

2012 -- S 2728

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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

Introduced By: Senators Bates, and Miller

Date Introduced: March 06, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-2.4-16 of the General Laws in Chapter 27-2.4 entitled "Producer
2 Licensing Act" is hereby amended to read as follows:

3 ~~27-2.4-16. Notification to insurance commissioner of termination.~~ **Notification to**
4 **insurance commissioner of termination.** -- (a) Termination for cause. - An insurer or authorized
5 representative of the insurer that terminates the employment contract or other insurance business
6 relationship with an insurance producer shall notify the insurance commissioner within thirty (30)
7 days following the effective date of the termination, using a format prescribed by the insurance
8 commissioner, if the reason for termination is one of the reasons set forth in section 27-2.4-14 or
9 the insurer has knowledge the insurance producer was found by a court, government body, or
10 self-regulatory organization authorized by law to have engaged in any of the activities in section
11 27-2.4-14. Upon the written request of the insurance commissioner, the insurer shall provide
12 additional information, documents, records or other data pertaining to the termination or activity
13 of the insurance producer.

14 ~~(b) Termination without cause. — An insurer or authorized representative of the insurer~~
15 ~~that terminates the employment or contract with an insurance producer for any reason not set~~
16 ~~forth in section 27-2.4-14 shall notify the insurance commissioner within thirty (30) days~~
17 ~~following the effective date of the termination, using a format prescribed by the insurance~~
18 ~~commissioner. Upon written request of the insurance commissioner, the insurer shall provide~~
19 ~~additional information, documents, records or other data pertaining to the termination.~~

1 ~~(e)~~ (b) Ongoing notification requirement. - The insurer or the authorized representative
2 of the insurer shall promptly notify the insurance commissioner in a format acceptable to the
3 insurance commissioner if, upon further review or investigation, the insurer discovers additional
4 information that would have been reportable to the insurance commissioner in accordance with
5 subsection (a) of this section had the insurer then known of its existence.

6 ~~(d)~~ (c) Copy of notification to be provided to the insurance producer.

7 (1) Within fifteen (15) days

8 (2) Within thirty (30) days after the insurance producer has received the original or
9 additional notification, the insurance producer may file written comments concerning the
10 substance of the notification with the insurance commissioner. The insurance producer shall, by
11 the same means, simultaneously send a copy of the comments to the reporting insurer, and the
12 comments shall become a part of the insurance commissioner's file and accompany every copy of
13 a report distributed or disclosed for any reason about the insurance producer as permitted under
14 subsection ~~(f)~~ (e) of this section.

15 ~~(e)~~ (d) Immunities. - (1) In the absence of actual malice, an insurer, the authorized
16 representative of the insurer, an insurance producer, the insurance commissioner, or an
17 organization of which the insurance commissioner is a member and that compiles the information
18 and makes it available to other insurance commissioners or regulatory or law enforcement
19 agencies shall not be subject to civil liability, except as provided in this section, and a civil cause
20 of action of any nature shall not arise against these entities or their respective agents or
21 employees, except as provided in this section, as a result of any statement or information required
22 by or provided pursuant to this section or any information relating to any statement that may be
23 requested in writing by the insurance commissioner, from an insurer or insurance producer; or a
24 statement by a terminating insurer or insurance producer to an insurer or insurance producer
25 limited solely and exclusively to whether a termination for cause under subsection (a) of this
26 section was reported to the insurance commissioner, provided that the propriety of any
27 termination for cause under subsection (a) of this section is certified in writing by an officer or
28 authorized representative of the insurer or insurance producer terminating the relationship.

29 (2) In any action brought against a person that may have immunity under this chapter for
30 making any statement required by this section or providing any information relating to any
31 statement that may be requested by the insurance commissioner, the party bringing the action
32 shall plead specifically in any allegation that subdivision ~~(e)(1)~~ (d)(1) of this section does not
33 apply because the person making the statement or providing the information did so with actual
34 malice.

1 (3) This chapter shall not abrogate or modify any existing statutory or common law
2 privileges or immunities.

3 ~~(f)~~ (e) Confidentiality. - (1) Any documents, materials or other information in the control
4 or possession of the department that is furnished by an insurer, insurance producer or an
5 employee or agent of the insurer or insurance producer acting on behalf of the insurer or
6 insurance producer, or obtained by the insurance commissioner in an investigation pursuant to
7 this section, shall be confidential by law and privileged, shall not be subject to chapter 2 of title
8 38, shall not be subject to subpoena, and shall not be subject to discovery or admissible in
9 evidence in any private civil action. The insurance commissioner is authorized to use the
10 documents, materials or other information in the furtherance of any regulatory or legal action
11 brought as a part of the insurance commissioner's duties.

12 (2) Neither the insurance commissioner nor any person who received documents,
13 materials or other information while acting under the authority of the insurance commissioner
14 shall be permitted or required to testify in any private civil action concerning any confidential
15 documents, materials, or information subject to this chapter.

