

ASSEMBLY, No. 4245

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

SYNOPSIS

Increases certain minimum liability coverage required for motor vehicle insurance; abolishes basic automobile insurance policy.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning motor vehicle insurance and revising various
2 parts of the statutory law.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to
8 read as follows:

9 2. a. **【Except for a basic automobile insurance policy, no】** No
10 motor vehicle liability policy or renewal of such policy of
11 insurance, including a standard liability policy for an automobile as
12 defined in section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against
13 loss resulting from liability imposed by law for bodily injury or
14 death, sustained by any person arising out of the ownership,
15 maintenance or use of a motor vehicle, shall be issued in this State
16 with respect to any motor vehicle registered or principally garaged
17 in this State unless it includes coverage in limits for bodily injury or
18 death as follows:

19 (1) an amount or limit of **【\$15,000.00】** \$30,000, exclusive of
20 interest and costs, on account of injury to, or death of, one person,
21 in any one accident, and

22 (2) an amount or limit, subject to such limit for any one person
23 so injured or killed, of **【\$30,000.00】** \$60,000, exclusive of interest
24 and costs, on account of injury to or death of more than one person,
25 in any one accident, under provisions approved by the
26 Commissioner of Banking and Insurance, for payment of all or part
27 of the sums which the insured or his legal representative shall be
28 legally entitled to recover as damages from the operator or owner of
29 an uninsured motor vehicle, or hit and run motor vehicle, as defined
30 in section 18 of P.L.1952, c.174 (C.39:6-78), because of bodily
31 injury, sickness or disease, including death resulting therefrom,
32 sustained by the insured, caused by accident and arising out of the
33 ownership, maintenance, operation or use of such uninsured or hit
34 and run motor vehicle anywhere within the United States or
35 Canada; except that uninsured motorist coverage shall provide that
36 in order to recover for non-economic loss, as defined in section 2 of
37 P.L.1972, c.70 (C.39:6A-2), for accidents to which the benefits of
38 section 4 (C.39:6A-4) of that act apply, the tort option elected
39 pursuant to section 8 (C.39:6A-8) of that act shall apply to that
40 injured person.

41 All motor vehicle liability policies **【, except basic automobile**
42 **insurance policies,】** shall also include coverage for the payment of
43 all or part of the sums which persons insured thereunder shall be
44 legally entitled to recover as damages from owners or operators of
45 uninsured motor vehicles, other than hit and run motor vehicles,

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 because of injury to or destruction to the personal property of such
2 insured, with a limit in the aggregate for all insurers involved in any
3 one accident of ~~【\$5,000.00】~~ \$25,000, and subject, for each insured,
4 to an exclusion of the first \$500.00 of such damages.

5 b. Uninsured and underinsured motorist coverage shall be
6 provided as an option by an insurer to the named insured electing a
7 standard automobile insurance policy up to at least the following
8 limits: \$250,000.00 each person and \$500,000.00 each accident for
9 bodily injury; \$100,000.00 each accident for property damage or
10 \$500,000.00 single limit, subject to an exclusion of the first \$500.00
11 of such damage to property for each accident, except that the limits
12 for uninsured and underinsured motorist coverage shall not exceed
13 the insured's motor vehicle liability policy limits for bodily injury
14 and property damage, respectively.

15 Rates for uninsured and underinsured motorist coverage for the
16 same limits shall, for each filer, be uniform on a Statewide basis
17 without regard to classification or territory.

18 c. Uninsured and underinsured motorist coverage provided for
19 in this section shall not be increased by stacking the limits of
20 coverage of multiple motor vehicles covered under the same policy
21 of insurance nor shall these coverages be increased by stacking the
22 limits of coverage of multiple policies available to the insured. If
23 the insured had uninsured motorist coverage available under more
24 than one policy, any recovery shall not exceed the higher of the
25 applicable limits of the respective coverages and the recovery shall
26 be prorated between the applicable coverages as the limits of each
27 coverage bear to the total of the limits.

28 d. Uninsured and underinsured motorist coverage shall be
29 subject to the policy terms, conditions and exclusions approved by
30 the Commissioner of Banking and Insurance, including, but not
31 limited to, unauthorized settlements, non-duplication of coverage,
32 subrogation and arbitration.

33 e. For the purpose of this section, (1) "underinsured motorist
34 coverage" means insurance for damages because of bodily injury
35 and property damage resulting from an accident arising out of the
36 ownership, maintenance, operation or use of an underinsured motor
37 vehicle. Underinsured motorist coverage shall not apply to an
38 uninsured motor vehicle. A motor vehicle is underinsured when the
39 sum of the limits of liability under all bodily injury and property
40 damage liability bonds and insurance policies available to a person
41 against whom recovery is sought for bodily injury or property
42 damage is, at the time of the accident, less than the applicable limits
43 for underinsured motorist coverage afforded under the motor
44 vehicle insurance policy held by the person seeking that recovery.
45 A motor vehicle shall not be considered an underinsured motor
46 vehicle under this section unless the limits of all bodily injury
47 liability insurance or bonds applicable at the time of the accident

1 have been exhausted by payment of settlements or judgments. The
2 limits of underinsured motorist coverage available to an injured
3 person shall be reduced by the amount he has recovered under all
4 bodily injury liability insurance or bonds;

5 (2) "uninsured motor vehicle" means:

6 (a) a motor vehicle with respect to the ownership, operation,
7 maintenance, or use of which there is no bodily injury liability
8 insurance or bond applicable at the time of the accident;

9 (b) a motor vehicle with respect to the ownership, operation,
10 maintenance, or use of which there is bodily injury liability
11 insurance in existence but the liability insurer denies coverage or is
12 unable to make payment with respect to the legal liability of its
13 insured because the insurer has become insolvent or bankrupt, or
14 the Commissioner of Banking and Insurance has undertaken control
15 of the insurer for the purpose of liquidation;

16 (c) a hit and run motor vehicle as described in section 18 of
17 P.L.1952, c.174 (C.39:6-78); or

18 (d) an automobile covered by a special automobile insurance
19 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

20 "Uninsured motor vehicle" shall not include [an automobile
21 covered by a basic automobile insurance policy;] an underinsured
22 motor vehicle; a motor vehicle owned by or furnished for the
23 regular use of the named insured or any resident of the same
24 household; a self-insurer within the meaning of any financial
25 responsibility or similar law of the state in which the motor vehicle
26 is registered or principally garaged; a motor vehicle which is owned
27 by the United States or Canada, or a state, political subdivision or
28 agency of those governments or any of the foregoing; a land motor
29 vehicle or trailer operated on rails or crawler treads; a motor vehicle
30 used as a residence or stationary structure and not as a vehicle; or
31 equipment or vehicles designed for use principally off public roads,
32 except while actually upon public roads.

33 f. Notwithstanding the provisions of this section or any other
34 law to the contrary, a motor vehicle liability policy or renewal of
35 such policy of insurance, insuring against loss resulting from
36 liability imposed by law for bodily injury or death, sustained by any
37 person arising out of the ownership, maintenance or use of a motor
38 vehicle, issued in this State to a corporate or business entity with
39 respect to any motor vehicle registered or principally garaged in this
40 State, shall not provide less uninsured or underinsured motorist
41 coverage for an individual employed by the corporate or business
42 entity than the coverage provided to the named insured under the
43 policy. A policy that names a corporate or business entity as a
44 named insured shall be deemed to provide the maximum uninsured
45 or underinsured motorist coverage available under the policy to an
46 individual employed by the corporate or business entity, regardless
47 of whether the individual is an additional named insured under that

1 policy or is a named insured or is covered under any other
2 policyproviding uninsured or underinsured motorist coverage.

3 (cf: P.L.2007, c.163, s.1)

4
5 2. Section 18 of P.L.1985, c.520 (C.17:28-1.4) is amended to
6 read as follows:

7 18. Any insurer authorized to transact or transacting automobile
8 or motor vehicle insurance business in this State, or controlling or
9 controlled by, or under common control by, or with, an insurer
10 authorized to transact or transacting insurance business in this State,
11 which sells a policy providing automobile or motor vehicle liability
12 insurance coverage, or any similar coverage, in any other state or in
13 any province of Canada, shall include in each policy coverage to
14 satisfy at least the personal injury protection benefits coverage
15 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) or section 19 of
16 P.L.1983, c.362 (C.17:28-1.3) for any New Jersey resident who is
17 not required to maintain personal injury protection coverage
18 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) [or section 4 of
19 P.L.1998, c.21 (C.39:6A-3.1)] and who is not otherwise eligible for
20 such benefits, whenever the automobile or motor vehicle insured
21 under the policy is used or operated in this State. In addition, any
22 insurer authorized to transact or transacting automobile or motor
23 vehicle insurance business in this State, or controlling or controlled
24 by, or under common control by, or with, an insurer authorized to
25 transact or transacting automobile or motor vehicle insurance
26 business in this State, which sells a policy providing automobile or
27 motor vehicle liability insurance coverage, or any similar coverage,
28 in any other state or in any province of Canada, shall include in
29 each policy coverage to satisfy at least the liability insurance
30 requirements of subsection a. of section 1 of P.L.1972, c.197
31 (C.39:6B-1) or section 3 of P.L.1972, c.70 (C.39:6A-3), the
32 uninsured motorist insurance requirements of subsection a. of
33 section 2 of P.L.1968, c.385 (C.17:28-1.1), and personal injury
34 protection benefits coverage pursuant to section 4 of P.L.1972, c.70
35 (C.39:6A-4) or of section 19 of P.L.1983, c.362 (C.17:28-1.3),
36 whenever the automobile or motor vehicle insured under the policy
37 is used or operated in this State.

38 Any liability insurance policy subject to this section shall be
39 construed as providing the coverage required herein, and any named
40 insured, and any immediate family member as defined in section
41 14.1 of P.L.1983, c.362 (C.39:6A-8.1), under that policy, shall be
42 subject to the tort option specified in subsection a. of section 8 of
43 P.L.1972, c.70 (C.39:6A-8).

44 Each insurer authorized to transact or transacting automobile or
45 motor vehicle insurance business in this State and subject to the
46 provisions of this section shall file and maintain with the

1 Department of Banking and Insurance written certification of
2 compliance with the provisions of this section.

3 "Automobile" means an automobile as defined in section 2 of
4 P.L.1972, c.70 (C.39:6A-2).
5 (cf: P.L.1998, c.21, s.72)
6

7 3. Section 14 of P.L.1988, c.156 (C.17:29A-15.2) is amended
8 to read as follows:

9 14. Notwithstanding any other provision of law to the contrary,
10 the dollar amount of the commission paid to a producer for residual
11 bodily injury coverage provided pursuant to section 8 of P.L.1972,
12 c.70 (C.39:6A-8) shall be the same whether the named insured
13 elects the tort option provided for in subsection a. of that section or
14 the tort option provided for in subsection b. of that section. **【This**
15 **section shall not apply to commissions on a basic automobile**
16 **insurance policy issued pursuant to section 4 of P.L.1998, c.21**
17 **(C.39:6A-3.1).】**
18 (cf: P.L.1998, c.21, s.22)
19

20 4. Section 1 of P.L.1998, c.21 (C.39:6A-1.1) is amended to
21 read as follows:

22 1. a. his act shall be known and may be cited as the
23 "Automobile Insurance Cost Reduction Act."

