

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Representatives Schadone, Anguilla, T Brien, Cerra, and Corvese

Date Introduced: April 23, 2002

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-9.1 of the General Laws entitled "Unfair Claims Settlement
2 Practices Act" is hereby repealed in its entirety.

3 CHAPTER 9.1

4 Unfair Claims Settlement Practices Act

5 ~~27-9.1-1. Purpose~~ -- The purpose of this chapter is to set forth standards for the
6 investigation and disposition of claims arising under policies or certificates of insurance issued to
7 residents of Rhode Island. It is not intended to cover claims involving workers' compensation,
8 fidelity, suretyship or boiler and machinery insurance. Nothing herein shall be construed to create
9 or imply a private cause of action for violation of this chapter.

10 ~~27-9.1-2. Definitions~~ -- When used in this chapter:

- 11 ~~(1) "Director"~~ means the director of business regulation;
- 12 ~~(2) "Insured"~~ means the party named on a policy or certificate as the individual with
13 legal rights to the benefits provided by the policy;
- 14 ~~(3) "Insurer"~~ means any person, reciprocal exchange, interinsurer, Lloyds insurer,
15 fraternal benefit society, and any other legal entity engaged in the business of insurance,
16 including insurance producers, adjusters and third party administrators. Insurer shall also mean a
17 nonprofit hospital and/or medical service corporation, a nonprofit dental service corporation, a
18 nonprofit optometric service corporation, a nonprofit legal service corporation, a health
19 maintenance organization as defined in chapter 41 of this title or as defined in chapter 62 of title

1 ~~42, or any other entity providing a plan of health benefits subject to state insurance regulation.~~
2 ~~Notwithstanding sections 27-19-2, 27-20-2, 27-20.1-2, 27-20.2-2, 27-20.3-2, and 27-41-22, for~~
3 ~~purposes of this chapter, these foregoing entities shall be deemed to be engaged in the business of~~
4 ~~insurance;~~

5 ~~(4) "Person" means any natural or artificial entity, including, but not limited to,~~
6 ~~individuals, partnerships, associations, trusts, or corporations; and~~

7 ~~(5) "Policy" or "certificate" means any contract of insurance, indemnity, medical, health~~
8 ~~or hospital service, or annuity issued. "Policy" or "certificate" for the purposes of this chapter~~
9 ~~shall not mean contracts or workers' compensation, fidelity, suretyship or boiler and machinery~~
10 ~~insurance.~~

11 ~~**27-9.1-3. Unfair claims settlement practices prohibited** -- It is an improper claims~~
12 ~~practice for any domestic, foreign, or alien insurer transacting business in this state to commit any~~
13 ~~act defined in section 27-9.1-4 of this chapter if:~~

14 ~~(1) It is committed flagrantly and in conscious disregard of this chapter or any rules~~
15 ~~promulgated hereunder; or~~

16 ~~(2) It has been committed with such frequency as to indicate a general business practice~~
17 ~~to engage in that type of conduct.~~

18 ~~**27-9.1-4. "Unfair claims practices" defined** -- Any of the following acts by an insurer,~~
19 ~~if committed in violation of section 27-9.1-3, constitutes an unfair claims practice:~~

20 ~~(1) Misrepresenting to claimants and insureds relevant facts or policy provisions relating~~
21 ~~to coverages at issue;~~

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

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

26 ~~(4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of~~
27 ~~claims submitted in which liability has become reasonable clear;~~

28 ~~(5) Compelling insureds, beneficiaries, or claimants to institute suits to recover amounts~~
29 ~~due under its policies by offering substantially less than the amounts ultimately recovered in suits~~
30 ~~brought by them;~~

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

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

34 ~~(8) Attempting to settle or settling claims for less than the amount that a reasonable~~

1 person would believe the insured or beneficiary was entitled by reference to written or printed
2 advertising material accompanying or made part of an application;

