

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

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

6 (215 ILCS 5/143a) (from Ch. 73, par. 755a)

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

9 (1) No policy insuring against loss resulting from
10 liability imposed by law for bodily injury or death suffered
11 by any person arising out of the ownership, maintenance or
12 use of a motor vehicle that is designed for use on public
13 highways and that is either required to be registered in this
14 State or is principally garaged in this State shall be
15 renewed, delivered, or issued for delivery in this State
16 unless coverage is provided therein or supplemental thereto,
17 in limits for bodily injury or death set forth in Section
18 7-203 of the Illinois Vehicle Code for the protection of
19 persons insured thereunder who are legally entitled to
20 recover damages from owners or operators of uninsured motor
21 vehicles and hit-and-run motor vehicles because of bodily
22 injury, sickness or disease, including death, resulting
23 therefrom. Uninsured motor vehicle coverage does not apply to
24 bodily injury, sickness, disease, or death resulting
25 therefrom, of an insured while occupying a motor vehicle
26 owned by, or furnished or available for the regular use of
27 the insured, a resident spouse or resident relative, if that
28 motor vehicle is not described in the policy under which a
29 claim is made or is not a newly acquired or replacement motor
30 vehicle covered under the terms of the policy. The limits
31 for any coverage for any vehicle under the policy may not be

1 aggregated with the limits for any similar coverage, whether
2 provided by the same insurer or another insurer, applying to
3 other motor vehicles, for purposes of determining the total
4 limit of insurance coverage available for bodily injury or
5 death suffered by a person in any one accident. No policy
6 shall be renewed, delivered, or issued for delivery in this
7 State unless it is provided therein that any dispute with
8 respect to the coverage and the amount of damages shall be
9 submitted for arbitration to the American Arbitration
10 Association and be subject to its rules for the conduct of
11 arbitration hearings as to all matters except medical
12 opinions. As to medical opinions, if the amount of damages
13 being sought is equal to or less than the amount provided for
14 in Section 7-203 of the Illinois Vehicle Code, then the
15 current American Arbitration Association Rules shall apply.
16 If the amount being sought in an American Arbitration
17 Association case exceeds that amount as set forth in Section
18 7-203 of the Illinois Vehicle Code, then the Rules of
19 Evidence that apply in the circuit court for placing medical
20 opinions into evidence shall govern. Alternatively, disputes
21 with respect to damages and the coverage shall be determined
22 in the following manner: Upon the insured requesting
23 arbitration, each party to the dispute shall select an
24 arbitrator and the 2 arbitrators so named shall select a
25 third arbitrator. If such arbitrators are not selected
26 within 45 days from such request, either party may request
27 that the arbitration be submitted to the American Arbitration
28 Association. Any decision made by the arbitrators shall be
29 binding for the amount of damages not exceeding \$50,000 the
30 limits for bodily injury to or death of any one person,
31 \$100,000 for bodily injury to or death of 2 or more persons
32 in any one motor vehicle accident, or the corresponding
33 policy limits for bodily injury or death, whichever is less
34 set--forth-in-Section-7-203-of-the-Illinois-Vehicle-Code. All

1 3-person arbitration cases proceeding in accordance with any
2 uninsured motorist coverage conducted in this State in which
3 the claimant is only seeking monetary damages up to the
4 limits set forth in Section 7-203 of the Illinois Vehicle
5 Code shall be subject to the following rules:

6 (A) If at least 60 days' written notice of the
7 intention to offer the following documents in evidence is
8 given to every other party, accompanied by a copy of the
9 document, a party may offer in evidence, without
10 foundation or other proof:

11 (1) bills, records, and reports of hospitals,
12 doctors, dentists, registered nurses, licensed
13 practical nurses, physical therapists, and other
14 healthcare providers;

15 (2) bills for drugs, medical appliances, and
16 prostheses;

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

21 (4) a report of the rate of earnings and time
22 lost from work or lost compensation prepared by an
23 employer;

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

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

33 Any party receiving a notice under this paragraph
34 (A) may apply to the arbitrator or panel of arbitrators,

1 as the case may be, for the issuance of a subpoena
2 directed to the author or maker or custodian of the
3 document that is the subject of the notice, requiring the
4 person subpoenaed to produce copies of any additional
5 documents as may be related to the subject matter of the
6 document that is the subject of the notice. Any such
7 subpoena shall be issued in substantially similar form
8 and served by notice as provided by Illinois Supreme
9 Court Rule 204(a)(4). Any such subpoena shall be
10 returnable not less than 5 days before the arbitration
11 hearing.

