

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1285

Session of  
1981

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INTRODUCED BY DeVERTER, KOWALYSHYN, VROON, NAHILL, GRUPPO,  
RASCO, PETERSON, ROCKS, MOWERY, SIEMINSKI, GEIST, MARMION,  
SMITH AND PITTS, APRIL 22, 1981

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AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 1, 1981

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## AN ACT

1 Amending the act of July 19, 1974 (PL.489, No.176), entitled "An  
2 act providing for a compensation system for persons injured  
3 in motor vehicle accidents; requiring insurance for all motor  
4 vehicles required to be registered in Pennsylvania; defining  
5 compensable damage in motor vehicle accident cases;  
6 establishing an assigned claims plan; providing for  
7 arbitration; imposing powers and duties on courts, the  
8 Department of Transportation and the Insurance Commissioner;  
9 prohibiting certain discrimination; and providing penalties,"  
10 redefining and adding terms, further providing for motor  
11 vehicle insurance, proof of security at vehicle inspection,  
12 the financial responsibility of owners, temporary suspension  
13 of coverage, availability of insurance; providing for  
14 settlement agreements and payment of claims and for assigned  
15 claims plans; further providing for rates, motor vehicles in  
16 interstate travel, rights and duties of obligors, basic loss  
17 and collateral benefits, work loss and net loss, additional  
18 coverage options and ineligible claimants; increasing the  
19 threshold; further providing for examinations; providing for  
20 immunity from liability for release of information, for  
21 operation of a vehicle without security, and for surrender of  
22 registration on suspension.

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

25 Section 1. The definitions of "added loss benefits,"  
26 "allowable expense," "injury," "medical and vocational  
27 rehabilitation services," "motor vehicle," "obligor,"

1 "replacement services loss," "State," "survivor," "survivor's  
2 loss" and "work loss" in section 103, act of July 19, 1974  
3 (P.L.489, No.176), known as the "Pennsylvania No-fault Motor  
4 Vehicle Insurance Act," are amended, and a definition is added  
5 to read:

6 § 103. Definitions.

7 As used in this act:

8 "Added loss benefits" means benefits provided by added loss  
9 insurance in accordance with section 207 of this act. Added loss  
10 benefits shall not include benefits for net loss sustained by an  
11 operator or passenger of a motorcycle.

12 "Allowable expense" means reasonable charges incurred for, or  
13 the reasonable value of (where no charges are incurred),  
14 reasonably needed and used products, services, and  
15 accommodations for:

- 16 (A) professional medical treatment and care;  
17 (B) emergency health services;  
18 (C) medical and vocational rehabilitation services;  
19 and  
20 (D) expenses directly related to the funeral,  
21 burial, cremation, or other form of disposition of the  
22 remains of a deceased victim, not to exceed one thousand  
23 five hundred dollars (\$1,500); [and]

24 The term does not include that portion of a charge for a room  
25 in a hospital, clinic, convalescent, or nursing home, or any  
26 other institution engaged in providing nursing care and related  
27 services, in excess of a reasonable and customary charge for  
28 semiprivate accommodations, unless more intensive care is  
29 medically required; or any amount includable in work loss,  
30 replacement services loss, or survivor's loss.

1       \* \* \*

2       "Injury" means accidentally sustained bodily harm to an  
3 individual and that individual's illness, disease, or death  
4 resulting therefrom ~~the proximate cause of which arises out of~~ <—  
5 the maintenance or use of a motor vehicle.

6       \* \* \*

7       "Medical and vocational rehabilitation services" means  
8 services necessary to reduce disability and to restore the  
9 physical, psychological, social, and vocational functioning of a  
10 victim. Such services may include, but are not limited to,  
11 medical care, diagnostic and evaluation procedures, physical and  
12 occupational therapy, other necessary therapies, including but  
13 not limited to chiropractic care, speech pathology and  
14 audiology, optometric services, nursing care under the  
15 supervision of a registered nurse, medical social services,  
16 vocational rehabilitation and training services, occupational  
17 licenses and tools, and transportation where necessary to secure  
18 medical and vocational rehabilitation services. A basic loss  
19 obligor is not obligated to provide basic loss benefits for  
20 allowable expense for medical and vocational rehabilitation  
21 services unless the facility in which or through which such  
22 services are provided has been accredited by the Department of  
23 Health, the equivalent governmental agency responsible for  
24 health programs, or the accrediting designee of such department  
25 or agency of the state in which such services are provided, as  
26 being in accordance with applicable requirements and  
27 regulations.

28       \* \* \*

29       "Motorcycle" means a motor vehicle with a two-wheel frame  
30 having a seat or saddle for the use of the rider and designed to

1 travel on not more than three wheels in contact with the ground.

2 \* \* \*

3 "Motor vehicle" means a vehicle of a kind required to be  
4 registered under [the act of April 29, 1959 (P.L.58, No.32),  
5 known as the "Vehicle Code,"] Title 75 of the Pennsylvania  
6 Consolidated Statutes (relating to vehicles).

7 \* \* \*

8 "Obligor" means an insurer, self-insurer, or obligated  
9 government providing no-fault benefits in accordance with this  
10 act. The term does not include an insurer or provider of health  
11 care benefits for medical or health care or work loss through a  
12 program, group, contract or other arrangement unless WHEN such <—  
13 insurer or other provider of such benefits or work loss is  
14 elected by the insured to be the primary source of no-fault  
15 benefits pursuant to the provisions of section 203.

16 \* \* \*

17 "Replacement services loss" means expenses reasonably  
18 incurred in obtaining ordinary and necessary services in lieu of  
19 those the victim would have performed, not for income, but for  
20 the benefit of himself or his family, if he had not been  
21 injured. Replacement services loss does not include expenses  
22 incurred for services performed following death of a victim.

23 \* \* \*

24 "State" means a state of the United States, the District of  
25 Columbia, Guam, [and] the Virgin Islands, and Puerto Rico.

26 \* \* \*

27 "Survivor" means:

28 (A) spouse; or

29 (B) child, adopted child, ward, child under  
30 guardianship of the deceased, foster child, parent,

1 brother, sister or relative dependent upon the deceased  
2 for [support] his or her support immediately prior to the  
3 accident causing death.

4 \* \* \*

5 "Survivor's loss" means the

6 [(A) loss of income of a deceased victim which would  
7 probably have been contributed to a survivor or  
8 survivors, if such victim had not sustained the fatal  
9 injury; and

10 (B)] expenses reasonably incurred by a survivor or  
11 survivors, after a victim's death resulting from injury,  
12 in obtaining ordinary and necessary services in lieu of  
13 those which the victim would have performed, not for  
14 income, but for their benefit, if he had not sustained  
15 the fatal injury, reduced by expenses which the survivor  
16 or survivors would probably have incurred but avoided by  
17 reason of the victim's death resulting from injury.

18 \* \* \*

19 "Work loss" means:

20 (A) loss of gross income of a victim, as calculated  
21 pursuant to the provisions of section 205 of this act;  
22 and

23 (B) reasonable expenses of a victim for hiring a  
24 substitute to perform self-employment services, thereby  
25 mitigating loss of income, or for hiring special help,  
26 thereby enabling a victim to work and mitigate loss of  
27 income.

28 Work loss does not include (i) loss of expected income for any  
29 period following the death of a victim, or (ii) expenses  
30 incurred for services performed following the death of a victim.

1       Section 2. Sections 104, 105 and 106 of the act are amended  
2 to read:

3   § 104. Required motor vehicle insurance.

4       (a) Security covering a motor vehicle.--Every owner of a  
5 motor vehicle which is registered or which is operated in this  
6 Commonwealth by the owner or with his permission, shall  
7 continuously provide security covering such motor vehicle while  
8 such vehicle is either present or registered in the  
9 Commonwealth. Security shall be provided for the payment of  
10 basic loss benefits[, and for the payment of sums up to a total     <—  
11 limit of thirty thousand dollars (\$30,000) which the owner or  
12 any person operating the vehicle with the express or implied  
13 permission of the owner may become liable to pay as damages  
14 because of bodily injury or death arising out of any one  
15 accident (subject to a sublimit of fifteen thousand dollars  
16 (\$15,000) for damages arising out of the bodily injury or death  
17 of any one person) and for the payment of damages for injury to  
18 or destruction of property in any one accident of amounts up to  
19 a total limit of five thousand dollars (\$5,000)']. The owner or     <—  
20 any other person may provide security covering a motor vehicle  
21 by a contract of insurance with an insurer or by qualifying as a  
22 self-insurer or as an obligated government.