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

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

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

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

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

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

16 ~~-(15) Misleading a claimant as to the applicable statute of limitations; or~~

17 ~~-(16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree~~
18 ~~to a longer period.~~

19 ~~**27-9.1-5. Response and statement of charges** -- The director shall provide an initial~~
20 ~~response within two (2) weeks to any written consumer complaint containing specific and~~
21 ~~credible allegation of an unfair claims settlement practice punishable hereunder. Whenever the~~
22 ~~director has reasonable cause to believe that any insurer doing business in this state is engaging in~~
23 ~~any unfair claims practice and that a proceeding in respect thereto would be in the public interest,~~
24 ~~the director shall issue and serve upon the insurer a statement of the charges in that respect and a~~
25 ~~notice of hearing thereon, which notice shall set a hearing date not less than thirty (30) days from~~
26 ~~the date of the notice.~~

27 ~~**27-9.1-6. Cease and desist and penalty orders** -- If, after a hearing, the director finds an~~
28 ~~insurer has engaged in an unfair claims practice, the director shall reduce the findings to writing~~
29 ~~and shall issue and cause to be served upon the insurer charged with the violation a copy of the~~
30 ~~findings and an order requiring the insurer to cease and desist from engaging in the act or practice~~
31 ~~and the director may, at the director's discretion, order:~~

32 ~~-(1) Payment of a monetary penalty of not more than ten thousand dollars (\$10,000) for~~
33 ~~each violation, but not to exceed an aggregate penalty of one hundred thousand dollars~~
34 ~~(\$100,000), unless the violation was committed flagrantly and in conscious disregard of this~~

1 chapter, in which case the penalty shall not be more than twenty five thousand dollars (\$25,000)
2 for each violation, but not to exceed an aggregate penalty of two hundred fifty thousand dollars
3 (\$250,000) pursuant to any hearing; and/or

4 ~~(2) Suspension or revocation of the insurer's license if the insurer knew or reasonably~~
5 ~~should have known it was in violation of this chapter.~~

6 ~~**27-9.1-7. Penalty for violation of cease and desist orders** -- Any insurer which violates~~
7 ~~a cease and desist order of the director and, while the order is in effect, may, after notice and~~
8 ~~hearing and upon order of the director, be subject, at the discretion of the director, to:~~

9 ~~(1) A monetary penalty of not more than twenty five thousand dollars (\$25,000) for each~~
10 ~~and every act or violation not to exceed an aggregate of two hundred fifty thousand dollars~~
11 ~~(\$250,000) pursuant to any hearing; and/or~~

12 ~~(2) Suspension or revocation of the insurer's license.~~

13 ~~**27-9.1-8. Regulations** -- The director may, after notice and hearing, promulgate~~
14 ~~reasonable rules, regulations, and orders as are necessary or proper to carry out and effectuate the~~
15 ~~provisions of this chapter. The regulations shall be subject to review in accordance with section~~
16 ~~42-35-7.~~

17 ~~**27-9.1-9. Severability** -- If any provision of this chapter, or the application of the~~
18 ~~provision to any person or circumstances, shall be held invalid, the remainder of the chapter and~~
19 ~~the application of the provision to any person or circumstances other than those as to which it is~~
20 ~~held invalid, shall not be affected thereby.~~

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

23 CHAPTER 9.1.1

24 FAIR INSURANCE CLAIMS PRACTICE ACT

25 ~~**27-9.1.1-1. Definitions . --** For the purposes of this chapter the following definitions shall~~
26 ~~apply:~~

27 ~~(1) "Third-party claimant" or "claimant" means each person seeking recovery of benefits~~
28 ~~against an insured under a liability insurance policy or a self-funded liability protection program,~~
29 ~~fund, or plan, whether for personal injury or wrongful death, or other economic loss, or both~~
30 ~~including, without limitation, damages resulting from loss of consortium or loss of care, comfort,~~
31 ~~society and the like resulting from wrongful death;~~

