

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2004**

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A N A C T

RELATING TO INSURANCE - FIRE INSURANCE APPLICATIONS

Introduced By: Representatives San Bento, Gallison, Shanley, Flaherty, and Lowe

Date Introduced: January 14, 2004

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 27-5-2.1 of the General Laws in Chapter 27-5 entitled "Fire  
2 Insurance Policies and Reserves" is hereby repealed.

3           ~~**27-5-2.1. Anti-arson application.** -- (a) As used in this section:~~

4           ~~(1) "Anti-arson application" means any application for an insurance policy, covering the~~  
5 ~~peril of fire or explosion, that includes certain questions contained in subsection (c) which shall~~  
6 ~~be answered by the applicant in addition to the basic information normally supplied to an insurer~~  
7 ~~by an applicant;~~

8           ~~(2) "Builders risk policy" means a policy which insures against loss to buildings in the~~  
9 ~~course of new construction, not including new construction being done in conjunction with any~~  
10 ~~rehabilitation;~~

11           ~~(3) "Director" means the director of the department of business regulation;~~

12           ~~(4) "Highly protected risk" means a fire resistive building that meets the highest~~  
13 ~~standards of fire safety according to insurance company underwriting requirements;~~

14           ~~(5) "Policy" means a policy issued by insurers meeting the requirements of section 27-5-~~  
15 ~~3 or a policy issued by insurers approved by the director of business regulation pursuant to~~  
16 ~~section 27-5-9.1; and~~

17           ~~(6) "Property" means the real property and the buildings and improvements on the~~  
18 ~~property which the applicant seeks to insure or re-insure.~~

19           ~~(b) Except as provided for in subsection (g), the completion of the anti-arson application~~

1 ~~by an applicant for a policy shall be mandatory in any of the following instances:~~

2 ~~(1) Prior to the initial issuance of a policy;~~

3 ~~(2) Upon an addition to or modification of an existing policy with respect to the named~~  
4 ~~insured or mortgagee;~~

5 ~~(3) When the coverage under the terms of an existing policy is increased by more than~~  
6 ~~twenty-five percent (25%); or~~

7 ~~(4) When there is a change in insurer.~~

8 ~~(c) The form of the anti arson application, to be completed in compliance with this~~  
9 ~~section, shall be the ACORD supplementary property application form 190, or form 190's~~  
10 ~~successor.~~

11 ~~(d) In all cases where the completion of the anti arson application is mandatory, no~~  
12 ~~insurer or insurance producer may enter into a contract for a policy to be issued after June 28,~~  
13 ~~1985, unless the insurer or insurance producer first receives an anti arson application signed and~~  
14 ~~affirmed by the applicant. The anti arson application must be provided by the insurance company~~  
15 ~~to the applicant for completion prior to the issuance of a policy. Nothing in this section shall~~  
16 ~~prohibit the issuance of binders or other contracts for temporary insurance for a period which~~  
17 ~~shall not exceed thirty (30) days, coverage being conditional upon the completion and return of~~  
18 ~~the application form within five (5) working days, and conditional upon the approval of the~~  
19 ~~application form by the insurance company for the issuance of a policy, or payment of any loss.~~

20 ~~(e) A material misrepresentation in the anti arson application shall be grounds to rescind~~  
21 ~~the policy.~~

22 ~~(f) Insured shall notify their insurer, in writing, of any change in the information~~  
23 ~~contained in the anti arson application, upon renewal or annually, whichever is sooner, and~~  
24 ~~complete a new anti arson application. A material misrepresentation in that notification shall be~~  
25 ~~grounds to rescind the insurance policy.~~

26 ~~(g) The provisions of this section shall not apply to any policy with respect to owner~~  
27 ~~occupied real property used predominantly for residential purposes which consists of not more~~  
28 ~~than four (4) dwelling units, to buildings owned and insured by the state or its political~~  
29 ~~subdivisions, to highly protected risks, to nonincomeproducing single unit seasonal dwellings, or~~  
30 ~~to builders risk policies.~~

