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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO INSURANCE - UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Representatives Corvese, and Long

Date Introduced: February 28, 2007

Referred To: House Corporations

It is enacted by the General Assembly as follows:

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

27-9.1-4. "Unfair claims practices" defined. – (a) Any of the following acts by an insurer, if committed in violation of section 27-9.1-3, constitutes an unfair claims practice:

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

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

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

(4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;

(5) Compelling insured, beneficiaries, or claimants to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them;

(6) Refusing to pay claims without conducting a reasonable investigation;

(7) Failing to affirm or deny coverage of claims within a reasonable time after having completed its investigation related to the claim or claims;

(8) Attempting to settle or settling claims for less than the amount that a reasonable

person would believe the insured or beneficiary was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) Attempting to settle or settling claims on the basis of an application that was materially altered without notice to, or knowledge or consent of, the insured;

(10) Making claims payments to an insured or beneficiary without indicating the coverage under which each payment is being made;

(11) Unreasonably delaying the investigation or payment of claims by requiring both a formal proof of loss form and subsequent verification that would result in duplication of information and verification appearing in the formal proof of loss form;

(12) Failing in the case of claims denials or offers of compromise settlement to promptly provide a reasonable and accurate explanation of the basis of those actions;

(13) Failing to provide forms necessary to present claims within ten (10) calendar days of a request with reasonable explanations regarding their use;

(14) Failing to adopt and implement reasonable standards to assure that the repairs of a repairer owned by or required to be used by the insurer are performed in a workmanlike manner;

(15) Misleading a claimant as to the applicable statute of limitations;

(16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree to a longer period;

(17) Engaging in any act or practice of intimidation, coercion, threat or misrepresentation of consumers rights, for or against any insured person or entity to use a particular rental car company for motor vehicle replacement services or products; provided, however, nothing shall prohibit any insurance company, agent or adjuster from providing to such insured person or entity the names of a rental car company with which arrangements have been made with respect to motor vehicle replacement services; provided, that the rental car company is licensed pursuant to Rhode Island general laws section 31-5-33; or

(18) Refusing to honor a "direction to pay" executed by an insured indicating that the insured wishes to have the insurance company directly pay his or her motor vehicle replacement vehicle rental benefit to the rental car company of the consumer's choice; provided, that the rental car company is licensed pursuant to Rhode Island general laws section 31-5-33. Nothing in this section shall be construed to prevent the insurance company's ability to question or challenge the amount charged, in accordance with its policy provisions, and the requirements of the department of business regulation.

(19) Modifying any published manual (i.e. motors, mitchells, or any automated appraisal system) relating to auto body repair without prior agreement between the parties.

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

(21) Refusing to compensate an auto body shop for documented charges as identified through industry recognized software programs or systems for paint and refinishing materials in auto body repair claims; and/or

(b)(1) Nothing contained in subsections 27-9.1-4(a) (19), (20), & (21) of this chapter shall be construed to interfere with an auto body repair facility's contract with an insurance company.

(2) If an insurance company and auto body repair facility have contracted under a direct repair program or any similar program thereto the provisions of subsections 27-9.1-4(a) (19), (20) & (21) shall not apply.

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

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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This act would make it an unfair practice for an insurance company not to follow all components of a repair manual when appraising a damaged vehicle.

This act would take effect upon passage.

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