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SENATE FILE 1068

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Passed Senate, Date_____ Passed House, Date_____

Vote: Ayes_____ Nays_____ Vote: Ayes_____ Nays_____

Approved_____

A BILL FOR

1 An Act to provide compensation for motor vehicle accident
2 victims.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. TITLE. This Act shall be known as the "Iowa
2 motor vehicle accident compensation act."
3 Sec. 2. DEFINITIONS. As used in this Act, unless the
4 context clearly requires a different meaning:
5 1. "Bodily injury" means bodily injury, sickness or di-
6 sease, and includes death resulting therefrom.
7 2. "Vehicle" means any vehicle designed to be propelled
8 by an engine or motor and includes a trailer or semitrailer
9 while connected to or being towed by a vehicle, however,
10 vehicles designed for use principally off public roads are
11 vehicles only if used on public roads.
12 3. "Motor vehicle" means a vehicle, however, the follow-
13 ing vehicles shall not be deemed to be a "motor vehicle":
14 a. Five or more vehicles, other than automobiles, under
15 common ownership or leased to a common principal.
16 b. Vehicles used as public or livery conveyances for pas-
17 sengers.
18 c. Vehicles designed for use principally off public roads.
19 d. Vehicles while being used in an officiated, conducted
20 racing or speed contest or in practice or preparation there-
21 for.
22 e. Motorcycles.
23 f. Motorcycles with sidecar attached.
24 g. Snowmobiles.
25 h. All-terrain vehicles.
26 4. "Automobile" means a motor vehicle which is a sedan,
27 coupe, station wagon or jeep-type or which is a camper, camper
28 trailer, travel trailer, boat trailer, utility trailer, mobile
29 home, motor home, utility automobile, pickup truck, sedan
30 delivery truck and panel truck which are not used exclusively
31 in the occupation, profession, trade or business of the in-
32 sured except farming or ranching.
33 5. "Owner" means a person who holds the legal title for
34 a vehicle, or in the event a vehicle is the subject of a se-
35 curity agreement with a right of possession in the debtor

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1 then such debtor shall be deemed the owner for the purposes
2 of this Act. A person who has made a bona fide sale or trans-
3 fer of his right, title or interest in or to a vehicle and
4 who has delivered possession of such vehicle to the purchaser
5 shall not be the owner but the purchaser or transferee to
6 whom possession was delivered shall be deemed the owner.
7 6. "Pedestrian" means any person not occupying a vehicle
8 or not occupying any machine operated by a motor or engine.
9 7. "Occupying" means being in or upon or engaged in the
10 immediate acts of entering, boarding, alighting, falling or
11 being thrown from a vehicle.
12 8. "Income" means salary, wages, tips, commissions, bo-
13 nuses, fees and other earnings from employment or the fair
14 and reasonable value of time devoted to self-employment in
15 any profession, trade, business, farming or ranching opera-
16 tion.
17 9. "Income Loss" means loss of income from employment
18 or self-employment an injured person would have performed
19 had he not been injured, reduced by income from employment
20 or self-employment actually performed after the injury.
21 10. "Disability", for income continuation benefits, means:
22 a. During the period of one year from its commencement,
23 the inability of the injured person to perform the usual du-
24 ties pertaining to his regular employment or self-employment.
25 b. During the period after one year from its commencement,
26 the inability of the injured person to engage in any and every
27 gainful employment or self-employment for which the injured
28 person is or may be reasonably fitted by reason of education,
29 training or experience.
30 Sec. 3. MANDATORY EXTENSION OF FIRST PARTY COVERAGE AND
31 BENEFITS.
32 1. Every automobile liability or motor vehicle liability
33 insurance policy insuring any motor vehicle registered or
34 principally garaged in this state shall provide coverage af-
35 fording payment of the minimum benefits set forth in subsec-

