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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Senators Burke, McKenney, Tikoian, and LaMountain

Date Introduced: March 01, 2024

Referred To: Senate Judiciary

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; provided that, the insurance company promptly notifies the rental car company
34 in writing of the reason. The written notification shall be made at or before the time that the

1 insurance company submits payment to the rental car company;

2 (19) Refusing to honor a "direction to pay" executed by an insured, claimant, indicating
3 that the insured or claimant wishes to have the insurance company directly pay the insured's
4 property damage benefit to the restoration company of the consumer's choice; provided, however,
5 that the amount of the claim to be paid directly to the restoration company shall be no greater than
6 five thousand dollars (\$5,000), and that the restoration company is licensed pursuant to § 5-65-3.
7 Nothing in this section shall be construed to:

8 (i) Prevent the insurance company's ability to question or challenge whether the services
9 billed for are covered by the policy, related to an occurrence covered by the policy, or the amount
10 charged, in accordance with its policy provisions, and the requirements of the department of
11 business regulation; or

12 (ii) Adversely affect the right of any mortgagee or other person with an interest in the policy
13 unless such mortgagee or other person has also executed the "direct to pay";

14 ~~(19)~~(20) Modifying any published manual, i.e., Motor's Auto Repair Manual, Mitchells,
15 or any automated appraisal system, relating to auto body repair without prior agreement between
16 the parties;

17 ~~(20)~~(21) Failing to use a manual or system in its entirety in the appraisal of a motor vehicle;

18 ~~(21)~~(22) Refusing to compensate an auto body shop for its documented charges as
19 identified, and based on, the most current version of automotive industry-recognized software
20 programs or systems for paint, body, and refinishing materials, utilized in auto body repair,
21 including, but not limited to, programs such as Mitchell's RMC, PMC Logic, Paint, Micromix, or
22 other paint manufacturer's programs. An insurer shall not discount documented charges by failing
23 to use a system in its entirety, including an automotive industry standard markup;

24 ~~(22)~~(23) Refusing to acknowledge and compensate an auto body repairer for documented
25 procedures identified as necessary by the original equipment manufacturer, paint manufacturer,
26 when included in the repairer's appraisal, or when requested by the repairer (i.e., components that
27 cannot be reused/reinstalled: requiring clips, retainers, and hardware);

28 ~~(23)~~(24) Failing to comply with the requirements of § 31-47-12.1;

29 ~~(24)~~(25) Failure to have an appraisal performed by a licensed appraiser where the motor
30 vehicle has sustained damage estimated to exceed two thousand five hundred dollars (\$2,500). The
31 licensed appraiser referred to herein must be unaffiliated with the repair facility repairing the
32 subject motor vehicle; must perform a physical inspection of the damaged motor vehicle; and may
33 not perform an appraisal based upon pictures of the damaged motor vehicle;

34 ~~(25)~~(26) Failure of an insurer's assigned appraiser, or representative, to promptly schedule

1 an appointment for an appraisal of a damaged vehicle with the auto body repair shop, at an agreed
2 upon date and time, between normal business hours;

3 ~~(26)~~(27) Failure to perform an initial appraisal within three (3) business days after a request
4 is received from an auto body repair shop, provided the damaged motor vehicle is on the premises
5 of the repair shop when the request is made, and failure to perform a supplemental appraisal
6 inspection of a vehicle within four (4) business days after a request is received from an auto body
7 repair shop. If the insurer's appraiser fails to inspect the damaged motor vehicle within the allotted
8 number of business days for an initial appraisal or a supplemental appraisal, the insurer shall forfeit
9 its right to inspect the damaged vehicle prior to repairs, and negotiations shall be limited to labor
10 and the price of parts and shall not, unless objective evidence to the contrary is provided by the
11 insurer, involve disputes as to the existence of damage or the chosen manner of repair. The time
12 limitations set forth in this subsection may be extended by mutual agreement between the auto body
13 repair shop and the insurer;

14 ~~(27)~~(28) Refusing to extend the rental vehicle coverage requirements of an insured or
15 claimant proportionally to claim delays caused by the insurer.

16 ~~(28)~~(29) Designating a motor vehicle a total loss if the cost to rebuild or reconstruct the
17 motor vehicle to its pre-accident condition is less than seventy-five percent (75%) of the "fair
18 market value" of the motor vehicle immediately preceding the time it was damaged:

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

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

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

31 (iv) If condition adjustments are made to the retail value of a motor vehicle designated a
32 total loss, all such adjustments must be in accordance with the standards set forth in the current
33 edition of a nationally recognized compilation of retail values, commonly used by the automotive
34 industry, used by the insurer to determine the retail value of the vehicle; and all such adjustments,

1 including prior damage deductions, must be itemized, fair, and reasonable; and

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

8 ~~(29)~~(30) Negotiating, or effecting the settlement of, a claim for loss or damage covered by
9 an insurance contract with an unlicensed public adjuster acting on behalf of an insured. Nothing
10 contained in this section shall be construed to preclude an insurer from dealing with any individual
11 or entity that is not required to be licensed under chapter 10 of title 27;

12 ~~(30)~~(31) Refusing to pay an auto body repair shop for documented necessary sublet
13 services paid out to vendors or incurred by the auto body repair shop, for specialty or unique
14 services performed in the overall repair process, including costs and labor incurred to research,
15 coordinate, administrate, or facilitate the necessary sublet service, and an automotive industry
16 standard markup. Examples of sublet services include, but are not limited to, towing, transportation,
17 suspension, alignments, electronic calibrations, diagnostic work, mechanical work, and paid
18 charges to release a vehicle;

19 (32)(i) When a claim is settled, or partially settled, where the named insured is represented
20 by a public adjuster licensed pursuant to § 27-10-5, failing to obey a direction to pay letter directing
21 the insurer to issue a check or checks payable to the public adjuster for the public adjuster's fee, but
22 not more than ten percent (10%) of the total amount of the settlement, and a separate check payable
23 to the named insured or any loss payee or mortgagee, or both, whichever is appropriate, for the
24 balance; provided that, the direction to pay letter is signed or electronically signed and dated or
25 electronically dated by the named insured and contains the following information:

26 (A) Name of insured(s);

27 (B) The claim number (if obtained);

28 (C) The date or approximate date of the loss;

29 (D) The public adjuster's name;

30 (E) The name of the insurer;

31 (F) The public adjuster's fee; and

32 (G) The addresses to which each check shall be sent.

33 (ii) Nothing in this subsection shall be construed to:

34 (A) Prevent the insurance company's ability to question or challenge whether the services

1 billed for are covered by the policy, related to an occurrence covered by the policy, or the amount
2 charged, in accordance with its policy provisions, and the requirements of the department of
3 business regulation; or

4 (B) Adversely affect the right of any mortgagee or other person with an interest in the
5 policy unless such mortgagee or other person has also executed the "direct to pay".

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

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

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

14 SECTION 2. This act shall take effect on January 1, 2025.

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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 on January 1, 2025.

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