

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1980

Session of
1977

INTRODUCED BY MRS. HARPER, MESSRS. GIAMMARCO, JONES, KOWALYSHYN,
C. GEORGE, RAPPAPORT, MRS. SCANLON, MESSRS. LAUGHLIN, GRAY,
CASSIDY, BORSKI, SCHWEDER, DOMBROWSKI, MRS. WISE, MESSRS.
RICHARDSON, BARBER, WIGGINS, KUKOVICH, BROWN, MELUSKEY,
McLANE, O'DONNELL, GATSKI, MRS. KELLY, MESSRS. LINCOLN,
GREENFIELD, BERLIN, RENWICK, WILLIAMS, COHEN, FRYER AND
PRENDERGAST, DECEMBER 14, 1977

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 27, 1978

AN ACT

1 Amending the act of July 19, 1974 (P.L.489, No.176), entitled
2 "An act providing for a compensation system for persons
3 injured in motor vehicle accidents; requiring insurance for
4 all motor vehicles required to be registered in Pennsylvania;
5 defining 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 providing for the disclosure of certain information and
11 imposing certain powers and duties on the commissioner, AND <—
12 FURTHER PROVIDING FOR EXPENSE BENEFITS.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Subsection (a) of section 105, SUBSECTION (A) OF <—
16 SECTION 108 AND SUBSECTION (A) OF SECTION 202, act of July 19,
17 1974 (P.L.489, No.176), known as the "Pennsylvania No-fault
18 Motor Vehicle Insurance Act," ~~is~~ ARE amended to read: <—

19 § 105. Availability of insurance.

20 (a) Plan.--

1 (1) The commissioner shall establish and implement or
2 approve and supervise a plan assuring that any required no-
3 fault benefits and tort liability coverages for motor
4 vehicles will be conveniently and expeditiously available,
5 subject only to payment or provisions for payment of the
6 premium, to each individual who cannot conveniently obtain
7 insurance through ordinary methods at rates not in excess of
8 those applicable to similarly situated individuals under the
9 plan. The plan may provide reasonable means for the transfer
10 of individuals insured thereunder into the ordinary market,
11 at the same or lower rates, pursuant to regulations
12 established by the commissioner. The plan may be implemented
13 by assignment of applicants among insurers, pooling, any
14 joint insuring or reinsuring arrangement, or any other
15 method, that results in all applicants being conveniently
16 afforded the insurance coverages on reasonable and not
17 unfairly discriminatory terms.

18 (2) The plan shall make available added loss benefits
19 and tort liability coverage together with other contract
20 provisions which the commissioner determines are reasonably
21 needed by applicants and are commonly afforded in voluntary
22 markets. The plan must also assure that there is available
23 through the private sector or otherwise to all applicants
24 adequate premium financing or provision for the installment
25 payment of premiums subject to customary terms and
26 conditions.

27 (3) All insurers writing no-fault benefits and tort
28 liability coverages in this Commonwealth shall participate in
29 the plan. The plan shall provide for equitable apportionment,
30 among all participating insurers writing any insurance

1 coverage required under the plan, of the financial burdens of
2 insurance provided to applicants under the plan and the costs
3 of operation of the plan.

4 (4) Subject to the supervision and approval of the
5 commissioner, insurers may consult and agree with each other
6 and with other appropriate persons as to the organization,
7 administration, and operation of the plan and as to rates and
8 rate modifications for insurance coverages provided under the
9 plan. Rates and rate modifications adopted or charged for
10 insurance coverages provided under the plan shall:

11 (A) be first adopted or approved by the
12 commissioner; and

13 (B) be reasonable and not unfairly discriminatory
14 among similarly situated applicants for insurance
15 pursuant to regulations established by the commissioner.

16 (5) To carry out the objectives of this subsection, the
17 commissioner may adopt rules, make orders, enter into
18 agreements with other governmental and private entities and
19 individuals, and form and operate or authorize the formation
20 and operation of bureaus and other legal entities.

21 (6) Every individual who procures the required no-fault
22 benefits and tort liability coverages through the plan shall
23 be informed at the time of application that the insurance
24 will be procured through the plan and such individual shall
25 also be informed of the reason for his placement through the
26 plan. The plan application shall also include a prominently
27 displayed disclosure statement in contrasting ink immediately
28 above the applicant's signature line stating that such
29 application is for automobile insurance coverage through the
30 Pennsylvania Automobile Insurance Plan and that such plan is

1 known as the Assigned Risk Plan. The commissioner shall issue
2 regulations prescribing language and procedure for
3 disclosure.

4 * * *

5 § 108. ASSIGNED CLAIMS PLAN. <—

6 (A) GENERAL.--

7 (1) IF THIS ACT IS IN EFFECT ON THE DATE WHEN THE
8 ACCIDENT RESULTING IN INJURY OCCURS, A VICTIM OR THE SURVIVOR
9 OR SURVIVORS OF A DECEASED VICTIM MAY OBTAIN BASIC BENEFITS
10 THROUGH THE ASSIGNED CLAIMS PLAN ESTABLISHED PURSUANT TO
11 SUBSECTION (B) OF THIS SECTION, IF BASIC LOSS INSURANCE:

12 (A) IS NOT APPLICABLE TO THE INJURY FOR A REASON
13 OTHER THAN THOSE SPECIFIED IN THE PROVISIONS ON
14 INELIGIBLE CLAIMANTS;

15 (B) IS NOT APPLICABLE TO THE INJURY BECAUSE THE
16 VICTIM CONVERTED A MOTOR VEHICLE WHILE HE WAS UNDER
17 FIFTEEN YEARS OF AGE;

18 (C) APPLICABLE TO THE INJURY CANNOT BE IDENTIFIED;

19 (D) APPLICABLE TO THE INJURY IS INADEQUATE TO
20 PROVIDE THE CONTRACTED-FOR BENEFITS BECAUSE OF FINANCIAL
21 INABILITY OF AN OBLIGOR TO FULFILL ITS OBLIGATIONS; OR

22 (E) BENEFITS ARE REFUSED BY AN OBLIGOR FOR A REASON
23 OTHER THAN THAT THE INDIVIDUAL IS NOT ENTITLED IN
24 ACCORDANCE WITH THIS ACT TO RECEIVE THE BASIC LOSS
25 BENEFITS CLAIMED.