1 tion two (2) of this section, because of bodily injury in-
2 curred in and arising out of an accident, to:
3 a. The named insured and relatives of the named insured
4 resident in his household while occupying a motor vehicle
5 or when struck by a vehicle while a pedestrian.
6 b. Other persons while occupying the insured motor ve-
7 hicle when being used by the named insured or by relatives
8 of the named insured resident in his household or by any other
9 person with the consent, express or implied, of the owner
10 or person in lawful possession.
11 c. Other persons while occupying a motor vehicle not owned
12 by the named insured or by relatives of the named insured
13 resident in his household when such motor vehicle is being
14 used by the named insured or by relatives of the named in-
15 sured resident in his household.
16 d. Pedestrians struck within the state by the insured
17 motor vehicle.
18 2. Minimum benefits shall be as follows:
19 a. Payment of all reasonable and necessary expenses aris-
20 ing from the accident for medical, surgical, X-ray, dental,
21 optical, prescription medicines and drugs, prosthetic devices,
22 ambulance, hospital, extended care, professional nursing,
23 rehabilitation and funeral services and incurred within one
24 year from the date of the accident, subject to an aggregate
25 limit of five thousand dollars per person for any one accident.
26 However, the benefits payable for funeral services shall not
27 exceed one thousand dollars per person. Hospital and extended
28 care room and board benefits, except for intensive care
29 facilities, shall be limited to the regular daily semiprivate
30 room rates customarily charged by the institution in which
31 the recipient of benefits is confined.
32 b. Payment of benefits for any one accident equal to
33 seventy-five percent of income loss from employment or self-
34 employment subject to a limit of one hundred fifty dollars
35 per week for fifty-two weeks per person as a result of dis-

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1 ability arising from the accident. Such benefits shall not
2 be payable for the first two weeks of disability.
3 c. Payment of benefits for any one accident for injured
4 persons not employed or self-employed in reimbursement of
5 necessary and reasonable expenses for essential services,
6 which would ordinarily have been performed by the injured
7 person, not for income but for the benefit of himself and
8 relatives resident in his household, but which he could not
9 perform because of the disability arising from the accident,
10 subject to a limit of twelve dollars per day for three hun-
11 dred sixty-five days per person injured. Such benefits shall
12 not be payable for services of relatives resident in the in-
13 jured person's household nor payable for the first two weeks
14 of disability.
15 3. Every insurer subject to the provisions of subsection
16 one (1) of this section shall offer upon solicitation or is-
17 suance of a new policy or upon the first renewal of a policy
18 on or after January 1, 1973, optional coverage affording pay-
19 ment of excess loss benefits to the named insured and rela-
20 tives of the named insured resident in his household, upon
21 exhaustion of the minimum medical or income continuation or
22 loss of services benefits provided by the insurer in the same
23 policy or upon death for survivor's benefits, and subject
24 to a total minimum aggregate limit of not less than fifty
25 thousand dollars per person and not less than one hundred
26 thousand dollars per accident. Rejection of coverage for
27 the excess loss benefits shall be in writing and signed by
28 the named insured. Such coverage need not be provided in
29 or supplemental to a renewal policy where the named insured
30 has rejected such coverage in connection with a policy pre-
31 viously issued to him by the same insurer. Such excess loss
32 benefits shall be as follows:
33 a. Payment of all reasonable and necessary expenses aris-
34 ing from the accident for medical, surgical, X-ray, dental,
35 optical, prescription medicines and drugs, prosthetic devices,

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1 ambulance, hospital, extended care, professional nursing,
2 rehabilitation and funeral services. However, the benefits
3 payable for funeral services, including benefits payable un-
4 der this paragraph, shall not exceed one thousand dollars
5 per person. Hospital and extended care room and board bene-
6 fits, except for intensive care facilities, shall be limited
7 to the regular daily semiprivate room rates customarily charged
8 by the institution in which the recipient of benefits is con-
9 fined.
10 b. Payment of benefits for any one accident equal to
11 seventy-five percent of income loss from employment or self-
12 employment, subject to a limit of one hundred fifty dollars
13 per week for a period of two hundred sixty weeks per person
14 as a result of disability arising from the accident.
15 c. Payment of benefits for any one accident for injured
16 persons not employed or self-employed in reimbursement of
17 necessary and reasonable expenses for essential services,
18 which would ordinarily have been performed by the injured
19 person not for income but for the benefit of himself and rela-
20 tives resident in his household, but which he could not per-
21 form because of the disability arising from the accident,
22 subject to a limit of twelve dollars per day for two hundred
23 sixty weeks per person injured. Such benefits shall not be
24 payable for services of relatives resident in the injured
25 person's household.
26 d. In the event the injured person dies within one year
27 of the date of the accident because of injuries received in
28 the accident, a survivor's benefit equal to seventy-five per-
29 cent of the deceased's weekly income, subject to a limit of
30 one hundred fifty dollars per week for a period of two hun-
31 dred sixty weeks, shall be paid to a surviving spouse or in
32 the event there is no surviving spouse to the surviving child
33 or children dependent upon the deceased. Payments to a sur-
34 viving spouse shall be terminated in the event such surviving
35 spouse dies or remarries. If the surviving spouse dies leav-

