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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 INSURANCE - PRODUCER LICENSING ACT

Introduced By: Senator Roger Picard

Date Introduced: February 15, 2012

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 27-2.4-20 of the General Laws in Chapter 27-2.4 entitled "Producer  
2   Licensing Act" is hereby amended to read as follows:

3           **27-2.4-20. Revocation or modification of insurance producer's contract --**

4   **Procedures. --** (a) No company shall cancel the authority of an insurance producer, ~~if the~~  
5   ~~insurance producer is not an employee of the company, and no company shall modify a contract~~  
6   ~~with that insurance producer unless the company gives written notice of its intent to cancel that~~  
7   ~~insurance producer or its intent to modify the contract at least one hundred eighty (180) days~~  
8   ~~before the proposed effective date of any cancellation or at least one hundred eighty (180) days~~  
9   ~~before the proposed effective date of any modification. No company shall allow the license of~~  
10   ~~that insurance producer to expire unless the company gives written notice of its intent to do so at~~  
11   ~~least one hundred eighty (180) days before the proposed effective date of expiration because of~~  
12   ~~cancellation. Except as otherwise provided in this section, any insurance producer receiving~~  
13   ~~notice of cancellation, modification, or expiration may, within sixty (60) days after receipt of the~~  
14   ~~notice, make a written demand for reference to three (3) referees of the question as to whether or~~  
15   ~~not the cancellation, modification, or expiration will affect the renewal, continuation, or~~  
16   ~~replacement of any policies placed with the company through the efforts of the insurance~~  
17   ~~producer, or the services needed by any policyholder doing business with the company as a result~~  
18   ~~of the efforts of the insurance producer, as to justify renewal or continuation of any policies then~~  
19   ~~in effect having been placed with the company by that insurance producer. In the event the~~

1 ~~referees find that the cancellation, modification, or expiration will affect the renewal,~~  
2 ~~continuation, or replacement of any policies placed with the company through the efforts of the~~  
3 ~~insurance producer, or the services needed by any policyholders doing business with the company~~  
4 ~~as a result of the efforts of the insurance producer, then the referees shall order continuance or~~  
5 ~~renewal of any policies expiring within a period of twelve (12) months of the issuance of the~~  
6 ~~notice, at a rate of compensation to the insurance producer equal to that as provided in the~~  
7 ~~agreement expiring or being cancelled or modified, for one additional policy period equal in~~  
8 ~~length to the most recent policy period of the expiring policy, but in no event for more than one~~  
9 ~~year. The referees shall not order continuance or renewal of any policies if they find that the~~  
10 ~~reason for the cancellation or expiration of the agreement by the company was legitimately based~~  
11 ~~upon one of the following grounds:~~

12 ~~(1) The insurance producer was convicted of a dishonest act related to his or her~~  
13 ~~occupation as an insurance agent;~~

14 ~~(2) The insurance producer's license to engage as an insurance producer was revoked; or~~

15 ~~(3) The company surrendered its license to do business in the state.~~

16 ~~(b) An insurance producer making a written demand for a reference shall accompany the~~  
17 ~~written demand with the names and addresses of three (3) persons, where the company shall,~~  
18 ~~within fifteen (15) days, notify the insurance producer of its choice of one of the persons to act as~~  
19 ~~one of the referees and at the same time submit the names and addresses of three (3) persons to~~  
20 ~~the insurance producer, who shall, within fifteen (15) days after receiving these names, notify the~~  
21 ~~company in writing of his her choice of one of the persons to act as a second referee. At the same~~  
22 ~~time the insurance producer shall notify the commissioner, the notice to be on a form prescribed~~  
23 ~~by the commissioner, that both the company and insurance producer have chosen referees. Within~~  
24 ~~ten (10) days of the receipt of this notice the commissioner shall appoint a person to serve as third~~  
25 ~~referee, and shall notify that person, the insurance producer, and the company in writing of this~~  
26 ~~appointment. Each person nominated or appointed as a referee shall be a disinterested person,~~  
27 ~~shall be a resident of the state, and shall be willing to act as a referee. Within ten (10) working~~  
28 ~~days of the appointment of the third referee, who shall serve as chairperson, the three (3) referees~~  
29 ~~shall meet, hear evidence, and reduce their decisions to writing and sign it, and shall deliver a~~  
30 ~~copy of the decision to the insurance producer, to the company, and to the commissioner. In the~~  
31 ~~event any company receiving a written demand for a reference fails to comply with the provisions~~  
32 ~~of this subsection, then the insurance producer shall have the authority to renew or continue any~~  
33 ~~policies placed with that company through the efforts of the insurance producer expiring within a~~  
34 ~~period of thirteen (13) months from the date of the notice of cancellation, modification, or~~

1 ~~expiration of the agreement, at a rate of compensation to the insurance producer equal to that as~~  
2 ~~provided in the agreement expiring or being cancelled or modified, for one additional policy~~  
3 ~~period equal in length to the most recent policy period of the expiring policy, but in no event for~~  
4 ~~more than one year.~~

5 ~~(c) Any insurance company and any insurance producer may by written contract agree to~~  
6 ~~modify the provisions of subsections (a) and (b) of this section other than the requirement of a~~  
7 ~~one hundred eighty (180) day notice in the event of cancellation or a one hundred eighty (180)~~  
8 ~~day notice in the event of modification of a contract or of intent to allow the expiration of a~~  
9 ~~license, by provisions presented to and approved by the commissioner which he or she finds after~~  
10 ~~due hearing and investigation will adequately protect both the right of the policyholder to a~~  
11 ~~continuance of insurance and the services of any insurance producer of his or her own choosing~~  
12 ~~and the right of the insurance producer to fair compensation for the insurance placed with a~~  
13 ~~company as a result of the insurance producer's efforts. The commissioner may make reasonable~~  
14 ~~rules of general application regarding these modified provisions.~~

