

1975 Senate Bill 514

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## CHAPTER 270, Laws of 1975

AN ACT to renumber and amend 20.585 (1) (g); and to amend 344.17 (1) and (3) to (5), 344.20 (1) and (2) (intro.), (a) and (c), 344.37, 344.39 and 344.41 (1) (intro.) of the statutes, relating to transferring responsibility for custody of security deposited under the motor vehicle financial responsibility law from the state treasurer to the administrator of the division of motor vehicles.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 20.585 (1) (g) of the statutes is renumbered 20.395 (2) (g) and amended to read:

20.395 (2) (g) (title) *Motor vehicle financial responsibility.* All moneys deposited ~~in the custody of the state treasurer~~ with the administrator of the division of motor vehicles under the safety financial responsibility law under s. 344.20 shall be paid into the general fund and invested in accordance with s. 25.17 (1) (g). Payments from this appropriation shall be made only under s. 344.20 (2) and (3).

SECTION 2. 344.17 (1), (3), as affected by supreme court order dated February 17, 1975, and effective January 1, 1976, (4) and (5) of the statutes are amended to read:

344.17 (1) The security required under s. 344.14 shall be in such form and in such amount as the administrator may require but in no case in excess of the limits specified in s. 344.15 (1) with reference to the acceptable limits of a policy or bond.

The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the administrator ~~or state treasurer~~, the person depositing it may, in writing, amend the specification of the persons on whose behalf the deposit is made to include an additional person or persons, subject to the limitation that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

(3) In all cases where the administrator accepts security in the form of a lien on real estate, the party owning such real estate shall prepare the proper instrument to effect such lien, payable to the state and all persons entitled thereto under ~~ch. 344~~ this chapter, and shall record such instrument in the office of the register of deeds in the county where the real estate is situated. The administrator may require the party to furnish the administrator an abstract of merchantable title showing the lien to be a first lien on the premises. A certified copy of the recorded instrument and abstract, when required, shall be deposited by with the administrator ~~with the state treasurer~~. In all cases where a judgment has been entered against a person involved in a motor vehicle accident and such judgment remains unsatisfied 60 days after it has become final, the judgment creditor may for his own use and benefit and at his sole expense bring an action to foreclose such lien in the name of the state for his use and benefit under this section. The costs of such foreclosure may be estimated by the administrator and added to the amount required to be posted. In the foreclosure of such lien, ch. 846 on foreclosure of real estate mortgages shall apply as far as possible.

(4) In all cases where the administrator accepts security in the form of lien on personal property, the party owning such personal property shall prepare the proper instrument to effect such lien payable to the state and all persons entitled thereto under ~~ch. 344~~ this chapter and shall file such instrument as provided in s. 409.401. He shall furnish the administrator a certified copy of the filed instrument and, if required by the administrator, a chattel abstract from the filing officer showing the lien to be a first lien on such property. ~~The certified copy and abstract shall be deposited by the administrator with the state treasurer.~~ In all cases where a judgment has been entered against a person involved in a motor vehicle accident and it remains unsatisfied 60 days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action to foreclose such lien in the name of the state for his use and benefit under ~~ch. 344~~ this chapter. The costs of such foreclosure shall be estimated by the administrator and added to the amount required to be posted. In foreclosure of such lien ss. 409.501 to 409.507 shall apply as far as possible.

(5) In all cases where the administrator has accepted security in the form of a lien on real estate or personal property the ~~state treasurer~~ administrator shall satisfy such lien of record ~~on order of the administrator to~~ and return the security upon the party's compliance with ~~ch. 344~~ this chapter. The ~~state treasurer~~ administrator shall execute a satisfaction in legal form in the name of the state ~~by state treasurer, custodian security "Motor Vehicle Safety Responsibility Act."~~ The administrator shall note on the satisfaction that the administrator has issued such order, and such notation shall be prima facie evidence of such issuance. The ~~treasurer~~ administrator shall record or file such satisfaction with the proper register of deeds.

