

(H. B. 1841)
(Conference)

(No. 245-2014)

(Approved December 23, 2014)

AN ACT

To amend current subsections (c), (k), and (l); add new subsections (d) and (i), and renumber current subsections (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) of Section 3; amend current subsections (a), (b), and (d); add new subsections (a), (b), (c), (d), (e), (f), (g) and renumber current subsections (a), (b), (c), (d), and (e) of Section 4; amend subsections (a), (b), (c), and (d) of Section 5; amend current subsections (a), (b), (c), (e), (f), (j), and (l); add new subsections (d), (e), (f), and (p); and renumber current subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l) of Section 6; amend current subsections (a), (d), (e), create a new subsection (b), eliminate subsection (c), and renumber current subsection (b) as subsection (c) of Section 7; repeal current subsection (b) and create a new subsection (b); and amend current subsections (a) and (c) of Section 8; add a new Section 9; amend and renumber current Section 9 as Section 10; amend subsection (a) of Section 12; and renumber current Sections 10, 11, 12, 13, 14, 15, 16, 17 of Act No. 253-1995, as amended, known as the “Compulsory Motor Vehicle Liability Insurance Act,” in order to clarify the provisions of this Act regarding accessibility to compulsory liability insurance and the right of every consumer to choose freely the insurer of his preference; incorporate a Compulsory Liability Insurance Selection Form in order to guarantee and make feasible the right to free choice; reassert and establish processes to ensure the payment of a fixed five percent (5%)-fee to entities authorized to collect vehicle license fees and compulsory liability insurance, of a fair and adequate compensation from all insurers, including the Joint Underwriting Association; promote practices and processes that enable a sound and dynamic fair competition environment in the compulsory liability insurance market among all insurers that offer compulsory liability insurance; establish a five percent (5%) service fee, of which one percent (1%) shall be allocated to the Department of Transportation and Public Works and four percent (4%) shall be allocated to the General Fund; amend Section 27.270 of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” in order to require insurers that appear in the Selection

Form to provide the Secretary of the Department of Transportation and Public Works, in electronic format or in the requested format, with information relating to the history of claims for vehicle damages or losses filed by their insureds; repeal Section 5 of Act No. 161-2012 to adjust to the new provisions; establish transitory provisions to begin compliance with this Act; and for other related purposes.

STATEMENT OF MOTIVES

The Compulsory Liability Insurance (CLI) system was adopted by the Government of the Commonwealth of Puerto Rico upon the approval of Act No. 253-1995, as amended. The purpose of Act No. 253-1995 was to address the financial losses resulting from the uncompensated damages to vehicles in traffic accidents, which was the issue at that time. Said Act established as a requirement that in order for a motor vehicle to travel on public thoroughfares, it must have either a traditional or compulsory liability insurance. The compulsory liability insurance coverage covers any damages caused to the motor vehicle of a third party as a result of a traffic accident, when the owner of the vehicle covered by this insurance is legally liable and the damages are caused as a result of the use of the covered vehicle.

To ensure compliance and enforce the mandatory nature of the liability insurance, Act No. 253-1995 designed a system whereby the compulsory liability insurance would be collected along with the motor vehicle license issuance or renewal fees, that is, at the time the motor vehicle registration sticker is acquired. According to the design of the compulsory liability insurance collection system, the Secretary of the Treasury collects the premium paid by motor vehicle owners together with the motor vehicle license issuance or renewal fees. Subsequently, the Secretary the Treasury, upon deducting the service fee, transfers the remaining amounts of the premiums collected to the Joint Underwriting Association (hereinafter, ASC) which has been in charge of administering the compulsory

liability insurance premiums paid directly by consumers or insureds through the Internal Revenue Collections Offices.

However, although the intent of Act No. 253-1995 was that the ASC serve as residual insurer to provide insurance to consumers rejected by private insurers, as a result of the implementation of the system that enabled the collection of the Compulsory Liability Insurance together with the motor vehicle license' fees, the ASC ended up being the only insurer offering Compulsory Liability Insurance in the beginning and currently has an 80% market share. Even though the established process was effective in terms of facilitating compliance with the coverage requirements, it limited the consumer's options when selecting their insurer of preference at the points of sale. In reality, the option to select the compulsory liability insurer of preference at the time of acquiring or renewing the motor vehicle license is not available to consumers who conduct this transaction at an Internal Revenue Collections Office or Drivers Services Center better known as "CESCOs".

Among other reasons, the above situation arose because, as established and implemented, the vehicle license fees collection process and system prevented private insurers from offering compulsory insurance coverage to consumers. The foregoing failed to create a fair and equitable market to the detriment of Puerto Rican consumers whose freedom to choose insurance has been limited for years.

At present, private insurers pay a service fee to the entities authorized to collect. Said fee ranges between \$8 and \$11 per policy; however, the ASC does not pay said fee. In the case of the Internal Revenue Collection offices, which only sell and renew the policy offered by the ASC, the latter may pay the former up to 5%, in accordance with the law, but in recent years (based on said formula) it has paid the maximum allowed by law, that is, 5%. For such reason, this Bill seeks to establish a uniform flat fee of five percent (5%) to be paid to the entities authorized to collect the compulsorily liability insurance, as this term is defined in this Act. Likewise, it

seeks to establish a service fee of five percent (5%), of which four percent (4%) shall be deposited in the General Fund and one percent (1%) shall be allocated to the Department of Transportation and Public Works.

