



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/5/2004, by James F. Clayborne Jr.

SYNOPSIS AS INTRODUCED:

215 ILCS 5/143a

from Ch. 73, par. 755a

Amends the Illinois Insurance Code. Removes the American Arbitration Association as the default arbitration organization in uninsured and hit an run motor vehicle policies and replaces it with a certified arbitration organization designated in the policy. Provides that all policies renewed, delivered, or issued for delivery shall designate an arbitration organization certified by the Director of the Illinois Department of Insurance. Provides criteria for the Department of Insurance to certify arbitration organizations.

LRB093 19711 SAS 45452 b

FISCAL NOTE ACT
MAY APPLY

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 Section 143a 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 by
11 any person arising out of the ownership, maintenance or use of
12 a motor vehicle that is designed for use on public highways and
13 that is either required to be registered in this State or is
14 principally garaged in this State shall be renewed, delivered,
15 or issued for delivery in this State unless coverage is
16 provided therein or supplemental thereto, in limits for bodily
17 injury or death set forth in Section 7-203 of the Illinois
18 Vehicle Code for the protection of persons insured thereunder
19 who are legally entitled to recover damages from owners or
20 operators of uninsured motor vehicles and hit-and-run motor
21 vehicles because of bodily injury, sickness or disease,
22 including death, resulting therefrom. Uninsured motor vehicle
23 coverage does not apply to bodily injury, sickness, disease, or
24 death resulting therefrom, of an insured while occupying a
25 motor vehicle owned by, or furnished or available for the
26 regular use of the insured, a resident spouse or resident
27 relative, if that motor vehicle is not described in the policy
28 under which a claim is made or is not a newly acquired or
29 replacement motor vehicle covered under the terms of the
30 policy. The limits for any coverage for any vehicle under the
31 policy may not be aggregated with the limits for any similar
32 coverage, whether provided by the same insurer or another

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

1 Illinois Vehicle Code shall be subject to the following rules:

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

7 (1) bills, records, and reports of hospitals,
8 doctors, dentists, registered nurses, licensed
9 practical nurses, physical therapists, and other
10 healthcare providers;

11 (2) bills for drugs, medical appliances, and
12 prostheses;

13 (3) property repair bills or estimates, when
14 identified and itemized setting forth the charges for
15 labor and material used or proposed for use in the
16 repair of the property;

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

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

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

28 Any party receiving a notice under this paragraph (A)
29 may apply to the arbitrator or panel of arbitrators, as the
30 case may be, for the issuance of a subpoena directed to the
31 author or maker or custodian of the document that is the
32 subject of the notice, requiring the person subpoenaed to
33 produce copies of any additional documents as may be
34 related to the subject matter of the document that is the
35 subject of the notice. Any such subpoena shall be issued in
36 substantially similar form and served by notice as provided

1 by Illinois Supreme Court Rule 204(a)(4). Any such subpoena
2 shall be returnable not less than 5 days before the
3 arbitration hearing.

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

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

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

25 (2) No policy insuring against loss resulting from
26 liability imposed by law for property damage arising out of the
27 ownership, maintenance, or use of a motor vehicle shall be
28 renewed, delivered, or issued for delivery in this State with
29 respect to any private passenger or recreational motor vehicle
30 that is designed for use on public highways and that is either
31 required to be registered in this State or is principally
32 garaged in this State and is not covered by collision insurance
33 under the provisions of such policy, unless coverage is made
34 available in the amount of the actual cash value of the motor
35 vehicle described in the policy or \$15,000 whichever is less,
36 subject to a \$250 deductible, for the protection of persons

1 insured thereunder who are legally entitled to recover damages
2 from owners or operators of uninsured motor vehicles and
3 hit-and-run motor vehicles because of property damage to the
4 motor vehicle described in the policy.

5 There shall be no liability imposed under the uninsured
6 motorist property damage coverage required by this subsection
7 if the owner or operator of the at-fault uninsured motor
8 vehicle or hit-and-run motor vehicle cannot be identified. This
9 subsection shall not apply to any policy which does not provide
10 primary motor vehicle liability insurance for liabilities
11 arising from the maintenance, operation, or use of a
12 specifically insured motor vehicle.

13 Each insurance company providing motor vehicle property
14 damage liability insurance shall advise applicants of the
15 availability of uninsured motor vehicle property damage
16 coverage, the premium therefor, and provide a brief description
17 of the coverage. Each insurer, with respect to the initial
18 renewal, reinstatement, or reissuance of a policy of motor
19 vehicle property damage liability insurance shall provide
20 present policyholders with the same information in writing.
21 That information need be given only once and shall not be
22 required in any subsequent renewal, reinstatement or
23 reissuance, substitute, amended, replacement or supplementary
24 policy. No written rejection shall be required, and the absence
25 of a premium payment for uninsured motor vehicle property
26 damage shall constitute conclusive proof that the applicant or
27 policyholder has elected not to accept uninsured motorist
28 property damage coverage.

