

“Automobile Accident Social Protection Act”

Act No. 138 of June 26, 1968 as amended,

(Contains amendments incorporated by:

Act No. 20 of June 1, 1969
Act No. 7 of March 20, 1972
Act No. 8 of March 20, 1972
Act No. 28 of June 27, 1972
Act No. 55 of May 31, 1972
Act No. 53 of June 4, 1974
Act No. 180 of July 23, 1974
Act No. 12 of October 30, 1975
Act No. 54 of July 1, 1986
Act No. 45 of June 26, 1987
Act No. 142 of July 29, 1988
Act No. 26 of December 12, 1989
Act No. 83 of August 13, 1994
Act No. 15 of January 8, 2004
Act No. 387 of September 21, 2004
Act No. 159 of August, 2006
Act No. 57 of May 9, 2008)

(Amendments non-incorporated:
Act. No. 222 of December 29, 2009)

To establish an Insurance and Compensation System for Traffic Accidents; to create a public instrumentality which shall be known as the Automobile Accident Compensation Administration to administer the system; to repeal paragraphs a and b of section 10 of Act No. 279 of April 5, 1946, and to provide the means of financing said System.

Be it enacted by the Legislature of Puerto Rico :

Section 1. — Short Title. (9 L.P.R.A. § 2051)

This act shall be known as the "Automobile Accident Social Protection Act".

Section 2. — Definitions. (9 L.P.R.A. § 2052)

The following terms shall have the meaning expressed below:

(1) *Children* — Includes children, stepchildren, children by adoption and foster children, it being understood by the latter those individuals who without being children, stepchildren or children by adoption, have been fostered by other persons as if they were their own children, during a term of not less than three years, or during two-thirds of the life of such persons, whichever of the two terms is the shorter, immediately and consecutively preceding the date of the accident which originates a claim under the provisions of this act.

(2) *Parents* — Includes father, mother, parents by adoption or foster parents, it being understood by the latter those individuals who, without being the father, mother or parents by adoption of other persons, have fostered these persons as if they were their own children, during a term of not less than three years, or during two-thirds of the life of the person so fostered and treated as their own child, whichever of the two terms is the shorter, immediately and consecutively preceding the date of the accident which originates a claim under the provisions of this act.

(3) *Wife or husband* — Means the legal spouse or the woman or man who at the time of the death of the victim and during the three years immediately preceding the injury live together with the victim as husband and wife even though not married.

(4) *Motor vehicles* — Means any vehicle, including trailers, designed to operate on public highways propelled by power other than muscular, which type of vehicle is authorized to travel on the public highways by the Department of Transportation and Public Works by issuing a motor vehicle license to it.

(5) *Administration* — Means the Automobile Accident Compensation Administration.

(6) *Executive Director* — Means the Executive Director of the Automobile Accident Compensation Administration.

(7) *Board* — Means the Board of Directors of the Automobile Accident Compensation Administration.

(8) *Housewife (or man)* — Means a person, regardless of his civil status, whose principal occupation is the maintenance, administration and control of a home, and who is not engaged in a regular paid occupation or is not regularly employed in a job outside the home.

(9) *Disability* — Is a disability of such a nature as to prevent the victim from engaging fully and continuously in any employment or occupation for which he is capable by his education, experience and training.

(10) *Victim* — Natural person who suffers bodily injuries or sickness or death as a result thereof, as a consequence of the maintenance or use by himself or by another person of a motor vehicle as such vehicle.

(11) *Dependency* — Whenever it is required that a person be dependent on another, such dependency shall be economic, real and direct, of a substantial nature and not merely financial assistance, by which a person depends on the financial contributions of another for his sustenance.

(12) *Maintenance* — Means any type of essential, sudden or unexpected repairs or servicing required by a motor vehicle to start or continue to operate legally and safely on the public highways. It excludes vehicle maintenance done in the home, activities related to motor vehicle cleaning and enhancements, activities related to the business of bodywork, paint and repair of motor vehicle parts that are not physically attached thereto.

(13) *Use of the motor vehicle as such* — Means the use of a motor vehicle for the purpose of a person transporting himself or others to a different place or to carry, push or tow animals,

plants or objects. It does not include uses of the vehicle incidental to the purpose mentioned above, nor fortuitous events that do not occur during, or as a direct result of, such use at that moment or reasonably soon afterwards. It includes loading or unloading the vehicle.

(14) *Employment* — Shall mean, for the effects of what is provided in subsection (3)(B) of Section 5 of this act, this title, any service which the victim was performing in exchange for a salary, commission or any other kind of remuneration, at the time the disability occurred.

Services rendered by a person shall be deemed as employment under Section 5(3)(B) of this Act, regardless of whether there is an employer-employee relationship, unless and until the existence of the following conditions is demonstrated:

(a) The employer does not exert, nor can he exert, any command or supervision over the person;

(b) the person renders the service beyond the employer's normal course, or place of business;

(c) the person renders the service as part of the normal activity of his work, business or profession, which service is available to other people and does not cease when the contractual relationship with the employer ceases.

(15) *Employer* — Means, to the effects of what is provided in subsection (3)(B) of Section 5 of this act, any private person or entity that employs one (1) or more workers or employees to render any service. The Government of the Commonwealth, the various municipal governments, boards, commissions, authorities, instrumentalities, public corporations and agencies of the Commonwealth shall also be deemed as employers with regard to the workers, employees and officials they hire.

(16) *Person responsible for the accident* — Means any person who causes an accident while driving a motor vehicle recklessly or negligently, pursuant to the Vehicles and Traffic Act of Puerto Rico in effect, as provided in Section 7(1)(a) of this act.