Currently, there are a significant number of insurers that have entered the compulsory insurance market. In terms of services, this has created a positive competition that has benefited consumers. All independent official entities authorized by DTOP to collect vehicle license fees, except for the Internal Revenue Collections offices, make the selection accessible to insureds at the time of paying the registration sticker, which is consistent with the provisions of Act No. 253-1995. However, the current subscription process lacks a standardized form that enables and guarantees the consumer's right to free choice as established in the statute under discussion.

In view of the foregoing, this Legislative Assembly deems it essential to guarantee the right of consumers to freely choose the compulsory insurance provider of their preference, even when they buy their registration sticker at an Internal Revenue Collections office. This shall facilitate compliance with the compulsory liability insurance acquisition requirement, including the acquisition of compulsory liability insurance, and improve the quality of the service offered to the Compulsory Liability Insurance consumers.

As stated above, one of the goals of this measure is to incorporate the use of a Selection Form to guarantee the right to choose of all insureds under the compulsory liability insurance coverage. The ASC and every private vehicle insurer that chose to appear on the Selection Form shall be listed thereon so that vehicle owners may select their insurer of preference at the time of paying the registration sticker. This Selection Form shall be used at the points of sale where vehicle licenses are obtained or renewed.

Furthermore, this legislative measure intends to standardize the requirements applicable to insurers, including the ASC, at the time of offering and underwriting compulsory liability insurance, in order to promote and ensure fair competition and equal conditions among insurers underwriting compulsory liability insurance.

Moreover, this measure establishes the duty of traditional insurance providers to issue to every insured holding traditional liability insurance, with coverage equal to or greater than compulsory liability insurance, a certification showing proof of compliance with the insurance required by law. Said document is defined as Certificate of Compliance. Said certification must be issued within at least two (2) weeks before the renewal date of the vehicle's license. The purpose of this Certificate of Compliance is to exempt insureds from the payment of the portion corresponding to compulsory liability insurance. This is a necessary provision, given that consumers are required to pay the compulsory liability insurance at the time of renewing their registration stickers, because traditional insurers do not issue such a certification or fail to do so in a timely manner. Additionally, because the reimbursement request process is a bureaucratic transaction, customers are often not reimbursed said amounts or receive them months or even years later.

Likewise, we recognize that the ASC is authorized by regulation to require the entities authorized to sell registration stickers and collect the compulsory liability insurance to post a surety bond. Moreover, we deem it appropriate that the authority to collect said bonds be prescribed by law. Hence, taking into consideration technological advances and the fact that automated systems allow for these payments to be directly debited from such entities' accounts, we deem it appropriate to reduce the bond amount currently required by regulations for operating. The foregoing shall result in minimized risks, because the ASC now has access to the accounts of every agency authorized to collect the CLI and sell registration stickers.

This measure seeks to achieve a balance of interests and uphold the public interest by allowing businesses offering this type of product to continue operating, thus maintaining the approximately five hundred (500) direct jobs and over five hundred (500) indirect jobs generated by said companies which, in turn, generate nearly eight (8) million dollars in new revenues to the governments' treasury. The fees established herein shall not apply to policies issued under traditional insurance.

Furthermore, the main purpose of the amendments proposed herein is to promote the creation of an environment of fair and equitable competition in which Puerto Rican consumers may choose their compulsory liability insurer of preference at the time of acquiring the registration sticker. This shall provide more and better services for the customers of the CLI created under Act No. 253-1995. For all of the above, this Legislative Assembly deems it appropriate to adopt the amendments contained in this legislative measure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.– Section 3 of Act No. 253-1995, as amended, is hereby amended to read as follows:

“Section 3.– Definitions

(a) ...

(b) ...

(c) Joint Underwriting Association - Means the Compulsory Liability Insurance Joint Underwriting Association, a private association created under this Act to be charged with administering the compulsory liability insurance acquired upon payment of the motor vehicle license issuance or renewal fee. It shall offer the compulsory liability insurance to owners of motor vehicles who select it on the Selection Form at the time of acquiring for the first time or renewing the motor vehicle's license, or to applicants for insurance rejected by private insurers.

(d) Certificate of Compliance – Means the certification issued by an insurer as proof of compliance with the compulsory liability insurance. The certificate shall constitute proof that, as of the date of issuance or renewal of a motor vehicle’s license, the insured has a traditional liability insurance policy in force with coverage equal to or greater than compulsory liability insurance. This Certificate of Compliance shows the value corresponding to the amount that the vehicle’s owner should pay for compulsory liability insurance and exempts the owner from paying the compulsory liability insurance at the time of paying the motor vehicle’s license issuance or renewal fee.

(e) ...

(f) ...

(g) Entities Authorized to Collect the Compulsory Liability Insurance - Means the entities authorized by the Secretary of the Treasury and the Secretary of Transportation and Public Works, including the Internal Revenue Collection Offices, duly authorized Official Inspection Stations, banks, as defined in Act No. 55 of May 12, 1933, as amended, better known as the ‘Banking Law,’ and cooperatives, as defined in the ‘General Cooperative Associations Act of 2004,’ to collect the motor vehicle license issuance or renewal fee together with the compulsory liability insurance.

(h) ...

(i) Selection Form – Means the mechanism, either physical or electronic, on which every motor vehicle owner, at the time of the issuance or renewal of the motor vehicle license, may select the insurer of his preference to issue the compulsory liability insurance. The Joint Underwriting Association as well as any private insurer that chose to appear on said form to offer compulsory liability insurance shall be listed in this Selection Form.

(j) ...

(k) ...

(l) ...

