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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO INSURANCE - UNFAIR DISCRIMINATION AGAINST SUBJECTS OF
ABUSE IN PROPERTY AND CASUALTY INSURANCE

Introduced By: Senators Gallo, and Lynch

Date Introduced: March 13, 2013

Referred To: Senate Commerce

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 60.1

4 UNFAIR DISCRIMINATION AGAINST SUBJECTS OF ABUSE IN PROPERTY AND

5 CASUALTY INSURANCE

6 27-60.1-1. Short title. -- This chapter shall be known and may be cited as the "Unfair
7 Discrimination Against Subjects of Abuse in Property and Casualty Insurance Act."

8 27-60.1-2. Purpose. -- The purpose of this chapter is to prohibit unfair discrimination by
9 property and casualty insurers and insurance professionals on the basis of abuse status. Nothing in
10 this chapter shall be construed to create or imply a private cause of action for a violation of this
11 chapter.

12 27-60.1-3. Scope. -- This chapter applies to all property and casualty insurers and
13 insurance professionals involved in issuing or renewing, in this state, a policy of property and
14 casualty insurance.

15 27-60.1-4. Definitions. -- For the purposes of this chapter:

16 (1) "Abuse" means the occurrence of one or more of the following acts by a current or
17 former family member, household member, intimate partner or caretaker :

18 (i) Attempting to cause or intentionally, knowingly or recklessly causing another person

1 bodily injury, physical harm, severe emotional distress, psychological trauma, rape, sexual assault
2 or involuntary sexual intercourse;

3 (ii) Knowingly engaging in a course of conduct or repeatedly committing acts toward
4 another person including following the person without proper authority, under circumstances that
5 place the person in reasonable fear of bodily injury or physical harm;

6 (iii) Subjecting another person to false imprisonment; or

7 (iv) Attempting to cause or intentionally, knowingly, or recklessly causing damage to
8 property so as to intimidate or attempt to control the behavior of another person.

9 (2) "Abuse-related claim" means a claim under a property and casualty policy for a loss
10 resulting from an act of abuse.

11 (3) "Abuse status" means the fact or perception that a natural person is, has been, or may
12 be a subject of abuse, irrespective of whether the natural person has incurred abuse-related
13 claims.

14 (4) "Commissioner" means the director of the department of business regulation or his or
15 her designee.

16 (5) "Confidential abuse information" means information about acts of abuse or abuse
17 status of a subject of abuse, the address and telephone number (home and work) of a subject of
18 abuse or the status of an applicant or insured as a family member, employer or associate of, or a
19 person in a relationship with, a subject of abuse.

20 (6) "Insurance professional" means a producer, broker, adjuster or third-party
21 administrator as defined in the insurance laws of this state.

22 (7) "Insured" means the party named on a policy or certificate as the individual with legal
23 rights to the benefits provided by such policy.

24 (8) "Insurer" means a person or other entity engaged in the business of property and
25 casualty insurance in this state including all residual market mechanisms.

26 (9) "Policy" means a contract of insurance, including endorsements, riders or binders
27 issued, proposed for issuance, or intended for issuance by an insurer or insurance professional.

28 (10) "Subject of abuse" means a natural person against whom an act of abuse has been
29 directed; who has current or prior injuries, illnesses or disorders that resulted from abuse; or who
30 seeks, may have sought or had reason to seek medical or psychological treatment for abuse; or
31 protection, court-ordered protection or shelter from abuse.

32 **27-60.1-5. Unfairly discriminatory acts relating to property and casualty insurance.**

33 **-- (a) It is unfairly discriminatory to deny, refuse to issue, renew or reissue; to cancel or otherwise**
34 **terminate; restrict or exclude coverage on or to add a premium differential to a property and**

1 casualty insurance policy on the basis of the applicant's or insured's abuse status.

2 (b) It is unfairly discriminatory to:

3 (1) Exclude or limit payment for a covered loss or deny a covered claim incurred as a
4 result of abuse by a person other than a co-insured; or

5 (2) Fail to pay losses arising out of abuse to an innocent first party claimant to the extent
6 of such claimant's legal interest in the covered property if the loss is caused by the intentional act
7 of an insured, or using other exclusions or limitations on coverage which the commissioner has
8 determined unreasonably restrict the ability of subjects of abuse to be indemnified for such losses.

9 (c) This section shall not require payment in excess of the loss or policy limits.

10 (d) Nothing in this chapter shall be construed to prohibit an insurer or insurance
11 professional from applying reasonable standards of proof to claims under this section.

