

FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST SPECIAL SESSION, 2006

H. B. NO. 15-124

A BILL FOR AN ACT

To amend 9 CMC § 8205 (P.L. 11-55) to provide for the inclusion of taxi operators in the mandatory automobile insurance coverage provided by Insurance Providers; to amend the coverage rate set in 1 CMC § 2596 (a)(6)(i) (P.L. 7-33, amended by P.L. 9-26); to clarify the amount of uninsured motorist coverage and delete any reference to uninsured motorist coverage for property damage; to create an Assigned Risk Plan for taxicab owners and operators; and for other purposes.

**BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings.** The Legislature finds that taxicab operators provide a
2 valuable service to the residents of and visitors to the Commonwealth, and that taxicab
3 operators, due to their co-existence with visitors to the Commonwealth, become *de facto*
4 ambassadors. As such, the quality of their service to the Commonwealth's visitors
5 reflects either poorly or well on the Commonwealth.

6 The Legislature finds that the safety of those utilizing the services of a taxicab
7 operator, as well as the safety of residents and visitors on and near the Commonwealth's
8 roads, depends on the quality of services rendered by the taxicab operators. The
9 Legislature finds that taxicab operators who are able and willing to safely drive while
10 abiding the laws of the Commonwealth should be encouraged, and that operators who are
11 involved in repeated accidents or who are unwilling or unable to abide the
12 Commonwealth's laws should not be allowed to operate.

13 The Legislature finds that the risks of driving passengers for hire differ
14 significantly from the risks encountered by noncommercial drivers, such that disparate
15 regulation is both necessary and proper.

16 The Legislature further finds that making a fraudulent insurance claim is an

1 immoral act which runs contrary to the public policy of the Commonwealth and unduly
2 increases costs to law abiding residents of the Commonwealth.

3 The Legislature finds that the current theft by deception statutes, while applicable,
4 are insufficient to stem these abuses, and a statute that specifically addresses insurance
5 fraud is needed so the Office of the Attorney General will have another tool with which it
6 may prosecute those who file fraudulent claims. The Legislature finds that the filing of
7 multiple fraudulent claims, however small each individual claim may be, when viewed in
8 the aggregate is especially deleterious to the public welfare.

9 The Legislature finds that, if, due to budgetary or caseload considerations, the
10 Office of the Attorney General is unwilling or unable to enforce the insurance fraud laws,
11 a method of civil enforcement is necessary.

12 Therefore, the Legislature finds that it is in the best interest of the Commonwealth
13 for the taxicab industry to co-exist with the tourism industry; that refusals to issue
14 insurance policies on taxicabs have had a potentially devastating effect on the co-
15 existence of these two industries; and that it is in the best interest of the Commonwealth
16 to include taxicab operators in an assigned risk plan for coverage by Insurance Providers
17 at the higher minimum liability rates currently set by law.

18 Further, the Legislature finds that the filing of a fraudulent insurance claim and
19 the repeated filing of fraudulent insurance claims violates public policy and morality and
20 should be severely punished; and that a civil remedy that allows for the recovery of
21 double and treble damages is both necessary and proper.

22 **Section 2. Amendment.** The Commonwealth Code is hereby amended as
23 follows:

24 (a) 9 CMC § 8205 is amended as follows:

25 **“§ 8205. Regulation of Motor Vehicle Insurance Policies.**

26 Any insurance provider that does business in the Commonwealth and
27 offers any insurance policy for a motor vehicle, must also offer taxicab liability
28 insurance. All motor vehicle liability insurance policies, including vehicle liability

1 insurance policies for taxicabs with the higher minimum liability limits otherwise
2 provided by law, that provide coverage for the operation of any motor vehicle
3 with the Commonwealth are hereby required by law to contain, at a minimum, the
4 following terms and provisions:

5 (a) [unchanged]

6 (b) [unchanged]

7 (c) [unchanged]

8 (d) [unchanged]”

9 **(b)** 1 CMC § 2596(a)(6) is amended as follows:

10 **“§ 2596. Duties and Responsibilities of the Taxicab Bureau Chief.**

11 The duties and responsibilities of the chief shall include, but are not
12 limited to, the following:

13 (a) To promulgate the rules and regulations necessary to carry out
14 the intent and purposes of this article in accordance with the
15 Commonwealth Code which:

16 (1) [unchanged]

17 (2) [unchanged]

18 (3) [unchanged]

19 (4) [unchanged]

20 (5) [unchanged]

21 (6) Require that all taxicabs be insured under a general or
22 public liability policy of insurance issued by a qualified insurance
23 company licensed to do business in the Commonwealth, as
24 follows:

25 (i) A minimum coverage of ~~\$50,000~~ \$25,000 for
26 bodily injury or death of any one person in any one
27 accident;

28 (ii) A minimum coverage of \$100,000 for bodily

1 injury or death of more than one person in any one
2 accident;

3 (iii) A minimum coverage of \$30,000 for injury to
4 or destruction of property in any one accident, ~~as well as~~
5 ~~unsecured motorists coverage in the same amounts, unless~~
6 ~~otherwise provided by law.~~ The owner of any vehicle
7 operated or used as a taxicab shall be held responsible for
8 compliance with this section ~~and~~ subsections (i-iii).; ~~and,~~

