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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

Introduced By: Senators Lynch, Walaska, and Bates

Date Introduced: March 24, 2010

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 27-34-1, 27-34-2, 27-34-3, 27-34-5, 27-34-6, 27-34-7, 27-34-8,  
2           27-34-9, 27-34-10, 27-34-11, 27-34-12, 27-34-14, 27-34-15, 27-34-16, 27-34-17 and 27-34-19 of  
3           the General Laws in Chapter 27- 34 entitled "Rhode Island Insurers Insolvency Fund" are hereby  
4           amended to read as follows:

5           **27-34-1. Short title.** -- This chapter shall be known and may be cited as the "Rhode  
6           Island ~~Insurers' Insolvency Fund~~ Property & Casualty Insurance Guaranty Association Act".

7           **27-34-2. Purpose.** -- The purpose of this chapter is to provide a mechanism for the  
8           payment of covered claims under certain insurance policies, to avoid excessive delay in payment  
9           and ~~to avoid~~ to the extent provided in this chapter minimize financial loss to claimants or  
10          policyholders because of the insolvency of an insurer, and to ~~create an entity~~ provide an  
11          association to assess the cost of ~~the~~ such protection ~~and distribute it equitably~~ among ~~member~~  
12          insurers.

13          **27-34-3. Scope.** -- This chapter shall apply to all kinds of direct insurance, but shall not  
14          be applicable to the following:

15               (1) Life, annuity, health, or disability insurance;

16               (2) Mortgage guaranty, financial guaranty or other forms of insurance offering protection  
17          against investment risks. For purposes of this section "financial guaranty insurance" includes any  
18          insurance under which loss is payable upon proof of occurrence of any of the following events to  
19          the damage of an insured claimant or oblige:

1           (1) Failure of any obligor or obligors on any debt instrument or other monetary  
2 obligation, including common or preferred stock, to pay when due the principal, interest, dividend  
3 or purchase price of such instrument or obligation, whether failure is the result of a financial  
4 default or insolvency and whether or not the obligation is incurred directly or as a guarantor by,  
5 or on behalf of, another obligor which has also defaulted;

6           (ii) Changes in the level of interest rates whether short term or long term, or in the  
7 difference between interest rates existing in various markets;

8           (iii) Changes in the rate of exchange of currency, or from the inconvertibility of one  
9 currency into another for any reason;

10          (iv) Changes in the value of specific assets or commodities, or price levels in general;

11          (3) Fidelity or surety bonds, or any other bonding obligations;

12          (4) Credit insurance, vendors' single interest insurance, or collateral protection insurance  
13 or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor  
14 transaction. For purposes of this section "credit insurance" means insurance on accounts  
15 receivable;

16          (5) Insurance of warranties or service contracts including insurance that provides for the  
17 repair, replacement or service of goods or property, indemnification for repair, replacement or  
18 service for the operational or structural failure of the goods or property due to a defect in  
19 materials, workmanship or normal wear and tear, or provides reimbursement for the liability  
20 incurred by the issuer of agreements or service contracts that provide such benefits;

21          (6) Title insurance;

22          (7) ~~Ocean marine insurance., except that portion of the marine protection and indemnity~~  
23 ~~insurance covering liability of the insured for personal injury, illness, or death to employees and~~  
24 ~~insurance covering pleasure craft. "Ocean Marine insurance" means any form of insurance,~~  
25 regardless of the name, label or marketing designation of the insurance policy, which insures  
26 against maritime perils or risks and other related perils or risks, which are usually insured against  
27 by traditional marine insurance, such as hull and machinery, marine builders risk, and marine  
28 protection and indemnity. Perils and risk insured against include without limitation loss, damage,  
29 expense or legal liability of the insured for loss, damage or expense arising out of or incident to  
30 ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or  
31 instrumentality in use in ocean or inland waterways for commercial purposes, including liability  
32 of the insured for personal injury, injury, illness or death or for loss or damage to the property of  
33 the insured or another person;

34          ~~(8) Commercial lines excess liability insurance;~~

1           ~~(9)~~ (8) Any transaction or combination of transactions between a person, including  
2 affiliates of ~~the~~ such person, and an insurer, including affiliates of the insurer, which involves the  
3 transfer of investment or credit risk unaccompanied by transfer of insurance risk; ~~and~~

4           (9) Any insurance provided by or guaranteed by the government; or

5           (10) Any transaction or combination of transactions between a protected cell and the  
6 general account or another protected cell of a protected cell company organized under the  
7 Protected Cell Companies Act, chapter 64 of this title, as those terms are defined in this chapter.

8           **27-34-5. Definitions.** -- As used in this chapter:

9           (1) "Account" means any one of the three (3) accounts created by § 27-34-6;

10          (2) "Affiliate" means a person; who directly, or indirectly, through one or more  
11 intermediaries, controls, is controlled by, or is under common control with ~~an~~ another ~~insolvent~~  
12 ~~insurer~~ person on December 31 of the year ~~next~~ immediately preceding the date the insurer  
13 becomes an insolvent insurer;

14          (3) "Association" means the Rhode Island Insurance Guaranty Association created under  
15 section 27-34-6.

16          (4) "Association similar to the association" means any guaranty association, security fund  
17 or other insolvency mechanism that affords protection similar to that of the association. The term  
18 shall also include any property and casualty insolvency mechanism that obtains assessments or  
19 other contributions from insurers on a pre-insolvency basis.

20          (5) "Assumed claims transaction" means:

21           (i) Policy obligations that have been assumed by the insolvent insurer, prior to the entry  
22 of a final order of liquidation, through a merger between the insolvent insurer and another entity  
23 obligated under the policies; or

24           (ii) An assumption reinsurance transaction in which all of the following has occurred:

25           (A) The insolvent insurer assumed, prior to the entry of a final order of liquidation, the  
26 claim or policy obligations of another insurer or entity obligated under the claims or policies; and

27           (B) The assumption of the claim or policy obligations has been approved, if such  
28 approval is required, by the appropriate regulatory authorities; and

29           (C) As a result of the assumption, the claim or policy obligations became the direct  
30 obligations of the insolvent insurer through a novation of the claims or policies.