(17) *Person not responsible for the accident* — Means any person who does not cause a traffic accident, but who, at the time the accident occurs, is among the non-coverage exclusions in Section 6.3. In these cases, the Administration shall recover what it disbursed on such person, pursuant to the provisions in Section 7(1)(b).

Section 3. — Applicability; benefits. (9 L.P.R.A. § 2053)

Every natural person who suffers bodily injury, sickness or death as a result thereof, as a consequence of the maintenance or use by himself or by another person of a motor vehicle as such shall be entitled to the benefits provided in this act. Said person shall hereinafter be known as "the victim".

Section 4. — Beneficiaries. (9 L.P.R.A. § 2054)

The following persons shall be deemed as beneficiaries of the victim with the rights and limitations established hereinbelow:

(1) The children of the victim under eighteen (18) years of age on the date of the accident.

(2) The children of the victim between the ages of eighteen (18) and twenty-one (21) who depended on the victim and were students at the moment of the accident.

(3) The husband or wife of the victim who depends thereon for his support.

(4) The parents of the victim when they depended thereon for their support because they were unable to provide for themselves and have no other means of support.

(5) Any person who depends on the victim and is unable to support himself without help therefrom.

If in the cases of beneficiaries provided in subsection (3) of this section legal spouses and persons living in a state of concubinage should occur, the benefit shall be paid to the one who proves his dependency on the victim, and if the dependency requirement occurs in both, it shall be adjudicated and divided in equal shares between both beneficiaries. Funeral expenses shall be adjudicated to the one who can prove having incurred them.

Section 5. — Benefits. (9 L.P.R.A. § 2055)

1) General

(a) *Benefits* — The benefits provided herein include disability payments, medical-hospital services, dismemberment, death and funeral expenses.

(b) *Payable benefits and available services* — The payable benefits shall be as hereinbelow stipulated, after deducting therefrom any other benefits from other insurance programs to which the victim or his beneficiaries are eligible and which deduction is provided for hereunder.

(c) If the victim receives from the Administration services to which he is eligible under other insurance programs and for which deduction is herein provided, and said deduction is not made in the cases where it applies, the amount of the corresponding deduction shall be deducted from the benefits to which the victim is entitled in accordance with said programs and shall be paid by the agency in charge of the administration of said programs directly to the Administration, up to the limit of the coverage of the insurance programs.

(d) If a victim eligible to weekly compensation benefits for bodily injuries has received from the State Insurance Fund, by reason of the same automobile accident, benefit payments for transitory disability and the Manager of the Fund decides that the injury of the victim is one of non-occupational nature, said payments shall be deducted from the weekly compensation benefits to which he is entitled under this act. This deduction shall never be made for an amount exceeding the weekly compensation benefits to which the victim is entitled. The amount so deducted shall be reimbursed by the Administration to the State Insurance Fund, upon previous presentation by the Manager of the Fund of a certified voucher showing liquidation of the payments made to the victim.

(e) The claiming and obtaining of benefits by a claimant under the provisions of this act through false information or statements shall be a violation of Section 165 of the Penal Code [33 L.P.R.A. § 4421] or of any subsequent penal provision that typifies the crime of perjury.

(f) If the victim receives payments from other sources for medical-surgical and hospitalization services rendered as provided in this act, the Administration may recover from him or his beneficiaries up to a sum equal to the value of the services rendered.

(g) *Deductible benefits* — All benefits or advantages that the victim or his beneficiaries may receive or may be entitled to receive from other sources on account of the injuries

suffered shall be deducted from the benefits corresponding to him under this act, except when otherwise provided herein. Whenever the victim uses the services provided by this act, the payments that he or his beneficiaries may receive or may be entitled to receive from other insurance programs by reason of said services shall be paid to the Administration, up to a sum not to exceed the amount expended by the Administration to render said service.

(h) *Nondeductible benefits* — The following benefits shall be considered nondeductible benefits and shall not diminish the amount to be collected or received from the Administration, nor shall they be payable to the Administration in case the services herein provided are used:

- (i) Benefits by reason of the obligation of the family support;
- (ii) inheritance estates;
- (iii) life insurance;
- (iv) gifts;
- (v) social security benefits.

Payments made by the employer to his employees shall not be considered as gifts.

(i) The death benefit provided in subsection (4) of this section shall be paid provided the victim dies as a result of the injuries suffered within one year after the date of the accident.

(j) If the injuries suffered in an accident caused the losses set forth in subsection (2) of this section within fifty-two (52) weeks after the date of the accident, the Administration shall pay the sum provided for such losses.

(k) The Board of Directors of the Administration, with the approval of the Commissioner of Insurance of Puerto Rico, shall increase the benefits provided by this act, including payments for disability, medical-hospital services, dismemberment, death and funeral expenses benefits. The Office of Commissioner of Insurance shall have sixty (60) days to determine the source or denial of the increase proposed by the Board of Directors of AACA. If said sixty (60) days elapse without any statement from the Office of Commissioner of Insurance, it shall be understood that there is no objection to the proposed benefits increase and they shall take effect immediately and/or on the date provided in the determination of increase made by the Board of Directors of AACA.

