

1                                    AMENDMENT TO SENATE BILL 1207

2            AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1207, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5            "Section 5. The Illinois Insurance Code is amended by  
6 changing Sections 143a and 155 as follows:

7            (215 ILCS 5/143a) (from Ch. 73, par. 755a)

8            Sec. 143a. Uninsured and hit and run motor vehicle  
9 coverage.

10           (1) No policy insuring against loss resulting from  
11 liability imposed by law for bodily injury or death suffered  
12 by any person arising out of the ownership, maintenance or  
13 use of a motor vehicle that is designed for use on public  
14 highways and that is either required to be registered in this  
15 State or is principally garaged in this State shall be  
16 renewed, delivered, or issued for delivery in this State  
17 unless coverage is provided therein or supplemental thereto,  
18 in limits for bodily injury or death set forth in Section  
19 7-203 of the Illinois Vehicle Code for the protection of  
20 persons insured thereunder who are legally entitled to  
21 recover damages from owners or operators of uninsured motor  
22 vehicles and hit-and-run motor vehicles because of bodily

1 injury, sickness or disease, including death, resulting  
2 therefrom. Uninsured motor vehicle coverage does not apply to  
3 bodily injury, sickness, disease, or death resulting  
4 therefrom, of an insured while occupying a motor vehicle  
5 owned by, or furnished or available for the regular use of  
6 the insured, a resident spouse or resident relative, if that  
7 motor vehicle is not described in the policy under which a  
8 claim is made or is not a newly acquired or replacement motor  
9 vehicle covered under the terms of the policy. The limits  
10 for any coverage for any vehicle under the policy may not be  
11 aggregated with the limits for any similar coverage, whether  
12 provided by the same insurer or another insurer, applying to  
13 other motor vehicles, for purposes of determining the total  
14 limit of insurance coverage available for bodily injury or  
15 death suffered by a person in any one accident. No policy  
16 shall be renewed, delivered, or issued for delivery in this  
17 State unless it is provided therein that any dispute with  
18 respect to the coverage and the amount of damages shall be  
19 submitted for arbitration to the American Arbitration  
20 Association and be subject to its rules for the conduct of  
21 arbitration hearings as to all matters except medical  
22 opinions. As to medical opinions, if the amount of damages  
23 being sought is equal to or less than the amount provided for  
24 in Section 7-203 of the Illinois Vehicle Code, then the  
25 current American Arbitration Association Rules shall apply.  
26 If the amount being sought in an American Arbitration  
27 Association case exceeds that amount as set forth in Section  
28 7-203 of the Illinois Vehicle Code, then the Rules of  
29 Evidence that apply in the circuit court for placing medical  
30 opinions into evidence shall govern. Alternatively, disputes  
31 with respect to damages and the coverage shall be determined  
32 in the following manner: Upon the insured requesting  
33 arbitration, each party to the dispute shall select an  
34 arbitrator and the 2 arbitrators so named shall select a

1 third arbitrator. If such arbitrators are not selected  
2 within 45 days from such request, either party may request  
3 that the arbitration be submitted to the American Arbitration  
4 Association. Any decision made by the arbitrators shall be  
5 binding for the amount of damages not exceeding \$50,000 the  
6 limits for bodily injury to or death of any one person,  
7 \$100,000 for bodily injury to or death of 2 or more persons  
8 in any one motor vehicle accident, or the corresponding  
9 policy limits for bodily injury or death, whichever is less  
10 set-forth-in-Section-7-203-of-the-Illinois-Vehicle-Code. All  
11 3-person arbitration cases proceeding in accordance with any  
12 uninsured motorist coverage conducted in this State in which  
13 the claimant is only seeking monetary damages up to the  
14 limits set forth in Section 7-203 of the Illinois Vehicle  
15 Code shall be subject to the following rules:

16 (A) If at least 60 days' written notice of the  
17 intention to offer the following documents in evidence is  
18 given to every other party, accompanied by a copy of the  
19 document, a party may offer in evidence, without  
20 foundation or other proof:

21 (1) bills, records, and reports of hospitals,  
22 doctors, dentists, registered nurses, licensed  
23 practical nurses, physical therapists, and other  
24 healthcare providers;

25 (2) bills for drugs, medical appliances, and  
26 prostheses;