31          ~~(3)~~ (6) "Claimant" means ~~any insured making a first party claim or~~ any person instituting  
32 a ~~liability~~ covered claim; provided that no person who is an affiliate of the insolvent insurer may  
33 be a claimant;

34          ~~(4) "Commercial lines excess liability insurance" means any commercial lines liability~~

1 ~~insurance written over an underlying policy with policy limits of at least three hundred thousand~~  
2 ~~dollars (\$300,000) or a self insured retention of at least three hundred thousand dollars~~  
3 ~~(\$300,000);~~

4 ~~(5) "Commercial lines insurance" means any insurance to which this chapter applies~~  
5 ~~which is not personal lines insurance;~~

6 ~~(6)~~ (7) "Commissioner" means the ~~commissioner of insurance~~ Director of the Department  
7 of Business Regulation or his or her designee;

8 ~~(7)~~ (8) "Control" means the possession, direct or indirect, of the power to direct or cause  
9 the direction of the management and policies of a person, whether through the ownership of  
10 voting securities, by contract other than a commercial contract for goods or nonmanagement  
11 services, or otherwise, unless the power is the result of an official position with, or corporate  
12 office held by, the person. Control shall be presumed to exist if ~~any~~ a person, directly or  
13 indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent  
14 (10%) or more of the voting securities of any other person. This presumption may be rebutted by  
15 a showing that control does not exist in fact;

16 ~~(8)~~ (9) "Covered claim" means the following:

17 (i) ~~an~~ An unpaid claim, including one for unearned premiums, submitted by a claimant,  
18 which arises out of and is within the coverage and subject to the applicable limits of an insurance  
19 policy to which this chapter applies ~~issued by an insurer~~ if the insurer becomes an insolvent  
20 insurer after the effective date of this chapter and the policy was either issued by the insurer or  
21 assumed by the insurer in an assumed claims transaction; and:

22 ~~(i)(A)~~ (A) The claimant or insured is a resident of this state at the time of the insured event;  
23 provided, that for entities other than an individual, the residence of a claimant, ~~or~~ insured or  
24 policyholder is the state in which its principal place of business is located at the time of the  
25 insured event; or

26 ~~(i)(B)~~ (B) The claim is a first party claim for damage to property ~~from which the claim arises~~  
27 ~~is with a permanently located~~ permanent location in this state.

28 (ii) Except as provided elsewhere in this section, ~~Covered~~ covered claim" shall not  
29 include ~~any amount:~~

30 (A) Any amount ~~Awarded~~ awarded as punitive or exemplary damages;

31 (B) Any amount ~~Sought~~ sought as a return of premium under any retrospective rating  
32 plan; ~~or~~

33 (C) Any amount ~~Due~~ due any reinsurer, insurer, insurance pool, or underwriting  
34 association, health maintenance organization, hospital plan corporation, professional health

1 service corporation or self-insurer as subrogation recoveries, reinsurance recoveries, contribution,  
2 indemnification or otherwise; ~~provided, that a~~ No claim for any amount; due any reinsurer,  
3 insurer, insurance pool, underwriting association, health maintenance organization, hospital plan  
4 corporation, professional health service corporation or self-insurer may be asserted against a  
5 person insured under a policy issued by an insolvent insurer ~~which has become an insolvent~~  
6 ~~insurer, which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool,~~  
7 ~~or underwriting association, would be a "covered claim", may be filed directly with the receiver~~  
8 ~~of the insolvent insurer, but in no event may any the claim be asserted against the insured of the~~  
9 ~~insurer~~ other than to the extent the claim exceeds the association obligation limitations set forth in  
10 section 27-34-8 of this chapter;

11 (D) Any claims excluded pursuant to section 27-34-11.1 due to the high net worth of an  
12 insured;

13 (E) Any first party claims by an insured that is an affiliate of the insolvent insurer;

14 (F) Any fee or other amount relating to goods or services sought by or on behalf of any  
15 attorney or other provider of goods or services retained by the insolvent insurer or an insured  
16 prior to the date it was determined to be insolvent;

17 (G) Any fee or other amount sought by or on behalf of any attorney or other provider of  
18 goods or services retained by any insured or claimant in connection with the assertion or  
19 prosecution of any claim, covered or otherwise, against the association;

20 (H) Any claims for interest; or

21 (I) Any claim filed with the association or a liquidator for protection afforded under the  
22 insured's policy for incurred-but-not-reported losses.

23 ~~(9) "Fund" means the Rhode Island insurers' insolvency fund created under § 27-34-6;~~

24 (10) "Insolvent insurer" means an insurer licensed to transact insurance in this state ~~any~~  
25 ~~of the kinds of insurance within the scope of this chapter,~~ either at the time the policy was issued;  
26 when the obligation with respect to the covered claim was assumed under an assumed claims  
27 transaction; or when the insured event occurred, and against ~~which an~~ whom a final order of  
28 liquidation ~~with a finding of insolvency~~ has been entered after the effective date of this chapter  
29 with a finding of insolvency by a court of competent jurisdiction in the insurer's state of domicile.  
30 ~~or in this state under the provision(s) of chapter 14.3 of this title which order of liquidation has~~  
31 ~~not been stayed or been the subject of a writ of supersedeas or other comparable order;~~

32 (11) "Insured" means any named insured, any additional insured, any vendor, lessor or  
33 any other party identified as an insured under the policy.

34 ~~(11)~~ (12) (a) "Member insurer" means any person who:

1 (i) Writes any kind of insurance to which this chapter applies under section 27-34-3,  
2 including the exchange of reciprocal or interinsurance contracts; and

3 (ii) Is licensed to transact insurance in this state (except at the option of the state);

4 (b) An insurer shall cease to be a member insurer effective on the day following the  
5 termination or expiration of its license to transact the kinds of insurance to which this chapter  
6 applies, however, the insurer shall remain liable as a member insurer for any and all obligations,  
7 including obligations for assessments levied prior to the termination or expiration of the insurer's  
8 license and assessments levied after the termination or expiration, which relate to any insurer that  
9 became an insolvent insurer prior to the termination or expiration of the insurer's license.

10 ~~(12)~~ (13) "Net direct written premiums" means direct gross premiums written in this state  
11 on insurance policies to which this chapter applies, including policy and membership fees, less  
12 the following amounts: (i) ~~return~~ Return premiums, (ii) Premiums on ~~those~~ policies not taken, and  
13 (iii) ~~dividends~~ Dividends ~~or unabsorbed premiums~~ paid or credited to policyholders on ~~the~~ that  
14 direct business. "Net direct written premiums" does not include premiums on contracts between  
15 insurers or reinsurers;

16 (14) "Novation" means that the assumed claim or policy obligations became the direct  
17 obligations of the insolvent insurer through consent of the policyholder and that thereafter the  
18 ceding insurer or entity initially obligated under the claims or policies is released by the  
19 policyholder from performing its claim or policy obligations. Consent may be express or implied  
20 based upon the circumstances, notice provided and conduct of the parties.