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

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

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

34 (2) No policy insuring against loss resulting from

1 liability imposed by law for property damage arising out of
2 the ownership, maintenance, or use of a motor vehicle shall
3 be renewed, delivered, or issued for delivery in this State
4 with respect to any private passenger or recreational motor
5 vehicle that is designed for use on public highways and that
6 is either required to be registered in this State or is
7 principally garaged in this State and is not covered by
8 collision insurance under the provisions of such policy,
9 unless coverage is made available in the amount of the actual
10 cash value of the motor vehicle described in the policy or
11 \$15,000 whichever is less, subject to a \$250 deductible, for
12 the protection of persons insured thereunder who are legally
13 entitled to recover damages from owners or operators of
14 uninsured motor vehicles and hit-and-run motor vehicles
15 because of property damage to the motor vehicle described in
16 the policy.

17 There shall be no liability imposed under the uninsured
18 motorist property damage coverage required by this subsection
19 if the owner or operator of the at-fault uninsured motor
20 vehicle or hit-and-run motor vehicle cannot be identified.
21 This subsection shall not apply to any policy which does not
22 provide primary motor vehicle liability insurance for
23 liabilities arising from the maintenance, operation, or use
24 of a specifically insured motor vehicle.

25 Each insurance company providing motor vehicle property
26 damage liability insurance shall advise applicants of the
27 availability of uninsured motor vehicle property damage
28 coverage, the premium therefor, and provide a brief
29 description of the coverage. Each insurer, with respect to
30 the initial renewal, reinstatement, or reissuance of a policy
31 of motor vehicle property damage liability insurance shall
32 provide present policyholders with the same information in
33 writing. That information need be given only once and shall
34 not be required in any subsequent renewal, reinstatement or

1 reissuance, substitute, amended, replacement or supplementary
2 policy. No written rejection shall be required, and the
3 absence of a premium payment for uninsured motor vehicle
4 property damage shall constitute conclusive proof that the
5 applicant or policyholder has elected not to accept uninsured
6 motorist property damage coverage.

7 An insurance company issuing uninsured motor vehicle
8 property damage coverage may provide that:

9 (i) Property damage losses recoverable thereunder
10 shall be limited to damages caused by the actual physical
11 contact of an uninsured motor vehicle with the insured
12 motor vehicle.

13 (ii) There shall be no coverage for loss of use of
14 the insured motor vehicle and no coverage for loss or
15 damage to personal property located in the insured motor
16 vehicle.

17 (iii) Any claim submitted shall include the name
18 and address of the owner of the at-fault uninsured motor
19 vehicle, or a registration number and description of the
20 vehicle, or any other available information to establish
21 that there is no applicable motor vehicle property damage
22 liability insurance.

23 Any dispute with respect to the coverage and the amount
24 of damages shall be submitted for arbitration to the American
25 Arbitration Association and be subject to its rules for the
26 conduct of arbitration hearings or for determination in the
27 following manner: Upon the insured requesting arbitration,
28 each party to the dispute shall select an arbitrator and the
29 2 arbitrators so named shall select a third arbitrator. If
30 such arbitrators are not selected within 45 days from such
31 request, either party may request that the arbitration be
32 submitted to the American Arbitration Association. Any
33 arbitration proceeding under this subsection seeking recovery
34 for property damages shall be subject to the following rules:

1 (A) If at least 60 days' written notice of the
2 intention to offer the following documents in evidence is
3 given to every other party, accompanied by a copy of the
4 document, a party may offer in evidence, without
5 foundation or other proof:

6 (1) property repair bills or estimates, when
7 identified and itemized setting forth the charges
8 for labor and material used or proposed for use in
9 the repair of the property;

10 (2) the written opinion of an opinion witness,
11 the deposition of a witness, and the statement of a
12 witness that the witness would be allowed to express
13 if testifying in person, if the opinion or statement
14 is made by affidavit or by certification as provided
15 in Section 1-109 of the Code of Civil Procedure;

16 (3) any other document not specifically
17 covered by any of the foregoing provisions that is
18 otherwise admissible under the rules of evidence.