27 (3) property repair bills or estimates, when  
28 identified and itemized setting forth the charges  
29 for labor and material used or proposed for use in  
30 the repair of the property;

31 (4) a report of the rate of earnings and time  
32 lost from work or lost compensation prepared by an  
33 employer;

34 (5) the written opinion of an opinion witness,

1 the deposition of a witness, and the statement of a  
2 witness that the witness would be allowed to express  
3 if testifying in person, if the opinion or statement  
4 is made by affidavit or by certification as provided  
5 in Section 1-109 of the Code of Civil Procedure;

6 (6) any other document not specifically  
7 covered by any of the foregoing provisions that is  
8 otherwise admissible under the rules of evidence.

9 Any party receiving a notice under this paragraph  
10 (A) may apply to the arbitrator or panel of arbitrators,  
11 as the case may be, for the issuance of a subpoena  
12 directed to the author or maker or custodian of the  
13 document that is the subject of the notice, requiring the  
14 person subpoenaed to produce copies of any additional  
15 documents as may be related to the subject matter of the  
16 document that is the subject of the notice. Any such  
17 subpoena shall be issued in substantially similar form  
18 and served by notice as provided by Illinois Supreme  
19 Court Rule 204(a)(4). Any such subpoena shall be  
20 returnable not less than 5 days before the arbitration  
21 hearing.

22 (B) Notwithstanding the provisions of Supreme Court  
23 Rule 213(g), a party who proposes to use a written  
24 opinion of an expert or opinion witness or the testimony  
25 of an expert or opinion witness at the hearing may do so  
26 provided a written notice of that intention is given to  
27 every other party not less than 60 days prior to the date  
28 of hearing, accompanied by a statement containing the  
29 identity of the witness, his or her qualifications, the  
30 subject matter, the basis of the witness's conclusions,  
31 and his or her opinion.

32 (C) Any other party may subpoena the author or  
33 maker of a document admissible under this subsection, at  
34 that party's expense, and examine the author or maker as

1 if under cross-examination. The provisions of Section  
2 2-1101 of the Code of Civil Procedure shall be applicable  
3 to arbitration hearings, and it shall be the duty of a  
4 party requesting the subpoena to modify the form to show  
5 that the appearance is set before an arbitration panel  
6 and to give the time and place set for the hearing.

7 (D) The provisions of Section 2-1102 of the Code of  
8 Civil Procedure shall be applicable to arbitration  
9 hearings under this subsection.

10 (2) No policy insuring against loss resulting from  
11 liability imposed by law for property damage arising out of  
12 the ownership, maintenance, or use of a motor vehicle shall  
13 be renewed, delivered, or issued for delivery in this State  
14 with respect to any private passenger or recreational motor  
15 vehicle that is designed for use on public highways and that  
16 is either required to be registered in this State or is  
17 principally garaged in this State and is not covered by  
18 collision insurance under the provisions of such policy,  
19 unless coverage is made available in the amount of the actual  
20 cash value of the motor vehicle described in the policy or  
21 \$15,000 whichever is less, subject to a \$250 deductible, for  
22 the protection of persons insured thereunder who are legally  
23 entitled to recover damages from owners or operators of  
24 uninsured motor vehicles and hit-and-run motor vehicles  
25 because of property damage to the motor vehicle described in  
26 the policy.

27 There shall be no liability imposed under the uninsured  
28 motorist property damage coverage required by this subsection  
29 if the owner or operator of the at-fault uninsured motor  
30 vehicle or hit-and-run motor vehicle cannot be identified.  
31 This subsection shall not apply to any policy which does not  
32 provide primary motor vehicle liability insurance for  
33 liabilities arising from the maintenance, operation, or use  
34 of a specifically insured motor vehicle.

1 Each insurance company providing motor vehicle property  
2 damage liability insurance shall advise applicants of the  
3 availability of uninsured motor vehicle property damage  
4 coverage, the premium therefor, and provide a brief  
5 description of the coverage. Each insurer, with respect to  
6 the initial renewal, reinstatement, or reissuance of a policy  
7 of motor vehicle property damage liability insurance shall  
8 provide present policyholders with the same information in  
9 writing. That information need be given only once and shall  
10 not be required in any subsequent renewal, reinstatement or  
11 reissuance, substitute, amended, replacement or supplementary  
12 policy. No written rejection shall be required, and the  
13 absence of a premium payment for uninsured motor vehicle  
14 property damage shall constitute conclusive proof that the  
15 applicant or policyholder has elected not to accept uninsured  
16 motorist property damage coverage.

