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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO STATUTES AND STATUTORY CONSTRUCTION

Introduced By: Representative Christopher R. Blazejewski

Date Introduced: June 04, 2025

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           **ARTICLE I--STATUTORY REENACTMENT**

2           SECTION 1. It is the express intention of the General Assembly to reenact the entirety of  
3 Title 25, chapters 1 through 18.9 of Title 27, and chapters 1 through 46 of Title 42 of the General  
4 Laws of Rhode Island, including every chapter and section therein, and any chapters and sections  
5 thereof not included in this act may be, and are hereby, reenacted as if fully set forth herein.

6           SECTION 2. Sections 27-1-46 and 27-1-47 of the General Laws in Chapter 27-1 entitled  
7 "Domestic Insurance Companies" are hereby amended to read as follows:

8           **27-1-46. Information security program.**

9           (a) Commensurate with the size and complexity of an insurer, the nature and scope of an  
10 insurer’s activities, including its use of third-party service providers, and the sensitivity of the  
11 nonpublic information used by the insurer or in the insurer’s possession, custody, or control, each  
12 domestic insurance company shall develop, implement, and maintain a comprehensive written  
13 information security program, based on the insurer’s risk assessment and that contains  
14 administrative, technical, and physical safeguards for the protection of nonpublic information and  
15 the insurer’s information system. For purposes of this chapter, “information security program”  
16 means the administrative, technical, and physical safeguards that an insurer uses to access, collect,  
17 distribute, process, protect, store, use, transmit, dispose of, or otherwise handle, nonpublic  
18 information. “Publicly available information” means any information that a licensee has a  
19 reasonable basis to believe is lawfully made available to the general public from: federal, state, or

1 local government records; widely distributed media; or disclosures to the general public that are  
2 required to be made by federal, state, or local law. “Nonpublic information” means information  
3 that is not publicly available information and is:

4 (1) Business-related information of a licensee, the tampering with which, or unauthorized  
5 disclosure, access, or use of which, would cause a material adverse impact to the business,  
6 operations, or security of the licensee;

7 (2) Any information concerning a consumer which, because of name, number, personal  
8 mark, or other identifier, can be used to identify such consumer, in combination with any one or  
9 more of the following data elements:

10 (i) Social security number;

11 (ii) Driver’s license number or non-driver identification card number;

12 (iii) Account number, credit, or debit card number;

13 (iv) Any security code, access code, or password that would permit access to a consumer’s  
14 financial account; or

15 (v) Biometric records;

16 (3) Any information or data, except age or gender, in any form or medium created by or  
17 derived from a healthcare provider or a consumer and that relates to:

18 (i) The past, present, or future physical, mental, behavioral health, or medical condition of  
19 any consumer or a member of the consumer’s family;

20 (ii) The provision of health care to any consumer; or

21 (iii) Payment for the provision of health care to any consumer.

22 (b) **Objectives of information security program.** An insurer’s information security  
23 program shall be designed to:

24 (1) Protect the security and confidentiality of nonpublic information and the security of the  
25 information system;

26 (2) Protect against any threats or hazards to the security or integrity of nonpublic  
27 information and the information system;

28 (3) Protect against unauthorized access to or use of nonpublic information, and minimize  
29 the likelihood of harm to any consumer. For purposes of this section, “consumer” means an  
30 individual, including, but not limited to, applicants, policyholders, insureds, beneficiaries,  
31 claimants, and certificate holders, who is a resident of this state and whose nonpublic information  
32 is in an insurer’s possession, custody, or control; and

33 (4) Define and periodically reevaluate a schedule for retention of nonpublic information  
34 and a mechanism for its destruction when no longer needed.

1 (c) **Risk assessment.** The insurer shall:

2 (1) Designate one or more employees, an affiliate, or an outside vendor designated to act  
3 on behalf of the insurer who is responsible for the information security program;

4 (2) Identify reasonably foreseeable internal or external threats that could result in  
5 unauthorized access, transmission, disclosure, misuse, alteration, or destruction of nonpublic  
6 information, including the security of information systems and nonpublic information that are  
7 accessible to, or held by, third-party service providers. “Third-party service providers” means a  
8 person, not otherwise defined as a licensee, that contracts with a licensee to maintain, process, store,  
9 or otherwise is permitted access to nonpublic information through its provision of services to the  
10 licensee. Third-party service providers does not include licensed insurance producers;

11 (3) Assess the likelihood and potential damage of these threats, taking into consideration  
12 the sensitivity of the nonpublic information;

13 (4) Assess the sufficiency of policies, procedures, information systems, and other  
14 safeguards in place to manage these threats, including consideration of threats in each relevant area  
15 of the insurer’s operations, including:

16 (i) Employee training and management;

17 (ii) Information systems, including network and software design, as well as information  
18 classification, governance, processing, storage, transmission, and disposal; and

19 (iii) Detecting, preventing, and responding to attacks, intrusions, or other systems failures;  
20 and

21 (5) Implement information safeguards to manage the threats identified in its ongoing  
22 assessment, and no less than annually, assess the effectiveness of the safeguards’ key controls,  
23 systems, and procedures.

24 (d) **Risk management.** Based on its risk assessment, the insurer shall:

25 (1) Design its information security program to mitigate the identified risks, commensurate  
26 with the size and complexity of the insurer’s activities, including its use of third-party service  
27 providers, and the sensitivity of the nonpublic information used by the insurer or in the insurer’s  
28 possession, custody, or control;

29 (2) Determine which security measures listed below are appropriate and implement such  
30 security measures:

31 (i) Place access controls on information systems, including controls to authenticate and  
32 permit access only to authorized individuals to protect against the unauthorized acquisition of  
33 nonpublic information. “Authorized individual” means an individual known to and screened by the  
34 insurer, and determined to be necessary and appropriate to have access to the nonpublic information

1 held by the insurer, and the insurer's information systems;

2 (ii) Identify and manage the data, personnel, devices, systems, and facilities that enable the

3 organization to achieve business purposes in accordance with their relative importance to business

4 objectives and the organization's risk strategy;

5 (iii) Restrict access at physical locations containing nonpublic information only to

6 authorized individuals;

7 (iv) Protect, by encryption or other appropriate means, all nonpublic information while

8 being transmitted over an external network and all nonpublic information stored on a laptop

9 computer or other portable computing or storage device or media;

10 (v) Adopt secure development practices for in-house developed applications utilized by the

11 insurer and procedures for evaluating, assessing, or testing the security of externally developed

12 applications utilized by the insurer;

13 (vi) Modify the information system in accordance with the insurer's information security

14 program;

15 (vii) Utilize effective controls, which may include multi-factor authentication procedures

16 for any individual accessing nonpublic information;

17 (viii) Regularly test and monitor systems and procedures to detect actual and attempted

18 attacks on, or intrusions into, information systems;

19 (ix) Include audit trails within the information security program designed to detect and

20 respond to cybersecurity events and designed to reconstruct material financial transactions

21 sufficient to support normal operations and obligations of the insurer;

22 (x) Implement measures to protect against destruction, loss, or damage of nonpublic

23 information due to environmental hazards, such as fire and water damage or other catastrophes or

24 technological failures; and

25 (xi) Develop, implement, and maintain procedures for the secure disposal of nonpublic

26 information in any format;

27 (3) Include cybersecurity risks in the insurer's enterprise risk management process;

28 (4) Stay informed regarding emerging threats or vulnerabilities and utilize reasonable

29 security measures when sharing information relative to the character of the sharing and the type of

30 information shared; and

31 (5) Provide its personnel with cybersecurity awareness training that is updated as necessary

32 to reflect risks identified by the insurer in the risk assessment.

33 (e) **Oversight by board of directors.** If the insurer has a board of directors, the board or

34 an appropriate committee of the board shall, at a minimum:

1 (1) Require the insurer's executive management or its designees to develop, implement,  
2 and maintain the insurer's information security program;

3 (2) Require the insurer's executive management or its designees to report in writing at least  
4 annually, the following information:

5 (i) The overall status of the information security program and the insurer's compliance with  
6 this chapter; and

7 (ii) Material matters related to the information security program, addressing issues such as  
8 risk assessment, risk management and control decisions, third-party service provider arrangements,  
9 results of testing, cybersecurity events or violations and management's responses thereto, or  
10 recommendations for changes in the information security program; and

11 (3) If executive management delegates any of its responsibilities pursuant to this section,  
12 it shall oversee the development, implementation, and maintenance of the insurer's information  
13 security program prepared by the designee(s) and shall receive a report from the designee(s)  
14 complying with the requirements of the report to the board of directors.

15 **(f) Oversight of third-party service provider arrangements.**

16 (1) An insurer shall exercise due diligence in selecting its third-party service provider; and

17 (2) An insurer shall take reasonable steps to request a third-party service provider to  
18 implement appropriate administrative, technical, and physical measures to protect and secure the  
19 information systems and nonpublic information that are accessible to, or held by, the third-party  
20 service provider.

21 **(g) Program adjustments.** The insurer shall monitor, evaluate, and adjust, as appropriate,  
22 the information security program consistent with any relevant changes in technology, the sensitivity  
23 of its nonpublic information, internal or external threats to information, and the insurer's own  
24 changing business arrangements, such as mergers and acquisitions, alliances and joint ventures,  
25 outsourcing arrangements, and changes to information systems.

26 **(h) Incident response plan.**

27 (1) As part of its information security program, each insurer shall establish a written  
28 incident response plan designed to promptly respond to, and recover from, any cybersecurity event  
29 that compromises the confidentiality, integrity, or availability of nonpublic information in its  
30 possession, the insurer's information systems, or the continuing functionality of any aspect of the  
31 insurer's business or operations.

32 (2) Such incident response plan shall address the following areas:

33 (i) The internal process for responding to a cybersecurity event;

34 (ii) The goals of the incident response plan;

- 1 (iii) The definition of clear roles, responsibilities, and levels of decision-making authority;
- 2 (iv) External and internal communications and information sharing;
- 3 (v) Identification of requirements for the remediation of any identified weaknesses in
- 4 information systems and associated controls;
- 5 (vi) Documentation and reporting regarding cybersecurity events and related incident
- 6 response activities; and
- 7 (vii) The evaluation and revision as necessary of the incident response plan following a
- 8 cybersecurity event.

9 (3) If the insurer learns that a cybersecurity event has or may have occurred, the insurer, or

10 an outside vendor and/or service provider designated to act on behalf of the insurer, shall conduct

11 a prompt investigation. For purposes of this section, “cybersecurity event” means an event resulting

12 in unauthorized access to, disruption or misuse of an information system or nonpublic information

13 stored on such information system. This does not include the unauthorized acquisition of encrypted

14 nonpublic information if the encryption, process, or key is not also acquired, released, or used

15 without authorization. This also does not include an event with regard to which the insurer has

16 determined that the nonpublic information accessed by an unauthorized person has not been used

17 or released and has been returned or destroyed.

18 (i) During the investigation, the insurer, or an outside vendor and/or service provider

19 designated to act on behalf of the insurer, shall, at a minimum, determine as much of the following

20 information as possible:

- 21 (A) Whether a cybersecurity event has occurred;
- 22 (B) Assess the nature and scope of the cybersecurity event;
- 23 (C) Identify any nonpublic information that may have been involved in the cybersecurity
- 24 event; and

25 (D) Perform or oversee reasonable measures to restore the security of the information

26 systems compromised in the cybersecurity event in order to prevent further unauthorized

27 acquisition, release, or use of nonpublic information in the insurer’s possession, custody, or control.

28 (ii) If the insurer learns that a cybersecurity event has or may have occurred in a system

29 maintained by a third-party service provider, and it has or may have impacted the insurer’s

30 nonpublic information, the insurer shall make reasonable efforts to complete the steps set forth in

31 ~~subsection (a)~~ subsection (h)(3)(i) of this section or make reasonable efforts to confirm and

32 document that the third-party service provider has completed those steps.

33 (iii) The insurer shall maintain records concerning all cybersecurity events for a period of

34 at least five (5) years from the date of the cybersecurity event. The insurer shall produce those

1 records upon demand of the commissioner pursuant to chapter 13.1 of this title or other statutory  
2 authority.

3 (i) Annually, each insurer domiciled in this state shall submit to the commissioner a written  
4 statement by April 15 certifying that the insurer is in compliance with the requirements set forth in  
5 this section. Each insurer shall maintain for examination by the department all records, schedules,  
6 and data supporting this certificate for a period of five (5) years. To the extent an insurer has  
7 identified areas, systems, or processes that require material improvement, updating, or redesign,  
8 the insurer shall document the identification and the remedial efforts planned and underway to  
9 address such areas, systems, or processes. This documentation must be available for inspection by  
10 the commissioner pursuant to a request under chapter 13.1 of this title or other statutory authority.

11 (j) If an insurer domiciled in this state has an information security program that is prepared  
12 for and in compliance with Pub. L. No. 104-191, 110 Stat. 1936, enacted August 21, 1996 (Health  
13 Insurance Portability and Accountability Act) and related privacy, security, and breach notification  
14 regulations pursuant to Code of Federal Regulations, Parts 160 and 164, and Pub. L. No. 111-5,  
15 123 Stat. 226, enacted February 17, 2009 (Health Information Technology), insurers can rely on  
16 that plan to certify their compliance with subsection (i) of this section.

17 **27-1-47. Notification of a cybersecurity event.**

18 (a) Each domestic insurer shall notify the commissioner as promptly as possible but in no  
19 event later than three (3) business days from a determination that a cybersecurity event has occurred  
20 when either of the following criteria has been met:

21 (1) A cybersecurity event impacting the insurer of which notice is required to be provided  
22 to any government body, self-regulatory agency, or any other supervisory body pursuant to any  
23 state or federal law; or

24 (2) A cybersecurity event that has a reasonable likelihood of materially harming:

25 (i) Any consumer residing in this state; or

26 (ii) Any material part of the normal operation(s) of the insurer.

27 (b) The insurer shall provide any information required by this section in electronic form as  
28 directed by the commissioner. The insurer shall have a continuing obligation to update and  
29 supplement initial and subsequent notifications to the commissioner concerning the cybersecurity  
30 event. The insurer shall provide as much of the following information as possible. The insurer  
31 should indicate whether it is making claims under chapter 2 of title 38 to any of the information  
32 provided. The following information shall be provided:

33 (1) Date of the cybersecurity event;

34 (2) Description of how the information was exposed, lost, stolen, or breached, including

1 the specific roles and responsibilities of third-party service providers, if any;

2 (3) How the cybersecurity event was discovered;

3 (4) Whether any lost, stolen, or breached information has been recovered and if so, how

4 this recovery was achieved;

5 (5) The identity of the source of the cybersecurity event;

6 (6) Whether the insurer has filed a police report or has notified any regulatory, government,

7 or law enforcement agencies and, if so, when such notification was provided;

8 (7) Description of the specific types of information acquired without authorization.

9 Specific types of information consisting of particular data elements including, for example, types

10 of medical information, types of financial information, or types of information allowing

11 identification of the consumer;

12 (8) The period during which the information system was compromised by the cybersecurity

13 event;

14 (9) The number of total consumers in this state affected by the cybersecurity event. The

15 insurer shall provide the best estimate in the initial report to the commissioner and update this

16 estimate with each subsequent report to the commissioner pursuant to this section;

17 (10) The results of any internal review identifying a lapse in either automated controls or

18 internal procedures, or confirming that all automated controls or internal procedures were followed;

19 (11) Description of efforts being undertaken to remediate the situation that permitted the

20 cybersecurity event to occur;

21 (12) A copy of the insurer privacy policy and a statement outlining the steps the insurer

22 will take to investigate and notify consumers affected by the cybersecurity event; and

23 (13) Name of a contact person who is both familiar with the cybersecurity event and

24 authorized to act for the insurer.

25 (c) An insurer shall comply with chapter 49.3 of title 11, as applicable, and provide a copy

26 of the notice sent to consumers under that chapter to the commissioner, when an insurer is required

27 to notify the commissioner.

28 **(d) Notice regarding cybersecurity events of third-party service providers.**

29 (1) In the case of a cybersecurity event involving an insurer's nonpublic information in a

30 system maintained by a third-party service provider, of which the insurer has become aware, the

31 insurer shall treat that event as it would under subsection (a) of this section;

32 (2) The computation of the insurer's deadlines shall begin on the day after the third-party

33 service provider notifies the insurer of the cybersecurity event or the insurer otherwise has actual

34 knowledge of the cybersecurity event, whichever is sooner;



(3) Nothing in this chapter shall prevent or abrogate an agreement between an insurer and another insurer, a third-party service provider, or any other party to fulfill any of the investigation requirements or notice requirements imposed under this section.