21 ~~(13)~~ (15) "Person" means any individual, aggregation of individuals, corporation,  
22 partnership, ~~association~~, or ~~voluntary organization~~ other entity;

23 ~~(14) "Personal lines insurance" means any insurance to which this chapter applies issued~~  
24 ~~for personal, family, or household purposes;~~

25 ~~(15) "Pleasure craft" means watercraft, other than a seaplane on the water or a houseboat,~~  
26 ~~not greater than thirty-five (35) feet in length used solely for pleasure and not used for:~~

27 ~~(i) Charter or hire; or~~

28 ~~(ii) To carry persons or property for fee or any commercial use; and~~

29 ~~(16) "Self-insured retention" means:~~

30 ~~(i) Any fund or other arrangement to pay claims other than by an insurance company; or~~

31 ~~(ii) Any arrangement under which an insurance company has no obligation to pay claims~~  
32 ~~on behalf of an insured if it is not reimbursed by the insured.~~

33 (16) "Receiver" means liquidator, rehabilitator, conservator or ancillary receiver, as the  
34 context requires.

1 (17) "Self-insurer" means a person that covers its liability through a qualified individual  
2 or group self-insurance program or any other formal program created for the specific purpose of  
3 covering liabilities typically covered by insurance.

4 **27-34-6. ~~Creation of the fund.~~ Creation of the association.** --There is created a  
5 nonprofit unincorporated legal entity to be known as the "Rhode Island ~~insurers' insolvency fund.~~  
6 Property & Casualty Insurance Guaranty Association." All insurers defined as member insurers in  
7 subdivision 27-34-5(12) shall be and remain members of the ~~fund~~ association as a condition of  
8 their authority to transact insurance in this state. The ~~fund~~ association shall perform its functions  
9 under a plan of operation established and approved under § 27-34-9 and shall exercise its powers  
10 through a board of directors established under § 27-34-7. For the purposes of administration and  
11 assessment, the fund shall be divided into three (3) separate accounts: (1) the workers'  
12 compensation insurance account; (2) the automobile insurance account; and (3) the account for all  
13 other insurance to which this chapter applies.

14 **27-34-7. Board of directors.** -- (a) The board of directors of the ~~fund~~ association shall  
15 consist of not less than five (5) nor more than ~~nine eleven (9)~~ (11) persons serving terms as  
16 established in the plan of operation. The insurer members of the board shall be selected by  
17 member insurers subject to the approval of the commissioner. Vacancies on the board shall be  
18 filled for the remaining period of the term by a majority vote of the remaining ~~board~~ insurer  
19 members subject to the approval of the commissioner. Two (2) persons, who must be public  
20 representatives, shall be appointed by the commissioner to the board of directors. Vacancies of  
21 positions held by public representatives shall be filled by the commissioner. A public  
22 representative may not be an officer, director or employee of an insurance company or any person  
23 engaged in the business of insurance. For the purposes of this section, the term "director" shall  
24 mean an individual serving on behalf of an insurer member of the board of directors or a public  
25 representative on the board of directors.

26 (b) In approving selections to the board, the commissioner shall consider among other  
27 things whether all member insurers are fairly represented.

28 (c) Members of the board of directors may be reimbursed from the assets of the ~~fund~~  
29 association for expenses incurred by them as members of the board of directors.

30 (d) Any board member who is an insurer in receivership shall be terminated as a board  
31 member, effective as of the date of the entry of the order of receivership. Any resulting vacancies  
32 on the board shall be filled for the remaining period of the term in accordance with the provisions  
33 of subsection (a).

34 (e) In the event that a director shall, because of illness, nonattendance at meetings or any

1 other reason, be deemed unable to satisfactorily perform the designated functions as a director by  
2 missing three (3) consecutive board meetings, the board of directors may declare the office vacant  
3 and the member or director shall be replaced in accordance with the provisions of subsection (a).

4 (f) If the commissioner has reasonable cause to believe that a director failed to disclose a  
5 known conflict of interest with his or her duties on the board, failed to take appropriate action  
6 based on a known conflict of interest with his or her duties on the board, or has been indicted or  
7 charged with a felony, or misdemeanor involving moral turpitude, the commissioner may suspend  
8 that director pending the outcome of an investigation or hearing by the commissioner or the  
9 conclusion of any criminal proceedings. A company elected to the board may replace a suspended  
10 director prior to the completion of an investigation, hearing or criminal proceeding. In the event  
11 that the allegations are substantiated at the conclusion of an investigation, hearing or criminal  
12 proceeding, the office shall be declared vacant and the member or director shall be replaced in  
13 accordance with the provisions of subsection (a).

14 **27-34-8. Powers and duties of the fund. --- Powers and duties of the association.--** (a)

15 The ~~fund~~ association shall:

16 (1)(i) Be obligated to pay covered claims existing prior to the ~~determination order~~ determination order of the  
17 ~~insolvency liquidation of a member insurer or~~ arising within sixty (60) days after the  
18 ~~determination order of the insolvency liquidation~~ or before the policy expiration date if less than  
19 sixty (60) after the ~~determination order of the insolvency liquidation~~ or before the insured  
20 replaces the policy or causes its cancellation if ~~he or she~~ the insured does so within sixty (60)  
21 days of the ~~determination order of liquidation~~ determination order of liquidation. The obligations shall be satisfied by paying to the  
22 claimant an amount as follows:

23 (i) (A) The full amount of a covered claim for benefits under a workers' compensation  
24 insurance coverage;

25 (ii) (B) An amount not exceeding ten thousand dollars (\$10,000), per policy for a covered  
26 claim for the return of unearned premium;

27 (iii) (C) An amount not exceeding five hundred thousand dollars (\$500,000), per claimant  
28 for all other covered claims for insolvencies occurring on or after January 1, 2008 and an amount  
29 not exceeding three hundred thousand dollars (\$300,000) per claimant for all other covered  
30 claims for insolvencies occurring prior to January 1, 2008.