(2) *Benefits for dismemberment*

The following benefits for dismemberment shall be paid by the Administration in the event the indicated disabilities occur:

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| Loss of sight of both (2) eyes | \$ 10,000 |
| Loss of both (2) feet at or above the ankle | 10,000 |
| Loss of both (2) arms at or above the wrist | 10,000 |
| Loss of one (1) arm and one (1) leg | 10,000 |
| Loss of one (1) arm at or above the wrist | 7,500 |
| Loss of one (1) leg at or above the ankle | 7,500 |
| Loss of one (1) hand or one (1) foot | 5,000 |
| Total loss of sight of one (1) eye | 5,000 |
| Loss of at least three (3) fingers or three (3) toes | 2,500 |

In case a person suffers more than one of the losses indicated above, the maximum amount for all the losses shall be ten thousand (\$10,000).

(3) *Compensation for loss of income due to disability; reinstatement*

(A) *Compensation:*

(i) If within the twenty (20) days following the date of the accident the injuries received disable a victim other than a housewife, the Administration shall pay to him a benefit for loss of income by disability. Said benefit shall be equivalent to fifty percent (50%) of the weekly income not received by the victim, subject to a maximum of one hundred dollars (\$100) weekly while he is disabled, during the first fifty-two (52) weeks reckoning from the date of the accident, and to fifty percent (50%) of the weekly income not received by the victim, subject to a maximum of one hundred dollars (\$50) weekly while he is disabled, during the subsequent fifty-two (52) weeks.

(ii) To avail oneself of the benefit of weekly compensation it shall be required that at the time of the accident or during any six of the twelve (12) months preceding same the victim was holding a remunerated job or performing an activity or engaged in a profession or in an income-yielding business of his own.

(iii) The regular disability benefit provided by this subsection shall not be paid during the first fifteen (15) days following the date the disability begins.

(iv) For the purposes of computing the compensation contemplated in this act, there shall be understood that the week consists of five (5) working days and the workday of eight (8) hours; except that from the facts investigated it is deduced that the victim worked regularly more than forty (40) hours a week.

(v) The loss of income shall be determined by taking as a basis the income earned by the victim at the time of the accident. If the victim had then no income, the loss of income shall be computed on the basis of the equivalent of the average weekly income earned by him during the last six (6) of the last twelve (12) months immediately preceding the accident, when he was holding a remunerated job or performed an activity or engaged in a profession or in an income-yielding business of his own.

(vi) The Administration shall by regulation ad hoc establish the criteria that may facilitate the determination of loss of income of the victims.

(vii) When the disabled victim is a housewife (man) the Administration shall pay the victim a benefit of twenty-five dollars (\$25) a week subject to a maximum of sixteen (16) weeks.

(viii) The loss of income requirement to be entitled to collect weekly compensation for total and continuous disability shall be deemed as established even though the claimant continues to receive regular salary payments for accumulated vacation leave, it being understood that in such a case there is a real loss of income. However, there shall be no loss of income when one continues to receive regular salary for accumulated sick leave; in that case, the loss of income shall be established solely if the victim would have been entitled to liquidate his sick leave accumulated and not used, in cash, some time within the term of one (1) year from the date of the accident, in which case all the time that the victim is absent from work due to injuries suffered in the accident shall be counted as accumulated and then the loss of income shall be determined in accordance with what was actually earned or not earned.

(B) Reinstatement:

In the cases of disability covered by this act, when the injured person is employed, the employer shall reserve the job the worker was doing when the disability commenced and to reinstate the worker in it, subject to the following conditions:

- (i) That the worker requires the employer to reinstate him in said job within the term of fifteen (15) days, counting from the date he is discharged from treatment, provided said requirement is not made after six (6) months have passed from the date of inception of the disability;
- (ii) that the worker is mentally and physically able to fill said job when he asks the employer for reinstatement, and
- (iii) that said job exists when the worker requests reinstatement. It shall be understood that the job exists when it is vacant or filled by another worker. It shall be presumed that the job was vacant when it was filled by another worker within thirty (30) days following the date the reinstatement was requested.

If the employer does not comply with the provisions of this clause, he shall be bound to pay the worker or beneficiaries the wages said worker would have earned if reinstated. He shall also be liable for any damages caused. The worker or his beneficiaries shall file and process the corresponding claim for reinstatement and/or damages in court by ordinary proceedings or by means of a wage claim procedure established in §§ 3118--3132 of Title 32.

(4) Death benefits

(a) A death benefit of one thousand dollars (\$1,000) shall be paid for funeral expenses. This benefit may be paid, up to the sum of the expenses incurred, to any person who produces acceptable evidence to the Administration of having incurred the funeral expenses of the victim. Any remaining balance shall be paid to the beneficiaries of the victim.

(b) There shall also be paid the following death benefits following the classifications established in § 2053a of this title and subject to the conditions hereinbelow indicated:

- (i) \$ 10,000 to the primary dependent
- (ii) \$ 1,000 to each secondary dependent up to a maximum of \$ 5,000.
- (iii) The following benefits to the children of the victim:

\$ 5,000 for each disabled child regardless of his age

\$ 5,000 for each child four (4) years of age or under

\$ 4,000 for each child over four (4) years, but under ten (10) years

\$ 3,000 for each child ten (10) years or more but under fifteen (15) years

\$ 2,000 for each child fifteen (15) years of age or over, but under eighteen

(18) years; those children between the ages of eighteen (18) and twenty-one (21)

years who depended on the victim and were students at the time of the accident shall also be entitled to this benefit.

If the benefit for the children, computed according to the preceding formula, exceeds ten thousand dollars (\$10,000), each one's benefit shall be adjusted by multiplying ten thousand dollars (\$10,000) by the ratio there is between the benefit corresponding to each child according to the above scale and the sum total of the benefits corresponding to all the children, according to that scale.

