

2008 -- H 8067

LC02530

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO INSURANCE -- PRODUCER LICENSING ACT

Introduced By: Representatives Kennedy, Lewiss, Naughton, Church, and E Coderre

Date Introduced: March 25, 2008

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-2.4-2, 27-2.4-4 and 27-2.4-8 of the General Laws in Chapter  
2 27-2.4 entitled "Producer Licensing Act" are hereby amended to read as follows:

3 **27-2.4-2. Definitions.** -- The following definitions apply to this chapter:

4 (1) "Insurance commissioner" means the director of the department of business  
5 regulation or his or her designee;

6 (2) "Department" means the department of business regulation;

7 (3) "Home state" means any state or territory of the United States, or the District of  
8 Columbia, in which an insurance producer maintains his or her principal place of residence or  
9 principal place of business and is licensed to act as an insurance producer;

10 (4) "Insurance" means any of the lines of authority set forth in this title;

11 (5) "Insurance producer" means a person required to be licensed under the laws of this  
12 state to sell, solicit or negotiate insurance;

13 (6) "Insurer" means: (i) any person, reciprocal exchange, interinsurer, Lloyds insurer,  
14 fraternal benefit society, and any other legal entity engaged in the business of insurance,  
15 including insurance producers; (ii) notwithstanding sections 27-19-2, 27-20-2, 27-20.1-2, 27-  
16 20.2-2, 27-20.3-2, and 27-41-22, all of whom shall be engaged in the business of insurance for  
17 the purpose of this chapter, nonprofit hospital and/or medical service corporation, a nonprofit  
18 dental service corporation, a nonprofit optometric service corporation, a nonprofit legal service  
19 corporation, a health maintenance organization as defined in chapter 41 of this title or as defined

1 in chapter 62 of title 42, or any other entity providing a plan of health benefits subject to state  
2 insurance regulation; and (iii) an organization that for consideration assumes certain risks for an  
3 insured. Insurer organizations may include corporations, stock companies, mutual companies, risk  
4 retention groups, reciprocals, captives, Lloyds associations, and government residual plans.

5 (7) "License" means a document issued by this state's insurance commissioner  
6 authorizing a person to act as an insurance producer for the lines of authority specified in the  
7 document. The license itself does not create any authority, actual, apparent or inherent, in the  
8 holder to represent or commit an insurance carrier;

9 (8) "Limited line credit insurance" includes credit life, credit disability, credit property,  
10 credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage  
11 disability, guaranteed automobile protection (gap) insurance, and any other form of insurance  
12 offered in connection with an extension of credit that is limited to partially or wholly  
13 extinguishing that credit obligation that the insurance commissioner determines should be  
14 designated a form of limited line credit insurance;

15 (9) "Limited line credit insurance producer" means a person who sells, solicits or  
16 negotiates one or more forms of limited line credit insurance coverage to individuals through a  
17 master, corporate, group or individual policy;

18 (10) "Limited lines insurance" means those lines of insurance that the insurance  
19 commissioner deems necessary to recognize for purposes of complying with section 27-2.4-10(e);

20 (11) "Limited lines producer" means a person authorized by the insurance commissioner  
21 to sell, solicit or negotiate limited lines insurance;

22 (12) "NAIC" means National Association of Insurance Commissioners;

23 (13) "Negotiate" means the act of conferring directly with or offering advice directly to a  
24 purchaser or prospective purchaser of a particular contract of insurance concerning any of the  
25 substantive benefits, terms or conditions of the contract, provided that the person engaged in that  
26 act either sells insurance or obtains insurance from insurers for purchasers;

27 (14) "Person" means an individual;

28 (15) "Resident" means a person who either resides in Rhode Island or maintains an  
29 office in Rhode Island where the business of producing insurance is transacted and designates  
30 Rhode Island as the residence for purposes of licensure;

31 (16) "Sell" means to exchange a contract of insurance by any means, for money or its  
32 equivalent, on behalf of an insurance company;

33 (17) "Solicit" means attempting to sell insurance or asking or urging a person to apply  
34 for a particular kind of insurance from a particular company;

1 (18) "Terminate" means the cancellation of the relationship between an insurance  
2 producer and the insurer or the termination of an insurance producer's authority to transact  
3 insurance;

4 (19) "Uniform application" means the current version of the NAIC uniform application  
5 for resident and nonresident insurance producer licensing.

6 (20) "Business entity" means a corporation, association, partnership, limited liability  
7 company, limited liability partnership, or other legal entity;

8 (21) "Contracted producer report" means the annual report that all insurers contracting  
9 with insurance producers must provide to the department on or by March 1 listing each insurance  
10 producer to whom the insurer paid one hundred dollars (\$100) or more in commissions for the  
11 preceding calendar year of January 1 to December 31. The department shall prescribe the form  
12 and manner of reporting.

13 **27-2.4-4. Fees.** -- (a) Fees required by this chapter shall be as follows:

14 (1) Initial insurance producer license: \$55.00;

15 (2) Annual insurance producer renewal: \$55.00; and

16 (3) Annual ~~contract fee~~ contracted producer report: \$30.00 (per producer).