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1 ing a surviving dependent child or children any remaining
2 survivor's benefits shall be payable to the surviving depen-
3 dent child or children. Payments to a dependent child shall
4 be terminated in the event the child attains majority unless
5 physically or mentally incapacitated, marries or becomes
6 otherwise emancipated or dies.
7 4. The benefits set forth in this section shall be pay-
8 able as between insurers as follows:
9 a. As to any person injured in an accident while occupy-
10 ing a motor vehicle insured for such benefits, or injured
11 as a pedestrian by a motor vehicle insured for such benefits,
12 the benefits shall be payable by the insurer of such motor
13 vehicle.
14 b. As to any person insured under a policy providing such
15 benefits who is injured in an accident while occupying a motor
16 vehicle not insured for such benefits under another policy,
17 or who is struck as a pedestrian by a vehicle not insured
18 for such benefits, the benefits shall be payable by the in-
19 surer affording the benefits to such persons; provided, how-
20 ever, that such benefits shall be reduced to the extent of
21 any medical, income continuation, loss of services or sur-
22 vivor's benefits coverage available to the injured person
23 under an insurance policy covering such vehicle.
24 c. No person may recover benefits under the coverages
25 prescribed in this section from more than one vehicle insur-
26 ance policy or insurer on either a duplicative or supplemental
27 basis, however the excess loss benefits described in subsec-
28 tion three (3) of this section may be recovered from an ap-
29 plicable policy in case the policy first applicable provides
30 only the benefits described in subsection two (2) of this
31 section.
32 5. The benefits set forth in this section shall be paid
33 regardless of collateral sources except:
34 a. The obligation to pay such benefits does not apply
35 to any direct or indirect loss or interest of or for services

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1 or benefits provided or furnished by, the United States gov-
2 ernment coincident to military enlistment, duty or service.
3 b. The obligation to pay such benefits does not apply
4 to an injured person who is entitled to benefits payable or
5 required to be provided therefor either in whole or in part
6 under any workmen's compensation law.
7 6. Whenever an insured purchases the excess coverage pro-
8 vided in subsection three (3) of this section, such insured
9 shall be notified by the company of his right to reject the
10 coverage provided for under section four (4) of this Act.
11 7. Nothing in this section shall be construed as prevent-
12 ing an insurer from offering other benefits or limits in ad-
13 dition to those required to be offered in subsection three
14 (3) of this section.
15 8. This Act shall not apply to any insurance policy pro-
16 viding, with respect to motor vehicle liability coverage,
17 only incidental coverage for liability arising out of the
18 ownership, maintenance, or use of a motor vehicle on the prem-
19 ises of the insured or on the ways immediately adjoining the
20 premises.
21 Sec. 4. UNINSURED OR HIT-AND-RUN MOTORIST COVERAGE.
22 1. Every automobile liability or motor vehicle liability
23 insurance policy to which the provisions of section three
24 (3), subsection one (1) of this Act apply shall provide pro-
25 tection against uninsured or hit-and-run motorists as pro-
26 vided by chapter five hundred sixteen A (516A) of the Code,
27 notwithstanding the provisions of chapter five hundred six-
28 teen A point one (516A.1) of the Code, unless such policy
29 provides the excess loss coverage prescribed in section three
30 (3), subsection three (3) of this Act.
31 2. Benefits provided under section three (3) of this Act
32 shall be deducted by the insurer from any amount paid or pay-
33 able to an injured person or survivor under uninsured or hit-
34 and-run motorists coverage available to the injured person
35 or survivor.

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1 Sec. 5. EXCLUSIONS PERMITTED. The coverages specified
2 under section three (3) of this Act may exclude from benefits
3 thereunder any person otherwise insured under the policy who
4 does any of the following:
5 1. Intentionally causes the accident resulting in the
6 injury.
7 2. Is occupying a vehicle, not insured for the benefits
8 specified under section three (3) of this Act, owned by, reg-
9 istered in the name of, or furnished or available for the
10 frequent or regular use of the named insured or relatives
11 of the named insured resident in his household.
12 3. Is occupying a vehicle, not insured for the benefits
13 specified under section three (3) of this Act, not owned by
14 or registered in the name of the named insured or relatives
15 of the named insured resident in his household, while being
16 used in any employment or self-employment.
17 4. Is occupying any vehicle while used as a temporary
18 or permanent residence, living quarters or premises.
19 5. Is occupying a motorcycle or motorcycle with side-
20 car attached, or a vehicle used as a public or livery convey-
21 ance for passengers or a vehicle being used in an officiated,
22 conducted racing or speed contest or in practice or prepara-
23 tion therefor.
24 Sec. 6. PROMPT PAYMENT OF BENEFITS.
25 1. Payment of the benefits set forth under section three
26 (3) of this Act must be made promptly after valid proof of
27 loss has been submitted to the insurer. The existence of
28 a potential cause of action in tort by any recipient of the
29 benefits prescribed in this Act does not affect the insurer's
30 obligation to promptly pay such benefits. However, if prior
31 to timely payment by the insurer of such benefits, payment
32 in whole or in part of his loss is received by the recipient
33 from a third person who is or may be liable in tort for such
34 loss, or from the agent or insurer of such third person,
35 either by way of advance payment or settlement of the potential

