

(H. B. 1890)

(No. 159)

(Approved August 10, 2006)

AN ACT

To amend paragraph (c) of clause 3 and to add a new clause 4 to Section 7 of Act No. 138 of June 26, 1968, as amended, known as the “Automobile Accident Social Protection Act,” in order to establish that in cases in which the Automobile Accident Compensation Administration (ACAA, in Spanish) is entitled to recover expenses, a lien shall be created on the motor vehicle and on the license of the driver.

STATEMENT OF MOTIVES

The fundamental purpose of the “Automobile Accident Social Protection Act,” approved on June 26, 1968, as amended, is to reduce to a minimum the tragic financial and social effects produced by traffic accidents on the family and other dependents of the victims. It alleviates the problem of traffic accident victims, by affording them medico-hospital services and some income to free them from total helplessness and financial powerlessness, in addition to providing compensation for the dependents of victims that are killed in such accidents.

Section 7 of Act No. 138 of 1968, as amended, known as the “Automobile Accident Social Protection Act,” the Automobile Accident Compensation Administration (ACAA, Spanish acronym) is bound to recover all the expenses it incurred in those accidents in which the liable driver caused damages intentionally, or because he/she was driving under the influence of narcotic drugs or alcohol, or driving a motor vehicle without the

legal authorization to do so, or while in the commission of a felony other than violation of traffic laws, or while he/she participated in drag racing, or speed tests in areas reserved for such activities, among others.

When the Act was promulgated in 1968, it was not possible to foresee the difficulties of mandatory recovery and the expenses it represents for the Administration. Particularly when due to the time elapsed numerous changes of address or residence make it more difficult to locate the persons liable to indemnify the ACAA.

The experience of the past thirty-five (35) years shows that the recovery efforts are not effective, unless the Administration is given adequate legal means therefor.

With the proposed amendment, it is hereby established that in cases in which the ACAA is entitled to recovery, a lien shall be created over the motor vehicle and the driver's license. Such an annotation shall constitute an actual lien over said vehicle and a prohibition upon the transfer of the vehicle, or to the issuing or renewal of any type of license until the claim is paid off, nullified or until a payment agreement is reached with the ACAA.

With this amendment, it is intended to give the ACAA an effective instrument for compliance with the mandatory recovery, based upon the exclusions of the law itself.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Paragraph (c) of clause 3 is hereby amended, and clause 4 is hereby added, to Section 7 of Act No. 138 of June 26, 1968, as amended, to read as follows:

“Section 7.- Rights of the Administration to Indemnity

1. ...

3. The following provisions shall apply in the cases referred to in subclauses (a) and (b) of clause 1 of this Section:
 - a. ...
 - b. ...
 - c. In every circumstance under this Section in which the Administration is entitled to indemnization, it shall exercise the corresponding action within fifteen (15) years from the date of the accident. The filing of a claim before the court, the authentic extra-judiciary claim, or any act of recognition of a debt by the debtor shall interrupt the term of prescription. In every case where the fifteen (15) year prescriptive term applies, once the term has elapsed and the reasonable collections pursuant to the Regulation it is hereby authorized to approve, the Administration shall proceed to remove the account off its books, having accredited the collections made.
 - d. ...
4. In all cases in which there is a right to recover, pursuant to the preceding paragraphs, a lien shall be created over the motor vehicle and over the driver's license of the person liable to indemnify the Administration. The Administration shall file an application for a notation of lien for money it is owed at the Department of Transportation and Public Works. Said notation shall constitute an actual lien over said motor vehicle and a prohibition against the transfer of said motor vehicle or the issuing or renewal of any type of motor vehicle license and/or driver's license until the lien is paid, nullified or until an

agreement to pay is reached with the Administration. The Administration, shall establish the procedure for the agreements to pay through regulations.

Notwithstanding the provisions of the previous paragraph, the title of the motor vehicle with an annotation of lien may be transferred if the lien is imposed after the date in which the motor vehicle changes owner; in other words, the date of the formalized transfer on the back of the registration of the motor vehicle or trailer or by attesting document.

The Secretary of the Department of Transportation and Public Works shall notify the imposition of the lien in the same manner it is done with respect to administrative fines and he/she shall keep a register of liens [(Section 24.05 (g) of Act No. 22 of January, 2001, 9 LPRA, Sec. 5685 (e)].

If the owner of the vehicle and/or driver's license holder affected by the notation of administrative lien considers that the ACAA is not entitled to recover against him/her or that the amount imposed for recovery is incorrect, he/she may request an administrative review at the Regional Office of the ACAA corresponding to his/her domicile, by filing a request for a review within thirty (30) days after being notified of the administrative lien.

The Administration shall provide the procedure for the administrative review before the ACAA through regulation.

The decision from the administrative review shall be reviewable by the Court of First Instance, using the procedure provided in the Vehicles and Traffic Act of Puerto Rico for the

review of administrative fines [(Section 24.05 (k) of Act No. 22 of January, 2001, 9 LPRA, Sec. 5685 (k)].

The liens may be paid at the locations and in the manner stated hereinbelow:

- a. At the Department of Transportation and Public Works, taken in person or through an agent, in cash, check or certified check, or money order, or a certified check or money order sent by mail, payable to the Automobile Accident Compensation Administration.
- b. At the regional offices or at the Central Office of the Automobile Accident Compensation Administration.

Taken in person or through an agent in cash, or certified check or money order payable to the Automobile Accident Compensation Administration.

Should the payment of the lien be made in the offices of the Automobile Accident Compensation Administration, the latter shall remit to the Department of Transportation and Public Works an authorization to cancel the lien and it shall notify the interested party in writing.

The Secretary of the Department of Transportation and Public Works, the Secretary of the Treasury, and the Automobile Accident Compensation Administration are hereby authorized to establish by regulations those other provisions that are necessary to implement the liens' system established herein.”

Section 2.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 159 (H.B. 1890) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to amend paragraph (c) of clause 3 and to add a new clause 4 to Section 7 of Act No. 138 of June 26, 1968, as amended, known as the “Automobile Accident Social Protection Act,” in order to establish that in cases in which the Automobile Accident Compensation Administration (ACAA, in Spanish) is entitled to recover expenses, a lien shall be created on the motor vehicle and on the license of the driver,

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

In San Juan, Puerto Rico, today 31st of October of 2007.

Francisco J. Domenech
Director