9 (iv) ~~in the event policy coverage includes the non-~~
10 ~~mandatory uninsured motorist coverage, The owner of any~~
11 ~~vehicle operated or used as a taxicab shall be held~~
12 ~~responsible for compliance with this section.”~~

13 (c) 9 CMC § 2301(b) is amended as follows:

14 "(b) In addition to the necessary qualifications set forth in article 1 of this
15 chapter [9 CMC § 2201 et seq.], an applicant for a taxicab driver’s license must
16 be a citizen of the United States, or any territory under the administration of the
17 United States, and a bona fide resident of the Commonwealth. A bona fide
18 resident for purposes of this section is defined as a person qualified and registered
19 to vote in the Commonwealth and over the age of 18 years. No person shall be
20 licensed as a taxicab driver who has ever been convicted of a felony, or who has
21 been convicted of theft of a vehicle, homicide by a vehicle, fleeing or attempting
22 to elude a police officer, or twice convicted of reckless driving or driving while
23 under the influence of alcohol or drugs, as defined by the Commonwealth Code.
24 Nor shall any person be licensed as a taxicab driver who has ever been convicted
25 of reckless driving and driving while under the influence of alcohol or drugs, as
26 defined by the Commonwealth Code, without regard as to which offence was
27 committed first or whether both convictions arose from the same incident. For
28 purposes of this section a plea of guilty shall be deemed a conviction.

1 (d) Division 8 Chapter 2 of Title 9 of the Commonwealth Code, is amended
2 by adding the following definitions to Section 8201:

3 "ARP Taxi" means the Assigned Risk Plan for Taxicabs created by this chapter.

4 "Taxicab" means a passenger vehicle for hire, other than a motor bus, which is
5 built for that purpose, and includes a sedan type vehicle having a seating capacity of less
6 than eight passengers."

7 "Voluntary market" means coverage for all motor vehicles provided by insurance
8 providers in accordance with Commonwealth law but not written under the Assigned
9 Risk Plan or ARP Taxi.

10 (e) Section 8208 of Title 9 of the Commonwealth Code, is amended as
11 follows:

12 **"§ 8208. Assigned Risk Plans - Enforcement and Statutory Causes of Action.**

13 (a) A court of competent jurisdiction shall order, by way of injunction, in
14 whatever manner the court deems just and proper, any company, business or party that
15 fails to properly participate in the ARP or ARP Taxi or otherwise fails to abide by the
16 provisions of the rules and regulation of the ARP or ARP Taxi, to properly participate in
17 the ARP or ARP Taxi and abide by such rules and regulations. Such injunctive power
18 shall include, but not be limited to, the authority to affirmatively order an insurance
19 provider to offer and provide any parties with the minimum motor vehicle liability
20 insurance as required by this chapter or any rules and regulations.

21 (b) Any company, business or party that fails to properly participate in the ARP
22 or ARP Taxi or otherwise fails to abide by the provisions of the rules and regulations of
23 the ARP or ARP Taxi, shall be ordered to pay the civil fine to the Commonwealth
24 General Fund of \$1,000 as provided in 9 CMC § 8207(g), for each violation of such rules
25 and regulations.

26 (c) The court shall award damages to be paid by an insurance provider as
27 follows:

28 (1) To any person, hereafter referred to as a "denied person", who was denied an

1 automobile or taxicab liability insurance policy under the ARP or ARP Taxi by the
2 defendant insurance provider in violation of this chapter or any rules and regulations
3 promulgated thereunder, if after such denial, the denied person incurred liabilities in the
4 form of a civil judgment that would have been covered by the minimum ARP or ARP
5 Taxi liability insurance policy. The insurance provider shall be ordered to pay to the
6 denied person either: (i) the amount of such incurred liability; or, (ii) the policy limits
7 of the minimum liability coverage in 9 CMC § 8205(a) or 1 CMC § 2596(a)(6)(i)-(iii) (if
8 applicable); whichever is less. No insurance provider shall be ordered to pay damages
9 under this subsection if the incurred liabilities in the form of a civil judgment have been
10 paid by another form or another provider of any kind of insurance, or, if another
11 insurance provider of any sort has a lawful obligation to pay such liabilities or judgment.

12 (2) To any person, hereafter referred to as “the plaintiff”, who sustains damages
13 caused by a person denied an automobile liability insurance policy under the ARP or
14 ARP Taxi, as referred to in subsection (a) of this section, if such damages are in the form
15 of civil judgment in favor of “the plaintiff” and against the denied person, and, such
16 damages were caused by the denied person and would have been covered by a minimum
17 ARP or ARP Taxi liability insurance policy. An insurance provider shall only be ordered
18 to pay damages under this subpart to “the plaintiff” up to the minimum policy limits in 9
19 CMC § 8205(a) or 1 CMC § 2596(a)(6)(i)-(iii) (if applicable). No insurance provider
20 shall be ordered to pay damages under this subsection to “the plaintiff” to any degree or
21 in any amount that: the incurred liabilities in the form of a civil judgment against the
22 denied person have been paid by the insurance provider under subsection (c)(1) of this
23 section or by another form or another provider of any kind of insurance, or, if another
24 insurance provider of any sort has a lawful obligation to pay the liabilities of the denied
25 person, or, if “the plaintiff” has already been paid such liabilities or judgment by the
26 denied person.