If the children also qualify as primary dependents, the benefit corresponding to each one shall be determined by multiplying ten thousand dollars (\$10,000) by the ratio there is between the benefit corresponding to each child as such, and the sum total of the benefits corresponding to all the children as such, according to the provisions of this section.

(c) For the purposes of the death benefit there shall be considered as:

(i) Primary dependent:

- (I) The wife of the victim, or in lieu thereof
- (II) the husband of the victim, or in lieu thereof
- (III) the children of the victim, or in lieu thereof
- (IV) the parents of the victim.

(ii) Secondary dependent:

- (I) The parents of the victim when they do not qualify as primary dependent, or in lieu thereof
- (II) other dependents.

(5) *Medical-hospital benefits*

(a) The victim shall be entitled to receive the medical, hospitalization, convalescence home, and rehabilitation services and medicines that may be reasonably required by his/her condition during the two (2) -year term following the accident, which may be available within the jurisdiction of the Commonwealth of Puerto Rico. In the case of paraplegics and quadriplegics, and in cases of severe trauma and/or multiple fractures with complications of such a nature as to require prolonged medical treatment, said services may be given for a term longer than two (2) years as provided by the Board through regulations.

In connection with the above, "severe trauma" shall mean injuries whose treatment and rehabilitation require a term longer than two (2) years, in the judgment of a medical evaluation committee created by the Administration.

(b) The Administration shall provide said services under contract with physicians and facilities, or directly according to the limits, criteria, and methods of providing services which it establishes through regulations to such effects. If the victim receives emergency treatment in hospital or other types of facilities which do not have service contracts with the Administration, or if the latter authorizes the victim to use such facilities, they shall provide the services and the Administration shall pay them for the cost of the services rendered based on an average of the rates used by the Administration at present to pay for similar services to hospitals, physicians, laboratories and other entities which provide health services under contract in the area they are located. In the event the victim has paid for such services, he/she would be entitled to claim from the Administration the cost of such services on the basis of the above-stated average.

The invoices for claims for health services rendered shall be filed no later than one hundred twenty (120) days as of the date on which the services were rendered.

All claims with respect to the return of invoices or payments made by the Administration for health services invoices shall be filed within forty-five (45) days as of the date of the payment.

When the last day to file invoices for claims on time is Saturday, Sunday, or a non-working holiday for the Administration, said invoices shall be considered as filed on time, as long as they are filed on the next working day.

The Administration shall not pay invoices received after the deadline for their filing.

All terms and conditions established in this clause are of a jurisdictional nature and non-compliance therewith bars the Administration or the Court with authority from considering such matters.

Section 6. — Benefits Payment. (9 L.P.R.A. § 2055)

(1) The Administration shall, by regulation, establish the standards that will govern the payment of all benefits provided in this act, both to victims of accidents and to their beneficiaries; Provided, That:

(a) When the payment of a benefit for dismemberment is in order, same shall be liquidated systematically so that the benefits that the victim may receive from the Administration do not exceed the equivalent of \$50 weekly.

(b) The death benefits shall be paid at the rate of the equivalent of \$50 weekly for family unit. The Administration shall determine by regulation what is a family unit and how the benefit shall be paid when the latter does not exist.

(c) The Administration may authorize payments of more than the equivalent of \$50 weekly or the liquidation of the benefit in one single sum, when it is shown that it will redound in benefit of the victim or his beneficiaries.

(d) If the amount of the benefit one is entitled to is greater than two thousand (\$2,000) dollars, the Administration may require the victim or his beneficiaries to use said benefit or any part thereof for the purchase of a farm or house, or to acquire a productive business or to make any other profitable investment.

(2) The benefits payable under this act may not be assigned, sold or transferred and any contract to such effect shall be void. Said benefits may not be seized or confiscated, nor shall the victim or his beneficiaries be deprived, through a lawsuit, of the possession of same.

(3) The following persons shall not be entitled to collect the benefits provided by this act for the victim of the accident, but his/her beneficiaries shall be entitled to the benefits corresponding to them as such:

(a) Those whose injuries were caused by an act or omission on their part performed for the purpose of causing damage to their own person.

(b) Those who at the time of the accident were driving a motor vehicle without a driver's license in effect at the time and for the operation of that particular motor vehicle, or whose vehicle has no valid motor vehicle license and license plate on that date.

To the effects of this clause, a learner's permit is not sufficient authorization to operate a motorcycle or moped.

(c) Those who at the time of the accident were participating in automobile races or in speed tests, either as drivers, passengers, spectators or as officials or employees in areas reserved for such activities.

(d) Those whose injuries occurred while committing a criminal act other than a violation to the traffic laws.

- (e) Those who at the time of the accident were driving their automobile in a state of drunkenness or under the effect of drugs.
- (4) The benefits provided by this act may not be used for the payment of fees for legal services rendered to the victim by virtue of an application for benefits or of a lawsuit filed under this act, except in the manner the Administration may be regulation provide.
- (5) The benefits of this act shall only be paid for injuries which have occurred in Puerto Rico and the medical and hospital services shall only be rendered in the Commonwealth of Puerto Rico.

