

2013 -- H 5263

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO INSURANCE - UNFAIR CLAIMS PRACTICES

Introduced By: Representatives Corvese, Winfield, Ucci, Silva, and Trillo

Date Introduced: February 06, 2013

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-9.1-4 of the General Laws in Chapter 27-9.1 entitled "Unfair
2 Claims Settlement Practices Act" is hereby amended to read as follows:

3 **27-9.1-4. "Unfair claims practices" defined.** -- (a) Any of the following acts by an
4 insurer, if committed in violation of section 27-9.1-3, constitutes an unfair claims practice:

5 (1) Misrepresenting to claimants and insured relevant facts or policy provisions relating
6 to coverage at issue;

7 (2) Failing to acknowledge and act with reasonable promptness upon pertinent
8 communications with respect to claims arising under its policies;

9 (3) Failing to adopt and implement reasonable standards for the prompt investigation and
10 settlement of claims arising under its policies;

11 (4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of
12 claims submitted in which liability has become reasonably clear;

13 (5) Compelling insured, beneficiaries, or claimants to institute suits to recover amounts
14 due under its policies by offering substantially less than the amounts ultimately recovered in suits
15 brought by them;

16 (6) Refusing to pay claims without conducting a reasonable investigation;

17 (7) Failing to affirm or deny coverage of claims within a reasonable time after having
18 completed its investigation related to the claim or claims;

19 (8) Attempting to settle or settling claims for less than the amount that a reasonable

1 person would believe the insured or beneficiary was entitled by reference to written or printed
2 advertising material accompanying or made part of an application;

3 (9) Attempting to settle or settling claims on the basis of an application that was
4 materially altered without notice to, or knowledge or consent of, the insured;

5 (10) Making claims payments to an insured or beneficiary without indicating the
6 coverage under which each payment is being made;

7 (11) Unreasonably delaying the investigation or payment of claims by requiring both a
8 formal proof of loss form and subsequent verification that would result in duplication of
9 information and verification appearing in the formal proof of loss form;

10 (12) Failing in the case of claims denials or offers of compromise settlement to promptly
11 provide a reasonable and accurate explanation of the basis of those actions;

12 (13) Failing to provide forms necessary to present claims within ten (10) calendar days
13 of a request with reasonable explanations regarding their use;

14 (14) Failing to adopt and implement reasonable standards to assure that the repairs of a
15 repairer owned by or required to be used by the insurer are performed in a workmanlike manner;

16 (15) Misleading a claimant as to the applicable statute of limitations;

17 (16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree
18 to a longer period;

19 (17) Engaging in any act or practice of intimidation, coercion, threat or
20 misrepresentation of consumers rights, for or against any insured person, claimant, or entity to
21 use a particular rental car company for motor vehicle replacement services or products; provided,
22 however, nothing shall prohibit any insurance company, agent or adjuster from providing to such
23 insured person, claimant or entity the names of a rental car company with which arrangements
24 have been made with respect to motor vehicle replacement services; provided, that the rental car
25 company is licensed pursuant to Rhode Island general laws section 31-5-33; or

26 (18) Refusing to honor a "direction to pay" executed by an insured, claimant, indicating
27 that the insured or claimant, wishes to have the insurance company directly pay his or her motor
28 vehicle replacement vehicle rental benefit to the rental car company of the consumer's choice;
29 provided, that the rental car company is licensed pursuant to Rhode Island general laws section
30 31-5-33. Nothing in this section shall be construed to prevent the insurance company's ability to
31 question or challenge the amount charged, in accordance with its policy provisions, and the
32 requirements of the department of business regulation;

33 (19) Modifying any published manual (i.e. motors, mitchells, or any automated appraisal
34 system) relating to auto body repair without prior agreement between the parties;

1 (20) Failing to use a manual or system in its entirety in the appraisal of a motor vehicle;

2 (21) Refusing to compensate an auto body shop for documented charges as identified
3 through industry recognized software programs or systems for paint and refinishing materials in
4 auto body repair claims; and/or

5 (22) Failing to comply with the requirements of Rhode Island General Laws section 31-
6 47-12.1.

7 (23) Failure to have an appraisal performed by a licensed appraiser where the motor
8 vehicle has sustained damage estimated to exceed two thousand five hundred dollars (\$2,500).
9 Said licensed appraiser referred to herein must be unaffiliated with the repair facility repairing the
10 subject motor vehicle.

11 (24) Failure to perform a supplemental appraisal inspection of a vehicle within four (4)
12 business days after a request is received from an auto body repair shop.

13 (b) (1) Nothing contained in subsections 27-9.1-4(a)(19), (20), & (21) of this chapter
14 shall be construed to interfere with an auto body repair facility's contract with an insurance
15 company.

16 (2) If an insurance company and auto body repair facility have contracted under a direct
17 repair program or any similar program thereto the provisions of subsections 27-9.1-4(a)(19), (20)
18 & (21) shall not apply.

19 (3) If the insured or claimant elects to have the vehicle repaired at a shop of his or her
20 choice, the insurer shall not limit or discount the reasonable repair costs based upon the charges
21 that would have been incurred had the vehicle been repaired by the insurer's chosen shop(s).

22 (25) Designating a motor vehicle a total loss if the cost to rebuild or reconstruct the motor
23 vehicle to its pre-accident condition in less than seventy-five percent (75%) of the "fair market
24 value" of the motor vehicle immediately preceding the time it was damaged:

25 (i) For the purposes of this subdivision, "fair market value" means the retail value of a
26 motor vehicle as set forth in a current edition of a nationally recognized compilation of retail
27 values commonly used by the automotive industry to establish values of motor vehicles;

28 (ii) Nothing herein shall be construed to require a vehicle be deemed a total loss if the
29 total cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is greater than
30 seventy-five percent (75%) of the fair market value of the motor vehicle immediately preceding
31 the time it was damaged; and

32 (iii) Nothing herein shall prohibit an insurance company from agreeing to deem a vehicle
33 a total loss at the vehicle owner's request and with the vehicle owner's express written
34 authorization, if the cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is

1 [less than seventy-five percent \(75%\) of the "fair market value" of the motor vehicle immediately](#)
2 [preceding the time it was damaged.](#)

3 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would designate as an unfair claims practice, designating a motor vehicle to be a
2 total loss if the cost to rebuild or reconstruct the vehicle to its pre-accident condition is less than
3 seventy-five percent (75%) of fair market value.

4 This act would take effect upon passage.

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