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liability of such third person, the recipient shall disclose such fact, and may not collect benefits hereunder to the extent that such benefits would produce a duplication of payment or reimbursement of the same loss. In the event of any duplication of payment or reimbursement of the same loss, and to the extent of the amount involved, the insurer may deduct that amount from any present or future benefits to which the recipient is or may be entitled, in addition to such other remedies as exist for recovery at law.

2. An insurer providing benefits under section three (3) of this Act may require as a condition of payment that the injured person furnish to it reasonable medical proof of disability, proof of the necessity for and propriety of expenses incurred, proof of amount of income loss and proof of reimbursable expenses for loss of services benefits. Payment under the coverages provided under section three (3) of this Act must be made periodically on a monthly basis as expenses are incurred, but in no event shall income continuation or loss of services benefits once started be paid less frequently than biweekly. Benefits for any such period are overdue if not paid within thirty days after the insurer has received reasonable proof of the fact and amount of expenses incurred during that period and, if requested, of their medical necessity and propriety. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Overdue amounts, when subsequently paid, bear interest at the legal rate. In the event the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action in contract to recover them. In the event the insurer is required by the action in contract to pay overdue benefits and is found to

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1 have willfully and wantonly refused to pay such benefits,
2 the insurer shall, in addition to the benefits payable, be
3 required to pay the reasonable attorney's fees incurred by
4 the other party.
5 Sec. 7. INTERCOMPANY ARBITRATION--OFFSET AND SUBROGATION.
6 1. Every automobile liability or motor vehicle liability
7 insurer authorized to transact insurance in this state is
8 deemed to have agreed, as a condition of doing business in
9 this state or of retaining its certificate of authority after
10 the effective date of this Act, to the following:
11 a. Where its insured is or would be held legally liable
12 for damages or injuries sustained by any person to whom the
13 benefits provided in section three (3) of this Act have been
14 paid by another insurer, it will reimburse such other insurer
15 to the extent of such benefits, but not in excess of the
16 amount of damages so recoverable for the types of loss cov-
17 ered by such benefits, or in excess of the limits of its
18 liability under its policy.
19 b. Where its insured is or would be held legally liable
20 for property damage sustained by any person to whom payment
21 has been made by another insurer, it will reimburse such other
22 insurer to the extent of such payment, but not in excess of
23 the amount of damages so recoverable for the types of loss
24 covered by such insurance or in excess of the limits of its
25 liability under its policy.
26 c. The issue of liability for such reimbursement and the
27 amount thereof, if not agreed to between the insurers in-
28 volved, shall be decided by mandatory, binding intercompany
29 arbitration procedures approved by the commissioner of insur-
30 ance of this state. Payment of such reimbursements by an
31 insurer shall not increase the limits of its liability under
32 its policy. Any decision in arbitration proceedings under
33 this section shall be privileged and shall not be admissible
34 in any court proceedings by any party or parties. The right
35 of reimbursement, including property damage, by intercompany

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1 settlement or arbitration shall continue for one year after
2 the last benefit under this Act for the accident is paid but
3 in no event shall it be for less than five years and no other
4 statute of limitations shall be applicable. In those in-
5 stances where there are reimbursable benefits in excess of
6 the limits of liability of the policy from which the insurer
7 is making reimbursement, the insurer entitled to reimburse-
8 ment shall, to the extent of those benefits paid and payable
9 and not reimbursed, be subrogated to any right of action for
10 damages by the person who sustained the injuries or damages
11 against the person legally responsible for such injuries or
12 damages and this right of subrogation shall survive and be
13 in addition to the rights of the person who sustained the
14 injuries or damages.
15 2. Every automobile liability or motor vehicle liability
16 insurer not authorized to transact insurance in this state
17 by a certificate of authority issued by the commissioner of
18 insurance of this state may elect to be bound by the provi-
19 sions of subsection one (1) of this section by written notifi-
20 cation of its election to the commissioner of insurance of
21 this state and such election shall continue until revoked
22 in accordance with rules to be promulgated by the commis-
23 sioner of insurance of this state.
24 3. Any person who receives or is entitled to receive
25 benefits provided in section three (3) of this Act, which
26 are subject to settlement or binding intercompany arbitra-
27 tion under subsection one (1) of this section, shall disclose
28 such benefits recovered and recoverable, and any collision
29 loss which is subject to settlement or binding intercompany
30 arbitration under subsection one (1) of this section, to the
31 court, but not to the jury, in any court proceedings in this
32 state for damages arising out of the same accident, or in
33 the event of arbitration of such cause of action under sec-
34 tion ten (10) of this Act, to the arbitrator or arbitrators,
35 or in the event of settlement to the parties in interest.