27 (3) No cause of action shall exist under subsection (c)(2) of this section for “the
28 plaintiff” against an insurance provider that has paid such damages to the denied person

1 under subsection (c)(1) of this section. And, no denied person may bring a cause of
2 action under subsection (c)(1) of this section, against an insurance provider that has paid
3 such damages to “the plaintiff” under subsection (c)(2) of this section.

4 (d) This chapter hereby creates the above statutory causes of action as set forth
5 above for any person against any insurance provider. The Attorney General may also
6 bring actions under subsection (a) of this section, on behalf of the Commonwealth, or on
7 behalf of private individuals, to ensure proper compliance with this chapter or any
8 regulations promulgated in relation thereto. All prevailing plaintiffs under this chapter,
9 including the Office of the Attorney General, shall be awarded all reasonable attorney's
10 fees and court cost in relation to such an action.

11 **Section 3. Amendment.** Division 8 Chapter 2 of Title 9 of the Commonwealth
12 Code, is amended by adding the following:

13 **“§ [to be assigned]. Assigned Risk Plan for Taxicabs (ARP Taxi).**

14 An assigned risk plan for taxicab liability is hereby established. As a condition
15 of doing business in the Commonwealth, all insurance providers are required to be
16 part of and to participate in ARP Taxi. The purposes of ARP Taxi are to provide a
17 means by which taxicab owner and/or operator applicants for automobile bodily
18 injury and property damage liability insurance, who are in good faith entitled to but
19 are unable to procure such insurance through ordinary methods, may obtain such
20 coverage, and to establish a reasonable plan for the assignment of eligible risks and
21 for the equitable apportionment of these risks among insurers admitted to transact
22 automobile insurance in the Commonwealth. The Insurance Commissioner shall
23 promulgate such rules and regulations, not in conflict with this chapter, as may be
24 necessary to accomplish the intent of ARP Taxi. Such rules and regulations shall
25 have the force and effect of law.

26 **§ [to be assigned]. Minimum Liability Coverage**

27 In compliance with 1 CMC § 2596 (a)(6)(i-iii), the owner of any vehicle
28 operated or used as a taxicab must be insured for a minimum coverage of \$25,000 for

1 bodily injury or death of any one person in any one accident; a minimum coverage of
2 \$100,000 for bodily injury or death of more than one person in any one accident and a
3 minimum coverage of \$30,000 for injury to or destruction of property in any one
4 accident. The operator is required to have on his or her person or in the taxicab
5 satisfactory evidence of minimum motor vehicle liability insurance. An insurance
6 card issued by the Insurance Provider or Agent that comports with the guidelines
7 established by the Insurance Commissioner or his or her designee shall suffice as
8 evidence of minimum motor vehicle liability insurance.

9 **§ [to be assigned]. Coverage to be Provided in the First Instance by the**
10 **Voluntary Market**

11 Taxicab liability insurance is to be provided in the first instance by the
12 voluntary market. In the voluntary market, an insurance provider may decline to
13 provide insurance coverage to an owner or operator based on the insurance provider's
14 underwriting guidelines. In the event that an insurance provider declines to provide
15 the owner or operator with coverage, the insurance provider shall issue the owner a
16 letter of declination that states with specificity the reason(s) for declination.

17 **§ [to be assigned]. Eligibility for ARP Taxi**

18 In order to be eligible for ARP Taxi, the owner of the vehicle must have
19 attempted to secure required coverage in the voluntary market as evidenced by three
20 (3) letters of declination issued by insurance providers.

21 **§ [to be assigned]. Additional Coverage Available to ARP Taxi**
22 **Applicants**

23 Nothing contained herein shall prohibit an insurance provider who receives an
24 assignment under this plan from offering to any Insured any additional coverage
25 which the Applicant may be willing to purchase, such as collision, comprehensive
26 and medical payments. However, the insurance provider may not make such
27 additional coverage a condition for provision of liability insurance to an ARP Taxi
28 applicant assigned to it by the Insurance Commissioner.

1 **§ [to be assigned]. Administration of ARP Taxi**

2 The Insurance Commissioner shall administer ARP Taxi. The Insurance
3 Commissioner shall make all assignments under ARP Taxi and shall faithfully and
4 impartially perform the functions and duties set forth in ARP Taxi. Insurers shall
5 keep complete records and statistics and submit reports to the Commissioner as may
6 be necessary for the efficient operation of ARP Taxi. The Insurance Commissioner
7 shall compile the quarterly reports filed by the Insurers for assigned risks written
8 under ARP Taxi and shall keep a summary of these reports that will be available for
9 inspection upon request.

10 On or before September 1st following the calendar year the Insurance
11 Commissioner shall prepare a compilation of the Insurers' annual report for risks
12 covered under ARP Taxi together with any recommendations for the efficient
13 administration of ARP Taxi, including but not limited to the adjustments of rates,
14 penalty points, record keeping and compilation of statistics.

15 **§ [to be assigned]. Accumulation of Penalty Points under ARP Taxi**

16 The driving record of any registered operator who during the 36 previous
17 months, normally or usually drove or drives the taxicab, shall be the determining
18 factor in the applicability of additional premium charges. The modification shall be
19 determined by the total number of penalty points accumulated by any owner or
20 operator and any other person authorized by the Applicant to operate the taxicab.