24 b. The Legislature finds and declares:

25 Whereas, While New Jersey's automobile insurance no-fault law,
26 enacted twenty-six years ago, has provided valuable benefits in the
27 form of medical benefits and wage replacement benefits, without
28 regard to fault, to New Jersey residents who have been injured in an
29 automobile accident; and

30 Whereas, Medical benefits paid by no-fault policies over those
31 years amount to billions of dollars, which would otherwise have
32 been paid by health insurance, thus raising the cost of health
33 insurance for everyone; and

34 Whereas, While medical benefits under no-fault insurance were
35 unlimited under the law enacted in 1972, the rapidly escalating cost
36 of those benefits made it necessary for the Legislature to reduce
37 those benefits to a limit of \$250,000 in 1990; and

38 Whereas, Since the enactment of the verbal threshold in 1988,
39 the substantial increase in the cost of medical expense benefits
40 indicates that the benefits are being overutilized for the purpose of
41 gaining standing to sue for pain and suffering, thus undermining the
42 limitations imposed by the threshold and necessitating the
43 imposition of further controls on the use of those benefits, including
44 the establishment of a basis for determining whether treatments or
45 diagnostic tests are medically necessary; and

46 Whereas, The present arbitration system has not sufficiently
47 addressed the Legislature's goal of eliminating payment for

1 treatments and diagnostic tests which are not medically necessary,
2 leading to the belief that a revised dispute resolution mechanism
3 needs to be established which will accomplish this goal; and

4 Whereas, The principle underlying the philosophical basis of the
5 no-fault system is that of a trade-off of one benefit for another; in
6 this case, providing medical benefits in return for a limitation on the
7 right to sue for non-serious injuries; and

8 Whereas, While the Legislature believes that it is good public
9 policy to provide medical benefits on a first party basis, without
10 regard to fault, to persons injured in automobile accidents, it
11 recognizes that in order to keep premium costs down, the cost of the
12 benefit must be offset by a reduction in the cost of other coverages,
13 most notably a restriction on the right of persons who have non-
14 permanent or non-serious injuries to sue for pain and suffering; and

15 Whereas, The high cost of automobile insurance in New Jersey
16 has presented a significant problem for many-lower income
17 residents of the state, many of whom have been forced to drop or
18 lapse their coverage in violation of the State's mandatory motor
19 vehicle insurance laws, making it necessary to provide a lower-cost
20 option to protect people by providing coverage to pay their medical
21 expenses if they are injured; and

22 Whereas, To meet these goals, this legislation provides for the
23 creation of [two insurance coverage options, a basic policy and] a
24 standard policy, provides for cost containment of medical expense
25 benefits through a revised dispute resolution proceeding, provides
26 for a revised lawsuit threshold for suits for pain and suffering which
27 will eliminate suits for injuries which are not serious or permanent,
28 including those for soft tissue injuries, would more precisely define
29 the benefits available under the medical expense benefits coverage,
30 and establishes standard treatment and diagnostic procedures
31 against which the medical necessity of treatments reimbursable
32 under medical expense benefits coverage would be judged; and

33 Whereas, It is generally recognized that fraud, whether in the
34 form of inappropriate medical treatments, inflated claims, staged
35 accidents, falsification of records, or in any other form, has
36 increased premiums, and must be uncovered and vigorously
37 prosecuted, and while the pursuit of those who defraud the
38 automobile insurance system has heretofore been addressed by the
39 State through various agencies, it has been without sufficient
40 coordination to aggressively combat fraud, leading to the
41 conclusion that greater consolidation of agencies which were
42 created to combat fraud is necessary to accomplish this purpose;
43 and

44 Whereas, With these many objectives, the Legislature
45 nevertheless recognizes that to provide a healthy and competitive
46 automobile insurance market, insurers are entitled to earn an
47 adequate rate of return through the ratemaking process, which shall

1 reflect the impact of the cost-saving provisions of this act and other
2 recent legislative insurance reforms; and

3 Whereas, The Legislature has thus addressed these and other
4 issues in this comprehensive legislation designed to preserve the
5 no-fault system, while at the same time reducing unnecessary costs
6 which drive premiums higher.
7 (cf: P.L.1998, c.21, s.1)

8
9 5. Section 2 of P.L.1972, c.70 (C.39:6A-2) is amended to read
10 as follows:

11 2. As used in this act:

12 a. "Automobile" means a private passenger automobile of a
13 private passenger or station wagon type that is owned or hired and
14 is neither used as a public or livery conveyance for passengers nor
15 rented to others with a driver; and a motor vehicle with a pickup
16 body, a delivery sedan, a van, or a panel truck or a camper type
17 vehicle used for recreational purposes owned by an individual or by
18 husband and wife who are residents of the same household, not
19 customarily used in the occupation, profession or business of the
20 insured other than farming or ranching. An automobile owned by a
21 farm family copartnership or corporation, which is principally
22 garaged on a farm or ranch and otherwise meets the definitions
23 contained in this section, shall be considered a private passenger
24 automobile owned by two or more relatives resident in the same
25 household.

26 b. "Essential services" means those services performed not for
27 income which are ordinarily performed by an individual for the care
28 and maintenance of such individual's family or family household.

29 c. "Income" means salary, wages, tips, commissions, fees and
30 other earnings derived from work or employment.

31 d. "Income producer" means a person who, at the time of the
32 accident causing personal injury or death, was in an occupational
33 status, earning or producing income.

34 e. "Medical expenses" means reasonable and necessary
35 expenses for treatment or services as provided by the policy,
36 including medical, surgical, rehabilitative and diagnostic services
37 and hospital expenses, provided by a health care provider licensed
38 or certified by the State or by another state or nation, and
39 reasonable and necessary expenses for ambulance services or other
40 transportation, medication and other services as may be provided
41 for, and subject to such limitations as provided for, in the policy, as
42 approved by the commissioner. "Medical expenses" shall also
43 include any nonmedical remedial treatment rendered in accordance
44 with a recognized religious method of healing.

45 f. "Hospital expenses" means the cost of treatment and
46 services, as provided in the policy approved by the commissioner,
47 by a licensed and accredited acute care facility which engages

1 primarily in providing diagnosis, treatment and care of sick and
2 injured persons on an inpatient or outpatient basis; the cost of
3 covered treatment and services provided by an extended care
4 facility which provides room and board and skilled nursing care 24
5 hours a day and which is recognized by the administrators of the
6 federal Medicare program as an extended care facility; and the cost
7 of covered services at an ambulatory surgical facility supervised by
8 a physician licensed in this State or in another jurisdiction and
9 recognized by the Commissioner of Health **【and Senior Services】**,
10 or any other facility licensed, certified or recognized by the
11 Commissioner of Health **【and Senior Services】** or the
12 Commissioner of Human Services or a nationally recognized
13 system such as the Commission on Accreditation of Rehabilitation
14 Facilities, or by another jurisdiction in which it is located.

15 g. "Named insured" means the person or persons identified as
16 the insured in the policy and, if an individual, his or her spouse, if
17 the spouse is named as a resident of the same household, except that
18 if the spouse ceases to be a resident of the household of the named
19 insured, coverage shall be extended to the spouse for the full term
20 of any policy period in effect at the time of the cessation of
21 residency.

22 h. "Pedestrian" means any person who is not occupying,
23 entering into, or alighting from a vehicle propelled by other than
24 muscular power and designed primarily for use on highways, rails
25 and tracks.

26 i. "Noneconomic loss" means pain, suffering and
27 inconvenience.

28 j. "Motor vehicle" means a motor vehicle as defined in
29 R.S.39:1-1, exclusive of an automobile as defined in subsection a.
30 of this section.

31 k. "Economic loss" means uncompensated loss of income or
32 property, or other uncompensated expenses, including, but not
33 limited to, medical expenses.

34 l. "Health care provider" or "provider" means those persons
35 licensed or certified to perform health care treatment or services
36 compensable as medical expenses and shall include, but not be
37 limited to, (1) a hospital or health care facility which is maintained
38 by a state or any of its political subdivisions, (2) a hospital or health
39 care facility licensed by the Department of Health **【and Senior**
40 **Services】**, (3) other hospitals or health care facilities designated by
41 the Department of Health **【and Senior Services】** to provide health
42 care services, or other facilities, including facilities for radiology
43 and diagnostic testing, freestanding emergency clinics or offices,
44 and private treatment centers, (4) a nonprofit voluntary visiting
45 nurse organization providing health care services other than in a
46 hospital, (5) hospitals or other health care facilities or treatment
47 centers located in other states or nations, (6) physicians licensed to

1 practice medicine and surgery, (7) licensed chiropractors, (8)
2 licensed dentists, (9) licensed optometrists, (10) licensed
3 pharmacists, (11) licensed podiatrists, (12) registered bio-analytical
4 laboratories, (13) licensed psychologists, (14) licensed physical
5 therapists, (16) certified nurse-midwives, (17) certified nurse-
6 practitioners/clinical nurse-specialists, (18) licensed health
7 maintenance organizations, (19) licensed orthotists and prosthetists,
8 (20) licensed professional nurses, and (21) providers of other health
9 care services or supplies, including durable medical goods.

10 m. "Medically necessary" means that the treatment is consistent
11 with the symptoms or diagnosis, and treatment of the injury (1) is
12 not primarily for the convenience of the injured person or provider,
13 (2) is the most appropriate standard or level of service which is in
14 accordance with standards of good practice and standard
15 professional treatment protocols, as such protocols may be
16 recognized or designated by the Commissioner of Banking and
17 Insurance, in consultation with the Commissioner of Health **and**
18 Senior Services**】** or with a professional licensing or certifying board
19 in the Division of Consumer Affairs in the Department of Law and
20 Public Safety, or by a nationally recognized professional
21 organization, and (3) does not involve unnecessary diagnostic
22 testing.

23 n. "Standard automobile insurance policy" means an
24 automobile insurance policy with at least the coverage required
25 pursuant to sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and
26 39:6A-4).

