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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO INSURANCE - ANTI-FRAUD ACT

Introduced By: Representatives Kennedy, Marcello, Pacheco, Carter, and Naughton

Date Introduced: February 25, 2010

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 27 of the General Laws entitled "INSURANCE" is hereby amended
2 by adding thereto the following chapter:

3 CHAPTER 29.3

4 ANTI-FRAUD ACT

5 **27-29.3-1. Definitions.** -- As used in this chapter:

6 (1) "Business of insurance" means the writing of insurance or the reinsuring of risks by
7 an insurer, including acts necessary or incidental to writing insurance or reinsuring risks and the
8 activities of persons who act as or are officers, directors, agents or employees of insurers, or who
9 are other persons authorized to act on their behalf.

10 (2) "Commissioner" means the director of the department of business regulation or his or
11 her designee or the division of insurance.

12 (3) "Fraudulent insurance act" means an act or omission committed by a person who,
13 knowingly and with intent to defraud, commits, or conceals any material information concerning,
14 one or more of the following:

15 (i) Presenting, causing to be presented or preparing with knowledge or belief that it will
16 be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in
17 support of or concerning a fact material to one or more of the following:

18 (A) An application for the issuance or renewal of an insurance policy or reinsurance
19 contract;

- 1 (B) The rating of an insurance policy or reinsurance contract;
- 2 (C) A claim for payment or benefit pursuant to an insurance policy or reinsurance
3 contract;
- 4 (D) Premiums paid on an insurance policy or reinsurance contract;
- 5 (E) Payments made in accordance with the terms of an insurance policy or reinsurance
6 contract;
- 7 (F) A document filed with the commissioner or the chief insurance regulatory official of
8 another jurisdiction;
- 9 (G) The financial condition of an insurer or reinsurer;
- 10 (H) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from
11 one or more lines of insurance or reinsurance in all or part of this state by an insurer or reinsurer;
- 12 (I) The issuance of written evidence of insurance; or
- 13 (J) The reinstatement of an insurance policy;
- 14 (ii) Solicitation of acceptance of new or renewal insurance risks on behalf of an insurer,
15 reinsurer or other person engaged in the business of insurance by a person who knows or should
16 know that the insurer or other person responsible for the risk is insolvent at the time of the
17 transaction;
- 18 (iii) Removal, concealment, alteration or destruction of the assets or records of an insurer,
19 reinsurer or other person engaged in the business of insurance;
- 20 (iv) Willful embezzlement, abstracting, purloining, or conversion of monies, funds,
21 premiums, credits or other property of an insurer, reinsurer or person engaged in the business of
22 insurance;
- 23 (v) Transaction of the business of insurance in violation of laws requiring a license,
24 certificate of authority or other legal authority for the transaction of the business of insurance; or
- 25 (vi) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit
26 the acts or omissions specified in this subsection.
- 27 (4) "Insurance" means a contract or arrangement in which one undertakes to:
- 28 (i) Pay or indemnify another as to loss from certain contingencies call "risks," including
29 through reinsurance;
- 30 (ii) Pay or grant a specified amount or determinable benefit to another in connection with
31 ascertainable risk contingencies;
- 32 (iii) Pay an annuity to another; or
- 33 (iv) Act as surety.
- 34 (5) "Insurer" means a person entering into arrangements or contracts of insurance or

1 reinsurance and who agrees to perform any of the acts set forth in subdivision (4) of this section
2 or fraternal benefit societies, medical and hospital service corporations, dental service
3 corporations and/or health maintenance organizations. A person is an insurer regardless of
4 whether the person is acting in violation of laws requiring a certificate of authority or regardless
5 of whether the person denies being an insurer.

6 (6) "NAIC" means the National Association of Insurance Commissioners.

7 (7) "Person" means an individual, a corporation, a partnership, an association, a joint
8 stock company, a trust, an unincorporated organization, or any similar entity or any combination
9 of the foregoing.

10 (8) "Policy" means an individual or group policy, group certificate, contract or
11 arrangement of insurance or reinsurance affecting the rights of a resident of this state or bearing a
12 reasonable relation to this state, regardless of whether delivered or issued for delivery in this
13 state.