31 SECTION 2. Section 27-65-1 of the General Laws in Chapter 27-65 entitled  
32 "Commercial Special Risks" is hereby amended to read as follows:

33 **27-65-1. Commercial special risks.** -- (a) Commercial special risks. - Notwithstanding  
34 any other provisions of this title to the contrary and except as limited in subsection (b) of this

1 section, insurers shall not be required to file with, nor to receive approval from, the insurance  
2 division of the department of business regulation for policy forms or rates used in the insurance of  
3 commercial special risks located in this state. Commercial special risks are defined as:

4 (1) Risks written as commercial lines insurance, as defined in section 27-34-5(5), and  
5 which are written on an excess or umbrella basis;

6 (2) Those risks, or portions of them, written as commercial lines insurance, as defined in  
7 section 27-34-5(5), and which are not rated according to manuals, rating plans, or schedules  
8 including "A" rates;

9 (3) Risks written as commercial lines insurance that employ or retain the services of a  
10 "risk manager" and which also meet any one of the following criteria:

11 (i) Net worth over fifty million dollars (\$50,000,000);

12 (ii) Net revenue/sales of over one hundred million dollars (\$100,000,000);

13 (iii) More than five hundred (500) employees per individual company or one thousand  
14 (1000) employees per holding company in the aggregate;

15 (iv) Aggregates premiums of over one hundred fifty thousand dollars (\$150,000)  
16 excluding group life, group health, workers' compensation and professional liability (including  
17 but not limited to errors and omissions and directors and officers liability); (v) Is a not for profit,  
18 or public entity with an annual budget or assets of at least forty-five million dollars  
19 (\$45,000,000); or

20 (vi) Is a municipality with a population of over fifty thousand (50,000);

21 (4) Specifically designated commercial special risks including:

22 (i) All risks classified as highly protected risks ~~as defined in section 27-5-2.1(a)(4);~~

23 Highly protected risk means a fire resistive building that meets the highest standards of  
24 fire safety according to insurance company underwriting requirements;

25 (ii) All commercial insurance aviation risks;

26 (iii) All credit property insurance risks which are defined as "insurance of personal  
27 property of a commercial debtor against loss, with the creditor as sole beneficiary" or "insurance  
28 of personal property of a commercial debtor, with the creditor as primary beneficiary and the  
29 debtor as beneficiary of proceeds not paid to the creditor". For the purposes of this definition,  
30 "personal property" means furniture, fixtures, furnishings, appliances and equipment designed for  
31 use in a business trade or profession and not used by a debtor for personal or household use;

32 (iv) All boiler and machinery risks;

33 (v) All inland marine risks written as commercial lines insurance as defined in section  
34 27-34-5(5); and

1 (vi) All fidelity and surety risks.

2 (b) Notwithstanding subsection (a) of this section, the following lines of business shall  
3 remain subject to all filing and approval requirements contained in this title even if written for  
4 risks which qualify as commercial special risks:

5 (1) Life insurance;

6 (2) Annuities;

7 (3) Accident and health insurance;

8 (4) Automobile insurance which is mandated by statute;

9 (5) Workers' compensation and employers' liability insurance; and

10 (6) Issuance through residual market mechanisms.

11 (c) Any insurer which provides coverage to a commercial special risk shall disclose to  
12 the insured that forms used and rates charges are exempt from filing and approval requirements  
13 by this subsection. Records of all such disclosures shall be maintained by the insurer.

14 (d) Brokers for exempt commercial policyholders as defined in subdivision (a)(3) of this  
15 section shall be exempt from the due diligence requirements of section 27-3-38(b).

16 SECTION 3. This act shall take effect on September 1, 2005.

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LC00757/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE - FIRE INSURANCE APPLICATIONS

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1           This act repeals section 27-5-2.1 of the general laws regarding “Anti-Arson” questions on  
2 fire insurance applications.

3           This act would take effect on September 1, 2005.

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