23       (a.1) Proof of security at vehicle inspection.--The  
24 department shall promulgate and adopt such rules and regulations  
25 as may be necessary to monitor and enforce compliance with the  
26 provisions of this act with respect to the maintenance of  
27 security. Such rules and regulations shall include, but not  
28 necessarily be limited to, requiring the owner of a motor  
29 vehicle to submit satisfactory proof of security to a motor  
30 vehicle inspector at the time of motor vehicle inspection and

provide further that failure to submit such proof of security shall be cause for rejection of the vehicle by the motor vehicle inspector in accordance with the department's regulations.

(b) Self-insurance.--Self-insurance, subject to approval of the commissioner and department, is effected by filing with the department in satisfactory form:

(1) a continuing undertaking by the owner or other appropriate person to pay basic [restoration] loss benefits and any tort liability required in amounts not less than those required, by subsection [(a)] ~~(d)~~ (C.1) of this section, to perform all obligations imposed in accordance with this act, and to elect to pay such added [restoration] loss benefits as are specified in the undertaking;

(2) evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided in accordance with this act; and

(3) evidence that reliable financial arrangements, deposits, resources, or commitments exist providing assurance substantially equivalent to that afforded by a contract of insurance complying with this act for payment of no-fault benefits, any required tort liability, and performance of all other obligations imposed in accordance with this act.

(c) Obligated government.--A government may provide security with respect to any motor vehicle owned or operated by it by lawfully obligating itself to pay basic [restoration] loss benefits in accordance with this act, and such added [restoration] loss benefits as are specified in the undertaking.

(C.1) FINANCIAL RESPONSIBILITY.--WHENEVER ANY PERSON FAILS WITHIN SIXTY DAYS TO SATISFY ANY JUDGMENT ARISING FROM A MOTOR VEHICLE ACCIDENT, THE JUDGMENT CREDITOR MAY FORWARD TO THE

1 DEPARTMENT A CERTIFIED COPY OF THE JUDGMENT. THE DEPARTMENT,  
2 UPON RECEIPT OF A CERTIFIED COPY OF THE JUDGMENT, SHALL SUSPEND  
3 THE OPERATING PRIVILEGE AND REGISTRATION OF THE PERSON AGAINST  
4 WHOM THE JUDGMENT WAS RENDERED.

5 (1) ANY REGISTRATION OR OPERATING PRIVILEGE WHICH HAS  
6 BEEN SUSPENDED, SHALL REMAIN SUSPENDED UNTIL THE JUDGMENT IS  
7 PAID OR PROOF OF FINANCIAL RESPONSIBILITY IS FURNISHED BY  
8 EVIDENCE SATISFACTORY TO THE DEPARTMENT THAT THE PERSON HAS  
9 MAINTAINED INSURANCE FOR THE PAYMENT OF BASIC LOSS BENEFITS  
10 AND FOR THE PAYMENT OF SUMS UP TO A TOTAL LIMIT OF THIRTY  
11 THOUSAND DOLLARS (\$30,000) WHICH THE OWNER OR ANY PERSON  
12 OPERATING THE VEHICLE WITH THE EXPRESS OR IMPLIED PERMISSION  
13 OF THE OWNER MAY BECOME LIABLE TO PAY AS DAMAGES BECAUSE OF  
14 BODILY INJURY OR DEATH ARISING OUT OF ANY ONE ACCIDENT  
15 (SUBJECT TO A SUBLIMIT OF FIFTEEN THOUSAND DOLLARS (\$15,000)  
16 FOR DAMAGES ARISING OUT THE BODILY INJURY OR DEATH OF ANY ONE  
17 PERSON) AND FOR THE PAYMENT OF DAMAGES FOR INJURY TO OR  
18 DESTRUCTION OF PROPERTY IN ANY ONE ACCIDENT OF AMOUNTS UP TO  
19 A TOTAL LIMIT OF FIVE THOUSAND DOLLARS (\$5,000).

20 (2) JUDGMENTS ARE DEEMED SATISFIED UPON THE OCCURRENCE  
21 OF ONE OF THE FOLLOWING:

22 (A) WHEN FIFTEEN THOUSAND DOLLARS (\$15,000) HAS BEEN  
23 CREDITED UPON ANY JUDGMENTS IN EXCESS OF THAT AMOUNT  
24 BECAUSE OF BODILY INJURY OR DEATH OF ONE PERSON AS A  
25 RESULT OF ANY ONE ACCIDENT.

26 (B) WHEN THIRTY THOUSAND DOLLARS (\$30,000) HAS BEEN  
27 CREDITED UPON ANY JUDGMENTS IN EXCESS OF THAT AMOUNT  
28 BECAUSE OF BODILY INJURY OR DEATH OF TWO OR MORE PERSONS  
29 IN ONE ACCIDENT.

30 (C) WHEN FIVE THOUSAND DOLLARS (\$5,000) HAS BEEN



1           CREDITED UPON JUDGMENTS IN EXCESS OF THAT AMOUNT DUE TO  
2           PROPERTY DAMAGE OF OTHERS, AS A RESULT OF ONE ACCIDENT.

3           (3) PAYMENTS MADE IN SETTLEMENT OF CLAIMS ARISING FROM A  
4           MOTOR VEHICLE ACCIDENT SHALL BE CREDITED IN REDUCTION OF THE  
5           AMOUNTS PROVIDED FOR IN THIS SECTION.

6           (4) A JUDGMENT DEBTOR MAY APPLY TO THE COURT FOR THE  
7           PRIVILEGE OF PAYING THE JUDGMENT IN INSTALLMENTS, WHICH THE  
8           COURT, IN ITS DISCRETION MAY GRANT.

9           (5) IF ANY INSURANCE CARRIER NOT AUTHORIZED TO TRANSACT  
10          BUSINESS IN THE COMMONWEALTH, WHICH HAS QUALIFIED TO FURNISH  
11          PROOF OF FINANCIAL RESPONSIBILITY, DEFAULTS, THE DEPARTMENT  
12          SHALL NOT THEREAFTER ACCEPT ANY CERTIFICATE OF THAT CARRIER  
13          AS PROOF OF FINANCIAL RESPONSIBILITY.

14          (d) Obligations upon termination of security.--An owner of a  
15 motor vehicle who ceases to maintain the security required in  
16 accordance with this act shall immediately surrender the  
17 registration certificate and license plates for the vehicle to  
18 the department and may not operate or permit operation of the  
19 vehicle in this Commonwealth until security has again been  
20 furnished as required in accordance with this act. A person  
21 other than the owner who ceases to maintain such security shall  
22 immediately notify the owner and the department, who may not  
23 operate or permit operation of the vehicle until security has  
24 again been furnished. An insurer who has issued a contract of  
25 insurance and knows or has reason to believe the contract is for  
26 the purpose of providing security shall immediately give notice  
27 to the department of the termination of the insurance. If the  
28 commissioner or department withdraws approval of security  
29 provided by a self-insurer or knows that the conditions for  
30 self-insurance have ceased to exist, he shall immediately give

1 notice thereof to the department. These requirements may be  
2 modified or waived by the department.

3 (e) Temporary suspension of coverage.--An owner of a motor  
4 vehicle, who has provided security in accordance with the  
5 provisions of subsection (a) and who has one or more vehicles  
6 not in use for periods of time in excess of forty-five  
7 consecutive calendar days, may obtain from his insurer an  
8 agreement to the policy of insurance suspending temporarily any  
9 coverages for the duration of time such vehicle may not be in  
10 use: Provided, however, That such owner shall maintain basic  
11 loss benefits coverage for at least one of the vehicles during  
12 the period of suspension. In all such cases, an owner of such a  
13 motor vehicle shall not be required to surrender the  
14 registration certificate and license plates to the department as  
15 provided in subsection (d). The commissioner shall promulgate  
16 reasonable and necessary rules and regulations governing such  
17 agreements between an owner and his insurer including provisions  
18 for an equitable reduction from the annual policy premium of the  
19 insurer.

20 § 105. Availability of insurance.

21 (a) Plan.--

22 (1) The commissioner shall establish and implement or  
23 approve and supervise a plan assuring that any required no-  
24 fault benefits [and] OR tort liability coverages for motor <—  
25 vehicles will be conveniently and expeditiously available,  
26 subject only to payment or provisions for payment of the  
27 premium, to each individual who cannot conveniently obtain  
28 insurance through ordinary methods at rates not in excess of  
29 those applicable to similarly situated individuals under the  
30 plan. The plan may provide reasonable means for the transfer

1 of individuals insured thereunder into the ordinary market,  
2 at the same or lower rates, pursuant to regulations  
3 established by the commissioner. The plan may be implemented  
4 by assignment of applicants among insurers, pooling, any  
5 joint insuring or reinsuring arrangement, or any other  
6 method, that results in all applicants being conveniently  
7 afforded the insurance coverages on reasonable and not  
8 unfairly discriminatory terms.