21 In accordance with the following, penalty points shall be assigned to a
22 maximum of twenty five (25) points per vehicle on the basis of motor vehicle
23 convictions that occurred during the 36 months immediately preceding the effective
24 date of coverage in connection with the original application for taxicab liability
25 coverage, and for renewal, during the 36 months preceding the effective date of
26 renewal:

1 (a) Eighteen (18) points, in addition to any points assignable for any one
2 accident, shall be assigned, upon conviction, for each of the following as
3 they are or may be defined by the Commonwealth Code:

- 4 (1) Driving While Under the Influence of Alcohol or Drugs;
- 5 (2) Failing to stop and report when involved in an accident
6 where injury to any person results therefrom;
- 7 (3) Homicide by vehicle;
- 8 (4) Fleeing or Attempting to Elude an Officer;
- 9 (5) Reckless driving.

10 (b) Eleven (11) points shall be assigned, upon conviction, for each of the
11 following, in addition to any points assignable for any accident:

- 12
- 13 (1) Operating a motor vehicle without current automobile
14 liability insurance, certificate of registration, and a valid
15 driver's license including during a period of revocation or
16 suspension of motor vehicle registration or driver's license.
- 17 (2) Operating a motor vehicle without the permission of owner
18 of the vehicle.
- 19 (3) Loaning a driver's license to an unlicensed operator.
- 20 (4) Making false statement in the application for motor vehicle
21 registration or driver's license.
- 22 (5) Impersonating an applicant for motor vehicle registration or
23 driver's license or procuring a motor vehicle registration or
24 driver's license through impersonation whether for himself or
25 another person.

26 (c) Nine (9) points shall be assigned for each of the following convictions in
27 addition to any points assignable for any accident:

- 28 (1) Engaging in a speed contest.

1 (2) Permitting an unlicensed person to drive.

2 (3) Failing to stop and report when involved in an accident
3 where injury to person does not result therefrom.

4 (d) Four points shall be assigned for one conviction and six points shall be
5 assigned for each additional conviction, in the case of convictions for
6 moving traffic violations other than those set forth above, unless the
7 conviction resulted from an accident for which points are assignable, in
8 which case only the points for the accident shall be assigned. However,
9 the following shall not cause the accrual of points:

10 (1) The violation of any motor vehicle equipment requirement or
11 law except for the failure to use seatbelts and child restraint
12 devices.

13 (2) Failure to display proper motor vehicle license plates
14 provided such plates are in existence.

15 (3) Failure to have in possession a driver's license provided there
16 is a valid driver's license in existence.

17 (4) Failure to have a valid driver's license or valid vehicle
18 registration certificate provided there is such license or
19 registration in existence which has not been renewed for a
20 period not to exceed ninety (90) days.

21 (e) Four points shall be assigned for each automobile accident resulting in
22 damage to property in excess of \$1,000. However, points shall not be
23 assigned under this subsection if the accident occurred under the
24 following circumstances:

25 (1) The motor vehicle, owned or operated by the applicant or
26 other person who usually drives the applicant's motor
27 vehicle, was legally stopped at traffic control or was lawfully
28 parked (an automobile rolling from a parked position shall

- 1 not be construed as lawfully parked, but shall be considered
2 as the operation of the last operator).
- 3 (2) The motor vehicle, owned and operated by the applicant was
4 struck in the rear by another vehicle, and the applicant was
5 not convicted of a moving traffic violation in connection with
6 the accident.
- 7 (3) The motor vehicle, owned or operated by the applicant was
8 damaged as a result of contact with a “hit and run” driver,
9 and the applicant or such other person reported the accident
10 to the proper authorities within 24 hours.
- 11 (4) The applicant was not convicted of a moving traffic
12 violation, and the owner or operator of another motor vehicle
13 was so convicted in connection with that accident.
- 14 (5) The applicant has obtained judgment against, or a settlement
15 from or on behalf of, the owner or operator of another vehicle
16 involved in the accident (provided the judgment or settlement
17 was obtained prior to the date of application to ARP Taxi, or
18 in the case of renewal, prior to the effective date of the
19 renewal policy; and provided that as a result of such accident,
20 no judgment was obtained against, nor was any amount paid
21 in settlement by or on behalf of, the applicant).
- 22 (6) Injury or damage was caused by contact with animals, fowl,
23 flying gravel or falling objects.
- 24 (7) The accident occurred as a result of operating a motor vehicle
25 in response to an emergency and, at the time of the accident,
26 the applicant was responding to a call of duty as a paid or
27 volunteer member of any police or fire department, first aid
28 squad or any law enforcement agency.

1 (f) Penalty Point Values and Additional Premium Charges

2 An additional two hundred dollars (\$200) for each penalty point shall be
3 added to the premium for each vehicle insured under ARP Taxi.

4 (g) Where any automobile policy insured more than one motor vehicle, the
5 applicable accumulated points shall be applied first to the motor vehicle with the
6 highest premium and then shall be applied to the next highest rated motor vehicle or
7 vehicle in succession, up to a maximum of twenty five (25) points per vehicle.