32 ~~(2) "Insured" means a person or entity named as an insured in a liability insurance policy~~
33 ~~or a private self-funded liability protection program, fund, or plan; a person or entity who is~~
34 ~~identified as an additional insured under a liability insurance policy or a private self-funded~~

1 liability protection program, fund, or plan; a person or entity who is an additional insured under
2 the definitions of insured persons set forth in a liability insurance policy or a private self-funded
3 liability protection program, fund, or plan; a person or entity who is defined, by law, as an insured
4 under a liability insurance policy or a private self-funded liability protection program, fund, or
5 plan;

6 (3) “Insurer” shall include any liability insurer licensed pursuant to, or subject to
7 regulation under, the insurance code who provides liability coverage to an insured against whom
8 the third-party claimant makes a claim for personal injury, wrongful death, or other economic
9 loss, and the third-party administrator of any private self-funded liability protection program,
10 fund, or plan. “Insurer” does not include however, the self-funded liability protection program,
11 fund, or plan, itself, an insurer named as the insurer under a policy of workers’ compensation
12 insurance, nor a self-insured public entity, a private administrator for a public entity, or a public
13 entity insured by a private insurer or carrier.

14 **27-9.1.1-2. Duty to act in good faith.** – (a) Every insurer, as defined in subsection (3) of
15 this section, doing business in the state of Rhode Island shall act in good faith toward and deal
16 fairly with third-party claimants. A third-party claimant may bring an action against an insurer
17 doing business in the state to recover damages, including general, special, and exemplary
18 damages, for commission of any unfair claims settlement practice.

19 (b) A third-party claimant shall not be entitled to assert the remedies set forth in
20 subsection (a) unless the third-party claimant:

21 (1) obtains in the underlying action a final judgment after trial, a judgment after default,
22 or an arbitration award arising from a contractual predispute binding arbitration clause or
23 agreement; and

24 (2) the third-party claimant makes a written demand to settle the claim in the underlying
25 action, and the judgment or arbitration award for the claimant in that prior proceeding exceeded
26 the amount of the final written demand on all claims by the third-party claimant made before the
27 trial, entry of default or arbitration listed above. A final written demand may not exceed the
28 applicable policy limits and shall be deemed rejected if not responded to within thirty (30) days of
29 receipt of the final written demand. The amount of the jury verdict or arbitration award may be
30 considered as evidence of bad faith, but shall not be the sole consideration.

31 **27-9.1.1-3. “Bad faith claims practices” defined.** – Any of the following acts by an
32 insurer constitutes an unfair claims practice if:

33 (1) it is committed flagrantly and in conscious disregard of this chapter or any rules
34 promulgated hereunder; or

1 (2) it has been committed with such frequency as to indicate a general business practice
2 to engage in that type of conduct:

3 (i) misrepresenting to claimants and insureds relevant facts or policy provisions relating
4 to coverages at issue;

5 (ii) failing to acknowledge and act with reasonable promptness upon pertinent
6 communications with respect to claims arising under its policies;

7 (iii) failing to adopt and implement reasonable standards for the prompt investigation and
8 settlement of claims arising under its policies;

9 (iv) not attempting in good faith to effectuate prompt, fair, and equitable settlement of
10 claims submitted in which liability has become reasonably clear;

11 (v) compelling insureds, beneficiaries, or claimants to institute suits to recover amounts
12 due under its policies by offering substantially less than the amounts ultimately recovered in suits
13 brought by them;

14 (vi) refusing to pay claims without conducting a reasonable investigation;

15 (vii) failing to affirm or deny coverage of claims within a reasonable time after having
16 completed its investigation related to the claim or claims;

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

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

22 (x) making claims payments to an insured or beneficiary without indicating the coverage
23 under which each payment is being made;

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

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

29 (xiii) failing to provide forms necessary to present claims within ten (10) calendar days of
30 a request with reasonable explanations regarding their use;

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

33 (xv) misleading a claimant as to the applicable statute of limitations; or

34 (xvi) failing to respond to a claim within thirty (30) days, unless the insured shall agree

1 to a longer period.