9 (2) The plan shall make available any added loss  
10 benefits [and] OR tort liability coverage together with other <—  
11 contract provisions which the commissioner determines are  
12 reasonably needed by applicants and are commonly afforded in  
13 voluntary markets. The plan must also assure that there is  
14 available through the private sector or otherwise to all  
15 applicants adequate premium financing or provision for the  
16 installment payment of premiums subject to customary terms  
17 and conditions.

18 (3) All insurers writing no-fault benefits [and] OR tort <—  
19 liability coverages in this Commonwealth shall participate in  
20 the plan. The plan shall provide for equitable apportionment,  
21 among all participating insurers writing any insurance  
22 coverage required under the plan, of the financial burdens of  
23 insurance provided to applicants under the plan and the costs  
24 of operation of the plan.

25 (4) Subject to the supervision and approval of the  
26 commissioner, insurers may consult and agree with each other  
27 and with other appropriate persons as to the organization,  
28 administration, and operation of the plan and as to rates and  
29 rate modifications for insurance coverages provided under the  
30 plan. Rates and rate modifications adopted or charged for

1 insurance coverages provided under the plan shall:

2 (A) be first adopted or approved by the  
3 commissioner; and

4 (B) be reasonable and not unfairly discriminatory  
5 among similarly situated applicants for insurance  
6 pursuant to regulations established by the commissioner.

7 (5) To carry out the objectives of this subsection, the  
8 commissioner may adopt rules, make orders, enter into  
9 agreements with other governmental and private entities and  
10 individuals, and form and operate or authorize the formation  
11 and operation of bureaus and other legal entities.

12 (b) Cancellation, refusal to write and refusal to renew[, or  
13 other termination of] insurance.--Cancellation, refusal to write  
14 and refusal to renew [and other termination of insurance]  
15 security by an insurer shall be [provided for in accordance  
16 with] governed by the provisions of the act of June 5, 1968  
17 (P.L.140, No.78), entitled "An act regulating the writing,  
18 cancellation of or refusal to renew policies of automobile  
19 insurance; and imposing powers and duties on the Insurance  
20 Commissioner therefor," and its amendments.

21 § 106. Payment of claims for no-fault benefits.

22 (a) In general.--

23 (1) No-fault benefits are payable monthly as loss  
24 accrues. Loss accrues not when injury occurs, but as  
25 allowable expense, work loss, replacement services loss, or  
26 survivor's loss is sustained.

27 (2) No-fault benefits are overdue if not paid within  
28 thirty days after the receipt by the obligor of each  
29 submission of reasonable proof of the fact and amount of loss  
30 sustained, unless the obligor designates, upon receipt of an

1 initial claim for no-fault benefits, periods not to exceed  
2 thirty-one days each for accumulating all such claims  
3 received within each such period, in which case such benefits  
4 are overdue if not paid within fifteen days after the close  
5 of each such period. If reasonable proof is supplied as to  
6 only part of a claim, but the part amounts to one hundred  
7 dollars (\$100) or more, benefits for such part are overdue if  
8 not paid within the time mandated by this paragraph. An  
9 obligation for basic loss benefits for an item of allowable  
10 expense may be discharged by the obligor by reimbursing the  
11 victim or his estate or by making direct payment to the  
12 supplier or provider of products, services, or accommodations  
13 within the time mandated by this paragraph. Overdue payments  
14 bear interest at the rate of eighteen per cent (18%) per  
15 annum. However, if the obligor withholds payments which are  
16 later determined to be overdue and the obligor is found by a  
17 court of competent jurisdiction to have had reasonable cause  
18 for the withholding of such payments, said payments shall  
19 bear interest at the rate of twelve per cent (12%) per annum.

20 (3) A claim for no-fault benefits shall be paid without  
21 deduction for the benefits or advantages which are to be  
22 subtracted from loss in calculating net loss if such benefits  
23 or advantages have not been paid or provided to such claimant  
24 prior to the date the no-fault benefits are overdue or the  
25 no-fault benefits claim is paid whichever is later. The  
26 obligor is thereupon entitled to recover reimbursement from  
27 the person obligated to pay or provide such benefits or  
28 advantages or from the claimant who actually receives them.  
29 Benefits or advantages that are subtracted and which are  
30 reasonably expected in the ordinary course of events shall be

1 deemed to have been provided until receipt by the obligor or  
2 written notice that the amount or the payment thereof is in  
3 dispute or that for any other reason the payment may not be  
4 promptly made. Benefits subtracted by reason of this  
5 provision shall not be overdue if paid within thirty days  
6 following receipt of such notice.

7 (4) An obligor may bring an action to recover  
8 reimbursement for no-fault benefits which are paid upon the  
9 basis of an intentional misrepresentation of a material fact  
10 by a claimant or a supplier or provider of an item of  
11 allowable expense, if such obligor reasonably relied upon  
12 such misrepresentation. The action may be brought only  
13 against such supplier or provider, unless the claimant has  
14 intentionally misrepresented the facts or knew of the  
15 misrepresentation. An obligor may offset amounts he is  
16 entitled to recover from the claimant under this paragraph  
17 against any no-fault benefits otherwise due.

18 (5) An obligor who rejects a claim for basic loss  
19 benefits shall give to the claimant written notice of the  
20 rejection promptly, but in no event more than thirty days  
21 after the receipt of reasonable proof of the loss. Such  
22 notice shall specify the reason for such rejection and inform  
23 the claimant of the terms and conditions of his right to  
24 obtain an attorney. If a claim is rejected for a reason other  
25 than that the person is not entitled to basic loss benefits  
26 claimed, the written notice shall inform the claimant that he  
27 may file his claim with the assigned claims bureau and shall  
28 give the name and address of the bureau.

29 (b) Release or settlement of claim.--

30 (1) Except as otherwise provided in this subsection, no-

1 fault benefits shall not be denied or terminated because the  
2 victim executed a release or other settlement agreement. A  
3 claim for no-fault benefits may be discharged by a settlement  
4 agreement for an agreed amount payable in installments or in  
5 a lump sum, if the reasonably anticipated net loss does not  
6 exceed [two thousand five hundred dollars (\$2,500)] ten  
7 thousand dollars (\$10,000). A claim for survivor's loss, up  
8 to the limit of liability thereof, may be discharged by  
9 settlement in a lump sum. In all other cases, a claim may be  
10 discharged by a settlement to the extent authorized by law  
11 and upon a finding, by a court of competent jurisdiction,  
12 that the settlement is in the best interest of the claimant  
13 and any beneficiaries of the settlement, and that the  
14 claimant understands and consents to such settlement, and  
15 upon payment by the restoration obligor of the costs of such  
16 proceeding including a reasonable attorney's fee (based upon  
17 actual time expended) to the attorney selected by or  
18 appointed for the claimant. Such costs may not be charged to  
19 or deducted from the proceeds of the settlement. Upon  
20 approval of the settlement, the court may make appropriate  
21 orders concerning the safeguarding and disposing of the  
22 proceeds of the settlement and may direct as a condition of  
23 the settlement agreement, that the restoration obligor pay  
24 the reasonable cost of appropriate future medical and  
25 vocational rehabilitation services.

26 (2) A settlement agreement for an amount payable in  
27 installments shall be modified as to amounts to be paid in  
28 the future, if it is shown that a material and substantial  
29 change of circumstances has occurred or that there is newly-  
30 discovered evidence concerning the claimant's physical

1 condition, loss, or rehabilitation which could not have been  
2 known previously or discovered in the exercise of reasonable  
3 diligence.

4 (3) A settlement agreement may be set aside if it is  
5 procured by fraud or if its terms are unconscionable.

6 (c) Time limitations on actions to recover benefits.--

7 (1) If no-fault benefits have not been paid for loss  
8 arising otherwise than from death, an action therefor may be  
9 commenced not later than two years after the victim suffers  
10 the loss and either knows, or in the exercise of reasonable  
11 diligence should have known, that the loss was caused by the  
12 accident, or not later than four years after the accident,  
13 whichever is earlier. If no-fault benefits have been paid for  
14 loss arising otherwise than from death, an action for further  
15 benefits [other than survivor's benefits,] on account of such  
16 loss, by either the same or another claimant, may be  
17 commenced not later than two years after the last payment of  
18 benefits. Except as this paragraph prescribes a longer  
19 period, if the victim dies, an action for loss arising  
20 otherwise than from death may be commenced not later than one  
21 year after the victim's death.