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1 The amount of such benefits recovered and recoverable and,
2 if applicable, the amount of such collision loss recovered
3 or recoverable, shall be deducted from any verdict, award,
4 recovery or settlement obtained by such person in such pro-
5 ceeding, prior to the entry of a verdict or award, or in such
6 settlement and shall not be considered a part of the verdict,
7 award, recovery or settlement obtained by such person. The
8 amount of any such benefits and collision loss by which any
9 verdict, award, recovery or settlement is reduced shall not
10 be included in computing attorney fees. Benefits disclosed
11 in any court proceedings, arbitration or settlement for damages
12 resulting from the death of a deceased, brought by his legal
13 representative, where survivor's benefits have been paid or
14 are payable under section three (3) of this Act as a result
15 of the death of such deceased, shall include such survivor's
16 benefits and said survivor's benefits shall be deducted from
17 any verdict, award, recovery or settlement obtained by such
18 legal representative in such proceeding, prior to the entry
19 of a verdict or award, or in such settlement and shall not
20 be considered a part of the verdict, award, recovery or
21 settlement obtained by such legal representative.
22 4. In any case in which an insurer has paid or is obli-
23 gated to pay benefits provided in section three (3) of this
24 Act to a person for whose injuries or damages legal liability
25 exists or may exist on the part of another person whose in-
26 surer is not an automobile liability or motor vehicle lia-
27 bility insurer authorized to transact insurance in this state
28 and whose insurer has not elected under subsection two (2)
29 of this section to be bound by the provisions of subsection
30 one (1) of this section, or on the part of another person
31 who is not insured:
32 a. The insurer paying or obligated to pay such benefits
33 shall, to the extent of those benefits paid and payable, be
34 subrogated to any right of action for damages by the person
35 who sustained the injuries or damages against such person

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1 and this right of subrogation, including property damage,
2 shall continue for one year after the last benefit under this
3 Act for the accident is paid but in no event shall it be for
4 less than five years and no other statute of limitations shall
5 be applicable.
6 b. The insurer paying or obligated to pay such benefits
7 shall, to the extent of those benefits paid and payable, be
8 entitled to the proceeds of any verdict, award, judgment,
9 recovery or settlement less a proportionate share of court
10 costs, reasonable attorney fees and expenses related thereto,
11 that may result from the exercise of any rights of recovery
12 of any person who receives or is entitled to receive bene-
13 fits provided in section three (3) of this Act against the
14 person legally responsible for the damages because of which
15 benefits under this Act were paid and payable.
16 c. Any person who receives or is entitled to receive
17 benefits provided in section three (3) of this Act shall hold
18 in trust, for the benefit of the insurer, all rights of re-
19 covery which he shall have against another person because
20 of the damages which resulted in the payment or obligation
21 to pay benefits under this Act, but only to the extent that
22 such benefits are paid and payable; shall do whatever is
23 proper to secure and shall do nothing after loss to prejudice
24 such rights; shall take, if requested in writing by the in-
25 surer, through any representative designated by the insurer,
26 not in conflict in interest with such person, such action
27 as may be necessary or appropriate to recover such benefit
28 payment or obligation to pay as damages from another person
29 involved in the motor vehicle accident, such action to be
30 taken in the name of such person, but only to the extent of
31 benefits provided in section three (3) of this Act paid and
32 payable by the insurer and, in the event of a recovery, the
33 insurer shall be reimbursed out of such recovery for expenses,
34 costs and attorney fees incurred by it in connection there-
35 with; and shall execute and deliver to the insurer such in-