14 (9) "Reinsurance" means a contract, binder of coverage (including placement slip) or
15 arrangement under which an insurer procures insurance for itself in another insurer as to all or
16 part of an insurance risk of the originating insurer.

17 **27-29.3-2. Fraudulent insurance acts, interference and participation of convicted**
18 **felons prohibited.** -- (a) A person shall not commit a fraudulent insurance act.

19 (b) A person shall not knowingly or intentionally interfere with the enforcement of the
20 provisions of this chapter or investigations of suspected or actual violations of this chapter.

21 (c)(1) A person convicted of a felony involving dishonesty or breach of trust shall not
22 participate in the business of insurance without the written consent of the commissioner.

23 (2) A person in the business of insurance shall not knowingly or intentionally permit a
24 person convicted of a felony involving dishonesty or breach of trust to participate in the business
25 of insurance without the written consent of the commissioner.

26 **27-29.3-3. Fraud warning required.** -- (a) Notwithstanding any similar requirements in
27 title 28, every claim form and application for insurance, regardless of the form of transmission,
28 shall contain the following statement or a substantially similar statement:

29 "Any person who knowingly presents a false or fraudulent claim for payment of a loss or
30 benefit or knowingly presents false information in an application for insurance is guilty of a crime
31 and may be subject to fines and confinement in prison."

32 (b) The lack of a statement as required in subsection (a) of this section does not constitute
33 a defense in any prosecution for a fraudulent insurance act.

34 (c) The requirements of this section shall not apply to reinsurance claims forms or

1 reinsurance applications.

2 (d) The requirements of this section shall not apply to any claim form for health
3 insurance which is on a form promulgated by the centers for Medicare and Medicaid services or
4 in electronic format pursuant to 45 CFR Part 162.

5 **27-29.3-4. Other law enforcement or regulatory authority.** -- This chapter shall not:

6 (1) Preempt the authority or relieve the duty of other law enforcement or regulatory
7 agencies to investigate, examine and prosecute suspected violations of law;

8 (2) Prevent or prohibit a person from disclosing voluntarily information concerning
9 insurance fraud to a law enforcement or regulatory agency; or

10 (3) Limit the powers granted elsewhere by the laws of this state to investigate and
11 examine possible violations of law and to take appropriate action against any wrongdoing.

12 **27-29.3-5. Insurer antifraud initiatives.** -- (a) Insurers shall have antifraud initiatives
13 reasonably calculated to detect, report, prosecute and prevent fraudulent insurance acts, antifraud
14 initiatives may include:

15 (1) Fraud investigators, who may be insurer employees or independent contractors; or

16 (2) An antifraud plan.

17 (b) A person engaged in the business of insurance having knowledge or a reasonable
18 belief that a fraudulent insurance act is being, will be or has been committed shall provide such
19 information to the governmental unit responsible for investigation such act, or if no such unit
20 exists to the commissioner.

21 **27-29.3-6. Penalties.** -- A person who violates this chapter is subject to suspension or
22 revocation of license or certificate of authority or administrative penalties per Rhode Island
23 general laws section 42-14-16 or both. Suspension or revocation of license or certificate of
24 authority and imposition of administrative penalties shall be pursuant to an order of the
25 commissioner issued under Rhode Island general laws section 42-35-9 and/or 42-35-12. The
26 commissioner's order may require a person found to be in violation of this chapter to make
27 restitution to persons aggrieved by violations of this chapter.

28 SECTION 2. This act shall take effect on January 1, 2011.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE - ANTI-FRAUD ACT

1 The act would adopt portions of the National Association of Insurance Commissioners
2 Model Insurance Fraud Prevention Act that would strengthen insurance regulation. In addition to
3 confirming the illegality of insurance fraud, the act would require a warning on every insurance
4 application and claim forms to warn the applicant or claimant that making any claim for proceeds
5 of an insurance policy containing false, incomplete or misleading information is subject to
6 prosecution and punishment for insurance fraud and require that all insurers have an antifraud
7 plan.

8 This act would take effect on January 1, 2011.

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