2 **27-9.1.1-4. Remedies.** – The remedies set forth in this chapter shall apply to any insurer
3 who violates the standards set forth in subdivision (1) in its handling, processing, or settlement of
4 the claims made by a third-party claimant under the insured’s insurance protection provided
5 however, that; a

6 (1) Professional liability insurer is not liable under this title if all the following conditions
7 apply:

8 (i) The consent of the policyholder to settlement is a prerequisite to settlement under the
9 terms of the insurance policy or by statute;

10 (ii) The insurance company has assessed the case against the policyholder as to potential
11 liability and damages known at that time and has fully informed the policyholder of that
12 assessment;

13 (iii) The policyholder’s refusal to consent is not based on intentionally erroneous or
14 misleading information provided by the insurer.

15 (2) Person injured in an accident arising out of the operation or use of a motor vehicle,
16 who at the time of the accident was operating a motor vehicle in violation of section 31-27-1.1 or
17 section 31-27-2, and was convicted of such offense, may not assert a cause of action under this
18 section.

19 **27-9.1.1-5. Time limitation in which to bring action.** – Any time period within which
20 an action must be commenced pursuant to any applicable statute of limitations shall not begin
21 until the underlying claim has been resolved through a final judgment or final arbitration award.
22 In the event of an appeal by either party, resolution of the appeal shall be a prerequisite to a claim
23 under this title.

24 **27-9.1.1-6. No preclusion to other theories of liability.** – Nothing in this title shall
25 abrogate or limit any theory of liability or remedy otherwise available at law including, but not
26 limited to, tort remedies for the breach of implied covenant and fair dealing or any other theory of
27 liability or remedy. In addition, nothing in this section shall relieve an insurer of its obligation of
28 good faith and fair dealing to its own insured. The insurer however, cannot wrongfully use its
29 obligation to its own insured to violate its duties under this chapter.

30 **27-9.1.1-7. Response and statement of charges.** -- Nothing in this chapter shall
31 abrogate the Director of Business Regulation’s authority to regulate such unfair claims practices.
32 Whenever the director has reasonable cause to believe that any insurer doing business in this state
33 is engaging in any unfair claims practice and that a proceeding in respect thereto would be in the
34 public interest, the director shall issue and serve upon the insurer a statement of the charges in

1 that respect and a notice of hearing thereon, which notice shall set a hearing date not less than
2 thirty (30) days from the date of the notice. The director of business regulation shall provided an
3 initial response within two (2) weeks to any written consumer complaint containing specific and
4 credible allegation of an unfair claims practices punishable hereunder.

5 **27-9.1.1-8. Cease and desist and penalty orders.** -- If, after a hearing, the director finds
6 an insurer has engaged in an unfair claims practice, the director shall reduce the findings to
7 writing and shall issue and cause to be served upon the insurer charged with the violation a copy
8 of the findings and an order requiring the insurer to cease and desist from engaging in the act or
9 practice and the director may, at the director's discretion, order: (1) Payment of monetary
10 penalty of not more than ten thousand dollars (\$10,000) for each violation, but not to exceed an
11 aggregate penalty of one hundred thousand dollars (\$100,000), unless the violation was
12 committed flagrantly and in conscious disregard of this chapter, in which case the penalty shall
13 not be more than twenty-five thousand dollars (\$25,000) for each violation, but not to exceed an
14 aggregate penalty of two hundred fifty thousand dollars (\$250,000) pursuant to any hearing;
15 and/or

16 (2) Suspension or revocation of the insurer's license if the insurer knew or reasonably
17 should have known it was in violation of this chapter.