31 (ii) In no event shall the ~~fund~~ association be obligated to pay a claimant an amount in  
32 excess of the obligation of the insolvent insurer under the policy or coverage from which the  
33 claim arises. Notwithstanding any other provision of this chapter, a covered claim shall not  
34 include ~~any a~~ a claim filed with the ~~guaranty fund~~ guaranty fund association after the final date set by the court for



1 the filing of claims against the liquidator or receiver of an insolvent insurer. ~~The fund shall pay~~  
2 ~~only that amount of each unearned premium, which is in excess of one hundred dollars (\$100)~~  
3 For the purpose of filing a claim under this subsection, notice of claims to the liquidator of the  
4 insolvent insurer shall be deemed notice to the association or its agent and a list of claims shall be  
5 periodically submitted to the association or association similar to the association in another State  
6 by the liquidator;

7 (iii) Any obligation of the association to defend an insured shall cease upon the  
8 association's payment or tender of an amount equal to the lesser of the association's covered  
9 claim obligation limit or the applicable policy limit.

10 (2) Be deemed the insurer to the extent of its obligation on the covered claims and to that  
11 extent, subject to the limitation provided in this chapter, shall have all ~~of the~~ rights, duties and  
12 obligations of the insolvent insurer as if the insurer had not become insolvent, including but not  
13 limited to, the right to pursue and retain salvage and subrogation recoverable on covered claim  
14 obligations to the extent paid by the association. The association shall not be deemed the  
15 insolvent insurer for the purpose of conferring jurisdiction.

16 (3) Allocate claims paid and expenses incurred among the three (3) accounts separately,  
17 and assess member insurers separately for each account, amounts necessary to pay the obligations  
18 of the ~~fund~~ association under subdivision (a)(1) of this subsection subsequent to an insolvency,  
19 the expenses of handling covered claims subsequent to an insolvency and other expenses  
20 authorized by this chapter. The assessments of each member insurer shall be in the proportion that  
21 the net direct written premiums of the member insurer for the calendar year preceding the  
22 assessment on the kinds of insurance in the account bears to the net direct written premiums of all  
23 member insurers for the calendar year preceding the assessment on the kinds of insurance in the  
24 account. Each member insurer shall be notified of the assessment not later than thirty (30) days  
25 before it is due. ~~No~~ A member insurer may not be assessed in any one year on any account an  
26 amount greater than two percent (2%) of that member insurer's net direct written premiums for  
27 the calendar year preceding the assessment on the kinds of insurance in the account. ~~If the~~  
28 maximum assessment, together with the other assets of the association fund in any account, does  
29 not provide in any one year in any account an amount sufficient to make all necessary payments  
30 from that account, ~~each member insurer shall be assessed the additional amount that must be~~  
31 ~~obtained to make all necessary payments of the underfunded account from the other two~~  
32 ~~accounts, subject to the same limitation of two percent (2%) of that member insurer's net direct~~  
33 ~~written premiums for the calendar year preceding the assessment on the kinds of insurance in the~~  
34 ~~account. The additional assessments shall be considered loans by and between the separate~~

1 ~~accounts. Amounts borrowed under this subsection shall be paid back to the separate accounts~~  
2 ~~from which they were borrowed, out of assets, including, but not limited to, existing and future~~  
3 ~~assessments in the account receiving the loan. An interest charge shall be levied on all amounts~~  
4 ~~borrowed under this subsection based on the average prime rate of interest for each year the~~  
5 ~~money remains unpaid. If the amounts borrowed remain unpaid on the seventh yearly anniversary~~  
6 ~~as a result of the inability of the borrowing account to make repayment, then the amount~~  
7 ~~borrowed and interest which is not repaid, starting with the principal and interest of the first year,~~  
8 ~~shall be considered uncollectible.~~ The funds available shall be prorated and the unpaid portion  
9 shall be paid as soon after this as funds become available. ~~The fund shall pay claims in any order~~  
10 ~~which it deems reasonable, including the payment of claims as they are received from the~~  
11 ~~claimants or in groups or categories of claims.~~ The ~~fund~~ association may exempt or defer, in  
12 whole or in part, the assessment of any member insurer, if the assessment would cause the  
13 member insurer's financial statement to reflect amounts of capital or surplus less than the  
14 minimum amounts required for a certificate of authority by ~~any~~ a jurisdiction in which the  
15 member insurer is authorized to transact insurance. However, during the period of deferment, no  
16 dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when  
17 the payment will not reduce capital or surplus below required minimums. ~~The payments~~  
18 Payments shall be refunded to those companies receiving larger assessments by virtue of the  
19 deferment, or, at the election of any company, credited against future assessments. A member  
20 insurer may set off against any assessment, authorized payments made on covered claims and  
21 expenses incurred in the payment of claims by the member insurer if they are chargeable to the  
22 account for which the assessment is made.

23 (4) Investigate claims brought against the ~~fund~~ association and adjust, compromise, settle,  
24 and pay covered claims to the extent of the ~~fund's~~ association's obligation and deny all other  
25 claims. ~~and may review settlements, releases, and judgments to which the insolvent insurer or its~~  
26 ~~insured were parties, to determine the extent to which the settlements, releases, and judgments~~  
27 ~~may be properly contested~~ The association shall pay claims in any order that it may deem  
28 reasonable, including the payment of claims as they are received from the claimants or in groups  
29 or categories of claims. The association shall have the right to appoint and to direct legal counsel  
30 retained under liability insurance policies for the defense of covered claims.

31 (5) Notify ~~the insured~~ claimants in this state as deemed necessary by the commissioner  
32 ~~directs under § 27-34-10(b)(1)~~ and upon the commissioner's request, to the extent records are  
33 available to the association.

34 (6)(i) Have the right to review and contest as set forth in this subsection settlements,

1 releases, compromises, waivers and judgments to which the insolvent insurer or its insureds were  
2 parties prior to the entry of the order of liquidation. In an action to enforce settlements, releases  
3 and judgments to which the insolvent insurer or its insureds were parties prior to the entry of the  
4 order of liquidation, the association shall have the right to assert the following defenses, in  
5 addition to the defenses available to the insurer:

6 (A) The association is not bound by a settlement, release, compromise or waiver executed  
7 by an insured or the insurer, or any judgment entered against an insured or the insurer by consent  
8 or through a failure to exhaust all appeals, if the settlement, release, compromise, waiver or  
9 judgment was:

10 (I) Executed or entered within one hundred twenty (120) days prior to the entry of an  
11 order of liquidation, and the insured or the insurer did not use reasonable care in entering into the  
12 settlement, release, compromise, waiver or judgment, or did not pursue all reasonable appeals of  
13 an adverse judgment; or

14 (II) Executed by or taken against an insured or the insurer based on default, fraud,  
15 collusion or the insurer's failure to defend.