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1 struments and papers as may be appropriate to secure the
2 rights and obligations of such person and the insurer
3 established by this section.
4 d. An insurer with a right of subrogation or recovery
5 under this section, if suffering loss from inability to col-
6 lect such right out of a payment received by a person receiv-
7 ing or entitled to receive benefits under this Act upon a
8 tort claim, is entitled to indemnity from one who, with no-
9 tice of the insurer's interest, made such a payment without
10 making the insurer and such person joint payees as their in-
11 terests may appear or without obtaining the insurer's consent
12 to a different method of payment.
13 e. In any court proceedings, arbitration or settlement
14 for damages resulting from the death of a deceased, brought
15 by his legal representative, where survivor's benefits have
16 been paid or are payable under section three (3) of this Act
17 as a result of the death of such deceased, the insurer pay-
18 ing or obligated to pay such survivor's benefits shall be
19 reimbursed, to the extent such benefits are paid and payable,
20 out of any verdict, award, recovery or settlement obtained
21 by the legal representative.
22 5. As used in this section, "person" includes any indi-
23 vidual, person, firm, association, partnership, corporation
24 or legal representative.
25 Sec. 8. ADVANCE PAYMENTS.
26 1. In any claim or action in tort or contract brought
27 against any person as a result of bodily injury caused by
28 accident and arising out of the operation, ownership, main-
29 tenance or use of a vehicle, the person or company against
30 whom such a claim or suit for benefits or damages is made,
31 or if such person is insured against loss by reason of his
32 liability to pay such damages, the insurer of such person
33 may make or offer advance payments to such claimant, or
34 plaintiff, as the case may be.
35 2. For the purpose of this section the words "advance

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1 payment" include but are not limited to any partial payment,
2 loan or settlement made by any person, corporation or insurer
3 thereof, to another, which is predicated upon possible tort
4 liability or under the contractual obligations of the insurer
5 to the injured party or on his behalf, including but not
6 limited to medical, surgical, hospital, rehabilitation ser-
7 vices, facilities or equipment, loss of earnings, out-of-
8 pocket expenses, death claims, loans, bodily injury or property
9 damage, loss or destruction, and any offer thereof.
10 3. This section applies to any action commenced in this
11 state, regardless of the situs of the accident, location of
12 the property or residence of the parties.
13 4. An advance payment does not interrupt the running of
14 the statute of limitations. However, any person, includ-
15 ing any insurer, who makes such advance payment, shall notify
16 the recipient thereof in writing of the date the applicable
17 statute of limitations will expire. Failure to provide no-
18 tification shall extend the statute until notification is
19 given.
20 5. In any action in which the defendant, his insurer or
21 any other person has made or offered to make an advance pay-
22 ment to or on behalf of any claimant prior to trial, any
23 evidence of or concerning that advance payment is not admis-
24 sible in evidence and shall not be construed as an admission
25 of liability in any action brought by the claimant, his sur-
26 vivors or personal representative, to recover damages for
27 personal injuries or for the wrongful death of another, or
28 for property damage or destruction.
29 6. In the event that such action results in a verdict
30 in favor of the claimant, the defendant shall be allowed to
31 introduce evidence of such payments after the verdict has
32 been rendered and the court shall then reduce the amount
33 awarded to the claimant by the amount of payments made.
34 7. No such payment made under this section by an insurer
35 may be construed to be in lieu of or in addition to the limits

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1 of liability of the insurer under any existing policy of
2 insurance. Such sums paid in advance are considered to have
3 been made under the limits of the policy and must be credited
4 to the insurer's obligation to the insured arising from such
5 policy and must be deducted therefrom.
6 Sec. 9. GENERAL DAMAGES. In any action in tort for bodily
7 injury caused by accident occurring on or after January 1,
8 1973 arising out of the operation, ownership, maintenance
9 or use of a vehicle within this state, damages as may be re-
10 coverable for pain, suffering, mental anguish and inconven-
11 ience shall not exceed an amount equal to fifty percent of
12 the first one thousand dollars or less of reasonable medical
13 treatment expenses of the claimant, but this limitation shall
14 not apply in cases where the jury or court shall make a spe-
15 cial finding, based on a preponderance of competent medical
16 testimony, that the pain, suffering and mental anguish actually
17 experienced by the claimant is of such unusual character and
18 proportions that imposition of the limitations would be un-
19 conscionable. Medical treatment expenses for this purpose
20 are defined as the reasonable value of services rendered for
21 necessary medical, hospital, extended care, dental, optical,
22 prescription medicines and drugs, surgical, ambulance, reha-
23 bilitation, and professional nursing services and prosthetic
24 devices, but excluding diagnostic X-ray services and any other
25 expenses.
26 Sec. 10. ARBITRATION OF SMALL CLAIMS.
27 1. The supreme court may adopt rules pursuant to sections
28 six hundred eighty-four point eighteen (684.18) and six hun-
29 dred eighty-four point nineteen (684.19) of the Code to pro-
30 vide that all or any specific types of vehicle accident cases
31 filed in any court in this state where the amount in contro-
32 versy shall be three thousand dollars or less, may first be
33 submitted to and heard by one member of the bar of this state,
34 unless one of the parties requests a panel of three such mem-
35 bers who shall arbitrate the issues in the case. The manner

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in which arbitrators are selected, the arbitrators fees, the rules and procedures to be followed in the arbitration proceedings and the assessment of costs shall be determined by the supreme court.