18 **27-9.1.1-9. Accidents covered.** – The provisions of this title shall apply, prospectively, to
19 events or accidents covered by the applicable insurance policy that occur on or after January 1,
20 2002.

21 SECTION 3. Chapter 27-10.3 of the General Laws entitled "Motor Vehicle Insurance -
22 Mandatory Arbitration Provision" is hereby repealed in its entirety.

CHAPTER 10.3

~~Motor Vehicle Insurance—Mandatory Arbitration Provision~~

25 ~~**27-10.3-1. Arbitration provision** -- (a) Every contract of motor vehicle liability~~
26 ~~insurance, issued in the state by an insurance carrier authorized to do business in the state, shall~~
27 ~~contain the following provisions:~~

28 ~~–(1) Any person, hereinafter referred to as the plaintiff, suffering a loss, allegedly~~
29 ~~resulting out of the ownership, maintenance, or use of a motor vehicle by an insured, and~~
30 ~~allegedly resulting from liability imposed by law for property damage, bodily injury, or death,~~
31 ~~may, at his or her election, whenever the claim is for twenty five thousand dollars (\$25,000) or~~
32 ~~less, submit the matter to arbitration pursuant to chapter 3 of title 10;~~

33 ~~–(2) Selection of arbitrator.. After submission to arbitration by the plaintiff, one~~
34 ~~arbitrator shall be selected from the list of qualified arbitrators of the court annexed arbitration~~

1 ~~program of the superior court in the same manner as arbitrators are selected in accordance with~~
2 ~~the rules of that program. Each party shall share the expenses of arbitration in accordance with~~
3 ~~the rules of the court annexed arbitration program;~~

4 ~~(3) Hearings.. The arbitrator shall call a hearing and provide seven (7) days notice of~~
5 ~~the time and place of the hearing to the parties. The hearing shall be informal, and the rules of~~
6 ~~evidence prevailing in judicial proceedings shall be binding. Any and all documentary evidence~~
7 ~~and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators~~
8 ~~shall have the power to administer oaths and to require by subpoena the attendance and testimony~~
9 ~~of witnesses, and the production of books, records, and other evidence, relative or pertinent to the~~
10 ~~issues presented to them for determination. The decision of the arbitrators shall be binding upon~~
11 ~~the parties unless:~~

12 ~~(i) In the event that suit has not been instituted, either party reserves his or her right to a~~
13 ~~jury trial by giving notice of this reservation of right to the other party or parties and to the~~
14 ~~arbitrators within sixty (60) days of the arbitrators award by certified mail return receipt~~
15 ~~requested; or~~

16 ~~(ii) In the event that suit has been instituted, either party files a request for a jury trial~~
17 ~~with the court and with notice to the other party or parties within sixty (60) days of the arbitrator's~~
18 ~~award. If the case proceeds to trial subsequent to arbitration, the decision of the arbitrators shall~~
19 ~~not be admissible;~~

20 ~~(4) Statute of limitations.. Notwithstanding the foregoing, a suit shall be instituted in~~
21 ~~order to bring the action within any applicable statute of limitations, but the suit will otherwise be~~
22 ~~stayed until an arbitrators award has been made or the case reached for trial.~~

23 ~~(b) Every person who maintains motor vehicle liability insurance shall, when making an~~
24 ~~application for a motor vehicle operator's license, or the renewal of that license, or when~~
25 ~~registering a motor vehicle, agree in writing on a form provided by the director of the department~~
26 ~~of transportation to be bound by the provisions of this chapter.~~

27 SECTION 4. Title 27 of the General Laws entitled "Insurance" is hereby amended by
28 adding thereto the following chapter:

29 CHAPTER 27-10.3.1

30 ALTERNATIVE DISPUTE RESOLUTION ACT

31 **27-10.3.1-1. Definitions . -** For purposes of this chapter:

32 (1) "Claimant" means a person defined in section 27-9.1.1-1;

33 (2) "Insurer" shall include any liability insurer licensed to do business or subject to
34 regulation by this state and any private self-funded liability protection program, fund or plan.