17 An insurance company issuing uninsured motor vehicle  
18 property damage coverage may provide that:

19 (i) Property damage losses recoverable thereunder  
20 shall be limited to damages caused by the actual physical  
21 contact of an uninsured motor vehicle with the insured  
22 motor vehicle.

23 (ii) There shall be no coverage for loss of use of  
24 the insured motor vehicle and no coverage for loss or  
25 damage to personal property located in the insured motor  
26 vehicle.

27 (iii) Any claim submitted shall include the name  
28 and address of the owner of the at-fault uninsured motor  
29 vehicle, or a registration number and description of the  
30 vehicle, or any other available information to establish  
31 that there is no applicable motor vehicle property damage  
32 liability insurance.

33 Any dispute with respect to the coverage and the amount  
34 of damages shall be submitted for arbitration to the American

1 Arbitration Association and be subject to its rules for the  
2 conduct of arbitration hearings or for determination in the  
3 following manner: Upon the insured requesting arbitration,  
4 each party to the dispute shall select an arbitrator and the  
5 2 arbitrators so named shall select a third arbitrator. If  
6 such arbitrators are not selected within 45 days from such  
7 request, either party may request that the arbitration be  
8 submitted to the American Arbitration Association. Any  
9 arbitration proceeding under this subsection seeking recovery  
10 for property damages shall be subject to the following rules:

11 (A) If at least 60 days' written notice of the  
12 intention to offer the following documents in evidence is  
13 given to every other party, accompanied by a copy of the  
14 document, a party may offer in evidence, without  
15 foundation or other proof:

16 (1) property repair bills or estimates, when  
17 identified and itemized setting forth the charges  
18 for labor and material used or proposed for use in  
19 the repair of the property;

20 (2) the written opinion of an opinion witness,  
21 the deposition of a witness, and the statement of a  
22 witness that the witness would be allowed to express  
23 if testifying in person, if the opinion or statement  
24 is made by affidavit or by certification as provided  
25 in Section 1-109 of the Code of Civil Procedure;

26 (3) any other document not specifically  
27 covered by any of the foregoing provisions that is  
28 otherwise admissible under the rules of evidence.

29 Any party receiving a notice under this paragraph  
30 (A) may apply to the arbitrator or panel of arbitrators,  
31 as the case may be, for the issuance of a subpoena  
32 directed to the author or maker or custodian of the  
33 document that is the subject of the notice, requiring the  
34 person subpoenaed to produce copies of any additional

1 documents as may be related to the subject matter of the  
2 document that is the subject of the notice. Any such  
3 subpoena shall be issued in substantially similar form  
4 and served by notice as provided by Illinois Supreme  
5 Court Rule 204(a)(4). Any such subpoena shall be  
6 returnable not less than 5 days before the arbitration  
7 hearing.

8 (B) Notwithstanding the provisions of Supreme Court  
9 Rule 213(g), a party who proposes to use a written  
10 opinion of an expert or opinion witness or the testimony  
11 of an expert or opinion witness at the hearing may do so  
12 provided a written notice of that intention is given to  
13 every other party not less than 60 days prior to the date  
14 of hearing, accompanied by a statement containing the  
15 identity of the witness, his or her qualifications, the  
16 subject matter, the basis of the witness's conclusions,  
17 and his or her opinion.

18 (C) Any other party may subpoena the author or  
19 maker of a document admissible under this subsection, at  
20 that party's expense, and examine the author or maker as  
21 if under cross-examination. The provisions of Section  
22 2-1101 of the Code of Civil Procedure shall be applicable  
23 to arbitration hearings, and it shall be the duty of a  
24 party requesting the subpoena to modify the form to show  
25 that the appearance is set before an arbitration panel  
26 and to give the time and place set for the hearing.

27 (D) The provisions of Section 2-1102 of the Code of  
28 Civil Procedure shall be applicable to arbitration  
29 hearings under this subsection.

