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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO FINANCIAL INSTITUTIONS - DEPARTMENT OF BUSINESS
REGULATION

Introduced By: Representatives Keable, Lally, Petrarca, Hull, and Johnston

Date Introduced: February 02, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 19-14.10-13 of the General Laws in Chapter 19-14.10 entitled "An
2 Act Adopting the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2009" is
3 hereby amended to read as follows:

4 **19-14.10-13. Enforcement authorities, violations and penalties.** -- (a) In order to
5 ensure the effective supervision and enforcement of this chapter the director or the director's
6 designee may, pursuant to chapter 42-35:

7 (1) Deny, suspend, revoke, condition or decline to renew a license for a violation of this
8 chapter, rules or regulations issued under this chapter or order or directive entered under this
9 chapter.

10 (2) Deny, suspend, revoke, condition or decline to renew a license if an applicant or
11 licensee fails at any time to meet the requirements of section 19-14.10-6 or 19-14.10-9, or
12 withholds information or makes a material misstatement in an application for a license or renewal
13 of a license.

14 (3) Order restitution against persons subject to this chapter for violations of this chapter.

15 (4) Impose fines on persons subject to this chapter pursuant to subsections (b), (c) and
16 (d) of this section.

17 (5) Issue orders or directives under this chapter as follows:

18 (i) Order or direct persons subject to this chapter to cease and desist from conducting

1 business, including immediate temporary orders to cease and desist.

2 (ii) Order or direct persons subject to this chapter to cease any harmful activities or
3 violations of this chapter, including immediate temporary orders to cease and desist.

4 (iii) Enter immediate temporary orders to cease business under a license or interim
5 license issued pursuant to the authority granted under this chapter if the director or the director's
6 designee determines that such license was erroneously granted or the licensee is currently in
7 violation of this chapter;

8 (iv) Order or direct such other affirmative action as the director or the director's designee
9 deems necessary.

10 ~~(2)~~(b) The director or the director's designee may impose a civil penalty on a mortgage
11 loan originator and any lender or loan broker licensed under chapter 19-14 or 19-14.1 which
12 employs such mortgage loan originator, if the director or the director's designee finds, on the
13 record after notice and opportunity for hearing, that such mortgage loan originator has violated or
14 failed to comply with any requirement of this chapter or any regulation prescribed by the director
15 or the director's designee under this chapter or order issued under authority of this chapter. In
16 addition, the director or the director's designee may impose a civil penalty on a lender or loan
17 broker licensed under chapter 19-14 or 19-14.1 which employs any mortgage loan originator
18 licensed under this chapter, if the director or the director's designee finds, on the record after
19 notice and opportunity for hearing, that such lender or loan broker has violated or failed to
20 comply with any requirement of this chapter or any such regulation or order.

21 ~~(3)~~(c) The maximum amount of penalty for each act or omission described in subsection
22 (b) of this section shall be twenty-five thousand five hundred dollars (\$25,000).

23 ~~(4)~~(d) Each violation or failure to comply with any directive or order of the director or
24 the director's designee is a separate and distinct violation or failure.

25 SECTION 2. Section 27-1-40.1 of the General Laws in Chapter 27-1 entitled "Domestic
26 Insurance Companies" is hereby amended to read as follows:

27 **27-1-40.1. Mutual insurance holding companies.** -- (a) Any mutual insurance company
28 created under the laws of this state (whether pursuant to section 7-1-5 or by special act of the
29 general assembly) and any foreign mutual insurance company which has been domesticated or
30 redomesticated pursuant to Chapter 2.2 of this title which meets or exceeds all capital and surplus
31 funds required by law for the transaction of business in Rhode Island may, in any manner
32 permitted by subsection (b) of this section, reorganize into a mutual insurance holding company
33 structure upon adoption of a plan of reorganization by two-thirds (2/3) vote of the board of
34 directors or other governing body, approval of a plan of reorganization by the director of the

1 department of business regulation, and the affirmative vote of one half (1/2) of those members or
2 policyholders, constituting a quorum, present in person or by proxy at a meeting called by the
3 board of directors or other governing body. Unless otherwise provided in its charter, bylaws or in
4 the plan of reorganization, each member or policyholder shall have one vote, and in the case of
5 any policy or contract of group life or other group insurance, the employer or other person to
6 whom or in whose name the master policy or contract has been issued shall be deemed to be the
7 member or policyholder and shall be entitled to one vote for each policy or contract of group
8 insurance irrespective of the number of individuals insured.