27 **【**o. "Basic automobile insurance policy" means an automobile
28 insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-
29 3.1).**】**

30 (cf: P.L.2005, c.259, s.35)

31

32 6. Section 3 of P.L.1972, c.70 (C.39:6A-3) is amended to read
33 as follows:

34 3. Compulsory automobile insurance coverage; limits. **【**Except
35 as provided by section 4 of P.L.1998, c.21 (C.39:6A-3.1), every**】**
36 Every owner or registered owner of an automobile registered or
37 principally garaged in this State shall maintain automobile liability
38 insurance coverage, under provisions approved by the
39 Commissioner of Banking and Insurance, insuring against loss
40 resulting from liability imposed by law for bodily injury, death and
41 property damage sustained by any person arising out of the
42 ownership, maintenance, operation or use of an automobile wherein
43 such coverage shall be at least in:

44 a. an amount or limit of **【**\$15,000.00**】** ~~\$30,000~~, exclusive of
45 interest and costs, on account of injury to, or death of, one person,
46 in any one accident; and

1 b. an amount or limit, subject to such limit for any one person
2 so injured or killed, of **【\$30,000.00】** \$60,000, exclusive of interest
3 and costs, on account of injury to or death of, more than one person,
4 in any one accident; and

5 c. an amount or limit of **【\$5,000.00】** \$25,000, exclusive of
6 interest and costs, for damage to property in any one accident.

7 No licensed insurance carrier shall refuse to renew the required
8 coverage stipulated by this act of an eligible person as defined in
9 section 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance
10 with the provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1)
11 or with the consent of the Commissioner of Banking and Insurance.
12 (cf: P.L.1998, c.21, s.3)

13
14 7. Section 5 of P.L.1998, c.21 (C.39:6A-3.2) is amended to
15 read as follows:

16 5. a. All automobile insurance policies issued or renewed on or
17 after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) shall
18 be issued or renewed including at least the coverages required
19 pursuant to sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and
20 39:6A-4), unless the named insured elects **【a basic automobile**
21 **insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-**
22 **3.1) or】**, after the effective date of P.L.2003, c.89 (C.17:30A-2.1 et
23 al.), a special automobile insurance policy pursuant to section 45 of
24 P.L.2003, c.89 (C.39:6A-3.3). Election of a **【basic automobile**
25 **insurance policy or a】** special automobile insurance policy shall be
26 in writing and signed by the named insured on the coverage
27 selection form required by section 17 of P.L.1983, c.362 (C.39:6A-
28 23). The coverage selection form shall contain a statement, clearly
29 readable and in 12-point bold type, in a form approved by the
30 commissioner, that **【: (1) election of a basic automobile insurance**
31 **policy will result in less coverage than the \$250,000 medical**
32 **expense benefits coverage mandated prior to the effective date of**
33 **P.L.1998, c.21 (C.39:6A-1.1 et al.); or (2)】** election of a special
34 automobile insurance policy will result in coverage only for
35 emergency care. Furthermore, the coverage election form shall
36 contain a statement, clearly readable and in 12-point bold type, in a
37 form approved by the commissioner, that election of a special
38 automobile insurance policy **【, or a basic automobile insurance**
39 **policy without the optional \$10,000 liability coverage provided for**
40 **in section 4 of P.L.1998, c.21 (C.39:6A-3.1)】** may subject the
41 named insured to a claim or judgment for noneconomic loss which
42 is not covered by the **【basic or】** special automobile insurance
43 policy, and which may place his assets at risk, and in the event the
44 named insured is sued, the insurer shall not provide legal counsel.

45 b. **【The insurance coverages provided for in section 4 of**
46 **P.L.1998, c.21 (C.39:6A-3.1) shall be offered by every insurer**

1 which writes insurance coverages pursuant to sections 3 and 4 of
2 P.L.1972, c.70 (C.39:6A-3 and 39:6A-4) for a period of five years
3 after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.). The
4 commissioner shall require every company writing such insurance
5 coverage to report to him annually during that five-year period as to
6 the number of policies written pursuant to this subsection in the
7 previous year, the number of policies with the coverage offered
8 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) which have
9 been converted to policies with the coverage offered pursuant to
10 section 4 of P.L.1998, c.21 (C.39:6A-3.1) and any other information
11 the commissioner may require such as, but not limited to, the age of
12 the policyholders and the territories in which the policyholders
13 reside. The commissioner shall then report to the Governor and the
14 Legislature regarding the acceptance of the basic automobile
15 insurance policy by the automobile insurance consumers of this
16 State annually for the first four years the basic policy is sold. On or
17 before January 1, 2003, the commissioner shall make a final,
18 cumulative report which shall include recommendations as to the
19 continuation of the basic policy to the Governor and the
20 Legislature.】 (Deleted by amendment, P.L. , c.)(pending
21 before the Legislature as this bill)

22 c. The insurance coverages provided for in section 45 of
23 P.L.2003, c.89 (C.39:6A-3.3) shall be offered or provided pursuant
24 to subsection f. of that section for a period of five years after the
25 effective date of P.L.2003, c.89 (C.17:30A-2.1 et al.). On or before
26 January 1, 2008, the commissioner shall make a final report which
27 shall include recommendations as to the continuation of the special
28 policy to the Governor and the Legislature.

29 (cf: P.L.2003, c.89, s.46)

30

31 8. Section 45 of P.L.2003, c.89 (C.39:6A-3.3) is amended to
32 read as follows:

33 45. a. In order to assist certain low income individuals in this
34 State and encourage their greater compliance in satisfying the
35 mandatory private passenger automobile insurance requirements,
36 the Legislature intends to establish a special automobile insurance
37 policy. The special automobile insurance policy shall be offered
38 only to individuals who qualify for and are actively covered by
39 designated government subsidized programs in the State. For the
40 purpose of this section, "eligible low income individual" means an
41 individual who meets the income criteria established by the
42 commissioner by regulation. In setting the low income criteria, the
43 commissioner shall limit availability to those persons eligible and
44 enrolled in the federal Medicaid program.

45 b. As an additional option to the mandatory coverage provided
46 in sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4) 【or
47 the alternative covered provided in section 4 of P.L.1998, c.21

1 (C.39:6A-3.1) , an owner or registered owner of an automobile
2 registered or principally garaged in this State, who is an eligible
3 low income individual, may elect a special automobile insurance
4 policy providing the following coverage:

5 (1) Emergency personal injury protection coverage, for the
6 payment of benefits without regard to negligence, liability or fault
7 of any kind, only to the named insured and dependent members of
8 his family, as defined by the federal Medicaid program, residing in
9 his household, who sustain bodily injury as a result of an accident
10 while occupying, entering into, alighting from or using an
11 automobile, or as a pedestrian, caused by an automobile or by an
12 object propelled by or from an automobile, and to other persons
13 sustaining bodily injury while occupying, entering into, alighting
14 from or using the automobile of the named insured, with the
15 permission of the named insured. "Emergency personal injury
16 protection coverage" issued pursuant to this section means and
17 includes only payment of treatment for emergency care in an
18 amount not to exceed \$250,000 per person per accident.
19 "Emergency care" means all medically necessary treatment of a
20 traumatic injury or a medical condition manifesting itself by acute
21 symptoms of sufficient severity such that absence of immediate
22 attention could reasonably be expected to result in: death; serious
23 impairment to bodily functions; or serious dysfunction of a bodily
24 organ or part. Such emergency care shall include all medically
25 necessary care immediately following an automobile accident,
26 including, but not limited to, immediate pre-hospitalization care,
27 transportation to a hospital or trauma center, emergency room care,
28 surgery, critical and acute care. Emergency care extends during the
29 period of initial hospitalization until the patient is discharged from
30 acute care by the attending physician. Emergency care shall be
31 presumed when medical care is initiated at a hospital within 120
32 hours of the accident. "Emergency personal injury protection
33 coverage" shall also include all medically necessary treatment of
34 permanent or significant brain injury, spinal cord injury or
35 disfigurement after the patient is discharged from acute care. In the
36 event benefits paid by an insurer pursuant to this subsection are in
37 excess of \$75,000 on account of bodily injury to any one person in
38 any one accident covered by a policy issued or renewed prior to
39 January 1, 2004, that excess shall be paid by the insurer and shall be
40 reimbursable to the insurer from the Unsatisfied Claim and
41 Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-
42 73.1);

43 (2) Death benefit in the amount of \$10,000;

44 (3) The tort option provided in subsection a. of section 8 of
45 P.L.1972, c.70 (C.39:6A-8) shall apply to every named insured and
46 any other person to whom the special automobile insurance policy
47 applies.

1 c. A special automobile insurance policy shall not provide
2 liability, collision, comprehensive, uninsured or underinsured
3 motorist coverage.

4 d. The policy form for special automobile insurance policies
5 shall be subject to the approval of the Commissioner of Banking
6 and Insurance and shall clearly and conspicuously set forth the
7 limitations on benefits provided under the policy.

8 e. The commissioner shall approve the rating system to be used
9 for a special automobile insurance policy, which shall be
10 administered by the plan created pursuant to section 1 of P.L.1970,
11 c.215 (C.17:29D-1), to provide a uniform Statewide rate to be
12 utilized by all insurers providing coverage through a special
13 automobile insurance policy. The rate established by the
14 commissioner shall be sufficient to reimburse the insurer for the
15 cost of writing the policy and an amount set by the commissioner to
16 be forwarded to the Unsatisfied Claim and Judgment Fund to offset
17 claims paid by the Unsatisfied Claim and Judgment Fund. The
18 commissioner may adjust the rate annually.

19 f. Special automobile insurance policies shall be assigned to
20 insurers pursuant to the apportionment methodology of the plan
21 created pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1). The
22 number of policies assigned pursuant to this subsection shall not be
23 included in the determination of a competitive market pursuant to
24 subsection d. of section 27 of P.L.1990, c.8 (C.17:33B-15).
25 (cf: P.L.2003, c.89, s.45)
26

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

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

30 Except as provided by section 45 of P.L.2003, c.89 (C.39:6A-
31 3.3) [and section 4 of P.L.1998, c.21 (C.39:6A-3.1),] every
32 standard automobile liability insurance policy issued or renewed on
33 or after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.)
34 shall contain personal injury protection benefits for the payment of
35 benefits without regard to negligence, liability or fault of any kind,
36 to the named insured and members of his family residing in his
37 household who sustain bodily injury as a result of an accident while
38 occupying, entering into, alighting from or using an automobile, or
39 as a pedestrian, caused by an automobile or by an object propelled
40 by or from an automobile, and to other persons sustaining bodily
41 injury while occupying, entering into, alighting from or using the
42 automobile of the named insured, with permission of the named
43 insured.