30 (3) For the purpose of the coverage the term "uninsured  
31 motor vehicle" includes, subject to the terms and conditions  
32 of the coverage, a motor vehicle where on, before or after  
33 the accident date the liability insurer thereof is unable to  
34 make payment with respect to the legal liability of its



1 insured within the limits specified in the policy because of  
2 the entry by a court of competent jurisdiction of an order of  
3 rehabilitation or liquidation by reason of insolvency on or  
4 after the accident date. An insurer's extension of coverage,  
5 as provided in this subsection, shall be applicable to all  
6 accidents occurring after July 1, 1967 during a policy period  
7 in which its insured's uninsured motor vehicle coverage is in  
8 effect. Nothing in this Section may be construed to prevent  
9 any insurer from extending coverage under terms and  
10 conditions more favorable to its insureds than is required by  
11 this Section.

12 (4) In the event of payment to any person under the  
13 coverage required by this Section and subject to the terms  
14 and conditions of the coverage, the insurer making the  
15 payment shall, to the extent thereof, be entitled to the  
16 proceeds of any settlement or judgment resulting from the  
17 exercise of any rights of recovery of the person against any  
18 person or organization legally responsible for the property  
19 damage, bodily injury or death for which the payment is made,  
20 including the proceeds recoverable from the assets of the  
21 insolvent insurer. With respect to payments made by reason of  
22 the coverage described in subsection (3), the insurer making  
23 such payment shall not be entitled to any right of recovery  
24 against the tort-feasor in excess of the proceeds recovered  
25 from the assets of the insolvent insurer of the tort-feasor.

26 (5) This amendatory Act of 1967 shall not be construed  
27 to terminate or reduce any insurance coverage or any right of  
28 any party under this Code in effect before July 1, 1967. This  
29 amendatory Act of 1990 shall not be construed to terminate or  
30 reduce any insurance coverage or any right of any party under  
31 this Code in effect before its effective date.

32 (6) Failure of the motorist from whom the claimant is  
33 legally entitled to recover damages to file the appropriate  
34 forms with the Safety Responsibility Section of the

1 Department of Transportation within 120 days of the accident  
2 date shall create a rebuttable presumption that the motorist  
3 was uninsured at the time of the injurious occurrence.

4 (7) An insurance carrier may upon good cause require the  
5 insured to commence a legal action against the owner or  
6 operator of an uninsured motor vehicle before good faith  
7 negotiation with the carrier. If the action is commenced at  
8 the request of the insurance carrier, the carrier shall pay  
9 to the insured, before the action is commenced, all court  
10 costs, jury fees and sheriff's fees arising from the action.

11 The changes made by this amendatory Act of 1997 apply to  
12 all policies of insurance amended, delivered, issued, or  
13 renewed on and after the effective date of this amendatory  
14 Act of 1997.

15 (Source: P.A. 89-206, eff. 7-21-95; 90-451, eff. 1-1-98.)

16 (215 ILCS 5/155) (from Ch. 73, par. 767)

17 Sec. 155. Attorney fees.†

18 (1) In any action by or against a company wherein there  
19 is in issue the liability of a company on a policy or  
20 policies of insurance or the amount of the loss payable  
21 thereunder, or for an unreasonable delay in settling a claim,  
22 and it appears to the court that such action or delay is  
23 vexatious and unreasonable, the court may allow as part of  
24 the taxable costs in the action reasonable attorney fees,  
25 other costs, plus an amount not to exceed any one of the  
26 following amounts:

27 (a) ~~60%~~ 25% of the amount which the court or jury finds  
28 such party is entitled to recover against the company,  
29 exclusive of all costs;

30 (b) ~~\$60,000~~ \$25,000;

31 (c) the excess of the amount which the court or jury  
32 finds such party is entitled to recover, exclusive of costs,  
33 over the amount, if any, which the company offered to pay in

1 settlement of the claim prior to the action.

2 (2) Where there are several policies insuring the same  
3 insured against the same loss whether issued by the same or  
4 by different companies, the court may fix the amount of the  
5 allowance so that the total attorney fees on account of one  
6 loss shall not be increased by reason of the fact that the  
7 insured brings separate suits on such policies.

8 (Source: P.A. 84-678.)".