STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

AN ACT

RELATING TO INSURANCE - UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Senators Goodwin, and Ruggerio

Date Introduced: February 10, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Section 27-9.1-4 of the General Laws in Chapter 27-9.1 entitled "Unfair Claims Settlement Practices Act" is hereby amended to read as follows:

27-9.1-4. "Unfair claims practices" defined. -- (a) Any of the following acts by an insurer, if committed in violation of § 27-9.1-3, constitutes an unfair claims practice:

(1) Misrepresenting to claimants and insured relevant facts or policy provisions relating to coverage at issue;
(2) Failing to acknowledge and act with reasonable promptness upon pertinent communications with respect to claims arising under its policies;
(3) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies;
(4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;
(5) Compelling insured, beneficiaries, or claimants to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them;
(6) Refusing to pay claims without conducting a reasonable investigation;
(7) Failing to affirm or deny coverage of claims within a reasonable time after having completed its investigation related to the claim or claims;
(8) Attempting to settle or settling claims for less than the amount that a reasonable
person would believe the insured or beneficiary was entitled by reference to written or printed
advertising material accompanying or made part of an application;

(9) Attempting to settle or settling claims on the basis of an application that was
materially altered without notice to, or knowledge or consent of, the insured;

(10) Making claims payments to an insured or beneficiary without indicating the
coverage under which each payment is being made;

(11) Unreasonably delaying the investigation or payment of claims by requiring both a
formal proof of loss form and subsequent verification that would result in duplication of
information and verification appearing in the formal proof of loss form;

(12) Failing in the case of claims denials or offers of compromise settlement to promptly
provide a reasonable and accurate explanation of the basis of those actions;

(13) Failing to provide forms necessary to present claims within ten (10) calendar days
of a request with reasonable explanations regarding their use;

(14) Failing to adopt and implement reasonable standards to assure that the repairs of a
repairer owned by or required to be used by the insurer are performed in a workmanlike manner;

(15) Misleading a claimant as to the applicable statute of limitations;

(16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree
to a longer period;

(17) Engaging in any act or practice of intimidation, coercion, threat or
misrepresentation of consumers rights, for or against any insured person, claimant, or entity to
use a particular rental car company for motor vehicle replacement services or products; provided,
however, nothing shall prohibit any insurance company, agent or adjuster from providing to such
insured person, claimant or entity the names of a rental car company with which arrangements
have been made with respect to motor vehicle replacement services; provided, that the rental car
company is licensed pursuant to Rhode Island general laws § 31-5-33; or

(18) Refusing to honor a “direction to pay” executed by an insured, claimant, indicating
that the insured or claimant, wishes to have the insurance company directly pay his or her motor
vehicle replacement vehicle rental benefit to the rental car company of the consumer's choice;
provided, that the rental car company is licensed pursuant to Rhode Island general laws § 31-5-
33. Nothing in this section shall be construed to prevent the insurance company's ability to
question or challenge the amount charged, in accordance with its policy provisions, and the
requirements of the department of business regulation;

(19) Modifying any published manual (i.e. motors, mitchells, or any automated appraisal
system) relating to auto body repair without prior agreement between the parties;
(20) Failing to use a manual or system in its entirety in the appraisal of a motor vehicle;

(21) Refusing to compensate an auto body shop for documented charges as identified through industry recognized software programs or systems for paint and refinishing materials in auto body repair claims; and/or

(22) Failing to comply with the requirements of Rhode Island General Laws § 31-47-12.1.

(23) Failure to have an appraisal performed by a licensed appraiser where the motor vehicle has sustained damage estimated to exceed two thousand five hundred dollars ($2,500). Said licensed appraiser referred to herein must be unaffiliated with the repair facility repairing the subject motor vehicle.

(24) Failure to perform a supplemental appraisal inspection of a vehicle within four (4) business days after a request is received from an auto body repair shop.

(25) Designating a motor vehicle a total loss if the cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is less than seventy-five percent (75%) of the “fair market value” of the motor vehicle immediately preceding the time it was damaged:

   (i) For the purposes of this subdivision, “fair market value” means the retail value of a motor vehicle as set forth in a current edition of a nationally recognized compilation of retail values commonly used by the automotive industry to establish values of motor vehicles;

   (ii) Nothing herein shall be construed to require a vehicle be deemed a total loss if the total cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is greater than seventy-five percent (75%) of the fair market value of the motor vehicle immediately preceding the time it was damaged; and

   (iii) Nothing herein shall prohibit an insurance company from agreeing to deem a vehicle a total loss at the vehicle owner's request and with the vehicle owner’s express written authorization, if the cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is less than seventy-five percent (75%) of the “fair market value” of the motor vehicle immediately preceding the time it was damaged.

(26) Refusing to compensate a claimant for loss of use of a rental vehicle registered in the state of Rhode Island, shall be recognized as an element of damage in a property damage liability claim; provided, however, that a claim for loss of use for a rental vehicle shall be limited to reasonable and necessary expenses for the time necessary to repair or replace the rental vehicle, and shall be paid without regard to fleet utilization or any other requirement.

   (1) Nothing contained in subsections 27-9.1-4(a)(19), (20), & (21) of this chapter shall be construed to interfere with an auto body repair facility's contract with an insurance company.
(2) If an insurance company and auto body repair facility have contracted under a direct repair program or any similar program thereto the provisions of subsections 27-9.1-4(a)(19), (20) & (21) shall not apply.

(3) If the insured or claimant elects to have the vehicle repaired at a shop of his or her choice, the insurer shall not limit or discount the reasonable repair costs based upon the charges that would have been incurred had the vehicle been repaired by the insurer's chosen shop(s).

SECTION 2. This act shall take effect upon passage on January 1, 2017.
This act would make refusing to compensate a claimant for loss of use of a rental vehicle an unfair claims practice and would indicate the factors used to calculate the amount of the claim for loss of use.

This act would take effect upon passage.