(m) Compulsory Liability Insurance - Means the insurance required by this Act and that responds for damages caused to third party motor vehicles as a result of a traffic accident, for which the owner of the vehicle covered by this insurance is legally liable, and through the use of which the damages occurred according to the system for the initial determination of liability created pursuant to this Act. Said insurance shall have a coverage limit of four thousand dollars (\$4,000) per accident. The Commissioner may, upon request of the insurers offering compulsory liability insurance or *motu proprio*, review and modify the coverage limits and the cost of the compulsory liability insurance policy every two (2) years, in accordance with the applicable provisions of Chapter 12 of the Code, which take into account every insurer in the Compulsory Liability Insurance market. However, the coverage limits shall never be less than three thousand dollars (\$3,000).

(n) Traditional Liability Insurance - Means a vehicle insurance defined in Section 4.070(1) of the Code, other than the insurance defined in subsection (m) of this Section and underwritten by private insurers.

(o) ...

(p) ...

(q) ...”

Section 2.– Section 4 of Act No. 253-1995, as amended, is hereby amended to read as follows:

“Section 4.– General Provisions of the Compulsory Liability Insurance

(a) The Selection Form shall be the mechanism to be used by consumers when exercising their right to select their insurer of preference. The Commissioner shall prescribe all that pertains to the contents of the form, which shall include basic information of the insurer’s vehicle such as the license plate number, as well as any

details of uniform coverage and its limits. The order in which insurers shall appear on the form shall be determined randomly. Private insurers listed on the form may not reject any applicant selecting them nor may withdraw themselves as an option until the Form expires.

(b) The Commissioner in conjunction with the Department of Transportation and Public Works shall prescribe the procedure for accessing, processing, and managing the Selection Form, so that it is available to all entities authorized to collect the compulsory liability insurance.

(c) The effective period of the Form shall be one year, to be counted from its approval by the Commissioner. All entities authorized to collect the compulsory liability insurance shall use this Form at the time a person pays the license fee.

(d) Any insurer that wishes to offer or provide compulsory liability insurance shall notify the Commissioner in writing of its decision to appear in the Selection Form on or before ninety (90) days prior to the effective date of the Form. The Commissioner shall authorize the Form not later than sixty (60) days prior to the effective date thereof and forward it to the Secretary of the Department of Transportation and Public Works for distribution to the authorized entities along with the registration stickers.

(e) The Form shall contain the information necessary to identify the insured vehicle. The original copy shall be delivered to the insured upon payment of license fees. If the Form is not available in digital or electronic format, copies thereof shall be distributed to the Department of Transportation and Public Works, the Joint Underwriting Association, and the selected insurer. The Joint Underwriting Association or the Department of Transportation and Public Works shall provide any additional information of the insured vehicle and its registered owner that the selected insurer may need.

(f) A physical copy of the Selection Form shall be used until a mechanized system that issues electronic copies of said Form is implemented by the Department of the Treasury and the Department of Transportation and Public Works and becomes operational. Said system shall meet all the requirements established herein to ensure the consumer's free choice at the time of acquiring compulsory liability insurance and provide for the insured to keep physical evidence of his selection.

(g) Any person who obtains a motor vehicle license for the first time or renews it, as required by the 'Puerto Rico Vehicle and Traffic Act,' shall, after selecting the insurer of his choice, including the Joint Underwriting Association, be required to pay the appropriate compulsory liability insurance premium as well as the license issuance or renewal fees, unless said person shows the Certificate of Compliance established in Section 13 of this Act. The entities authorized to collect the compulsory liability insurance shall make it feasible for consumers and ensure that they select the insurer from which they wish to obtain the compulsory liability insurance and sign the Form.

All authorized entities are required to conspicuously display at each establishment a notice in a place visible to consumers close to the area where license fees are paid. A font not smaller than 45pt. in size shall be used for the notice, which shall include the following text:

"Every person has the right to select the compulsory liability insurance provider of his or her choice. The Selection Form shall be used for such purposes."

The entities authorized to collect the compulsory liability insurance shall ensure that consumers choose an insurer before completing the transaction.

The Commissioner may prescribe by regulations for such purposes, alternate payment methods for the compulsory liability insurance premium. In all cases, the payment method shall include assurances that the issuance or renewal of the motor vehicle license be contingent upon the vehicle's owner being insured either by

traditional liability insurance or by the compulsory liability insurance. It shall also ensure the individual's right to free choice through the use of the Selection Form established herein for such purposes. If an electronic collection or payment method system is established, it shall provide sufficient assurances that allow for the verification or validation of the insured's identity and for the duty to select an insurer before the license or registration sticker is issued. The Secretary of Transportation and Public Works shall deny the issuance or renewal of any motor vehicle license in the name of any person who fails to comply with this provision.

(h) If a vehicle's registered owner acquires or renews the license thereof through an agent or a third party, the latter's appearance shall constitute a valid authorization of the owner to select his compulsory liability insurance provider and conduct any other related transaction. The entities authorized to collect the insurance shall identify the representative of the vehicle's registered owner and require the necessary documentation from both including, but not limited to, a valid photo id. and making a record of such fact on the Selection Form or the electronic system, as appropriate.

(i) No person shall drive or operate a motor vehicle or allow his or her vehicle to travel on the public thoroughfares without having previously acquired a compulsory liability insurance.

Every owner or incidental operator of a motor vehicle must ascertain that the vehicle being driven or operated is covered by a compulsory liability insurance policy before traveling on the public thoroughfares.

Every owner or incidental operator of a motor vehicle covered by the compulsory liability insurance policy established by this Act that is involved in a traffic accident that results in damages to vehicles shall be required to notify the insurer of the accident, allow and facilitate the inspection of the vehicles involved in

the accident, and furnish the information and documents required for the claims process.

