

2023 -- H 5496 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Representative Joseph J. Solomon

Date Introduced: February 10, 2023

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 [\(19\) Refusing to honor a "direction to pay" executed by an insured, claimant, indicating](#)

1 that the insured or claimant wishes to have the insurance company directly pay the insured's
2 property damage benefit to the restoration company of the consumer's choice; provided, that the
3 restoration company is licensed pursuant to § 5-65-3. Nothing in this section shall be construed to
4 prevent the insurance company's ability to question or challenge whether the services billed for are
5 covered by the policy, related to an occurrence covered by the policy, or the amount charged, in
6 accordance with its policy provisions, and the requirements of the department of business
7 regulation;

8 ~~(19)~~(20) Modifying any published manual, i.e., Motor's Auto Repair Manual, Mitchells,
9 or any automated appraisal system, relating to auto body repair without prior agreement between
10 the parties;

11 ~~(20)~~(21) Failing to use a manual or system in its entirety in the appraisal of a motor vehicle;

12 ~~(21)~~(22) Refusing to compensate an auto body shop for its documented charges as
13 identified through the most current version of automotive industry-recognized software programs
14 or systems for paint, body, and refinishing materials in auto body repair claims, including, but not
15 limited to, programs such as Mitchell's RMC, PMC Logic, Paint, Micromix, or a paint
16 manufacturer's programs. An insurer shall not discount documented charges by failing to use a
17 system in its entirety, including an automotive industry standard markup;

18 ~~(22)~~(23) Failing to comply with the requirements of § 31-47-12.1;

19 ~~(23)~~(24) Failure to have an appraisal performed by a licensed appraiser where the motor
20 vehicle has sustained damage estimated to exceed two thousand five hundred dollars (\$2,500). The
21 licensed appraiser referred to herein must be unaffiliated with the repair facility repairing the
22 subject motor vehicle; must perform a physical inspection of the damaged motor vehicle; and may
23 not perform an appraisal based upon pictures of the damaged motor vehicle;

24 ~~(24)~~(25) Failure to perform an initial appraisal within three (3) business days after a request
25 is received from an auto body repair shop, provided the damaged motor vehicle is on the premises
26 of the repair shop when the request is made, and failure to perform a supplemental appraisal
27 inspection of a vehicle within four (4) business days after a request is received from an auto body
28 repair shop. The time limitations set forth in this subsection may be extended by mutual agreement
29 between the auto body repair shop and the insurer;

30 ~~(25)~~(26) Designating a motor vehicle a total loss if the cost to rebuild or reconstruct the
31 motor vehicle to its pre-accident condition is less than seventy-five percent (75%) of the "fair
32 market value" of the motor vehicle immediately preceding the time it was damaged:

33 (i) For the purposes of this subdivision, "fair market value" means the retail value of a
34 motor vehicle as set forth in a current edition of a nationally recognized compilation of retail values

1 commonly used by the automotive industry to establish values of motor vehicles;

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

6 (iii) Nothing herein shall prohibit an insurance company from agreeing to deem a vehicle
7 a total loss at the vehicle owner's request and with the vehicle owner's express written authorization
8 if the cost to rebuild or reconstruct the motor vehicle to its pre-accident condition is less than
9 seventy-five percent (75%) of the "fair market value" of the motor vehicle immediately preceding
10 the time it was damaged;

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

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

22 ~~(26)~~(27) Negotiating, or effecting the settlement of, a claim for loss or damage covered by
23 an insurance contract with an unlicensed public adjuster acting on behalf of an insured. Nothing
24 contained in this section shall be construed to preclude an insurer from dealing with any individual
25 or entity that is not required to be licensed under chapter 10 of title 27;

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

33 (b)(1) Nothing contained in subsections (a)~~(19)~~(20), (a)~~(20)~~(21), and (a)~~(21)~~(22) of this
34 section shall be construed to interfere with an auto body repair facility's contract with an insurance

1 company.

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

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

8 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 -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

1 This act would provide that any insurer refusing to honor a "direction to pay" executed by
2 an insured for payment on a property damage benefit would constitute an unfair claims practice.

3 This act would take effect upon passage.

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