

# **Financial Responsibility Law Issues In Pennsylvania**

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## Financial Responsibility Law Issues

### A. Procedure in Obtaining Insurance Under the Financial Responsibility Law:

1. Insurance carrier must send notice to all insureds at least 45 days prior to the first policy renewal after July 1, 1990.

2. Notice must describe the limited tort option and the full tort option.

3. Notice must contain a premium quote for basic coverage under both options. Policy holders existing prior to July 1, 1990 amendments are entitled to receive notice of the cost comparisons between the premium differentials of the two types of insurance coverage under the MVFRL. *Kelly v. Ziolko*, 734 A.2d 893 (Pa. Super 1999).

4. Any person who signs a tort option is precluded from claiming liability from any person for being inadequately informed about the options.

5. If the insurance company has not received a response to the mailed notice within 20 days after the notice is first sent, the insurance company must send a second notice.

6. If no response is received ten days prior to the renewal date, there is a conclusive presumption that the named insured has elected the full tort option.

7. Those electing a full tort option are to receive a 10% reduction in total premium, whereas those selecting a limited tort option are to receive a premium deduction of at least 20%. THEREFORE, IN EXCHANGE FOR GIVING UP YOUR RIGHT TO SUE IN CERTAIN SITUATIONS, YOU ARE SAVING AT LEAST 12% OF THE TOTAL PREMIUM CHARGE.

8. Once a particular option has been elected, that elected option will apply to all renewal policies and replacement policies.

9. At the time of renewal or replacement, after the initial election, the insurance company must send a notice each year reminding the insured which election was made, describing both elections, and advising the insured that they are entitled to change the election.

10. Prior to enactment of Section 1731 (b), self-insured entities, which offer optional Liability Insurance Supplement, were not required to meet the statutory requirements mandated by the MVFRL. *Saunders v. Jenkins*, 717 A.2d 561 (Pa. Super. 1998) Injured party, a passenger in a rental van when driver fell asleep causing accident, had negotiated for a "Hertz" rental van and initialed the contract declining LIS. Injured party sought to recover excess liability insurance coverage. Self-insured entity was not required to comply with notice and rejection provisions of MVFRL. (Saunders

was decided prior to enactment of Section 1731(b.1), which added mandatory language for rejection of UM coverage.

11. Collective bargaining agreement between insured Township and defendant employee did not expressly bind Township to assume liability for defendant's torts and therefore it was not an "insured contract." *Brooks v. Colton*, 760 A.2d 393 (Pa. Super. 2000). Pedestrian, struck by employee's vehicle, sued township.

## **B. Full Tort Election**

1. If a written election is not returned to the insurance carrier, it is presumed that the insured has elected the full tort option.

2. Under this option, an injured party need not satisfy ANY threshold in order to be entitled to bring a lawsuit for non-economic losses.

3. Non-economic losses include monetary compensation for pain, mental anguish, loss of enjoyment of life, disruption of lifestyle, and a loss of consortium claim for the spouse of the injured party.

3.1 Jury charge and verdict interrogatory, in which judge listed pain and suffering separate from loss of pleasures, enjoyment of life, and loss of feeling of well-being, was in error as being duplicative of each other. *Carpinet v. Mitchell*, 853 A.2d 366 (Pa. Super. 2004)

4. A lawsuit can be brought for monetary damages, irrespective of the nature and duration of the injury.

5. Insured party who is injured in a car covered by full tort cannot be denied full tort because he also owns an uninsured vehicle. *Progressive Halcyon Ins. Co. v. Kennedy*, 908 A.2d 911 (Pa. Super. 2006). Insured had full tort on vehicle in which he was injured, and also owned another vehicle that was not insured under any policy.