(j) ...

(k) Any motor vehicle owner who wishes to acquire compulsory liability insurance, may freely choose the insurer of his or her preference offering such coverage. Every motor vehicle owner shall select, at the time of the vehicle's license issuance or renewal, the insurer of his choice from among the participating entities listed in the Selection Form, unless the owner has acquired traditional insurance that provides the same or better coverage than the compulsory liability insurance as shown in the Certificate of Compliance. Private insurers offering this coverage may select their insured pursuant to the provisions of Section 5 (b) of this Act, except for those that chose to appear in the Selection Form thereby waiving their right to deny coverage to an applicant.

(l) ...”

Section 3.- Section 5 of Act No. 253-1995, as amended, is hereby amended to read as follows:

“Section 5.- Who shall Offer the Compulsory Liability Insurance.

(a) The Joint Underwriting Association and all private insurers appearing on the Selection Form shall be required to provide the compulsory liability insurance to those motor vehicle owners that request it; all other private insurers that chose not to appear on the Selection Form shall meet the requirements of subsection (b) of this Section.

The Commissioner shall prescribe through regulations for such purposes, the criteria to be considered by private insurers when denying compulsory liability insurance coverage to applicants. If private insurers fail to meet said criteria, the Commissioner may impose the penalties prescribed by the Code for violations of its provisions. Any insurer that chooses to offer compulsory liability insurance

and appear on the Selection Form may not deny coverage to any applicant who selects it.

(c) The compulsory liability insurance shall be underwritten by private insurers and the Joint Underwriting Association through the use of a universal uniform policy form which shall be subject to the provisions of Chapter 11 of the Code.

(d) The Joint Underwriting Association and private insurers that underwrite compulsory liability insurance shall provide an information and orientation program on said insurance to the public, with special emphasis on the procedure for filing the corresponding claims in cases of traffic accidents and with respect to changes made to the process of acquiring this insurance, in accordance with the guidelines promulgated by the Commissioner. Likewise, said official may establish a supplemental information and orientation program to enhance that of the private insurers and the Joint Underwriting Association.”

Section 4.- Section 6 of Act No. 253-1995, as amended, is hereby amended to read as follows:

“Section 6.- Joint Underwriting Association—Creation

(a) The Joint Underwriting Association of the Compulsory Liability Insurance is hereby created as a private association to administer and provide the compulsory liability insurance, which shall be acquired upon payment of the motor vehicle license issuance or renewal fees, to all persons that select it on the Selection Form as well as those who apply for said insurance upon being denied coverage by a private insurer not listed on the Section Form. It shall be composed of private insurers that meet the underwriting requirements of this Act. Each one of the private insurers shall be a member of the Joint Underwriting Association as a condition to continue offering any type of insurance in Puerto Rico.

(b) The main purpose of the Joint Underwriting Association shall be to administer and provide compulsory liability insurance for the motor vehicles of persons who do not have traditional liability insurance or compulsory liability insurance with a private insurer and have made a selection in the Selection Form and paid the corresponding coverage upon payment of a motor vehicle license's issuance or renewal fees, or for the applicants for said insurance who have been denied coverage by private insurers that do not appear on the Selection Form.

(c) The Joint Underwriting Association shall receive from the Secretary of the Treasury the sums of the compulsory liability insurance premiums paid directly by the consumer or insured through the Department of the Treasury corresponding to the Association or the private insurer selected on the Selection Form, pursuant to the following weekly transfer schedule:

- (1) ...
- (2) ...
- (3) ...
- (4) ...

Every six (6) months, the Department of the Treasury and the Joint Underwriting Association shall review the fixed sums paid under the aforesaid schedule to determine if the compulsory liability insurance premiums are being appropriately transferred, and to verify that the monthly amount that is transferred in a fixed manner is not less than seventy-five percent (75%) of the average monthly premiums actually collected by the Department of the Treasury during said period. This review shall ensure that the fixed amounts to be subsequently transferred reflect at least seventy-five percent (75%) of the monthly premiums actually collected by the Department of the Treasury during the preceding period.

If the Secretary of the Treasury fails to comply with the transfer schedule established in this subsection, he or she shall have the obligation to pay to the Joint

Underwriting Association, without the need of a previous requirement to such respect, an additional amount equal to the interest generated by the amounts not transferred as of the time in which said transfer should have been made, at the interest rate established in the last bond issue of the Government of Puerto Rico. However, under no circumstances shall the Secretary of the Treasury be authorized to retain the collected compulsory liability insurance premiums for a period exceeding forty-five (45) days.

(d) The premiums paid through entities authorized to collect compulsory liability insurance, together with the payment of the motor vehicle license fees, shall be duly debited by the Joint Underwriting Association or transferred thereto, to be subsequently distributed to every insurer, in accordance with the Selection Form. The Joint Underwriting Association, the Department of the Treasury and the entities authorized to collect the compulsory liability insurance shall share information as is necessary, including that required under subsection (l) of this Section to attain the purposes of this Act.

The compulsory liability insurance premium amounts shall be eventually distributed among private insurers and the Joint Underwriting Association, as appropriate. The administrative and operating expenses of all insurers shall be chargeable to the amount corresponding thereto on account of premiums underwritten. The operating plan of the Joint Underwriting Association shall establish the form and manner in which the premium amounts received by the Joint Underwriting Association shall be distributed.

