

A Bill for an Act Relating to Motor Vehicle Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431:10C-408, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) Each person sustaining accidental harm, or such person’s legal representative, may, except as provided in subsection (b), obtain the motor vehicle insurance benefits through the plan whenever:

- (1) No liability or uninsured motorist insurance benefits under motor vehicle insurance policies are applicable to the accidental harm;
- (2) No such insurance benefits applicable to the accidental harm can be identified; or
- (3) The only identifiable insurance benefits under motor vehicle insurance policies applicable to the accidental harm will not be paid in full because of financial inability of one or more self-insurers or insurers to fulfill their obligations.

(b) A person, or such person’s legal representative, shall be disqualified from receiving benefits through the plan if:

- (1) Such person is disqualified for criminal conduct under section 431:10C-305(d) from receiving the motor vehicle insurance benefits; or
- (2) Such person was:
 - (A) The owner or registrant of the motor vehicle at the time of the motor vehicle’s involvement in the accident out of which such person’s accidental harm arose;
 - (B) The operator or any passenger of such a vehicle at such time with reason to believe that such vehicle was an uninsured motor vehicle[;]
 - (C) ~~The owner, operator, or passenger of a motorcycle or motor scooter as defined in section 286-2; or~~
 - (D) ~~A pedestrian incurring accidental harm arising out of a motorcycle accident or a motor scooter accident, as defined in section 431:10G-101].~~

(c) Any person eligible for benefits under this part, and who becomes eligible to file a claim or an action against the mandatory bodily injury liability or property damage liability policies, shall, upon the bureau’s determination of eligibility, be entitled to:

- (1) The full personal injury protection benefits as if the victim had been covered as an insured at the time of the accident producing the accidental harm[; and], but not including an owner, operator, or passenger of a motorcycle or motor scooter, as defined in section 286-2, or a pedestrian incurring accidental harm arising out of a motorcycle or motor scooter accident, as defined in section 431:10G-101; and
- (2) The rights of claim and action against the insurer, assigned under section 431:10C-403, with reference to the mandatory bodily injury liability policy for accidental harm, and with reference to the mandatory property damage liability policy for property damage sustained.

Any claims of an eligible assigned claimant against either mandatory bodily injury liability or property damage liability policies, or the basic personal injury protection policy, shall be filed with the insurer assigned and shall be subject to all applicable conditions and provisions of this subpart and subpart A, except that the date of

notification of the assignment shall, where applicable, be substituted for the date of the accident for purposes of section 431:10C-315.’’

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 19, 2001.)