22 (2) If no-fault benefits have not been paid [to the  
23 deceased victim or his survivor or survivors], for loss  
24 arising from death, either for survivor's loss or the funeral  
25 expense benefit provided under allowable expense an action  
26 for survivor's [benefits] loss or the said funeral expense  
27 may be commenced not later than [one year] TWO YEARS after <—  
28 the death or four years after the accident from which death  
29 results, whichever is earlier. If survivor's [benefits have]  
30 loss has been paid to any survivor, an action for further



1 survivor's [benefits] loss by either the same or another  
2 claimant may be commenced not later than two years after the  
3 last payment of benefits. If no-fault benefits have been paid  
4 for loss suffered by a victim before his death resulting from  
5 the injury, an action for survivor's [benefits] loss or the  
6 said funeral expense may be commenced not later than one year  
7 after the death or six years after the last payment of  
8 benefits, whichever is earlier.

9 (3) If timely action for basic restoration benefits is  
10 commenced against an obligor and benefits are denied because  
11 of a determination that the obligor's coverage is not  
12 applicable to the claimant under the provisions of section  
13 204 of this act, an action against the applicable obligor or  
14 the obligor to whom a claim is assigned under an assigned  
15 claims plan may be commenced not later than sixty days after  
16 the determination becomes final or the last date on which the  
17 action could otherwise have been commenced, whichever is  
18 later.

19 (4) Except as paragraph (1), (2), or (3) prescribes a  
20 longer period, an action by a claimant on an assigned claim  
21 which has been timely presented in accordance with the  
22 provisions of section 108(c) or section 108.1(c) of this act,  
23 whichever shall be applicable to the claim, may not be  
24 commenced more than sixty days after the claimant receives  
25 written notice of rejection of the claim by the [restoration  
26 obligor] entity to which it was assigned.

27 (5) If a person entitled to no-fault benefits is under a  
28 legal disability when the right to bring an action for the  
29 benefits first accrues, the period of his disability is not a  
30 part of the time limited for commencement of the action.

(d) Assignment of benefits.--An assignment of or an agreement to assign any right in accordance with this act for loss accruing in the future is unenforceable except as to benefits for:

(1) work loss to secure payment of alimony, maintenance, or child support; or

(2) allowable expense to the extent the benefits are for the cost of products, services, or accommodations provided or to be provided by the assignee.

(e) Deduction and setoff.--Except as otherwise provided in this act, basic loss benefits shall be paid without deduction or setoff.

(f) Exemption of benefits.--

(1) No-fault benefits for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim, except upon the claim of a creditor who has provided products, services, or accommodations to the extent benefits are for allowable expense for those products, services, or accommodations.

(2) Basic loss benefits other than those for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim for benefits attributable to loss sustained within the first sixty days following the accident resulting in injury. Other basic loss benefits (except for items of allowable expense) are exempt to the extent that wages or earnings are exempt under any applicable law exempting wages or earnings from such process or claims.

Section 3. Section 108 of the act is repealed.

Section 4. The act is amended by adding a section to read:

§ 108.1. Assigned claims plan.

1     (a) Organization.--Obligors other than self-insurers and  
2 governments providing basic loss insurance in this Commonwealth  
3 shall organize and maintain, subject to approval and regulation  
4 by the commissioner, an assigned claims bureau and an assigned  
5 claims plan and adopt rules for their operation and for  
6 assessment of costs on a fair and equitable basis consistent  
7 with this act. If such bureau and plan are not organized and  
8 maintained in a manner considered by the commissioner to be  
9 consistent with this act, he shall organize and maintain an  
10 assigned claims bureau and an assigned claims plan. Each obligor  
11 insurer providing basic loss insurance in the Commonwealth shall  
12 participate in the assigned claims bureau and the assigned  
13 claims plan. Costs incurred shall be allocated fairly and  
14 equitably among the obligors.

15     (b) Basic loss benefits.--

16         (1) If this act is in effect on the date when the  
17 accident resulting in injury occurs, a victim or the survivor  
18 or survivors of a deceased victim may obtain basic benefits  
19 through the assigned claims plan established pursuant to  
20 subsection (a), if:

21             (A) basic loss insurance applicable to the injury  
22 cannot be identified;

23             (B) basic loss insurance applicable to the injury is  
24 inadequate to provide the contracted for benefits because  
25 of financial inability of an obligor to fulfill its  
26 obligations; or

27             (C) benefits are refused by an obligor for a reason  
28 other than that the individual is not entitled in  
29 accordance with this act to the basic loss benefits  
30 claimed.

1       (2) If a claim qualifies for assignment under subclause  
2       (A), (B) or (C) of paragraph (1), the assigned claims bureau  
3       or any entity to whom the claim is assigned is subrogated to  
4       all rights of the claimant against the obligor legally  
5       obligated to provide basic benefits to the claimant or  
6       against any successor in interest to or substitute for such  
7       obligor for such benefits as are provided by the assignee.

8       (3) If an individual receives basic loss benefits  
9       through the assigned claims plan, all benefits or advantages  
10       that such individual receives or is entitled to receive as a  
11       result of such injury, other than life insurance benefits or  
12       benefits by way of succession at death or in discharge of  
13       familial obligations of support, shall be subtracted from  
14       loss in calculating net loss.

15       (4) The assigned claims bureau shall promptly assign  
16       each claim for no-fault benefits to an assignee so as to  
17       minimize inconvenience to claimants and shall notify the  
18       claimant of the identity and address of such assignee.  
19       Subject to the terms and limitations of this section, the  
20       assignee thereafter has rights and obligations as if it had  
21       issued a policy of basic loss benefits insurance complying  
22       with this act, but not in excess of the basic loss benefits  
23       insurance or self-insurance contract, if any, in substitution  
24       for which the claim is assigned.

25       (c) Time limitations on filing claims.--

26       (1) Except as provided in paragraph (2), an individual  
27       authorized to obtain basic loss benefits through the assigned  
28       claims plan shall notify the assigned claims bureau of his  
29       claim within the time that would have been allowed pursuant  
30       to section 106(c) for commencing an action for basic loss

1 benefits against any obligor, other than an assigned claims  
2 bureau.

3 (2) If timely action for basic loss benefits is  
4 commenced against an obligor who is unable to fulfill its  
5 obligations because of financial inability, an individual  
6 authorized to obtain basic loss benefits through the assigned  
7 claims plan shall notify the bureau of his claim within six  
8 months after his discovery of such financial inability.

9 (d) Ineligible claimants.--An individual, whether resident  
10 of this Commonwealth or not, who does not comply with the  
11 requirement of providing security for the payment of basic loss  
12 benefits, if he is injured while occupying a motor vehicle for  
13 which there is no security in force applicable to his injury or  
14 loss, or an individual as to whom the security is invalidated  
15 because of his fraud or willful misconduct, shall not be  
16 entitled to receive benefits under the assigned claims plan. An  
17 individual, whether resident of this Commonwealth or not, who  
18 operates a motor vehicle with knowledge that security required  
19 by this act is not in effect with respect to such operation  
20 shall not be entitled to receive benefits under the assigned  
21 claims plan if injured in the course of such operation.

22 Section 5. Sections 109, 110 and 111, subsections (d) and  
23 (e) of section 202, section 203, the heading of section 204,  
24 subsection (c) of section 205, subsection (a) of section 206,  
25 section 207, clause (1) of subsection (a) of section 208,  
26 clauses (4) and (5) of subsection (a) of section 301 and section  
27 401 of the act, are amended to read:

28 § 109. Rates.

29 (a) Rates and rating.--

30 (1) The commissioner shall regulate obligors providing

1 security covering a motor vehicle in this Commonwealth. The  
2 rates charged for security shall be established, determined,  
3 and modified only in accordance with the provisions of the  
4 applicable rating law of this Commonwealth.

5 (2) Within sixty days after January 1, 1982, the  
6 commissioner shall commence a review of the rates of all  
7 insurers in effect at that time. If, after the review, the  
8 commissioner finds on a preliminary basis that rates may be  
9 excessive, inadequate or unfairly discriminatory, the  
10 commissioner shall so notify each insurer of his findings.  
11 Upon being so notified, the insurer shall, within sixty days,  
12 file with the commissioner all information which the insurer  
13 believes proves the reasonableness, adequacy and fairness of  
14 the rate. In such instances, the insurer shall carry the  
15 burden of proof. In the event the commissioner finds that a  
16 rate is excessive, inadequate or unfairly discriminatory, the  
17 commissioner may order that a new rate schedule be thereafter  
18 filed by the insurer and further specifying the manner in  
19 which noncompliance shall be corrected.