44 "Personal injury protection coverage" means and includes:

45 a. Payment of medical expense benefits in accordance with a
46 benefit plan provided in the policy and approved by the
47 commissioner, for reasonable, necessary, and appropriate treatment

1 and provision of services to persons sustaining bodily injury, in an
2 amount not to exceed \$250,000 per person per accident. In the event
3 benefits paid by an insurer pursuant to this subsection are in excess
4 of \$75,000 on account of bodily injury to any one person in any one
5 accident, that excess shall be paid by the insurer and shall be
6 reimbursable to the insurer from the Unsatisfied Claim and
7 Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-
8 73.1). The policy form, which shall be subject to the approval of the
9 commissioner, shall set forth the benefits provided under the policy,
10 including eligible medical treatments, diagnostic tests and services
11 as well as such other benefits as the policy may provide. The
12 commissioner shall set forth by regulation a statement of the basic
13 benefits which shall be included in the policy. Medical treatments,
14 diagnostic tests, and services provided by the policy shall be
15 rendered in accordance with commonly accepted protocols and
16 professional standards and practices which are commonly accepted
17 as being beneficial for the treatment of the covered injury. Protocols
18 and professional standards and practices and lists of valid
19 diagnostic tests which are deemed to be commonly accepted
20 pursuant to this section shall be those recognized by national
21 standard setting organizations, national or state professional
22 organizations of the same discipline as the treating provider, or
23 those designated or approved by the commissioner in consultation
24 with the professional licensing boards in the Division of Consumer
25 Affairs in the Department of Law and Public Safety. The
26 commissioner, in consultation with the Commissioner of the
27 Department of Health **【and Senior Services】** and the applicable
28 licensing boards, may reject the use of protocols, standards and
29 practices or lists of diagnostic tests set by any organization deemed
30 not to have standing or general recognition by the provider
31 community or the applicable licensing boards. Protocols shall be
32 deemed to establish guidelines as to standard appropriate treatment
33 and diagnostic tests for injuries sustained in automobile accidents,
34 but the establishment of standard treatment protocols or protocols
35 for the administration of diagnostic tests shall not be interpreted in
36 such a manner as to preclude variance from the standard when
37 warranted by reason of medical necessity. The policy form may
38 provide for the precertification of certain procedures, treatments,
39 diagnostic tests, or other services or for the purchase of durable
40 medical goods, as approved by the commissioner, provided that the
41 requirement for precertification shall not be unreasonable, and no
42 precertification requirement shall apply within ten days of the
43 insured event. The policy may provide that certain benefits
44 provided by the policy which are in excess of the basic benefits
45 required by the commissioner to be included in the policy may be
46 subject to reasonable copayments in addition to the copayments
47 provided for pursuant to subsection e. of this section, provided that

1 the copayments shall not be unreasonable and shall be established
2 in such a manner as not to serve to encourage underutilization of
3 benefits subject to the copayments, nor encourage overutilization of
4 benefits. The policy form shall clearly set forth any limitations on
5 benefits or exclusions, which may include, but need not be limited
6 to, benefits which are otherwise compensable under workers'
7 compensation, or benefits for treatments deemed to be experimental
8 or investigational, or benefits deducted pursuant to section 6 of
9 P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the
10 services of a benefit consultant in establishing the basic benefits
11 level provided in this subsection, which shall be set forth by
12 regulation no later than 120 days following the enactment date of
13 P.L.1998, c.21 (C.39:6A-1.1 et al.). The commissioner shall not
14 advertise for bids for the consultant as provided in sections 3 and 4
15 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

16 Notwithstanding the provisions of P.L.2003, c.18 (C.45:9-
17 37.34b et seq.), physical therapy treatment shall not be reimbursable
18 as medical expense benefits pursuant to this subsection unless
19 rendered by a licensed physical therapist pursuant to a referral from
20 a licensed physician, dentist, podiatrist or chiropractor within the
21 scope of their respective practices.

22 Notwithstanding the provisions of P.L.2009, c.56 (C.45:2C-
23 19 et al.), acupuncture treatment shall not be reimbursable as
24 medical expense benefits pursuant to this subsection unless
25 rendered by a licensed acupuncturist pursuant to a referral from a
26 licensed physician within the scope of the physician's practice.

27 b. Income continuation benefits. The payment of the loss of
28 income of an income producer as a result of bodily injury disability,
29 subject to a maximum weekly payment of \$100. Such sum shall be
30 payable during the life of the injured person and shall be subject to
31 an amount or limit of \$5,200, on account of injury to any one
32 person in any one accident, except that in no case shall income
33 continuation benefits exceed the net income normally earned during
34 the period in which the benefits are payable.

35 c. Essential services benefits. Payment of essential services
36 benefits to an injured person shall be made in reimbursement of
37 necessary and reasonable expenses incurred for such substitute
38 essential services ordinarily performed by the injured person for
39 himself, his family and members of the family residing in the
40 household, subject to an amount or limit of \$12 per day. Such
41 benefits shall be payable during the life of the injured person and
42 shall be subject to an amount or limit of \$4,380, on account of
43 injury to any one person in any one accident.

44 d. Death benefits. In the event of the death of an income
45 producer as a result of injuries sustained in an accident entitling
46 such person to benefits under this section, the maximum amount of
47 benefits which could have been paid to the income producer, but for

1 his death, under subsection b. of this section shall be paid to the
2 surviving spouse, or in the event there is no surviving spouse, then
3 to the surviving children, and in the event there are no surviving
4 spouse or surviving children, then to the estate of the income
5 producer.

6 In the event of the death of one performing essential services as a
7 result of injuries sustained in an accident entitling such person to
8 benefits under subsection c. of this section, the maximum amount of
9 benefits which could have been paid to such person, under
10 subsection c., shall be paid to the person incurring the expense of
11 providing such essential services.

12 e. Funeral expenses benefits. All reasonable funeral, burial
13 and cremation expenses, subject to a maximum benefit of \$1,000,
14 on account of the death of any one person in any one accident shall
15 be payable to the decedent's estate.

16 Benefits payable under this section shall:

17 (1) Be subject to any option elected by the policyholder
18 pursuant to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

19 (2) Not be assignable, except to a provider of service benefits
20 under this section in accordance with policy terms approved by the
21 commissioner, nor subject to levy, execution, attachment or other
22 process for satisfaction of debts.

23 Medical expense benefit payments shall be subject to any
24 deductible and any copayment which may be established as
25 provided in the policy. Upon the request of the commissioner or
26 any party to a claim for benefits or payment for services rendered, a
27 provider shall present adequate proof that any deductible or
28 copayment related to that claim has not been waived or discharged
29 by the provider.

30 No insurer or health provider providing benefits to an insured
31 shall have a right of subrogation for the amount of benefits paid
32 pursuant to any deductible or copayment under this section.

33 (cf: P.L.2009, c.56, s.18)

34
35 10. Section 14 of P.L.1985, c.520 (C.39:6A-4.5) is amended to
36 read as follows:

37 14. a. Any person who, at the time of an automobile accident
38 resulting in injuries to that person, is required but fails to maintain
39 medical expense benefits coverage mandated by section 4 of
40 P.L.1972, c.70 (C.39:6A-4) **】, section 4 of P.L.1998, c.21**
41 **(C.39:6A-3.1)】** or section 45 of P.L.2003, c.89 (C.39:6A-3.3) shall
42 have no cause of action for recovery of economic or noneconomic
43 loss sustained as a result of an accident while operating an
44 uninsured automobile.

45 b. Any person who is convicted of, or pleads guilty to,
46 operating a motor vehicle in violation of R.S.39:4-50, section 2 of
47 P.L.1981, c.512 (C.39:4-50.4a), or a similar statute from any other

1 jurisdiction, in connection with an accident, shall have no cause of
2 action for recovery of economic or noneconomic loss sustained as a
3 result of the accident.

4 c. Any person acting with specific intent of causing injury to
5 himself or others in the operation or use of an automobile shall have
6 no cause of action for recovery of economic or noneconomic loss
7 sustained as a result of an accident arising from such conduct.
8 (cf: P.L.2003, c.89, s.47)

9
10 11. Section 12 of P.L.1998, c.21 (C.39:6A-4.7) is amended to
11 read as follows:

12 12. The professional licensing boards governing health care
13 providers in the Division of Consumer Affairs shall promulgate,
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), a list of valid diagnostic tests to be used in
16 conjunction with the appropriate health care protocols in the
17 treatment of persons sustaining bodily injury and subject to
18 subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8). Inclusion
19 of a test on the list of valid diagnostic tests shall be based on
20 demonstrated medical value, and a level of general acceptance by
21 the relevant provider community and shall not be dependent for
22 results entirely upon subjective patient response. The initial lists
23 shall be promulgated within 180 days of the effective date of this
24 section and shall be revised from time to time as determined by the
25 respective boards to reflect new testing procedures and emerging
26 technologies enjoying a level of general acceptance within the
27 appropriate provider community. In updating its list, a board may
28 take action at a regularly scheduled meeting, notwithstanding the
29 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
30 after notice as provided herein. The professional boards,
31 individually or collectively, may enlist the services of a consulting
32 firm to assist in compiling and updating the list. The Commissioner
33 of Banking and Insurance may reimburse the boards for the cost of
34 the services of the consultant. The list of valid diagnostic tests,
35 once approved by the commissioner shall apply only to benefits
36 under section 4 of P.L.1972, c.70 (C.39:6A-4) [and section 4 of
37 P.L.1998, c.21 (C.39:6A-3.1)]. The board or boards hiring a
38 consultant shall not advertise for bids, as provided in sections 3 and
39 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9). Notwithstanding any
40 of the provisions of this section to the contrary, a diagnostic test
41 performed in an acute care facility, or extended care facility
42 recognized by Medicare, shall not be excluded from a list of valid
43 diagnostic tests promulgated pursuant to this section.

44 a. For the purposes of this section, "action" includes, but is not
45 limited to:

- 46 (1) the addition or deletion of a test to the list; or
47 (2) procedures and standards for the performance of a test.

1 "Action" shall not include the hearing and resolution of contested
2 cases, licensing matters, personnel matters or any other duties of a
3 professional licensing board.

4 b. Prior to the adoption of an action by the board, the board
5 shall forward the notice of intended action and a detailed
6 description of the intended action to the Office of Administrative
7 Law for publication in the New Jersey Register.

8 A copy of the text of the intended action shall be available in the
9 Division of Consumer Affairs in accordance with the provisions of
10 P.L.1963, c.73 (C.47:1A-1 et seq.).

11 c. The board may hold a public hearing on any intended action.

12 d. Whether or not a public hearing is held, the board shall
13 afford all interested persons an opportunity to comment in writing
14 on the intended action. Written comments shall be submitted to the
15 board within the time established by the board in the notice of
16 intended action, which time shall not be less than 10 calendar days
17 from the date of notice. The board shall give due consideration to
18 all comments received. A copy of the submissions shall be filed
19 with the Office of Administrative Law for publication in the New
20 Jersey Register.