26 (2) IF A CLAIM QUALIFIES FOR ASSIGNMENT UNDER PARAGRAPH
27 (1)(C), (D), OR (E) OF THIS SUBSECTION, THE ASSIGNED CLAIMS
28 BUREAU OR ANY INSURER TO WHOM THE CLAIM IS ASSIGNED IS
29 SUBROGATED TO ALL RIGHTS OF THE CLAIMANT AGAINST THE OBLIGOR
30 LEGALLY OBLIGATED TO PROVIDE BASIC BENEFITS TO THE CLAIMANT,

1 OR AGAINST ANY SUCCESSOR IN INTEREST TO OR SUBSTITUTE FOR
2 SUCH OBLIGOR FOR SUCH BENEFITS AS ARE PROVIDED BY THE
3 ASSIGNEE.

4 (3) IF AN INDIVIDUAL RECEIVES BASIC LOSS BENEFITS
5 THROUGH THE ASSIGNED CLAIMS PLAN FOR ANY REASON OTHER THAN
6 BECAUSE OF THE FINANCIAL INABILITY OF AN OBLIGOR TO FULFILL
7 ITS OBLIGATION OR AS A RESULT OF THE PROVISIONS OF SECTION
8 202(A), ALL BENEFITS OR ADVANTAGES THAT SUCH INDIVIDUAL
9 RECEIVES OR IS ENTITLED TO RECEIVE AS A RESULT OF SUCH
10 INJURY, OTHER THAN LIFE INSURANCE BENEFITS OR BENEFITS BY WAY
11 OF SUCCESSION AT DEATH OR IN DISCHARGE OF FAMILIAL
12 OBLIGATIONS OF SUPPORT, SHALL BE SUBTRACTED FROM LOSS IN
13 CALCULATING NET LOSS.

14 (4) AN ASSIGNED CLAIM OF AN INDIVIDUAL WHO DOES NOT
15 COMPLY WITH THE REQUIREMENT OF PROVIDING SECURITY FOR THE
16 PAYMENT OF BASIC RESTORATION BENEFITS, OR OF AN INDIVIDUAL AS
17 TO WHOM THE SECURITY IS INVALIDATED BECAUSE OF HIS FRAUD OR
18 WILLFUL MISCONDUCT, IS SUBJECT TO:

19 (A) ALL THE MAXIMUM OPTIONAL DEDUCTIBLES AND
20 EXCLUSIONS REQUIRED TO BE OFFERED; AND

21 (B) A DEDUCTION IN THE AMOUNT OF FIVE HUNDRED
22 DOLLARS (\$500) FOR EACH YEAR OR PART THEREOF OF THE
23 PERIOD OF HIS CONTINUOUS FAILURE TO PROVIDE SECURITY,
24 APPLICABLE TO ANY BENEFITS OTHERWISE PAYABLE EXCEPT BASIC
25 BENEFITS FOR ALLOWABLE EXPENSE.

26 (5) AN OBLIGOR, OTHER THAN A SELF-INSURER OR OBLIGATED
27 GOVERNMENT, WHO HAS PROVIDED ALLOWABLE EXPENSE BENEFITS
28 PURSUANT TO SECTION 202(A) MAY RECOVER FROM THE ASSIGNED
29 CLAIMS PLAN SUCH AMOUNTS PROVIDED IN EXCESS OF ONE HUNDRED
30 THOUSAND DOLLARS (\$100,000).

1 * * *

2 § 202. BASIC LOSS BENEFITS.

3 (A) ALLOWABLE EXPENSE LIMITS.--ALLOWABLE EXPENSE, AS DEFINED
4 IN SECTION 103 OF THIS ACT SHALL BE PROVIDED OR THE EQUIVALENT
5 IN THE FORM OF A CONTRACT TO PROVIDE FOR SERVICES REQUIRED.
6 THERE SHALL BE NO MONETARY LIMIT ON THE AMOUNT OF ALLOWABLE
7 EXPENSE PROVIDED TO AN INSURED OTHER THAN THE LIMITS STATED IN
8 THE DEFINITION OF "ALLOWABLE EXPENSE" IN SECTION 103 OF THIS
9 ACT. ANY ALLOWABLE EXPENSE BENEFITS IN EXCESS OF ONE HUNDRED
10 THOUSAND DOLLARS (\$100,000) PROVIDED BY AN OBLIGOR, OTHER THAN A
11 SELF-INSURER OR AN OBLIGATED GOVERNMENT, UNDER THIS SUBSECTION
12 SHALL BE RECOVERABLE BY SAID OBLIGOR FROM THE ASSIGNED CLAIMS
13 PLAN PURSUANT TO SECTION 108 OF THIS ACT. THE CLAIM RESULTING IN
14 SUCH BENEFITS SHALL BE CONTINUALLY SERVICED BY SAID OBLIGOR.

15 * * *

16 Section 2. This act shall take effect in 60 days.