20 (3) The commissioner shall establish and promulgate a  
21 ~~uniform~~ Statewide reporting system to ~~classify risks~~ for the <—  
22 purpose of evaluating rates and, premiums AND RISK <—  
23 CLASSIFICATION SYSTEM and for the purpose of evaluating  
24 competition and the availability of motor vehicle insurance  
25 in the voluntary market. THE COMMISSIONER SHALL GIVE DUE <—  
26 CONSIDERATION TO THE PROVISIONS OF THE ACT OF JUNE 11, 1947  
27 (P.L.538, NO.246), KNOWN AS "THE CASUALTY AND SURETY RATE  
28 REGULATORY ACT," IN THE APPLICATION OF THIS PARAGRAPH.

29 (4) The commissioner may promulgate rules to require  
30 each insurer to report its loss and expense experience and

1 any other information the commissioner deems relevant, by  
2 classification and in such detail as often as may be  
3 REASONABLY necessary to aid the commissioner in determining <—  
4 the reasonableness of rates, the credibility of loss  
5 projections and the credibility of the risk classification  
6 system. THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO THE <—  
7 PROVISIONS OF "THE CASUALTY AND SURETY RATE REGULATORY ACT,"  
8 IN THE APPLICATION OF THIS PARAGRAPH.

9 (5) The commissioner shall, by regulation, establish a  
10 method for determining the profitability and rates of return  
11 on net worth, assets and earned premiums with respect to each  
12 kind of insurance subject to the provisions of this act,  
13 based upon reasonable and uniform assumptions. Such  
14 regulation shall require insurers to report annually to the  
15 commissioner, who shall make such reports available for  
16 public inspection concerning such profitability and rates of  
17 return.

18 (b) Public information.--The commissioner shall provide the  
19 means to inform purchasers of insurance, in a manner adequate to  
20 permit them to compare prices, about rates being charged by  
21 insurers for no-fault benefits and tort liability coverage.

22 (c) Accountability program.--

23 (1) The commissioner, through the State vocational  
24 rehabilitation agency, shall establish and maintain a program  
25 for the regular and periodic evaluation of medical and  
26 vocational rehabilitation services for which reimbursement or  
27 payment is sought from an obligor as an item of allowable  
28 expense to assure that:

29 (A) the services are medical and vocational  
30 rehabilitation services, as defined in section 103 of

1           this act;

2           (B) the recipient of the services is making progress  
3           toward a greater level of independent functioning and the  
4           services are necessary to such progress and continued  
5           progress; and

6           (C) the charges for the services for which  
7           reimbursement or payment is sought are fair and  
8           reasonable.

9 Progress reports shall be made periodically in writing on each  
10 case for which reimbursement or payment is sought under security  
11 for the payment of basic loss benefits. Such reports shall be  
12 prepared by the supervising physician or rehabilitation  
13 counselor and submitted to the State vocational rehabilitation  
14 agency. The State vocational rehabilitation agency shall file  
15 reports with the applicable obligor or obligors. Pursuant to  
16 this program, there shall be provision for determinations to be  
17 made in writing of the rehabilitation goals and needs of the  
18 victim and for the periodic assessment of progress at reasonable  
19 time intervals by the supervising physician or rehabilitation  
20 counselor. An obligor who shall operate, maintain or participate  
21 in a program to provide medical and vocational rehabilitation  
22 services that conform to or exceed the standards of services  
23 required by the State Vocational Rehabilitation Agency may,  
24 subject to the approval of the commissioner, be exempt from the  
25 notification and reporting requirements of this act with regard  
26 to the providing of such rehabilitation services.

27           (2) The commissioner is authorized to establish and  
28           maintain a program for the regular and periodic evaluation of  
29           this Commonwealth's no-fault plan for motor vehicle  
30           insurance.



1 (d) Availability of services.--The commissioner is  
2 authorized to coordinate with appropriate government agencies in  
3 the creation and maintenance of an emergency health services  
4 system or systems, and to take all steps necessary to assure  
5 that emergency health services are available for each victim  
6 suffering injury in the Commonwealth. The commissioner is  
7 authorized to take all steps necessary to assure that medical  
8 and vocational rehabilitation services are available for each  
9 victim resident of the Commonwealth. Such steps may include, but  
10 are not limited to, guarantees of loans or other obligations of  
11 suppliers or providers of such services, and support for  
12 training programs for personnel in programs and facilities  
13 offering such services.

14 § 110. Motor vehicles in interstate travel.

15 (a) General.--An owner of a motor vehicle who has complied  
16 with the requirements of security covering a motor vehicle in  
17 this Commonwealth shall be deemed to have complied with the  
18 requirements for such security in any state in which such  
19 vehicle is operating.

20 (b) Conforming coverage.--

21 (1) An obligor providing security for the payment of  
22 basic loss benefits shall be obligated to provide, and each  
23 contract of insurance for the payment of basic loss benefits  
24 shall be construed to contain, coverage sufficient to satisfy  
25 the requirements for security covering a motor vehicle in any  
26 state in which any victim who is a claimant or whose  
27 survivors are claimants is domiciled or is injured.

28 (2) An obligor providing security for the payment of  
29 basic loss benefits shall include in each contract of  
30 insurance for the payment of basic loss benefits, coverage to

1 protect the owner or operator of a motor vehicle from tort  
2 liability to which he is exposed through application of the  
3 law of any state in which the motor vehicle may be operated  
4 and arising out of the ownership, maintenance or use of a  
5 motor vehicle.

6 [(c) Applicable law.--

7 (1) The basic loss benefits available to any victim or  
8 to any survivor of a deceased victim shall be determined  
9 pursuant to the provisions of the state no-fault plan for  
10 motor vehicle insurance in effect in the state of domicile of  
11 the victim on the date when the motor vehicle accident  
12 resulting in injury occurs. If there is no such state no-  
13 fault plan in effect or if the victim is not domiciled in any  
14 state, then basic loss benefits available to any victim shall  
15 be determined pursuant to the provisions of the state no-  
16 fault plan for motor vehicle insurance, if any, in effect in  
17 the state in which the accident resulting in injury occurs.

18 (2) The right of a victim or of a survivor of a deceased  
19 victim to sue in tort shall be determined by the law of the  
20 state of domicile of such victim. If a victim is not  
21 domiciled in a state, such right to sue shall be determined  
22 by the law of the state in which the accident resulting in  
23 injury or damage to property occurs.]

24 (c) Nonduplication of economic detriment benefits.--

25 (1) The basic loss benefits available to a victim or to  
26 the survivor of a deceased victim who is domiciled in this  
27 Commonwealth and who shall be injured in a motor vehicle  
28 accident in any other state shall be determined pursuant to  
29 the provisions of this act. Obligors providing security to  
30 the owner or operator of a motor vehicle who is domiciled in

1 another state for the payment of basic loss benefits and  
2 coverage to protect the owner or operator of a motor vehicle  
3 from tort liability to which he is exposed through the  
4 application of the law of any state in which the motor  
5 vehicle may be operated shall, provide in the contract of  
6 insurance issued by said obligor for payment of basic loss  
7 benefits determined pursuant to the provisions of this act  
8 while such vehicle is being operated in this Commonwealth.

9 (2) When a victim or a survivor of a deceased victim  
10 domiciled in this Commonwealth and injured in another state  
11 as the result of a motor vehicle accident has a cause of  
12 action in such other state for recovery of economic detriment  
13 suffered as a consequence of such injury, an obligor  
14 providing basic loss benefits has and may contract for a  
15 right of subrogation or reimbursement for basic loss benefits  
16 paid, but only to the nature and extent of basic loss  
17 benefits paid to or on behalf of the victim or the survivor  
18 of a deceased victim which the victim or survivor may recover  
19 in any such action. An obligor's right of subrogation shall  
20 be subordinated to the victim's or survivor's right of action  
21 to recover economic detriment suffered in excess of any  
22 economic detriment not recoverable by the victim or survivor  
23 from the obligor because of any limitation in the payment of  
24 basic loss benefits in accordance with section 202(a), (b),  
25 (c) or (d) and the victim's or survivor's right of action to  
26 recover damages for non-economic detriment.

27 § 111. Rights and duties of obligors.