Section 7. — Rights of the Administration to indemnity. (9 L.P.R.A. § 2056)

- (1)
 - (a) The Administration shall be entitled to be indemnified by the person responsible for the accident for all the expenses incurred by the Administration in connection to said accident, if the damages were caused intentionally or under the effects of alcohol or narcotic drugs, or while driving an automobile without a legal permit to do so, or while committing a criminal act other than a violation of the traffic laws, or while participating in automobile races or speed tests.
 - (b) In the cases referred to in Section 6.3 on coverage exclusions, the Administration shall be entitled to be indemnified by the person who is not responsible for the accident for all expenses incurred by the Administration with respect to said person.
- (2) When the victim in the cases provided herein files a legal action against the driver involved in the accident and the court grants said victim an indemnization under the principle of liability on the grounds of negligence, the defendant shall inquire, before payment of the judgment, if the Administration is entitled to be reimbursed for any or all of the benefits paid by the latter to the victim. If the Administration is entitled to such reimbursement, the payment shall be issued separately in favor of the Administration and of the claimant victim for the respective amount corresponding to them.

In such cases, if the defendant pays the judgment without considering the interests of the Administration, and if the latter is unable to recover the corresponding sum from the victim, the Administration shall be entitled to be indemnified by the defendant or the plaintiff for the loss thus suffered.

- (3) The following provisions shall apply in the cases referred to in clauses (a) and (b) of subsection (1) of this section:

- (a) The Administration shall be entitled to resort to the competent Court of First Instance in any case seeking indemnization before the courts, based on the application of the principle of liability on the grounds of negligence, for damages or injuries for which benefits were provided pursuant to this act. The victim or his/her legal heirs shall be required by the corresponding court, so that prior to the continuation of the proceedings of the case, the plaintiff to notify the Administration with a copy of the claim filed, which shall include in its caption or in one of its allegations, the number of the case of their claim in the Administration. Non-compliance with the provisions in this section shall be sufficient cause for the corresponding legal action of the case to be dismissed without prejudice, before the court grants a discretionary term for compliance with these provisions, which shall never be of less than thirty (30) days.

(b) The Administration shall be entitled to be indemnified, for the expenses incurred, by the owner of the motor vehicle according to the corresponding registration in the Department of Transportation and Public Works, who shall be severally liable therefor before the Administration, unless he/she is able to prove that the vehicle was stolen.

(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) In all cases whereby the Administration is notified, according to the provisions of clause (a) of this subsection, it shall appear in court to exercise its rights. Should the Administration fail to appear in Court within a term of one (1) year, its cause of action shall be understood to have been abandoned with prejudice, and the court shall pass judgment to that effect.

(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 [§ 5685(e) of this title].

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 [§ 5685(k) of this title].

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 8. — Claims. (9 L.P.R.A. § 2057)

(1) Every accident which gives rise to a claim for benefits under this act shall be notified to the Police and to the Administration.

(2) Every person entitled to claim a benefit under this act shall file his claim with the Administration, except in case of death benefits, within the fifteen days following the date of the accident.

(3) The persons entitled to death benefits shall file their claim within one hundred twenty (120) days after the death of the victim, but in all cases the accident must have been notified to the Administration within the fifteen days following the date of its occurrence.

(4) Every person entitled to claim a benefit under this act shall submit to the Administration within the sixty days following the date of the claim, all the evidence that it may be reasonably possible to obtain in connection with the circumstances of the accident and the loss suffered and any other data or evidence, including information on plans, contracts or policies covering or that may cover the benefits provided by this act, as well as any other additional evidence that may be required of him.

(5) Noncompliance with the provisions of the preceding subsections may be sufficient cause for the Administration to deny the benefits provided by this act, unless the claimant shows to the satisfaction of the Administration that it was impossible for him to comply with the provisions hereof and that he did it as soon as the circumstances allowed.

Section 9. — Tort and Related Actions. (9 L.P.R.A. § 2058)

(1) The benefits provided by this act for injuries sustained as a result of automobile accidents which occurred in the Commonwealth of Puerto Rico shall be paid, up to the limits indicated in this section, in substitution of the sums that the victim, his survivors or any other person would otherwise be entitled to claim by reason of the accident under the principle of liability on the basis of tort, relieving the responsible party from the payment of all claims up to said

limits or up to the amount of the benefits collected by the victim and his beneficiaries, whichever is greater.

(2) Any person responsible, through a negligent act on his part, for damages or injuries for which benefits are provided herein, shall be exempted from application of the principle of liability on the basis of negligence. Said exemption shall be limited to:

(a) The amount of \$1,000 for physical and mental sufferings including pain, humiliation and similar damages, and of

(b) the sum of \$2,000 by reason of other damages or losses not included in (a).

(3) Any person whom a court declares in a civil action responsible for having caused through negligence injuries for which the victim, his survivors or any other person are entitled to receive benefits or medical-surgical and hospital services under this act, shall be entitled to a reduction in the sentence to be imposed by the court up to the amount indicated in this section.

(a) In each case in which this section applies the court must separately indicate the amount of indemnity granted for damages due to pain and physical and mental sufferings and the amount of indemnity granted for other losses.

(b) The deduction applicable to damages for physical and mental sufferings shall be \$1,000.

(c) The deduction applicable to damages and losses for causes other than physical and mental sufferings shall be the sum of \$2,000 or the amount of the total benefits paid by the Administration, if said amount is greater than \$2,000.

(d) The indemnity that a court may grant to the survivors of the victim, even when it be only by reason of moral damages sustained by them on account of the death of said victim, shall be reduced by a sum equal to the amount of the benefits that the victim and his beneficiaries have received from the Administration.

(e) If the liability for the damages caused lie upon two or more persons, the deductions provided in this section shall be deducted only once. Same shall be deducted from the total judgment to be paid by all the parties. The court shall determine the amount of the deduction which shall apply to each one of said parties.

