Article - Insurance

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§20–601.

(a) (1) In this section, "qualified person" means:

(i) a resident of the State;

(ii) the owner of a motor vehicle registered in the State, unless the owner is not a resident of the State and the motor vehicle bears temporary registration plates issued under Title 13, Subtitle 6, Part I of the Transportation Article;

(iii) a resident of another state or foreign country that affords recourse to residents of this State that is substantially similar to that provided under this title; or

(iv) an individual injured by an uninsured motorist who later files for bankruptcy or other protection from creditors that bars the Fund from a subrogation recovery.

(2) "Qualified person" does not include:

(i) an automobile collision insurer or other insurer that seeks by subrogation to recover payment for damages to a motor vehicle or real or other personal property, or injuries to individuals under any insurance coverages, including collision, fire, theft, medical payments, and uninsured motorist coverages;

(ii) a holder of a certificate of self-insurance under this article; or

(iii) an insured under a policy provision that:

1. provides coverage for damages sustained by the insured as a result of the operation of an uninsured motor vehicle; and

2. is authorized to be included in an automobile liability policy delivered or issued for delivery in the State.

(b) To the extent that a policy of motor vehicle liability insurance does not provide coverage, a claim that arises out of circumstances described in subsection (c), (d), or (e) of this section may be made against the Fund if:

(1) the claim is for:

(i) damage to property greater than $250; or

(ii) the death of or personal injury to a qualified person;

(2) (i) at the time of the accident, the claimant was not driving or riding in an uninsured motor vehicle owned by the claimant or a member of the claimant's family who resides in the claimant's household; and

(ii) the claimant is not the personal representative of the individual who was driving or riding in the uninsured motor vehicle; and

(3) (i) at the time of the accident, the claimant was not driving a motor vehicle with a certificate of registration that was suspended, canceled, or revoked, or was holding a driver's license that was suspended, canceled, or revoked; and

(ii) the claimant is not the personal representative or a member of the family who resides in the household of the individual who was driving the motor vehicle.

(c) A claim that arises out of the ownership, maintenance, or use of a motor vehicle in the State may be made against the Fund if:

(1) the requirements of subsection (b) of this section are met;

(2) (i) the identity of the motor vehicle and of its driver and owner cannot be established; or

(ii) the identity of the individual who was driving the motor vehicle cannot be established and it is established that, at the time of the accident, the motor vehicle was in the possession of an individual other than the owner without the owner's consent;

(3) the claimant has a cause of action against the driver or owner of the motor vehicle; and

(4) all reasonable efforts to establish the identity of the motor vehicle and of its owner and driver are unsuccessful.

(d) A claim that arises out of ownership, maintenance, or use of a motor vehicle in the State may be made against the Fund if:

(1) the requirements of subsection (b) of this section are met;

(2) the claimant has a cause of action against the driver or owner of the motor vehicle;

(3) despite all reasonable efforts, the driver or owner of the motor vehicle cannot be located; and

(4) (i) at the time of the accident the motor vehicle was an uninsured motor vehicle; or

(ii) despite all reasonable efforts, it is impossible to establish whether the motor vehicle was insured.

(e) (1) Subject to paragraph (2) of this subsection, a claim that arises out of the ownership, maintenance, or use of a motor vehicle in the State may be made against the Fund if:

(i) the requirements of subsection (b) of this section are met;

(ii) the driver or owner of the motor vehicle is uninsured and can be located for service of process;

(iii) 1. the claimant is not the uninsured driver's spouse who resides in the uninsured driver's household or another family member who resides in the uninsured driver's household; and

2. the claimant is not the personal representative of the spouse who resided in that household;

(iv) the claim is not made for damage to or destruction of an uninsured motor vehicle owned wholly or partly by the claimant; and

(v) the claimant is not eligible to make a claim arising from the same accident against the Property and Casualty Insurance Guaranty Corporation under Title 9, Subtitle 3 of this article.

(2) A claim under this subsection may not be made by or for:

(i) an insurer under a policy that makes the insurer liable to pay, wholly or partly, the amount of the claim; or

(ii) an insurer for any amount sought or claimed for damages or destruction to the property of the claimant or an insured by reason of:

1. collision with a motor vehicle or other object, or by upset of the motor vehicle; or

2. coverage of the insured that provides indemnification from injury or damages caused by uninsured motorists.

(3) The amount to be paid out of the Fund may not be sought, wholly or partly, to:

(i) take the place of making a claim or receiving a payment that is payable under a policy specified in paragraph (2)(i) of this subsection; or

(ii) reimburse or otherwise indemnify an insurer for an amount paid or payable under a policy specified in paragraph (2)(i) of this subsection.

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