Every private insurer that appears on the Selection Form and the Joint Underwriting Association shall validate or verify, at least once a year, the premiums received on account of the compulsory liability insurance collected by the Department of the Treasury and other entities authorized to collect the same. The Department of the Treasury, the Department of Transportation and Public Works,

and other authorized entities shall be required to furnish the documentation and information necessary for insurers or the Joint Underwriting Association, as the case may be, to carry out the validation and verification process. The parties involved, including the Joint Underwriting Association, shall collaborate with each other in furnishing the information and documentation necessary to validate and verify the authorized premiums and vehicles. If there is a discrepancy between the amounts collected by the Department of the Treasury or by any other authorized entity and the amounts remitted to an insurer, including the Joint Underwriting Association, the matter shall be referred for consideration by an independent arbitrator selected by the parties concerned. The determination of the arbitrator shall be final and unappealable, and all expenses incurred in the arbitration proceedings shall be the responsibility of the losing party.

(e) The entities authorized to collect the compulsory liability insurance shall retain five percent (5%) of the total amount of the premiums directly paid to and collected by them for every private insurer and the Joint Underwriting Association as a premium collection service fee in accordance with Section 7(b)(1). The five percent (5%) service fee shall be deducted from premiums prior to being transferred to the Joint Underwriting Association or debited by it from the accounts of the authorized entities. The Joint Underwriting Association shall remit within a period not to exceed five (5) business days the premium amounts corresponding to the private insurers underwriting compulsory liability insurance that appear on the Selection Form. The five (5) business-day period provided herein shall begin to run upon the concurrence of the following circumstances: (a) that the Joint Underwriting Association has received the compulsory liability insurance premiums from the entity authorized to collect them; (b) that the Joint Underwriting Association has received the information to identify the insured vehicle; and (c) that the Joint

Underwriting Association has received information, whether through a hard or electronic copy of the Selection Form, to identify the selected insurer.

(f) Insurers that underwrite the compulsory liability insurance, including the Joint Underwriting Association, upon receipt of their respective premiums after deducting the fee established in Section 7(b)(1), shall deduct five percent (5%) of said premiums, as provided in Section 7(b)(2). Every insurer and the Joint Underwriting Association shall be responsible for remitting to the Department of the Treasury the amount pertaining to the fee collected on the total premiums underwritten during a month, not later than the fifth (5th) day of the following month. The Department of the Treasury shall prescribe by regulations the manner in which this payment shall be made and may design and agree on other methods for the collection of this fee, insofar as said change results in the effective and continuous collection thereof.

(g) ...

(h) ...

(i) The Joint Underwriting Association shall establish its structure and operations through an operational plan, and its direction through a Board of Directors. This plan shall provide for an economical, fair, and nondiscriminatory administration of the affairs of the Joint Underwriting Association. The operational plan may be amended by the members of the Joint Underwriting Association and its Board of Directors. The operational plan and its amendments shall be notified to the Commissioner.

The Board of Directors of the Joint Underwriting Association shall be composed of seven (7) members, three (3) of whom shall be appointed by the Governor of Puerto Rico; the remaining four (4) members of the Joint Underwriting Association shall be elected at an annual meeting.

The Joint Underwriting Association shall be formally notified of appointments made by the Governor. The members appointed by the Governor shall not be public officials and must be knowledgeable about the insurance industry. A member appointed by the Governor who is found to have a conflict of interest or a potential conflict of interest in the performance of his or her duties, as determined by the Joint Underwriting Association, shall be immediately removed from office. The Joint Underwriting Association shall notify the Governor of such fact not later than ten (10) days from the removal from office. The Governor shall proceed to appoint a substitute for the remainder of the outgoing member's term. If a vacancy arises in the office of a director elected by the members of the Joint Underwriting Association, it shall be filled by a substitute selected by the members of the Association.

The four (4) directors elected by the members of the Joint Underwriting Association shall hold office for a term of three years. The three (3) members appointed by the Governor shall hold office for a term of two (2) years.

The Board of Directors shall appoint the President of the Joint Underwriting Association and shall fix his or her salary.

Directors elected from among the members of the Joint Underwriting Association may not have conflicts of interests with the latter and shall be responsible for: exercising their duties in protection of the best interests of the Joint Underwriting Association, strengthening its competitive position, and ensuring its solvency at all times. Directors who have a financial interest in any of the private insurers listed on the Selection Form shall recuse themselves from any decision-making process concerning the business strategies of the Joint Underwriting Association relating to sales and marketing and other administrative matters pertaining to the compulsory liability insurance.

(j) ...

(k) ...

(l) ...

(m) The Joint Underwriting Association shall transfer to the Secretary of the Treasury the funds comprising the item denominated in its Annual Statement as ‘Funds Retained by the Insurer Belonging to Others,’ including the interests generated by this fund. The Joint Underwriting Association shall transfer those amounts that represent the items that, on the close on December 31, have remained in its books for more than two (2) years counting from the date on which the premiums were collected through the issuance or renewal of a motor vehicle license, including the interest generated for said period. Said transfers shall be made annually by March 30 of the year following the close corresponding to the transfer. If the Funds Retained by the Insurer Belonging to Others item is overestimated, the Joint Underwriting Association shall present proof of said occurrence to the Department of the Treasury. The Department of the Treasury shall proceed to reimburse or credit the total of those overestimated amounts to the Joint Underwriting Association. If the amounts were underestimated, the Joint Underwriting Association shall notify the Department of the Treasury and remit the corresponding amounts to the latter. In such cases, both parties shall have ninety (90) days from the notice and presentation of the attesting evidence to reimburse or credit the corresponding amounts. For the purposes of this Section, credit shall be understood to be the monetary amount that the Joint Underwriting Association or the Department of the Treasury may prospectively deduct from the payment of the service fees for the collection of premiums or from the next transfer from the aforementioned Retained Funds item.