(f) The provisions of this section shall be applicable to the judgments rendered in claim actions brought in connection with accidents which have occurred on and from July 1, 1969.

Section 10. — Examination, Treatment and Rehabilitation of Injuries; Finding of Fact.
(9 L.P.R.A. § 2059)

(1) Whenever the physical and mental condition of a person be of importance to a claim filed or to be filed for payment of past or future benefits, the Administration may direct said person to submit himself to the medical examinations as may be necessary.

(2) If the person refuses to be submitted to said medical examination or to comply with any order given by the Administration in accordance with this section, the Administration shall not make any payment whatsoever to said person or to his beneficiaries.

(3) The Administration may direct any victim to submit himself to the rehabilitation treatment or training that may be reasonable and justified. Refusal to comply with these orders may entail the loss of the benefits provided under this act.

(4) Every employer shall be under obligation to allow the examining and copying of and to furnish to the Administration, at its request, payrolls, work records and sworn statements showing the salaries earned by the victim subsequent to the date of the injuries and during a period of one year prior to the date of the accident.

(5) Every physician, hospital, clinic or institution of medical services which provides any services related with an injury for which benefits or services are claimed under this act or which has previously attended the victim in connection with any former injury or condition which may be connected in any wise with the injury for which the claim is made, shall furnish, upon request of the Administration, all the information available from his records or his memory, including a written report on the history, condition, treatment, dates and costs of the treatment and other services rendered to the injured person, and shall produce and permit the inspection of all the records related with said medical history, the condition, treatment, and the dates and cost thereof, and any other information deemed necessary.

(6) Every physician-employer, hospital, clinic or any person or institution that furnishes information requested under the terms of this section, may be reimbursed the cost of furnishing such information, in accordance with the rates that the Administration may establish to that effect.

(7) The information obtained by the Administration or by its duly authorized employees during the course of the investigations performed in the exercise of the powers granted in this act shall be privileged and confidential in nature and may only be divulged with the authorization of the Executive Director or that of a court of competent jurisdiction when the physical condition or the medical treatment of the victim who has filed a claim against the Administration is a controversial fact in a judicial proceeding. In the latter case, the court's authorization shall be deemed to extend only to information related to the claimant's physical condition or treatment.

Section 11. — Proceedings to Facilitate the Investigation and Award of Claims. (9 L.P.R.A. § 2059a)

When there is required the appearance of persons, their testimony or the production of any document or evidence pertinent to any proceeding or investigation under this act, the following provisions shall govern:

(a) Every summons, requirement or certification issued by the Executive Director or his authorized representatives, or by the Board or any of its members, or by the Secretary, shall bear the seal of the Administration or of the Board, as the case may be, and may be served at any place in the commonwealth.

(b) When a person summoned or required in accordance with the present provisions fails to appear to testify or fails to produce or to permit the copying of the books, registries, payrolls, records or documents, as required, or when any person thus summoned refuses to answer any question in connection with any matter or investigation under consideration of the Administration, the latter may request the assistance of the Court of First Instance of Puerto Rico to compel the appearance and the testimony of such person and the production and delivery of the books, registries, payrolls, records or documents requested on the matter under consideration.

(c) Once the petition is filed with the Court of First Instance, said Court shall issue a summons requiring and ordering the person to appear and depose or to produce the evidence requested, or both. Disobedience of the order issued by the court shall be punished as contempt and the payment of costs and lawyer's fees shall be imposed on the guilty person.

(d) Any person, except Government employees, summoned and appearing before the Board or the Administration as witness shall receive for each day of appearance a sum equal to that received by witnesses appearing before the courts of justice.

Section 12. — The Automobile Accident Compensation Administration. (9 L.P.R.A. § 2060)

(1) There is hereby created, to carry out the purposes of this act, a corporation as a government instrumentality of the Government of the Commonwealth of Puerto Rico to act by its own authority, under the name of the Automobile Accident Compensation Administration.

(2) The corporate powers of the Administration shall be exercised by a Board of Directors which shall also be responsible for the administration of same and of seeing to the enforcement of the provisions of this act. The Board shall be composed of one member of the Cabinet and four additional members appointed by the Governor with the advice and consent of the Senate. At least two of the four members shall represent the public interest and one shall be a person conversant with the insurance business. The first appointments shall be made for the term of two years in the case of the representatives of the public interest and of one year in the case of the other two members and until their successors are appointed and qualify. All subsequent appointments shall be for the term of three years. Three members of the Board shall constitute a quorum. Vacancies of the Board shall be filled by appointments made for the unexpired term for which the member causing the vacancy was appointed.

The Governor may remove any member of the Board for incompetency in the discharge of his duties or for any other good cause, upon charges brought against him and after giving him an opportunity to be heard.

The Board shall elect one of its members to act as Chairperson and another to act as Secretary. Members of the Board shall receive the per diems the Board determines by regulations for their services, and the Administration shall reimburse any necessary expenses incurred to discharge their functions. Those members of the Board who are officials of the Government of the Commonwealth of Puerto Rico shall receive no compensation for their services. The Chairperson of the Board may receive an additional fee to be fixed by the Board, which shall not exceed an amount equal to fifty percent (50%) of the per diem received by members of the Board.

The Board shall appoint an Executive Director who shall be responsible for the direct administration of the corporation in accordance with the standards and conditions that the Board may establish.