16 (B) If a court of competent jurisdiction finds that the association is not bound by a  
17 settlement, release, compromise, waiver or judgment for the reasons described in subparagraph  
18 (a)(i), the settlement, release, compromise, waiver or judgment shall be set aside, and the  
19 association shall be permitted to defend any covered claim on the merits. The settlement, release,  
20 compromise, waiver or judgment may not be considered as evidence of liability or damages in  
21 connection with any claim brought against the association or any other party under this chapter.

22 (C) The association shall have the right to assert any statutory defenses or rights of offset  
23 against any settlement, release, compromise or waiver executed by an insured or the insurer, or  
24 any judgment taken against the insured or the insurer.

25 (ii) As to any covered claims arising from a judgment under any decision, verdict or  
26 finding based on the default of the insolvent insurer or its failure to defend, the association, either  
27 on its own behalf or on behalf of an insured may apply to have the judgment, order, decision,  
28 verdict or finding set aside by the same court or administrator that entered the judgment, order,  
29 decision, verdict or finding and shall be permitted to defend the claim on the merits.

30 ~~(6)~~ (7) Handle claims through its employees or through one or more insurers or other  
31 persons designated as servicing facilities, which may include the receiver for the insolvent  
32 insurer. Designation of a servicing facility is subject to the approval of the commissioner, but the  
33 designation may be declined by a member insurer;

34 ~~(7)~~ (8) Reimburse each servicing facility for obligations of the ~~fund~~ association paid by

1 the facility and for expenses incurred by the facility while handling claims on behalf of the ~~fund~~  
2 association and shall pay the other expenses of the ~~fund~~ association authorized by this chapter;  
3 and

4 ~~(8)~~ (9) Obtain an irrevocable line of credit agreement from each member insurer in an  
5 amount not to exceed the member insurer's maximum assessment pursuant to subdivision (3) of  
6 this subsection to ensure the immediate availability of funds for the purposes of future claims and  
7 expenses attributable to an insurer insolvency;

8 (ii) Any amount drawn from the fund under any line of credit shall be considered a  
9 payment toward the member insurer's assessment provided for in subdivision (3) of this  
10 subsection;

11 (iii) The member insurer shall provide funding to the fund under the line of credit within  
12 three (3) business days of receipt of a written request from the fund for a draw-down under the  
13 line of credit;

14 (iv) The line of credit agreement shall be subject to prior review and approval by the  
15 commissioner at the time of origination and any subsequent renewal. It shall include any  
16 commercially reasonable provisions the fund or the commissioner may deem advisable, including  
17 a provision that the line of credit is irrevocable or for a stated period of time and provides for  
18 thirty (30) day notice to the fund and the commissioner that the line is being terminated or not  
19 renewed;

20 (v) If a line of credit is not given as provided for in this section, the member insurer shall  
21 be responsible for the payment of an assessment of up to the member's proportionate share of the  
22 applicable maximum as set forth in this subsection which shall be paid into a pre-insolvency  
23 assessment fund in each account.

24 (10) Submit, not later than ninety (90) days after the end of the association's fiscal year, a  
25 financial report for the preceding fiscal year in a form approved by the commissioner.

26 (b) The ~~fund~~ association may:

27 (1) Employ or retain ~~those~~ persons as are necessary to handle claims and perform other  
28 duties of the ~~fund~~ association;

29 (2) Borrow funds necessary to effect the purposes of this chapter in ~~accord~~ accordance  
30 with the plan of operation;

31 (3) Sue or be sued;

32 (4) Negotiate and become a party to any contracts necessary to carry out the purpose of  
33 this chapter;

34 (5) Perform any other acts necessary or proper to effectuate the purpose of this chapter;

1 and

2 (6) Refund to the member insurers in proportion to the contribution of each member  
3 insurer to that account that amount by which the assets of the account exceed the liabilities, if, at  
4 the end of any calendar year, the board of directors finds that the assets of the ~~fund~~ association in  
5 any account exceed the liabilities of that account as estimated by the board of directors for the  
6 coming year.

7 (c) Suits involving the association:

8 (1) Except for actions by the receiver, all actions relating to or arising out of this chapter  
9 against the association shall be brought in the courts in this state. The courts shall have exclusive  
10 jurisdiction over all actions relating to or arising out of this chapter against the association.

11 (2) The exclusive venue in any action by or against the association is in the Providence  
12 County Superior Court. The association may, at its option, waive this venue as to specific actions.

13 **27-34-9. Plan of operation.** -- (a) The ~~fund~~ association shall submit to the commissioner  
14 a plan of operation and any amendments to the plan of operation necessary or suitable to assure  
15 the fair, reasonable, and equitable administration of the ~~fund~~ association. The plan of operation  
16 and ~~any~~ amendments ~~to it~~ shall become effective upon approval in writing by the commissioner.

17 (b) If the fund fails to submit a suitable plan of operation or suitable amendments to the  
18 plan, the commissioner shall, after notice and hearing, adopt and promulgate any reasonable rules  
19 necessary or advisable to effectuate the provisions of this chapter. The rules shall continue in  
20 force until modified by the commissioner or superseded by a plan or amendments to it submitted  
21 by the fund and approved by the commissioner.

22 (c) All member insurers shall comply with the plan of operation.