19 Any party receiving a notice under this paragraph
20 (A) may apply to the arbitrator or panel of arbitrators,
21 as the case may be, for the issuance of a subpoena
22 directed to the author or maker or custodian of the
23 document that is the subject of the notice, requiring the
24 person subpoenaed to produce copies of any additional
25 documents as may be related to the subject matter of the
26 document that is the subject of the notice. Any such
27 subpoena shall be issued in substantially similar form
28 and served by notice as provided by Illinois Supreme
29 Court Rule 204(a)(4). Any such subpoena shall be
30 returnable not less than 5 days before the arbitration
31 hearing.

32 (B) Notwithstanding the provisions of Supreme Court
33 Rule 213(g), a party who proposes to use a written
34 opinion of an expert or opinion witness or the testimony

1 of an expert or opinion witness at the hearing may do so
2 provided a written notice of that intention is given to
3 every other party not less than 60 days prior to the date
4 of hearing, accompanied by a statement containing the
5 identity of the witness, his or her qualifications, the
6 subject matter, the basis of the witness's conclusions,
7 and his or her opinion.

8 (C) Any other party may subpoena the author or
9 maker of a document admissible under this subsection, at
10 that party's expense, and examine the author or maker as
11 if under cross-examination. The provisions of Section
12 2-1101 of the Code of Civil Procedure shall be applicable
13 to arbitration hearings, and it shall be the duty of a
14 party requesting the subpoena to modify the form to show
15 that the appearance is set before an arbitration panel
16 and to give the time and place set for the hearing.

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

20 (3) For the purpose of the coverage the term "uninsured
21 motor vehicle" includes, subject to the terms and conditions
22 of the coverage, a motor vehicle where on, before or after
23 the accident date the liability insurer thereof is unable to
24 make payment with respect to the legal liability of its
25 insured within the limits specified in the policy because of
26 the entry by a court of competent jurisdiction of an order of
27 rehabilitation or liquidation by reason of insolvency on or
28 after the accident date. An insurer's extension of coverage,
29 as provided in this subsection, shall be applicable to all
30 accidents occurring after July 1, 1967 during a policy period
31 in which its insured's uninsured motor vehicle coverage is in
32 effect. Nothing in this Section may be construed to prevent
33 any insurer from extending coverage under terms and
34 conditions more favorable to its insureds than is required by

1 this Section.

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

16 (5) This amendatory Act of 1967 shall not be construed
17 to terminate or reduce any insurance coverage or any right of
18 any party under this Code in effect before July 1, 1967. This
19 amendatory Act of 1990 shall not be construed to terminate or
20 reduce any insurance coverage or any right of any party under
21 this Code in effect before its effective date.

22 (6) Failure of the motorist from whom the claimant is
23 legally entitled to recover damages to file the appropriate
24 forms with the Safety Responsibility Section of the
25 Department of Transportation within 120 days of the accident
26 date shall create a rebuttable presumption that the motorist
27 was uninsured at the time of the injurious occurrence.

28 (7) An insurance carrier may upon good cause require the
29 insured to commence a legal action against the owner or
30 operator of an uninsured motor vehicle before good faith
31 negotiation with the carrier. If the action is commenced at
32 the request of the insurance carrier, the carrier shall pay
33 to the insured, before the action is commenced, all court
34 costs, jury fees and sheriff's fees arising from the action.

1 The changes made by this amendatory Act of 1997 apply to
 2 all policies of insurance amended, delivered, issued, or
 3 renewed on and after the effective date of this amendatory
 4 Act of 1997.

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

6 (215 ILCS 5/155) (from Ch. 73, par. 767)
 7 Sec. 155. Attorney fees.}

8 (1) In any action by or against a company wherein there
 9 is in issue the liability of a company on a policy or
 10 policies of insurance or the amount of the loss payable
 11 thereunder, or for an unreasonable delay in settling a claim,
 12 and it appears to the court that such action or delay is
 13 vexatious and unreasonable, the court may allow as part of
 14 the taxable costs in the action reasonable attorney fees,
 15 other costs, plus an amount not to exceed any one of the
 16 following amounts:

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

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

21 (c) the excess of the amount which the court or jury
 22 finds such party is entitled to recover, exclusive of costs,
 23 over the amount, if any, which the company offered to pay in
 24 settlement of the claim prior to the action.

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

31 (Source: P.A. 84-678.)