(3) The Board shall adopt rules for its organization and internal operation and shall approve and shall cause the promulgation of the necessary regulations to enforce the provisions of this act pursuant to Act No. 112 of June 30, 1957, known as the "Rules and Regulation Act of Puerto Rico" [3 L.P.R.A. § 2101 et seq.], including the proceedings for the payment of

premiums and for the payment of claims. In addition to the duties arising from this act, the Board shall have the following faculties and obligations:

- (a) Hold, at least four times a year, regular meetings and those special sessions as may be deemed necessary. The Board shall keep full minutes of all its proceedings.
- (b) Consider and take resolutions on matters referred by the Executive Director.
- (c) Approve the investment of the resources of the Administration that the Executive Director may propose.
- (d) May investigate and shall decide on appeal, at the request of a party, controversies arising between claimants of the Administration and the Executive Director.
- (e) As soon as possible after each fiscal year, but not later than the first of November of each year, revise, approve and direct that it be transmitted to the Governor and to the Legislative Assembly an annual report containing, among other things, a balance sheet of the economic conditions; a statement of the receipts and expenditures for the year; detailed statements on the claims experience of the Administration for the year, a report on titles of property investment of the Administration; and other statistics and financial data that may be considered necessary for an adequate interpretation of the situation of the Administration and of the results of its operations.

Section 13. — Proceeding of Claim Awards; Appeals. (9 L.P.R.A. § 2061)

(1) The Executive Director shall investigate and decide the claims filed against the Administration using such proceedings as he may deem convenient, as long as the rights of the parties are guaranteed.

In the event that a claimant disagrees with the Executive Director's decision, he may request its reconsideration within thirty (30) days from the date of notice thereof the determination is served or from the date of the postmark if he presents it, whichever is later. The claimant may be represented by counsel in this phase and give testimony and present the evidence he deems convenient. If he disagrees with the result of the reconsideration, he may request a public hearing before the Executive Director or an Examiner designated by him within thirty (30) days from the date the determination is served or the date of the postmark if he presents it, whichever is later. At this public hearing the claimant cannot submit any evidence to the consideration of the Executive Director which the Executive Director did not have before him when making the determination, unless the impossibility of obtaining it previously is shown to the satisfaction of the Executive Director.

The claimant may appear in person or represented by counsel and a record shall be kept of the proceedings and of all the testimony given at the hearing, but the testimony need not be transcribed unless a subsequent appeal is made.

In the event that more than one claim is presented in connection with the same victim and the evidence submitted is the same or substantially the same in nature, only one record shall be kept of the proceedings and such evidence as may be produced with respect to one proceeding may be deemed to be produced with respect to the others, provided none of the claimant is harmed thereby.

The rules of evidence that prevail in a court of justice shall not be mandatory in any proceeding before the Executive Director.

After the hearing is held, the Executive Director shall make his determinations and conclusions and shall furnish to each party a copy of his decision and of the findings and conclusions on which it is based. This decision shall be final unless an appeal is filed before the Board.

(2) The appeal shall be executed by filing a writ of appeal before the Secretary of the Board within the thirty (30) days following the date the decision of the Executive Director is served or of the date of the postmark if he presents it, whichever is later.

The claimant shall be entitled to appear in his own right or assisted by counsel.

The Executive Director shall cause a certified copy of the record of the case and the transcription of the oral evidence to be transmitted to the Board. The parties may stipulate that the record be limited to a part of the proceedings or the transcription of the oral evidence.

The Board shall decide on the basis of the record before it and of any brief the parties may wish to present.

It may, at its discretion, grant oral hearings to hear the arguments of the parties before deciding. Its decision may be to sustain, modify or revoke the decision of the Executive Director, or it may return the case to the latter, with the pertinent instructions, including an order to consider additional evidence.

In cases in which the Board holds oral hearings, these may be presided by a single member of the Board designated by its Chairman or by one or more examiners designated by it.

The Board and each one of its members, the examiners and the Executive Director shall be empowered to administer oaths.

(3) The decision of the Board shall be final unless the claimant or the Executive Director requests its judicial review by filing a petition to that effect with the Circuit Court of Appeals within thirty (30) days after the parties and their respective counsel have been notified of the decision of the Board by mail or in person.

The jurisdiction of the Court of First Instance shall be limited to issues of law, and the findings of facts, if sustained by substantial evidence, shall be final.

(4) All the terms established in this section are of a jurisdictional nature and their noncompliance deprives the Administration or the court of authority to deal with the petition filed. For the Administration's effects the date of filing of a petition for reconsideration, for a public hearing before the Executive Director or for an appeal before the Board of Directors shall be the date it is received in the Administration, when filed personally, or that of the postmark when it is sent by mail.

Section 14. — Other faculties and duties of the Executive Director. (9 L.P.R.A. § 2062)

The Executive Director shall direct and supervise all technical and administrative activity of the Administration and shall appoint or shall hire with the approval of the Board of Directors the administrative and technical personnel necessary to carry out the functions of the Administration and to pay for such services the compensation that the Board may determine. The officials and employees of the Administration shall be included in the Exempt Service of the Personnel Act of the Commonwealth.

The Executive Director shall also have the following faculties and obligations:

- (1) To establish an office for the Administration and to provide everything necessary for the installation of a complete and adequate system of accounting, registries and adjustment of claims.
- (2) To adopt the procedures necessary to compile and keep the statistical data that may be necessary to make periodical analysis of the operation costs of the Administration and actuarial studies of its operations.
- (3) To attend all meetings of the Board and to execute all the resolutions recommended by it.
- (4) To certify all the necessary payments which have to be made according to the provisions of this act.
- (5) To remit or deposit in the name of the Administration and to render accounts, according to law and with the regulations in force, of all the monies received belonging to the Administration.
- (6) To prepare regulations for the approval of the Board.
- (7) To make recommendations to the Board for the investment of the resources of the Administration.
- (8) To prepare the annual report and to submit it to the Board for its revision and approval.
- (9) Submit to the Board any report that it may request.
- (10) Personally, or through the persons whom he may delegate, to administer oaths, require the appearance of persons and the production of any documents or evidence pertinent to any procedure or investigation authorized by this act.