**(e) Notice regarding cybersecurity events of reinsurers to insurers.**

(1)(i) In the case of a cybersecurity event involving nonpublic information that is used by the insurer that is acting as an assuming insurer or in the possession, custody, or control of an insurer that is acting as an assuming insurer and that does not have a direct contractual relationship with the affected consumers, the assuming insurer shall notify its affected ceding insurers and the commissioner of its state of domicile within seventy-two (72) hours of making the determination that a cybersecurity event has occurred;

(ii) The ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under chapter 49.3 of title 11 (“Identity Theft Protection Act of 2015”), and any other notification requirements relating to a cybersecurity event imposed under this section.

(2)(i) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a third-party service provider of an insurer that is an assuming insurer, the assuming insurer shall notify its affected ceding insurers and the commissioner of its state of domicile within seventy-two (72) hours of receiving notice from its third-party service provider that a cybersecurity event has occurred;

(ii) The ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under chapter 49.3 of title 11 and any other notification requirements relating to a cybersecurity event imposed under this section.

**(f) Notice regarding cybersecurity events of insurers to producers of record.**

(1) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of an insurer ~~that is an insurer~~ or its third-party service provider and for which a consumer accessed the insurer’s services through an independent insurance producer, the insurer shall notify the producers of record of all affected consumers as soon as practicable as directed by the commissioner.

(2) The insurer is excused from this obligation for those instances in which it does not have the current producer of record information for any individual consumer.

SECTION 3. Section 27-1.1-3 of the General Laws in Chapter 27-1.1 entitled "Credit for Reinsurance Act" is hereby amended to read as follows:

**27-1.1-3. Qualified United States financial institutions.**

(a) For the purposes of § 27-1.1-2(3), “qualified United States financial institution” means

1 an institution that:

2 (1) Is organized, or in the case of a U.S. office of a foreign banking organization is licensed,  
3 under the laws of the United States or any of its states;

4 (2) Is regulated, supervised, and examined by United States federal or state authorities  
5 having regulatory authority over banks and trust companies; and

6 (3) Has been determined by either the commissioner, or the ~~securities-valuation-office~~  
7 Securities Valuation Office of the National Association of Insurance Commissioners, to meet  
8 ~~those~~ such standards of financial condition and ~~that~~ standing as are considered necessary and  
9 appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable  
10 to the commissioner.

11 (b) "Qualified United States financial institution" means, for the purposes of those  
12 provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust,  
13 an institution that:

14 (1) Is organized, or in the case of a United States branch or agency office of a foreign  
15 banking organization is licensed, under the laws of the United States or any of its states and has  
16 been granted authority to operate with fiduciary powers; and

17 (2) Is regulated, supervised, and examined by federal or state authorities having regulatory  
18 authority over banks and trust companies.

19 SECTION 4. Section 27-2.5-2 of the General Laws in Chapter 27-2.5 entitled "Interstate  
20 Compact on Insurance Product Regulations" is hereby amended to read as follows:

21 **27-2.5-2. Compact enacted.**

22 The interstate compact on insurance product regulation is hereby enacted into law and  
23 entered into with all other jurisdictions legally joining therein in form substantially as follows:

24 Preamble

25 This act is intended to help states join together to establish an interstate compact to regulate  
26 designated insurance products.

27 Pursuant to terms and conditions of this act, the state of Rhode Island seeks to join with  
28 other states and establish the Interstate Insurance Product Regulation Compact, and thus become a  
29 member of the Interstate Insurance Product Regulation Commission. The Rhode Island Insurance  
30 Commissioner is hereby designated to serve as the representative of this state to the commission.

31 Interstate Insurance Product Regulation Compact

32 ARTICLE I.

33 PURPOSES

34 The purposes of this compact are, through means of joint and cooperative action among

1 the compacting states:

2 (1) To promote and protect the interest of consumers of individual and group annuity, life  
3 insurance, disability income and long-term care insurance products;

4 (2) To develop uniform standards for insurance products covered under the compact;

5 (3) To establish a central clearinghouse to receive and provide prompt review of insurance  
6 products covered under the compact and, in certain cases, advertisements related thereto, submitted  
7 by insurers authorized to do business in one or more compacting states;

8 (4) To give appropriate regulatory approval to those product filings and advertisements  
9 satisfying the applicable uniform standard;

10 (5) To improve coordination of regulatory resources and expertise between state insurance  
11 departments regarding the setting of uniform standards and review of insurance products covered  
12 under the compact;

13 (6) To create the Interstate insurance product regulation commission; and

14 (7) To perform these and such other related functions as may be consistent with the state  
15 regulation of the business of insurance.

## 16 ARTICLE II.

### 17 DEFINITIONS

18 For purposes of this compact:

19 (1) “Advertisement” means any material designed to create public interest in a product, or  
20 induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a  
21 policy, as more specifically defined in the rules and operating procedures of the commission.

22 (2) “Bylaws” mean those bylaws established by the commission for its governance, or for  
23 directing or controlling the ~~commissions’~~ commission’s actions or conduct.

24 (3) “Compacting state” means any state which has enacted this compact legislation and  
25 which has not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant to Article  
26 XIV, Section 2.

27 (4) “Commission” means the “Interstate Insurance Product Regulation Commission”  
28 established by this compact.

29 (5) “Commissioner” means the chief insurance regulatory official of a state including, but  
30 not limited to, commissioner, superintendent, director or administrator.

31 (6) “Domiciliary state” means the state in which an insurer is incorporated or organized;  
32 or, in the case of an alien insurer, its state of entry.

33 (7) “Insurer” means any entity licensed by a state to issue contracts of insurance for any of  
34 the lines of insurance covered by this act.

1 (8) “Member” means the person chosen by a compacting state as its representative to the  
2 commission, or his or her designee.

3 (9) “Noncompacting state” means any state which is not at the time a compacting state.

4 (10) “Operating procedures” mean procedures promulgated by the commission  
5 implementing a rule, ~~uniformed~~ uniform standard or a provision of this compact.

6 (11) “Product” means the form of a policy or contract, including any application,  
7 endorsement, or related ~~from~~ form which is attached to and made a part of the policy or contract,  
8 and any evidence of coverage ~~of~~ or certificate, for an individual or group annuity, life insurance,  
9 disability income or long-term care insurance product that an insurer is authorized to issue.

10 (12) “Rule” means a statement of general or particular applicability and future effect  
11 promulgated by the commission, including a uniform standard developed pursuant to Article VII  
12 of this compact, designed to implement, interpret, or prescribe law or policy or describing the  
13 organization, procedure, or practice requirements of the commission, which shall have the force  
14 and effect of law in the compacting states.

15 (13) “State” means any state, district or territory of the United States of America.

16 (14) “Third-party filer” means an entity that submits a product filing to the commission on  
17 behalf of an insurer.

18 (15) “Uniform standard” means a standard adopted by the commission for a product line,  
19 pursuant to Article VII of this compact, and shall include all of the product requirements in  
20 aggregate; provided, that each uniform standard shall be construed, whether express or implied, to  
21 prohibit the use of any inconsistent, misleading or ambiguous provisions in a product and the form  
22 of the product made available to the public shall not be unfair, inequitable or against public policy  
23 as determined by the commission.

### 24 ARTICLE III.

#### 25 ESTABLISHMENT OF THE COMMISSION AND VENUE

26 (1) The compacting states hereby create and establish a joint public agency known as the  
27 “Interstate Insurance Product Regulation Commission.” Pursuant to Article IV, the commission  
28 will have the power to develop uniform standards for product lines, receive and provide prompt  
29 review of products filed therewith, and give approval to those product filings satisfying applicable  
30 uniform standards; provided, it is not intended for the commission to be the exclusive entity for  
31 receipt and review of insurance product filings. Nothing herein shall prohibit any insurer from filing  
32 its product in any state wherein the insurer is licensed to conduct the business of insurance; and any  
33 such filing shall be subject to the laws of the state where filed.

34 (2) The commission is a body corporate and politic, and an instrumentality of the

1 compacting states.

2 (3) The commission is a not-for-profit entity, separate and distinct from the individual  
3 compacting states.

4 (4) The commission is solely responsible for its liabilities except as otherwise specifically  
5 provided in this compact.

6 (5) Venue is proper and judicial proceedings by or against the commission shall be brought  
7 solely and exclusively in a court of competent jurisdiction where the principal office of the  
8 commission is located.

9 ARTICLE IV.

10 POWERS OF THE COMMISSION

11 The commission shall have the following powers:

12 (1) To promulgate rules, pursuant to Article VII of this compact, which shall have the force  
13 and effect of law and shall be binding in the compacting states to the extent and in the manner  
14 provided in this compact;

15 (2) To exercise its rule-making authority and establish reasonable uniform standards for  
16 products covered under the compact, and advertisement related thereto, which shall have the force  
17 and effect of law and shall be binding in the compacting states, but only for those products filed  
18 with the commission, provided, that a compacting state shall have the right to opt out of such  
19 uniform standard pursuant to Article VII, to the extent and in the manner provided in this compact  
20 and, provided, further, that any uniform standard established by the commission for long-term care  
21 insurance products may provide the same or greater protections for consumers as, but shall not  
22 provide less than, those protections set forth in the National Association of Insurance  
23 Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model  
24 Regulation, respectively, adopted as of 2001. The commission shall consider whether any  
25 subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care  
26 Insurance Model Regulation adopted by the NAIC require amending of the uniform standards  
27 established by the commission for long-term care insurance products;

28 (3) To receive and review in an expeditious manner products filed with the commission,  
29 and rate filings for disability income and long-term care insurance products, and give approval of  
30 those products and rate filings that satisfy the applicable uniform standard, where such approval  
31 shall have the force and effect of law and be binding on the compacting states to the extent and in  
32 the manner provided in the compact;

33 (4) To receive and review in an expeditious manner advertisement relating to long-term  
34 care insurance products for which uniform standards have been adopted by the commission, and

1 give approval to all advertisement that satisfies the applicable uniform standard. For any product  
2 covered under this compact, other than long-term care insurance products, the commission shall  
3 have the authority to require an insurer to submit all or any part of its advertisement with respect  
4 to that product for review or approval prior to use, if the commission determines that the nature of  
5 the product is such that an advertisement of the product could have the capacity or tendency to  
6 mislead the public. The actions of [the](#) commission as provided in this section shall have the force  
7 and effect of law and shall be binding in the compacting states to the extent and in the manner  
8 provided in the compact;

9 (5) To exercise its rule-making authority and designate products and advertisement that  
10 may be subject to a self-certification process without the need for prior approval by the commission;

11 (6) To promulgate operating procedures, pursuant to Article VII of the compact, which  
12 shall be binding in the compacting states to the extent and in the manner provided in this compact;

13 (7) To bring and prosecute legal proceedings or actions in its name as the commission;  
14 provided, that the standing of any state insurance department to sue or be sued under applicable  
15 law shall not be affected;

16 (8) To issue subpoenas requiring the attendance and testimony of witnesses and the  
17 production of evidence;

18 (9) To establish and maintain offices;

19 (10) To purchase and maintain insurance and bonds;

20 (11) To borrow, accept or contract for services of personnel, including, but not limited to,  
21 employees of a compacting state;

22 (12) To hire employees, professionals or specialists, and elect or appoint officers, and to  
23 fix their compensation, define their duties and give them appropriate authority to carry out the  
24 purposes of the compact, and determine their qualifications; and to establish the commission's  
25 personnel policies and programs relating to, among other things, conflicts of interest, rates of  
26 compensation and qualifications of personnel;

27 (13) To accept any and all appropriate donations and grants of money, equipment, supplies,  
28 materials, and services, and to receive, utilize and dispose of the same; provided, that at all times  
29 the commission shall strive to avoid any appearance of impropriety;

30 (14) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
31 improve or use, any property, real, personal or mixed; provided, that at all times the commission  
32 shall strive to avoid any appearance of impropriety;

33 (15) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of  
34 any property, real, personal or mixed;

- 1           (16) To remit filing fees to compacting states as may be set forth in the bylaws, rules or  
2     operating procedures;
- 3           (17) To enforce compliance by compacting states with rules, uniform standards, operating  
4     procedures and bylaws;
- 5           (18) To provide for dispute resolution among compacting states;
- 6           (19) To advise compacting states on issues relating to insurers domiciled or doing business  
7     in noncompacting jurisdictions, consistent with the purposes of the compact;
- 8           (20) To provide advice and training to those personnel in state insurance departments  
9     responsible for product review, and to be a resource for state insurance departments;
- 10          (21) To establish a budget and make expenditures;
- 11          (22) To borrow money;
- 12          (23) To appoint committees including advisory committees comprising members, state  
13     insurance regulators, state legislators or their representatives, insurance industry and consumer  
14     representatives, and such other interested persons as may be designated in the bylaws;
- 15          (24) To provide and receive information from, and to cooperate with law enforcement  
16     agencies;
- 17          (25) To adopt and use a corporate seal; and
- 18          (26) To perform such other functions as may be necessary or appropriate to achieve the  
19     purposes of this compact consistent with the state regulation of the business of insurance.

20           ARTICLE V.

21           ORGANIZATION OF THE COMMISSION

22           (1) Membership, voting and bylaws.

23           (a) Each compacting state shall have ~~be~~ and be limited to one member. Each member  
24     shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any  
25     member may be removed or suspended from office as provided by the law of the state from which  
26     he or she shall be appointed. Any vacancy occurring in the commission shall be filled in accordance  
27     with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed  
28     to affect the manner in which a compacting state determines the election or appointment and  
29     qualification of its own commissioner.

30           (b) Each member shall be entitled to one vote and shall have an opportunity to participate  
31     in the governance of the commission in accordance with the bylaws. Notwithstanding any provision  
32     herein to the contrary, no action of the commission with respect to the promulgation of a uniform  
33     standard shall be effective unless two-thirds ( $\frac{2}{3}$ ) of the members vote in favor thereof.

34           (c) The commission shall, by a majority of the members, prescribe bylaws to govern its

1 conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of  
2 the compact, including, but not limited to:

3 (i) Establishing the fiscal year of the commission;

4 (ii) Providing reasonable procedures for appointing and electing members, as well as  
5 holding meetings, of the management committee;

6 (iii) Providing reasonable standards and procedures: (i) for the establishment and meetings  
7 of other committees; and (ii) governing any general or specific delegation of any authority or  
8 function of the commission;

9 (iv) Providing reasonable procedures for calling and conducting meetings of the  
10 commission that consists of a majority of commission members, ensuring reasonable advance  
11 notice of each such meeting and providing for the rights of citizens to attend such meeting with  
12 enumerated exceptions designed to protect the public's interest, the privacy of individuals, and  
13 insurers' proprietary information, including trade secrets. The commission may meet in camera  
14 only after a majority of the entire membership votes to close a meeting en toto or in part. As soon  
15 as practicable, the commission must make public: (i) a copy of the vote to close the meeting  
16 revealing the vote of each member with no proxy votes allowed; and (ii) votes taken during such  
17 meeting;

18 (v) Establishing the titles, duties and authority and reasonable procedures for the election  
19 of the officers of the commission;

20 (vi) Providing reasonable standards and procedures for the establishment of the personnel  
21 policies and programs of the commission. Notwithstanding any civil service or other similar laws  
22 of any compacting state, the bylaws shall exclusively govern the personnel policies and programs  
23 of the commission;

24 (vii) Promulgating a code of ethics to address permissible and prohibited activities of  
25 commission members and employees; and

26 (viii) Providing a mechanism for winding up the operations of the commission and the  
27 equitable disposition of any surplus funds that may exist after the termination of the compact after  
28 the payment and/or reserving of all of its debts and obligations.

29 (d) The commission shall publish its bylaws in a convenient form and file a copy thereof  
30 and a copy of any amendment thereto, with the appropriate agency or officer in each of the  
31 compacting states.

32 (2) Management committee, officers and personnel.

33 (a) A management committee comprising no more than fourteen (14) members shall be  
34 established as follows:



1 (i) One member from each of the six (6) compacting states with the largest premium  
2 volume for individual and group annuities, life, disability income and long-term care insurance  
3 products, determined from the records of the NAIC for the prior year;

4 (ii) Four (4) members from those compacting states with at least two percent (2%) of the  
5 market based on the premium volume described above, other than the six (6) compacting states  
6 with the largest premium volume, selected on a rotating basis as provided in the bylaws, and;

7 (iii) Four (4) members from those compacting states with less than two percent (2%) of the  
8 market, based on the premium volume described above, with one selected ~~form~~~~{from}~~ from each  
9 of the four (4) zone regions of the NAIC as provided in the bylaws.

