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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO INSURANCE - INSURANCE FRAUD PREVENTION

Introduced By: Senators Miller, Bates, Jabour, Picard, and Gallo

Date Introduced: February 11, 2010

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 27 of the General Laws entitled "INSURANCE" is hereby amended  
2 by adding thereto the following chapter:

3 CHAPTER 54.1

4 ANTIFRAUD ACT

5 **27-54.1-1. Definitions.** – As used in this chapter:

6 (1) "Business of insurance" means the writing of insurance or the reinsuring of risks by  
7 an insurer, including acts necessary or incidental to writing insurance or reinsuring the risks and  
8 the activities of persons who act as or are officers, directors, agents or employees of insurers, or  
9 who are other persons authorized to act on their behalf.

10 (2) "Commissioner" means the director of the department of business regulation or his or  
11 her designees or the division of insurance.

12 (3) "Fraudulent insurance act" means an act or omission committed by a person who,  
13 knowingly and with intent to defraud, commits, or conceals any material information concerning,  
14 one or more of the following:

15 (i) Presenting, causing to be presented or preparing with knowledge or belief that it will  
16 be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in  
17 support of, or concerning a fact material to one or more of the following:

18 (A) An application for the issuance or renewal of an insurance policy or reinsurance  
19 contract;

- 1           (B) The rating of an insurance policy or reinsurance contract;
- 2           (C) A claim for payment or benefit pursuant to an insurance policy or reinsurance  
3 contract;
- 4           (D) Premiums paid on an insurance policy or reinsurance contract;
- 5           (E) Payments made in accordance with the terms of an insurance policy or reinsurance  
6 contract;
- 7           (F) A document filed with the commissioner or the chief insurance regulatory official of  
8 another jurisdiction;
- 9           (H) The financial condition of an insurer or reinsurer;
- 10          (I) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from  
11 one or more lines of insurance or reinsurance in all or part of this state by an insurer or reinsurer;
- 12          (J) The issuance of written evidence of insurance; or
- 13          (K) The reinstatement of an insurance policy;
- 14          (ii) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer,  
15 reinsurer or other person engaged in the business of insurance by a person who knows or should  
16 know that the insurer or other person responsible for the risk is insolvent at the time of the  
17 transaction;
- 18          (iii) Removal, concealment, alteration or destruction of the assets or records of an insurer,  
19 reinsurer or other person engaged in the business of insurance;
- 20          (iv) Willful embezzlement, abstracting, purloining or conversion of monies, funds,  
21 premiums, credits or other property of an insurer, reinsurer or person engaged in the business of  
22 insurance;
- 23          (v) Transaction of the business of insurance in violation of laws requiring a license,  
24 certificate of authority or other legal authority for the transaction of the business of insurance; or
- 25          (vi) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit  
26 the acts or omissions specified in this subsection.
- 27          (4) “Insurance” means a contract or arrangement in which one undertakes to:
- 28          (i) Pay or indemnify another as to loss from certain contingencies called “risks,”  
29 including through reinsurance;
- 30          (ii) Pay or grant a specified amount or determinable benefit to another in connection with  
31 ascertainable risk contingencies;
- 32          (iii) Pay an annuity to another; or
- 33          (iv) Act as surety.
- 34          (5) “Insurer” means a person entering into arrangements or contracts of insurance or

1 reinsurance and who agrees to perform any of the acts set forth in subsection 4 of this section or  
2 fraternal benefit societies, medical and hospital service corporations, dental service corporations  
3 and/or health maintenance organizations. A person is an insurer regardless of whether the person  
4 is acting in violation of laws requiring a certificate of authority or regardless of whether the  
5 person denies being an insurer.

6 (6) "NAIC" means the National Association of Insurance Commissioners.

7 (7) "Person" means an individual, a corporation, a partnership, an association, a joint  
8 stock company, a trust, an unincorporated organization, or any similar entity or any combination  
9 of the foregoing.

10 (8) "Policy" means an individual or group policy, group certificate, contract or  
11 arrangement of insurance or reinsurance affecting the rights of a resident of this state or bearing a  
12 reasonable relation to this state, regardless of whether delivered or issued for delivery in this  
13 state.