29 An insurance company issuing uninsured motor vehicle
30 property damage coverage may provide that:

31 (i) Property damage losses recoverable thereunder
32 shall be limited to damages caused by the actual physical
33 contact of an uninsured motor vehicle with the insured
34 motor vehicle.

35 (ii) There shall be no coverage for loss of use of the
36 insured motor vehicle and no coverage for loss or damage to

1 personal property located in the insured motor vehicle.

2 (iii) Any claim submitted shall include the name and
3 address of the owner of the at-fault uninsured motor
4 vehicle, or a registration number and description of the
5 vehicle, or any other available information to establish
6 that there is no applicable motor vehicle property damage
7 liability insurance.

8 Any dispute with respect to the coverage and the amount of
9 damages shall be submitted for arbitration ~~to the American~~
10 ~~Arbitration Association~~ and be subject to the ~~its~~ rules
11 established by the certified arbitration organization
12 designated in the policy for the conduct of arbitration
13 hearings or for determination in the following manner: Upon the
14 insured requesting arbitration, each party to the dispute shall
15 select an arbitrator and the 2 arbitrators so named shall
16 select a third arbitrator. If such arbitrators are not selected
17 within 45 days from such request, either party may request that
18 the arbitration be submitted to a certified arbitration
19 organization ~~the American Arbitration Association~~. Any
20 arbitration proceeding under this subsection seeking recovery
21 for property damages shall be subject to the following rules:

22 (A) If at least 60 days' written notice of the
23 intention to offer the following documents in evidence is
24 given to every other party, accompanied by a copy of the
25 document, a party may offer in evidence, without foundation
26 or other proof:

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

31 (2) the written opinion of an opinion witness, the
32 deposition of a witness, and the statement of a witness
33 that the witness would be allowed to express if
34 testifying in person, if the opinion or statement is
35 made by affidavit or by certification as provided in
36 Section 1-109 of the Code of Civil Procedure;

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

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

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

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

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

1 (3) For the purpose of the coverage the term "uninsured
2 motor vehicle" includes, subject to the terms and conditions of
3 the coverage, a motor vehicle where on, before or after the
4 accident date the liability insurer thereof is unable to make
5 payment with respect to the legal liability of its insured
6 within the limits specified in the policy because of the entry
7 by a court of competent jurisdiction of an order of
8 rehabilitation or liquidation by reason of insolvency on or
9 after the accident date. An insurer's extension of coverage, as
10 provided in this subsection, shall be applicable to all
11 accidents occurring after July 1, 1967 during a policy period
12 in which its insured's uninsured motor vehicle coverage is in
13 effect. Nothing in this Section may be construed to prevent any
14 insurer from extending coverage under terms and conditions more
15 favorable to its insureds than is required by this Section.

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

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

36 (6) Failure of the motorist from whom the claimant is

1 legally entitled to recover damages to file the appropriate
2 forms with the Safety Responsibility Section of the Department
3 of Transportation within 120 days of the accident date shall
4 create a rebuttable presumption that the motorist was uninsured
5 at the time of the injurious occurrence.

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

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

17 (8) All policies renewed, delivered, or issued for delivery
18 in this State pursuant to this Section shall designate an
19 arbitration organization certified by the Director of the
20 Illinois Department of Insurance to administer arbitration
21 hearings as required by this Section.

22 (9) The Department of Insurance shall certify arbitration
23 organizations meeting the following criteria:

24 (A) The organization has at least 10 years of
25 demonstrated experience administering a high volume of
26 arbitration proceedings, with at least one year of
27 experience administering no-fault, uninsured motorist, or
28 workers' compensation arbitration proceedings;

29 (B) The organization has a minimum of 5 years of
30 demonstrated experience successfully recruiting, training,
31 and managing a panel of arbitrators;

32 (C) The organization has an established code of conduct
33 for arbitrators that sets forth principles of integrity,
34 fairness, disclosure of conflicts of interest, and
35 impartiality;

36 (D) The organization has an established bill of rights

1 that ensures parties have access to the following:

2 (1) fundamentally fair process;

3 (2) information about the process;

4 (3) competent, impartial arbitrators;

5 (4) reasonable cost;

6 (5) reasonable time limits;

7 (6) right to representation;

8 (7) reasonable discovery;

9 (E) The organization has demonstrated experience and
10 capabilities in utilizing advanced technology in case
11 management, including electronic filing of claims and
12 responses, automated negotiation processes, electronic
13 signature capability, and electronic reporting of case
14 data.

15 (F) The organization has demonstrated experience in
16 managing arbitration programs for governmental agencies
17 similar to the Illinois Department of Insurance. Such
18 experience shall include collaborating with agencies on
19 reporting case data, training end user communities, and
20 establishing advisory committees that involve end users of
21 the program.

22 (Source: P.A. 93-485, eff. 1-1-04.)