10 (b) The management committee shall have such authority and duties as may be set forth in  
11 the bylaws, including, but not limited to:

12 (i) Managing the affairs of the commission in a manner consistent with the bylaws and  
13 purposes of the commission;

14 (ii) Establishing and overseeing an organizational structure within, and appropriate  
15 procedures for, the commission to provide for the creation of uniform standards and other rules,  
16 receipt and review of product filings, administrative and technical support functions, review of  
17 decisions regarding the disapproval of a product filing, and the review of elections made by a  
18 compacting state to opt out of a uniform standard; provided, that a uniform standard shall not be  
19 submitted to the compacting states for adoption unless approved by two-thirds ( $\frac{2}{3}$ ) of the members  
20 of the management committee;

21 (iii) Overseeing the offices of the commission; and

22 (iv) planning, implementing, and coordinating communications and activities with other  
23 state, federal and local government organizations in order to advance the goals of the commission.

24 (c) The commission shall elect annually officers from the management committee, with  
25 each having such authority and duties, as may be specified in the bylaws.

26 (d) The management committee may, subject to the approval of the commission, appoint  
27 or retain an executive director for such period, upon such terms and conditions and for such  
28 compensation as the commission may deem appropriate. The executive director shall serve as  
29 secretary to the commission, but shall not be a member of the commission. The executive director  
30 shall hire and supervise such other staff as may be authorized by the commission.

31 (3) Legislative and advisory committees.

32 (a) A legislative committee comprising state legislators or their designees shall be  
33 established to monitor the operations of, and make recommendations to, the commission, including  
34 the management committee; provided, that the manner of selection and term of any legislative

1 committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of  
2 any uniform standard, revision to the bylaws, annual budget or other significant matter as may be  
3 provided in the bylaws, the management committee shall consult with and report to the legislative  
4 committee.

5 (b) The commission shall establish two (2) advisory committees, one of which shall  
6 comprise ~~consume~~~~consumer~~ consumer representatives independent of the insurance industry,  
7 and the other comprising insurance industry representatives.

8 (c) The commission may establish additional advisory committees as its bylaws may  
9 provide for the carrying out of its functions.

10 (4) Corporate records of the commission.

11 The commission shall maintain its corporate books and records in accordance with the  
12 bylaws.

13 (5) Qualified immunity, defense and indemnification.

14 (a) The members, officers, executive director, employees and representatives of the  
15 commission shall be immune from suit and liability, either personally or in their official capacity,  
16 for any claim for damage to or loss of property or personal injury or other civil liability caused by  
17 or arising out of any actual or alleged act, error or omission that occurred, or that the person against  
18 whom the claim is made had a reasonable basis for believing occurred within the scope of  
19 commission employment, duties or responsibilities; provided, that nothing in this paragraph shall  
20 be construed to protect any such person from suit and/or liability for any damage, loss, injury or  
21 liability caused by the intentional or willful and wanton misconduct of that person.

22 (b) The commission shall defend any member, officer, executive director, employee or  
23 representative of the commission in any civil action seeking to impose liability arising out of any  
24 actual or alleged act, error or omission that occurred within the scope of commission employment,  
25 duties or responsibilities, or that the person against whom the claim is made had a reasonable basis  
26 for believing occurred within the scope of commission employment, duties or responsibilities;  
27 provided, that nothing herein shall be construed to prohibit that person from retaining his or her  
28 own counsel; and provided, further, that the actual or alleged act, error or omission did not result  
29 ~~form~~~~from~~ from that person's intentional or willful and wanton misconduct.

30 (c) The commission shall indemnify and hold harmless any member, officer, executive  
31 director, employee or representative of the commission for the amount of any settlement or  
32 judgment obtained against that person arising out of any actual or alleged act, error or omission  
33 that occurred within the scope of commission employment, duties or responsibilities, or that such  
34 person had a reasonable basis for believing occurred within the scope of commission employment,

1 duties or responsibilities, provided, that the actual or alleged act, error or omission did not result  
2 from the intentional or willful and wanton misconduct of that person.

### 3 ARTICLE VI.

#### 4 MEETINGS AND ACTS OF THE COMMISSION

5 (1) The commission shall meet and take such actions as are consistent with the provisions  
6 of this compact and the bylaws.

7 (2) Each member of the commission shall have the right and power to cast a vote to which  
8 that compacting state is ~~entitle [entitled]~~ entitled and to participate in the business and affairs of  
9 the commission. A member shall vote in person or by such other means as provided in the bylaws.  
10 The bylaws may provide for members' participation in meetings by telephone or other means of  
11 communication.

12 (3) The commission shall meet at least once during each calendar year. Additional meetings  
13 shall be held as set forth in the bylaws.

### 14 ARTICLED VII.

#### 15 RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS OF THE 16 COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

17 (1) Rulemaking authority. The commission shall promulgate reasonable rules, including  
18 uniform standards, and operating procedures in order to effectively and efficiently achieve the  
19 purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its  
20 rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers  
21 granted hereunder, then such an action by the commission shall be invalid and have no force and  
22 effect.

23 (2) Rulemaking procedure. Rules and operating procedures shall be made pursuant to a  
24 rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as  
25 amended, as may be appropriate to the operations of the commission. Before the commission adopts  
26 a uniform standard, the commission shall give written notice to the relevant state legislative  
27 committee(s) in each compacting state responsible for insurance issues of its intention to adopt the  
28 uniform standard. The commission in adopting a uniform standard shall consider fully all submitted  
29 materials and issue a concise explanation of its decision.

30 (3) Effective date and opt out of a uniform standard. A uniform standard shall become  
31 effective ninety (90) days after its promulgation by the commission or such later date as the  
32 commission may determine; provided, however, that a compacting state may opt out of a uniform  
33 standard as provided in this Article. "Opt out" shall be defined as any action by a compacting state  
34 to decline to adopt or participate in a promulgated uniform standard. All other rules and operating

1 procedures, and amendments thereto, shall become effective as of the date specified in each rule,  
2 operating procedure or amendment.

3 (4) Opt out procedure. A compacting state may opt out of a uniform standard, either by  
4 legislation or regulation duly promulgated by the insurance department under the Compacting  
5 State's Administrative Procedure Act. If a compacting state elects to opt out of a uniform standard  
6 by regulation, it must: (a) give written notice to the commission no later than ten (10) business days  
7 after the uniform standard is promulgated, or at the time the state becomes a compacting state; and  
8 (b) find that the uniform standard does not provide reasonable protections to the citizens of the  
9 state, given the conditions in the state. The commissioner shall make specific findings of fact and  
10 conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state  
11 which warrant a departure from the uniform standard and determining that the uniform standard  
12 would not reasonably protect the citizens of the state. The commissioner must consider and balance  
13 the following factors and find that the conditions in the state and needs of the citizens of the state  
14 outweigh: (i) the intent of the legislature to participate in, and the benefits of, an interstate  
15 agreement to establish national uniform consumer protections for the products subject to this act;  
16 and (ii) the presumption that a uniform standard adopted by the commission provides reasonable  
17 protections to consumers of the relevant product.

18 Notwithstanding the foregoing, a compacting state, may, at the time of its enactment of this  
19 compact, prospectively opt out of all uniform standards involving long-term care insurance  
20 products by expressly providing for such opt out in the enacted compact, and such an opt out shall  
21 not be treated as a material variance in the offer or acceptance of any state to participate in this  
22 compact. Such an opt out shall be effective at the time of enactment of this compact by the  
23 compacting state and shall apply to all existing uniform standards involving long-term care  
24 insurance products and those subsequently promulgated.

25 (5) Effect of opt out. If a compacting state elects to opt out of a uniform standard, the  
26 uniform standard shall remain applicable in the compacting state electing to opt out until such time  
27 the opt out legislation is enacted into law or the regulation opting out becomes effective.

28 Once the opt out of a uniform standard by a compacting state becomes effective as provided  
29 under the laws of that state, the uniform standard shall have no further force and effect in that state  
30 unless and until the legislation or regulation implementing the opt out is repealed or otherwise  
31 becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard  
32 after the uniform standard has been made effective in that state, the opt out shall have the same  
33 prospective effect as provided under Article XIV for withdrawals.

34 (6) Stay of uniform standard. If a compacting state has formally initiated the process of

1     opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the  
2     compacting state may petition the commission, at least fifteen (15) days before the effective date  
3     of the uniform standard, to stay the effectiveness of the uniform standard in that state. The  
4     commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable  
5     manner and there is a likelihood of success. If a stay is granted or extended by the commission, the  
6     stay or extension thereof may postpone the effective date by up to ninety (90) days, unless  
7     affirmatively extended by the commission; provided, a stay may not be permitted to remain in  
8     effect for more than one (1) year unless the compacting state can show extraordinary circumstances  
9     which warrant a continuance of the stay, including, but not limited to, the existence of a legal  
10    challenge which prevents the compacting state from opting out. A stay may be terminated by the  
11    commission upon notice that the rulemaking process has been terminated.

12           (7) Not later than thirty (30) days after a rule or operating procedure is promulgated any  
13    person may file a petition for judicial review of the rule or operating procedure; provided, that the  
14    filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from  
15    becoming effective unless the court finds that the petitioner has a substantial likelihood of success.  
16    The court shall give deference to the actions of the commission consistent with applicable law and  
17    shall not find the rule or operating procedure to be unlawful if the rule or operating procedure  
18    represents a reasonable exercise of the commission's authority.

## 19           ARTICLE VIII.

### 20           COMMISSION RECORDS AND ENFORCEMENT

21           (1) The commission shall promulgate rules establishing conditions and procedures for  
22    public inspection and copying of its information and official records, except such information and  
23    records involving the privacy of individuals and insurers' trade secrets. The commission may  
24    promulgate additional rules under which it may make available to federal and state agencies  
25    including law enforcement agencies, records and information otherwise exempt from disclosure  
26    and may enter into agreements with such agencies to receive or exchange information or records  
27    subject to nondisclosure and confidentiality provisions.

28           (2) Except as to privileged records, data and information, the laws of any compacting state  
29    pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner  
30    of the duty to disclose any relevant records, data or information to the commission; provided, that  
31    disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality  
32    requirement; and further provided, that, except as otherwise expressly provided in this act, the  
33    commission shall not be subject to the compacting state's laws pertaining to confidentiality and  
34    nondisclosure with respect to records, data and information in its possession. Confidential

1 information of the commission shall remain confidential after such information is provided to any  
2 commissioner.

3 (3) The commission shall monitor compacting states for compliance with duly adopted  
4 bylaws, rules, including uniform standards, and operating procedures. The commission shall notify  
5 any noncomplying compacting state in writing of its noncompliance with commission bylaws, rules  
6 or operating procedures. If a noncomplying compacting state fails to remedy its noncompliance  
7 within the time specified in the notice of noncompliance, the compacting state shall be deemed to  
8 be in default as set forth in Article XIV.

9 (4) The commissioner of any state in which an insurer is authorized to do business, or is  
10 conducting the business of insurance, shall continue to exercise his or her authority to oversee the  
11 market regulation of the activities of the insurer in accordance with the provisions of the state's  
12 law. The commissioner's enforcement of compliance with the compact is governed by the **state**  
13 following provisions:

14 (a) With respect to the commissioner's market regulation of a product or advertisement  
15 that is approved or certified to the commission, the content of the product or advertisement shall  
16 not constitute a violation of the provisions, standards or requirements of the compact except upon  
17 a final order of the commission, issued at the request of a commissioner after prior notice to the  
18 insurer and an opportunity for hearing before the commission.

19 (b) Before a commissioner may bring an action for violation of any provision, standard or  
20 requirement of the compact relating to the content of an advertisement not approved or certified to  
21 the commission, the commission, or an authorized commission officer or employee, must authorize  
22 the **section action**. However, authorization pursuant to this paragraph does not require notice to the  
23 insurer, opportunity for hearing or disclosure of requests for authorization or records of the  
24 commission's action on such requests.

## 25 ARTICLE IX.

### 26 DISPUTE RESOLUTION

27 The commission shall attempt, upon the request of a member, to resolve any disputes or  
28 other issues that are subject to this compact and which may arise between two (2) or more  
29 compacting states, or between compacting states and noncompacting states, and the commission  
30 shall promulgate an operating procedure providing for resolution of such disputes.

## 31 ARTICLE X.

### 32 PRODUCT FILING AND APPROVAL

33 (1) Insurers and third-party filers seeking to have a product approved by the commission  
34 shall file the product with, and pay applicable filing fees to, the commission. Nothing in this act

1 shall be construed to restrict or otherwise prevent an insurer from filing its product with the  
2 insurance department in any state wherein the insurer is licensed to conduct the business of  
3 insurance, and such filing shall be subject to the laws of the states where filed.

4 (2) The commission shall establish appropriate filing and review processes and procedures  
5 pursuant to commission rules and operating procedures. Notwithstanding any provision herein to  
6 the contrary, the commission shall promulgate rules to establish conditions and procedures under  
7 which the commission will provide public access to product filing information. In establishing such  
8 rules, the commission shall consider the interests of the public in having access to such information,  
9 as well as protection of personal medical and financial information and trade secrets, that may be  
10 contained in a product filing or supporting information.

11 (3) Any product approved by the commission may be sold or otherwise issued in those  
12 compacting states for which the insurer is legally authorized to do business.

#### 13 ARTICLE XI.

#### 14 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

15 (1) Not later than thirty (30) days after the commission has given notice of a disapproved  
16 product or advertisement filed with the commission, the insurer or third party filer whose filing was  
17 disapproved may appeal the determination to a review panel appointed by the commission. The  
18 commission shall promulgate rules to establish procedures for appointing such review panels and  
19 provide for notice and hearing. An allegation that the commission, in disapproving a product or  
20 advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an  
21 abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in  
22 accordance with Article III, Section 5.

23 (2) The commission shall have authority to monitor, review and reconsider products and  
24 advertisement subsequent to their filing or approval upon a finding that the product does not meet  
25 the relevant uniform standard. Where appropriate, the commission may withdraw or modify its  
26 approval after proper notice and hearing, subject to the appeal process in section 1 above.

#### 27 ARTICLE XII.

#### 28 FINANCE

29 (1) The commission shall pay or provide for the payment of the reasonable expenses of its  
30 establishment and organization. To fund the cost of its initial operations, the commission may  
31 accept contributions and other forms of funding from the National Association of Insurance  
32 Commissioners, compacting states and other sources. Contributions and other forms of funding  
33 from other sources shall be of such a nature that the independence of the commission concerning  
34 the performance of its duties shall not be compromised.

1           (2) The commission shall collect a filing fee from each insurer and third party filer filing a  
2 product with the commission to cover the cost of the operations and activities of the commission  
3 and its staff in a total amount sufficient to cover the commission's annual budget.

4           (3) The commission's budget for a fiscal year shall not be approved until it has been subject  
5 to notice and comment as set forth in Article VII of this compact.

6           (4) The commission shall be exempt from all taxation in and by the compacting states.

7           (5) The commission shall not pledge the credit of any compacting state, except by and with  
8 the appropriate legal authority of that compacting state.

9           (6) The commission shall keep complete and accurate accounts of all its internal receipts,  
10 including grants and donations, and disbursements of all funds under its control. The internal  
11 financial accounts of the commission shall be subject to the accounting procedures established  
12 under its bylaws. The financial accounts and reports including the system of internal controls and  
13 procedures of the commission shall be audited annually by an independent certified public  
14 accountant. Upon the determination of the commission, but no less frequently than every three (3)  
15 years, the review of the independent auditor shall include a management and performance audit of  
16 the commission. The commission shall make an annual report to the governor and legislature of the  
17 compacting states, which shall include a report of the independent audit. The commission's internal  
18 accounts shall not be confidential and such materials may be shared with the commissioner of any  
19 compacting state upon request; provided, however, that any work papers related to any internal or  
20 independent audit and any information regarding the privacy of individuals and insurers'  
21 proprietary information, including trade secrets, shall remain confidential.

22           (7) No compacting state shall have any claim to or ownership of any property held by or  
23 vested in the commission or to any commission funds held pursuant to the provisions of this  
24 compact.

### 25           ARTICLE XIII.

#### 26           COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

27           (1) Any state is eligible to become a compacting state.

28           (2) The compact shall become effective and binding upon legislative enactment of the  
29 compact into law by two compacting states; provided, the commission shall become effective for  
30 purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of,  
31 products filed with the commission that satisfy applicable uniform standards only after twenty-six  
32 (26) states are compacting states, or, alternatively, by states representing greater than forty percent  
33 (40%) of the premium volume for life insurance, annuity, disability income and long-term care  
34 insurance products, based on records of the NAIC for the prior year. Thereafter, it shall become



1 effective and binding as to any other compacting state upon enactment of the compact into law by  
2 that state.

