toll the
2 statute of limitations for filing an action until the filing of the
3 arbitration decision in accordance with section 7 of this act.

1 4. a. The number or selection of arbitrators may be stipulated
2 by mutual consent of all of the parties to the action, which stipula-
3 tion shall be made in writing prior to or at the time notice is given
4 that the controversy is to be submitted to arbitration. The assign-
5 ment judge shall approve the arbitrators agreed to by the parties,
6 whether or not the designated arbitrators satisfy the requirements
7 of subsection b. of this section, upon a finding that the designees
8 are qualified and their serving would not prejudice the interest of
9 any of the parties.

10 b. If the parties fail to stipulate the number or names of the
11 arbitrators, the arbitrators shall be selected, in accordance with
12 the rules of court adopted by the Supreme Court of New Jersey,
13 from a list of arbitrators compiled by the assignment judge, to
14 be comprised of retired judges and qualified attorneys in this State
15 with at least seven years negligence experience and recommended
16 by the county or State bar association.

1 5. Compensation for arbitrators shall be set by the rules of the
2 Supreme Court of New Jersey. The Supreme Court may also
3 establish a schedule of fees for attorneys representing the parties
4 to the dispute and for witnesses in arbitration proceedings.
5 Attorney's fees may exceed these limits upon application made to
6 the assignment judge in accordance with the rules of the court for
7 the purpose of determining a reasonable fee in the light of all the
8 circumstances.

9 The Supreme Court may adopt rules governing offers of judg-
10 ment by the claimant or defendant prior to the start of arbitration,
11 including the assessment of the costs of arbitration proceedings
12 and attorney's fees, where an offer is made but refused by the other
13 party to the controversy.

1 6. The arbitrators may, at their initiative or at the request of
2 any party to the arbitration, issue subpoenas for the attendance of
3 witnesses and the production of books, records, documents and other
4 evidence. Subpoenas shall be served and shall be enforceable in the
5 manner provided by law.

1 7. Notwithstanding that a controversy was submitted pursuant
2 to subsection a. of section 2 of this act, the arbitration award for
3 noneconomic loss may exceed \$15,000.00. The arbitration decision
4 shall be in writing, and shall set forth the issues in controversy,
5 and the arbitrators' findings and conclusions of law and fact.

1 8. Unless one of the parties to the arbitration petitions the court,
2 within 30 days of the filing of the arbitration decision with the
3 court, a. for a trial de novo, or b. for the modification or vacation
4 of the arbitration decision for any of the reasons set forth in
5 chapter 24 of Title 2A of the New Jersey Statutes, or an error of
6 law or factual inconsistencies in the arbitration findings, the court
7 shall, upon motion of any of the parties, confirm the arbitration
8 decision, and the action of the court shall have the same effect and
9 be enforceable as a judgment in any other action.

1 9. Except in the case of an arbitration decision vacated by the
2 court or offers of judgment made pursuant to court rules, the party
3 petitioning the court for a trial de novo shall pay to the court the
4 fees of the arbitrators.

1 10. No statements, admissions or testimony made at the arbitra-
2 tion proceedings, nor the arbitration decision, as confirmed or
3 modified by the court, shall be used or referred to at the trial de novo
4 by any of the parties, except that the court may consider any of
5 those matters in determining the amount of any reduction in assess-
6 ments made pursuant to section 11 of this act.

1 11. The party having filed for a trial de novo shall be assessed
2 court costs and other reasonable costs of the other party to the
3 judicial proceeding, including attorney's fees, investigation
4 expenses and expenses for expert or other testimony or evidence,
5 which amount shall be, if the party assessed the costs is the one to
6 whom the award is made, offset against any damages awarded to
7 that party by the court, and only to that extent; except that if the
8 judgment is more favorable to the party having filed for a trial de
9 novo, the court may reduce or eliminate the amount of the assess-
10 ment in accordance with the extent to which the decision of the
11 court is more favorable to that party than the arbitration decision,
12 and as best serves the interest of justice. The court may waive an
13 assessment of costs required by this section upon a finding that the
14 imposition of costs would create a substantial economic hardship
15 as not to be in the interest of justice.

1 12. The Supreme Court of New Jersey shall adopt rules of court
2 appropriate or necessary to effectuate the purpose of this act.
3 The Administrative Office of the Courts shall not later than March
4 1 of each year file with the Governor and Legislature a report on
5 the impact of the implementation of this act on automobile in-
6 surance settlement practices and costs, and on court calendars and
7 workload.