28 (a) Reimbursement and subrogation.--

29 (1) Except as provided in paragraphs (2) and (3) of this  
30 subsection and section 110, an obligor:

1 (A) does not have and may not contract, directly or  
2 indirectly, in whole or in part, for a right of  
3 reimbursement from or subrogation to the proceeds of a  
4 victim's claim for relief or to a victim's cause of  
5 action for non-economic detriment; and

6 (B) may not directly or indirectly contract for any  
7 right of reimbursement based upon a determination of  
8 fault from any other obligor not acting as a reinsurer  
9 for no-fault benefits which it has paid or is obligated  
10 to pay as a result of injury to a victim.

11 [(2) Whenever an individual who receives or is entitled  
12 to receive no-fault benefits for an injury has a claim or  
13 cause of action against any other person causing the injury  
14 as based upon a determination of fault, the obligor is  
15 subrogated to the rights of the claimant only for:

16 (A) elements of damage compensated for by security  
17 for the payment of no-fault benefits in excess of the  
18 minimum basic loss benefits required under this act are  
19 recoverable; and

20 (B) the obligor has paid or become obligated to pay  
21 accrued or future no-fault benefits in excess of the  
22 minimum basic loss benefits required under this act.]

23 (2) Whenever an individual who receives or is entitled  
24 to receive no-fault benefits for an injury has a claim or  
25 cause of action for the same elements of economic detriment  
26 against any other person causing the injury based upon a  
27 determination of fault, the obligor is subrogated to the  
28 rights of the claimant only for the same elements of economic  
29 detriment compensated for by security for the payment of no-  
30 fault benefits the obligor has paid or has become obligated

1 to pay for accrued or future benefits in excess of basic loss  
2 benefits required under this act except that said obligor  
3 does not have nor may not contract for a right of subrogation  
4 to recover any economic detriment recovered by the victim or  
5 survivor not compensated for because of any limitation in  
6 applicable security in accordance with section 202(a), (b),  
7 (c) or (d).

8 (3) Nothing in this subsection shall preclude any person  
9 supplying or providing products, services, or accommodations  
10 from contracting or otherwise providing for a right of  
11 reimbursement to any basic [restoration] loss benefits for  
12 allowable expense.

13 [(4) In no event shall any entity providing benefits  
14 other than no-fault benefits to an individual as described in  
15 section 203 of this act, have any right of subrogation with  
16 respect to said benefits.]

17 (b) Duty to pay basic loss benefits.--An obligor providing  
18 security for the payment of basic loss benefits shall pay or  
19 otherwise provide such benefits without regard to fault to each  
20 individual entitled thereto, pursuant to the terms and  
21 conditions of this act.

22 (c) Indemnity.--An obligor has a right of indemnity against  
23 an individual who has converted a motor vehicle involved in an  
24 accident, or against an individual who has intentionally injured  
25 himself or another individual, for no-fault benefits paid for:

26 (1) the loss caused by the conduct of that individual;

27 (2) the cost of processing the claims for such benefits;

28 [and]

29 (3) payments under the assigned claims plan to an  
30 individual who does not comply with the requirement of

1 providing security for the payment of basic loss benefits or  
2 whose security has been invalidated because of fraud or  
3 willful misconduct; and

4 [(3)] (4) the cost of enforcing this right of indemnity,  
5 including reasonable attorney's fees.

6 (d) Referral for rehabilitation services.--The obligor shall  
7 promptly refer each victim to whom basic loss benefits are  
8 expected to be payable for more than two months to the State  
9 vocational rehabilitation agency.

10 (e) Nonduplication of benefits under uninsured motorist  
11 coverage.--Every victim or survivor of a deceased victim making  
12 claim under the uninsured motorist coverage prescribed by the  
13 act of August 14, 1963 (P.L.909, No.433), entitled "An act  
14 requiring, with limitations, that insurance policies insuring  
15 against loss occurring in connection with motor vehicles provide  
16 protection against certain uninsured motorists," or under any  
17 other form of uninsured or underinsured motorist coverage that  
18 may be hereafter provided or required to be offered or provided  
19 shall be entitled to make claim for non-economic detriment and  
20 economic detriment only to the extent that said claim for  
21 economic detriment is for elements of economic detriment not  
22 compensated for by security for the payment of no-fault benefits  
23 or because of limitations in applicable security in accordance  
24 with section 202(a), (b), (c) or (d). No obligor shall make any  
25 payment under any uninsured motorist coverage for any element of  
26 economic detriment for which the victim or survivor of a  
27 deceased victim has been compensated for or for which the  
28 obligor has paid or has become obligated to pay for accrued or  
29 future benefits by security for the payment of no-fault  
30 benefits.

1     (f) Tort payment without regard for rights of obligor having  
2 reimbursement interest.--An obligor with a right of subrogation  
3 or reimbursement interest who shall suffer loss from inability  
4 to collect such reimbursement out of a payment received by a  
5 claimant upon a tort claim is entitled to indemnity from one  
6 who, having notice of the obligor's interest, made such a  
7 payment to the claimant without making the claimant and the  
8 insurer joint payees as their respective interests may appear,  
9 or without obtaining the obligor's consent to a different method  
10 of payment.

11 § 202. Basic loss benefits.

12     \* \* \*

13     (d) Survivors losses.--Survivors loss, as defined in section  
14 103 shall be provided in an amount not to exceed five thousand  
15 dollars (\$5,000). Obligors shall, subject to terms and  
16 conditions approved by the commissioner, offer to insured's  
17 survivors loss benefits for amounts in excess of five thousand  
18 dollars (\$5,000).

19     (e) Deductibles; waiting period.--Allowable expense, work  
20 loss and replacement services loss may include provisions to  
21 provide:

22             (1) a deductible not to exceed [one hundred dollars  
23 (\$100)] five hundred dollars (\$500) for each individual and  
24 one thousand five hundred dollars (\$1,500) in the aggregate  
25 for three or more individuals arising out of any one  
26 accident; or

27             (2) with respect to work loss or replacement services  
28 only, a waiting period not to exceed [one week] four weeks.

29 Such deductible or waiting period shall be elected in writing  
30 upon a form approved by the Insurance Commissioner and, if

1 elected, shall be effective only as against the named insured  
2 and his or her immediate family.

3 § 203. Collateral benefits.

4 [(a) If benefits other than no-fault benefits are provided  
5 to an individual through a program, group, contract or other  
6 arrangement for which some other person pays in whole or in part  
7 that would inure to the benefit of a victim or the survivor of a  
8 deceased victim injured as a result of an accident in the  
9 absence of no-fault benefits, then any reduction or savings in  
10 the direct or indirect cost to such person of such benefits  
11 resulting from the existence of no-fault benefits shall be  
12 returned to such individual or utilized for his benefit.

13 (b) The owner or operator of a motor vehicle may elect to  
14 provide for security in whole or in part for the payment of  
15 basic loss benefits through a program, group, contract or other  
16 arrangement that would pay to or on behalf of the victim or  
17 members of his family residing with him or the survivor of a  
18 deceased victim, allowable expense, loss of income, work loss,  
19 replacement services loss and survivors loss. In all such  
20 instances, each contract of insurance issued by an insurer shall  
21 be construed to contain a provision that all basic loss benefits  
22 provided therein shall be in excess of any valid and collectible  
23 benefits otherwise provided through such program, group,  
24 contract or other arrangement as designated at the election of  
25 the owner or operator which shall be primary.

26 (c) An insurer providing basic loss benefits and tort  
27 liability in accordance with the provisions of subsection (b)  
28 above shall reduce the cost of such contract of insurance to  
29 reflect the anticipated reduction in basic loss benefits payable  
30 by the insurer by reason of the election of the owner or



1 operator to provide substitute security.]

2     (a) Election by named insured.--Every obligor providing  
3 security covering a motor vehicle shall offer options to the  
4 named insured to elect to provide security, in whole or in part,  
5 for the payment of basic loss benefits through a program, group,  
6 contract or other arrangement that would pay to, or on behalf  
7 of, the victim or members of his family residing with him or to  
8 or on behalf of the survivor of a deceased victim, allowable  
9 expense, loss of income, work loss, replacement services loss,  
10 or survivors loss. In all such instances in which the named  
11 insured exercises such an election, each contract of insurance  
12 issued by an insurer shall be construed to contain a provision  
13 that all basic loss benefits provided therein shall be in excess  
14 of any valid and collectible benefits otherwise provided through  
15 such program, group, contract or other arrangement which as  
16 designated at the election of the owner or operator shall be  
17 primary. If no such election is made, then any group program,  
18 group contract or similar group arrangement shall be construed,  
19 with respect to any claim arising from any accident occurring  
20 fourteen months of more after the effective date of this  
21 amendatory act, to contain a provision that the coverage  
22 thereunder shall be in excess of, and not in duplication of, any  
23 valid and collectible allowable expense contained in any  
24 security covering a motor vehicle which, because of the absence  
25 of such election, shall be primary. Notwithstanding the  
26 foregoing, if any group program, group contract or similar group  
27 arrangement is provided pursuant to a collectible bargaining  
28 agreement in effect on the effective date of this amendatory act  
29 and the then current term of which does not expire within  
30 fourteen months thereafter, then the foregoing automatic

elimination of duplicate allowable expense shall not apply until the current term of said collective bargaining agreement has expired or until thirty-six months after the effective date of this amendatory act, whichever is shorter.