1 “Insurer” does not include however, a self-insured public entity, a private administrator for a
2 public entity, or a public entity insured by a private insurer or carrier.

3 **27-10.3.1-2. Arbitration provisions.** – (a) Every contract of motor vehicle liability
4 insurance, issued in the state by an insurance carrier authorized to do business in the state, shall
5 contain the following provision: Any person, hereinafter referred to as a claimant, suffering a
6 loss, allegedly resulting out of the ownership, maintenance, or use of a motor vehicle by an
7 insured, and allegedly resulting from liability imposed by law for property damage, bodily injury,
8 or death, at his or her election, whenever the claim is for fifty thousand dollars (\$50,000) or less,
9 or within policy limits where policy limits do not exceed fifty thousand dollars (\$50,000),
10 exclusive of applicable uninsured and underinsured motorist coverage, may submit the matter to
11 arbitration pursuant to this chapter.

12 (b)(1) Within thirty (30) days after receipt of a request for arbitration, the insurer shall
13 respond to the request in writing.

14 (c) A claimant requesting arbitration under this section shall at the same time send a
15 copy of each demand to arbitrate to all insurers involved in the claim. Demands made by counsel
16 under this section shall be deemed to be made with the authority of all clients represented by that
17 counsel.

18 **27-10.3.1-3. Presumption of good faith.** -- (a) A claim submitted to arbitration under
19 section 27-10.3.1-2 conclusively presumes the insurer to have complied with the duties under
20 section 27-9.1.1-2, provided, however, that the insurer agrees at the claimant’s request that the
21 arbitrator’s award shall be binding on all parties and shall resolve all disputes between the parties.

22 (b) Nothing in this section shall relieve an insurer of its obligation of good faith and fair
23 dealing to its own insured.

24 (c) In the event the insurer refuses to agree to a claimant’s request for binding
25 arbitration, then the parties shall continue with non-binding arbitration, at the claimant’s request,
26 in accordance with section 27- 10.3-2, and

27 (1) in the event that suit has not been instituted, either party reserves his or her right to a
28 jury trial by giving notice of this reservation of right to the other party or parties and to the
29 arbitrators within thirty (30) days of the arbitrator’s award by certified mail return receipt
30 requested; or

31 (2) in the event that suit has been instituted, either party files a request for a jury trial
32 with the court and with notice to the other party or parties within thirty (30) days of the
33 arbitrator’s award. If the case proceeds to trial subsequent to arbitration, the decision of the
34 arbitrators shall not be admissible.

1 **27-10.3.1-4. Removal.** – (a) Upon a showing of good cause in a petition before the court
2 having jurisdiction over the amount in controversy, either side may request removal from
3 arbitration under this title and to commence or continue a civil action, upon a showing of any of
4 the following:

5 (1) Either party discovers new information regarding insurance coverage that creates
6 aggregate coverage for the claim in excess of fifty thousand dollars (\$50,000);

7 (2) A change in the nature or extent of the claimant’s injuries or damages, which, despite
8 reasonable inquiry, was not discovered prior to the acceptance of the offer to engage in alternative
9 dispute resolution, and causes the claimant or attorney to believe that the reasonable value of the
10 claim will exceed fifty thousand dollars (\$50,000);

11 (3) A party discovers new, additional, potentially responsible persons or entities who are
12 not parties to the arbitration;

13 (4) A change of law affects the remedies available to a claimant, or a change in law
14 expands or contracts the claimant’s legal right to recover;

15 (5) The interests of justice support permitting a party to commence a civil action;

16 (6) A party unreasonably interferes with the completion of the arbitration;

17 (b) Within thirty (30) days of discovery of one of the conditions outlined in subdivision
18 (a), and before commencement of the arbitration, the party seeking to remove the claim from
19 arbitration under this title shall petition the court having jurisdiction over the amount in
20 controversy, establishing good cause for the request.