1 13. This act shall take effect immediately but sections 1 through
2 11 shall remain inoperative until January 1, 1984 or until the adop-
3 tion of appropriate rules by the Supreme Court of New Jersey,
4 whichever shall be later.

STATEMENT

This bill establishes a system of judicial arbitration for tort action claims, for noneconomic or economic loss, filed in the Superior Court of this State, if the amount in controversy is \$15,000.00 or less or, in the case of a greater amount, the parties agree to submit the controversy to arbitration. If the action is for both economic and noneconomic loss, the \$15,000.00 shall apply to the amount in controversy for noneconomic damages.

The parties to the arbitration may agree to the number and persons to be designated as arbitrators; otherwise the arbitrators shall be selected from a list of retired judges and practicing attorneys compiled by the assignment judge, in a manner to be prescribed by the State Supreme Court. Controversies on which arbitration decisions have been rendered prior to the filing of the action are exempted from the bill's provisions.

Any party to the arbitration may request a trial de novo of the controversy, during which no reference shall be made to the arbitration proceedings or decision. The party asking for a trial de novo shall pay the arbitrators' fees. That party shall also be assessed court costs and the reasonable costs of the trial to the other parties, including reasonable attorneys' fees, not to exceed the amount of damages awarded that party, if that party is the one to which the award is made; the court may reduce or eliminate the assessment to the extent that the court decision is more favorable to the filing party. The payment of court costs may be waived by the court, upon a finding that the payments would create a substantial economic hardship or are not in the interests of justice.

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OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

TUESDAY, OCTOBER 4, 1983

A 3822

Governor Thomas H. Kean today signed five bills to reform and revise the State's no-fault automobile insurance system "and bring about long sought after reductions in premiums for New Jersey motorists."

"These bills, and the reform legislation which I signed earlier, represent a victory over the private interest forces which have blocked so consistently and for so long all attempts to revise the system," Kean said. "Their enactment into law represents a victory for the public good over those whose interest in their own welfare was paramount."

The Governor said the package of bills would result in an average savings of \$150 in insurance premiums.

"These savings and these reforms have eluded administrations for the past eight years," Kean said. "In fact, before today, the only consistent element in attempts to reform the no-fault system was that the attempts would fail."

"It is important to recognize that this package of reform legislation was developed in a bipartisan fashion and exemplifies the kind of progress which can be made on behalf of the people of the State, even in the face of strong private interest pressures," Kean said.

The major bill in the package signed by Kean was A-3981, sponsored by Assemblyman Michael Adubato, D-Essex.

- more -

GOVERNOR SIGNS NO-FAULT INSURANCE BILLS

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It provides:

- * Establishment of an optional threshold for pain and suffering lawsuits --- either \$200 or \$1,500. The policyholder who selects the \$200 threshold will pay a substantially higher premium than those selecting the \$1,500 threshold.

- * Continuation of mandatory minimum liability coverage.

- * Creation of an Auto Insurance Risk Exchange under which monies collected from those drivers who choose the \$200 threshold option would be deposited in a fund and the money used to compensate persons who do not accumulate \$1,500 in medical bills for injuries suffered in an accident.

- * Continuation of the mandatory personal injury protection (PIP) coverage, but provide for optional deductibles to permit policyholders to choose full PIP coverage or to coordinate coverage with existing medical coverage. It provides, also, that PIP coverage for funeral expenses, essential services, and wage loss be made optional.

- * Establishment of an option under which a policyholder could agree to return to his insurance company up to 20 percent of any award received for pain and suffering to help cover monies spent on medical costs by the insurance carrier.

- * Require that within six months of the effective date of the law every insurance company reissue its policies and include information setting forth existing coverage as well as all options available to the purchaser and the costs of each option.

GOVERNOR SIGNS NO-FAULT INSURANCE BILLS

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The other bills signed by Kean are:

A-3896, sponsored by Assembly Minority Leader Dean A. Gallo, R-Morris, to permit higher deductible and coinsurance options on collision and comprehensive coverages.

A-3822, sponsored by Assemblyman Thomas Deverin, D-Middlesex, to provide for a system of mandatory, non-binding arbitration for law suits with damages of \$15,000 or less.

A-3898, sponsored by Assemblyman Thomas Shusted, R-Camden, to provide for licensing of auto body repair shops.

A-3820, sponsored by Assembly Speaker Alan Karcher, D-Middlesex, to require auto insurance companies to file annual financial disclosure statements and to establish standards for determining excess profits on auto insurance.

A copy of the Governor's statement is on the reverse side.

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