

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO INSURANCE - FOREIGN INSURANCE COMPANIES

Introduced By: Senator Roger Picard

Date Introduced: April 25, 2017

Referred To: Senate Commerce

(Dept. of Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-2-14 of the General Laws in Chapter 27-2 entitled "Foreign
2 Insurance Companies" is hereby amended to read as follows:

3 **27-2-14. Forwarding of process by commissioner.**

4 (a) Whenever lawful process against a foreign insurance company shall be served upon
5 the insurance commissioner, the commissioner shall forward a copy of the process served on him
6 or her, ~~by mail, postpaid, and directed~~ to the person appointed by the insurance company to
7 accept service of process on behalf of the company. The manner of forwarding shall be at the
8 discretion of the insurance commissioner.

9 (b) Service upon the insurance commissioner shall be accomplished by regular mail or by
10 whatever alternative method is designated by the commissioner.

11 (c) For each copy of process the insurance commissioner shall collect, for the use of the
12 state, the sum of twenty-five dollars (\$25.00), which shall be paid by the plaintiff at the time of
13 the service; the fee is to be recovered by the plaintiff as part of the taxable costs, if he or she
14 prevails in the suit.

15 SECTION 2. Section 27-9-4 of the General Laws in Chapter 27-9 entitled "Casualty
16 Insurance Rating" is hereby amended to read as follows:

17 **27-9-4. Considerations in making of rates -- Cancellation of policy.**

18 (a) All rates shall be made in accordance with the following provisions:

19 (1) (i) Due consideration shall be given to past and prospective loss experience within

1 and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting
2 profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or
3 returned by insurers to their policyholders, members, or subscribers, to past and prospective
4 expenses both country wide and those specially applicable to this state, and to all other relevant
5 factors within and outside this state; provided, that no consideration shall be given to:

6 (A) Any loss or incident involving a bus driver, while in the course of his or her
7 employment for the Rhode Island public transit authority or private or municipal school bus
8 companies, in establishing or maintaining that driver's rate respecting the operation of a personal
9 motor vehicle or vehicles;

10 (B) Any loss or incident involving a law enforcement officer, while in the course of his or
11 her employment for the state, city, town police departments, or federal law enforcement agency,
12 in establishing or maintaining that driver's rate respecting the operation of a personal motor
13 vehicle or vehicles; and

14 (C) Any loss or incident involving a commercial vehicle driver, while in the course of his
15 or her employment, in establishing or maintaining that driver's rate respecting the operation of a
16 personal motor vehicle(s);

17 (ii) It shall be the responsibility of a commercial vehicle driver to provide his or her
18 insurance company with proof that the loss or incident took place in the course of employment
19 while operating a commercial vehicle. For the purposes of this section, a "commercial vehicle"
20 shall be a motor vehicle with a gross weight in excess of ten thousand (10,000) pounds or a motor
21 vehicle used for public livery;

22 (2) The systems of expense provisions included in the rates for use by any insurer or
23 group insurers may differ from those of other insurers or groups of insurers to reflect the
24 requirements of the operating methods of any insurer or group with respect to any kind of
25 insurance, or with respect to any subdivision or combination of insurance for which subdivision
26 or combination separate expense provisions are applicable;

27 (3) Risks may be grouped by classifications for the establishment of rates and minimum
28 premiums;

29 (4) Rates shall not be excessive, inadequate, or unfairly discriminatory; and

30 (5) In establishing or maintaining an insured's rate or classification respecting the
31 operation of a personal motor vehicle, any insured sixty-five (65) years of age or older, who
32 meets the criteria set forth in this section and has not had any chargeable accidents or moving
33 violations within three (3) years preceding the establishment of the rate of insurance or
34 classification, shall not be penalized solely by reason of their age.

1 (b) No insurance company shall fail to renew a private passenger automobile policy
2 because of a loss of occurrence only, unless a chargeable loss occurrence of one thousand five
3 hundred dollars (\$1,500) or more than two (2) nonchargeable loss occurrences, involving the
4 insured, have taken place within the annual policy year.

