

2021 -- H 6324

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Representatives O'Brien, Slater, Baginski, Hull, Vella-Wilkinson, and Amore

Date Introduced: May 12, 2021

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.**

4 (a) Any of the following acts by an insurer, if committed in violation of § 27-9.1-3,
5 constitutes an unfair claims practice:

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

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

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

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

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

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

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

- 1 (8) Attempting to settle or settling claims for less than the amount that a reasonable person
2 would believe the insured or beneficiary was entitled by reference to written or printed advertising
3 material accompanying or made part of an application;
- 4 (9) Attempting to settle or settling claims on the basis of an application that was materially
5 altered without notice to, or knowledge or consent of, the insured;
- 6 (10) Making claims payments to an insured or beneficiary without indicating the coverage
7 under which each payment is being made;
- 8 (11) Unreasonably delaying the investigation or payment of claims by requiring both a
9 formal proof of loss form and subsequent verification that would result in duplication of
10 information and verification appearing in the formal proof of loss form;
- 11 (12) Failing in the case of claims denials or offers of compromise settlement to promptly
12 provide a reasonable and accurate explanation of the basis of those actions;
- 13 (13) Failing to provide forms necessary to present claims within ten (10) calendar days of
14 a request with reasonable explanations regarding their use;
- 15 (14) Failing to adopt and implement reasonable standards to assure that the repairs of a
16 repairer owned by or required to be used by the insurer are performed in a workmanlike manner;
- 17 (15) Misleading a claimant as to the applicable statute of limitations;
- 18 (16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree to
19 a longer period;
- 20 (17) Engaging in any act or practice of intimidation, coercion, threat, or misrepresentation
21 of consumers rights, for or against any insured person, claimant, or entity to use a particular rental
22 car company for motor vehicle replacement services or products; provided, however, nothing shall
23 prohibit any insurance company, agent, or adjuster from providing to such insured person, claimant,
24 or entity the names of a rental car company with which arrangements have been made with respect
25 to motor vehicle replacement services; provided, that the rental car company is licensed pursuant
26 to § 31-5-33;
- 27 (18) Refusing to honor a "direction to pay" executed by an insured, claimant, indicating
28 that the insured or claimant wishes to have the insurance company directly pay his or her motor
29 vehicle replacement vehicle rental benefit to the rental car company of the consumer's choice;
30 provided, that the rental car company is licensed pursuant to § 31-5-33. Nothing in this section shall
31 be construed to prevent the insurance company's ability to question or challenge the amount
32 charged, in accordance with its policy provisions, and the requirements of the department of
33 business regulation;
- 34 (19) Modifying any published manual, i.e., Motor's Auto Repair Manual, Mitchells, or any

1 automated appraisal system, relating to auto body repair without prior agreement between the
2 parties;

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

4 (21) Refusing to compensate an auto body shop for [their](#) documented charges as identified
5 through [the most current version of automotive](#) industry-recognized software programs or systems
6 for paint, body and refinishing materials in auto body repair claims, [including, but not limited to,](#)
7 [programs such as Mitchell's RMC, PMC Logic, Paint, Micromix, or a paint manufacturer's](#)
8 [programs. An insurer shall not discount documented charges by failing to use a system in its](#)
9 [entirety, including an automotive industry standard markup;](#)

10 (22) Failing to comply with the requirements of § 31-47-12.1;

11 (23) Failure to have an appraisal performed by a licensed appraiser where the motor vehicle
12 has sustained damage estimated to exceed two thousand five hundred dollars (\$2,500). The licensed
13 appraiser referred to herein must be unaffiliated with the repair facility repairing the subject motor
14 vehicle; must perform a physical inspection of the damaged motor vehicle; and may not perform
15 an appraisal based upon pictures of the damaged motor vehicle;

16 (24) Failure to perform an initial appraisal within three (3) business days after a request is
17 received from an auto body repair shop, provided the damaged motor vehicle is on the premises of
18 the repair shop when the request is made, and failure to perform a supplemental appraisal inspection
19 of a vehicle within four (4) business days after a request is received from an auto body repair shop.
20 The time limitations set forth in this subsection may be extended by mutual agreement between the
21 auto body repair shop and the insurer;

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 is 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 values
27 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 total
29 cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is greater than seventy-
30 five percent (75%) of the fair market value of the motor vehicle immediately preceding the time it
31 was damaged;

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 authorization
34 if the cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is less than

1 seventy-five percent (75%) of the "fair market value" of the motor vehicle immediately preceding
2 the time it was damaged;

3 (iv) If condition adjustments are made to the retail value of a motor vehicle designated a
4 total loss, all such adjustments must be in accordance with the standards set forth in the current
5 edition of a nationally recognized compilation of retail values, commonly used by the automotive
6 industry, used by the insurer to determine the retail value of the vehicle; and all such adjustments,
7 including prior damage deductions, must be itemized, fair, and reasonable; and

8 (v) When a vehicle is deemed a total loss, if the insurer is not retaining the salvage, the
9 insurer must notify the owner of the vehicle in writing of the requirements of obtaining both a
10 salvage title and a reconstructed title from the department of motor vehicles pursuant to chapter 1
11 of title 31, and must obtain, in writing, the owner's consent and acknowledgement that the insurer
12 is not retaining the salvage and include a statement of the owner's obligation and potential costs to
13 dispose of or otherwise retain the salvage;

14 (26) Negotiating, or effecting the settlement of, a claim for loss or damage covered by an
15 insurance contract with an unlicensed public adjuster acting on behalf of an insured. Nothing
16 contained in this section shall be construed to preclude an insurer from dealing with any individual
17 or entity that is not required to be licensed under chapter 10 of title 27.

18 (b)(1) Nothing contained in subsections (a)(19), (a)(20), and (a)(21) of this section shall be
19 construed to interfere with an auto body repair facility's contract with an insurance company.

20 (2) If an insurance company and auto body repair facility have contracted under a direct
21 repair program or any similar program thereto, the provisions of subsections (a)(19), (a)(20), and
22 (a)(21) of this section shall not apply.

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

26 (27) Refusing to pay an auto body repair shop for documented necessary sublet services
27 paid out to vendors or incurred by the auto body repair shop, for specialty or unique services
28 performed in the overall repair process, including costs and labor incurred to research, coordinate,
29 administrate or facilitate the necessary sublet service, and an automotive industry standard markup.
30 Examples of sublet services include, but are not limited to, towing, transportation, suspension,
31 alignments, electronic calibrations, diagnostic work, mechanical work, and paid charges to release
32 a vehicle.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

- 1 This act would make changes to the Unfair Claims Settlement Practices Act.
- 2 This act would take effect upon passage.

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