9 (b) A plan of reorganization of a mutual insurance company into a mutual insurance
10 holding company structure may provide for the reorganization to be effected in one of the
11 following manners:

12 (1) A domestic mutual insurance company may form a mutual insurance holding
13 company in accordance with the provisions of section 7-1-5 except that the approval of the plan
14 of reorganization by the director of the department of business regulation shall be deemed to
15 constitute the approval of the director of the department of business regulation required under
16 section 7-1-5. Upon this formation, the domestic mutual insurance company shall be converted to
17 a stock insurance company and shall issue to the mutual insurance holding company all of the
18 authorized shares of the voting stock of the stock insurance company. The articles of
19 incorporation and bylaws of the mutual insurance holding company formed in this manner shall
20 provide for all then current policyholders of the converted mutual insurance company to become
21 members of the mutual insurance holding company and to retain this membership interest so long
22 as the policyholder has a policy in force with the converted mutual insurance company. The
23 articles of incorporation and bylaws of the mutual insurance holding company also shall set forth
24 the terms and conditions under which future policyholders of the stock insurance company shall
25 become members of the mutual insurance holding company. The mutual insurance holding
26 company at all times shall retain a majority of the issued and outstanding shares of each class of
27 voting stock of the stock insurance company.

28 (2) A domestic mutual insurance company may merge its policyholders' membership
29 interests into a mutual insurance holding company previously formed under the provisions of this
30 section. Upon the merger, the domestic mutual insurance company shall be converted to a stock
31 insurance company and shall issue to the mutual insurance holding company all of the authorized
32 shares of voting stock of the stock insurance company. In connection with the merger and in
33 accordance with the articles of incorporation and bylaws of the mutual insurance holding
34 company, the then current policyholders of the converted mutual insurance company shall

1 become members of the mutual insurance holding company and shall retain membership interest
2 so long as the policyholder has a policy in force with the converted mutual insurance company.
3 The mutual insurance holding company at all times shall retain a majority of the issued and
4 outstanding shares of each class of voting stock of the stock insurance company.

5 (3) A domestic mutual insurance company may establish a subsidiary stock insurance
6 company in accordance with the provisions of section 7-1-5 (approval of the plan of
7 reorganization by the director of the department of business regulation constituting any approval
8 required under section 7-1-5) and then transfer to the subsidiary stock insurance company
9 substantially all of its assets and liabilities. Upon this transfer, all persons who prior to the
10 transfer held policy rights with respect to or other rights as creditors of the mutual insurance
11 company shall have those rights solely with respect to the subsidiary stock insurance company
12 created and the corresponding liability or obligation of the mutual insurance company to those
13 persons shall be assumed by the subsidiary stock insurance company. All policyholders of the
14 mutual insurance company at the time of the transfer of assets and liabilities shall continue to
15 have a membership interest in the mutual insurance company and the articles of incorporation and
16 bylaws of the mutual insurance company shall be amended to provide this. The articles of
17 incorporation and bylaws of the mutual insurance company shall also be amended to set forth the
18 terms and conditions under which future policyholders of the subsidiary stock insurance company
19 shall become members of the mutual insurance company. The mutual insurance company after
20 this shall be considered a mutual insurance holding company for the purposes of this section and
21 at all times shall retain a majority of the issued and outstanding shares of each class of voting
22 stock of the subsidiary stock insurance company.

23 (c) The plan of reorganization shall specify in any detail as may be required by the
24 director of the department of business regulation the manner under subsection (b) in which the
25 mutual holding company structure shall be created, the capital structure of the stock insurance
26 company and the mutual insurance holding company, the management of the stock insurance
27 company and the mutual insurance holding company, the purposes for the reorganization, the
28 articles of incorporation and bylaws of both the mutual insurance holding company and the stock
29 insurance company, and the terms of and use of proceeds from any proposed sale of capital stock
30 by the stock insurance company.

31 (d) The corporate existence of any mutual insurance company reorganizing into a mutual
32 insurance holding company structure under this section shall not terminate, but the reorganized
33 institution shall be deemed to be a continuation of entity of this reorganized mutual insurance
34 company.

1 (e) The director of the department of business regulation may employ staff personnel as
2 well as professional consultants and other persons to assist in the review of the plan of
3 reorganization and may hold public hearings as, in the director's discretion, are desirable prior to
4 granting approval of the plan of reorganization. All reasonable costs related to the review of the
5 plan of reorganization, including the costs attributable to staff personnel and professional
6 consultants, shall be borne by the mutual insurance company filing a plan of reorganization for
7 approval.

8 (f) The department of business regulation shall issue rules and regulations implementing
9 this section, which shall be administered by the director of the department of business regulation.