23 (d) The plan of operation shall:

24 (1) Establish the procedures where all of the powers and duties of the ~~fund~~ association  
25 under § 27-34-8 will be performed;

26 (2) Establish the procedures for handling ~~the~~ assets of the ~~fund~~ association;

27 (3) Require that written procedures be established for the disposition of liquidating  
28 dividends or other monies received from the estate of the insolvent insurer;

29 ~~(4)~~ (4) Require that written procedures be ~~Establish~~ established to designate the amount  
30 and method of reimbursing members of the board of directors under § 27-34-7;

31 ~~(5)~~ (5) Establish procedures by which claims may be filed with the ~~fund~~ association and  
32 establish acceptable forms of proof of covered claims. ~~Notice of claims to the receiver or~~  
33 ~~liquidator of the insolvent insurer shall be deemed notice to the fund or its agent, and a list of~~  
34 ~~claims shall be periodically submitted to the fund or similar organization in another state by the~~

1 ~~receiver or liquidator;~~

2       ~~(5)~~ (6) Establish regular places and times for meetings of the board of directors;

3       ~~(6)~~ (7) ~~Establish~~ Require that written procedures be established for records to be kept of

4 all financial transactions of the ~~fund~~ association, its agents, and the board of directors;

5       ~~(7)~~ (8) Provide that any member insurer aggrieved by any final action or decision of the

6 ~~fund~~ association may appeal to the commissioner within thirty (30) days after the action or

7 decision;

8       ~~(8)~~ (9) Establish the procedures ~~by~~ under which selections for the board of directors will

9 be submitted to the commissioner; ~~and~~

10       ~~(9)~~ (10) Contain additional provisions necessary or proper for the execution of the powers

11 and duties of the ~~fund~~ association.

12       ~~(e)~~ (d) The plan of operation may provide that any or all powers and duties of the ~~fund~~

13 association, except those under §§ 27-34-8(a)(3) and 27-34-8(b)(2), ~~may be~~ are delegated to a

14 corporation, association similar to the association or other organization which performs or will

15 perform functions similar to those of ~~the this~~ ~~fund~~ association, or its equivalent, in two or more

16 states. ~~That~~ The corporation, association similar to the association, or organization shall be

17 reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of

18 any other functions of the ~~fund~~ association. A delegation under this subsection shall take effect

19 only with the approval of both the board of directors and the commissioner, and may be made

20 only to a corporation, association, or organization which extends protection not substantially less

21 favorable and effective than that provided by this chapter.

22       **27-34-10. Duties and powers of the commissioner.** -- (a) The commissioner shall:

23       (1) Notify the ~~fund~~ association of the existence of an insolvent insurer not later than three

24 (3) days after he or she receives notice of the determination of the insolvency. The ~~fund~~

25 association shall be entitled to a copy of ~~any a~~ any a complaint seeking an order of liquidation with a

26 finding of insolvency against a member ~~insurer~~ company at the same time that the complaint is

27 filed with a court of competent jurisdiction;

28       (2) ~~Upon request of the board of directors, provide~~ Provide the ~~fund~~ association with a

29 statement of the net direct written premiums of each member insurer; ~~and~~ upon request of the

30 board of directors.

31       ~~(3) Notify the fund of all filings made under § 27-35-2 except as prohibited under § 27-~~

32 ~~35-6. The commissioner shall provide copies of all of these filings to the fund upon request.~~

33       (b) The commissioner may:

34       ~~(1) Require that the fund notify the insured of the insolvent insurer and any other~~

~~interested parties of the determination of insolvency and of their rights under this chapter. The notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient;~~

(2) (1) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of ~~any a~~ member insurer ~~which that~~ fails to pay an assessment when due or fails to comply with the plan of operation. ~~and~~ As an alternative, the commissioner may levy a fine on a member insurer that fails to pay an assessment when due. The fine shall not exceed five percent (5%) of the unpaid assessment per month, except that a fine shall not be less than one hundred dollars (\$100) per month;

(3) (2) Revoke the designation of any servicing facility if he or she finds claims are being handled unsatisfactorily.

(3) Examine, audit, or otherwise regulate the association.

(c) ~~Any~~ A final action or order of the commissioner under this chapter shall be subject to judicial review in a court of competent jurisdiction.

**27-34-11. Effect of paid claims.** -- (a) Any person recovering under this chapter shall be deemed to have assigned ~~his or her~~ any rights under the policy to the ~~fund~~ association to the extent of his or her recovery from the ~~fund~~ association. Every insured or claimant seeking the protection of this chapter shall cooperate with the ~~fund~~ association to the same extent as the person would have been required to cooperate with the insolvent insurer. The ~~fund~~ association shall have no cause of action against the insured of the insolvent insurer for ~~any~~ sums it has paid out except any causes of action as the insolvent insurer would have had if the sums had been paid by the insolvent insurer and except as provided in subsection (b) of this section and section 27-34-11.1. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of the insureds to the receiver, liquidator or statutory successor for unpaid assessments.

(b) The ~~fund~~ association shall have the right to recover from ~~the following persons the amount of any "covered claim" paid on behalf of the person pursuant to this chapter:~~

~~(1) Any insured whose net worth on December 31 of the year next preceding the date the insurer became an insolvent insurer exceeded fifty million dollars (\$50,000,000) and whose liability obligations to other persons are satisfied in whole or in part by payments made under this chapter; provided, that there is no recovery of any prejudgment interest on any pending or future claims against this insured, including claims presently in suit or on appeal; and~~

~~(2) any person who is an affiliate of the insolvent insurer and whose liability obligations~~

1 ~~to other persons are satisfied in whole or in part by payments made under this chapter.~~ all  
2 amounts paid by the association on behalf of that person pursuant to the chapter, whether for  
3 indemnity, defense or otherwise.

4 (c) ~~The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound~~  
5 ~~by settlements of covered claims by the fund or a similar organization in another state. The court~~  
6 ~~having jurisdiction shall grant these claims priority equal to that which the claimant would have~~  
7 ~~been entitled in the absence of this chapter against the assets of the insolvent insurer. The~~  
8 ~~expenses of the fund or similar organization in handling claims shall be accorded the same~~  
9 ~~priority as the liquidator's expenses.~~ The association and any association similar to the association  
10 in another state shall be entitled to file a claim in the liquidation of an insolvent insurer for any  
11 amounts paid by them on covered claim obligations as determined under this chapter or similar  
12 laws in other states and shall receive dividends and other distributions at the priority set forth in  
13 section 27-14.3-46.

14 (d) The ~~fund~~ association shall periodically file with the receiver or liquidator of the  
15 insolvent insurer statements of the covered claims paid by the ~~fund~~ association and estimates of  
16 anticipated claims on the ~~fund~~ association ~~that which~~ shall preserve the rights of the ~~fund~~  
17 association against the assets of the insolvent insurer.

