

AUGUST 2, 1961

HONORABLE NED J. PARSEKIAN
Acting Director
Division of Motor Vehicles
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-12

DEAR DIRECTOR PARSEKIAN:

You have requested our opinion as to the extent of your discretionary power in administering the assessment provisions of the Unsatisfied Claim and Judgment Fund (hereinafter referred to as "U.C.J.F.") Law (*N.J.S.A. 39:6-61, et seq.*), as found in *N.J.S.A. 39:6-63(d)*. Specifically, you ask whether you are required to assess to the limit of subsection (1) thereof, imposing the U.S.J.F. fee on uninsured vehicle registrations, before applying subsection (2), imposing assessments up to a maximum on insurers, or whether your discretion can guide your actions in calling upon either, or both, of these assessments without priority.

Subsection (d) of *N.J.S.A. 39:6-63* reads as follows:

"(d) On December 30 in each year, beginning with 1956, the director shall calculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year. In such calculation, he shall take into consideration the amount presently reserved for pending claims, anticipated payments from the fund during said year, anticipated amounts to be reserved for claims pending during said year, and the desirability of maintaining a surplus over and above such anticipated payments and present and anticipated reserves, such surplus not to exceed the amount actually paid from the fund during the 12 full calendar months immediately preceding the date of calculation. If, in his judgment, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall

"(1) Determine the amount to be fixed as the Unsatisfied Claim and Judgment Fund Fee for such registration license year. Such fee shall in no case exceed \$15.00 and shall be paid by each person registering an uninsured motor vehicle during such ensuing year at the time of registration in addition to any other fee prescribed by any other law.

"(2) If the estimated total amount of Unsatisfied Claim and Judgment Fund Fees to be collected during the ensuing registration license year shall be insufficient, in the judgment of the director, to provide the estimated amount needed to carry out the provisions of this act during the said ensuing registration license year, he shall assess this estimated deficiency against insurers for such year's contribution to the fund. Such deficiency shall be apportioned among such insurers in the proportion that the net direct written premiums of each bears to the aggregate net direct written premiums of all insurers during the preceding calendar year as shown by the records of the commissioner. Such aggregate assessment, however, shall in no event exceed $\frac{1}{2}$ of 1% of the aggregate net direct written premiums for such preceding

calendar year. Each insurer shall pay the sum so assessed to the treasurer on or before March 31, next following."

Originally, *N.J.S.A.* 39:6-63 was enacted as part of *L. 1952, c. 174* creating the U.C.J.F. Section 3 of the act then provided for assessments similar in kind to those presently required. However, at that time, subsection (1) of section (d) provided that the Treasurer, at that time a member of the Board, was to survey the fund annually. If, in his judgment, an insufficiency was indicated in the fund for the ensuing year, he would assess the deficiency against the insurers to a maximum. Subsection (2) provided that if such assessment appeared to be insufficient, he would notify the Director of a fee charge to be required upon vehicle registrations, limited to \$1.00 for insured vehicles and \$2.00 for uninsured vehicles.

L. 1955, c. 1 replaced the Treasurer with the Director, but did not otherwise affect this section.

In 1956, an amendment increased the maximum additional fee for uninsured vehicles to \$8.00, and relieved insured vehicle owners of any direct assessment whatever (*L. 1956, c. 22, § 2*). This did not however, change the existing structure of the section.

A significant and substantial amendment was enacted by the passage of *L. 1958, c. 99, § 1*. For the first time, specific standards for the Assessor's guidance in his annual survey were inserted in the body of subsection (d). The new subsection (d) (1) became the assessment upon uninsured vehicles, now known as the "Unsatisfied Claim and Judgment Fund Fee," and was increased to a \$15.00 limit. The assessment upon insurers now replaced subsection (d) (2), but remained unchanged in maximum limits.

The carriers are obliged by § 6 and § 7 of the U.C.J.F. Act (*N.J.S.A.* 39:6-66 and 39:6-67) to conduct investigations as assigned and to defend claims on behalf of uninsured motorists in litigation. Although these obligations are incurred at the carriers' expense initially, the burden of costs is ultimately reflected in premium charges to the insured motorists.

It is highly significant that the 1958 amendment reverses the order in which assessments are now to be made, that is, first upon the uninsureds and then upon the insurers. Real meaning is given to this change of sequence by the statement appended to the 1958 bill which so amends *N.J.S.A.* 39:6-63.

"The purpose of this bill is to increase payments to accident victims of uninsured drivers; to eliminate inequities and objectionable features that have appeared in the Unsatisfied Claim and Judgment Fund Law after three years of operation; to expedite payment of claims that have been settled; and to place on the uninsured motorist, who creates the problem, the principal burden of supporting the fund."

This statement indicates the purpose of the Legislature to limit the insurer's assessment (and, ultimately, the insured owner's share) to a position of a supporting, rather than a direct, source of contribution.

Manifestly, therefore, it follows that the uninsureds ought to provide funds to the legal limit of \$15.00 each before this support may be claimed as necessary by the Director.

OPINIONS

It is our opinion that you are required to exact from uninsured motorists the maximum U.C.J.F. fee under N.J.S.A. 39:6-63(d)(1) as a condition precedent to your invocation of your right to assess carriers under subsection (d)(2) thereof.

Very truly yours,

DAVID D. FURMAN
Attorney General

AUGUST 7, 1961

HONORABLE NED J. PARSEKIAN
Acting Director
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey

MEMORANDUM OPINION—P-13

DEAR DIRECTOR PARSEKIAN :

You have requested our opinion as to whether R.S. 39:3-30, besides permitting transfers of vehicle registrations between weight classifications within the same category of vehicles, also permits transfers between differing categories of vehicles. For example, if a vehicle, which is registered commercially, is replaced by another vehicle not to be used for commercial purposes, may a transfer of registration to the non-commercial category be accomplished by payment of the \$1.00 transfer fee, provided for by R.S. 39:3-30.

In our opinion R.S. 39:3-30 only authorizes transfers within the category in which the preceding vehicle was registered. In pertinent part that statute provides as follows:

"Upon the transfer of ownership or the destruction of any motor vehicle its registration shall become void. If the motor vehicle is sold the original owner shall remove the license plates therefrom, and, within 48 hours, notify the director of the name and address of the purchaser.

"The original owner may, by proper sworn application on a form to be furnished by the division, register another motor vehicle for the unexpired portion of the registration period of the original vehicle, upon payment of a fee of \$1.00 if the vehicle is of a weight or other classification equal with or less than the one originally registered, or upon the payment of a fee of \$1.00 and the difference between the fee originally paid and that due of the new motor vehicle is properly registerable in a higher class. Unless the original license plates have been destroyed, the owner shall be assigned the license number previously issued to him and shall receive a new registration certificate. If the original license plates have been destroyed, replacement of the plates will be made under the provisions of section 39:3-32 of this Title * * *."

We would limit the applicability of transfers under this statute within the classification of original registration. The sections providing fees and registration identification contain differing standards sufficient to indicate that extension of R.S. 39:3-30