10 (g) Subject to applicable provisions of this title, a mutual insurance holding company
11 formed pursuant to this section may: (1) invest in the stock of one or more domestic or foreign
12 insurance companies; (2) acquire a domestic or foreign insurance company through consolidation
13 or merger of the institution with its subsidiary insurance company; (3) merge with another mutual
14 insurance holding company; (4) invest in a corporation, the purchase of the capital stock of which
15 is permitted for a mutual insurance company under the laws of this state; (5) exercise any other
16 power or engage in any activity permitted to a mutual insurance company organized under the
17 laws of this state; and (6) exercise the powers and engage directly or indirectly in those activities
18 as are now or may after this be permitted for business corporations under Chapter 1.1 of ~~this~~ title
19 [7](#).

20 (h) A mutual insurance holding company formed pursuant to this section, subsequent to
21 its formation, shall be subject to the provisions of Chapter 35 of this title.

22 SECTION 3. Section 27-10.1-2 of the General Laws in Chapter 27-10.1 entitled "Motor
23 Vehicle Damage Appraisers" is hereby amended to read as follows:

24 **27-10.1-2. "Motor vehicle physical damage appraiser" defined.** -- (a) "Motor vehicle
25 physical damage appraiser" means any person; ~~partnership, association, or corporation~~ that
26 practices as a business the appraising of damages to motor vehicles insured under automobile
27 physical damage policies on or on behalf of third party claimants.

28 (b) A Rhode Island resident business entity acting as a motor vehicle physical damage
29 appraiser may elect to obtain a motor vehicle physical damage appraiser license ~~surplus line~~
30 ~~broker license~~. Application shall be made using the uniform business entity application. Prior to
31 approving the application, the commissioner shall find both of the following:

- 32 (1) The business entity has paid the appropriate fees.
33 (2) The business entity has designated a licensed motor vehicle physical damage
34 appraiser responsible for the business entity's compliance with the insurance laws and rules of

1 this state.

2 SECTION 4. Section 42-14-2.1 of the General Laws in Chapter 42-14 entitled
3 "Department of Business Regulation" is hereby amended to read as follows:

4 **42-14-2.1. Reporting by certain insurers -- Settlements. --** (a) Every insurer or entity
5 exempt pursuant to section 2.6 of chapter 16 of title 27 or entity permissibly self insured pursuant
6 to subsection 2~~(e)~~ of chapter 14.1 of title 42 providing professional liability insurance to licensed
7 healthcare professionals or licensed healthcare facilities shall send a complete report to the board
8 of medical licensure and discipline established pursuant to chapter 37 of title 5, or the board of
9 examiners in dentistry established pursuant to chapter 31.1 of title 5 and the department of
10 business regulation as to any claim, notice, settlement, judgment, or arbitration award of a claim
11 or action for damages for death or personal injury caused by such person's negligence, error, or
12 omission in practice or his or her rendering of unauthorized professional services. The report shall
13 be sent within thirty (30) days after service of such arbitration award on the parties or notice of
14 the claim, settlement, judgment, or arbitration award.

15 (b) Notwithstanding any other provision of law, an insurer or entity exempt pursuant to
16 section 2.6 of chapter 16 of title 27 or entity permissibly self insured pursuant to ~~subsection 2(e)~~
17 [subsection \(2\)](#) of chapter 14.1 of title 42 providing professional liability coverage to licensed
18 healthcare professionals or licensed healthcare facilities shall have the contractual right to settle
19 any claim up to the limits of the policy without the insured's consent, unless the policy by its
20 express terms prohibits the insurer from settling any claim without the consent of the insured.

21 (c) All insurers doing business in the state of Rhode Island or entity exempt pursuant to
22 section 2.6 of chapter 16 of title 27 or entity permissibly self insured pursuant to ~~subsection 2(e)~~
23 [subsection \(2\)](#) of chapter 14.1 of title 42 providing professional liability insurance for health care
24 professionals or licensed healthcare facilities shall file an annual report with the commissioner of
25 insurance. This report must be filed for each year by March 1 of the next year. The information
26 required for each year shall include, for each rating class:

27 (1) The number of insured;

28 (2) The total premiums paid;

29 (3) The total number of claims made, the years in which the incidents giving rise to the
30 claims occurred, and the total number of those claims outstanding at the end of the year;

31 (4) The total amount of claims paid, the years in which the incidents giving rise to the
32 claims occurred, and the amount of the costs which can be identified with these claims for
33 investigation, processing, and defense of these claims; and

34 (5) The number of lawsuits filed.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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- 1 This act would correct typographical errors in four banking and insurance statutes.
- 2 This act would take effect upon passage.

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