

2024 -- H 7283

LC004393

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO INSURANCE -- PRODUCER LICENSING ACT

Introduced By: Representatives Kennedy, Azzinaro, O'Brien, Solomon, Edwards,
Kazarian, and Casimiro

Date Introduced: January 26, 2024

Referred To: House Corporations

(Dept. of Business Regulation)

It is enacted by the General Assembly as follows:

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

3 **27-2.4-2. Definitions.**

4 ~~The following definitions apply to~~ For purposes of this chapter:

5 (1) "Business entity" means a corporation, association, partnership, limited liability
6 company, limited liability partnership, or other legal entity;

7 (2) ~~"Contracted producer report" means the annual report that all insurers contracting with~~
8 ~~insurance producers must provide to the department on or by March 1 listing each insurance~~
9 ~~producer to whom the insurer paid one hundred dollars (\$100) or more in commissions for the~~
10 ~~preceding calendar year of January 1 to December 31. The department shall prescribe the form and~~
11 ~~manner of reporting.~~

12 (3) "Department" means the department of business regulation;

13 (4) "Home state" means any state or territory of the United States, or the District of
14 Columbia, in which an insurance producer maintains ~~his or her~~ their principal place of residence or
15 principal place of business and is licensed to act as an insurance producer;

16 (5) "Insurance" means any of the lines of authority set forth in this title;

17 (6) "Insurance commissioner" means the director of the department of business regulation
18 or ~~his or her~~ the director's designee;

19 (7) "Insurance producer" means a person required to be licensed under the laws of this state

1 to sell, solicit or negotiate insurance;

2 (8) “Insurer” means: (i) any person, reciprocal exchange, interinsurer, Lloyds insurer,
3 fraternal benefit society, and any other legal entity engaged in the business of insurance, including
4 insurance producers; (ii) notwithstanding §§ 27-19-2, 27-20-2, 27-20.1-2, 27-20.2-2, 27-20.3-2,
5 and 27-41-22, all of whom shall be engaged in the business of insurance for the purpose of this
6 chapter, nonprofit hospital and/or medical service corporation, a nonprofit dental service
7 corporation, a nonprofit optometric service corporation, a nonprofit legal service corporation, a
8 health maintenance organization as defined in chapter 41 of this title or as defined in chapter 62 of
9 title 42, or any other entity providing a plan of health benefits subject to state insurance regulation;
10 and (iii) an organization that for consideration assumes certain risks for an insured. Insurer
11 organizations may include corporations, stock companies, mutual companies, risk retention groups,
12 reciprocals, captives, Lloyds associations, and government residual plans.

13 (9) “License” means a document issued by this state’s insurance commissioner authorizing
14 a person to act as an insurance producer for the lines of authority specified in the document. The
15 license itself does not create any authority, actual, apparent or inherent, in the holder to represent
16 or commit an insurance carrier;

17 (10) “Limited line credit insurance” includes credit life, credit disability, credit property,
18 credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage
19 disability, guaranteed automobile protection (gap) insurance, and any other form of insurance
20 offered in connection with an extension of credit that is limited to partially or wholly extinguishing
21 that credit obligation that the insurance commissioner determines should be designated a form of
22 limited line credit insurance;

23 (11) “Limited line credit insurance producer” means a person who sells, solicits or
24 negotiates one or more forms of limited line credit insurance coverage to individuals through a
25 master, corporate, group or individual policy;

26 (12) “Limited lines insurance” means those lines of insurance that the insurance
27 commissioner deems necessary to recognize for purposes of complying with subsection 27-2.4-
28 10(e);

29 (13) “Limited lines producer” means a person authorized by the insurance commissioner
30 to sell, solicit or negotiate limited lines insurance;

31 (14) “NAIC” means National Association of Insurance Commissioners;

32 (15) “Negotiate” means the act of conferring directly with or offering advice directly to a
33 purchaser or prospective purchaser of a particular contract of insurance concerning any of the
34 substantive benefits, terms or conditions of the contract, provided that the person engaged in that

1 act either sells insurance or obtains insurance from insurers for purchasers;

2 (16) "Person" means an individual;

3 (17) "Resident" means a person who either resides in Rhode Island or maintains an office
4 in Rhode Island where the business of producing insurance is transacted and designates Rhode
5 Island as the residence for purposes of licensure;

6 (18) "Sell" means to exchange a contract of insurance by any means, for money or its
7 equivalent, on behalf of an insurance company;

8 (19) "Solicit" means attempting to sell insurance or asking or urging a person to apply for
9 a particular kind of insurance from a particular company;

10 (20) "Terminate" means the cancellation of the relationship between an insurance producer
11 and the insurer or the termination of an insurance producer's authority to transact insurance;

12 (21) "Uniform application" means the current version of the NAIC uniform application for
13 resident and nonresident insurance producer licensing.

