

2012 -- S 2389 SUBSTITUTE A AS AMENDED

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LC01456/SUB A
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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 (g) In the event a property and casualty insurance producer has a contract with and places
18 such insurance with more than one property and casualty company, then said insurance producer
19 and the company that contracts to provide such insurance to the insurance producer shall not be
20 subject to this section but shall be subject to the provisions of section 27-2.4-20.1.

21 However, any insurance producer who by contractual agreement either represents only
22 one company or group of affiliated insurance companies or is required by contract to submit risks
23 to a specified company or group of affiliated insurance companies prior to submitting them to
24 other insurance companies, then those contracts shall remain subject only to section 27-2.4-20.

25 (h) This section shall not apply to agents of title insurers as defined in chapter 27-2.6, or
26 to insurance producers who are employees of the insurance company.

27 SECTION 2. Chapter 27-2.4 of the General Laws entitled "Producer Licensing Act" is
28 hereby amended by adding thereto the following section:

29 **27-2.4-20.1. Revocation or modification of property and casualty insurance**
30 **producer's contract - Procedures.** – (a) No property and casualty insurance company shall
31 cancel the authority of an insurance producer, having a contract with and placing such insurance
32 with more than one property and casualty insurance company, unless the company gives written
33 notice of its intent to cancel that insurance producer at least fourteen (14) months before the
34 proposed effective date of any cancellation. In such case, no company shall allow the license of

1 that insurance producer to expire unless the company gives written notice of its intent to do so at
2 least fourteen (14) months before the proposed effective date of expiration because of
3 cancellation. In addition, no company shall modify a contract with an insurance producer, unless
4 the company gives written notice of its intent to modify the contract of that insurance producer at
5 least one hundred eighty (180) days before the proposed effective date of the modification.

6 (b) When a property and casualty insurance company cancels the authority of an
7 insurance producer having a contract with and places such insurance with more than one property
8 and casualty insurance company under the provisions of this section, the company shall continue
9 to renew the expiring policies of the insurance producer who has received notification of
10 cancellation that meets it's underwriting guidelines for a period of fourteen (14) months of the
11 issuance of the notice at a rate of compensation to that insurance producer equal to that provided
12 in the expiring contract.

13 (c) The provisions of subsections (a) and (b) do not apply to a property and casualty
14 insurance producer:

- 15 (1) Convicted of a dishonest act related to his or her occupation as an insurance agent; or
- 16 (2) Whose license to engage as an insurance producer was revoked; or
- 17 (3) Whose company surrendered its license to do business in the state; or
- 18 (4) Who is an employee of the insurance company.

19 SECTION 3. 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

- 1 This act would amend the notification procedures for modifying or revoking a property
- 2 and casualty insurance producer's contract.
- 3 This act would take effect upon passage.

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