3 (3) Amendments to the compact may be proposed by the commission for enactment by the  
4 compacting states. No amendment shall become effective and binding upon the commission and  
5 the compacting states unless and until all compacting states enact the amendment into law.

#### 6 ARTICLE XIV.

#### 7 WITHDRAWAL, DEFAULT AND TERMINATION

##### 8 (1) Withdrawal;

9 (a) Once effective, the compact shall continue in force and remain binding upon each and  
10 every compacting state; provided, that a compacting state may withdraw from the compact  
11 (“Withdrawing State”) by enacting a statute specifically repealing the statute which enacted the  
12 compact into law.

13 (b) The effective date of withdrawal is the effective date of the repealing statute. However,  
14 the withdrawal shall not apply to any product filings approved or self-certified, or any  
15 advertisement of such products, on the date the repealing statute becomes effective, except by  
16 mutual agreement of the commission and the withdrawing state unless the approval is rescinded by  
17 the withdrawing state as provided in subsection (e) of ~~the~~ this section.

18 (c) The commissioner of the withdrawing state shall immediately notify the management  
19 committee in writing upon the introduction of legislation repealing this compact in the withdrawing  
20 state.

21 (d) The commission shall notify the other compacting states of the introduction of such  
22 legislation within ten (10) days after its receipt of notice thereof.

23 (e) The withdrawing state is responsible for all obligations, duties and liabilities incurred  
24 through the effective date of withdrawal, including any obligations, the performance of which  
25 extend beyond the effective date of withdrawal, except to the extent those obligations may have  
26 been released or relinquished by mutual agreement of the commission and the withdrawing state.  
27 The commission’s approval of products and advertisement prior to the ~~effect~~ effective date of  
28 withdrawal shall continue to be effective and be given full force and effect in the withdrawing state,  
29 unless formally rescinded by the withdrawing state in the same manner as provided by the laws of  
30 the withdrawing state for the prospective disapproval of products or advertisement previously  
31 approved under state law.

32 (f) Reinstatement following withdrawal of any compacting state shall occur upon the  
33 effective date of the withdrawing state reenacting the compact.

##### 34 (2) Default. (a) If the commission determines that any compacting state has at any time

1 defaulted (“defaulting state”) in the performance of any of its obligations or responsibilities under  
2 this compact, the bylaws or duly promulgated rules or operating procedures, then, after notice and  
3 hearing as set forth in the bylaws, all rights, privileges and benefits conferred by this compact on  
4 the defaulting state shall be suspended from the effective date of default as fixed by the commission.  
5 The grounds for default include, but are not limited to, failure of a compacting state to perform its  
6 obligations or responsibilities, and any other grounds designated in commission rules. The  
7 commission shall immediately notify the defaulting state in writing of the defaulting state’s  
8 suspension pending a cure of the default. The commission shall stipulate the conditions and the  
9 time period within which the defaulting state must cure its default. If the defaulting state fails to  
10 cure the default within the time period specified by the commission, the defaulting state shall be  
11 terminated from the compact and all rights, privileges and benefits conferred by this compact shall  
12 be terminated from the effective date of termination.

13 (b) Product approvals by the commission or product self-certifications, or any  
14 advertisement in connection with such product, that are in force on the effective date of termination  
15 shall remain in force in the defaulting state in the same manner as if the defaulting state had  
16 withdrawn voluntarily pursuant to paragraph (1) of ~~the~~ this article.

17 (c) Reinstatement following termination of any compacting state requires a reenactment of  
18 the compact.

19 (3) Dissolution of compact. (a) The compact dissolves effective upon the date of the  
20 withdrawal or default of the compacting state which reduces membership in the compact to one  
21 compacting state.

22 (b) Upon the dissolution of this compact, the compact becomes null and void and shall be  
23 of no further force or effect, and the business and affairs of the commission shall be wound up and  
24 any surplus funds shall be distributed in accordance with the bylaws.

## 25 ARTICLE XV.

## 26 SEVERABILITY AND CONSTRUCTION

27 (1) The provisions of this compact shall be severable; and if any phrase, clause, sentence  
28 or provision is deemed unenforceable, the remaining provisions of the compact shall be  
29 enforceable.

30 (2) The provisions of this compact shall be liberally construed to effectuate its purposes.

## 31 ARTICLE XVI.

## 32 BINDING EFFECT OF COMPACT AND OTHER LAWS

33 (1) Other laws. (a) Nothing herein prevents the enforcement of any other law of a  
34 compacting state, except as provided in paragraph (b) of the article.

1 (b) For any product approved or certified to the commission, the rules, uniform standards  
2 and any other requirements of the commission shall constitute the exclusive provisions applicable  
3 to the content, approval and certification of such products. For advertisement that is subject to the  
4 commission's authority, any rule, uniform standard or other requirement of the commission which  
5 governs the content of the advertisement shall constitute the exclusive provision that a  
6 commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no  
7 action taken by the commission shall abrogate or restrict: (i) the access of any person to state courts;  
8 (ii) remedies available under state law related to breach of contract, tort, or other laws not  
9 specifically directed to the content of the product; (iii) state law relating to the construction of  
10 insurance contracts; or (iv) the authority of the attorney general of the state, including, but not  
11 limited to, maintaining any actions or proceedings, as authorized by law.

12 (c) All insurance products filed with individual states shall be subject to the laws of those  
13 states.

14 (2) Binding effect ~~on~~ of this compact. (a) All lawful actions of the commission, including  
15 all rules and operating procedures promulgated by the commission, are binding upon the  
16 compacting states.

17 (b) All agreements between the commission and the compacting states are binding in  
18 accordance with their terms.

19 (c) Upon the request of a party to a conflict over the meaning or interpretation of  
20 commission actions, and upon a majority vote of the compacting states, the commission may issue  
21 advisory opinions regarding the meaning or interpretation in dispute.

22 (d) In the event any provision of this compact exceeds the constitutional limits imposed on  
23 the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be  
24 conferred by that provision upon the commission shall be ineffective as to that compacting state,  
25 and those obligations, duties, powers or jurisdiction shall remain in the compacting state and shall  
26 be exercised by the agency thereof to which those obligations, duties, powers or jurisdiction are  
27 delegated by law in effect at the time this compact becomes effective.

28 SECTION 5. Section 27-2.6-3 of the General Laws in Chapter 27-2.6 entitled "Rhode  
29 Island Title Insurers Act" is hereby amended to read as follows:

30 **27-2.6-3. Definitions.**

31 As used in this chapter:

32 (1) "Abstract of title" or "abstract" means a written history, synopsis or summary of the  
33 recorded instruments affecting the title to real property.

34 (2) "Affiliate" means a specific person that directly, or indirectly through one or more

1 intermediaries, controls, or is controlled by or is under common control with the person specified.

2 (3) “Bona fide employee of the title insurer or title insurance agent” means an individual  
3 who devotes substantially all of his or her time to performing services on behalf of a title insurer  
4 or title insurance agent and whose compensation for those services is in the form of salary or its  
5 equivalent paid by the title insurer or title insurance agent.

6 (4) “Commissioner” means the director of the department of business regulation, or his or  
7 her designee or the commissioner, director or superintendent of insurance in any other state.

8 (5) “Control” (including the terms “controlling,” “controlled by” and “under common  
9 control with”) means the possession, direct or indirect, of the power to direct or cause the direction  
10 of the management and policies of a person, whether through the ownership of voting securities,  
11 by contract other than a commercial contract for goods or nonmanagement services, or otherwise,  
12 unless the power is the result of an official position or corporate office held by the person. Control  
13 shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power  
14 to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of another  
15 person. This presumption may be rebutted by a showing that control does not exist in fact. The  
16 commissioner may determine, after furnishing all persons in interest notice and opportunity to be  
17 heard and making specific findings of fact to support the determination, that control exists in fact,  
18 notwithstanding the absence of a presumption to that effect.

19 (6) “Direct operations” means that portion of a title insurer’s operations which are  
20 attributable to business written by a bona fide employee.

21 (7) “Escrow” means written instruments, money or other items deposited by one party with  
22 a depository, escrow agent or escrowee for delivery to another party upon the performance, of a  
23 specified condition or the happening of a certain event.

24 (8) “Escrow, settlement or closing fee” means the consideration for supervising or handling  
25 the actual execution, delivery or recording of transfer and lien documents and for disbursing funds.

26 (9) “Foreign title insurer” means any title insurer incorporated or organized under the laws  
27 of any other state of the United States, the District of Columbia, or any other jurisdiction of the  
28 United States.

29 (10) “Net retained liability” means the total liability retained by a title insurer for a single  
30 risk, after taking into account any ceded liability and collateral, acceptable to the commissioner,  
31 maintained by the insurer.

32 (11) “Non-U.S. title insurer” means any title insurer incorporated or organized under the  
33 laws of any foreign nation or any province or territory.

34 (12) “Person” means any natural person, partnership, association, cooperative, corporation,

1 trust or other legal entity.

2 (13) “Producer” means any person, including any officer, director or owner of five percent  
3 (5%) or more of the equity or capital of any person, engaged in this state in the trade, business,  
4 occupation or profession of:

5 (i) Buying or selling interests in real property;  
6 (ii) Making loans secured by interests in real property; or  
7 (iii) Acting as broker, agent, representative or attorney ~~or~~ of a person who buys or sells  
8 any interest in real property or who lends or borrows money with the interest as security.

9 (14) “Qualified financial institution” means an institution that is:

10 (i) Organized or (in the case of a United States branch or agency office of a foreign banking  
11 organization) licensed under the laws of the United States or any state and has been granted  
12 authority to operate with fiduciary powers;  
13 (ii) Regulated, supervised and examined by federal or state authorities having regulatory  
14 authority over banks and trust companies;  
15 (iii) Insured by the appropriate federal entity; and  
16 (iv) Qualified under any additional rules established by the commissioner.

17 (15) “Security” or “security deposit” means funds or other property received by the title  
18 insurer as collateral to secure an indemnitor’s obligation under an indemnity agreement pursuant  
19 to which the insurer is granted a perfected security interest in the collateral in exchange for agreeing  
20 to provide coverage in a title insurance policy for a specific title exception to coverage.

21 (16) “Subsidiary” means an affiliate controlled by a person directly or indirectly through  
22 one or more intermediaries.

23 (17) “Title insurance agent” or “agent” means an authorized person, other than a bona fide  
24 employee of the title insurer who, on behalf of the title insurer, performs the following acts, in  
25 conjunction with the issuance of a title insurance report or policy:

26 (i) Determines insurability and issues title insurance reports or policies, or both, based upon  
27 the performance or review of a search or abstract of title; and  
28 (ii) Performs one or more of the following functions:  
29 (A) Collects or disburses premiums, escrow or security deposits or other funds;  
30 (B) Handles escrows, settlements or closings;  
31 (C) Solicits or negotiates title insurance business; or  
32 (D) Records closing documents.

33 (18) “Title insurance business” or “business of title insurance” means<sup>“</sup>:

34 (i) Issuing as insurer or offering to issue as insurer, a title insurance policy;

1           (ii) Transacting or proposing to transact by a title insurer any of the following activities  
2 when conducted or performed in contemplation of, or in conjunction with, the issuance of a title  
3 insurance policy:

4           (A) Soliciting or negotiating the issuance of a title insurance policy;

5           (B) Guaranteeing, warranting or otherwise insuring the correctness of title searches for all  
6 instruments affecting titles to real property, any interest in real property, cooperative units and  
7 proprietary leases and for all liens or charges affecting the same;

8           (C) Handling of escrows, settlements or closings;

9           (D) Executing title insurance policies;

10          (E) Effecting contracts of reinsurance.

11          (iii) Guaranteeing, warranting or insuring searches or examination of title to real property  
12 or any interest in real property;

13          (iv) Guaranteeing or warranting the status of title as to ownership of or liens on real  
14 property and personal property by any person other than the principals to the transaction; or

15          (v) Doing or proposing to do any business substantially equivalent to any of the activities  
16 listed in this subsection in a manner designed to evade the provisions of this chapter.

17          (19) "Title insurance policy" or "policy" means a contract insuring or indemnifying owners  
18 of, or other persons lawfully interested in, real or personal property or any interest in real property,  
19 against loss or damage arising from any or all of the following conditions existing and not excepted  
20 or excluded:

21           (i) Defects in or liens or encumbrances on the insured title;

22           (ii) Unmarketability of the insured title;

23           (iii) Invalidity, lack of priority or unenforceability of liens or encumbrances on the stated  
24 property;

25           (iv) Lack of legal right of access to the land; or

26           (v) Unenforceability of rights in title to the land.

27          (20) "Title insurer" or "insurer" means a company organized under laws of this state for  
28 the purpose of transacting the business of title insurance and any foreign or non-United States title  
29 insurer licensed in this state to transact the business of title insurance.

30          (21) "Title plant" means a set of records consisting of documents, maps, surveys or entries  
31 affecting title to real property or any interest in or encumbrance on the property, which have been  
32 filed or recorded in the jurisdiction for which the title plant is established or maintained.

33          SECTION 6. Section 27-2.7-1 and 27-2.7-7 of the General Laws in Chapter 27-2.7 entitled  
34 "Portable Electronics Insurance" are hereby amended to read as follows:

1           **27-2.7-1. Definitions.**

2           For purposes of this ~~section~~ [chapter](#), the following terms shall have the following  
3 meanings:

4           (1) “Customer” means a person who purchases portable electronics or services;

5           (2) “Department” means the department of business regulation;

6           (3) “Enrolled customer” means a customer who elects coverage under a portable  
7 electronics insurance policy issued by a vendor of portable electronics;

8           (4) “Insurance commissioner” means the director of the department of business regulation  
9 or his/her designee;

10          (5) “Location” means any physical location in the state of Rhode Island or any website,  
11 call center site or similar location directed to residents of the state of Rhode Island;

12          (6) “Portable electronics” means electronic devices that are portable in nature, their  
13 accessories and services related to the use of the device;

14          (7)(i) “Portable electronics insurance” means insurance providing coverage for the repair  
15 or replacement of portable electronics which may provide coverage for portable electronics against  
16 any one or more of the following causes of loss: loss, theft, inoperability due to mechanical failure,  
17 malfunction, damage or other similar causes of loss.

18          (ii) “Portable electronics insurance” does not include:

19           (A) A service contract or extended warranty providing coverage limited to the repair,  
20 replacement or maintenance of property for the operational or structural failure of property due to  
21 a defect in materials, workmanship, accidental damage from handling, power surges, or normal  
22 wear and tear;

23           (B) A policy of insurance covering a seller’s or a manufacturer’s obligations under a  
24 warranty; or

25           (C) A homeowner’s renter’s, private passenger automobile, commercial multi-peril, or  
26 similar policy;

27          (8) “Portable electronics transaction” means:

28           (i) The sale or lease of portable electronics by a vendor to a customer; or

29           (ii) The sale of a service related to the use of portable electronics by a vendor to a customer.

30          (9) “Supervising entity” means a business entity that is a licensed insurer or insurance  
31 producer that is authorized by an insurer to supervise the administration of a portable electronics  
32 insurance program.

33          (10) “Vendor” means a person in the business of engaging in portable electronics  
34 transactions directly or indirectly.

1           **27-2.7-7. Application for license and fees.**

2           (a) A sworn application for a license under this chapter shall be made to and filed with the  
3 department on forms prescribed and furnished by the department in accordance with the provisions  
4 of § 27-2.4-9(a)(8).

5           (b) The application shall:

6           (1) Provide the name, residence address, and other information required by the department  
7 for an employee or officer of the vendor that is designated by the applicant as the person responsible  
8 for the vendor's compliance with the requirements of this chapter. However, if the vendor derives  
9 more than fifty percent (50%) of its revenue from the sale of portable electronics insurance the  
10 information noted above shall be provided for all officers, directors, and ~~shareholder~~ shareholders  
11 of record having beneficial ownership of ten percent (10%) or more of any class of securities  
12 registered under the federal securities law; and

13           (2) The location of the applicant's home office.

14           (c) Any license under this chapter is subject to all applicable provisions of chapter 2.4 of  
15 this title, including, but not limited to, notification of change of address, lapse of license,  
16 notification of administrative actions, assumed names and basis for suspension or revocation of  
17 license; provided however, in the event there is a conflict between the provisions of this chapter  
18 and chapter 2.4 of this title, this chapter shall prevail.