21 e. The board may adopt the intended action immediately
22 following the expiration of the public comment period provided in
23 subsection d. of this section, or the hearing provided for in
24 subsection c. of this section, whichever date is later. The final
25 action adopted by the board shall be submitted for publication in the
26 New Jersey Register to the Office of Administrative Law, and shall
27 be effective on the date of the submission or such later date as the
28 board may establish.

29 f. Actions filed with the Office of Administrative Law
30 pursuant to this section shall be filed subject to the provisions of
31 subsections (a), (c), (d) and (e) of section 5 of P.L.1968, c.410
32 (C.52:14B-5).

33 g. Nothing in this section shall be construed to prohibit the
34 board from adopting any action pursuant to the provisions of the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
36 1 et seq.).

37 h. Nothing in this section shall be construed to prohibit the
38 Director of the Division of Consumer Affairs from adopting any
39 rule or regulation pursuant to the provisions of the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
41 (cf: P.L.1998, c.21, s.12)

42
43 12. Section 5 of P.L.1972, c.70 (C.39:6A-5) is amended to read
44 as follows:

45 5. Payment of personal injury protection coverage benefits.

46 a. An insurer may require written notice to be given as soon as
47 practicable after an accident involving an automobile with respect

1 to which the policy affords personal injury protection coverage
2 benefits payable under a standard automobile insurance policy
3 pursuant to section 4 of P.L.1972, c.70 (C.34:6A-4)【, medical
4 expense benefits payable under a basic automobile insurance policy
5 pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)】 or
6 emergency care medical expense benefits payable under a special
7 automobile insurance policy pursuant to section 45 of P.L.2003,
8 c.89 (C.39:6A-3.3). In the case of claims for medical expense
9 benefits under 【any】 either of those policies, written notice shall be
10 provided to the insurer by the treating health care provider no later
11 than 21 days following the commencement of treatment.
12 Notification required under this section shall be made in accordance
13 with regulations adopted by the Commissioner of Banking and
14 Insurance and on a form prescribed by the Commissioner of
15 Banking and Insurance. Within a reasonable time after receiving
16 notification required pursuant to this act, the insurer shall confirm
17 to the treating health care provider that its policy affords the
18 claimant personal injury protection coverage benefits as required by
19 section 4 of P.L.1972, c.70 (C.39:6A-4)【, medical expense benefits
20 pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)】 or
21 emergency care medical expense benefits payable under a special
22 automobile insurance policy pursuant to section 45 of P.L.2003,
23 c.89 (C.39:6A-3.3).

24 b. For the purposes of this section, notification shall be deemed
25 to be met if a treating health care provider submits a bill or invoice
26 to the insurer for reimbursement of services within 21 days of the
27 commencement of treatment.

28 c. In the event that notification is not made by the treating
29 health care provider within 21 days following the commencement of
30 treatment, the insurer shall reserve the right to deny, in accordance
31 with regulations established by the Commissioner of Banking and
32 Insurance, payment of the claim and the treating health care
33 provider shall be prohibited from seeking any payment directly
34 from the insured. In establishing the standards for denial of
35 payment, the Commissioner of Banking and Insurance shall
36 consider the length of delay in notification, the severity of the
37 treating health care provider's failure to comply with the
38 notification provisions of this act based upon the potential adverse
39 impact to the public and whether or not the provider has engaged in
40 a pattern of noncompliance with the notification provisions of this
41 act. In establishing the regulations necessary to effectuate the
42 purposes of this subsection, the Commissioner of Banking and
43 Insurance shall define specific instances where the sanctions
44 permitted pursuant to this subsection shall not apply. Such
45 instances may include, but not be limited to, a treating medical
46 provider's failure to provide notification to the insurer as required

1 by this act due to the insured's medical condition during the time
2 period within which notification is required.

3 d. A health care provider who fails to notify the insurer within
4 21 days and whose claim for payment has been denied by the
5 insurer pursuant to the standards established by the Commissioner
6 of Banking and Insurance may, in the discretion of a judge of the
7 Superior Court, be permitted to refile such claim provided that the
8 insurer has not been substantially prejudiced thereby. Application
9 to the court for permission to refile a claim shall be made within 14
10 days of notification of denial of payment and shall be made upon
11 motion based upon affidavits showing sufficient reasons for the
12 failure to notify the insurer within the period of time prescribed by
13 this act.

14 e. (Deleted by amendment, P.L.1998, c.21.)

15 f. In instances when multiple treating health care providers
16 render services in connection with emergency care, the
17 Commissioner of Banking and Insurance shall designate, through
18 regulation, a process whereby notification by one treating health
19 care provider to the insurer shall be deemed to meet the notification
20 requirements of all the treating health care providers who render
21 services in connection with emergency care.

22 g. Personal injury protection coverage benefits pursuant to
23 section 4 of P.L.1972, c.70 (C.39:6A-4) [and medical expense
24 benefits pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)] or
25 emergency care medical expense benefits payable under a special
26 automobile insurance policy pursuant to section 45 of P.L.2003,
27 c.89 (C.39:6A-3.3) shall be overdue if not paid within 60 days after
28 the insurer is furnished written notice of the fact of a covered loss
29 and of the amount of same. If such written notice is not furnished
30 to the insurer as to the entire claim, any partial amount supported by
31 written notice is overdue if not paid within 60 days after such
32 written notice is furnished to the insurer. Any part or all of the
33 remainder of the claim that is subsequently supported by written
34 notice is overdue if not paid within 60 days after such written notice
35 is furnished to the insurer; provided, however, that any payment
36 shall not be deemed overdue where, within 60 days of receipt of
37 notice of the claim, the insurer notifies the claimant or his
38 representative in writing of the denial of the claim or the need for
39 additional time, not to exceed 45 days, to investigate the claim, and
40 states the reasons therefor. The written notice stating the need for
41 additional time to investigate the claim shall set forth the number of
42 the insurance policy against which the claim is made, the claim
43 number, the address of the office handling the claim and a
44 telephone number, which is toll free or can be called collect, or is
45 within the claimant's area code. Written notice to the organization
46 administering dispute resolution pursuant to sections 24 and 25 of
47 P.L.1998, c.21 (C.39:6A-5.1 and C.39:6A-5.2) shall satisfy the

1 notice request for additional time to investigate a claim pursuant to
2 this subsection. For the purpose of determining interest charges in
3 the event the injured party prevails in a subsequent proceeding
4 where an insurer has elected a 45-day extension pursuant to this
5 subsection, payment shall be considered overdue at the expiration
6 of the 45-day period or, if the injured person was required to
7 provide additional information to the insurer, within 10 business
8 days following receipt by the insurer of all the information
9 requested by it, whichever is later.

10 For the purpose of calculating the extent to which any benefits
11 are overdue, payment shall be treated as being made on the date a
12 draft or other valid instrument which is equivalent to payment was
13 placed in the United States mail in a properly addressed, postpaid
14 envelope, or, if not so posted, on the date of delivery.

15 h. All overdue payments shall bear interest at the percentage of
16 interest prescribed in the Rules Governing the Courts of the State of
17 New Jersey for judgments, awards and orders for the payment of
18 money.

19 i. All automobile insurers and the Unsatisfied Claim and
20 Judgment Fund shall provide any claimant with the option of
21 submitting a dispute under this section to dispute resolution
22 pursuant to sections 24 and 25 of P.L.1998, c.21 (C.39:6A-5.1 and
23 C.39:6A-5.2).

24 (cf: P.L.2003, c.89, s.48)

25
26 13. Section 24 of P.L.1998, c.21 (C.39:6A-5.1) is amended to
27 read as follows:

28 24. a. Any dispute regarding the recovery of medical expense
29 benefits or other benefits provided under personal injury protection
30 coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) **],**
31 section 4 of P.L.1998, c.21 (C.39:6A-3.1)**]** or section 45 of
32 P.L.2003, c.89 (C.39:6A-3.3) arising out of the operation,
33 ownership, maintenance or use of an automobile may be submitted
34 to dispute resolution on the initiative of any party to the dispute, as
35 hereinafter provided.

36 b. The Commissioner of Banking and Insurance shall designate
37 an organization, and for that purpose may, at his discretion,
38 advertise for proposals, for the purpose of administering dispute
39 resolution proceedings regarding medical expense benefits and
40 other benefits provided under personal injury protection pursuant to
41 section 4 of P.L.1972, c.70 (C.39:6A-4) **],** medical expense benefits
42 coverage pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)**]** or
43 emergency care medical expense benefits pursuant to section 45 of
44 P.L.2003, c.89 (C.39:6A-3.3). The commissioner shall promulgate
45 rules and regulations with respect to the conduct of the dispute
46 resolution proceedings. The organization administering dispute
47 resolution shall utilize qualified professionals who serve on a full-

1 time basis and who meet standards of competency established by
2 the commissioner. The commissioner shall establish standards of
3 performance for the organization to ensure the independence and
4 fairness of the review process, including, but not limited to,
5 standards relative to the professional qualifications of the
6 professionals presiding over the dispute resolution process, and
7 standards to ensure that no conflict of interest exists which would
8 prevent the professional from performing his duties in an impartial
9 manner. The standards of performance shall include a requirement
10 that the organization establish an advisory council composed of
11 parties who are users of the dispute resolution mechanism
12 established herein. The commissioner may contract with a
13 consulting firm for the formulation of the standards of performance
14 of the organization and establishment of qualifications for the
15 persons who are to conduct the dispute resolution proceedings. The
16 commissioner shall not advertise for bids for the consulting firm, as
17 provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and
18 52:34-9). Compensation to the dispute resolution professionals
19 shall be established by the commissioner and adjusted from time to
20 time as appropriate, with the approval of the commissioner. In no
21 case shall compensation be paid on a contingency basis. The
22 organization shall establish a dispute resolution plan, which shall
23 include procedures and rules governing the dispute resolution
24 process and provisions for monitoring the dispute resolution process
25 to ensure adherence to the standards of performance established by
26 the commissioner. The plan, and any amendments thereto, shall be
27 subject to the approval of the commissioner.