8 **§ [to be assigned]. Application to ARP Taxi**

9 To apply for ARP Taxi, the registered owner/operator must fill out the
10 application provided by the Insurance Commissioner and attach copies of the three
11 (3) letters of declination, the owner/operator's traffic abstract, as provided by the
12 Bureau of Motor Vehicles for a fee, and the owner/operator's traffic record, as
13 provided by the Superior Court for a fee.

14 Upon receipt of an application properly completed and executed and a
15 determination that the Applicant is an Eligible Risk for assignment, the Insurance
16 Commissioner shall within five working days from receipt of completed application,
17 designate an Insurer and assign the Eligible Risk to such Insurer.

18 **§ [to be assigned]. Assignment to the ARP Taxi**

19 When assigning an Eligible Risk to an Insurer, the Insurance
20 Commissioner shall issue to the Applicant the following items that are to be
21 supplied to the assigned Insurer or its residential general agent:

22 (a) An assignment of Risk Form

23 (b) The ARP Taxi application

24 (c) The traffic abstract and traffic record (as described in Section
25 **[Application to ARP Taxi]**) of the Applicant who, during the 36 previous
26 months, normally and usually drove or drives taxicab(s) included in a
27 Risk.

1 The Insurance Commissioner shall assign Eligible Risks to Insurers in an
2 equitable fashion. For one year after the effective date of this Act, the Insurance
3 Commissioner shall not assign an additional Eligible Risk to an Insurer until all
4 Insurers have been assigned an equal number of Eligible Risks.

5 Thereafter, the Insurance Commissioner shall assign Eligible Risks to
6 Insurers based on the Insurer's proportion of total taxicab liability policies written
7 in relation to the total number of taxicab policies in the Commonwealth.

8 **§ [to be assigned]. Insurer's Duty to Accept or Reject**

9 Within five (5) working days from receipt of the required documentation
10 stated in Section [directly above], the designated insurer shall accept the assignment
11 by the Insurance Commissioner and:

- 12 a. Issue a policy required by this Plan or a Temporary Binder of
13 Coverage that will be effective not later than 12:00 a.m. of the
14 fifth (5th) day following the receipt of such required
15 documentation specified under Section [directly above]. In the
16 event there is in force a policy terminating at a date later than the
17 date that would be fixed pursuant to this section and Applicant
18 indicates such date in this Application than the Insurer shall fix
19 the date when the policy or binder becomes effective as of 12:01
20 a.m. on the stated termination date of policy. In case a
21 Temporary Binder of Coverage was issued, the policy to replace
22 such binder shall be issued no later than thirty (30) days from the
23 date of inception; and
- 24 b. Collect from the insured the Full Annual Premium
- 25 c. Notify the Insurance Commissioner that it has completed the
26 assignment, and of the policy number, effective date and the
27 gross premium.

28 **§ [to be assigned]. Procedure for Cancellations**

1 If during the processing of a temporary binder or policy or after the issuance
2 of a policy the Insurer finds that the Applicant is not eligible or does not abide by
3 coverage terms, the insurer shall have the right to cancel the policy by mailing or
4 delivering to the Insured a Notice of Cancellation. Such notice shall state the date,
5 not less than 30 days from the date of mailing or delivery when a policy is to be
6 canceled and the reasons underlying such cancellation. Copies of said notice and the
7 underlying reasons for cancellation must be given immediately, via hand delivery or
8 registered mail, to the Insurance Commissioner, Bureau of Taxicabs and the Bureau
9 of Motor Vehicles.

10 **§ [to be assigned]. Use of Premiums To Decide Apportionment of**
11 **Assignments**

12 The Insurance Commissioner shall assign applicants to ARP Taxi to
13 insurance providers based on the insurer's proportion of gross written premium for
14 total auto insurance in the CNMI. The Insurance Commissioner shall calculate the
15 equitable apportionment of assignments to the Insurers under the Plan and shall
16 implement such calculation for assignments under the Plan upon the completion and
17 release of the Commissioner's Annual Report.

18 (a) In the year that an Insurer transacts automobile liability insurance for
19 the first time, the Insurer shall participate in the equitable
20 apportionment of Eligible Risks and be assigned the same proportion
21 of Eligible Risks assigned to the Insurer with the least direct premiums
22 written but in no case less than one assignment.

23 (b) In the event of a merger or consolidation of Insurers, the total direct
24 premiums written by all insurers merged or consolidated shall be used
25 to calculate the proportion of Eligible Risk assigned to the Insurer
26 formed by the merger or consolidation.

27 (c) If after the proportion of Eligible Risks has been calculated and
28 assignments made, a new Insurer commences transacting Insurance,

1 the Insurance Commissioner shall equitably adjust the proportion for
2 the assignment of Eligible Risks to the other Insurers.

3 **§ [to be assigned]. Requests for Voluntary Reassignment**

4 An Eligible Risk who is dissatisfied with the designated Insurer or a
5 designated insurer that is dissatisfied with an Applicant insured by it may file with
6 the Insurance Commissioner, not less than 30 days prior to the expiration of
7 policy, written request for assignment of such Eligible Risk upon expiration to
8 another Insurer. Assignment to another Insurer shall be at the discretion of the
9 Insurance Commissioner.

10 **§ [to be assigned]. Quarterly Reports and Annual Statements**

11 Any and all insurers shall file annual statements as required by law and shall
12 file quarterly reports of Direct Premiums Written and Direct Losses Incurred under
13 ARP Tax. The quarterly report shall be filed on or before the 20th day of the month
14 following the end of the quarter.