5 (c) (1) No insurance company shall fail to renew a private passenger automobile policy
6 solely because the insured has attained the age of sixty-five (65) years or older;

7 (2) Whenever the commissioner of insurance shall have reason to believe that any
8 insurance company has refused to renew a private passenger automobile policy solely because the
9 applicant has reached the age of sixty-five (65) years or older, the commissioner shall notify the
10 company that it may be in violation of this section and in his or her discretion he or she may
11 require a hearing to determine whether or not the company has actually been engaged in the
12 practice stated in this subsection. Any hearing held under this section shall in all respects comply
13 with the hearing procedure provided in the Administrative Procedures Act, chapter 35 of title 42;

14 (3) If after the hearing the commissioner shall determine that the company has engaged in
15 the practice of systematically failing to renew private passenger automobile policies because of
16 the advanced age of the insured, he or she shall reduce his or her findings to writing and shall
17 issue and cause to be served upon the company an order to cease and desist from engaging in
18 those practices. After the issuance of the cease and desist order, if the commissioner finds that the
19 company has continued to engage in those practices, he or she shall impose upon the company a
20 fine not to exceed the amount of one thousand dollars (\$1,000) for each separate violation.

21 (4) Any company aggrieved by any order or decision of the commissioner of insurance
22 may appeal the order and decision to the superior court of Providence in accordance with the
23 Administrative Procedures Act, chapter 35 of title 42.

24 (d) No insurance group, carrier or company in establishing any premium surcharge or
25 penalty relative to a specific motor vehicle policy, shall consider any accident or any claim where
26 any insured covered by that policy is fifty percent (50%) or less at fault.

27 (e) No insurance group, carrier or company shall assess any premium surcharge against
28 any insured covered by a motor vehicle policy where a property damage claim payment is less
29 than one thousand five hundred dollars (\$1,500).

30 (f) No insurance group, carrier or company shall refuse to issue motor vehicle liability
31 insurance, impose a surcharge or otherwise increase the rate for a motor vehicle policy solely
32 because the applicant is a volunteer driver. Volunteer driver is defined as a person who provides
33 services without compensation to a nonprofit agency or charitable organization.

34 SECTION 3. Section 27-9.1-4 of the General Laws in Chapter 27-9.1 entitled "Unfair

1 Claims Settlement Practices Act" is hereby amended to read as follows:

2 **27-9.1-4. "Unfair claims practices" defined.**

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

5 (1) Misrepresenting to claimants and insured relevant facts or policy provisions relating
6 to coverage at issue;

7 (2) Failing to acknowledge and act with reasonable promptness upon pertinent
8 communications with respect to claims arising under its policies;

9 (3) Failing to adopt and implement reasonable standards for the prompt investigation and
10 settlement of claims arising under its policies;

11 (4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of
12 claims submitted in which liability has become reasonably clear;

13 (5) Compelling insured, beneficiaries, or claimants to institute suits to recover amounts
14 due under its policies by offering substantially less than the amounts ultimately recovered in suits
15 brought by them;

16 (6) Refusing to pay claims without conducting a reasonable investigation;

17 (7) Failing to affirm or deny coverage of claims within a reasonable time after having
18 completed its investigation related to the claim or claims;

19 (8) Attempting to settle or settling claims for less than the amount that a reasonable
20 person would believe the insured or beneficiary was entitled by reference to written or printed
21 advertising material accompanying or made part of an application;

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

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

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

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

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

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

- 1 (15) Misleading a claimant as to the applicable statute of limitations;
- 2 (16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree to
3 a longer period;
- 4 (17) Engaging in any act or practice of intimidation, coercion, threat or misrepresentation
5 of consumers rights, for or against any insured person, claimant, or entity to use a particular rental
6 car company for motor vehicle replacement services or products; provided, however, nothing
7 shall prohibit any insurance company, agent or adjuster from providing to such insured person,
8 claimant or entity the names of a rental car company with which arrangements have been made
9 with respect to motor vehicle replacement services; provided, that the rental car company is
10 licensed pursuant to Rhode Island general laws § 31-5-33; or
- 11 (18) Refusing to honor a "direction to pay" executed by an insured, claimant, indicating
12 that the insured or claimant, wishes to have the insurance company directly pay his or her motor
13 vehicle replacement vehicle rental benefit to the rental car company of the consumer's choice;
14 provided, that the rental car company is licensed pursuant to Rhode Island general laws § 31-5-
15 33. Nothing in this section shall be construed to prevent the insurance company's ability to
16 question or challenge the amount charged, in accordance with its policy provisions, and the
17 requirements of the department of business regulation;
- 18 (19) Modifying any published manual (i.e. motors, mitchells, or any automated appraisal
19 system) relating to auto body repair without prior agreement between the parties;
- 20 (20) Failing to use a manual or system in its entirety in the appraisal of a motor vehicle;
- 21 (21) Refusing to compensate an auto body shop for documented charges as identified
22 through industry recognized software programs or systems for paint and refinishing materials in
23 auto body repair claims; and/or
- 24 (22) Failing to comply with the requirements of Rhode Island General Laws § 31-47-
25 12.1.
- 26 (23) Failure to have an appraisal performed by a licensed appraiser where the motor
27 vehicle has sustained damage estimated to exceed two thousand five hundred dollars (\$2,500).
28 Said licensed appraiser referred to herein must be unaffiliated with the repair facility repairing the
29 subject motor vehicle.
- 30 (24) Failure to perform a supplemental appraisal inspection of a vehicle within four (4)
31 business days after a request is received from an auto body repair shop.
- 32 (25) Designating a motor vehicle a total loss if the cost to rebuild or reconstruct the motor
33 vehicle to its pre-accident condition is less than seventy-five percent (75%) of the "fair market
34 value" of the motor vehicle immediately preceding the time it was damaged;