28 c. Dispute resolution proceedings under this section **[24]** and
29 section 25 of **[this amendatory and supplementary act]** P.L.1998,
30 c.21 (C.39:6A-5.2) shall include disputes arising regarding medical
31 expense benefits provided under subsection a. of section 4 of
32 P.L.1972, c.70 (C.39:6A-4) **[**, section 4 of P.L.1998, c.21
33 (C.39:6A-3.1)**]** or section 45 of P.L.2003, c.89 (C.39:6A-3.3),
34 benefits provided pursuant to subsection b., c., d. or e. of section 4
35 of P.L.1972, c.70 (C.39:6A-4), subsection b., c., d. or e. of section 7
36 of P.L.1972, c.198 (C.39:6-86.1), and disputes as to additional first
37 party coverage benefits required to be offered pursuant to section 10
38 of P.L.1972, c.70 (C.39:6A-10). Disputes involving medical
39 expense benefits may include, but not necessarily be limited to,
40 matters concerning: (1) interpretation of the insurance contract; (2)
41 whether the treatment or health care service which is the subject of
42 the dispute resolution proceeding is in accordance with the
43 provisions of section 4 of P.L.1972, c.70 (C.39:6A-4) **[**, section 4
44 of P.L.1998, c.21 (C.39:6A-3.1)**]** or section 45 of P.L.2003, c.89
45 (C.39:6A-3.3) or the terms of the policy; (3) the eligibility of the
46 treatment or service for compensation; (4) the eligibility of the
47 provider performing the treatment or service to be compensated

1 under the terms of the policy or under regulations promulgated by
2 the commissioner, including whether the person is licensed or
3 certified to perform such treatment; (5) whether the disputed
4 medical treatment was actually performed; (6) whether diagnostic
5 tests performed in connection with the treatment are those
6 recognized by the commissioner; (7) the necessity or
7 appropriateness of consultations by other health care providers; (8)
8 disputes involving application of and adherence to fee schedules
9 promulgated by the commissioner; and (9) whether the treatment
10 performed is reasonable, necessary, and compatible with the
11 protocols provided for pursuant to P.L.1998, c.21 (C.39:6A-1.1 et
12 al.). The dispute resolution professionals may review the entire
13 claims file of the insurer, subject to any confidentiality requirement
14 established pursuant to State or federal law. All decisions of the
15 dispute resolution professional shall be in writing, in a form
16 prescribed by the commissioner, shall state the issues in dispute, the
17 findings and conclusions on which the decision is based, and shall
18 be signed by the dispute resolution professional. All decisions of a
19 dispute resolution professional shall be binding. The dispute
20 resolution organization shall provide for the retention of all
21 documents used in dispute resolution proceedings under this section
22 and section 25 of **【this amendatory and supplementary act】**
23 P.L.1998, c.21 (C.39:6A-5.2), including the written decision, for a
24 period of at least five years, in a form approved by the
25 commissioner, or for such additional time as may be established by
26 the commissioner. The written decisions of the dispute resolution
27 professional shall be forwarded to the commissioner, who shall
28 establish a record of the proceedings conducted under the dispute
29 resolution procedure, which shall be accessible to the public and
30 may be used as guidance in subsequent dispute resolution
31 proceedings.

32 d. With respect to disputes as to the diagnosis, the medical
33 necessity of the treatment or diagnostic test administered to the
34 injured person, whether the injury is causally related to the insured
35 event or is the product of a preexisting condition, or disputes as to
36 the appropriateness of the protocols utilized by the provider, the
37 dispute resolution professional shall, either at his option or at the
38 request of any party to the dispute, refer the matter to a medical
39 review organization for a determination. The determination of the
40 medical review organization on the dispute referred shall be
41 presumed to be correct by the dispute resolution professional, which
42 presumption may be rebutted by a preponderance of the evidence.
43 Should the dispute resolution professional find that the decision of
44 the medical review organization is not correct, the reasons
45 supporting that finding shall be set forth in the dispute resolution
46 professional's written decision.

1 e. Any person submitting a matter to the dispute resolution
2 process established herein may submit for review all or a portion of
3 a disputed treatment or treatments or a dispute regarding a
4 diagnostic test or tests or a dispute regarding the providing of
5 services or durable medical goods. Any portion of a treatment or
6 diagnostic test or service which is not under review shall be
7 reimbursed in accordance with the provisions of section 5 of
8 P.L.1972, c.70 (C.39:6A-5). If the dispute resolution proceeding
9 results in a determination that all or part of a treatment or
10 treatments, diagnostic test or tests or service performed, or durable
11 medical goods provided are medically necessary and appropriate,
12 reimbursement shall be made with interest payable in accordance
13 with the provisions of section 5 of P.L.1972, c.70 (C.39:6A-5).
14 (cf: P.L.2003, c.89, s.49)

15
16 14. Section 6 of P.L.1972, c.70 (C.39:6A-6) is amended to read
17 as follows:

18 6. Collateral Source. The benefits provided in sections 4 and 10
19 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **】, the medical expense**
20 **benefits provided in section 4 of P.L.1998, c.21 (C.39:6A-3.1)】** and
21 the benefits provided in section 45 of P.L.2003, c.89 (C.39:6A-3.3)
22 shall be payable as loss accrues, upon written notice of such loss
23 and without regard to collateral sources, except that benefits,
24 collectible under workers' compensation insurance, employees'
25 temporary disability benefit statutes, Medicare provided under
26 federal law, and benefits, in fact collected, that are provided under
27 federal law to active and retired military personnel shall be
28 deducted from the benefits collectible under sections 4 and 10 of
29 P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **】, the medical expense**
30 **benefits provided in section 4 of P.L.1998, c.21 (C.39:6A-3.1)】** and
31 the benefits provided in section 45 of P.L.2003, c.89 (C.39:6A-3.3).

32 If an insurer has paid those benefits and the insured is entitled to,
33 but has failed to apply for, workers' compensation benefits or
34 employees' temporary disability benefits, the insurer may
35 immediately apply to the provider of workers' compensation
36 benefits or of employees' temporary disability benefits for a
37 reimbursement of any benefits pursuant to sections 4 and 10 of
38 P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **】, medical expense**
39 **benefits pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)】** or
40 benefits pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3) it
41 has paid.

42 (cf: P.L.2003, c.89, s.50)

43
44 15. Section 7 of P.L.1972, c.70 (C.39:6A-7) is amended to read
45 as follows:

46 7. Exclusions. a. Insurers may exclude a person from benefits
47 under sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-

10) **【**, medical expense benefits provided in section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** and benefits provided in section 45 of P.L.2003, c.89 (C.39:6A-3.3) if that person's conduct contributed to his personal injuries or death occurred in any of the following ways:

(1) while committing a high misdemeanor or felony or seeking to avoid lawful apprehension or arrest by a police officer; or

(2) while acting with specific intent of causing injury or damage to himself or others.

b. An insurer may also exclude from the benefits provided in sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **【**, the medical expense benefits provided in section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** and benefits provided in section 45 of P.L.2003, c.89 (C.39:6A-3.3) any person having incurred injuries or death, who, at the time of the accident:

(1) was the owner or registrant of an automobile registered or principally garaged in this State that was being operated without personal injury protection coverage;

(2) was occupying or operating an automobile without the permission of the owner or other named insured;

(3) was a person other than the named insured or a member of the named insured's family residing in his household, if that person is entitled to coverage under section 4 or section 10 of P.L.1972, c.70 (C.39:6A-4 or 39:6A-10), or both, **【**section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** or section 45 of P.L.2003, c.89 (C.39:6A-3.3), as a named insured or member of the named insured's family residing in his household under the terms of another policy; or

(4) was a member of the named insured's family residing in the named insured's household, if that person is entitled to coverage under section 4 or section 10 of P.L.1972, c.70 (C.39:6A-4 or 39:6A-10), or both, **【**section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** or section 45 of P.L.2003, c.89 (C.39:6A-3.3) as a named insured under the terms of another policy.

(cf: P.L.2003, c.89, s.51)

16. Section 8 of P.L.1972, c.70 (C.39:6A-8) is amended to read as follows:

8. Tort exemption; limitation on the right to noneconomic loss.

One of the following two tort options shall be elected, in accordance with section 14.1 of P.L.1983, c.362 (C.39:6A-8.1), by any named insured required to maintain personal injury protection coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4):

a. Limitation on lawsuit option. Every owner, registrant, operator or occupant of an automobile to which section 4 of P.L.1972, c.70 (C.39:6A-4), personal injury protection coverage, **【**section 4 of P.L.1998, c.21 (C.39:6A-3.1), medical expense benefits coverage,**】** or section 45 of P.L.2003, c.89 (C.39:6A-3.3)

1 regardless of fault, applies, and every person or organization legally
2 responsible for his acts or omissions, is hereby exempted from tort
3 liability for noneconomic loss to a person who is subject to this
4 subsection and who is either a person who is required to maintain
5 personal injury protection coverage pursuant to section 4 of
6 P.L.1972, c.70 (C.39:6A-4), **【**medical expense benefits pursuant to
7 section 4 of P.L.1998, c.21 (C.39:6A-3.1) or**】** benefits pursuant to
8 section 45 of P.L.2003, c.89 (C.39:6A-3.3), or is a person who has a
9 right to receive benefits under section 4 of P.L.1972, c.70
10 (C.39:6A-4), **【**section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** or section
11 45 of P.L.2003, c.89 (C.39:6A-3.3), as a result of bodily injury,
12 arising out of the ownership, operation, maintenance or use of such
13 automobile in this State, unless that person has sustained a bodily
14 injury which results in death; dismemberment; significant
15 disfigurement or significant scarring; displaced fractures; loss of a
16 fetus; or a permanent injury within a reasonable degree of medical
17 probability, other than scarring or disfigurement. An injury shall be
18 considered permanent when the body part or organ, or both, has not
19 healed to function normally and will not heal to function normally
20 with further medical treatment. For the purposes of this subsection,
21 "physician" means a physician as defined in section 5 of P.L.1939,
22 c.115 (C.45:9-5.1).

23 In order to satisfy the tort option provisions of this subsection,
24 the plaintiff shall, within 60 days following the date of the answer
25 to the complaint by the defendant, provide the defendant with a
26 certification from the licensed treating physician or a board-
27 certified licensed physician to whom the plaintiff was referred by
28 the treating physician. The certification shall state, under penalty of
29 perjury, that the plaintiff has sustained an injury described above.
30 The certification shall be based on and refer to objective clinical
31 evidence, which may include medical testing, except that any such
32 testing shall be performed in accordance with medical protocols
33 pursuant to subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4)
34 and the use of valid diagnostic tests administered in accordance
35 with section 12 of P.L.1998, c.21 (C.39:6A-4.7). Such testing may
36 not be experimental in nature or dependent entirely upon subjective
37 patient response. The court may grant no more than one additional
38 period not to exceed 60 days to file the certification pursuant to this
39 subsection upon a finding of good cause.

