

2020 -- S 2573

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Senator Roger Picard

Date Introduced: February 25, 2020

Referred To: Senate Judiciary

(by request)

It is enacted by the General Assembly as follows:

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

3 **27-9.1-4. "Unfair claims practices" defined.**

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

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

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

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

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

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

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

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

- 1 (8) Attempting to settle or settling claims for less than the amount that a reasonable person
2 would believe the insured or beneficiary was entitled by reference to written or printed advertising
3 material accompanying or made part of an application;
- 4 (9) Attempting to settle or settling claims on the basis of an application that was materially
5 altered without notice to, or knowledge or consent of, the insured;
- 6 (10) Making claims payments to an insured or beneficiary without indicating the coverage
7 under which each payment is being made;
- 8 (11) Unreasonably delaying the investigation or payment of claims by requiring both a
9 formal proof of loss form and subsequent verification that would result in duplication of
10 information and verification appearing in the formal proof of loss form;
- 11 (12) Failing in the case of claims denials or offers of compromise settlement to promptly
12 provide a reasonable and accurate explanation of the basis of those actions;
- 13 (13) Failing to provide forms necessary to present claims within ten (10) calendar days of
14 a request with reasonable explanations regarding their use;
- 15 (14) Failing to adopt and implement reasonable standards to assure that the repairs of a
16 repairer owned by or required to be used by the insurer are performed in a workmanlike manner;
- 17 (15) Misleading a claimant as to the applicable statute of limitations;
- 18 (16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree to
19 a longer period;
- 20 (17) Engaging in any act or practice of intimidation, coercion, threat, or misrepresentation
21 of consumers rights, for or against any insured person, claimant, or entity to use a particular rental
22 car company for motor vehicle replacement services or products; provided, however, nothing shall
23 prohibit any insurance company, agent, or adjuster from providing to such insured person, claimant,
24 or entity the names of a rental car company with which arrangements have been made with respect
25 to motor vehicle replacement services; provided, that the rental car company is licensed pursuant
26 to § 31-5-33;
- 27 (18) Refusing to honor a "direction to pay" executed by an insured, claimant, indicating
28 that the insured or claimant wishes to have the insurance company directly pay his or her motor
29 vehicle replacement vehicle rental benefit to the rental car company of the consumer's choice;
30 provided, that the rental car company is licensed pursuant to § 31-5-33. Nothing in this section shall
31 be construed to prevent the insurance company's ability to question or challenge the amount
32 charged, in accordance with its policy provisions, and the requirements of the department of
33 business regulation;
- 34 (19) Modifying any published manual, i.e., Motor's Auto Repair Manual, Mitchells, or any

1 automated appraisal system, relating to auto body repair without prior agreement between the
2 parties;

3 (20) Failing to use a manual or system in its entirety in the appraisal of a motor vehicle;

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

7 (22) Failing to comply with the requirements of § 31-47-12.1;

8 (23) Failure to have an appraisal performed by a licensed appraiser where the motor vehicle
9 has sustained damage estimated to exceed ~~two thousand five hundred dollars (\$2,500)~~ five thousand
10 dollars (\$5,000). The licensed appraiser referred to herein must be unaffiliated with the repair
11 facility repairing the subject motor vehicle; must perform a physical inspection of the damaged
12 motor vehicle; and may not perform an appraisal based upon pictures of the damaged motor vehicle;

13 (24) Failure to perform an initial appraisal within ~~three (3)~~ four (4) business days after a
14 request is received from an auto body repair shop, provided the damaged motor vehicle is on the
15 premises of the repair shop when the request is made, and failure to perform a supplemental
16 appraisal inspection of a vehicle within four (4) business days after a request is received from an
17 auto body repair shop. The time limitations set forth in this subsection may be extended by mutual
18 agreement between the auto body repair shop and the insurer;

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

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

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

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

34 (iv) If condition adjustments are made to the retail value of a motor vehicle designated a

1 total loss, all such adjustments must be in accordance with the standards set forth in the current
2 edition of a nationally recognized compilation of retail values, commonly used by the automotive
3 [or insurance](#) industry, used by the insurer to determine the retail value of the vehicle; and all such
4 adjustments, including prior damage deductions, must be itemized, fair, and reasonable; and

5 (v) When a vehicle is deemed a total loss, if the insurer is not retaining the salvage, the
6 insurer must notify the owner of the vehicle in writing of the requirements of obtaining both a
7 salvage title and a reconstructed title from the department of motor vehicles pursuant to ~~chapter 4~~
8 ~~of title 31~~ [chapter 46 of title 31](#);

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

13 (b)(1) Nothing contained in subsections (a)(19), (a)(20), and (a)(21) of this section shall be
14 construed to interfere with an auto body repair facility's contract with an insurance company.

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

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

21 SECTION 2. 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 -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

1 This act, relative to the unfair claims settlement practices act, would raise the appraisal
2 threshold amount for auto insurance from two thousand five hundred dollars (\$2,500) to five
3 thousand dollars (\$5,000), would require an insurance company to complete the appraisal within
4 four (4) days, instead of three (3), redefines fair market value to include compilations commonly
5 used by the insurance industry and corrects a citation regarding salvage and reconstructed titles.

6 This act would take effect upon passage.

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