14 **27-2.4-16. Notification to insurance commissioner of termination.**

15 (a) **Termination for cause.** An insurer or authorized representative of the insurer that
16 terminates the [appointment](#), employment contract or other insurance business relationship with an
17 insurance producer shall notify the insurance commissioner within thirty (30) days following the
18 effective date of the termination, using a format prescribed by the insurance commissioner, if the
19 reason for termination is one of the reasons set forth in § 27-2.4-14 or the insurer has knowledge
20 the insurance producer was found by a court, government body, or self-regulatory organization
21 authorized by law to have engaged in any of the activities in § 27-2.4-14. Upon the written request
22 of the insurance commissioner, the insurer shall provide additional information, documents, records
23 or other data pertaining to the termination or activity of the insurance producer.

24 (b) **Termination without cause.** [An insurer or authorized representative of the insurer that
25 terminates the appointment, employment, or contract with a producer for any reason not set forth
26 in § 27-2.4-14, shall notify the insurance commissioner within thirty \(30\) days following the
27 effective date of the termination, using a format prescribed by the insurance commissioner. Upon
28 written request of the insurance commissioner, the insurer shall provide additional information,
29 documents, records or other data pertaining to the termination.](#)

30 ~~(b)~~(c) **Ongoing notification requirement.** The insurer or the authorized representative of
31 the insurer shall promptly notify the insurance commissioner in a format acceptable to the insurance
32 commissioner if, upon further review or investigation, the insurer discovers additional information
33 that would have been reportable to the insurance commissioner in accordance with subsection (a)
34 of this section had the insurer then known of its existence.

1 ~~(e)~~(d) **Copy of notification to be provided to the insurance producer.**

2 (1) Within fifteen (15) days after making the notification required by subsections (a) and
3 ~~(b)~~(c) of this section, the insurer shall mail a copy of the notification to the insurance producer at
4 ~~his or her~~ the producer's last known address. If the insurance producer is terminated for cause for
5 any of the reasons listed in § 27-2.4-14, the insurer shall provide a copy of the notification to the
6 insurance producer at ~~his or her~~ the producer's last known address by certified mail, return receipt
7 requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

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 substance
10 of the notification with the insurance commissioner. The insurance producer shall, by the same
11 means, simultaneously send a copy of the comments to the reporting insurer, and the comments
12 shall become a part of the insurance commissioner's file and accompany every copy of a report
13 distributed or disclosed for any reason about the insurance producer as permitted under subsection
14 ~~(e)~~(f) of this section.

15 ~~(d)~~(e) **Immunities.**

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

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

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

3 ~~(e)~~(f) **Confidentiality.**

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

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

16 (3) In order to assist in the performance of the insurance commissioner's duties under this
17 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, and
20 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 privileged
24 documents, materials or information, from the NAIC, its affiliates or subsidiaries and from
25 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 the
28 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 section
33 or as a result of sharing as authorized in this chapter;

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

1 adjudicated actions including for cause terminations that are open to public inspection pursuant to
2 chapter 2 of title 38 to a database or other clearinghouse service maintained by the NAIC, its
3 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 be
6 subject to a fine not to exceed one thousand dollars (\$1,000) after a hearing on this violation brought
7 in the Superior Court.

8 ~~(f)~~(g) **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 or
10 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 § 42-14-16.

13 SECTION 2. Sections 27-10-1.1 and 27-10-2 of the General Laws in Chapter 27-10 entitled
14 "Claim Adjusters" are hereby amended to read as follows:

15 **27-10-1.1. Definitions.**

16 (a) "Adjuster" means an individual licensed as either a public company or independent
17 adjuster.

18 (b) "Catastrophic disaster" according to the Federal Response Plan, means an event that
19 results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities
20 that provide and sustain human needs; produces an overwhelming demand on state and local
21 response resources and mechanisms; causes a severe long-term effect on general economic activity;
22 and severely affects state, local, and private sector capabilities to begin and sustain response
23 activities. A catastrophic disaster shall be declared by the President of the United States, the
24 governor of the state, or the insurance commissioner.

25 (c) "Company adjuster" means a person who:

26 (1) Is an individual who contracts for compensation with insurers or self-insurers as an
27 employee; and

28 (2) Investigates, negotiates, or settles property, casualty, or workers' compensation claims
29 for insurers or for self-insurers as an employee.

30 (d) "Department" means the insurance division of the department of business regulation.

31 (e) "Home state" means the District of Columbia and any state or territory of the United
32 States in which the adjuster's principal place of residence or principal place of business is located.

33 If neither the state in which the ~~public~~ independent or company adjuster maintains the principal
34 place of residence, nor the state in which the adjuster maintains the principal place of business, has

1 a substantially similar law governing adjusters, the adjuster may declare another state in which it
2 becomes licensed and acts as ~~a public~~ an independent or company adjuster to be the “home state.”