2. Either party may appeal from an award of arbitrators, to the court in which the case was pending under the following rules:

a. The party appellant, his agent or attorney, shall make oath or affirmation that it is not for the purpose of delay such appeal is entered, but because he firmly believes injustice has been done.

b. Such party shall pay all costs that may have accrued in such suit or action.

c. Such appeal shall be entered, and the costs paid, within twenty days after the day of the entry of the award of the arbitrators on the docket.

d. All appeals must be de novo both as to the law and the facts.

3. This section does not apply to arbitration between insurers, whether mandatory or voluntary.

Sec. 11. MEDICAL DISCLOSURE. Any person who claims damages for personal injuries arising out of the operation, maintenance or use of a vehicle from another person or benefits therefor under an insurance policy must, upon request of the defendant or insurer from whom recovery is sought, submit to physical examination by a physician or physicians selected by the defendant or insurer as may reasonably be required and must do all things reasonably necessary to enable the defendant or insurer to obtain medical reports, including his own doctors' medical reports, and other needed information to assist in determining the nature and extent of the claimant's injuries and the medical treatment received by him. The insurer, at its own expense, shall have a continuing right and opportunity to examine the person of a claimant when and as often as it may reasonably require during the

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1 time benefits are being claimed. A copy of the medical re-
2 port must be forwarded to the person examined. If the claim-
3 ant refuses to cooperate in responding to a request for exam-
4 ination and information as authorized by this section, evi-
5 dence relevant to such noncooperation is admissible in any
6 suit or arbitration proceeding filed by the claimant for
7 damages for such personal injuries or for benefits under any
8 insurance policy.
9 Sec. 12. LIMITATIONS.
10 1. The coverages described in section three (3) of this
11 Act may prescribe a period of not less than six months after
12 the date of accident within which the original proof of loss
13 with respect to a claim for benefits under section three (3)
14 of this Act must be presented to the insurer as a condition
15 to eligibility for such benefits.
16 2. The coverages described in section three (3) of this
17 Act may provide that in any instance where a lapse occurs
18 in the period of disability or in the medical treatment of
19 an injured person who has received benefits under such cov-
20 erage or coverages and such person subsequently claims addi-
21 tional benefits based upon an alleged recurrence of the in-
22 jury for which the original claim for benefits was made, the
23 insurer may require reasonable medical proof of such alleged
24 recurrence, however in no event shall the aggregate benefits
25 payable to any person exceed the maximum limits specified
26 herein, and provide further that such coverages may contain
27 a provision terminating eligibility for benefits after a pre-
28 scribed period of lapse of diability and medical treatment,
29 which period shall not be less than one year.
30 3. Notwithstanding any other provision of any actions
31 under the provisions of section three (3), subsection two
32 (2) of this Act must be brought by the person claiming bene-
33 fits against the insurer within two years from the date of
34 the accident.
35 4. Upon refusal of any injured person to obtain reason-

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able rehabilitative treatment or occupational training, an insurer may petition a court of competent jurisdiction for an order that benefits be reduced or terminated so as to limit recovery of benefits to an amount equal to benefits that in reasonable probability would be due if the injured person submitted to such rehabilitative treatment or occupational training, or such other orders as are reasonable. The court, in determining whether an injured person has reasonable ground for refusal to submit for the treatment or training shall take into account all relevant factors, including the extent of the probable benefit, the attendant risks, the extent to which the procedure, treatment or training is recognized as standard and customary, and whether the imposition of sanctions because of the injured person's refusal would abridge his right to the free exercise of his religion.

Sec. 13. ASSIGNED CLAIMS PLAN. Insurers writing automobile liability or motor vehicle liability insurance in this state are hereby directed to develop, implement and maintain an assigned claims plan to provide that any person resident in this state, other than the owner or registrant of a motor vehicle not insured by a policy providing the benefits set forth in section three (3), subsection two (2) of this Act or a relative resident in such owner's or registrant's household, who sustains bodily injury incurred in and arising out of an accident occurring in this state, while occupying a motor vehicle or while a pedestrian when struck by a vehicle, shall be entitled to the benefits set forth in section three (3), subsection two (2) of this Act through said plan in any case where no such benefits are otherwise available to such person, however, a person who would be or is subject to exclusion from benefits by section five (5) of this Act shall not become entitled to benefits by this section and the benefits payable under section three (3), subsection two (2) shall be reduced or eliminated to the extent the injured person is entitled to any other collateral benefits including but