21 (c) If a court finds good cause pursuant to a petition filed by a claimant to remove the
22 claim from arbitration under subdivision (a), the presumption of good faith under section 27-
23 10.3.1-1 shall not apply if the good cause arises from a misrepresentation, error or unreasonable
24 interference in the conduct of the arbitration by the insurer.

25 (d) If the insurer removes the claim from arbitration pursuant to this title, the presumption
26 of good faith does not apply.

27 **27-10.3.1-5. Tolling of limitations period.** – (a) If a request for binding arbitration is
28 accepted by the insurer, any applicable period of limitations shall be tolled until settlement,
29 satisfaction of judgment, or thirty (30) days after a court order to remove a claim from arbitration
30 under this section.

31 (b) Any applicable case management rules are suspended upon agreement of the parties
32 to arbitrate a claim under this title. Additionally, an agreement to participate in arbitration under
33 this title relieves the parties of any obligation to participate in court-ordered arbitration or
34 mediation.

1 27-10.3.1-6. Arbitration procedures. -- Except as otherwise provided by this title,
2 arbitration shall be conducted under the same procedures as the superior court annexed arbitration
3 program, provided, however, that the following additional and supplemental provisions govern
4 arbitration under this title:

5 (1) Selection of arbitrator: After demand for arbitration is made the parties shall select a
6 single neutral arbitrator. If the parties can not agree, the arbitrator shall be selected from the list
7 of qualified arbitrators of the court annexed arbitration program of the superior court in the same
8 manner as arbitrators are selected in accordance with the rules of that program. Each party shall
9 equally share the expenses of arbitration in accordance with the rules of the court annexed
10 arbitration program;

11 (2) Hearings: The hearing shall be informal, and the rules of evidence prevailing in
12 judicial proceedings shall be binding. Any and all documentary evidence and other data deemed
13 relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to
14 administer oaths and to require by subpoena the attendance and testimony of witnesses, and the
15 production of books, records, and other evidence, relative or pertinent to the issues presented to
16 them for determination;

17 (3) The arbitrator shall set a date convenient to the parties;

18 (4) Disputes arising regarding discovery shall be resolved by motion before the arbitrator.
19 The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be
20 deemed to be the trial of an issue for those purposes;

21 (5) No party may introduce new or different information from that provided under their
22 pre-arbitration statement at the arbitration unless it is provided to the other side at least ten (10)
23 days before the arbitration except when such evidence is offered solely for impeachment. Upon a
24 showing of good cause of the standards for judicial administration, the arbitrator may grant a
25 continuance to permit the introduction of the new information;

26 (6) Each party shall exchange a pre-arbitration statement including a list of all witnesses
27 and all exhibits no later than ten (10) days before the arbitration. Witnesses and exhibits not
28 listed shall not be considered or relied upon by the arbitrator unless offered solely for
29 impeachment or otherwise agreed by the parties;

30 (7) If more than one person or insurer may be liable for the injury, and if the actions
31 against each are subject to this title, the arbitration proceedings with respect to each may be
32 consolidated by agreement of the parties;

33 (8) The rules of evidence and rules for conduct of hearing set forth in the Rhode Island
34 court rules regarding arbitration hearings;

1 (9) The arbitrator may continue the arbitration or either party may continue the arbitration
2 by agreement or with a showing of good cause, approved by the arbitrator.

3 **27-10.3.1-7. Arbitrators award.** – The insurer shall satisfy the arbitration award within
4 thirty (30) days of conclusion of any post-resolution motions or settlement. Interest shall apply in
5 accordance with section 6-26-1.

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

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LC02963
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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 would provide a cause of action for third-party claimants in automobile accidents
2 for unfair claims practices. In addition, this act would provide guidelines for arbitration of motor
3 vehicle accident claimants.

4 This act would take effect upon passage.

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LC02963
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