15 ~~(d) The decision of the referees may provide for the renewal or continuance of any or all~~  
16 ~~policies expiring within a period of twelve (12) months of the issuance of any notice, at a rate of~~  
17 ~~compensation to the insurance producer equal to that as provided in the agreement expiring or~~  
18 ~~being cancelled or modified, for one additional policy period equal in length to the most recent~~  
19 ~~policy period of the expiring policy, but in no event for more than one year. The decision of the~~  
20 ~~referees may also provide for the continuance of previous contractual provisions, if the referees,~~  
21 ~~or a majority of them, find that the decision will best protect the right of a policyholder to a~~  
22 ~~continuance of insurance and the services of an insurance producer of his or her own choosing~~  
23 ~~and the right of any insurance producer to compensation for the insurance placed with a company~~  
24 ~~as a result of his or her efforts, giving due consideration to the possibility the affected insurance~~  
25 ~~producer has of obtaining similar coverage for policyholders affected from other companies at~~  
26 ~~reasonable compensation. The decisions rendered in accordance with the provisions of this~~  
27 ~~section providing for reference shall be binding on all companies and insurance producer affected~~  
28 ~~by those decisions. If a decision orders the renewal or continuance of any policies, policyholders~~  
29 ~~and the affected insurance producer shall be entitled in all respects to the same services and~~  
30 ~~practices as were in effect prior to reference insofar as amounts and types of coverage, credit~~  
31 ~~terms, commissions paid to the insurance producer, and insurance producer services are also~~  
32 ~~continued.~~

33 ~~(e) All policies expiring within twelve (12) months of the notice may be renewed for the~~  
34 ~~policy periods as provided in subsection (d) of this section, but no insurance producer or company~~

1 ~~relying on this section shall again refer the same issue to referees. Where other provisions of the~~  
2 ~~general laws require notice to policyholders before non-renewal of any coverage, the company~~  
3 ~~shall, at the request of the insurance producer who is unable to replace any policy which has been~~  
4 ~~renewed for one or more policy periods in accordance with this section, comply with those~~  
5 ~~provisions of law.~~

6 ~~(f) An insurance producer initiating reference under this section and the company~~  
7 ~~receiving written demand shall each be liable for the payment of the reasonable charges and~~  
8 ~~expenses of his or her nominee for referee and one half ( 1/2) of the compensation for the~~  
9 ~~reasonable charges and expenses of the third referee. The third referee shall upon the execution of~~  
10 ~~the decision furnish the insurance producer and the company with a written statement specifying~~  
11 ~~in detail his or her charges for compensation and expenses. The insurance producer or the~~  
12 ~~company, if aggrieved by these charges, may petition the commissioner for review. The petition~~  
13 ~~shall set forth with particularity the specific item or charges in dispute. The commissioner shall,~~  
14 ~~within ten (10) days of receipt of the petition, notify the interested parties of the date established~~  
15 ~~for a hearing on the petition and, after the hearing, the commissioner shall approve or disapprove~~  
16 ~~the charges in whole or in part, his or her findings and decisions shall be final and conclusive,~~  
17 and no company shall modify a contract with that insurance producer, unless the company gives  
18 written notice of its intent to cancel or modify the contract at least one year before the proposed  
19 effective date.

20 (b) The provisions of this section do not apply to an insurance producer:

21 (1) Convicted of a dishonest act related to his or her occupation as an insurance agent; or

22 (2) Whose license to engage as an insurance producer was revoked.

23 (c) When an insurer cancels the authority of an insurance producer under the provisions  
24 of this section, the insurer shall continue to renew the expiring policies that meet their  
25 underwriting guidelines for a period of twelve (12) months of the issuance of the notice at a rate  
26 of compensation to the insurance producer equal to that provided in the expiring contract.

27 (d) No company shall cancel the authority of an insurance producer due to adverse loss  
28 ratio unless prior to termination the insurance company makes a reasonable attempt to rehabilitate  
29 the insurance producer's book of business by:

30 (1) Notifying the insurance producer that it is being placed in a rehabilitation program.

31 (2) Such notice shall state the reasonable goals and objectives for the insurance  
32 producer's loss ratio during the rehabilitation program.

33 (3) Such notice shall inform the insurance producer that failure to attain the goals and  
34 objectives for the insurance producer's loss ratio specified in the rehabilitation program may

1 result in cancellation of the authority of the insurance producer.

2 (iv) The rehabilitation program of an insurance producer under this section shall be for a  
3 period of not less than one year.

4 (v) Compliance with the rehabilitation program and attainment of the rehabilitation goals  
5 for the insurance producer loss ratio shall bar termination of the authority of the insurance  
6 producer for loss ratio reasons. Any increase in reserves from previous years' losses shall not be  
7 included in determining the proper loss ratio.

8 (vi) If the insurance producer fails to achieve the rehabilitation program goals and  
9 objectives, the insurer may terminate the authority of the insurance producer but shall continue to  
10 renew the expiring policies that meet their underwriting guidelines for a period of fourteen (14)  
11 months from the issuance of the notice at a rate of compensation to the insurance producer equal  
12 to that provided in the expiring contract.

13 (e) Nothing in this section shall apply to an insurance producer who is an employee of the  
14 company.

15 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 - PRODUCER LICENSING ACT

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1           This act would amend the procedures for modifying or revoking an insurance producer's  
2 contract.

3           This act would take effect upon passage.

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