18 **27-34-12. Nonduplication of recovery. — Exhaustion of other coverage.** -- (a)(1) Any  
19 person having a claim against an insurer ~~under any provision in an insurance policy other than a~~  
20 ~~policy of an insolvent insurer which is also a covered claim~~, shall be required first to exhaust first  
21 ~~his or her right under that~~ all coverage provided by any other policy, including the right to a  
22 defense under the other policy, if the claim under the other policy arises from the same facts,  
23 injury or loss that gave rise to the covered claim against the association. The requirement to  
24 exhaust shall apply without regard to whether the other insurance policy is a policy written by a  
25 member insurer. However, no person shall be required to exhaust any right under the policy of an  
26 insolvent insurer or any right under a life insurance policy.

27 (2) Any amount payable on a covered claim under this chapter shall be reduced by the  
28 full applicable limits stated in the other insurance policy, or by the amount of ~~any~~ the recovery  
29 under the other insurance policy as provided herein. The association shall receive a full credit for  
30 the stated limits, unless the claimant demonstrates that the claimant used reasonable efforts to  
31 exhaust all coverage and limits applicable under the other insurance policy. If the claimant  
32 demonstrates that the claimant used reasonable efforts to exhaust all coverage and limits  
33 applicable under the other insurance policy, or if there are no applicable stated limits under the  
34 policy, the association shall receive a full credit for the total recovery.



1           (i) The credit shall be deducted from the lesser of:

2           (A) The association's covered claim limit;

3           (B) The amount of the judgment or settlement of the claim; or

4           (C) The policy limits of the policy of the insolvent insurer.

5           (ii) In no case, however, shall the obligation of the association exceed the covered claim  
6 limit embodied in section 27-34-8.

7           ~~(b) Any person having a claim or legal right of recovery under any governmental~~  
8 ~~insurance or guaranty program which is also a covered claim, shall be required to exhaust first his~~  
9 ~~or her right under that program. Any amount payable on a covered claim under this chapter shall~~  
10 ~~be reduced by the amount of any recovery under the program.~~

11           (3) Except to the extent that the claimant has a contractual right to claim defense under an  
12 insurance policy issued by another insurer, nothing in this section shall relieve the association of  
13 the duty to defend under the policy issued by the insolvent insurer. This duty shall, however, be  
14 limited by any other limitation on the duty to defend embodied in this chapter.

15           (4) A claim under a policy providing liability coverage to a person who may be jointly  
16 and severally liable as a joint tortfeasor with the person covered under the policy of the insolvent  
17 insurer that gives rise to the covered claim shall be considered to be a claim arising from the same  
18 facts, injury or loss that gave rise to the covered claim against the association.

19           (5) For purposes of this section, a claim under an insurance policy other than a life  
20 insurance policy shall include, but is not limited to:

21           (a) A claim against a health maintenance organization, a hospital plan corporation, a  
22 nonprofit hospital, medical or dental service corporation or disability insurance policy; and

23           (b) Any amount payable by or on behalf of a self-insurer.

24           (6) The person insured by the insolvent insurer's policy may not be pursued by a third-  
25 party claimant for any amount paid to the third party by which the association's obligation is  
26 reduced by the application of this section.

27           ~~(e)~~ (b) Any person having a claim which may be recovered ~~from~~ under more than one  
28 ~~insurers' insolvency fund~~ insurance guaranty association or its equivalent shall seek recovery first  
29 from the ~~fund~~ association or its equivalent of the place of residence of the insured, except that if it  
30 is a first party claim for damage to property with a permanent location ~~he or she~~ the person shall  
31 seek recovery first from the ~~fund~~ association ~~or its equivalent in the state~~ of the location of the  
32 property. ~~if~~ If it is a workers' compensation claim, ~~he or she~~ the person shall seek recovery first  
33 from the ~~fund~~ association ~~or its equivalent of the state~~ of the residence of the claimant. Any  
34 recovery under this chapter shall be reduced by the amount of recovery from ~~any other~~ another

1 insurance ~~insolvency fund~~ guaranty association or its equivalent.

2 **27-34-14. Tax exemption.** -- The ~~fund~~ association shall be exempt from ~~the~~ payment of  
3 all fees and all taxes levied by this state or any of its subdivisions ; except taxes levied on real or  
4 personal property.

5 **27-34-15. Recognition of assessments in rates. --- Recoupment of assessments .** -- The  
6 rates and premiums charged for insurance policies to which this ~~chapter~~ section applies shall  
7 include amounts sufficient to recoup a sum equal to the amounts paid to the ~~fund~~ association by  
8 the member insurer less any amounts returned to the member insurer by the ~~fund association.~~ ~~and~~  
9 ~~those rates~~ Rates shall not be deemed excessive because they contain an amount reasonably  
10 calculated to recoup assessments paid by the member insurer.

11 **27-34-16. Immunity.** -- There shall be no liability on the part of, and no cause of action  
12 of any nature shall arise against, any member insurer, the ~~fund~~ association or its agents or  
13 employees, the board of directors, or any persons serving as an alternate or substitute  
14 representative of any director, or the commissioner or his or her ~~representative~~ representatives for  
15 any action taken or ~~not taken~~ any failure to act by them in the performance of their powers and  
16 duties under this chapter.

17 **27-34-17. Stay of proceedings.** -- All proceedings in which the insolvent insurer is a  
18 party or is obligated to defend a party in any court in this state shall, subject to waiver by the  
19 association in specific cases involving covered claims, be stayed for six (6) months and ~~any such~~  
20 additional time ~~that as~~ as may be determined by the court from the date the insolvency is determined  
21 or an ancillary proceeding is instituted in this state, whichever is later, to permit proper defense  
22 by the ~~fund~~ association of all pending causes of action. ~~As to any covered claims arising from a~~  
23 ~~judgment under any decision, verdict, or finding, based on the default of the insolvent insurer or~~  
24 ~~its failure to defend an insured, the fund either on its own behalf or on behalf of the insured may~~  
25 ~~apply to have the judgment, order, decision, verdict, or finding set aside by the same court or~~  
26 ~~administrator that made the judgment, order, decision, verdict, or finding, and shall be permitted~~  
27 ~~to defend against the claim on the merits.~~ The liquidator, receiver, or statutory successor of an  
28 insolvent insurer covered by this chapter shall permit access by the board or its authorized  
29 representative to ~~any such~~ any such of the insolvent insurer's records that are necessary for the board in  
30 carrying out its functions under this chapter with regard to covered claims. In addition, the  
31 liquidator, receiver, or statutory successor shall provide the board or its representative with copies  
32 of the records upon the request by the board and at the expense of the board.

