§ 335. Security and proof required following accident. (a) Not less than ten days nor more than sixty days after receipt by him of the report or notice of an accident which has resulted in bodily injury or death, or in damage to the property of any one person in excess of one thousand dollars, the commissioner shall forthwith suspend the license of any person operating, and the registration certificates and registration plates of any person owning, a motor vehicle in any manner involved in such accident unless and until such operator (or chauffeur) or owner or both shall have previously furnished or immediately furnishes security sufficient in the judgment of the commissioner to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such owner or operator (or chauffeur) by or on behalf of any aggrieved person or his legal representative, and unless and until such owner or operator (or chauffeur) or both shall immediately furnish and thereafter maintain proof of financial responsibility in the future. Where erroneous information with respect to insurance coverage of the owner or operator (or chauffeur) of any such vehicle is furnished to the commissioner, he shall take appropriate action as above provided within sixty days after the receipt by him of correct information with respect to such coverage. This section shall not apply: (1) to such owner or operator (or chauffeur) if such owner had in effect at the time of such accident with respect to such motor vehicle a standard provisions automobile liability policy in form approved by the superintendent of financial services and issued by an insurance company authorized to do business in this state or, if such motor vehicle was not registered in this state or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy, or the most recent renewal thereof, an automobile liability policy acceptable to the superintendent of financial services as substantially the equivalent of such standard provisions automobile liability policy; (2) to such operator (or chauffeur), if not the owner of such motor vehicle, if there was in effect at the time of such accident such a policy with respect to his operation of motor vehicles not owned by him or, if such motor vehicle was a private passenger motor vehicle, with respect to his operation of private passenger motor vehicles not owned by him or (3) to such owner or operator (or chauffeur) if the liability of such owner or operator

(or chauffeur) for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy issued by an insurance company authorized to do business in this state or by a bond, provided every such policy or bond mentioned herein is subject, if the accident has resulted in bodily injury, to a limit, exclusive of interest and costs, of twenty-five thousand dollars or death to a limit, exclusive of interest and costs, of fifty thousand dollars, because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident or (4) to such owner or operator if the commissioner shall determine that the failure to have liability coverage as described above was caused solely by the negligence or malfeasance of a person other than the person whose license or registration has been suspended or is subject to suspension, and that the person seeking to avoid such suspension was not aware of the lack of such liability coverage. However, with respect to the provisions of (4) above, the burden of proof shall be upon the person seeking to avoid such suspension action. Provided further, that such facts shall be established by clear and convincing evidence, either by the submission of affidavits or at a hearing called in the discretion of the commissioner.

Upon receipt of notice of such accident, the insurance carrier or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident or shall notify the commissioner in such manner as he may require in case such policy or bond was not in effect at the time of such accident.

In case any such operator (or chauffeur) or owner has no license to operate issued under this chapter or no motor vehicle registered in his name in this state, he shall not be allowed a license or registration until he has complied with this article to the same extent as would be

necessary if he had held an operator's or chauffeur's license and a motor vehicle registration issued under this chapter at the time of the accident.

(b) Such security, where ordered, shall be in such form and in such amount as the commissioner may require, but in no case in excess of the amount of proof required by section three hundred forty-one of this article. The commissioner may reduce the amount of security ordered in any case within six months after the date of the accident, if, in his judgment, the amount ordered is too large. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of subdivision (c) of this section.

(c) Security furnished in compliance with the requirements of this section shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question in an action at law begun not later than one year after the date of such accident or, upon assignment of the depositor, made not later than one year after the date of such accident, to the settlement of a claim arising out of such accident, or upon assignment of the depositor, made after the expiration of one year after the date of such accident, to the settlement of an action at law begun not later than one year after the date of such accident. All of such payments made out of the deposited security shall be made as follows: Payment shall first be made to each of the judgment creditors and to each of the claimants who have agreed to settle their claims, whose damages were evaluated by the commissioner, in an amount not greater than the amount fixed in their respective evaluations. Whenever the commissioner shall be given evidence, satisfactory to him, that the amounts of all claims for damages against the depositor arising out of such accident are fixed, either by judgment or settlement agreement, payment shall be made out of any balance remaining after the first distribution to each of those persons whose judgments or settlement amounts have not been fully paid but whose damages were evaluated by the commissioner, in proportion to the amounts of their respective evaluations unless there is sufficient to make payment in full; and any

balance remaining after the first and second distributions are completed shall be paid to those judgment creditors and those claimants who have agreed to settle their claims but whose damages were not evaluated, in proportion to the amounts of their respective judgments or settlement amounts unless there is sufficient to make payment in full. Such deposit, or any balance thereof, shall be returned to the depositor or his personal representative whenever after the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such action pending and no such judgment unsatisfied or whenever, before the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such judgment unsatisfied and that there is no existing cause of action against the depositor for damages arising out of such accident.

(c-1) After security, furnished in compliance with the requirements of this section, has remained on deposit for five years, the commissioner shall make a determination as to whether the deposit, or any balance thereof, is returnable to the depositor or the person entitled thereto. In the event that such deposit, or any balance thereof, is determined to be returnable, but remains unclaimed by the depositor or the person entitled thereto for a period of one year following the date of such determination, such unclaimed deposit, or any balance thereof, shall be deemed abandoned property subject to the provisions of the abandoned property law.

(d) The provisions of subdivision (a) of this section shall not apply to the owner of a motor vehicle operated by one having obtained possession or control thereof without the expressed or implied consent of such owner, to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person; or to either the owner or operator of a motor vehicle involved in an accident wherein no damage or injury was caused to other than the person or property of such owner or operator.

(e) In lieu of deposit of security when required pursuant to the provisions of this section the commissioner may accept a written

agreement, executed and acknowledged by the person required to deposit security and any person who has sustained bodily injury, including death, or damage to his property, or his legal representative, providing for the payment of an agreed amount in installments, with respect to the claims of such person for injuries or damages resulting from the accident. In the event of default in payment of any installment under such agreement, then upon notice of such default the commissioner shall forthwith suspend the license and registration certificates and registration plates of the person in default until release has been filed with the commissioner indicating that the entire agreed amount has been paid. But in no case shall such agreement be used in lieu of proof of maintenance of financial responsibility in the future required pursuant to the provisions of this section.