15 In the event an insurer shall fail to submit any quarterly report or annual
16 statement in the time required herein, the Commissioner shall have the discretion to
17 assess the late filing fee of \$500 per report to such Insurer. In the event an Insurer
18 shall fail to submit any required quarterly report or annual statement in excess of
19 ninety days past the time stipulated, the Commissioner shall have the discretion to
20 revoke the Certificate of Authority of such Insurer.

21 Should any Insurer fail to submit any annual statement for any given year, the
22 Insurance Commissioner shall have the option of using the highest Gross Written
23 Premiums for Total Auto by such insurer within the previous three years for the
24 computation of the proportionate share of the Insurer in ARP Tax.

25 **§ [to be assigned]. Renewal Notices**

26 An Insurer may request current policy rating information from the insured
27 by means of a renewal questionnaire filed with and approved by the
28 Commissioner. The questionnaire shall be mailed to the Insured at the address

1 shown on the policy, at least sixty days before the expiration date of the policy.
2 Should the insured fail to respond or return the questionnaire, the Insurer may use
3 the most recent application submitted by the Insured in the calculation of the
4 annual premium.

5 In any case, the Insurer must send to the Insured at the address shown on
6 the policy, a notice for the renewal of the policy, together with notice of the
7 required renewal premium. This notice to the Insured shall be mailed by the
8 Insurer no less than thirty days before the expiration date of the current policy.

9 **§ [to be assigned]. Maximum Term of Coverage Under ARP Tax**

10 An Insurer shall not be required to insure a Risk as an assignment under ARP
11 Tax for a period in excess of three consecutive years.

12 **§ [to be assigned]. Options After Three Years of Participation Under**
13 **ARP Tax**

14 Every Insurer insuring an Eligible Risk that has been insured by Insurer for a
15 period of three consecutive years by an assignment under ARP Tax, shall upon
16 expiration of the current policy, either:

- 17 (a) Issue a policy under the Voluntary Market; or
18 (b) Issue a Letter of Declination to the Insured.

19 At least thirty days before the expiration date of such policy, such Insurer shall
20 notify the Insurance Commissioner and the Insured of its intended action under this
21 section.

22 **§ [to be assigned]. Reapplication**

23 If an Insurer serves notice to the Applicant and discloses an intent to refuse to
24 issue a renewal policy pursuant to Section [Renewal Notices] and the Applicant is
25 unable to procure insurance in the voluntary market from another insurance provider,
26 reapplication may be made to ARP Tax. Such application and subsequent
27 assignment shall be considered a new application and a new assignment to the
28 designated insurer.

1 **§ [to be assigned]. Relief Under Tariff**

2 In the calculation of the applicable insurance premium on any Risk under the
3 Plan, an Insurer shall:

4 (a) Rate and charge an Applicant who has accumulated penalty points by
5 using the corresponding amount of penalty set forth in the Rate
6 Modification Section contained in Section [**Accumulation of Penalty**
7 **Points under ARP Taxi**] in addition to the applicable rates set forth in a
8 tariff approved by the Insurance Commissioner.

9 (b) Apply a surcharge up to 30% in addition to the applicable rates set forth in
10 a current Approved Tariff whenever an Applicant applies for automobile
11 insurance coverage for any vehicle modified structurally or mechanically
12 to enhance or hamper performance.

13 (c) Apply a 20% surcharge to the base premium of each vehicle for all
14 additional (in excess of one) covered driver.

15 (d) Charge penalty points based on the driving record of all covered drivers of
16 a vehicle using the corresponding amount of penalty set forth in the Rate
17 Modification Section contained in Section [**Accumulation of Penalty**
18 **Points under ARP Taxi**] in addition to the applicable rates set forth in a
19 tariff approved by the Insurance Commissioner.

20 (e) Charge a minimum premium of 25% of the premium but no less than
21 \$250.00 for all cancelled policies.

22 **§ [to be assigned]. Appeal**

23 The following persons may file an appeal with the Commissioner under
24 the following circumstances:

25 (a) Any Applicant who is denied motor vehicle insurance coverage in the
26 Voluntary Market or denied automobile liability insurance under ARP
27 Taxi; the denials thereof that are asserted to be in violation of any
28 applicable statute, regulation, order or rule.

1 (b) Any Insured who is denied motor vehicle insurance coverage in the
2 voluntary market or denied automobile liability insurance under ARP
3 Taxi; the denials thereof that are asserted to be in violation of any
4 applicable statute, regulation order or rule.

5 (c) Any Applicant, Insured, or Insurer who is adversely affected by any
6 decision, order, ruling, rule or sanction of the Commissioner that is
7 asserted to be in violation of any applicable statute, regulation, order or
8 rule.