14 (9) "Reinsurance" means a contract, binder of coverage (including placement slip) or  
15 arrangement under which an insurer procures insurance for itself in another insurer as to all or  
16 part of an insurance risk of the originating insurer.

17 **27-54.1-2. Fraudulent insurance acts, interference and participation of convicted**  
18 **felons prohibited.** – (a) A person shall not commit a fraudulent insurance act.

19 (b) A person shall not knowingly or intentionally interfere with the enforcement of the  
20 provisions of this act or investigations of suspected or actual violations of this act.

21 (c)(1) A person convicted of a felony involving dishonesty or breach of trust shall not  
22 participate in the business of insurance without the written consent of the commissioner.

23 (2) A person in the business of insurance shall not knowingly or intentionally permit a  
24 person convicted of a felony involving dishonesty or breach of trust to participate in the business  
25 of insurance without the written consent of the commissioner.

26 **27-54.1-3. Fraud warning required.** – (a) Notwithstanding any similar requirements in  
27 title 28, every claim form and application for insurance, regardless of the form of transmission,  
28 shall contain the following statement or a substantially similar statement:

29 "Any person who knowingly presents a false or fraudulent claim for payment of a loss or  
30 benefit or knowingly presents false information in an application for insurance is guilty of a crime  
31 and may be subject to fines and confinement in prison."

32 (b) The lack of a statement as required in subsection (a) of this section does not constitute  
33 a defense in any prosecution for a fraudulent insurance act.

34 (c) The requirements of this section shall not apply to reinsurance claims forms or

1 reinsurance applications.

2 (d) The requirements of this section shall not apply to any claim form for health  
3 insurance which is on a form promulgated by the Centers for Medicare and Medicaid services or  
4 in electronic format pursuant to 45 CFR Part 162.

5 **27-54.1-4. Other law enforcement or regulatory authority.** – This chapter shall not:

6 (1) Preempt the authority or relieve the duty of other law enforcement or regulatory  
7 agencies to investigate, examine and prosecute suspected violations of law;

8 (2) Prevent or prohibit a person from disclosing voluntarily information concerning  
9 insurance fraud to a law enforcement or regulatory agency; or

10 (3) Limit the powers granted elsewhere by the laws of this state to investigate and  
11 examine possible violations of law and to take appropriate action against wrongdoers.

12 **27-54.1-5. Insurer antifraud initiatives.** – (a) Insurers shall have antifraud initiatives  
13 reasonably calculated to detect, report, prosecute and prevent fraudulent insurance acts.

14 Antifraud initiatives may include:

15 (1) Fraud investigators, who may be insurer employees or independent contractors; or

16 (2) An antifraud plan.

17 (b) A person engaged in the business of insurance having knowledge or a reasonable  
18 belief that a fraudulent insurance act is being, will be, or has been, committed shall provide such  
19 information to the governmental unit responsible for investigation such act, or if no such unit  
20 exists to the commissioner.

21 **27-54.1-6. Penalties.** – Any person who violates the provisions of this chapter shall be  
22 subject to suspension or revocation of license or certificate of authority or administrative  
23 penalties in accordance with Rhode Island general laws section 42-14-16, or both. Suspension or  
24 revocation of license or certificate of authority and imposition of administrative penalties shall be  
25 pursuant to an order of the commissioner issued pursuant to Rhode Island general laws section  
26 42-35-9 and/or 42-35-12. The commissioner’s order may require a person found to be in violation  
27 of this chapter to make restitution to persons aggrieved by violations in this chapter.

28 SECTION 2. This act shall take effect on January 1, 2011.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE - INSURANCE FRAUD PREVENTION

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1           This act would adopt portions of the National Association of Insurance Commissioners  
2 Model Insurance Fraud Prevention Act. In addition to confirming the illegality of insurance fraud,  
3 the bill would require a warning on every insurance application and claim form to warn the  
4 applicant or claimant that making any claim for proceeds of an insurance policy containing false,  
5 incomplete or misleading information is subject to prosecution and punishment for insurance  
6 fraud and would require that all insurers have an antifraud plan.

7           This act would take effect on January 1, 2011.

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