17 (b) The insurance commissioner may by rule or regulation specify fees for letters of  
18 certification, clearance letters, duplicate licenses, and any other documents as well as fees for  
19 ~~service~~ services and documents provided by or on behalf of the department that are reasonably  
20 determined by the insurance commissioner.

21 **27-2.4-8. Application for license.** -- (a) A person applying for a resident insurance  
22 producer license shall make application to the insurance commissioner on the uniform application  
23 and declare under penalty of refusal, suspension or revocation of the license that the statements  
24 made in the application are true, correct and complete to the best of the individual's knowledge  
25 and belief. Before approving the application, the insurance commissioner shall find that the  
26 individual:

27 (1) Is at least eighteen (18) years of age;

28 (2) Has not committed any act that is a ground for denial, suspension or revocation set  
29 forth in section 27-2.4-14;

30 (3) Has completed a prelicensing course of study for the lines of authority for which the  
31 person has applied unless exempted in writing, for good cause, from the requirement by the  
32 department;

33 (4) Has paid the fees set forth in section 27-2.4-4; and

34 (5) Has successfully passed the examinations for the lines of authority for which the

1 person has applied.

2 (b) A Rhode Island resident business entity acting as an insurance producer may elect to  
3 obtain an insurance producer license. Application shall be made using the uniform business  
4 entity application. Prior to approving the application, the commissioner shall find both of the  
5 following:

6 (1) The business entity has paid the appropriate fees.

7 (2) The business entity has designated a licensed producer responsible for the business  
8 entity's compliance with the insurance laws and rules of this state.

9 ~~(c)~~ <sup>(b)</sup> The insurance commissioner may require any documents reasonably necessary to  
10 verify the information contained in an application.

11 ~~(d)~~ <sup>(e)</sup> Each insurer that sells, solicits or negotiates any form of limited line credit  
12 insurance shall provide to each individual whose duties will include selling, soliciting or  
13 negotiating limited line credit insurance a program of instruction that may be approved by the  
14 insurance commissioner.

15 SECTION 2. Section 27-3-38 of the General Laws in Chapter 27-3 entitled "Agents,  
16 Brokers, and Solicitors" is hereby amended to read as follows:

17 ~~**27-3-38. Surplus line brokers -- License -- Affidavit of inability to obtain insurance --**~~  
18 ~~**Records -- Premium tax -- Notice to purchasers. -- Surplus line brokers -- License --**~~  
19 ~~**Affidavit of inability to obtain insurance -- Reports and records -- Premium tax -- Notice to**~~

20 ~~**purchasers**~~ - (a) The insurance commissioner may issue a surplus line broker's license to any  
21 person, ~~firm, or corporation~~ who or which is licensed as a property and casualty insurance  
22 producer in this state, authorizing the licensee to procure, subject to the restrictions provided in  
23 this section, policies of insurance, except life and health and accident, from insurers which are on  
24 the commissioner's list of approved surplus insurers in this state. This license may be suspended  
25 or revoked by the insurance commissioner whenever, in the commissioner's judgment, a  
26 suspension or revocation will best promote the interest of the people of this state. Before any  
27 license is issued by the insurance commissioner and before each renewal of a license, there shall  
28 be filed in his or her office a written application by the person, ~~firm, or corporation~~ desiring the  
29 license in the form or forms and supplements to the form, and containing any information, that  
30 the insurance commissioner may prescribe.

31 (b) When any policy of insurance is procured under the authority of that license, there  
32 shall be executed, both by the licensee and by the insured, affidavits setting forth facts showing  
33 that the insured or a licensed Rhode Island producer were unable, after diligent effort, to procure  
34 from no less than three (3) authorized insurers the full amount of insurance required to protect the

1 property owned or controlled by the insured or the risks insured. Provided, however the  
2 aforementioned affidavit shall not be required when insuring the following interest: amusement  
3 parks and devices, environmental improvement and/or remediation sites, vacant property or  
4 property under renovation, demolition operations, event cancellation due to weather, railroad  
5 liability, discontinued products, fireworks and pyrotechnics, warehouseman's legal liability,  
6 excess property coverage, and contingent liability. For purposes of this section, residual market  
7 mechanisms shall not be considered authorized insurers. ~~These affidavits shall be filed by the~~  
8 ~~licensee with the insurance commissioner within sixty (60) days after the policies have been~~  
9 ~~procured and the insurance commissioner, if not satisfied with the affidavits, may order the~~  
10 ~~licensee to take any further action to obtain the insurance from authorized insurers that he or she~~  
11 ~~may deem necessary. Notwithstanding the provisions of this subsection, for any policy renewed,~~  
12 ~~continued, or extended by the same insurer, no affidavit shall be required to be filed by a licensee~~  
13 ~~with the commissioner, for any policy of insurance or coverage under a policy procured by the~~  
14 ~~licensee, for which the licensee has previously filed an affidavit.~~ Prior to renewing, continuing, or  
15 extending any policy, the ~~licensee~~ licensed surplus line broker must confirm that the insurer is on  
16 the insurance commissioner's list of approval surplus line insurers in this state.