Since private Insurers and the Joint Underwriting Association are the entities that have direct contact with the insureds, they shall establish protocols and procedures to inform individuals that they have paid the compulsory liability

insurance premium twice by reason of having traditional insurance and that they may initiate the process for requesting a reimbursement.

The Secretary of the Treasury shall retain the funds transferred by the Joint Underwriting Association in its capacity as fiduciary for a period of five (5) years to be counted from the date in which the retained funds are transferred by the Joint Underwriting Association to the Secretary of the Treasury.

The Secretary of the Treasury shall establish a procedure to address the reimbursement request of any person alleging a right to the retained funds. This procedure shall provide for a notice in both official languages to be sent to the persons who have paid the compulsory insurance established in this Act twice by reason of having a traditional insurance.

The notice shall contain the name and address of the person entitled to reimbursement; the amount of the reimbursement, the license plate number and the motor vehicle identification number to which the reimbursement pertains; and the procedure to obtain the reimbursement of the premium paid twice. The notice shall be sent by regular mail to the last known street or mailing address. The address shall be furnished to the Department of the Treasury by the Joint Underwriting Association or by the private insurer that underwrote the traditional insurance, insofar as this information is available. This notice shall also be published once in at least two (2) newspapers of general circulation in Puerto Rico, one of which shall be a newspaper published in Spanish and the other, a newspaper published in English.

The procedure to be established by the Department of the Treasury may provide for the retention, in whole or in part, of the reimbursement to which a person is entitled to by reason of a tax debt with the Government of Puerto Rico; provided, that the affected party is given notice of the procedure to question or challenge the validity of the tax debt claimed by the Department of the Treasury, and of the steps to be taken if said Department denies the claims made by said person. If the

consumer fails to claim the retained funds within the five (5)-year period provide therefor, such funds shall become the property of the Government of Puerto Rico and be transferred to the General Fund of the State Treasury. Furthermore, the interest generated by the funds retained shall revert to the General Fund of the State Treasury if the consumer fails to claim the retained funds within the five (5)-year period provided therefor.

The Joint Underwriting Association shall be responsible for providing the Department of the Treasury, at the time of the fund transfer, the insured's information in order to comply with the reimbursement process in the event the premium has been paid twice.

The first six million five hundred thousand dollars (\$6,500,000) to be transferred to the General Fund of the State Treasury through the retention mechanism indicated in the preceding paragraph, shall be transferred annually to the Special Fund for the Financing of Trauma Centers, from which four million dollars (\$4,000,000) shall be allocated to the San Juan Trauma Center, two million dollars (\$2,000,000) shall be allocated to other trauma centers designated and certified by the Department of Health, and five hundred thousand dollars (\$500,000) to the Surgery Department of the Medical Sciences Campus of the University of Puerto Rico for the education and training of residents in specialties in charge of managing patients who have suffered multiple traumas.

The resources deposited in the Special Fund for the Financing of Trauma Centers shall be accounted for in the books of the Secretary of the Treasury separate from any other funds from other sources received by the Department of Health. If there is a balance in the Special Fund that has not been used for the purposes set forth in this Act by June 30 of each year, such balance shall remain in the Special Fund for the Financing of Trauma Centers.

(n) ...

(o) (1) The Department of the Treasury and the Department of Transportation and Public Works shall make the right of free choice feasible for all persons. Thus, within a period not to exceed one hundred and twenty days (120) from of the approval of this Act, such Departments shall make the appropriate modifications to their mechanized systems or means for the collection and processing of the Compulsory Liability Insurance to reflect the selection made by each insured. The Secretary of the Treasury shall provide the Joint Underwriting Association with a monthly digital list of all registration stickers acquired, for identification purposes, by consumers or insureds who, upon acquiring their registration stickers, purchase the compulsory liability insurance at the Internal Revenue Collections Offices, financial institutions, and official inspection stations, should the latter apply. Said list shall contain the name and address of the insured, the vehicle identification number (VIN), the registration sticker number, the date of payment, the expiration date, and the license plate number. The list shall also contain the number of the certificate of compliance that has been used to exempt payment of the compulsory liability insurance in the case of motor vehicles that have traditional liability insurance. The Department of Transportation and Public Works shall be responsible for providing the Department of the Treasury and the Joint Underwriting Association with a monthly digital list containing the name and address of the insured and the motor vehicle identification number (VIN), so that the Department of the Treasury may provide all the required information to the Joint Underwriting Association and vice versa. In addition, the Joint Underwriting Association shall be responsible for forwarding all this information or data to all insurers.

(2) ...

(p) The Joint Underwriting Association may require each authorized entity to post a surety bond issued by a bond company, renewable annually, to engage in

the collection of the Compulsory Liability Insurance and sale of registration stickers, except for the Internal Revenue Collections Offices, to guarantee the availability of the insurance premium amounts collected. The bond amount shall not exceed twenty-five thousand dollars (\$25,000) of which only one thousand dollars (\$1,000) may be required in cash.”

Section 5.— Section 7 of Act No. 253-1995, as amended, is hereby amended to read as follows:

“Section 7.— Premiums and Fees

(a) The initial uniform premium of the compulsory liability insurance shall be ninety-nine dollars (\$99) for each private passenger vehicle and one hundred forty-eight dollars (\$148) for each commercial vehicle. The premium shall not be increased until at least three (3) years have elapsed from the time it is set and in accordance with the requirements of this Act.