40 A person is guilty of a crime of the fourth degree if that person
41 purposefully or knowingly makes, or causes to be made, a false,
42 fictitious, fraudulent, or misleading statement of material fact in, or
43 omits a material fact from, or causes a material fact to be omitted
44 from, any certification filed pursuant to this subsection.
45 Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1,
46 the court shall deal with a person who has been convicted of a
47 violation of this subsection by imposing a sentence of imprisonment

1 unless, having regard to the character and condition of the person,
2 the court is of the opinion that imprisonment would be a serious
3 injustice which overrides the need to deter such conduct by others.
4 If the court imposes a noncustodial or probationary sentence, such
5 sentence shall not become final for 10 days in order to permit the
6 appeal of such sentence by the prosecution. Nothing in this
7 subsection a. shall preclude an indictment and conviction for any
8 other offense defined by the laws of this State. In addition, any
9 professional license held by the person shall be forfeited according
10 to the procedures established by section 4 of P.L.1997, c.353
11 (C.2C:51-5); or

12 b. No limitation on lawsuit option. As an alternative to the
13 basic tort option specified in subsection a. of this section, every
14 owner, registrant, operator, or occupant of an automobile to which
15 section 4 of P.L.1972, c.70 (C.39:6A-4), personal injury protection
16 coverage, **【**section 4 of P.L.1998, c.21 (C.39:6A-3.1), medical
17 expense benefits coverage,**】** or section 45 of P.L.2003, c.89
18 (C.39:6A-3.3), regardless of fault, applies, and every person or
19 organization legally responsible for his acts or omissions, shall be
20 liable for noneconomic loss to a person who is subject to this
21 subsection and who is either a person who is required to maintain
22 the coverage mandated by P.L.1972, c.70 (C.39:6A-1 et seq.) or is a
23 person who has a right to receive benefits under section 4 of that act
24 (C.39:6A-4), as a result of bodily injury, arising out of the
25 ownership, operation, maintenance or use of such automobile in this
26 State.

27 The tort option provisions of subsection b. of this section shall
28 also apply to the right to recover for noneconomic loss of any
29 person eligible for benefits pursuant to section 4 of P.L.1972, c.70
30 (C.39:6A-4), **【**section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** or section
31 45 of P.L.2003, c.89 (C.39:6A-3.3) but who is not required to
32 maintain personal injury protection coverage pursuant to section 4
33 of P.L.1972, c.70 (C.39:6A-4) **【**, medical expense benefits coverage
34 pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** or benefits
35 pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3) and is not an
36 immediate family member, as defined in section 14.1 of P.L.1983,
37 c.362 (C.39:6A-8.1), under a standard automobile insurance policy
38 **【**or basic automobile insurance policy**】**.

39 The tort option provisions of subsection a. of this section shall
40 also apply to any person subject to section 14 of P.L.1985, c.520
41 (C.39:6A-4.5) and to every named insured and any other person to
42 whom the benefits of the special automobile insurance policy
43 provided in section 45 of P.L.2003, c.89 (C.39:6A-3.3) **【**or the
44 medical expense benefits of the basic automobile insurance policy
45 pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** apply
46 **【**whether or not the person has elected the optional \$10,000 liability

1 coverage insuring against loss resulting from liability imposed by
2 law for bodily injury or death provided for in subsection c. of
3 section 4 of P.L.1998, c.21 (C.39:6A-3.1)】.

4 The tort option provisions of subsections a. and b. of this section
5 as provided in this 1998 amendatory and supplementary act shall
6 apply to automobile insurance policies issued or renewed on or after
7 the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) and as
8 otherwise provided by law.

9 (cf: P.L.2003, c.89, s.52)

10
11 17. Section 20 of P.L.1983, c.362 (C.39:6A-9.1) is amended to
12 read as follows:

13 20. a. An insurer, health maintenance organization or
14 governmental agency paying benefits pursuant to subsection a., b.
15 or d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3), personal
16 injury protection benefits in accordance with section 4 or section 10
17 of P.L.1972, c.70 (C.39:6A-4 or 39:6A-10) 【, medical expense
18 benefits pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1)】 or
19 benefits pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), as
20 a result of an accident occurring within this State, shall, within two
21 years of the filing of the claim, have the right to recover the amount
22 of payments from any tortfeasor who was not, at the time of the
23 accident, required to maintain personal injury protection or medical
24 expense benefits coverage, other than for pedestrians, under the
25 laws of this State, including personal injury protection coverage
26 required to be provided in accordance with section 18 of P.L.1985,
27 c.520 (C.17:28-1.4), or although required did not maintain personal
28 injury protection or medical expense benefits coverage at the time
29 of the accident.

30 b. In the case of an accident occurring in this State involving
31 an insured tortfeasor, the determination as to whether an insurer,
32 health maintenance organization or governmental agency is legally
33 entitled to recover the amount of payments and the amount of
34 recovery, including the costs of processing benefit claims and
35 enforcing rights granted under this section, shall be made against
36 the insurer of the tortfeasor, and shall be by agreement of the
37 involved parties or, upon failing to agree, by arbitration. Any
38 recovery by an insurer, health maintenance organization or
39 governmental agency pursuant to this subsection shall be subject to
40 any claim against the insured tortfeasor's insurer by the injured
41 party and shall be paid only after satisfaction of that claim, up to the
42 limits of the insured tortfeasor's motor vehicle or other liability
43 insurance policy.

44 (cf: P.L.2011, c.11, s.1)

45
46 18. Section 11 of P.L.1972, c.70 (C.39:6A-11) is amended to
47 read as follows:

1 11. Contribution among insurers. If two or more insurers are
2 liable to pay benefits under sections 4 and 10 of P.L.1972, c.70
3 (C.39:6A-4 and 39:6A-10) under a standard automobile insurance
4 policy for the same bodily injury, or death, of any one person, the
5 maximum amount payable shall be as specified in those sections 4
6 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **】, section 4 of**
7 P.L.1998, c.21 (C.39:6A-3.1)**】** and section 45 of P.L.2003, c.89
8 (C.39:6A-3.3), respectively, if additional first party coverage
9 applies and any insurer paying the benefits shall be entitled to
10 recover from each of the other insurers, only by inter-company
11 arbitration or inter-company agreement, an equitable pro-rata share
12 of the benefits paid.
13 (cf: P.L.2003, c.89, s.54)

15 19. Section 12 of P.L.1972, c.70 (C.39:6A-12) is amended to
16 read as follows:

17 12. Inadmissibility of evidence of losses collectible under
18 personal injury protection coverage. Except as may be required in
19 an action brought pursuant to section 20 of P.L.1983, c.362
20 (C.39:6A-9.1), evidence of the amounts collectible or paid under a
21 standard automobile insurance policy pursuant to sections 4 and 10
22 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10), **【**amounts collectible
23 or paid for medical expense benefits under a basic automobile
24 insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-
25 3.1)**】** and amounts collectible or paid for benefits under a special
26 automobile insurance policy pursuant to section 45 of P.L.2003,
27 c.89 (C.39:6A-3.3), to an injured person, including the amounts of
28 any deductibles, copayments or exclusions, including exclusions
29 pursuant to subsection d. of section 13 of P.L.1983, c.362
30 (C.39:6A-4.3), otherwise compensated is inadmissible in a civil
31 action for recovery of damages for bodily injury by such injured
32 person.

33 The court shall instruct the jury that, in arriving at a verdict as to
34 the amount of the damages for noneconomic loss to be recovered by
35 the injured person, the jury shall not speculate as to the amount of
36 the medical expense benefits paid or payable by an automobile
37 insurer under personal injury protection coverage payable under a
38 standard automobile insurance policy pursuant to sections 4 and 10
39 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **】, medical expense**
40 benefits under a basic automobile insurance policy pursuant to
41 section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** or benefits under a
42 special automobile insurance policy pursuant to section 45 of
43 P.L.2003, c.89 (C.39:6A-3.3) to the injured person, nor shall they
44 speculate as to the amount of benefits paid or payable by a health
45 insurer, health maintenance organization or governmental agency
46 under subsection d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3).

1 Nothing in this section shall be construed to limit the right of
2 recovery, against the tortfeasor, of uncompensated economic loss as
3 defined by subsection k. of section 2 of P.L.1972, c.70 (C.39:6A-2),
4 including all unreimbursed medical expenses not covered by the
5 personal injury protection limits applicable to the injured party and
6 sustained by the injured party, including the value of any
7 deductibles and copayments incurred through a driver's secondary
8 insurance coverage and medical liens asserted by a health insurance
9 company related to the treatment of injuries sustained in the
10 accident. Medical expenses shall be subject to the current
11 automobile medical fee schedules established pursuant to section 10
12 of P.L.1988, c.119 (C.39:6A-4.6). In any case in which the
13 recovery is for medical expenses only, a prevailing claimant shall
14 be entitled to reasonable and necessary attorneys' fees incurred by
15 the prevailing claimant in the collection of such medical expenses.
16 (cf: P.L.2019, c.245, s.1)

17
18 20. Section 13 of P.L.1972, c.70 (C.39:6A-13) is amended to
19 read as follows:

20 13. Discovery of facts as to personal injury protection coverage.
21 The following apply to personal injury protection coverage benefits
22 payable under a standard automobile insurance policy pursuant to
23 sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **],**
24 medical expense benefits payable under a basic automobile
25 insurance policy pursuant to section 4 of P.L.1998, c.21 (C.39:6A-
26 3.1)**]** and benefits payable under a special automobile insurance
27 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3):

28 a. Every employer shall, if a request is made by an insurer or
29 the Unsatisfied Claim and Judgment Fund providing personal injury
30 protection benefits under a standard automobile insurance policy
31 **[or medical expense benefits payable under a basic automobile**
32 **insurance policy]** against whom a claim has been made, furnish
33 forthwith, in a form approved by the Commissioner of Banking and
34 Insurance, a signed statement of the lost earnings since the date of
35 the bodily injury and for a reasonable period before the injury, of
36 the person upon whose injury the claim is based.

37 b. Every physician, hospital, or other health care provider
38 providing, before and after the bodily injury upon which a claim for
39 personal injury protection benefits or medical expense benefits is
40 based, any products, services or accommodations in relation to such
41 bodily injury or any other injury, or in relation to a condition
42 claimed to be connected with such bodily injury or any other injury,
43 shall, if requested to do so by the insurer or the Unsatisfied Claim
44 and Judgment Fund against whom the claim has been made, furnish
45 forthwith a written report of the history, condition, treatment, dates
46 and costs of such treatment of the injured person, and produce
47 forthwith and permit the inspection and copying of his or its records

1 regarding such history, condition, treatment dates and costs of
2 treatment. The person requesting such records shall pay all
3 reasonable costs connected therewith.

4 c. The injured person shall be furnished upon demand a copy
5 of all information obtained by the insurer or the Unsatisfied Claim
6 and Judgment Fund under the provisions of this section, and shall
7 pay a reasonable charge, if required by the insurer and the
8 Unsatisfied Claim and Judgment Fund.