(b) Return of savings.--If benefits other than no-fault benefits are provided to an individual through a program, group, contract or other arrangement for which the individual's employer or some other person pays in whole or in part that would inure to the benefit of a victim or the survivor of a deceased victim injured as the result of an accident in the absence of no-fault benefits, then any reduction or savings in the direct or indirect cost to such employer or other person of such benefits resulting from the existence of no-fault benefits shall be returned to such individual or utilized for his benefit by the employer or other person providing such other benefits.

THE REQUIREMENTS OF THESE PROVISIONS SHALL BE SATISFIED BY A REDUCTION IN PREMIUM OR AN INCREASE IN BENEFITS IN ANY PROGRAM, GROUP, CONTRACT OR OTHER ARRANGEMENT THAT IS ATTRIBUTABLE TO GOOD EXPERIENCE RESULTING FROM THE EXISTENCE OF NO-FAULT BENEFITS.

<—

(c) Reduction of cost.--An insurer providing basic loss benefits and tort liability in accordance with the provisions of subsection (a) shall reduce the cost of such contract of insurance to reflect the anticipated reduction in basic loss benefits payable by the insurer by reason of the election of the owner or operator to provide substitute security.

(d) Information program.--The commissioner shall formulate a program and promulgate rules and regulations to provide for dissemination of information to the public of the options available pursuant to subsection (a) which reduce the cost of

1 maintaining security covering a motor vehicle. EVERY INSURER OR  
2 AGENT OF AN INSURER OFFERING SECURITY UNDER THE PROVISIONS OF  
3 THIS ACT SHALL AFFIRMATIVELY INFORM THE INSURED OF THE OPTIONS  
4 AND SAVINGS IN ACCORDANCE WITH THE RULES AND REGULATIONS  
5 PROMULGATED.

6 (e) Certification by insured of other security.--Basic loss  
7 insurers may require policyholders to certify as to the  
8 existence of other security and such other reasonable  
9 information as to such security as may be required.

10 (f) Construction of section.--This section shall not be  
11 construed to effect, limit or impair section 106(d).

12 (g) Definitions.--As used in this section "program, group,  
13 contract or other arrangement" shall include, but not be limited  
14 to, benefits payable by a hospital plan corporation subject to  
15 40 Pa.C.S. § 6101 (relating to definitions) or a professional  
16 health service corporation subject to 40 Pa.C.S. § 6301  
17 (relating to application of chapter).

18 § 204. Source of basic [restoration] loss benefits.

19 \* \* \*

20 § 205. Work loss.

21 \* \* \*

22 (c) Not employed.--The work loss of a victim who is  
23 currently employable but not employed when the accident  
24 resulting in injury occurs shall be calculated by:

25 (1) determining his probable weekly income by dividing  
26 his probable annual income by fifty-two; and

27 (2) multiplying that quantity by the number of work  
28 weeks, or fraction thereof, if any, the victim would  
29 reasonably have been expected to realize income during the  
30 accrual period. For purposes of this subsection, a currently

1 employable victim is one who could reasonably expect to find  
2 employment, for which he is fitted by training or experience,  
3 within a period of ~~six months~~ ONE YEAR and, if employment <—  
4 opportunity were available, could reasonably be expected to  
5 accept it.

6 \* \* \*

7 § 206. Net loss.

8 (a) General.--Except as provided in section [108(a)(3)]  
9 108.1(b)(3) of this act, all benefits or advantages (less  
10 reasonably incurred collection costs) that an individual  
11 receives or is entitled to receive from social security (except  
12 those benefits provided under Title XIX of the Social Security  
13 Act and except those medicare benefits to which a person's  
14 entitlement depends upon use of his so-called "life-time  
15 reserve" of benefit days) workmen's compensation, any State-  
16 required temporary, nonoccupational disability insurance, and  
17 all other benefits (except the proceeds of life insurance)  
18 received by or available to an individual because of the injury  
19 from any government, unless the law authorizing or providing for  
20 such benefits or advantages makes them excess or secondary to  
21 the benefits in accordance with this act, shall be subtracted  
22 from loss in calculating net loss.

23 \* \* \*

24 § 207. [Added loss benefits] Additional coverage options.

25 (a) Mandatory offering.--Obligors providing security for the  
26 payment of basic loss benefits shall offer or obligate  
27 themselves to provide [added loss benefits] insurance for injury  
28 or damage arising out of the ownership, maintenance, or use of a  
29 motor vehicle, including:

30 (1) loss excluded from basic loss benefits by limits on

allowable expense, work loss, replacement services loss, and survivor's loss;

(2) [benefits] insurance for damage to property;

(3) [benefits] insurance for loss of use of a motor vehicle;

(4) benefits for expense for remedial religious treatment and care;

(5) insurance for physical damage to a motor vehicle, a coverage for all collision and upset damage, subject to an optional deductible and comprehensive material damage coverage, subject to an optional deductible; and

(6) for economic detriment, a coverage for work loss sustained by a victim in excess of limitations on basic loss benefits for work loss.

(b) Additional loss coverage.--Subject to the approval of terms and forms by the commissioner, obligors may offer or obligate themselves to provide other [added loss coverages] coverage options.

The commissioner may adopt rules requiring that insurers providing basic loss insurance offer, in accordance with this act, any other specified added loss coverages and promulgate regulations with respect thereto.

(c) The coverage which is offered pursuant to this section shall not be provided, or deemed provided under any provision of this act, except upon the election of a named insured under a policy of motor vehicle insurance issued by an insurer.

§ 208. Ineligible claimants.

(a) Converter.--

(1) [Except as provided for assigned claims, a] A converter of a motor vehicle is ineligible to receive no-

1 fault benefits, including benefits otherwise due him as a  
2 survivor, from any source other than a contract of insurance  
3 under which he is an insured, for any injury arising out of  
4 the maintenance or use of the converted vehicle. If a  
5 converter dies from such injuries, his survivor or survivors  
6 are not entitled to no-fault benefits for survivor's loss  
7 from any source other than a contract of insurance under  
8 which the converter is an insured.

9 \* \* \*

10 § 301. Tort liability.

11 (a) Partial abolition.--Tort liability is abolished with  
12 respect to any injury that takes place in this State in  
13 accordance with the provisions of this act if such injury arises  
14 out of the maintenance or use of a motor vehicle, except that:

15 \* \* \*

16 (4) A person remains liable for loss which is not  
17 compensated because of any limitation in accordance with  
18 section 202 (a), (b), (c) or (d) of this act and nothing in  
19 this act shall be construed to have limited or impaired the  
20 right to recover at law as heretofore for an element of  
21 economic detriment for which there is no applicable security  
22 under the provisions of this act. A person is not liable,  
23 however, for loss which is not compensated because of  
24 limitations in accordance with subsection (e) of section 202  
25 of this act.

26 (5) A person remains liable for damages for non-economic  
27 detriment ~~in excess of two thousand five hundred dollars~~ <—  
28 ~~(\$2,500)~~ if the injury sustained in the accident results in:

29 (A) death [or serious and permanent injury]; or

30 (B) [the reasonable value of reasonable and

1 necessary medical and dental services, including  
2 prosthetic devices and necessary ambulance, hospital and  
3 professional nursing expenses incurred in the diagnosis,  
4 care and recovery of the victim, exclusive of diagnostic  
5 x-ray costs and rehabilitation costs in excess of one  
6 hundred dollars (\$100) is in excess of seven hundred  
7 fifty dollars (\$750). For purposes of this subclause, the  
8 reasonable value of hospital room and board shall be the  
9 amount determined by the Department of Health to be the  
10 average daily rate charged for a semi-private hospital  
11 room and board computed from such charges by all  
12 hospitals in the Commonwealth] significant and permanent  
13 loss of an important body function; or

14 (C) [medically determinable physical or mental  
15 impairment which prevents the victim from performing all  
16 or substantially all of the material acts and duties  
17 which constitute his usual and customary daily activities  
18 and which continues for more than sixty consecutive days]  
19 injury that is permanent within a reasonable degree of  
20 medical probability and which is serious, other than  
21 scarring or disfigurement; or

22 (D) [injury which in whole or in part consists of  
23 cosmetic disfigurement which is permanent, irreparable  
24 and severe] significant and permanent scarring or  
25 disfigurement.