SECTION 3. 344.20 (1) and (2) (intro.), (a) and (c) of the statutes are amended to read:

344.20 (1) Security shall be deposited with the administrator in compliance with this chapter ~~shall be placed by the administrator in the custody of the state treasurer and shall be applied only as provided in this section. When placing security in the custody of the state treasurer, the administrator shall also file with the state treasurer~~

~~a memorandum specifying the respective portions of such deposit required because of property damage or personal injuries, including deaths, suffered by each person who will be entitled to a portion of such deposit in the event of a judgment against either operator or owner for the damages resulting from such accident.~~

(2) (intro.) The ~~state treasurer~~ administrator shall apply the security only to the payment of judgments and assignments and only as provided in this subsection:

(a) The security may be applied to the payment of judgments for damages arising out of the accident in question rendered against either operator or owner for the damages resulting from such accident in an action at law begun not later than one year after the date of the accident or not later than one year after the date of deposit of any security under s. 344.18 (3). Any party to such action in favor of whom a judgment was rendered may move to have the court order the ~~state treasurer~~ administrator to transmit to the court for application to the payment of the judgment the money or securities available for such purpose, and the court may so order. ~~A certified copy of the order shall be served upon the state treasurer, which service shall be by mail only. Upon being so served, the state treasurer~~ The administrator shall transmit to the clerk of the court the money or securities in the amount authorized by par. (c) or in the amount specified in the court order if less than the amount so authorized. Securities transmitted shall be valued at the same amount as when received ~~from~~ by the division. ~~The state treasurer shall have no further responsibility for the amount of the deposit so transmitted and the court shall determine and direct the application thereof. Any excess shall be returned by the court to the state treasurer~~ administrator to be held by him subject to the provisions of this chapter.

(c) No amount in excess of the portion designated ~~in by the administrator's filed security memorandum~~ administrator as having been deposited on account of damages suffered by the assignee or judgment creditor or person representing either of them shall be paid out on behalf of such person unless the depositor has been released from liability by all other parties in interest. In the latter event, the deposit may be applied to the payment of the judgment or assignment in question without regard to the designations ~~in the security memorandum.~~

SECTION 4. 344.37 of the statutes is amended to read:

**344.37 Money or securities as proof.** (1) Proof of financial responsibility for the future may be evidenced by ~~the certificate of the state treasurer that the person named therein has deposited with him a deposit with the administrator by the person of~~ \$35,000 in cash, or in securities such as may legally be purchased by savings banks or for trust funds of a market value of \$35,000. ~~The state treasurer shall not accept any such deposit and issue a certificate therefor and the~~ The administrator shall not accept any such certificate deposit unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(2) Deposits made under this section shall be held by the ~~state treasurer~~ administrator to satisfy, in accordance with this chapter, any execution on a judgment issued against the person making the deposit, for damages resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made, including damages for care and for loss of services because of bodily injury to or death of any person and damages because of injury to or destruction of property and the consequent loss of use thereof. Money or securities so deposited are not subject to attachment or execution unless such attachment or execution arises out of a suit for damages as set forth in this section.

SECTION 5. 344.39 of the statutes is amended to read:

**344.39 Substitution of proof.** The administrator shall consent to the cancellation of any bond or certificate of insurance or ~~the administrator shall direct and the state treasurer shall~~ return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

SECTION 6. 344.41 (1) (intro.) of the statutes is amended to read:

344.41 (1) (intro.) Subject to the exceptions set forth in sub. (2), the administrator shall, upon request, consent to the immediate cancellation of any bond or certificate of insurance, ~~shall direct the state treasurer to~~ return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility ~~(with which directive the state treasurer shall comply)~~ and shall waive any requirement of the filing of proof of financial responsibility whenever any of the following events has occurred:

SECTION 7. **Program responsibilities.** In the list of program responsibilities specified for the office of the state treasurer in section 14.561 of the statutes, delete reference to sections "344.39" and "344.41".

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