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1 not limited to private insurance benefits, governmental bene-
2 fits or gratuitous benefits, and that such benefits shall
3 be reduced or eliminated by any amount received by or on be-
4 half of the injured person from any third person who is or
5 may be liable for the bodily injury to the injured person.
6 Said plan shall contain such rules and regulations for
7 operation and for the assessment of costs and benefits as
8 shall be approved by the commissioner of insurance of this
9 state. Any claim brought through said plan shall be assigned
10 to an insurer in accordance with the approved rules and regu-
11 lations for operation and that insurer, after such assignment,
12 shall have the same rights and obligations it would have if
13 prior to such assignment it had issued a policy providing
14 the benefits set forth in section three (3), subsection two
15 (2) of this Act. Any party accepting such benefits hereunder
16 shall have such rights and obligations as he would have were
17 a policy providing such benefits issued to him. The bene-
18 fits paid by the insurer, less any reimbursements or recov-
19 eries, plus reasonable costs of investigating, processing
20 and handling the claim, including reasonable attorney fees,
21 if any, shall be reimbursed to the insurer by the plan. As-
22 sessments of the benefits and costs shall be allocated to
23 the insurers writing automobile liability and motor vehicle
24 liability insurance in this state on a basis reasonably re-
25 lated to the volume of automobile liability and motor vehicle
26 liability insurance written in this state by the respective
27 insurers.
28 Sec. 14. AUTHORITY OF THE COMMISSIONER OF INSURANCE.
29 The commissioner of insurance may issue and promulgate all
30 rules, regulations, definitions and minimum benefit provi-
31 sions for policy forms necessary to implement the provisions
32 of this Act.
33 Sec. 15. COOPERATION OF BENEFICIARIES. Any person re-
34 ceiving benefits under section three (3) of this Act shall
35 participate and cooperate in any and all arbitration proceed-

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1 ings and legal actions instituted by or on behalf of the in-
2 surer paying the benefits, and the insurer may require in
3 the furnishing of proof or loss that such person shall so
4 participate and cooperate as consideration for the payment
5 of such benefits.
6 Sec. 16. SEVERABILITY. If section nine (9) of this Act
7 or the application thereof to any person or circumstance is
8 held invalid, the other provisions or applications of the
9 Act or statute, which could ordinarily be given effect with-
10 out section nine (9) of this Act, shall also be invalid.
11 Sec. 17. EFFECTIVE DATE OF ACT. The provisions of this
12 Act shall become effective January 1, 1973. In consideration
13 of retention of its certificate of authority to write auto-
14 mobile liability or motor vehicle liability insurance, each
15 insurer shall be deemed to have agreed to provide the bene-
16 fits prescribed in section three (3), subsection two (2) of
17 this Act on policies outstanding on January 1, 1973, which
18 are required by section three (3), subsection one (1) of this
19 Act to contain such coverage. In consideration of the addi-
20 tional insurance afforded, each insured under such policy
21 shall be deemed to have waived return of premium for medical
22 or disability income payments coverage which is part of any
23 such policy remaining in effect. Payments made under sec-
24 tion three (3), subsection two (2), paragraphs a, b, or c
25 of this Act shall be in lieu of any medical or disability
26 income coverage payments due under a policy of insurance that
27 is in effect until payments under section three (3), subsec-
28 tion two (2), paragraphs a, b, or c of this Act are exhausted
29 and then the medical payments or disability income coverage
30 provisions of the policy in effect shall be payable as excess
31 coverage.
32 EXPLANATION
33 This bill provides that all policies insuring against lia-
34 bility resulting from motor vehicle accidents must contain
35 provisions requiring payment of minimum benefits without re-

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gard to fault. The minimum benefits are five thousand dollars per person for medical expenses, seventy-five percent of income loss for one year subject to a one hundred fifty dollar weekly limit, and loss of services benefits of up to twelve dollars per day for one year. Optional excess benefits are required subject to written rejection by the insured. These include all medical expenses, seventy-five percent of income up to one hundred fifty dollars per week for two hundred sixty weeks, and loss of services benefits up to twelve dollars per day for two hundred sixty weeks. Reimbursement among insurance companies for the benefits paid under such policies is provided for by arbitration. Pain and suffering damages are limited to fifty percent of the first thousand dollars or less of medical expenses unless the jury or court makes a special finding that such a limitation would be unconscionable in the individual case. Provision is made for the settlement of claims under three thousand dollars by submitting them to one attorney, or a panel of three if requested by one of the parties, subject to rules and procedures adopted by the supreme court. This arbitration carries an unlimited right of appeal by either party to the court where the suit was originally filed.