16 (3) In order to assist in the performance of the insurance commissioner's duties under
17 this chapter, the insurance commissioner:

18 (i) May share documents, materials or other information, including the confidential and
19 privileged documents, materials or information subject to this chapter, with other state, federal,
20 and international regulatory agencies, with the NAIC, its affiliates or subsidiaries, and with state,
21 federal, and international law enforcement authorities, provided that the recipient agrees to
22 maintain the confidentiality and privileged status of the document, material or other information;

23 (ii) May receive documents, materials or information, including confidential and
24 privileged documents, materials or information, from the NAIC, its affiliates or subsidiaries and
25 from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall
26 maintain as confidential or privileged any document, material or information received with notice
27 or the understanding that it is confidential or privileged under the laws of the jurisdiction that is
28 the source of the document, material or information;

29 (iii) May enter into agreements governing sharing and use of information consistent with
30 this subsection;

31 (iv) No waiver of any applicable privilege or claim of confidentiality in the documents,
32 materials, or information shall occur as a result of disclosure to the commissioner under this
33 section or as a result of sharing as authorized in this chapter;

34 (v) Nothing in this chapter shall prohibit the insurance commissioner from releasing

1 final, adjudicated actions including for cause terminations that are open to public inspection
2 pursuant to chapter 2 of title 38 to a database or other clearinghouse service maintained by the
3 NAIC, its affiliates or subsidiaries; and

4 (vi) If the department releases to an unauthorized third party any documents, materials or
5 other information provided to the department pursuant to this section, then the department shall
6 be subject to a fine not to exceed one thousand dollars (\$1,000) after a hearing on this violation
7 brought in the Superior Court.

8 ~~(g)~~ (f) Penalties for Failing to Report. - An insurer, the authorized representative of the
9 insurer, or insurance producer that fails to report as required under the provisions of this section
10 or that is found to have reported with actual malice by a court of competent jurisdiction may, after
11 notice and hearing, have its license or certificate of authority suspended or revoked and may be
12 fined in accordance with section 42-14-16.

13 SECTION 2. Section 27-9-4.1 of the General Laws in Chapter 27-9 entitled "Casualty
14 Insurance Rating" is hereby repealed.

15 ~~27-9-4.1. Automobile insurance territories. -- The director of the department of
16 business regulation shall formulate a plan of automobile insurance territories based upon the most
17 recent available actuarial data.~~

18 SECTION 3. Section 42-14-18 of the General Laws in Chapter 42-14 entitled
19 "Department of Business Regulation" is hereby amended to read as follows:

20 **42-14-18. Form and rate filing fees.** -- The following fees shall be charged for the
21 services of the division of insurance in reviewing policy or certificate forms, as those terms are
22 defined in section 27-29-2~~(f)~~(7), and related forms and rates that are required by law to be
23 submitted by insurers, as that term is defined in section 27-29-2~~(e)~~(4), for review and approval by
24 the director prior to use:

25 (1) For each policy or certificate form included in a single package, including any related
26 forms, rates, and other documents submitted in the same package -- ~~forty dollars (\$40.00)~~ forty-
27 five dollars (\$45.00); and

28 (2) For related forms or revised rates in connection with a policy that has been
29 previously approved, submitted in a single package, charged based upon the number of policies
30 involved -- ~~twenty five dollars (\$25.00)~~ thirty dollars (\$30.00).

31 (3) Fees shall be submitted with each filing and shall be deposited as general revenue.
32 These fees shall be in addition to any taxes and fees otherwise payable to the state.

33 (4) Before any form approved pursuant to chapter 27-2.5 may be used in the state of
34 Rhode Island, ~~the fees specified in this section~~ in the amount of twenty-five dollars (\$25.00) for

1 each policy or certificate form included in a single package, including any related forms, rates,
2 and other documents submitted in the same package and in the amount of fifteen dollars (\$15.00)
3 for related forms or revised rates in connection with a policy that has been previously approved,
4 submitted in a single package, charged based upon the number of policies involved must be paid.

5 SECTION 4. Sections 1, 2 and 4 of this act shall take effect upon passage. Section 3 of
6 this act shall take effect on January 1, 2013.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would make changes to the state insurance laws which: (1) Repeal the reporting
2 of producer terminations without cause; (2) Repeal the unnecessary requirement that the director
3 establish automobile insurance territories; (3) Remove extraneous language in the motor vehicle
4 appraiser statute and (4) Raise the fees paid by insurance companies for review of policy forms
5 and rates from the amount established in 1993 when the statute was first enacted and lower fees
6 for life insurance forms reviewed pursuant to the Interstate Insurance Regulation Compact.

7 Sections 1, 2, and 4 would take effect upon passage. Section 3 would take effect on
8 January 1, 2013.

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