

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

**Automobile Insurance
Unsatisfied Claim and Judgment Fund Assessments**

Proposed Repeal: N.J.A.C. 11:3-28A

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, and P.L. 2003, c. 89, section 9.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003-294

Submit comments by September 19, 2003 to:

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The agency proposal follows:

Summary

The Unsatisfied Claim and Judgment Fund (UCJF) was established pursuant to N.J.S.A. 39:6-61 et seq. in the Department of Banking and Insurance (Department) to provide compensation to qualified claimants for bodily injury or death caused by a private passenger automobile operated by uninsured and "hit and run" drivers, and to provide reimbursement to insurers for the medical expense benefits portion of personal injury protection (PIP) coverage paid in excess of \$75,000 up to \$250,000 (or without limitation for policies issued or renewed prior to January 1, 1991) in order to spread the risk of loss due to excess medical expense benefit

payments (EMB) among all insurers transacting private passenger and commercial automobile liability insurance.

P.L. 2003, c. 89, approved June 9, 2003 (the "Act"), consolidates within the New Jersey Property-Liability Insurance Guaranty Association (PLIGA) several administrative functions relative to automobile insurance claims, which are currently handled separately. Section 7 of the Act eliminates the UCJF Board and transfers all of its functions, powers and duties, along with the UCJF, to PLIGA. Section 19 of the Act eliminates the current reimbursement by the UCJF of EMB for policies issued on or after January 1, 2004. However, PLIGA will be responsible for reimbursing insurers for EMB that are incurred for injuries suffered in accidents covered by policies issued or renewed prior to January 1, 2004. In order to fund this reimbursement, Section 4 of the Act provides that PLIGA shall assess its member insurers. Section 9 of the Act amends N.J.S.A. 39:6-63 by transferring the annual UCJF insurer assessment mechanism to PLIGA.

The Department's current rules at N.J.A.C. 11:3-28A implement N.J.S.A. 39:6-63 by establishing the procedures for the Commissioner of Banking and Insurance (Commissioner) to annually calculate the probable amount that would be needed to carry out the provisions of N.J.S.A. 39:6-61 et seq. during the ensuing registration license year. The assessment is currently assessed against insurers authorized or admitted to transact private passenger automobile liability and commercial automobile liability insurance in this State. Because the Act transfers the annual insurer assessment mechanism from the UCJF to PLIGA, this proposal repeals Subchapter 28A. The Department intends that this repeal will become effective simultaneously with its approval of amendments to the PLIGA Plan of Operation, as required by Section 5 of the Act, implementing the assessment responsibilities transferred to PLIGA.

A 60-day comment period is provided for this notice of proposal, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

This proposed repeal merely implements the Act's transfer of certain administrative claims payment functions from the UCJF to PLIGA by deleting existing regulatory provisions regarding the establishment of annual UCJF insurer assessments, and will not have any direct impact on the automobile insurance industry or the public. However, the proposed repeal may have an indirect positive social impact on the automobile insurance industry and the public because it is one component of a broad legislative initiative intended to eliminate redundancies and inefficiencies regarding the payment of certain automobile insurance claims.

Economic Impact

This proposed repeal will have no direct economic impact on insurers or the public because, pursuant to the Act, it merely deletes current regulatory provisions establishing procedures for the annual UCJF insurer assessment by the Department. However, the Act's transfer of the annual assessment mechanism from the UCJF to PLIGA is expected to achieve certain administrative efficiencies that will help contain the overall operational costs of these entities. The Act expands the existing assessment base for EMB reimbursement to all property-liability insurers, and is expected to substantially alleviate the burden for private passenger automobile insurers and, consequently, their current insureds whose rates reflect the costs associated with accidents that occurred long ago. The expanded assessment base is expected to

result in some increase in the total PLIGA assessment, but PLIGA members will be permitted to recoup the EMB portion of the assessment over a maximum two-year period through a premium surcharge. This proposed repeal may also indirectly impact insureds because they may see an increase in PLIGA surcharges in the short term, but over time the surcharge for EMB reimbursement will diminish and eventually disappear as the pool of EMB claims dissolves. In addition, the assumption of the UCJF's functions by the PLIGA, as provided in the Act, will have a stabilizing effect on the automobile insurance market place, may contribute to expanding the number of insurers, and will place downward pressure on the overall cost of automobile insurance paid by insureds as the UCJF assessment to cover EMB costs is reduced.

Federal Standards Statement

A Federal standards analysis is not required because this proposed repeal deleting the current procedures regarding the annual UCJF insurer assessment is not subject to any Federal requirements or standards.

Jobs Impact

Although the Department does not anticipate that the repeal alone will result in the generation or loss of jobs, it believes that the package of statutory and regulatory amendments of which it is a part, taken as a whole, will contribute to the attractiveness and competitiveness of the New Jersey automobile insurance market and help preserve and expand employment in the automobile insurance industry and in insurance agencies and brokerage firms. The Department invites interested persons to submit any data or studies about the jobs impact of these proposed rules with their written comments.

Agriculture Industry Statement

The Department does not believe that this proposed repeal will have any impact on the agriculture industry in the State.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this proposed repeal does not impose any recordkeeping, reporting or other requirements on any "small businesses" as defined in the Regulatory Flexibility Act at N.J.S.A. 52:14B-16 et seq. The rules proposed for repeal established procedures for the assessment of insurers under N.J.S.A. 39:6-6.3, and their repeal would impose no requirements.

Smart Growth Impact

The proposed repeal has no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposed repeal can be found in the New Jersey Administrative Code at N.J.A.C. 11:3-28A.

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