9 **§ [to be assigned]. Procedure for Appeal**

10 The Commonwealth Administrative Procedure Act and the
11 Commonwealth Insurance Act shall apply to any appeal taken by an Applicant or
12 an Insured or an Insurer, and will be supplemented by the following procedural
13 rules:

14 (a) Any Applicant or Insured who appeals an action or decision of an
15 Insurer shall:

16 (1) Submit two copies of the application for taxicab liability
17 insurance in question to the Insurance Commissioner
18 within ten working days;

19 (2) Submit, after receipt of the Notice of Denial or the Notice
20 of Cancellation, a written appeal letter to the Insurance
21 Commissioner and to the Insurer within ten working days;
22 and,

23 (3) Submit to the Insurance Commissioner two copies of
24 official documentation of the driving record of the
25 Applicant or Insured demonstrating the driving experience
26 of the Applicant or Insured for a 36-month period
27 preceding the date of application from the jurisdiction(s)
28 where the Applicant or Insured has resided. For the

1 purposes of this subsection “official documentation” may
2 be in the form of an abstract of driving records from a
3 Department of Public Safety, Department of Motor
4 Vehicles, Bureau of Motor Vehicles, or appropriate
5 governmental agency or subdivision tasked with collecting
6 and maintaining driving records.

7 (b) Any Applicant, Insured, or Insurer under the Assigned Risk Plan who
8 appeals any decision, order, ruling or sanction of the Commissioner shall:

9 (1) Submit, after receipt of the written decision, order, ruling
10 rule, or sanction of the Insurance Commissioner, a written
11 appeal letter to the Insurance Commissioner within ten working
12 days; containing a statement of facts setting forth the reasons
13 for the appeal and a citation of any applicable statute,
14 regulation, order or rule in support of the appeal; and;

15 (2) Submit a copy of the written decision, order, ruling, rule or
16 sanction of the Insurance Commissioner that is the subject of
17 the appeal.

18 **§ [to be assigned]. Decision on Administrative Appeal**

19 The Commissioner or his/her delegate shall render a final administrative
20 decision on administrative appeals filed by an Applicant, an Insured, or an Insurer
21 pursuant to the provisions of Sections [**Appeal, Procedure for Appeal**]. This
22 final administrative decision shall be rendered within 30 days of receipt of the
23 written appeal letter or within 30 days of the closing of the record of an
24 administrative hearing. Failure to render the decision within 30 days shall not
25 affect the validity of the ruling on the administrative appeal.

26 The Commissioner or his/her delegate shall schedule an administrative
27 hearing within ten days of the receipt of a written appeal letter. The
28 Commissioner or his delegate shall render a decision and issue and appropriate

1 order sustaining or reversing or modifying the appealed denial or cancellation or
2 non-renewal of automobile insurance coverage or assignment of risk under ARP
3 Taxi.

4 **Section 4. Amendment.** Division 1 Chapter 2 of Title 6 of the Commonwealth
5 Code, is amended by adding the following Article:

6 **§[to be assigned]. Insurance Fraud.**

7 (a) A person commits the offense of insurance fraud when he or she
8 knowingly, by deception, obtains, attempts to obtain, or causes to be obtained,
9 control over the property of an insurance company or self-insured entity by the
10 making of a false claim or by causing a false claim to be made on any policy of
11 insurance issued by an insurance company or by the making of a false claim to a
12 self-insured entity, intending to deprive an insurance company or self-insured
13 entity permanently of the use and benefit of that property.

14 (b) Sentence.

15 A person convicted of insurance fraud under this section may be punished:

16 (1) If the value of the property obtained or attempted to be obtained
17 is less than \$250, by imprisonment for not more than one year;

18 (2) If the value of the property obtained or attempted to be obtained
19 is at least \$250 but less than \$20,000, by imprisonment for not more
20 than five years;

21 (3) If the value of the property obtained or attempted to be obtained
22 is \$20,000 or more, by imprisonment for not more than 10 years.

23 (c) For the purposes of this Article, where the exact value of property
24 obtained or attempted to be obtained is either not alleged by the accused or not
25 specifically set by the terms of a policy of insurance, the value of the property
26 shall be the fair market replacement value of the property claimed to be lost, the
27 reasonable costs of reimbursing a vendor or other claimant for services to be
28 rendered, or both.

1 (d) Definitions. For the purposes of this Article:

2 (1) "Deception" means knowingly to: create or confirm another's
3 impression which is false and which the offender does not believe to be true; fail
4 to correct a false impression which the offender previously has created or
5 confirmed; prevent another from acquiring information pertinent to the
6 disposition of the property involved; sell or otherwise transfer or encumber
7 property, while failing to disclose a lien, adverse claim, or other legal impediment
8 to the enjoyment of the property, whether such impediment is or is not valid, or is
9 or is not a matter of official record; or promise performance which the offender
10 does not intend to perform or knows will not be performed. However the mere
11 failure to perform, standing alone, is not evidence that the offender did not intend
12 to perform.

13 (2) "False claim" means any statement made to any insurer, purported
14 insurer, servicing corporation, insurance broker, or insurance agent, or any agent
15 or employee of the entities, and made as part of, or in support of, a claim for
16 payment or other benefit under a policy of insurance, or as part of, or in support
17 of, an application for the issuance of, or the rating of, any insurance policy, when
18 the statement contains any false, incomplete, or misleading information
19 concerning any fact or thing material to the claim, or conceals the occurrence of
20 an event that is material to any person's initial or continued right or entitlement to
21 any insurance benefit or payment, or the amount of any benefit or payment to
22 which the person is entitled.