3 Designated home state is not available for public adjusters.

4 (f) “Independent adjuster” means a person who:

5 (1) Is an individual who contracts for compensation with insurers or self-insurers as an
6 independent contractor; or

7 (2) Investigates, negotiates, or settles property, casualty, or workers’ compensation claims
8 for insurers or for self-insurers as an independent contractor.

9 (g) “Insurance commissioner” means the director of the department of business regulation
10 or ~~his or her~~ the director’s designee.

11 (h) “NAIC” means the National Association of Insurance Commissioners.

12 (i) “Public adjuster” means any person who, for compensation or any other thing of value
13 on behalf of the insured:

14 (1) Acts or aids, solely in relation to first-party claims arising under insurance contracts
15 that insure the real or personal property of the insured, other than automobile, on behalf of an
16 insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an
17 insurance contract;

18 (2) Advertises for employment as a public adjuster of insurance claims or solicits business
19 or represents ~~himself or herself~~ themselves to the public as a public adjuster of first-party insurance
20 claims for losses or damages arising out of policies of insurance that insure real or personal
21 property; or

22 (3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an
23 insured about first-party claims for losses or damages arising out of policies of insurance that insure
24 real or personal property for another person engaged in the business of adjusting losses or damages
25 covered by an insurance policy, for the insured.

26 (j) “Uniform individual application” means the current version of the National Association
27 of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident
28 individuals.

29 **27-10-2. Persons exempt.**

30 The provisions of this chapter shall not apply to the following:

31 (1) An attorney at law admitted to practice in this state, acting in ~~his or her~~ their professional
32 capacity as an attorney;

33 (2) Either an insurance producer of a domestic insurance company or an insurance producer
34 duly licensed by the insurance commissioner, when the insurance producer adjusts, or assists in the

1 adjustment of, claims arising only under policies of insurance or fidelity or surety bonds negotiated,
2 solicited, or effected by ~~him or her or by~~ the insurance producer, whether the insurance producer is
3 a person, partnership, or corporation, for which ~~he or she acts~~ they act;

4 (3) A person who negotiates or settles claims arising under a life or health insurance policy
5 or an annuity contract;

6 (4) A person employed only for the purpose of obtaining facts surrounding a loss or
7 furnishing technical assistance to a licensed adjuster, including photographers, estimators, private
8 investigators, engineers, and handwriting experts;

9 (5) An individual who is employed to investigate suspected fraudulent insurance claims
10 but who does not adjust losses or determine claims payments;

11 (6) A person who solely performs executive, administrative, managerial, or clerical duties,
12 or any combination thereof, and who does not investigate, negotiate, or settle claims with
13 policyholders, claimants, or their legal representative;

14 (7) A licensed healthcare provider or its employee who provides managed care services as
15 long as the services do not include the determination of compensability;

16 (8) A managed care organization or any of its employees or an employee of any
17 organization providing managed care services so long as the services do not include the
18 determination of compensability;

19 (9) A person who settles only reinsurance or subrogation claims;

20 (10) A person who investigates, negotiates, or settles life, accident and health, annuity, or
21 disability insurance claims;

22 (11) An individual employee, under a self-insured arrangement, who adjusts claims on
23 behalf of their employer;

24 (12) A person authorized to adjust ~~workers' compensation or~~ disability claims under the
25 authority of a third-party administrator (TPA) license pursuant to chapter 20.7 of title 27;

26 (13) A person who adjusts claims for portable electronic insurance offered pursuant to
27 chapter 2.7 of title 27.

28 SECTION 3. Section 27-13.1-7 of the General Laws in Chapter 27-13.1 entitled
29 "Examinations" is hereby amended to read as follows:

30 **27-13.1-7. Cost of examinations.**

31 (a) The total cost of the examinations shall be borne by the examined companies and shall
32 include the following expenses:

33 (1) One hundred fifty percent (150%) of the total salaries and benefits paid to the examining
34 personnel of the banking and insurance division engaged in those examinations less any salary

1 reimbursements;

2 (2) All reasonable technology costs related to the examination process. Technology costs
3 shall include the actual cost of software and hardware utilized in the examination process and the
4 cost of training ~~examination~~ insurance personnel in the proper use of the software or hardware;

5 (3) All necessary and reasonable education and training costs incurred by the state to
6 maintain the proficiency and competence of the ~~examining~~ insurance personnel. All these costs
7 shall be incurred in accordance with appropriate state of Rhode Island regulations, guidelines and
8 procedures.

9 (b) Expenses incurred pursuant to subsections (a)(2) and (a)(3) of this section shall be
10 allocated equally to each company domiciled in Rhode Island no more frequently than annually
11 and shall not exceed an annual average assessment of ~~three thousand five hundred dollars (\$3,500)~~
12 five thousand dollars (\$5,000) per company for any given three (3) calendar year period. All
13 revenues collected pursuant to this section shall be deposited as general revenues. That assessment
14 shall be in addition to any taxes and fees payable to the state.