17 (c) The licensee shall keep a complete and separate record of all policies procured from  
18 approved surplus lines insurers under the license and these records shall be open to the  
19 examination of both the insurance commissioner and tax administrator at all reasonable times,  
20 and shall show the exact amount of each kind of insurance permitted under this section which has  
21 been procured for each insured, the gross premiums charged by the insurers for each kind of  
22 insurance permitted under this section which were returned to each insured, the name of the  
23 insurer or insurers which issued each of these policies, the effective dates of these policies, and  
24 the terms for which these policies were issued. The licensee shall file a yearly report with the  
25 insurance commissioner on a form prescribed by the insurance commissioner showing the  
26 business procured under the surplus line license for the preceding calendar year, and the report  
27 shall be due annually on or before April 1.

28 (d) Every person, firm, or corporation licensed pursuant to the provisions of this section  
29 shall file with the insurance commissioner, at the time of the insurance producer license renewal,  
30 a certificate of the tax administrator, on a blank furnished by the insurance commissioner,  
31 certifying that the licensee has paid to the tax administrator, for all policies procured by the  
32 licensee pursuant to the license during the next preceding calendar year, a tax, computed at the  
33 rate of three percent (3%) on the gross premiums charged the insured by the insurers, less the  
34 amount of premiums returned to the insured.

1 (e) Every application form for insurance from a surplus lines insurer, every affidavit  
2 form executed by the insured, and every policy (on its front and declaration pages) issued by the  
3 surplus lines insurer, shall contain in ten (10) point type the following notice:

4 NOTICE

5 THIS INSURANCE CONTRACT HAS BEEN PLACED WITH AN INSURER NOT  
6 LICENSED TO DO BUSINESS IN THE STATE OF RHODE ISLAND BUT APPROVED AS  
7 A SURPLUS LINES INSURER. THE INSURER IS NOT A MEMBER OF THE RHODE  
8 ISLAND INSURERS INSOLVENCY FUND. SHOULD THE INSURER BECOME  
9 INSOLVENT, THE PROTECTION AND BENEFITS OF THE RHODE ISLAND INSURERS  
10 INSOLVENCY FUND ARE NOT AVAILABLE.

11 SECTION 3. Section 27-10-3 of the General Laws in Chapter 27-10 entitled "Claim  
12 Adjusters" is hereby amended to read as follows:

13 **27-10-3. Issuance of license.** – (a) The insurance commissioner may, upon the payment  
14 of a fee established by the commissioner, issue to any person a license to act as an insurance  
15 claims adjuster once that person satisfies the reasonable requirements for the issuance of the  
16 license, as established by the commissioner.

17 (b) A Rhode Island resident business entity acting as an insurance adjuster may elect to  
18 obtain an insurance adjusters license. Application shall be made using the uniform business  
19 entity application. Prior to approving the application, the commissioner shall find both of the  
20 following:

- 21 (1) The business entity has paid the appropriate fees.
- 22 (2) The business entity has designated a licensed adjuster responsible for the business  
23 entity’s compliance with the insurance laws and rules of this state.

24 SECTION 4. Section 27-10.1-2 of the General Laws in Chapter 27-10.1 entitled "Motor  
25 Vehicle Damage Appraisers" is hereby amended to read as follows:

26 **27-10.1-2. "Motor vehicle physical damage appraiser" defined.** – (a) "Motor vehicle  
27 physical damage appraiser" means any person, partnership, association, or corporation that  
28 practices as a business the appraising of damages to motor vehicles insured under automobile  
29 physical damage policies on or on behalf of third party claimants.

30 (b) A Rhode Island resident business entity acting as a motor vehicle physical damage  
31 appraiser may elect to obtain a motor vehicle physical damage appraiser license surplus line  
32 broker license. Application shall be made using the uniform business entity application. Prior to  
33 approving the application, the commissioner shall find both of the following:

- 34 (1) The business entity has paid the appropriate fees.

1           (2) The business entity has designated a licensed motor vehicle physical damage  
2 appraiser responsible for the business entity's compliance with the insurance laws and rules of  
3 this state.

4           SECTION 5. This act shall take effect upon passage.

=====  
LC02530  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE -- PRODUCER LICENSING ACT

\*\*\*

1           This act would remove the requirement for a business entity license, in addition to an  
2 individual license, for surplus line brokers but would allow the department to issue business  
3 entity licenses for all license types if a resident needs such a license to obtain nonresident licenses  
4 in other states. The bill would also allow an exception to preclicensing for good cause at the  
5 discretion of the department. Finally, the bill would clarify the annual contracted producer report  
6 and would confirm the current filing requirement and fees associated with the report.

7           This act would take effect upon passage.

=====  
LC02530  
=====