Section 15. — Other Powers and Faculties of the Administration. (9 L.P.R.A. § 2063)

The Administration shall have the following powers and functions, in addition to those established in this act:

- (1) It shall have perpetual existence, may sue and be sued, and in any action in which it may intervene it shall be exempt from the payment of costs, charges and counsel fees; counsel shall be officially designated.
- (2) Investigate all the phases of the problem of automobile accidents including the phases of the financial liability and of accident prevention and make the pertinent recommendations to the Governor and to the Legislature.
- (3) Contract physicians, hospitals, clinics, laboratories and other suppliers of medical services to carry out the purposes of this act. It may also enter into agreements with the State Insurance Fund, established under the Workmen's Accident Compensation Act, to use its medical-hospital facilities and with the Secretary of Health for the use of the medical-hospital facilities of the Commonwealth.
- (4) Fix, annually, with the approval of the Insurance Commissioner the premium that each vehicle shall pay at the time of registering same, in accordance with the experience and the corresponding actuarial study.
- (5) To acquire properties for its corporate purposes by purchase or donation, grant or bequest; to own and exercise all property rights thereon and to dispose of them in accordance with the terms and conditions that its Board of Directors may determine; as well as to borrow money or use any other facility or type of financing for the acquisition of goods that it deems necessary in the form and means the Board of Directors deems convenient.

- (6) Acquire all kinds of properties in partial or full payment of debts previously contracted with the Administration, when such acquisition is necessary to diminish or avoid losses in connection with same, to retain such properties for the time it may deem convenient, to exercise thereon all property rights and to dispose of same in accordance with the terms and conditions that its Board of Directors may determine.
- (7) Exercise all those incidental powers as may be necessary or convenient for the purposes of carrying out its businesses or purposes.
- (8) Exercise all those corporate powers compatible with those herein set forth which are conferred by the laws of Puerto Rico to corporations and to exercise all those powers, within and without Puerto Rico in the same extent as would or may be done as a natural person.
- (9) Own an official seal and alter same when it so deems convenient.

Section 16. — Financing. (9 L.P.R.A. § 2064)

- (1) The cost of this insurance shall be distributed among all the motor vehicle owners through an annual contribution to be paid at the time of registering the vehicle.
- (2) At the time of its registration, every vehicle shall pay the annual premium fixed by the Administration with the approval of the Insurance Commissioner. Said premium shall be renewed on the same date on which the motor vehicle or trailer's license and plates must be renewed.

Van trailer vehicles engaged in maritime transportation to bring freight to Puerto Rico from abroad, and which enter Puerto Rico as transients, may choose to pay a special premium instead of the abovestated annual premium, based on their short stay on the Island, regardless of whether or not they are registered, or regardless of the type of registry. This special premium shall be fixed by the Board of Directors of the Administration as previously provided and based on how many times these trailers enter Puerto Rico.

The payment mechanism for these special premiums shall be provided through a procedure that shall be established by the Administration to such effect.

- (3) At the time of registration every vehicle shall pay an annual premium fixed by the Administration with the approval of the Insurance Commissioner. Said premium shall be renewed on the same date on which the vehicle's or trailer's license and plates must be renewed pursuant to Act No. 141 of July 20, 1960 known as the "Vehicle and Traffic Law of Puerto Rico".
- (4) Any receipts not required for the payment of claims and expenses shall be deposited in a reserve fund which shall be used exclusively for the payment of claims in subsequent years, in case that the claims incurred in any of the said years exceeds the advance claims upon determining the type of contribution.
- (5) If in any year the receipts and the reserves accrued are not sufficient to cover the losses and the expenses incurred, the Secretary of the Treasury shall provide to the Administration from any funds available in the general fund of the Government, as an advance, the sums required to remediate [cover] the deficiency.

Section 17. — Appropriation. (9 L.P.R.A. § 2065)

The sum of one million (1,000,000) dollars is hereby appropriated from unencumbered funds in the Commonwealth Treasury to the Administration as initial capital to carry out the purposes of this act. The sum herein appropriated as well as the sums that may be paid to the Administration under subsection 5 of section 14 of act, shall be as an advance, and shall be reimbursed to the general fund as soon as the financial situation of the Administration permits it.

The Board of Directors in accordance with the Secretary of the Treasury shall determine the manner of payment. To these effects, the Secretary of the Treasury is hereby authorized to investigate the books of the Administration while the totality of the debt has not been settled.

Section 18. — Repeals. (9 L.P.R.A. § 2051 note)

Paragraphs a and b of Section 10 of Act No. 279 of April 5, 1946, are hereby repealed.

Section 19. — Effectiveness. (9 L.P.R.A. § 2051 note)

This act take effect July 1, 1968, as to the organization of the Administration, but the remainder of the act shall take effect July 1, 1969, and the contributions to the fund shall be collected on the date of the registry of the motor vehicles of fiscal year 1969-70; and the benefits provided by the act shall be payable for claims promoted in relation to accidents which have occurred on and after July 1, 1969.

Note. This document was compiled by the Office of Management and Budget of Puerto Rico. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.