19           (d) Any vendor engaging in portable electronics insurance transactions on or before the  
20 effective date of this chapter must apply for licensure within ninety (90) days of the application  
21 being made available by the department. Any applicant commencing operations after the effective  
22 date of this chapter must obtain a license prior to offering portable electronics insurance.

23           (e) Initial licenses issued pursuant to this chapter shall be valid for a period of two (2)  
24 calendar years expiring on May 31 of the second (2nd) renewal year. Applicants for an initial  
25 license shall pay the full two (2) year fee regardless of the number of months of the initial licensure.  
26 Renewal licenses shall be effective for twenty-four (24) months effective and expiring on May 31.

27           (f) Each vendor of portable electronics licensed under this chapter shall pay to the  
28 department a fee of two hundred dollars (\$200) for an initial license and for each renewal thereof.  
29 The department is authorized to institute miscellaneous fees for this license type in accordance with  
30 § 27-2.4-4.

31           SECTION 7. Section 27-4-27 of the General Laws in Chapter 27-4 entitled "Life Insurance  
32 Policies and Reserves" is hereby amended to read as follows:

33           **27-4-27. Insurable interest.**

34           (a) Any individual of competent legal capacity may procure or effect an insurance contract



1 upon his or her life or body for the benefit of any person. Any life insurance company doing  
2 business within the state may issue policies of insurance predicated upon the life or lives of any  
3 person or persons with the consent of the insured, payable at maturity to any educational, religious,  
4 benevolent, or charitable corporation or association which can legally take and receive testamentary  
5 legacies and which are exempt from taxation under 26 U.S.C. § 501(c), irrespective of a financial  
6 interest on the part of the corporation in the life of the person or persons insured. No person shall  
7 procure or cause to be procured any insurance contract upon the life or body of another individual  
8 unless the benefits under the contract are payable to the individual insured or his or her personal  
9 representatives, or to a person having, at the time when the contract was made, an insurable interest  
10 in the individual insured.

11 (b) If the beneficiary, assignee, or other payee under any contract made in violation of this  
12 section receives from the insurer any benefits under that contract accruing upon the death,  
13 disablement, or injury of the individual insured, the individual insured or his or her executor or  
14 administrator may maintain an action to recover the benefits from the person so receiving them.

15 (c) "Insurable interest" as to personal insurance means that every individual has an  
16 insurable interest in the life, body, and health of himself or herself and of other persons as follows:

17 (1) In the case of individuals related closely by blood or by law, a substantial interest  
18 engendered by love and affection;

19 (2) In the case of other persons, a lawful and substantial economic interest in having the  
20 life, health, or bodily safety of the individual insured continue, as distinguished from an interest  
21 which would arise only by, or would be enhanced in value by the death, disablement, or injury of  
22 the individual insured;

23 (3) In the case of employees of public and private corporations, with respect to whom the  
24 corporate employer or an employer-sponsored trust is the beneficiary under the insurance contract,  
25 a lawful and substantial economic interest exists in:

26 (i) Key employees; and

27 (ii) Employees other than those identified in subdivision (c)(3)(i), and former employees  
28 and retirees for the purpose of funding, in the aggregate, all or part of the corporation's cost for  
29 pre-retirement and post-retirement benefits; provided, (A) that the amount of insurance coverage  
30 on these employees will be limited to an amount commensurate with employer-provided benefits  
31 to those employees, (B) that an insurance program used to finance these employee benefits includes  
32 former employees, retirees, or a broad class of employees selected by objective standards related  
33 to age, service, sex, or category of employment, and (C) that the proceeds created by that insurance  
34 program are used for the sole purpose of funding the corporation's pre-retirement or post-

1 retirement benefit programs; and

2 (4) An individual party to a contract or option for the purchase or sale of an interest in [a](#)  
3 business, partnership, or firm or of shares of stock of a corporation or of an interest in the shares,  
4 has an insurable interest in the life of each individual party to the contract and for the purposes of  
5 the contract only, in addition to any insurable interest which may exist as to the life of that  
6 individual.

7 (d) Insurance effectuated under a group life insurance policy pursuant to the program  
8 described in subdivision (c)(3)(ii) need not comply with the provisions of § 27-4-22 to the extent  
9 the provisions of that section would be inconsistent or would conflict with the purposes expressed  
10 in subdivision (c)(3)(ii).

11 (e) An insurer shall be entitled to rely upon all statements, declarations, and representations  
12 made by an applicant for insurance relative to insurable interest of the applicant in the insured, and  
13 no insurer shall incur legal liability except as set forth in the policy by virtue of any untrue  
14 statements, declarations, or representations relied upon in good faith by the insurer.

15 SECTION 8. Section 27-4.5-3 and 27-4.5-16 of the General Laws in Chapter 27-4.5  
16 entitled "The Standard Valuation Law" are hereby amended to read as follows:

17 **27-4.5-3. Actuarial opinion of reserves.**

18 (a) Actuarial opinion prior to the operative date of the valuation manual:

19 (1) General. Every life insurance company doing business in this state shall annually  
20 submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held  
21 in support of the policies and contracts specified by the commissioner of insurance by regulation  
22 are computed appropriately, are based on assumptions which satisfy contractual provisions, are  
23 consistent with prior reported amounts, and comply with applicable laws of this state. The  
24 commissioner of insurance by regulation shall define the specifics of this opinion and add any other  
25 items deemed to be necessary to its scope.

26 (2) Actuarial analysis of reserves and assets supporting reserves.

27 (i) Every life insurance company, except as exempted by [regulation](#) shall also annually  
28 include in the opinion required by subsection (a) above an opinion of the same qualified actuary as  
29 to whether the reserves and related actuarial items held in support of the policies and contracts  
30 specified by the commissioner of insurance by regulation, when considered in light of the assets  
31 held by the company with respect to the reserves and related actuarial items, including, but not  
32 limited to, the investment earnings on the assets and the considerations anticipated to be received  
33 and retained under the policies and contracts, make adequate provision for the company's  
34 obligations under the policies and contracts, including, but not limited to, the benefits under and

1 expenses associated with the policies and contracts.

2 (ii) The commissioner of insurance may provide by regulation for a transition period for  
3 establishing any higher reserves that the qualified actuary may deem necessary in order to render  
4 the opinion required by this section.

5 (3) Requirement for opinion under subdivision (2) above. Each opinion required by  
6 subdivision (2) shall be governed by the following provisions:

7 (i) A memorandum, in form and substance acceptable to the commissioner of insurance as  
8 specified by regulation, shall be prepared to support each actuarial opinion; and

9 (ii) If the insurance company fails to provide a supporting memorandum at the request of  
10 the commissioner of insurance within a period specified by regulation or the commissioner of  
11 insurance determines that the supporting memorandum provided by the insurance company fails to  
12 meet the standards prescribed by the regulations or is otherwise unacceptable to the commissioner  
13 of insurance, the commissioner of insurance may engage a qualified actuary at the expense of the  
14 company to review the opinion and the basis for the opinion and prepare the supporting  
15 memorandum required by the commissioner of insurance.

16 (4) Requirement for all opinions subject to subsection (a). Every opinion required by  
17 subsection (a) shall be governed by the following provisions:

18 (i) The opinion shall be submitted with the annual statement reflecting the valuation of the  
19 reserve liabilities for each year ending on or after December 31, 1994;

20 (ii) The opinion shall apply to all business in force including individual and group health  
21 insurance plans, in a form and substance acceptable to the commissioner of insurance as specified  
22 by regulation;

23 (iii) The opinion shall be based on standards adopted by the actuarial standards board and  
24 on any additional standards as ~~that~~ the commissioner of insurance may by regulation prescribe;

25 (iv) In the case of an opinion required to be submitted by a foreign or alien company, the  
26 commissioner of insurance may accept the opinion filed by that company with the insurance  
27 supervisory official of another state if the commissioner of insurance determines that the opinion  
28 reasonably meets the requirements applicable to a company domiciled in this state;

29 (v) For the purposes of this section, “qualified actuary” means a member in good standing  
30 of the American Academy of Actuaries who meets the requirements set forth in the regulations;

31 (vi) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable  
32 for damages to any person, other than the insurance company and the commissioner of insurance,  
33 for any act, error, omission, decision, or conduct with respect to the actuary’s opinion;

34 (vii) Disciplinary action by the commissioner of insurance against the company or the

1 qualified actuary shall be defined in regulations by the commissioner of insurance; and

2 (viii) Except as provided in paragraphs (xii), (xiii) and (xiv) below, documents, materials

3 or other information in the possession or control of the department of insurance that are a

4 memorandum in support of the opinion, and any other material provided by the company to the

5 commissioner in connection with the memorandum, shall be confidential and privileged, shall not

6 be subject to chapter 35 of title 42, shall not be subject to subpoena, and shall not be subject to

7 discovery or admissible in evidence ~~as in~~ any ~~private/civil~~ private civil action. However, the

8 commissioner is authorized to use the documents, materials or other information in the furtherance

9 of any regulatory or legal action brought as a part of the commissioner's official duties.

10 (ix) Neither the commissioner nor any person who received documents, materials or other

11 information while acting under the authority of the commissioner shall be permitted or required to

12 testify in any private civil action concerning any confidential documents, materials or information

13 subject to paragraph (viii).

14 (x) In order to assist in the performance of the commissioner's duties, the commissioner:

15 (A) May share documents, materials or other information, including the confidential and

16 privileged documents, materials or information subject to paragraph (viii) with other state, federal

17 and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with

18 state, federal and international law enforcement authorities, provided that the recipient agrees to

19 maintain the confidentiality and privileged status of the document, material or other information;

20 (B) May receive documents, materials or information, including otherwise confidential and

21 privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries,

22 and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and

23 shall maintain as confidential or privileged any document, material or information received with

24 notice or the understanding that it is confidential or privileged under the laws of the jurisdiction

25 that is the source of the document, material or information; and

26 (C) May enter into agreements governing sharing and use of information consistent with

27 paragraphs (viii) through (x).

28 (xi) No waiver of any applicable privilege or claim of confidentiality in the documents,

29 materials or information shall occur as a result of disclosure to the commissioner under this section

30 or as a result of sharing as authorized in paragraph (x).

31 (xii) A memorandum in support of the opinion, and any other material provided by the

32 company to the commissioner in connection with the memorandum, may be subject to subpoena

33 for the purpose of defending an action seeking damages from the actuary submitting the

34 memorandum by reason of an action required by this section or by regulations promulgated

1 hereunder.

2 (xiii) The memorandum or other material may otherwise be released by the commissioner  
3 with the written consent of the company or to the American Academy of Actuaries upon request  
4 stating that the memorandum or other material is required for the purpose of professional  
5 disciplinary proceedings and setting forth procedures satisfactory to the commissioner for  
6 preserving the confidentiality of the memorandum or other material.

7 (xiv) Once any portion of the confidential memorandum is cited by the company in its  
8 marketing or is cited before a governmental agency other than a state insurance department or is  
9 released by the company to the news media, all portions of the confidential memorandum shall be  
10 no longer confidential.

11 (b) Actuarial opinion of reserves after the operative date of the valuation manual.

12 (1) General. Every company with outstanding life insurance contracts, accident and health  
13 insurance contracts or deposit-type contracts in this state and subject to regulation by the  
14 commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves  
15 and related actuarial items held in support of the policies and contracts are computed appropriately,  
16 are based on assumptions that satisfy contractual provisions, are consistent with prior reported  
17 amounts and comply with applicable laws of this state. The valuation manual will prescribe the  
18 specifics of this opinion including any items deemed to be necessary to its scope.

19 (2) Actuarial analysis of reserves and assets supporting reserves. Every company with  
20 outstanding life insurance contracts, accident and health insurance contracts or deposit-type  
21 contracts in this state and subject to regulation by the commissioner, except as exempted in the  
22 valuation manual, shall also annually include in the opinion required by subdivision (1) of this  
23 section, an opinion of the same appointed actuary as to whether the reserves and related actuarial  
24 items held in support of the policies and contracts specified in the valuation manual, when  
25 considered in light of the assets held by the company with respect to the reserves and related  
26 actuarial items, including, but not limited to, the investment earnings on the assets and the  
27 considerations anticipated to be received and retained under the policies and contracts, make  
28 adequate provision for the company's obligations under the policies and contracts, including but  
29 not limited to the benefits under and expenses associated with the policies and contracts.

30 (3) Requirements for opinions subject to subdivision 27-4.5-3(b)(2). Each opinion required  
31 by subdivision 27-4.5-3(b)(2) shall be governed by the following provisions:

32 (i) A memorandum, in form and substance as specified in the valuation manual, and  
33 acceptable to the commissioner, shall be prepared to support each actuarial opinion.

34 (ii) If the insurance company fails to provide a supporting memorandum at the request of

1 the commissioner within a period specified in the valuation manual or the commissioner determines  
2 that the supporting memorandum provided by the insurance company fails to meet the standards  
3 prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the  
4 commissioner may engage a qualified actuary at the expense of the company to review the opinion  
5 and the basis for the opinion and prepare the supporting memorandum required by the  
6 commissioner.

7 (4) Requirement for all opinions subject to subsection 27-4.5-3(b). Every opinion shall be  
8 governed by the following provisions:

9 (i) The opinion shall be in form and substance as specified in the valuation manual and  
10 acceptable to the commissioner.

11 (ii) The opinion shall be submitted with the annual statement reflecting the valuation of  
12 such reserve liabilities for each year ending on or after the operative date of the valuation manual.

13 (iii) The opinion shall apply to all policies and contracts subject to subdivision 27-4.5-  
14 3(b)(2), plus other actuarial liabilities as may be specified in the valuation manual.

15 (iv) The opinion shall be based on standards adopted from time to time by the actuarial  
16 standards board or its successor, and on such additional standards as may be prescribed in the  
17 valuation manual.

18 (v) In the case of an opinion required to be submitted by a foreign or alien company, the  
19 commissioner may accept the opinion filed by that company with the insurance supervisory official  
20 of another state if the commissioner determines that the opinion reasonably meets the requirements  
21 applicable to a company domiciled in this state.

22 (vi) Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable  
23 for damages to any person (other than the insurance company and the commissioner) for any act,  
24 error, omission, decision or conduct with respect to the appointed actuary's opinion.

25 (vii) Disciplinary action by the commissioner against the company or the appointed actuary  
26 shall be defined in regulations by the commissioner.

27 **27-4.5-16. Confidentiality.**

28 (a) For purposes of this section, "confidential information" shall mean:

29 (1) A memorandum in support of an opinion submitted under § ~~27-4-3~~ [27-4.5-3](#) and any  
30 other documents, materials, and other information, including, but not limited to, all working papers,  
31 and copies thereof, created, produced, or obtained by, or disclosed to, the commissioner or any  
32 other person in connection with such memorandum;

33 (2) All documents, materials, and other information, including, but not limited to, all  
34 working papers, and copies thereof, created, produced, or obtained by, or disclosed to, the

1 commissioner or any other person in the course of an examination made under § 27-4.5-13(f);  
2 provided, however, that if an examination report or other material prepared in connection with an  
3 examination made under chapter 13.1 of title 27 is not held as private and confidential information  
4 under chapter 13.1 of this title, an examination report or other material prepared in connection with  
5 an examination made under § 27-4.5-13(f) of this chapter shall not be “confidential information”  
6 to the same extent as if such examination report or other material had been prepared in accordance  
7 with chapter 13.1 of title 27;

8 (3) Any reports, documents, materials, and other information developed by a company in  
9 support of, or in connection with, an annual certification by the company under § 27-4.5-14(b)(2)  
10 evaluating the effectiveness of the company’s internal controls with respect to a principle-based  
11 valuation and any other documents, materials and other information, including, but not limited to,  
12 all working papers, and copies thereof, created, produced, or obtained by, or disclosed to, the  
13 commissioner or any other person in connection with such reports, documents, materials and other  
14 information;

15 (4) Any principle-based valuation report developed under § 27-4.5-14(b)(3) and any other  
16 documents, materials, and other information, including, but not limited to, all working papers, and  
17 copies thereof, created, produced, or obtained by, or disclosed to, the commissioner or any other  
18 person in connection with such report; and

19 (5) Any documents, materials, data, and other information submitted by a company under  
20 § 27-4.5-15 (collectively, “experience data”) and any other documents, materials, data, and other  
21 information, including, but not limited to, all working papers, and copies thereof, created or  
22 produced in connection with such experience data, in each case that include any potentially  
23 company-identifying or personally identifiable information, that is provided to, or obtained by, the  
24 commissioner (together with any “experience data,” the “experience materials”) and any other  
25 documents, materials, data, and other information, including, but not limited to, all working papers,  
26 and copies thereof, created, produced, or obtained by, or disclosed to, the commissioner or any  
27 other person in connection with such experience materials.

