

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1539 Session of
1985

INTRODUCED BY ACOSTA, CALTAGIRONE, TRUMAN, CARN, EVANS, ROEBUCK,
KOSINSKI, DEAL, BARBER, WIGGINS, DONATUCCI, RIEGER, OLIVER,
RICHARDSON, AFFLERBACH, PRESSMANN AND FATTAH, JUNE 27, 1985

REFERRED TO COMMITTEE ON INSURANCE, JUNE 27, 1985

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for financial responsibility.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. The definition of "eligible claimant" in section
6 1761 of Title 75 of the Pennsylvania Consolidated Statutes is
7 amended and the section is amended by adding definitions to
8 read:

9 § 1761. Definitions.

10 The following words and phrases when used in this subchapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 * * *

14 "Eligible claimant." Except as provided in the definition of
15 ineligible claimant, eligible claimant includes a resident of
16 this Commonwealth who suffers injury on or after the effective
17 date of this subchapter arising out of the maintenance or use of

1 a motor vehicle in the United States, its territories or
2 possessions and Canada. The estate of an eligible claimant shall
3 be entitled to receive catastrophic and noncatastrophic loss
4 benefits pursuant to section 1766 to the extent that financial
5 obligations for reasonable and necessary medical treatment and
6 rehabilitative services were incurred by the eligible claimant
7 prior to the death of that person. Otherwise eligible claimants
8 shall not be disqualified from participating in or receiving
9 benefits from the Catastrophic Loss Trust Fund for injuries
10 suffered after the effective date of this subchapter but prior
11 to their first registration renewal after the effective date of
12 this subchapter.

13 * * *

14 "Noncatastrophic loss." An injury, arising out of the
15 maintenance or use of a motor vehicle, for which the necessary
16 expenses for medical treatment and rehabilitative services, as
17 described in section 1712(1) (relating to availability of
18 benefits), are less than \$100,000.

19 "Noncatastrophic loss benefits." Payments by the fund for
20 those reasonable and necessary expenses only for medical
21 treatment and rehabilitative services, which, as described in
22 section 1712(1) (relating to availability of benefits), are less
23 than \$100,000, subject to the limitations provided in section
24 1766 (relating to benefits).

25 Section 2. Sections 1764 and 1766 of Title 75 are amended to
26 read:

27 § 1764. Catastrophic Loss Trust Fund.

28 (a) Establishment.--A Catastrophic Loss Trust Fund shall be
29 established to provide funds necessary to pay catastrophic and
30 noncatastrophic loss benefits.

1 (b) Composition.--The fund shall be composed of moneys
2 contributed pursuant to section 1762 (relating to funding) and
3 funds earned by the investment and reinvestment of such moneys.
4 The fund shall be held in trust, be deposited in a separate
5 account and be the sole and exclusive source of funding for the
6 payment of catastrophic and noncatastrophic loss benefits and
7 the administration of the fund.

8 (c) Separation from General Fund and Motor License Fund.--
9 The fund and all income earned by it shall not become part of
10 the General Fund or Motor License Fund and no obligations or
11 expense of or claim against the fund shall constitute a debt of
12 the Commonwealth or a charge against the General Fund or Motor
13 License Fund.

14 (d) Expenses in collecting fund charge.--Any expense
15 incurred by the Commonwealth in the collection of the fund
16 charge shall be paid by the fund. The Insurance Department may
17 determine a formula to provide for the reimbursement by the fund
18 for expenses incurred by insurance companies or others in
19 collecting the fund charge.

20 § 1766. Benefits.

21 (a) General rule.--Subject to the limitations set forth in
22 subsection (b), the Catastrophic Loss Trust Fund shall provide
23 catastrophic and noncatastrophic loss benefits to eligible
24 claimants only for the payment of expenses for medical treatment
25 and rehabilitative services [in excess of \$100,000. No payment
26 shall be made by the fund for the first \$100,000 of expenses for
27 medical treatment and rehabilitative services] incurred by an
28 eligible claimant.

29 (b) Maximum benefit.--The maximum catastrophic loss benefit
30 which shall be paid by the fund on behalf of any one eligible

1 claimant shall be \$50,000 per year and \$1,000,000 lifetime
2 aggregate. During the first 18 months of eligibility, the
3 administrator may approve payments on behalf of a claimant
4 without regard to the \$50,000 per year limit but subject to the
5 \$1,000,000 lifetime aggregate.

6 (c) Effect of other benefits.--Except for workers'
7 compensation, catastrophic and noncatastrophic loss benefits
8 paid or payable by the fund shall be primary to any other
9 available source of accident or health benefits including any
10 program, group contract or other private or public source of
11 benefits unless the law authorizing or providing those benefits
12 makes the benefits primary to the benefits provided under this
13 subchapter.

14 (d) Structured settlements.--The administrator may enter
15 into structured settlements to pay benefits under this
16 subchapter. Where it appears the settlement will be both cost
17 effective to the fund and in the best interest of the claimant,
18 the restrictions in subsection (b) shall not apply to this
19 subsection, but in no event shall the cost of the structured
20 settlement exceed the present value of the future annual
21 payments up to the maximum lifetime aggregate benefit remaining
22 calculated at 6% simple interest.

23 (e) Preclusion of pleading, proving and recovering
24 benefits.--In any action for damages against a tortfeasor
25 arising out of the maintenance or use of a motor vehicle, a
26 person who is eligible to receive catastrophic and
27 noncatastrophic loss benefits shall be precluded from pleading,
28 introducing into evidence or recovering the amount of medical
29 and rehabilitative expenses for which catastrophic and
30 noncatastrophic loss benefits were paid or are payable. This

1 preclusion applies only to catastrophic and noncatastrophic loss
2 benefits.

3 (f) Subrogation.--There shall be no subrogation or
4 reimbursement from a claimant's tort recovery with respect to
5 catastrophic and noncatastrophic loss benefits.

6 Section 3. This act shall take effect in 60 days.