15 SECTION 4. Section 27-20.7-7 of the General Laws in Chapter 27-20.7 entitled "Third-
16 Party Health Insurance Administrators" is hereby amended to read as follows:

17 **27-20.7-7. Responsibilities of the insurer.**

18 (a) If an insurer utilizes the services of an administrator, the insurer shall be responsible for
19 determining the benefits, premium rates, underwriting criteria, and claims payment procedures
20 applicable to the coverage and for securing reinsurance, if any. The rules pertaining to these matters
21 must be provided, in writing, by the insurer to the administrator. The responsibilities of the
22 administrator as to any of these matters shall be set forth in the written agreement between the
23 administrator and the insurer.

24 (b) It is the sole responsibility of the insurer to provide for competent administration of its
25 programs.

26 (c) In cases where an administrator administers benefits for more than one hundred (100)
27 certificate holders on behalf of an insurer, the insurer shall, at least semi-annually, conduct a review
28 of the operations of the administrator. ~~At least one of these reviews shall be an on-site audit of the~~
29 ~~operations of the administrator.~~

30 SECTION 5. Section 42-14-5 of the General Laws in Chapter 42-14 entitled "Department
31 of Business Regulation" is hereby amended to read as follows:

32 **42-14-5. Superintendents of banking and insurance.**

33 (a) The superintendents of banking and insurance shall administer the functions of the
34 department relating to the regulation and control of banking and insurance.

1 (b) Wherever the words “banking administrator” or “banking commissioner” or “insurance
2 administrator” or "commissioner" or “insurance commissioner” occur in this chapter or any general
3 law, public law, act, or resolution of the general assembly or department regulation, they shall be
4 construed to mean superintendent of banking and superintendent of insurance except as delineated
5 in subsection (d) below.

6 (c) “Health insurance” shall mean “health insurance coverage,” as defined in §§ 27-18.5-2
7 and 27-18.6-2, “health benefit plan,” as defined in § 27-50-3 and a “medical supplement policy,”
8 as defined in § 27-18.2-1 or coverage similar to a Medicare supplement policy that is issued to an
9 employer to cover retirees, and dental coverage, including, but not limited to, coverage provided
10 by a nonprofit dental service plan as defined in § 27-20.1-1(3).

11 (d) Whenever the words “commissioner,” “insurance commissioner,” “health insurance
12 commissioner” or “director” appear in Title 27 or Title 42, those words shall be construed to mean
13 the health insurance commissioner established pursuant to § 42-14.5-1 with respect to all matters
14 relating to health insurance. The health insurance commissioner shall have sole and exclusive
15 jurisdiction over enforcement of those statutes with respect to all matters relating to health
16 insurance except for purposes of producer licensing or producer appointments.

17 (e) Whenever the word “director” appears or is a defined term in title 19, this word shall
18 be construed to mean the superintendent of banking established pursuant to this section.

19 (f) Whenever the word “director” or “commissioner” appears or is a defined term in title
20 27, this word shall be construed to mean the superintendent of insurance established pursuant to
21 this section except as delineated in subsection (d) of this section.

22 SECTION 6. Chapter 27-2.4 of the General Laws entitled "Producer Licensing Act" is
23 hereby amended by adding thereto the following section:

24 **27-2.4-14.1. Appointments.**

25 (a) An insurance producer shall not act as an agent of an insurer unless the insurance
26 producer becomes an appointed agent of that insurer. An insurance producer who is not acting as
27 an agent of an insurer is not required to become appointed.

28 (b) To appoint a producer as its agent, the appointing insurer shall file, in a format approved
29 by the insurance commissioner, a notice of appointment within fifteen (15) days from the date the
30 first insurance application is submitted. An insurer may also elect to appoint a producer to all or
31 some insurers within the insurer's holding company system or group by the filing of a single
32 appointment request.

33 (c) An insurer shall pay an appointment fee, in the amount and method of payment set forth
34 in a regulation promulgated for that purpose, for each insurance producer appointed by the insurer.

1 (d) An insurer shall remit, in a manner prescribed by the insurance commissioner, a renewal
2 appointment fee in the amount set forth in a regulation promulgated for that purpose.

3 SECTION 7. This act shall take effect upon passage except for section 1 which shall take
4 effect on January 1, 2025.

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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 statutory provisions regarding insurance producer appointments
2 to provide for an efficient electronic process used in most other states, clarify language relating to
3 insurance claims adjusters, clarify audit requirements for third-party administrators and alter an
4 assessment on insurance companies for training and technology.

5 This act would take effect upon passage except for section 1 which would take effect on
6 January 1, 2025.

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