28 (b) Privilege for, and confidentiality of, confidential information.

29 (1) Except as provided in this § 27-4.5-16, a company’s confidential information is  
30 confidential by law and privileged and shall not be subject to chapter 2 of title 38, shall not be  
31 subject to subpoena and shall not be subject to discovery or admissible in evidence in any private  
32 civil action; provided, however, that the commissioner is authorized to use the confidential  
33 information in the furtherance of any regulatory or legal action brought against the company as a  
34 part of the commissioner’s official duties.

1 (2) Neither the commissioner, nor any person who received confidential information while  
2 acting under the authority of the commissioner, shall be permitted or required to testify in any  
3 private civil action concerning any confidential information.

4 (3) In order to assist in the performance of the commissioner's duties, the commissioner  
5 may share confidential information:

6 (i) With other state, federal, and international regulatory agencies and with the NAIC and  
7 its affiliates and subsidiaries; and

8 (ii) In the case of confidential information specified in §§ 27-4.5-16(a)(1) and 27-4.5-  
9 16(a)(4) only, with the actuarial board for counseling and discipline or its successor upon request  
10 stating that the confidential information is required for the purpose of professional disciplinary  
11 proceedings, and with state, federal, and international law enforcement officials; in the case of  
12 subsections (a) and (b), provided, that, such recipient agrees, and has the legal authority to agree,  
13 to maintain the confidentiality and privileged status of such documents, materials, data, and other  
14 information in the same manner, and to the same extent, as required for the commissioner.

15 (4) The commissioner may receive documents, materials, data, and other information,  
16 including otherwise confidential and privileged documents, materials, data, or information, from  
17 the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other  
18 foreign or domestic jurisdictions and from the actuarial board for counseling and discipline or its  
19 successor and shall maintain as confidential or privileged any document, material, data, or other  
20 information received with notice or the understanding that it is confidential or privileged under the  
21 laws of the jurisdiction that is the source of the document, material, or other information.

22 (5) The commissioner may enter into agreements governing sharing and use of information  
23 consistent with § 27-4.5-16(b).

24 (6) No waiver of any applicable privilege or claim of confidentiality in the confidential  
25 information shall occur as a result of disclosure to the commissioner under this section or as a result  
26 of sharing as authorized in § 27-4.5-16(b)(3).

27 (7) A privilege established under the law of any state or jurisdiction that is substantially  
28 similar to the privilege established under § 27-4.5-16(b) shall be available and enforced in any  
29 proceeding in, and in any court of, this state.

30 (8) In § 27-4.5-16 "regulatory agency," "law enforcement agency" and the "NAIC"  
31 include, but are not limited to, their employees, agents, consultants, and contractors.

32 (c) Notwithstanding § 27-4.5-16(b), any confidential information specified in §§ 27-4.5-  
33 16(a)(1) and 27-4.5-14(a)(4):

34 (1) May be subject to subpoena for the purpose of defending an action seeking damages



1 from the appointed actuary submitting the related memorandum in support of an opinion submitted  
2 under § 27-4.5-3 or principle-based valuation report developed under § 27-4.5-14(b)(3) by reason  
3 of an action required by this chapter or by regulations promulgated hereunder;

4 (2) May otherwise be released by the commissioner with the written consent of the  
5 company; and

6 (3) Once any portion of a memorandum in support of an opinion submitted under § 27-4.5-  
7 3 or a principle-based valuation report developed under § 27-4.5-14(b)(3) is cited by the company  
8 in its marketing, or is publicly volunteered to or before a governmental agency other than a state  
9 insurance department, or is released by the company to the news media, all portions of such  
10 memorandum or report shall no longer be confidential.

11 SECTION 9. Sections 27-6-8.1 and 27-6-53 of the General Laws in Chapter 27-6 entitled  
12 "Fire and Marine Insurance Rating" are hereby amended to read as follows:

13 **27-6-8.1. Rating for nonbusiness policies.**

14 (a) Notwithstanding the requirements of § 27-6-8, a filing made by an insurer under this  
15 section that provides for an overall statewide rate increase or decrease of no more than five percent  
16 (5%) in the aggregate for all coverages that are subject to the filing may take effect the date it is  
17 filed. The five percent (5%) limitation does not apply on an individual insured basis. No more than  
18 one rate filing may be made by an insurer pursuant to the expedited process provided in this  
19 subsection during any twelve (12) month period, unless a rate filing, when combined with any other  
20 rate filing or filings made by an insurer within the preceding twelve (12) months, does not result in  
21 an overall statewide increase or decrease of more than five percent (5%) in the aggregate for all  
22 coverages that are subject to the filing.

23 (b) Rate filings falling outside of the limitation provided for in subsection (a) of this section  
24 shall be subject to § 27-6-11, unless those filings are ~~other~~ otherwise exempt from those provisions  
25 pursuant to another section of the insurance code.

26 (c) A filing submitted pursuant to subsection (a) of this section is considered to comply  
27 with state law. However, if the commissioner of insurance determines that the filing is inadequate  
28 or unfairly discriminatory, he/she shall issue a written order specifying in detail the provisions of  
29 the insurance code the insurer has violated and the reasons the filing is inadequate or unfairly  
30 discriminatory and stating a reasonable future date on which the filing is to be considered no longer  
31 effective. An order by the commissioner pursuant to this subsection that is issued more than thirty  
32 (30) days from the date on which the commissioner received the rate filing is prospective only and  
33 does not affect any contract issued or made before the effective date of the order. For purposes of  
34 this act, "unfairly discriminatory" means a rate for a risk that is classified in whole or in part on the

1 basis of race, color, creed or national origin.

2 (d) No rate increase within the limitation specified in subsection (a) of this section may be  
3 implemented with regard to an individual existing policy, unless the increase is applied at the time  
4 of a renewal or conditional renewal of an existing policy and the insurer, at least thirty (30) days in  
5 advance of the end of the insured's policy period, mails or delivers to the named insured, at the  
6 address shown in the policy, a written notice that clearly and conspicuously discloses its intention  
7 to change the rate. A notice of renewal or conditional renewal that clearly and conspicuously  
8 discloses the renewal premium applicable to the policy shall be deemed to be in compliance with  
9 this subsection.

10 **27-6-53. Use of credit rating.**

11 (a) An insurer may use insurance scoring for rating and underwriting of homeowners'  
12 insurance only under the following conditions:

13 (1) The insurer demonstrates the predictive nature of their insurance score to the insurance  
14 division.

15 (2) An insurer shall, once every two (2) years if requested by an existing customer, obtain  
16 an updated insurance score for the customer. If, after obtaining the insurance score, the customer  
17 has improved his, her or its credit rating, the user of the information shall afford the customer any  
18 decrease in rates that are available due to the improved rating. The user may not increase the rate  
19 of an existing customer based solely on a worsening in the customer's insurance score unless: (i)  
20 the worsening is due to a bankruptcy, tax lien, garnishment, foreclosure or judgment; or (ii) if a  
21 subsequent insurance score no sooner than six (6) months later confirms the worsening in score.  
22 Should an existing customer's score change as the result of an updated credit report, the decrease  
23 or increase in rates must be done at renewal subject to conditions established herein.

24 (3) An insurer shall not decline insurance for a new customer based solely on an insurance  
25 score, or absence of an insurance score; and an insurer shall not cancel, nonrenew or increase the  
26 rate of an existing customer based solely on a worsening in a customer's insurance score unless: (i)  
27 the worsening is due to a bankruptcy, tax lien, garnishment, foreclosure or judgment; or (ii) if a  
28 subsequent insurance score no sooner than six (6) months later confirms the worsening in score.  
29 Should an existing customer's score change as the result of an updated credit report, the decrease  
30 or increase in rates must be done at renewal subject to conditions established herein.

31 (4) No insurer is obligated to obtain a current credit report or insurance score for an insured  
32 if: the insured is in the most favorably-priced tier of the insurer, within a group of affiliated ~~insures~~  
33 insurers; or credit was not used for the insured when the policy was initially written. However, the  
34 insurer shall have the discretion to use credit for the insured upon renewal, if consistent with its

1 underwriting guidelines. The user may not increase the rate of an existing customer based solely  
2 on a worsening in the customer's insurance score unless: (i) the worsening is due to a bankruptcy,  
3 tax lien, garnishment, foreclosure or judgment; or (ii) if a subsequent insurance score no sooner  
4 than six (6) months later confirms the worsening in score. Should an existing customer's score  
5 change as the result of an updated credit report, the decrease or increase in rates must be done at  
6 renewal subject to conditions established herein.

7 (5) If a credit bureau determines that disputed information is inaccurate or incorrect and  
8 that information was used in determining an insurance score which resulted in a denial, cancellation  
9 or nonrenewal of or higher premiums or less favorable policy terms for a consumer, the insurer  
10 shall, within thirty (30) days of receiving notice of correction, reissue or re-rate the policy by  
11 refunding the amount of the overpayment of premium based on the corrected insurance score  
12 retroactive to the shorter of the last twelve (12) months of coverage or the actual period of coverage.  
13 An "insurance score" as used in this section shall be defined as a number or rating that is derived  
14 from an algorithm, computer application, model or other process that is based in whole or in part  
15 on credit history.

16 (b) Agents shall be held harmless by insurers for all acts, efforts and disclosures in  
17 obtaining an insurance score on the insurer's behalf. The commissioner is authorized and  
18 empowered to establish rules and regulations to carry out the provisions of this section and to fulfill  
19 the goals of this section.

20 (c) Notwithstanding the above, an insurer authorized to do business in Rhode Island that  
21 uses credit information to underwrite or rate risks, shall not use the following as a negative factor  
22 in any insurance scoring methodology or in reviewing credit information for the purpose of  
23 underwriting or rating a policy of personal insurance:

24 (1) Credit inquiries not initiated by the consumer or inquiries requested by the consumer  
25 for his or her own credit information;

26 (2) Inquiries relating to insurance coverage, if so identified on a consumer's credit report;

27 (3) Collection accounts with a medical industry code, if so identified on the consumer's  
28 credit report;

29 (4) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's  
30 credit report as being from the home mortgage industry and made within thirty (30) days of one  
31 another, unless only one inquiry is considered;

32 (5) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's  
33 credit report as being from the automobile lending industry and made within thirty (30) days of one  
34 another, unless only one inquiry is considered.

(d) No consumer reporting agency shall provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes, but is not limited to, the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage.

(e) The restrictions provided in subsection (d) of this section do not apply to data or lists the consumer reporting agency supplies to the insurance [agent/producer] from whom information was received, the insurer on whose behalf such [agent/producer] acted, or such insurer's affiliates or holding companies.

(f) Nothing in this section shall be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

SECTION 10. Section 27-7.1-13.1 of the General Laws in Chapter 27-7.1 entitled "Workers' Compensation Insurance" is hereby amended to read as follows:

**27-7.1-13.1. False or misleading information.**

No person, firm, corporation, association, or organization shall willfully withhold information that will affect the rates or premiums chargeable under this chapter or knowingly give false or misleading information to the director, any statistical agency or advisory organization ~~designed~~ designated by the director or any insurer.

SECTION 11. Section 27-9.3-2 of the General Laws in Chapter 27-9.3 entitled "State Structured Settlement Protection Act" is hereby amended to read as follows:

**27-9.3-2. Definitions.**

For purposes of this chapter:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement;

(2) "Dependents" includes a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony;

(3) "Discounted present value" means the present value of future payments determined by discounting the payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service;

(4) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from the consideration;

1           ~~(5)~~(6) “~~Independent~~ Interested parties” means, with respect to any structured settlement,  
2     the payee, any beneficiary irrevocably designated under the annuity contract to receive payments  
3     following the payee’s death, the annuity issuer, the structured settlement obligor, and any other  
4     party that has continuing rights or obligations under the structured settlement;

5           ~~(6)~~(5) “Independent professional advice” means advice of an attorney, certified public  
6     accountant, actuary or other licensed professional adviser;

7           (7) “Net advance amount” means the gross advance amount less the aggregate amount of  
8     the actual and estimated transfer expenses required to be disclosed under § 27-9.3-3(5);

9           (8) “Payee” means an individual who is receiving tax-free payments under a structured  
10    settlement and proposes to make a transfer of payment rights under the settlement;

11          (9) “Periodic payments” includes both recurring payments and scheduled future lump sum  
12    payments;

13          (10) “Qualified assignment agreement” means an agreement providing for a qualified  
14    assignment within the meaning of Section 130 of the United States Internal Revenue Code, 26  
15    U.S.C. § 130;

16          (11) “Responsible administrative authority” means, with respect to a structured settlement,  
17    any government authority vested by law with exclusive jurisdiction over the settled claim resolved  
18    by the structured settlement;

19          (12) “Settled claim” means the original tort claim or workers’ compensation claim resolved  
20    by a structured settlement;

21          (13) “Structured settlement” means an arrangement for periodic payment of damages for  
22    personal injuries or sickness established by settlement or judgment in resolution of a tort claim or  
23    for periodic payments in settlement of a workers’ compensation claim;

24          (14) “Structured settlement agreement” means the agreement, judgment, stipulation, or  
25    release embodying the terms of a structured settlement;

26          (15) “Structured settlement obligor” means, with respect to any structured settlement, the  
27    party that has the continuing obligation to make periodic payments to the payee under a structured  
28    settlement agreement or a qualified assignment agreement;

29          (16) “Structured settlement payment rights” means rights to receive periodic payments  
30    under a structured settlement, whether from the structured settlement obligor or the annuity issuer,  
31    where:

32           (i) The payee is domiciled in, or the domicile or principal place of business of the structured  
33    settlement obligor or the annuity issuer is located in, this state; or

34           (ii) The structured settlement agreement was approved by a court or responsible

1 administrative authority in this state; or

2 (iii) The structured settlement agreement is expressly governed by the laws of this state;

3 (17) “Terms of the structured settlement” includes, with respect to any structured

4 settlement, the terms of the structured settlement agreement, the annuity contract, any qualified

5 assignment agreement and any order or other approval of any court or responsible administrative

6 authority or other government authority that authorized or approved the structured settlement;

7 (18) “Transfer” means any sale, assignment, pledge, hypothecation or another alienation

8 or encumbrance of structured settlement payment rights made by a payee for consideration;

9 provided that the term “transfer” does not include the creation or perfection of a security interest in

10 structured settlement payment rights under a blanket security agreement entered into with an

11 insured depository institution, in the absence of any action to redirect the structured settlement

12 payments to an insured depository institution, or an agent or successor in interest of an insured

13 depository institution, or to enforce the blanket security interest against the structured settlement

14 payment rights;

15 (19) “Transfer agreement” means the agreement providing for a transfer of structured

16 settlement payment rights;

17 (20) “Transfer expenses” means all expenses of a transfer that are required under the

18 transfer agreement to be paid by the payee or deducted from the gross advance amount, including,

19 without limitation, court filing fees, attorneys’ fees, escrow fees, lien recordation fees, judgment

20 and lien search fees, finders’ fees, commissions, and other payments to a broker or other

21 intermediary; “transfer expenses” do not include preexisting obligations of the payee payable for

22 the payee’s account from the proceeds of a transfer;

23 (21) “Transferee” means a party acquiring or proposing to acquire structured settlement

24 payment rights through a transfer.