9 d. Whenever the mental or physical condition of an injured
10 person covered by personal injury protection under a standard
11 automobile insurance policy **【or medical expense benefits under a**
12 **basic automobile insurance policy】** is material to any claim that has
13 been or may be made for such past or future personal injury
14 protection benefits or medical expense benefits, such person shall,
15 upon request of an insurer or the Unsatisfied Claim and Judgment
16 Fund submit to mental or physical examination conducted by a
17 health care provider licensed in this State in the same profession or
18 specialty as the health care provider whose services are subject to
19 review under this section and who is located within a reasonable
20 proximity to the injured person's residence. The injured person
21 shall provide or make available to the provider any pertinent
22 medical records or medical history that the provider deems
23 necessary to the examination. The costs of any examinations
24 requested by an insurer or the Unsatisfied Claim and Judgment
25 Fund shall be borne entirely by whomever makes such request.
26 Such examination shall be conducted within the municipality of
27 residence of the injured person. If there is no qualified health care
28 provider to conduct the examination within the municipality of
29 residence of the injured person, then such examination shall be
30 conducted in an area of the closest proximity to the injured person's
31 residence. Insurers providing personal injury protection coverage
32 under a standard automobile insurance policy **【or medical expense**
33 **benefits under a basic automobile insurance policy】** are authorized
34 to include reasonable provisions requiring those claiming personal
35 injury protection coverage benefits **【or medical expense benefits】**
36 to submit to mental or physical examination as requested by an
37 insurer or the Unsatisfied Claim and Judgment Fund pursuant to the
38 provisions of this section. Failure to submit to a mental or physical
39 examination requested by an insurer or the Unsatisfied Claim and
40 Judgment Fund pursuant to the provisions of this section shall
41 subject the injured person to certain limitations in coverage as
42 specified in regulations promulgated by the commissioner.

43 e. If requested by the person examined, a party causing an
44 examination to be made, shall deliver to him a copy of every written
45 report concerning the examination rendered by an examining health
46 care provider, at least one of which reports must set out his findings
47 and conclusions in detail. After such request and delivery, the party

1 causing the examination to be made is entitled upon request to
2 receive from the person examined every written report available to
3 him, or his representative, concerning any examination, previously
4 or thereafter made of the same mental or physical condition.

5 f. The injured person, upon reasonable request by the insurer
6 or the Unsatisfied Claim and Judgment Fund, shall sign all forms,
7 authorizations or releases for information, approved by the
8 Commissioner of Banking and Insurance, which may be necessary
9 to the discovery of the above facts, in order to reasonably prove the
10 injured person's losses.

11 g. In the event of any dispute regarding an insurer's or the
12 Unsatisfied Claim and Judgment Fund's or an injured person's right
13 as to the discovery of facts about the injured person's earnings or
14 about his history, condition, treatment, dates and costs of such
15 treatment, or the submission of such injured person to a mental or
16 physical examination subject to the provisions of this section, the
17 insurer, Unsatisfied Claim and Judgment Fund or the injured person
18 may petition a court of competent jurisdiction for an order resolving
19 the dispute and protecting the rights of all parties. The order may
20 be entered on motion for good cause shown giving notice to all
21 persons having an interest therein. Such court may protect against
22 annoyance, embarrassment or oppression and may as justice
23 requires, enter an order compelling or refusing discovery, or
24 specifying conditions of such discovery; the court may further order
25 the payment of costs and expenses of the proceeding, as justice
26 requires.

27 (cf: P.L.2003, c.89, s.56)

28

29 21. Section 11 of P.L.1972, c.203 (C.39:6A-13.1) is amended to
30 read as follows:

31 11. a. Every action for the payment of benefits payable under a
32 standard automobile insurance policy pursuant to sections 4 and 10
33 of P.L.1972, c.70 (C.39:6A-4 and 39:6A-10) **】, medical expense**
34 **benefits payable under a basic automobile insurance policy pursuant**
35 **to section 4 of P.L.1998, c.21 (C.39:6A-3.1)】** or benefits payable
36 under a special automobile insurance policy pursuant to section 45
37 of P.L.2003, c.89 (C.39:6A-3.3), except an action by a decedent's
38 estate, shall be commenced not later than two years after the injured
39 person or survivor suffers a loss or incurs an expense and either
40 knows or in the exercise of reasonable diligence should know that
41 the loss or expense was caused by the accident, or not later than
42 four years after the accident whichever is earlier, provided,
43 however, that if benefits have been paid before then an action for
44 further benefits may be commenced not later than two years after
45 the last payment of benefits.

46 b. Every action by a decedent's estate for the payment of
47 benefits provided under a standard automobile insurance policy

1 pursuant to sections 4 and 10 of P.L.1972, c.70 (C.39:6A-4 and
2 39:6A-10) **】, medical expense benefits provided under a basic**
3 automobile insurance policy pursuant to section 4 of P.L.1998, c.21
4 (C.39:6A-3.1)**】** or benefits payable under a special automobile
5 insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-
6 3.3), shall be commenced not later than two years after death or
7 four years after the accident from which death results, whichever is
8 earlier, provided, however, that if benefits had been paid to the
9 decedent prior to his death then an action may be commenced not
10 later than two years after his death or four years after the last
11 payment of benefits, whichever is earlier, provided, further, that if
12 the decedent's estate has received benefits before then an action for
13 further benefits shall be commenced not later than two years from
14 the last payment of benefits.

15 (cf: P.L.2003, c.89, s.57)

16
17 22. Section 15 of P.L.1972, c.70 (C.39:6A-15) is amended to
18 read as follows:

19 15. In any claim or action arising for benefits payable under a
20 standard automobile insurance policy under section 4 of P.L.1972,
21 c.70 (C.39:6A-4) **】, any claim or action arising for medical expense**
22 benefits payable under a basic automobile insurance policy under
23 section 4 of P.L.1998, c.21 (C.39:6A-3.1)**】** or any claim or action
24 arising for benefits payable under a special automobile insurance
25 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3)
26 wherein any person obtains or attempts to obtain from any other
27 person, insurance company or Unsatisfied Claim and Judgment
28 Fund any money or other thing of value by (1) falsely or
29 fraudulently representing that the person is entitled to the benefits;
30 (2) falsely and fraudulently making statements or presenting
31 documentation in order to obtain or attempt to obtain the benefits;
32 or (3) **【cooperates, conspires,】 cooperating, conspiring or otherwise**
33 **【acts】 acting** in concert with any person seeking to falsely or
34 fraudulently obtain, or attempt to obtain, the benefits, the person
35 may upon conviction be fined not more than \$5,000, or imprisoned
36 for not more than three years, or both, or in the event the sum
37 obtained or attempted to be obtained is not more than \$500, may
38 upon conviction, be fined not more than \$500, or imprisoned for not
39 more than six months, or both, as a disorderly person.

40 In addition to any penalties imposed by law, any person who is
41 either found by a court of competent jurisdiction to have violated
42 any provision of P.L.1983 c.320 (C.17:33A-1 et seq.) pertaining to
43 automobile insurance or been convicted of any violation of Title 2C
44 of the New Jersey Statutes arising out of automobile insurance
45 fraud based on a claim for damages arising out of a motor vehicle
46 accident shall not operate a motor vehicle over the highways of this

1 State for a period of one year from the date of judgment or
2 conviction.

3 (cf: P.L.2019, c.276, s.16)
4

5 23. Section 1 of P.L.1972, c.197 (C.39:6B-1) is amended to read
6 as follows:

7 1. a. Every owner or registered owner of a motor vehicle
8 registered or principally garaged in this State shall maintain motor
9 vehicle liability insurance coverage, under provisions approved by
10 the Commissioner of Banking and Insurance, insuring against loss
11 resulting from liability imposed by law for bodily injury, death and
12 property damage sustained by any person arising out of the
13 ownership, maintenance, operation or use of a motor vehicle
14 wherein such coverage shall be at least in: (1) an amount or limit of
15 ~~[\$15,000.00]~~ \$30,000, exclusive of interest and costs, on account
16 of injury to, or death of, one person, in any one accident; and (2) an
17 amount or limit, subject to such limit for any one person so injured
18 or killed, of ~~[\$30,000.00]~~ \$60,000, exclusive of interest and costs,
19 on account of injury to or death of, more than one person, in any
20 one accident; and (3) an amount or limit of ~~[\$5,000.00]~~ \$25,000,
21 exclusive of interest and costs, for damage to property in any one
22 accident.

23 b. ~~【Notwithstanding the provisions of subsection a. of this~~
24 ~~section, an owner or registered owner of an automobile, as defined~~
25 ~~in section 2 of P.L.1972, c.70 (C.39:6A-2), registered or primarily~~
26 ~~garaged in the State may satisfy the requirements of subsection a. of~~
27 ~~this section by maintaining a basic automobile insurance policy~~
28 ~~containing coverages provided pursuant to subsections a. and b. of~~
29 ~~section 4 of P.L.1998, c.21 (C.39:6A-3.1).】~~ (Deleted by
30 amendment, P.L. , c.) (pending before the Legislature as this
31 bill)

32 c. Notwithstanding the provisions of subsection a. of this
33 section, an owner or registered owner of an automobile, as defined
34 in section 2 of P.L.1972, c.70 (C.39:6A-2), registered or primarily
35 garaged in the State may satisfy the requirements of subsection a. of
36 this section by maintaining a special automobile insurance policy
37 containing coverages provided pursuant to subsection b. of section
38 45 of P.L.2003, c.89 (C.39:6A-3.3).

39 (cf: P.L.2003, c.89, s.60)
40

41 24. Section 4 of P.L.1998, c.21 (C.39:6A-3.1) is repealed.
42

43 25. This act shall take effect on the first day of the fourth month
44 after enactment and shall apply to insurance policies entered into on
45 or after that date.

STATEMENT

This bill increases certain minimum motor vehicle liability insurance requirements and abolishes the basic automobile insurance policy. Specifically, the bill increases the amount of liability insurance coverage that every owner of a motor vehicle registered or principally garaged in this State must maintain:

(1) from \$15,000 to \$30,000, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident;

(2) from \$30,000 to \$60,000, exclusive of interest and costs, on account of injury to or death of, more than one person, in any one accident; and

(3) from \$5,000 to \$25,000, exclusive of interest and costs, for damage to property in any one accident.

The bill provides these same limits with regard to automobile insurance under section 3 of P.L.1972, c.70 (C.39:6A-3) and motor vehicle liability insurance under section 1 of P.L.1972, c.197 (C. 39:6B-1) and section 2 of P.L.1968, c.385 (C.17:28-1.1). An automobile means a private passenger automobile. A motor vehicle includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

Thus, under the bill, all motor vehicles and private passenger automobile policies in the State, except those insured under the special policy, would be required to have bodily injury liability coverage of at least \$30,000 per person and \$60,000 per accident, and \$25,000 of liability coverage for property damage.

The bill also amends various sections of law and repeals section 4 of P.L.1998, c.21 (C.39:6A-3.1) to abolish the basic automobile insurance policy, but retains the special insurance policy.