12 (e) When the insurer or insurance professional has information in its possession that
13 clearly indicates that the insured, applicant or claimant is a subject of abuse, it is unfairly
14 discriminatory, by a person employed by or contracting with an insurer, to disclose or transfer
15 confidential abuse information, as defined in this chapter, for any purpose or to any person,
16 except:

17 (1) To the subject of abuse or an individual specifically designated in writing by the
18 subject of abuse;

19 (2) When ordered by the commissioner or a court of competent jurisdiction or otherwise
20 required by law;

21 (3) When necessary for a valid business purpose to transfer information that includes
22 confidential abuse information that cannot reasonably be segregated without undue hardship,
23 confidential abuse information may be disclosed only if the recipient has executed a written
24 agreement to be bound by the prohibitions of this chapter in all respects and to be subject to the
25 enforcement of this chapter by the courts of this state for the benefit of the applicant or the
26 insured, and only to the following persons:

27 (i) A reinsurer that seeks to indemnify or indemnifies all or any part of a policy covering
28 a subject of abuse and that cannot underwrite or satisfy its obligations under the reinsurance
29 agreement without that disclosure;

30 (ii) A party to a proposed or consummated sale, transfer, merger or consolidation of all or
31 part of the business of the insurer or insurance professional;

32 (iii) Medical or claims personnel contracting with the insurer or insurance professional,
33 only where necessary to process an application or perform the insurer's or insurance
34 professional's duties under the policy or to protect the safety or privacy of a subject of abuse (also

1 includes parent or affiliate companies of the insurer or insurance professional that have service
2 agreements with the insurer or insurance professional); or

3 (iv) With respect to address and telephone number, to entities with whom the insurer
4 transacts business when the business cannot be transacted without the address and telephone
5 number;

6 (4) To an attorney who needs the information to represent the insurer or insurance
7 professional effectively, provided the insurer or insurance professional notifies the attorney of its
8 obligations under this chapter and requests that the attorney exercise due diligence to protect the
9 confidential abuse information consistent with the attorney's obligation to represent the insurer or
10 insurance professional; or

11 (5) To any other entities deemed appropriate by the commissioner.

12 (f) It is unfairly discriminatory to request information relating to acts of abuse or an
13 applicant's or insured's abuse status, or to make use of that information, however obtained,
14 except for the limited purposes of complying with legal obligations or verifying a person's claim
15 to be a subject of abuse.

16 (g) Paragraph (e)(3)(iii) does not preclude a subject of abuse from obtaining his or her
17 insurance records.

18 (h) Paragraph (e)(3)(iv) does not prohibit a property and casualty insurer from asking an
19 applicant or insured about a property and casualty claim, even if the claim is abuse-related, or
20 from using information thereby obtained in evaluating and carrying out its rights and duties under
21 the policy, to the extent otherwise permitted under this chapter and other applicable law.

22 **27-60.1-6. Justification of Adverse Insurance Decisions. --** An insurer or insurance
23 professional that takes an action not prohibited by section 27-60.1-5 that adversely affects an
24 applicant or insured on the basis of claim or other underwriting information that the insurer or
25 insurance professional knows or has reason to know is abuse-related shall explain the reason for
26 its action to the applicant or insured in writing and shall be able to demonstrate that its action, and
27 any applicable policy provision;

28 (1) Does not have the purpose of treating abuse status as an underwriting criterion; and

29 (2) Is otherwise permissible by law and applies in the same manner and to the same
30 extent to all applicants and insureds with a similar claim or claims history without regard to
31 whether the claims are abuse-related.

32 **27-60.1-7. Insurance Protocols for Subjects of Abuse. --** Insurers shall develop and
33 adhere to written policies specifying procedures to be followed by employees and by insurance
34 professionals they contract with, for the purpose of protecting the safety and privacy of a subject

1 of abuse and shall otherwise implement the provisions of this chapter when taking an application,
2 investigating a claim, pursuing subrogation or taking any other action relating to a policy or claim
3 involving a subject of abuse. Insurers shall distribute their written policies to employees and
4 insurance professionals.

5 **27-60.1-8. Effective Date. --** This chapter applies to all actions taken on or after the
6 effective date, except where otherwise explicitly stated. Nothing in this chapter shall require an
7 insurer or insurance professional to conduct a comprehensive search of its contract files existing
8 on the effective date solely to determine which applicants or insureds are subjects of abuse.

9 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 DISCRIMINATION AGAINST SUBJECTS OF
ABUSE IN PROPERTY AND CASUALTY INSURANCE

- 1 This act would prohibit discrimination against victims of domestic abuse in property and
- 2 casualty insurance.
- 3 This act would take effect upon passage.

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