25 SECTION 12. Section 27-10.3-1 of the General Laws in Chapter 27-10.3 entitled "Motor

26 Vehicle Insurance — Mandatory Arbitration Provision" is hereby amended to read as follows:

27 **27-10.3-1. Arbitration provision.**

28 (a) Every contract of motor vehicle liability insurance, issued in the state by an insurance

29 carrier authorized to do business in the state, shall contain the following provisions:

30 (1) Any person, referred to in this section as “the plaintiff,” suffering a loss, allegedly

31 resulting out of the ownership, maintenance, or use of a motor vehicle by an insured or self-insured,

32 and allegedly resulting from liability imposed by law for property damage, bodily injury, or death,

33 may, at his or her election, whenever the claim is for fifty thousand dollars (\$50,000) or less, submit

34 the matter to arbitration pursuant to chapter 3 of title 10;

1 (2) Selection of arbitrator. After submission to arbitration by the plaintiff, one arbitrator  
2 shall be selected from the list of qualified arbitrators of the court annexed arbitration program of  
3 the superior court in the same manner as arbitrators are selected in accordance with the rules of that  
4 program. Each party shall share the expenses of arbitration in accordance with the rules of the court  
5 annexed arbitration program;

6 (3) Hearings. The arbitrator shall call a hearing and provide seven (7) days notice of the  
7 time and place of the hearing to the parties. The hearing shall be informal, and the rules of evidence  
8 prevailing in judicial proceedings shall be binding. Any and all documentary evidence and other  
9 data deemed relevant by the arbitrators may be received in evidence. The ~~arbitrators~~ arbitrator  
10 shall have the power to administer oaths and to require by subpoena the attendance and testimony  
11 of witnesses, and the production of books, records, and other evidence, relative or pertinent to the  
12 issues presented to them for determination. The decision of the ~~arbitrators~~ arbitrator shall be  
13 binding upon the parties unless:

14 (i) In the event that suit has not been instituted, either party reserves his or her right to a  
15 jury trial by giving notice of this reservation of right to the other party or parties and to the  
16 ~~arbitrators~~ arbitrator within sixty (60) days of the ~~arbitrators~~ arbitrator's award by certified  
17 mail return receipt requested; or

18 (ii) In the event that suit has been instituted, either party files a request for a jury trial with  
19 the court and with notice to the other party or parties within sixty (60) days of the arbitrator's award.  
20 If the case proceeds to trial subsequent to arbitration, the decision of the ~~arbitrators~~ arbitrator  
21 shall not be admissible;

22 (4) Statute of limitations. Notwithstanding the foregoing, a suit shall be instituted in order  
23 to bring the action within any applicable statute of limitations, but the suit will be stayed until an  
24 ~~arbitrators~~ arbitrator's award has been made or the case reached for trial;

25 (5) Agreements to arbitrate. Uninsured motorist contracts shall be governed by the  
26 provisions of § 10-3-2.

27 (b) Every person who maintains motor vehicle liability insurance shall, when making an  
28 application for a motor vehicle operator's license, or the renewal of that license, or when registering  
29 a motor vehicle, agree in writing on a form provided by the director of the department of  
30 transportation to be bound by the provisions of this chapter.

31 SECTION 13. Section 27-14.3-32 of the General Laws in Chapter 27-14.3 entitled  
32 "Insurers' Rehabilitation and Liquidation Act" is hereby amended to read as follows:

33 **27-14.3-32. Voidable preferences and liens.**

34 (a)(1) A preference is a transfer of any of the property of an insurer to or for the benefit of

1 a creditor, for or on account of an antecedent debt, made or suffered by the insurer within one year  
2 before the filing of a successful petition for liquidation under this chapter, the effect of which  
3 transfer may be to enable the creditor to obtain a greater percentage of this debt than another  
4 creditor of the same class would receive. If a liquidation order is entered while the insurer is already  
5 subject to a rehabilitation order, then the transfers shall be deemed preferences if made or suffered  
6 within one year before the filing of the successful petition for rehabilitation, or within two (2) years  
7 before the filing of the successful petition for liquidation, whichever time is shorter.

8 (2) Any preference may be avoided by the liquidator if:

9 (i) The insurer was insolvent at the time of the transfer;

10 (ii) The transfer was made within four (4) months before the filing of the petition;

11 (iii) The creditor receiving it or to be benefited by it or his or her agent acting with reference  
12 to it had, at the time when the transfer was made, reasonable cause to believe that the insurer was  
13 insolvent or was about to become insolvent; or

14 (iv) The creditor receiving it was an officer, or any employee or attorney or other person  
15 who was in fact in a position of comparable influence in the insurer to an officer whether or not he  
16 or she held the ~~petition~~ position, or any shareholder holding directly or indirectly more than five  
17 percent (5%) of any class of any equity security issued by the insurer, or any other person, firm,  
18 corporation, association, or aggregation of persons with whom the insurer did not deal at arm's  
19 length.

20 (3) Where the preference is voidable, the liquidator may recover the property or, if it has  
21 been converted, its value from any person who has received or converted the property; provided,  
22 that where a bona fide purchaser or lienor has given less than fair equivalent value, he or she shall  
23 have a lien upon the property to the extent of the consideration actually given by him or her. Where  
24 a preference by way of lien or security title is voidable, the court may on due notice order the lien  
25 or title preserved for the benefit of the estate, in the event the lien or title shall pass to the liquidator.

26 (4) Notwithstanding subsection (a)(2) of this section, or any other provision of this chapter,  
27 no receiver or any other person shall avoid any preference arising under or in connection with any  
28 pledge, security, credit, collateral, loan, advances, reimbursement or guarantee agreement or  
29 arrangement or any similar agreement, arrangement, or other credit enhancement to which a federal  
30 home loan bank, as defined in § 27-14.3-5, is a party.

31 (b)(1) A transfer of property other than real property shall be deemed made or suffered  
32 when it becomes so far perfected that no subsequent lien obtainable by legal or equitable  
33 proceedings on a simple contract could become superior to the rights of the transferee.

34 (2) A transfer of real property shall be deemed made or suffered when it becomes so far



1 perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to  
2 the rights of the transferee.

3 (3) A transfer which creates an equitable lien shall not be deemed perfected if there are  
4 available means by which a legal lien could be created.

5 (4) A transfer not perfected prior to the filing of a petition for liquidation shall be deemed  
6 made immediately before the filing of the successful petition.

7 (5) The provisions of this subsection apply whether or not there are or were creditors who  
8 might have obtained liens or persons who might have become bona fide purchasers.

9 (c)(1) A lien obtainable by legal or equitable proceedings upon a simple contract is one  
10 arising in the ordinary course of the proceedings upon the entry or docketing of a judgment or  
11 decree, or upon attachment, garnishment, execution, or a similar process, whether before, upon, or  
12 after judgment or decree and whether before or upon levy. It does not include liens that under  
13 applicable law are given a special priority over other liens which are prior in time.

14 (2) A lien obtainable by legal or equitable proceedings could become superior to the rights  
15 of a transferee or a purchaser could obtain rights superior to the rights of a transferee, within the  
16 meaning of subsection (b) of this section, if the consequences would follow only from the lien or  
17 purchase itself, or from the lien or purchase followed by any step wholly within the control of the  
18 lienholder or purchaser, with or without the aid of ministerial action by public officials. That lien  
19 could not become superior and that purchase could not create superior rights for the purpose of  
20 subsection (b) of this section through any acts subsequent to the obtaining of the lien or subsequent  
21 to the purchase which require the agreement or concurrence of any third party or which require any  
22 further judicial action or ruling.

23 (d) A transfer of property for or on account of a new and contemporaneous consideration  
24 which is deemed under subsection (b) of this section made or suffered after the transfer because of  
25 delay in perfecting it does not by this become a transfer for or on account of an antecedent debt if  
26 any acts required by the applicable law to be performed in order to perfect the transfer as against  
27 liens or bona fide purchasers' rights are performed within twenty-one (21) days or any period  
28 expressly allowed by the law, whichever is less. A transfer to secure a future loan, if the loan is  
29 actually made, or a transfer, which becomes security for a future loan, shall have the same effect  
30 as a transfer for or on account of a new and contemporaneous consideration.

31 (e) If any lien deemed voidable under subdivision (a)(2) of this section has been dissolved  
32 by the furnishing of a bond or other obligation, the surety on which has been indemnified directly  
33 or indirectly by the transfer of or the creation of a lien upon any property of an insurer before the  
34 filing of a petition under this chapter which results in a liquidation order, the indemnifying transfer

1 or lien shall also be deemed voidable.

2 (f) The property affected by any lien deemed voidable under subsections (a) and (e) of this  
3 section shall be discharged from the lien, and that property and any of the indemnifying property  
4 transferred to or for the benefit of a surety shall pass to the liquidator, except that the court may on  
5 due notice order any lien preserved for the benefit of the estate and the court may direct that  
6 conveyance executed as may be proper or adequate to evidence the title of the liquidator.

7 (g) The superior court for the county of Providence shall have summary jurisdiction of any  
8 proceeding by the liquidator to hear and determine the rights of any parties under this section.  
9 Reasonable notice of any hearing in the proceeding shall be given to all parties in interest, including  
10 the obligee of a releasing bond or other similar obligation. Where an order is entered for the  
11 recovery of indemnifying property in kind or for the avoidance of an indemnifying lien the court,  
12 upon application of any party in interest, shall in the same proceeding ascertain the value of the  
13 property or lien, and if the value is less than the amount for which the property is indemnity or than  
14 the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon  
15 payment of its value, as ascertained by the court, to the liquidator, within any reasonable times as  
16 the court shall fix.

17 (h) The liability of the surety under a releasing bond or other similar obligation shall be  
18 discharged to the extent of the value of the indemnifying property recovered or the indemnifying  
19 lien nullified and avoided by the liquidator, or where the property is retained under subsection (g)  
20 of this section to the extent of the amount paid to the liquidator.

21 (i) If a creditor has been preferred, and afterward in good faith gives the insurer further  
22 credit without security of any kind for property which becomes a part of the insurer's estate, the  
23 amount of the new credit remaining unpaid at the time of the petition may be set off against the  
24 preference which would be recoverable from him or her.

25 (j) If an insurer, directly or indirectly, within one year before the filing of a successful  
26 petition for liquidation under this chapter, or at any time in contemplation of a proceeding to  
27 liquidate it, pays money or transfers property to an attorney at law for services rendered or to be  
28 rendered, the transactions may be examined by the court on its own motion or shall be examined  
29 by the court on petition of the liquidator and shall be held valid only to the extent of a reasonable  
30 amount to be determined by the court, and the excess may be recovered by the liquidator for the  
31 benefits of the estate; provided, that where the attorney is in a position of influence in the insurer  
32 or an affiliate of the insurer, payment of any money or the transfer of any property to the attorney  
33 at law for services rendered or to be rendered shall be governed by the provision of subdivision  
34 (a)(2)(iv) of this section.

1 (k)(1) Every officer, manager, employee, shareholder, member, subscriber, attorney, or any  
2 other person acting on behalf of the insurer who knowingly participates in giving any preference  
3 when he or she has reasonable cause to believe the insurer is or is about to become insolvent at the  
4 time of the preference shall be personally liable to the liquidator for the amount of the preference.

5 It is permissible to infer that there is a reasonable cause to believe this if the transfer was made  
6 within four (4) months before the date of filing of this successful petition for liquidation.

7 (2) Every person receiving any property from the insurer or the benefit of the property as  
8 a preference voidable under subsection (a) of this section shall be personally liable for it and shall  
9 be bound to account to the liquidator.

10 (3) Nothing in this subsection shall prejudice any other claim by the liquidator against any  
11 person.

12 SECTION 14. Section 27-18-25 of the General Laws in Chapter 27-18 entitled "Accident  
13 and Sickness Insurance Policies" is hereby amended to read as follows:

14 **27-18-25. Unfair discrimination prohibited.**

15 Notwithstanding any provision of any policy of insurance, certificate, or service contract  
16 issued in this state, whenever the insurance policy, certificate, or service contract provides for  
17 reimbursement for any services that may be legally performed by any person licensed under the  
18 provisions of chapters 29, 30, ~~35~~ 35.1 and 37 of title 5, reimbursement under the insurance policy,  
19 certificate, or service contract shall be based upon a determination of medical necessity and shall  
20 not be denied because of race, color, or creed, nor shall any insurer make or permit any unfair  
21 discrimination against particular individuals or persons licensed under chapters 29, 30, ~~35~~ 35.1 and  
22 37 of title 5.

23 SECTION 15. Section 27-18.5-2 of the General Laws in Chapter 27-18.5 entitled  
24 "Individual Health Insurance Coverage" is hereby amended to read as follows:

25 **27-18.5-2. Definitions.**

26 The following words and phrases as used in this chapter have the following meanings  
27 unless a different meaning is required by the context:

28 (1) "Bona fide association" means, with respect to health insurance coverage offered in  
29 this state, an association that:

30 (i) Has been actively in existence for at least five (5) years;

31 (ii) Has been formed and maintained in good faith for purposes other than obtaining  
32 insurance;

33 (iii) Does not condition membership in the association on any health status-related factor  
34 relating to an individual (including an employee of an employer or a dependent of an employee);

1 (iv) Makes health insurance coverage offered through the association available to all  
2 members regardless of any health status-related factor relating to the members (or individuals  
3 eligible for coverage through a member);

4 (v) Does not make health insurance coverage offered through the association available  
5 other than in connection with a member of the association;

6 (vi) Is composed of persons having a common interest or calling;

7 (vii) Has a constitution and bylaws; and

8 (viii) Meets any additional requirements that the director may prescribe by regulation;

9 (2) “COBRA continuation provision” means any of the following:

10 (i) Section 4980(B) of the Internal Revenue Code of 1986, 26 U.S.C. § 4980B, other than  
11 subsection (f)(1) of that section insofar as it relates to pediatric vaccines;

12 (ii) Part 6 of subtitle B of Title I of the Employee Retirement Income Security Act of 1974,  
13 29 U.S.C. § 1161 et seq., other than Section 609 of that act, 29 U.S.C. § 1169; or

14 (iii) Title XXII of the United States Public Health Service Act, 42 U.S.C. § 300bb-1 et seq.;

15 (3) “Commissioner” means the health insurance commissioner;

16 (4) “Creditable coverage” has the same meaning as defined in the ~~United States Public~~  
17 ~~Health Service Act, Section 2701(e), 42 U.S.C. § 300gg(e), as added by P.L. 104-191~~ [§ 42 U.S.C.](#)  
18 [§ 300gg-3\(c\)](#);

19 (5) “Director” means the director of the department of business regulation;

20 (6) “Eligible individual” means an individual:

21 (i) For whom, as of the date on which the individual seeks coverage under this chapter, the  
22 aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most  
23 recent prior creditable coverage was under a group health plan, a governmental plan established or  
24 maintained for its employees by the government of the United States or by any of its agencies or  
25 instrumentalities, or church plan (as defined by the Employee Retirement Income Security Act of  
26 1974, 29 U.S.C. § 1001 et seq.);

27 (ii) Who is not eligible for coverage under a group health plan, part A or part B of title  
28 XVIII of the Social Security Act, 42 U.S.C. § 1395c et seq. or 42 U.S.C. § 1395j et seq., or any  
29 state plan under title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (or any successor  
30 program), and does not have other health insurance coverage;

31 (iii) With respect to whom the most recent coverage within the coverage period was not  
32 terminated based on a factor described in § 27-18.5-4(b) (relating to nonpayment of premiums or  
33 fraud);

34 (iv) If the individual had been offered the option of continuation coverage under a COBRA

1 continuation provision, or under chapter 19.1 of this title or under a similar state program of this  
2 state or any other state, who elected the coverage; and

3 (v) Who, if the individual elected COBRA continuation coverage, has exhausted the  
4 continuation coverage under the provision or program;

5 (7) “Group health plan” means an employee welfare benefit plan as defined in section 3(1)  
6 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1), to the extent that  
7 the plan provides medical care and including items and services paid for as medical care to  
8 employees or their dependents as defined under the terms of the plan directly or through insurance,  
9 reimbursement or otherwise;

10 (8) “Health insurance carrier” or “carrier” means any entity subject to the insurance laws  
11 and regulations of this state, or subject to the jurisdiction of the director, that contracts or offers to  
12 contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of healthcare  
13 services, including, without limitation, an insurance company offering accident and sickness  
14 insurance, a health maintenance organization, a nonprofit hospital, medical or dental service  
15 corporation, or any other entity providing a plan of health insurance or health benefits by which  
16 healthcare services are paid or financed for an eligible individual or his or her dependents by such  
17 entity on the basis of a periodic premium, paid directly or through an association, trust, or other  
18 intermediary, and issued, renewed, or delivered within or without Rhode Island to cover a natural  
19 person who is a resident of this state, including a certificate issued to a natural person that evidences  
20 coverage under a policy or contract issued to a trust or association;

21 (9)(i) “Health insurance coverage” means a policy, contract, certificate, or agreement  
22 offered by a health insurance carrier to provide, deliver, arrange for, pay for, or reimburse any of  
23 the costs of healthcare services. Health insurance coverage includes short-term limited-duration  
24 policies and any policy that pays on a cost-incurred basis, except as otherwise specifically exempted  
25 by subsection (9)(ii), (iii), (iv), or (v) of this section.