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

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

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

13 (b) (1) Nothing contained in subsections 27-9.1-4(a)(19), (20), & (21) of this chapter
14 shall be construed to interfere with an auto body repair facility's contract with an insurance
15 company.

16 (2) If an insurance company and auto body repair facility have contracted under a direct
17 repair program or any similar program thereto the provisions of subsections 27-9.1-4(a)(19), (20)
18 & (21) shall not apply.

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

22 (26) Negotiating, or effecting the settlement of, a claim for loss or damage covered by an
23 insurance contract with an unlicensed public adjuster acting on behalf of an insured. Nothing
24 contained in this section shall be construed to preclude an insurer from dealing with any
25 individual or entity that is not required to be licensed under chapter 10 of title 27.

26 SECTION 4. Sections 27-18-19 and 27-18-67 of the General Laws in Chapter 27-18
27 entitled "Accident and Sickness Insurance Policies" are hereby amended to read as follows:

28 **27-18-19. Insurance exempt from chapter.**

29 Nothing in the chapter shall apply to or affect:

30 (1) Any policy of workers' compensation insurance or any policy of liability insurance
31 with or without supplementary expense coverage in the policy;

32 (2) Any policy or contract of reinsurance; or

33 (3) ~~Any blanket or group policy of insurance; or~~

34 (4) Life insurance, endowment, or annuity contracts, or contracts supplemental to those

1 contracts, which contain only those provisions relating to accident and sickness insurance as: (i)
2 provide additional benefits in case of death or dismemberment or loss of sight by accident, or (ii)
3 operate to safeguard those contracts against lapse, or to give a special surrender value or special
4 benefit or an annuity in the event that the insured or annuitant shall become totally and
5 permanently disabled, as defined by the contract or supplemental contract.

6 **27-18-67. Reimbursement for orthotic and prosthetic services.**

7 (a) As used in this section:

8 (1) "Federal reimbursement rates" means the current listed fee schedule from the Centers
9 for Medicare and Medicaid Services, listing the current Healthcare Common Procedure Coding
10 system (HCPCS) and the corresponding reimbursement rates.

11 (2) "Orthosis" means a custom fabricated brace or support that is designed based on
12 medical necessity. Orthosis does not include prefabricated or direct-formed orthotic devices, as
13 defined in this section, or any of the following assistive technology devices: commercially
14 available knee orthoses used following injury or surgery; spastic muscle-tone inhibiting orthoses;
15 upper extremity adaptive equipment; finger splints; hand splints; wrist gauntlets; face masks used
16 following burns; wheelchair seating that is an integral part of the wheelchair and not worn by the
17 patient independent of the wheelchair; fabric or elastic supports; corsets; low-temperature formed
18 plastic splints; trusses; elastic hose; canes; crutches; cervical collars; dental appliances; and other
19 similar devices as determined by the director of the department of health, such as those
20 commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply
21 facility.

22 (3) "Orthotics" means the science and practice of evaluating measuring, designing,
23 fabricating, assembling, fitting, adjusting or servicing, as well as providing the initial training
24 necessary to accomplish the fitting of, an orthosis for the support, correction, or alleviation of
25 neuromuscular or musculoskeletal dysfunction, disease, injury or deformity. The practice of
26 orthotics encompasses evaluation, treatment, and consultation; with basic observational gait and
27 postural analysis, orthotists assess and design orthoses to maximize function and provide not only
28 the support but the alignment necessary to either prevent or correct a deformity or to improve the
29 safety and efficiency of mobility or locomotion or both. Orthotic practice includes providing
30 continuing patient care in order to assess its effect on the patient's tissues and to assure proper fit
31 and function of the orthotic device by periodic evaluation.

32 (4) "Prosthesis" means an artificial limb that is alignable or, in lower-extremity
33 applications capable of weight bearing. Prosthesis means an artificial medical device that is not
34 surgically implanted and that is used to replace a missing limb, appendage, or other external

1 human body part including an artificial limb, hand, or foot. The term does not include artificial
2 eyes, ears, noses, dental appliances, osotmy products, or devices such as eyelashes or wigs.

