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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Representatives J. Brien, Solomon, and Baginski

Date Introduced: March 05, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **27-9.1-1. Purpose.**

4 The purpose of this chapter is to set forth standards for the investigation and disposition of  
5 claims arising under policies or certificates of insurance issued to residents of Rhode Island. It is  
6 not intended to cover claims involving workers' compensation, fidelity, suretyship or boiler and  
7 machinery insurance. ~~Nothing contained in this chapter shall be construed to create or imply a~~  
8 ~~private cause of action for violation of this chapter.~~

9 **27-9.1-4. "Unfair claims practices" defined.**

10 (a) An "unfair claims practice" is an improper action by an insurer intended to reduce a  
11 payout on a claim or settlement made under an insurance policy. Any of the following acts by an  
12 insurer, if committed in violation of § 27-9.1-3, constitutes an unfair claims practice:

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

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

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

19 (4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of

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

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

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

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

19 (22) Refusing to acknowledge and compensate an auto body repairer for documented  
20 procedures identified as necessary by the original equipment manufacturer, paint manufacturer,  
21 when included in the repairer's appraisal, or when requested by the repairer (i.e., components that  
22 cannot be reused/reinstalled: requiring clips, retainers, and hardware);

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

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

29 (25) Failure of an insurer's assigned appraiser, or representative, to promptly schedule an  
30 appointment for an appraisal of a damaged vehicle with the auto body repair shop, at an agreed  
31 upon date and time, between normal business hours;

32 (26) Failure to perform an initial appraisal within three (3) business days after a request is  
33 received from an auto body repair shop, provided the damaged motor vehicle is on the premises of  
34 the repair shop when the request is made, and failure to perform a supplemental appraisal inspection

1 of a vehicle within four (4) business days after a request is received from an auto body repair shop.  
2 If the insurer's appraiser fails to inspect the damaged motor vehicle within the allotted number of  
3 business days for an initial appraisal or a supplemental appraisal, the insurer shall forfeit its right  
4 to inspect the damaged vehicle prior to repairs, and negotiations shall be limited to labor and the  
5 price of parts and shall not, unless objective evidence to the contrary is provided by the insurer,  
6 involve disputes as to the existence of damage or the chosen manner of repair. The time limitations  
7 set forth in this subsection may be extended by mutual agreement between the auto body repair  
8 shop and the insurer;

9 (27) Refusing to extend the rental vehicle coverage requirements of an insured or claimant  
10 proportionally to claim delays caused by the insurer.

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

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

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

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

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

31 (v) When a vehicle is deemed a total loss, if the insurer is not retaining the salvage, the  
32 insurer must notify the owner of the vehicle in writing of the requirements of obtaining both a  
33 salvage title and a reconstructed title from the department of motor vehicles pursuant to chapter 1  
34 of title 31, and must obtain, in writing, the owner's consent and acknowledgement that the insurer

1 is not retaining the salvage and include a statement of the owner's obligation and potential costs to  
2 dispose of or otherwise retain the salvage;

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

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

14 (b)(1) Nothing contained in subsections (a)(19), (a)(20), and (a)(21) of this section shall be  
15 construed to interfere with an auto body repair facility's contract with an insurance 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 (a)(19), (a)(20), and  
18 (a)(21) of this section 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 (c) Any insured who is aggrieved or harmed by an action of an insurer that is an unfair  
23 claims practice in violation of this chapter may bring a civil action in the appropriate district or  
24 superior court having jurisdiction based on the amount in controversy.

25 (1) As a prerequisite to filing a private cause of action, the aggrieved party shall first be  
26 required to exhaust any administrative procedures established by the department of business  
27 regulation and this chapter and seek to resolve the alleged unfair claims practice with the insurer.

28 (2) If the aggrieved party has exhausted all such administrative actions and remains  
29 unsatisfied, the aggrieved party may bring a civil action in the district or superior court having  
30 jurisdiction, based on the amount in controversy, where the aggrieved party is a resident. Upon a  
31 finding that the insurer has committed an unfair claims practice, the court may award appropriate  
32 relief, including, but not limited to, injunctive relief and monetary damages. This relief shall  
33 include, but not be limited to, any damages, civil penalties, injunctive relief, or penalties the director  
34 of the department of business regulation may issue pursuant to this chapter, including the provisions

1 [of § 27-9.1-6.](#)

2 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

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- 1           This act would provide insured individuals with a private cause of action under the unfair
- 2 claims settlement practices act.
- 3           This act would take effect upon passage.

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