The Commissioner may fix a premium other than that established herein for the compulsory liability insurance of those vehicles to which the Department of Transportation and Public Works has issued transitory or provisional licenses.

(b) Service Fees

1) A five percent (5%) service fee is hereby established for every underwritten premium to be paid to the entities authorized to collect insurance, including the Internal Revenue Collections Offices of the Department of the Treasury. This service fee is not a tax on premiums.

2) A five percent (5%) service fee is hereby established for every underwritten premium to be distributed as follows: four percent (4%) shall be allocated to the General Fund; and one percent (1%) shall be allocated to the Department of Transportation and Public Works for the services performed by the Department of Transportation and Public Works that are incidental to the billing of the compulsory liability insurance premium, access to the pertinent data of each

insured, the information system in general and the maintenance thereof, and such other costs relating to the implementation of the Selection Form provided in this Act. This service fee is not a tax on premiums.

3) These fees shall not apply to policies issued under the traditional insurance.

4) These fees are part of the compulsory liability insurance premium and shall be guaranteed in the distribution of the premium dollar.

(c) ...

(d) All compulsory liability insurers [sic] to the Joint Underwriting Association, taking as a basis the frequency and severity of the losses of their insured, may submit for approval by the Commissioner those rules and rate plans that contain rules for the application of surcharges to the corresponding uniform premium of private passenger or commercial vehicles insured by them, subject to the provisions of Chapter 12 of the Code. Such rules and rate plans shall provide for the prompt elimination or modification of said surcharges, upon approval by the Commissioner, when the premium and loss experience warrant so.

(e) Any modification, alteration, change, reduction, or increase in the uniform compulsory liability insurance premium shall be made pursuant to the applicable provisions of Chapter 12 of the Code. Any determination for such purposes shall be based on an actuarial study on the experience of the compulsory liability insurance's market, taking into consideration all insurers. The cost of the actuarial study shall be paid by them under the supervision of the Commissioner.

(f) ...”

Section 6.— Current subsection (b) is hereby repealed, and a new subsection (b) is hereby added; and current subsections (a) and (c) of Section 8 of Act No. 253-1995, as amended, are hereby amended to read as follows:

“Section 8.— Investigation, Adjustment, and Resolution of Claims

(a) The Commissioner shall adopt through regulations an initial liability determination system to facilitate, streamline, and standardize the determination of liability of the parties involved in a traffic accident and the payment of claims, subject to the terms and conditions of the compulsory liability insurance coverage. Said system shall allow a reasonable time for the liability determination to be made. This system shall not impair the right of claimants to resort to the courts when the initial liability determination system thus allows or when any of the parties involved in a claim intend to obtain a compensation in addition to that paid by virtue of said system.

(b) The Joint Underwriting Association and private insurers underwriting compulsory liability insurance shall be required to implement the initial liability determination system adopted by the Commissioner of Insurance and to conduct investigations, make adjustments, and resolve claims filed by insureds under said insurance in accordance with said system.

(c) The Commissioner may amend the initial liability determination system by establishing a taskforce composed of two (2) representatives from the Office of the Insurance Commissioner selected by the Commissioner, two (2) representatives from the Joint Underwriting Association selected by its Board of Directors, two (2) representatives of the private insurers that appear on the Selection Form selected by said insurers, and one (1) independent third party selected by mutual agreement of the Commissioner and the Joint Underwriting Association.”

Section 7.— A new Section 9 is hereby added to Act No. 253-1995, as amended, to read as follows:

“Section 9.— Penalties

(a) Any insurer, the Joint Underwriting Association, or any entity authorized to collect the compulsory liability insurance that unduly interferes, in any way whatsoever, with an insured’s selection process in order to favor an insurer over

another, including the Joint Underwriting Association; provides misinformation about another insurer or the selection process; makes a selection on behalf of an insured; or carries out any other action that has the effect of unduly intervening with the insured's right to free choice of his compulsory liability insurance provider, shall incur in noncompliance with this Act. The foregoing does not preclude insurers, the Joint Underwriting Association or any representative thereof from promoting and marketing the sales of the compulsory liability insurance.

(b) Any insurer, the Joint Underwriting Association, or any entity authorized to collect the compulsory motor vehicle liability insurance that incurs in any of the violations established in this Section shall be punished by a fine of not less than two thousand five hundred dollars (\$2,500) per incident. The Office of the Commissioner of Insurance and the Courts of Puerto Rico shall have concurrent jurisdiction to apply the provisions of this section when any party affected by said actions requests a remedy. In addition to the penalties provided herein, both forums shall have authority to take such additional measures as are necessary to protect the rights of the parties affected by such violations.”

Section 8.– Current Section 9 is hereby amended and renumbered as Section 10 of Act No. 253-1995, as amended, to read as follows:

“Section 10.– Time to Pay Claims and Penalties

Once the liability and the amount of the damages that occurred in a motor vehicle accident is determined through the initial liability determination system or by the courts with jurisdiction, payment of the claim shall be made in a period not to exceed five (5) calendar days from said determination. If payment is made after said period, the insurer shall be subject to an additional charge calculated on the basis of the prevailing legal interest rate for the benefit of the claimant. Furthermore, in these cases, the Commissioner may impose any administrative fines provided in the Code. The insurer shall make the corresponding payment to the owner of the

affected motor vehicle or to the body shop selected by the affected person or both. The Joint Underwriting Association and private insurers underwriting compulsory liability insurance shall only accept repair estimates and shall only make payments to body shops that are duly registered in the Registry of Merchants of the Department of the Treasury and hold a valid Certified Body Shop certification. For such purposes, the Department of the Treasury shall periodically provide the Joint Underwriting Association and private insurers underwriting compulsory liability insurance with an updated list of body shops registered in the Registry of Merchants of said Department. For the purposes of this Section, the owner of the vehicle is that who appears as owner in the Department of Transportation and Public Works at the time the accident occurred, or the lessee under a lease contract signed in accordance with the provisions of the ‘Act to Regulate Personal Property Lease Contracts,’ Act No. 76 of August 13, 1994, as amended.”