3 (5) "Prosthetics" means the science and practice of evaluation, measuring, designing,
4 fabricating, assembling, fitting, aligning, adjusting or servicing, as well as providing the initial
5 training necessary to accomplish the fitting of, a prosthesis through the replacement of external
6 parts of a human body lost due to amputation or congenital deformities or absences. The practice
7 of prosthetics also includes the generation of an image, form, or mold that replicates the patient's
8 body or body segment and that requires rectification of dimensions, contours and volumes for use
9 in the design and fabrication of a socket to accept a residual anatomic limb to, in turn, create an
10 artificial appendage that is designed either to support body weight or to improve or restore
11 function or cosmesis, or both. Involved in the practice of prosthetics is observational gait analysis
12 and clinical assessment of the requirements necessary to refine and mechanically fix the relative
13 position of various parts of the prosthesis to maximize function, stability, and safety of the
14 patient. The practice of prosthetics includes providing and continuing patient care in order to
15 assess the prosthetic device's effect on the patient's tissues and to assure proper fit and function of
16 the prosthetic device by periodic evaluation.

17 (6) "Private insurance company" means any insurance company, or management
18 company hired by an insurance company, who is any of the following:

19 (i) based in the state of Rhode Island; or

20 (ii) provides coverage for citizens for the state of Rhode Island; or

21 (iii) allows subscribing patients to seek prosthetic or orthotic services in the state of
22 Rhode Island.

23 (b) Every individual or group health insurance contract, plan or policy delivered, issued
24 for delivery or renewed in this state on or after January 1, 2006, which provides medical coverage
25 that includes coverage for physician services in a physician's office and every policy, which
26 provides major medical or similar comprehensive type coverage shall provide coverage for
27 benefits for orthotic and prosthetic devices that equal those benefits provided for under federal
28 laws for health insurance for the aged and disabled pursuant to 42 U.S.C. sections 1395K, 1395I
29 and 1395M and 42 CFR 414.202, 414.210, 414.228, and 410.100 as applicable to this section.

30 (c) A health insurance contract, plan or policy may require prior authorization for orthotic
31 and prosthetic devices in the same manner that prior authorization is required for any other
32 covered benefit.

33 (d) Covered benefits for orthotic or prosthetic devices shall be limited to the most
34 appropriate model that adequately meets the medical needs of the patient as determined by the

1 insured's treating physician.

2 (e) The repair and replacement of orthotic or prosthetic devices also shall be covered
3 subject to co-payments and deductibles, unless necessitated by misuse or loss.

4 (f) An insurer may require, if coverage is provided through a managed care plan, that
5 benefits mandated pursuant to this section be covered benefits only if the orthotic or prosthetic
6 devices are provided by a vendor and orthotic or prosthetic services are rendered by a provider
7 who is licensed by the state of Rhode Island to provide orthotics and prosthetics.

8 (g) This ~~chapter~~ section shall not apply to insurance coverage providing benefits for: (1)
9 Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4) Long-term care;
10 (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease indemnity; (8)
11 Sickness or bodily injury or death by accident or both; and (9) Other limited benefit policies.

12 SECTION 5. Section 27-3.2-5 of the General Laws in Chapter 27-3.2 entitled
13 "Continuing Education Requirements" is hereby repealed.

14 ~~**27-3.2-5. Continuing education advisory board.**~~

15 ~~There is established the continuing education advisory board. This board shall consist of~~
16 ~~two (2) representatives of the Rhode Island Life Underwriters Association, three (3)~~
17 ~~representatives of the Independent Insurance Agents of Rhode Island, two (2) representatives of~~
18 ~~the Chartered Life Underwriters, and two (2) representatives of the Chartered Property and~~
19 ~~Casualty Underwriters. The board members shall be appointed by the commissioner and shall~~
20 ~~serve two (2) year terms. The board shall meet at least once a year and additionally as required.~~
21 ~~This board shall advise the insurance commissioner on the plans and operations of the continuing~~
22 ~~education program for any person licensed pursuant to this title and not exempt under § 27-3.2-3.~~

23 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE - FOREIGN INSURANCE COMPANIES

1 This act would: (1) eliminate the continuing education board (CEB) for insurance
2 providers; (2) eliminate the requirement that service of process be forwarded to insurance
3 companies by certified mail; (3) prohibit the negotiation of insurance claims with unlicensed
4 public adjusters; (4) prohibit insurer from excluding coverage to volunteer drivers and (5) remove
5 an exemption for blanket and group policies from the accident and sickness laws.

6 This act would take effect upon passage.

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