23 (3) "Governmental entity" means each officer, board, commission, and
24 agency created by the constitution, whether in the executive, legislative, or
25 judicial branch of Commonwealth government; each officer, department, board,
26 commission, agency, institution, authority, university, and body politic and
27 corporate of the Commonwealth; each administrative unit or corporate outgrowth
28 of Commonwealth government that is created by or pursuant to statute, including

1 units of local government and their officers, school districts, and boards of
2 election commissioners; and each administrative unit or corporate outgrowth of
3 the above and as may be created by executive order of the Governor.

4 (4) "Insurance Company" means any corporation, company, partnership,
5 association, society, order, individual or aggregation of individuals engaging in or
6 proposing or attempting to engage in any kind of insurance or surety business,
7 including the exchanging of reciprocal or inter-insurance contracts between
8 individuals, partnerships and corporations.

9 (5) "obtains control", "attempts to obtain control", and "causes to be
10 obtained control" include but are not limited to the taking, carrying away, or the
11 sale, conveyance, or transfer of title to, or interest in, or possession of, property.

12 (6) "permanently deprive" means to defeat all recovery of the property by
13 the owner; deprive the owner permanently of the beneficial use of the property;
14 retain the property with intent to restore it to the owner only if the owner
15 purchases or leases it back, or pays a reward or other compensation for its return;
16 or sell, give, pledge, or otherwise transfer any interest in the property or subject it
17 to the claim of a person other than the owner.

18 (7) "Self-insured entity" means any person, business, partnership,
19 corporation, or organization, including any governmental entity, that sets aside
20 funds to meet his, her, or its losses or to absorb fluctuations in the amount of loss,
21 the losses being charged against the funds set aside or accumulated.

22 (8) "Statement" means any assertion, oral, written, or otherwise, and
23 includes, but is not limited to, any notice, letter, or memorandum; proof of loss;
24 bill of lading; receipt for payment; invoice, account, or other financial statement;
25 estimate of property damage; bill for services; diagnosis or prognosis;
26 prescription; hospital, medical or dental chart or other record, x-ray, photograph,
27 videotape, or movie film; test result; other evidence of loss, injury, or expense;
28 computer-generated document; and data in any form.

1 **§[to be assigned]. Aggravated Insurance Fraud.**

2 (a) A person commits the offense of aggravated fraud when he or she,
3 within an 36 month period, obtains, attempts to obtain, or causes to be obtained,
4 by deception, control over the property of an insurance company or insurance
5 companies, a self-insured entity or self-insured entities, by the making of 3 or
6 more false claims or by causing 3 or more false claims to be made arising out of
7 separate incidents or transactions in violation of **§[Insurance Fraud]** of this
8 Code.

9 (b) Sentence. A violation of this Section is punishable by imprisonment
10 for not more than 10 years, regardless of the value of the property obtained,
11 attempted to be obtained, or caused to be obtained.

12 **§[to be assigned]. Civil Damages for Insurance Fraud**

13 (a) A person who knowingly obtains, attempts to obtain, or causes to be
14 obtained, by deception, control over the property of any insurance company by
15 the making of a false claim or by causing a false claim to be made on a policy of
16 insurance issued by an insurance company, or by the making of a false claim or
17 by causing a false claim to be made to a self-insured entity intending to deprive an
18 insurance company or self-insured entity permanently of the use and benefit of
19 that property, shall be civilly liable to the insurance company or self-insured
20 entity that paid the claim or against whom the claim was made or to the subrogee
21 of that insurance company or self-insured entity in an amount equal to either 3
22 times the value of the property wrongfully obtained or, if no property was
23 wrongfully obtained, twice the value of the property attempted to be obtained,
24 whichever amount is greater, plus reasonable attorneys fees.

25 (b) An insurance company or self-insured entity that brings an action
26 against a person under subsection (a) of this Section in bad faith shall be liable to
27 that person for twice the value of the property claimed, plus reasonable attorneys
28 fees. In determining whether an insurance company or self-insured entity acted in

1 bad faith, the court shall relax the rules of evidence to allow for the introduction
2 of any facts or other information on which the insurance company or self-insured
3 entity may have relied in bringing an action under subsection (a) of this Section.

4 (c) For the purposes of this Section, where the exact value of the property
5 attempted to be obtained is either not alleged by the claimant or not specifically
6 set by the terms of a policy of insurance, the value of the property shall be the fair
7 market replacement value of the property claimed to be lost, the reasonable costs
8 of reimbursing a vendor or other claimant for services to be rendered, or both.”

9 **Section 5. Severability.** If any provision of this Act or the application of any
10 such provision to any person or circumstance should be held invalid by court of
11 competent jurisdiction, the remainder of this Act or the application or its provisions to
12 persons or circumstances other than those to which it is held invalid shall not be affected
13 thereby.

14 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not
15 be construed as affecting any existing right required under contract or acquired under
16 statutes repealed or under any rule, regulation or order adopted under the statutes.
17 Repealers contained in this Act shall not affect any proceeding instituted under or
18 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
19 or in any way modifying, any liability, civil or criminal, which shall already be in
20 existence on the date this Act becomes effective.

21 **Section 7. Effective Date.** This Act shall take effect upon its approval by the
22 Governor or becoming law without such approval.

Date: _____

Introduced By: /s/ Rep. Ray N. Yumul

Reviewed for Legal Sufficiency by:

/s/ Antonette R. Villagomez
House Legal Counsel