Section 9.– Subsection (a) of Section 12 of Act No. 253-1995, as amended, is hereby amended to read as follows:

“Section 12.– Relationship Between Traditional Liability Insurance and Compulsory Liability Insurance

(a) Those motor vehicle owners who have traditional liability insurance in effect at the time of the issuance or renewal of the motor vehicle license with a coverage similar to, or greater than that of the compulsory liability insurance may continue to use said traditional insurance to meet the insurance requirements established in this Act.

Every insurer, by themselves or through their authorized representatives, shall be required to issue and send a Certificate of Compliance to their insureds as provided in this Act, as proof of compliance with the compulsory liability insurance in those cases in which the owner of a motor vehicle has traditional liability insurance or a coverage similar to or greater than that of the compulsory liability

insurance. This Certificate of Compliance shall have the effect of exempting said vehicle from the payment of the item corresponding to the compulsory liability insurance when paying the motor vehicle license fee. Said Certificate shall be mailed to the insured within at least two (2) weeks before the motor vehicle license renewal date or be made available electronically, based on the mechanism provided by the Commissioner therefor. The Commissioner may impose an administrative fine for failure by a private insurer or the Joint Underwriting Association to meet this requirement.”

(b) ...”

Section 10.— Current Sections 10, 11, 12, 13, 14, 15, 16, 17 of Act No. 253-1995, as amended, are hereby renumbered as Sections 11, 12, 13, 14, 15, 16, 17, 18.

Section 11.— Section 27.270 of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” is hereby amended to read as follows:

“Section 27.270.— Requirement to Provide Information on Claims to a Central Data Bank

Every authorized insurer shall provide information relating to the claims that it receives to a central data bank recognized by the Commissioner. This requirement shall not apply to insurers underwriting life and disability insurance.

Motor vehicle insurers constituted in accordance with Section 4.070 of this Code and compulsory liability insurers, including the Joint Underwriting Association, shall be required to provide to the Secretary of the Department of Transportation and Public Works, in electronic format or in the requested format, information relating to the history of claims for vehicle damages or losses filed by their insureds. The information relating to the history of claims for vehicle damages or losses includes, but is not limited to:

1. The name, last name, and address of the vehicle’s registered owner;
2. The name of the person insured or loss payee;

3. The Vehicle Identification Number (VIN);
4. The license plate number;
5. The make, model, and year of the vehicle;
6. A description of the vehicle declared a total loss or constructive total loss, including the date of total loss declaration.
7. The date of claim and total amount paid under the policy;
8. The policy or vehicle certificate number and coverage period;
9. Any other information relating to the history of claims for vehicle damages or losses deemed necessary by the Department of Transportation and Public Works;

No duly authorized traditional or Compulsory Liability insurer may refuse to furnish the information requested by the Secretary of the Department of Transportation and Public Works or allege that such information is confidential. However, said insurer shall adopt protection measures as are necessary to prevent the disclosure of the protected personally identifiable information of an insured that is not pertinent to the history of claims for vehicle damages or losses subject to the request.”

Section 12.– Section 5 of Act No. 161-2012 is hereby repealed.

Section 13.– Transitory Provisions

The use of the Selection Form established herein shall be mandatory for all authorized entities within one hundred and twenty (120) days from the approval of this Act. The Office of the Commissioner of Insurance shall timely notify all insurers of their duty to inform whether they wish to appear on the Selection Form. Furthermore, the Office of the Commissioner shall take steps necessary to create and print the Selection Form with the respective copies thereof. It shall also be responsible for distributing the Selection Form to the Department of Transportation and Public Works within ninety (90) days from the approval of this Act. The

Secretary of the Department of Transportation and Public Works and the Secretary of the Department of the Treasury shall adopt regulations on the compulsory liability insurance premiums collection and electronic transfer process and adjust existing ones to implement the provisions of this Act within ninety (90) days from its approval.

Section 14.– Effectiveness

This Act shall take effect upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 245-2014 (H. B. 1841) (Conference)** of the **4th Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend current subsections (c), (k), and (l); add new subsections (d) and (i), and renumber current subsections (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) of Section 3; amend current subsections (a), (b), and (d); add new subsections (a), (b), (c), (d), (e), (f), (g) and renumber current subsections (a), (b), (c), (d), and (e) of Section 4; amend subsections (a), (b), (c), and (d) of Section 5; amend current subsections (a), (b), (c), (e), (f), (j), and (l); add new subsections (d), (e), (f), and (p); and renumber current subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l) of Section 6; amend current subsections (a), (d), (e), create a new subsection (b), eliminate subsection (c), and renumber current subsection (b) as subsection (c) of Section 7; repeal current subsection (b) and create a new subsection (b); and amend current subsections (a) and (c) of Section 8; add a new Section 9; amend and renumber current Section 9 as Section 10; amend subsection (a) of Section 12; and renumber current Sections 10, 11, 12, 13, 14, 15, 16, 17 of Act No. 253-1995, as amended, known as the “Compulsory Motor Vehicle Liability Insurance Act,” [...].

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 31st day of October, 2024.

Jonathan E. Pérez Cora, Esq.
Director