26 \* \* \*

27 § 401. Examination.

28 Whenever the mental or physical condition of a [person]  
29 victim is material to any claim that has been or may be made for  
30 past or future basic loss benefits. [a court of competent

1 jurisdiction may order the person to submit to mental or  
2 physical examination by a physician or physicians. The order may  
3 be made only on the motion for good cause shown and upon notice  
4 to the person to be examined and to all other persons having an  
5 interest and shall specify the time, place, manner, conditions,  
6 and scope of the examination and the person or persons by whom  
7 it is to be made.] Such victim, upon request of an obligor,  
8 shall submit to mental or physical examination by a physician or  
9 physicians. The cost of any such examination requested by an  
10 obligor shall be borne entirely by the obligor. Any such  
11 examination shall be conducted within the city or county of  
12 residence of the victim, but if there is no qualified physician  
13 to conduct the examination within such city or county of  
14 residence of the victim, then such examination shall be  
15 conducted in an area of closest proximity to the victim's  
16 residence. If the victim shall refuse to submit to any such  
17 examination, a court of competent jurisdiction may, upon the  
18 motion or petition of the obligor, require the victim to be  
19 examined by such physicians selected and paid by the obligor or  
20 by a physician or physicians designated by the court and paid by  
21 the obligor. The victim shall have at all times the right to  
22 have a physician, selected and paid by the victim, participate  
23 in any such examination.

24 Section 6. The act is amended by adding a section to read:

25 § 409. Release of information; immunity from liability.

26 Any person who releases information, whether oral or written,  
27 acting in good faith, pursuant to the requirements of sections  
28 106 (a)(5), 109(d), 401, 402, 408(a), (b) or (d) or pursuant to  
29 any proceeding for the release, discovery or production of  
30 information under this act is immune from liability, whether



civil or criminal, that might otherwise be incurred or imposed.

Section 7. Section 601 of the act is repealed.

Section 8. The act is amended by adding sections to read:

§ 601.1. Operation of a vehicle without security.

(a) General rule.--No person who owns a passenger vehicle, for which the existence of security for basic loss benefits and tort liability insurance is a requirement for its legal operation upon the public highways of this State, under either section 104 or 110 of this act or 75 Pa.C.S. § 1747 (relating to providing financial responsibility), shall operate such motor vehicle or permit it to be operated upon a public highway in this State without having in full force and effect security complying with the terms of section 104. Further, no other person shall operate such a motor vehicle upon a public highway in this State with the knowledge that the owner does not have such security in full force and effect.

(b) Carrying and exhibiting Pennsylvania No-fault Insurance Identification Card on demand.--Every person who operates a vehicle for which the existence of security for basic loss benefits and tort liability insurance is a requirement for its legal operation upon the public highways of this State pursuant to the above-mentioned sections, shall possess a valid Pennsylvania No-fault Insurance Identification Card at all times when driving such motor vehicle and shall exhibit the card upon demand to a police officer who investigates an accident or otherwise stops the vehicle for probable cause.

(c) Exhibition of invalid insurance identification cards.--No person who is required to possess and exhibit a Pennsylvania No-fault Insurance Identification Card pursuant to subsection (b) shall exhibit an invalid identification card to any police

1 officer. For the purposes of this section, an invalid card  
2 includes, but is not limited to, one expired, fraudulently  
3 obtained or forged.

4 (d) Inferences from failure to possess and exhibit the  
5 insurance identification card.--In any summary proceeding or  
6 criminal proceeding in which the defendant is charged with  
7 violating subsection (a) or (c), if it is shown that the  
8 defendant failed to possess and exhibit the identification card  
9 as required by subsection (b), or failed to furnish satisfactory  
10 proof within five days at the office of the issuing authority or  
11 arresting officer, it may be inferred that the defendant was in  
12 violation of subsection (a) or (c) at the time of the demand.

13 (e) Penalty.--Any person violating subsection (a) is guilty  
14 of a summary offense and shall, upon conviction, be sentenced to  
15 pay a fine of two hundred dollars (\$200). Any person violating  
16 subsection (b) is guilty of a summary offense and shall, upon  
17 conviction, be sentenced to pay a fine of ~~fifty dollars (\$50)~~ <—  
18 TWO HUNDRED DOLLARS (\$200) and to a mandatory ~~fifteen-day~~ <—  
19 THIRTY-DAY suspension of the individual's operating privileges. <—  
20 Any person violating subsection (c) is guilty of a misdemeanor  
21 of the third degree and shall, upon conviction, be sentenced to  
22 pay a fine of not less than three hundred dollars (\$300), nor  
23 more than one thousand dollars (\$1,000), or to imprisonment for  
24 not more than six months or both. No person charged with  
25 violating subsection (a) or (b) shall be convicted if the person  
26 furnishes at the office of the issuing authority or the  
27 arresting officer, within five days, satisfactory proof of  
28 having held security at the time of the demand.

29 (f) Subsequent convictions.--Every person convicted of a  
30 second or subsequent violation of subsection (a) within three

1 years of an initial conviction under subsection (a) shall be  
2 sentenced to pay a fine or not less than three hundred dollars  
3 (\$300), nor more than one thousand dollars (\$1,000) or to  
4 imprisonment of not more than six months or both. Every person  
5 convicted of a second or subsequent violation of subsection (b)  
6 within three years of an initial conviction under subsection (b)  
7 shall be sentenced to pay a fine of not less than one hundred  
8 dollars (\$100) nor more than three hundred dollars (\$300) and to  
9 a mandatory sixty-day suspension of the individual's operating  
10 privileges for the second violation, and to a mandatory six-  
11 month suspension of operating privileges for the third and all  
12 subsequent violations. Every person convicted of a second or  
13 subsequent violation of subsection (c) within three years of an  
14 initial conviction under subsection (c) shall be sentenced to  
15 pay a fine of not less than one thousand dollars (\$1,000) nor  
16 more than two thousand five hundred dollars (\$2,500) or to  
17 imprisonment for not more than one year or both.

18 (g) Issuance of insurance identification cards.--No obligor  
19 who provides security for basic loss benefits coverage and tort  
20 liability insurance pursuant to this act shall issue an  
21 insurance identification card for a period in excess of the  
22 policy period OR, IF THE NAMED INSURED HAS ELECTED TO PAY THE <—  
23 POLICY PREMIUM IN INSTALLMENTS, A PERIOD IN EXCESS OF THAT  
24 COVERED BY EACH INSTALLMENT PERIOD.

25 § 601.2. Surrender of registration plates and cards upon  
26 suspension.

27 (a) General rule.--The department, upon suspending any  
28 registration, shall require the registration plate or plates and  
29 registration card to be surrendered immediately to the  
30 department and may delegate authority to any authorized

department employee, issuing authority, police officer,  
constable or writ server to seize the registration plate or  
plates and registration card or cards.

(b) Issuing authorities, constables and writ servers.--  
Whenever the surrender of registration plates and cards is  
accomplished through the use of issuing authorities, constables  
or writ servers, the procedures for such surrender shall be  
prescribed by general rule by the Supreme Court. For each card  
and plate set recovered by a constable or writ server, such  
officer shall be paid a fee of fifteen dollars (\$15) by the  
department which shall include mileage.

(c) Reimbursement of department.--As a condition for the  
return of a registration plate and card surrendered to a  
constable or a writ server, a person shall reimburse the  
department a service fee of thirty dollars (\$30).

(d) Penalty.--Any person failing or refusing to surrender to  
the department or to its authorized employee, issuing authority,  
police officer, constable or writ server, upon demand, any  
registration plate or card which has been suspended is guilty of  
a summary offense and shall, upon conviction, be sentenced to  
pay a fine of one hundred dollars (\$100).

(e) Reports and records of issuing authorities.--Every  
issuing authority shall maintain records of all proceedings  
brought under this act in accordance with 75 Pa.C.S. § 6321  
(relating to records of issuing authorities). In addition, every  
issuing authority shall report all proceedings brought under  
this act in accordance with 75 Pa.C.S. § 6322 (relating to  
reports by issuing authorities).

(f) Reports of courts of records.--The clerk of any court of  
record within this Commonwealth shall report the final

1 determination of any proceeding brought under this act in  
2 accordance with 75 Pa.C.S. § 6323 (relating to reports by  
3 courts).

4       Section 9. This act shall take effect in six months.