33 **27-34-19. Prohibition against advertising of membership in fund. --- Prohibition**  
34 **against advertising of membership in association.** --No person shall make, publish, or

1 circulate, or cause to be made, published, or circulated, any statement that uses the existence of  
2 the ~~fund~~ [association](#) for the purposes of sale, solicitation, or inducement to purchase any form of  
3 insurance within the scope of this chapter.

4 SECTION 2. Sections 27-34-13 and 27-34-18 of the General Laws in Chapter 27-34  
5 entitled "Rhode Island Insurers' Insolvency Fund" are hereby repealed.

6 ~~**27-34-13. Examination of the fund.** --- The fund shall be subject to examination and  
7 regulation by the commissioner. The board of directors shall submit to the commissioner, not  
8 later than March 30 of each year, a financial report for the preceding calendar year in a form  
9 approved by the commissioner.~~

10 ~~**27-34-18. Termination and distribution of fund.** --- (a) The commissioner shall by order  
11 terminate the operation of the fund as to any kind of insurance within the scope of this chapter  
12 with respect to which he or she has found, after hearing, that there is in effect a statutory or  
13 voluntary plan which:~~

14 ~~(1) Is a permanent plan which is adequately funded or for which adequate funding is  
15 provided; and~~

16 ~~(2) Extends or will extend to Rhode Island policyholders and residents protection and  
17 benefits with respect to insolvent insurers not substantially less favorable and effective to the  
18 policyholders and residents than the protection and benefits provided with respect to the kind of  
19 insurance under this chapter.~~

20 ~~(b) The commissioner shall by the same order authorize the discontinuance of future  
21 payments by insurers to the fund with respect to the same kinds of insurance; provided, that  
22 assessments and payments shall continue, as necessary, to liquidate covered claims, and related  
23 expenses, not covered by the other plan.~~

24 ~~(c) In the event the operation of any account of the fund shall be terminated as to all  
25 kinds of insurance within its scope, the fund as soon as possible after this shall distribute the  
26 balance of monies and assets remaining in the account, after discharge of the functions of the  
27 fund with respect to prior insurer insolvencies not covered by the other plan, together with related  
28 expenses, to the insurers which are then writing in this state policies of the kinds of insurance in  
29 the account, pro rata upon the basis of the aggregate of the payments made by the respective  
30 insurers to the account during the period of five (5) years next preceding the date of the order.  
31 Upon completion of the distribution with respect to all of the accounts specified in section 27-34-  
32 6, this chapter shall be deemed to have expired.~~

33 SECTION 3. Chapter 27-34 of the General Laws entitled "Rhode Island Insurers'  
34 Insolvency Fund" is hereby amended by adding thereto the following sections:

1           **27-34-10.1. Coordination among guaranty associations.--** (a) The association may  
2 join one or more organizations of other state associations of similar purposes, to further the  
3 purposes and administer the powers and duties of the association. The association may designate  
4 one or more of these organizations to act as a liaison for the association and, to the extent the  
5 association authorizes, to bind the association in agreements or settlements with receivers of  
6 insolvent insurance companies or their designated representatives.

7           (b) The association, in cooperation with other obligated or potentially obligated guaranty  
8 associations, or their designated representatives, shall make all reasonable efforts to coordinate  
9 and cooperate with receivers, or their designated representatives, in the most efficient and  
10 uniform manner, including the use of Uniform Data Standards as promulgated or approved by the  
11 National Association of Insurance Commissioners.

12           **27-34-11.1. Net worth exclusion. --** (a) For purposes of this section “high net worth  
13 insured” shall mean any insured, excluding state and local governments, whose net worth exceeds  
14 fifty million dollars (\$50,000,000) on December 31 of the year prior to the year in which the  
15 insurer becomes an insolvent insurer; provided, that an insured’s net worth on that date shall be  
16 deemed to include the aggregate net worth of the insured and all of its subsidiaries and affiliates  
17 as calculated on a consolidated basis.

18           (b)(1) The association shall not be obligated to pay any first-party claims by a high net  
19 worth insured.

20           (2) The association shall have the right to recover from a high net worth insured all  
21 amounts paid by the association to or on behalf of such insured, whether for indemnity, defense  
22 or otherwise.

23           (c) The association shall not be obligated to pay any claim that would otherwise be a  
24 covered claim that is an obligation to or on behalf of a person who has a net worth greater than  
25 that allowed by the insurance guaranty association law of the state of residence of the claimant at  
26 the time specified by that state’s applicable law, and which association has denied coverage to  
27 that claimant on that basis.

28           (d) The association shall establish reasonable procedures subject to the approval of the  
29 commissioner for requesting financial information from insureds on a confidential basis for  
30 purposes of applying this section, provided that the financial information may be shared with any  
31 other association similar to the association and the liquidator for the insolvent insurer on the same  
32 confidential basis. Any request to an insured seeking financial information must advise the  
33 insured of the consequences of failing to provide the financial information. If an insured refuses  
34 to provide the requested financial information where it is requested and available, the association

1 may, until such time as the information is provided, provisionally deem the insured to be a high  
2 net worth insured for the purpose of denying a claim under subsection (b) of this section.

3 (e) In any lawsuit contesting the applicability of this section where the insured has  
4 refused to provide financial information under the procedure established pursuant to subsection  
5 (d) of this section, the insured shall bear the burden of proof concerning its net worth at the  
6 relevant time. If the insured fails to prove that its net worth at the relevant time was less than the  
7 applicable amount, the court shall award the association its full costs, expenses and reasonable  
8 attorneys' fees in contesting the claim.

9 **27-34-12.1. Prevention of insolvencies. -- To aid in the detection and prevention of**  
10 **insurer insolvencies:**

11 (1) The board of directors may, upon majority vote, make recommendations to the  
12 commissioner on matters generally related to improving or enhancing regulation for solvency.

13 (2) At the conclusion of any domestic insurer insolvency in which the association was  
14 obligated to pay covered claims, the board of directors may, upon majority vote, prepare a report  
15 on the history and causes of the insolvency, based on the information available to the association  
16 and submit the report to the commissioner.

17 (3) Reports and recommendations provided under this section shall not be considered  
18 public documents.

19 SECTION 4. 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

\*\*\*

- 1           This act would rename the Rhode Island Insurers Insolvency Fund the Rhode Island
- 2 Property and Casualty Insurance Guaranty Association and would amend the chapter to bring it
- 3 into compliance with the current NAIC model act upon which the statute is based.
- 4           This act would take effect upon passage.

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