26 (ii) “Health insurance coverage” does not include one or more, or any combination of, the  
27 following:

28 (A) Coverage only for accident, or disability income insurance, or any combination of  
29 those;

30 (B) Coverage issued as a supplement to liability insurance;

31 (C) Liability insurance, including general liability insurance and automobile liability  
32 insurance;

33 (D) Workers’ compensation or similar insurance;

34 (E) Automobile medical payment insurance;

1 (F) Credit-only insurance;

2 (G) Coverage for on-site medical clinics; and

3 (H) Other similar insurance coverage, specified in federal regulations issued pursuant to

4 P.L. 104-191, under which benefits for medical care are secondary or incidental to other insurance

5 benefits;

6 (I) [Deleted by P.L. 2019, ch. 88, art. 11, § 1];

7 (iii) “Health insurance coverage” does not include the following benefits if they are

8 provided under a separate policy, certificate, or contract of insurance or are not an integral part of

9 the coverage:

10 (A) Limited scope dental or vision benefits;

11 (B) Benefits for long-term care, nursing home care, home health care, community-based

12 care, or any combination of these;

13 (C) Any other similar, limited benefits that are specified in federal regulation issued

14 pursuant to P.L. 104-191;

15 (iv) “Health insurance coverage” does not include the following benefits if the benefits are

16 provided under a separate policy, certificate, or contract of insurance, there is no coordination

17 between the provision of the benefits and any exclusion of benefits under any group health plan

18 maintained by the same plan sponsor, and the benefits are paid with respect to an event without

19 regard to whether benefits are provided with respect to the event under any group health plan

20 maintained by the same plan sponsor:

21 (A) Coverage only for a specified disease or illness; or

22 (B) Hospital indemnity or other fixed indemnity insurance; and

23 (v) “Health insurance coverage” does not include the following if it is offered as a separate

24 policy, certificate, or contract of insurance:

25 (A) Medicare supplemental health insurance as defined under section 1882(g)(1) of the

26 Social Security Act, 42 U.S.C. § 1395ss(g)(1);

27 (B) Coverage supplemental to the coverage provided under 10 U.S.C. § 1071 et seq.; and

28 (C) Similar supplemental coverage provided to coverage under a group health plan;

29 (10) “Health status-related factor” means any of the following factors:

30 (i) Health status;

31 (ii) Medical condition, including both physical and mental illnesses;

32 (iii) Claims experience;

33 (iv) Receipt of health care;

34 (v) Medical history;

- 1 (vi) Genetic information;
- 2 (vii) Evidence of insurability, including conditions arising out of acts of domestic violence;
- 3 and
- 4 (viii) Disability;
- 5 (11) “High-risk individuals” means those individuals who do not pass medical
- 6 underwriting standards due to high healthcare needs or risks;
- 7 (12) “Individual market” means the market for health insurance coverage offered to
- 8 individuals other than in connection with a group health plan;
- 9 (13) “Network plan” means health insurance coverage offered by a health insurance carrier
- 10 under which the financing and delivery of medical care, including items and services paid for as
- 11 medical care, are provided, in whole or in part, through a defined set of providers under contract
- 12 with the carrier;
- 13 (14) “Preexisting condition” means, with respect to health insurance coverage, a condition
- 14 (whether physical or mental), regardless of the cause of the condition, that was present before the
- 15 date of enrollment for the coverage, for which medical advice, diagnosis, care, or treatment was
- 16 recommended or received within the six-month (6) period ending on the enrollment date. Genetic
- 17 information shall not be treated as a preexisting condition in the absence of a diagnosis of the
- 18 condition related to that information; and
- 19 (15) “Wellness health benefit plan” means that health benefit plan offered in the individual
- 20 market pursuant to § 27-18.5-8.

21 SECTION 16. Section 27-18.6-2 of the General Laws in Chapter 27-18.6 entitled "Large

22 Group Health Insurance Coverage" is hereby amended to read as follows:

23 **27-18.6-2. Definitions.**

24 The following words and phrases as used in this chapter have the following meanings

25 unless a different meaning is required by the context:

26 (1) “Affiliation period” means a period which, under the terms of the health insurance

27 coverage offered by a health maintenance organization, must expire before the health insurance

28 coverage becomes effective. The health maintenance organization is not required to provide health

29 care services or benefits during the period and no premium shall be charged to the participant or

30 beneficiary for any coverage during the period;

31 (2) “Beneficiary” has the meaning given that term under section 3(8) of the Employee

32 Retirement Security Act of 1974, 29 U.S.C. § 1002(8);

33 (3) “Bona fide association” means, with respect to health insurance coverage in this state,

34 an association which:

- 1 (i) Has been actively in existence for at least five (5) years;
- 2 (ii) Has been formed and maintained in good faith for purposes other than obtaining
- 3 insurance;
- 4 (iii) Does not condition membership in the association on any health status-relating factor
- 5 relating to an individual (including an employee of an employer or a dependent of an employee);
- 6 (iv) Makes health insurance coverage offered through the association available to all
- 7 members regardless of any health status-related factor relating to the members (or individuals
- 8 eligible for coverage through a member);
- 9 (v) Does not make health insurance coverage offered through the association available
- 10 other than in connection with a member of the association;
- 11 (vi) Is composed of persons having a common interest or calling;
- 12 (vii) Has a constitution and bylaws; and
- 13 (viii) Meets any additional requirements that the director may prescribe by regulation;
- 14 (4) “COBRA continuation provision” means any of the following:
- 15 (i) Section 4980(B) of the Internal Revenue Code of 1986, 26 U.S.C. § 4980B, other than
- 16 the subsection (f)(1) of that section insofar as it relates to pediatric vaccines;
- 17 (ii) Part 6 of subtitle B of title 1 of the Employee Retirement Income Security Act of 1974,
- 18 29 U.S.C. § 1161 et seq., other than section 609 of that act, 29 U.S.C. § 1169; or
- 19 (iii) Title XXII of the United States Public Health Service Act, 42 U.S.C. § 300bb-1 et seq.;
- 20 (5) “Creditable coverage” has the same meaning as defined in ~~the United States Public~~
- 21 ~~Health Service Act, section 2701(e), 42 U.S.C. § 300gg(e), as added by P.L. 104-191~~ 42 U.S.C.
- 22 § 300gg-3(c);
- 23 (6) “Church plan” has the meaning given that term under section 3(33) of the Employee
- 24 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(33);
- 25 (7) “Director” means the director of the department of business regulation;
- 26 (8) “Employee” has the meaning given that term under section 3(6) of the Employee
- 27 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(6);
- 28 (9) “Employer” has the meaning given that term under section 3(5) of the Employee
- 29 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(5), except that the term includes only
- 30 employers of two (2) or more employees;
- 31 (10) “Enrollment date” means, with respect to an individual covered under a group health
- 32 plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage
- 33 or, if earlier, the first day of the waiting period for the enrollment;
- 34 (11) “Governmental plan” has the meaning given that term under section 3(32) of the



1 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(32), and includes any  
2 governmental plan established or maintained for its employees by the government of the United  
3 States, the government of any state or political subdivision of the state, or by any agency or  
4 instrumentality of government;

5 (12) “Group health insurance coverage” means, in connection with a group health plan,  
6 health insurance coverage offered in connection with that plan;

7 (13) “Group health plan” means an employee welfare benefits plan as defined in section  
8 3(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1), to the extent  
9 that the plan provides medical care and including items and services paid for as medical care to  
10 employees or their dependents as defined under the terms of the plan directly or through insurance,  
11 reimbursement or otherwise;

12 (14) “Health insurance carrier” or “carrier” means any entity subject to the insurance laws  
13 and regulations of this state, or subject to the jurisdiction of the director, that contracts or offers to  
14 contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care  
15 services, including, without limitation, an insurance company offering accident and sickness  
16 insurance, a health maintenance organization, a nonprofit hospital, medical or dental service  
17 corporation, or any other entity providing a plan of health insurance, health benefits, or health  
18 services;

19 (15)(i) “Health insurance coverage” means a policy, contract, certificate, or agreement  
20 offered by a health insurance carrier to provide, deliver, arrange for, pay for, or reimburse any of  
21 the costs of health care services. Health insurance coverage does include short-term and  
22 catastrophic health insurance policies, and a policy that pays on a cost-incurred basis, except as  
23 otherwise specifically exempted in this definition;

24 (ii) “Health insurance coverage” does not include one or more, or any combination of, the  
25 following “excepted benefits”:

26 (A) Coverage only for accident, or disability income insurance, or any combination of  
27 those;

28 (B) Coverage issued as a supplement to liability insurance;

29 (C) Liability insurance, including general liability insurance and automobile liability  
30 insurance;

31 (D) Workers’ compensation or similar insurance;

32 (E) Automobile medical payment insurance;

33 (F) Credit-only insurance;

34 (G) Coverage for on-site medical clinics; and

1 (H) Other similar insurance coverage, specified in federal regulations issued pursuant to  
2 P.L. 104-191, under which benefits for medical care are secondary or incidental to other insurance  
3 benefits;

4 (iii) “Health insurance coverage” does not include the following “limited, excepted  
5 benefits” if they are provided under a separate policy, certificate of insurance, or are not an integral  
6 part of the plan:

7 (A) Limited scope dental or vision benefits;

8 (B) Benefits for long-term care, nursing home care, home health care, community-based  
9 care, or any combination of those; and

10 (C) Any other similar, limited benefits that are specified in federal regulations issued  
11 pursuant to P.L. 104-191;

12 (iv) “Health insurance coverage” does not include the following “noncoordinated, excepted  
13 benefits” if the benefits are provided under a separate policy, certificate, or contract of insurance,  
14 there is no coordination between the provision of the benefits and any exclusion of benefits under  
15 any group health plan maintained by the same plan sponsor, and the benefits are paid with respect  
16 to an event without regard to whether benefits are provided with respect to the event under any  
17 group health plan maintained by the same plan sponsor:

18 (A) Coverage only for a specified disease or illness; and

19 (B) Hospital indemnity or other fixed indemnity insurance;

20 (v) “Health insurance coverage” does not include the following “supplemental, excepted  
21 benefits” if offered as a separate policy, certificate, or contract of insurance:

22 (A) Medicare supplemental health insurance as defined under section 1882(g)(1) of the  
23 Social Security Act, 42 U.S.C. § 1395ss(g)(1);

24 (B) Coverage supplemental to the coverage provided under 10 U.S.C. § 1071 et seq.; and

25 (C) Similar supplemental coverage provided to coverage under a group health plan;

26 (16) “Health maintenance organization” (“HMO”) means a health maintenance  
27 organization licensed under chapter 41 of this title;

28 (17) “Health status-related factor” means any of the following factors:

29 (i) Health status;

30 (ii) Medical condition, including both physical and mental illnesses;

31 (iii) Claims experience;

32 (iv) Receipt of health care;

33 (v) Medical history;

34 (vi) Genetic information;

1           (vii) Evidence of insurability, including contributions arising out of acts of domestic  
2     violence; and

3           (viii) Disability;

4           (18) “Large employer” means, in connection with a group health plan with respect to a  
5     calendar year and a plan year, an employer who employed an average of at least fifty-one (51)  
6     employees on business days during the preceding calendar year and who employs at least two (2)  
7     employees on the first day of the plan year. In the case of an employer which was not in existence  
8     throughout the preceding calendar year, the determination of whether the employer is a large  
9     employer shall be based on the average number of employees that is reasonably expected the  
10    employer will employ on business days in the current calendar year;

11          (19) “Large group market” means the health insurance market under which individuals  
12    obtain health insurance coverage (directly or through any arrangement) on behalf of themselves  
13    (and their dependents) through a group health plan maintained by a large employer;

14          (20) “Late enrollee” means, with respect to coverage under a group health plan, a  
15    participant or beneficiary who enrolls under the plan other than during:

16           (i) The first period in which the individual is eligible to enroll under the plan; or  
17           (ii) A special enrollment period;

18          (21) “Medical care” means amounts paid for:

19           (i) The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for  
20    the purpose of affecting any structure or function of the body;

21           (ii) Amounts paid for transportation primarily for and essential to medical care referred to  
22    in paragraph (i) of this subdivision; and

23           (iii) Amounts paid for insurance covering medical care referred to in paragraphs (i) and (ii)  
24    of this subdivision;

25          (22) “Network plan” means health insurance coverage offered by a health insurance carrier  
26    under which the financing and delivery of medical care including items and services paid for as  
27    medical care are provided, in whole or in part, through a defined set of providers under contract  
28    with the carrier;

29          (23) “Participant” has the meaning given such term under section 3(7) of the Employee  
30    Retirement Income Security Act of 1974, 29 U.S.C. § 1002(7);

31          (24) “Placed for adoption” means, in connection with any placement for adoption of a child  
32    with any person, the assumption and retention by that person of a legal obligation for total or partial  
33    support of the child in anticipation of adoption of the child. The child’s placement with the person  
34    terminates upon the termination of the legal obligation;

(25) “Plan sponsor” has the meaning given that term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(16)(B). “Plan sponsor” also includes any bona fide association, as defined in this section;

(26) “Preexisting condition exclusion” means, with respect to health insurance coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for the coverage, whether or not any medical advice, diagnosis, care or treatment was recommended or received before the date; and

(27) “Waiting period” means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

SECTION 17. Section 27-18.9-5 of the General Laws in Chapter 27-18.9 entitled "Benefit Determination and Utilization Review Act" is hereby amended to read as follows:

**27-18.9-5. Administrative and non-administrative benefit determination procedural requirements.**

(a) Procedural failure by claimant.

(1) In the event of the failure of claimant or an authorized representative to follow the healthcare entities claims procedures for a pre-service claim the healthcare entity or its review agent must:

(i) Notify claimant or the authorized representative, as appropriate, of this failure as soon as possible and no later than five (5) calendar days following the failure and this notification must also inform claimant of the proper procedures to file a pre-service claim; and

(ii) Notwithstanding the above, if the pre-service claim relates to urgent or emergent healthcare services, the healthcare entity or its review agent must notify and inform claimant or the authorized representative, as appropriate, of the failure and proper procedures within twenty-four (24) hours following the failure. Notification may be oral, unless written notification is requested by the claimant or authorized representative.

(2) Claimant must have stated name, specific medical condition or symptom and specific treatment, service, or product for which approval is requested and submitted to proper claim processing unit.

(b) Utilization review agent procedural requirements:

(1) All initial, prospective, and concurrent non-administrative, adverse benefit determinations of a healthcare service that had been ordered by a physician, dentist, or other practitioner shall be made, documented, and signed by a licensed practitioner with the same licensure status as the ordering provider;

1 (2) Utilization review agents are not prohibited from allowing appropriately qualified  
2 review agency staff ~~from engaging~~ to engage in discussions with the attending provider, the  
3 attending provider's designee or appropriate healthcare facility and office personnel regarding  
4 alternative service and/or treatment options. Such a discussion shall not constitute an adverse  
5 benefit determination; provided, however, that any change to the attending provider's original order  
6 and/or any decision for an alternative level of care must be made and/or appropriately consented to  
7 by the attending provider or the provider's designee responsible for treating the beneficiary and  
8 must be documented by the review agent; and

9 (3) A utilization review agent shall not retrospectively deny authorization for healthcare  
10 services provided to a covered person when an authorization has been obtained for that service  
11 from the review agent unless the approval was based upon inaccurate information material to the  
12 review or the healthcare services were not provided consistent with the provider's submitted plan  
13 of care and/or any restrictions included in the prior approval granted by the review agent.

14 SECTION 18. Sections 42-7.2-20.4 and 42-7.2-20.8 of the General Laws in Chapter 42-  
15 7.2 entitled "Office of Health and Human Services" are hereby amended to read as follows:

16 **42-7.2-20.4. Contributions to be held in trust.**

17 (a) Funds contributed to the program shall be held in trust in a special account or accounts  
18 and shall not be co-mingled with any state funds appropriated by the general assembly for the  
19 support of ~~or~~ the programs administered by the executive office.

20 (b) There shall be separate accounting for each designated beneficiary.

21 (c) Any designated beneficiary under such program may, directly or indirectly, direct the  
22 investment of any contributions to the program (or earnings thereon) no more than the allowable  
23 limit of 26 U.S.C. § 529A.

24 **42-7.2-20.8. Creditors.**

25 Notwithstanding any provision of the general or public laws to the contrary, money in the  
26 ABLE program shall be exempt from creditor process and shall not be liable to attachment,  
27 garnishment, or other process, nor shall it be seized, taken, appropriated or applied by any legal or  
28 equitable process or operation of law to pay any debt or liability ~~or~~ of any contributor or  
29 beneficiary; provided, however, that the state of residency of the designated beneficiary of an  
30 ABLE account shall be a creditor of such account in the event of the death of the designated  
31 beneficiary.

32 SECTION 19. Section 42-11-10 of the General Laws in Chapter 42-11 entitled  
33 "Department of Administration" is hereby amended to read as follows:

34 **42-11-10. Statewide planning program.**

1           (a) Findings. The general assembly finds that the people of this state have a fundamental  
2     interest in the orderly development of the state; the state has a positive interest and demonstrated  
3     need for establishment of a comprehensive, strategic state planning process and the preparation,  
4     maintenance, and implementation of plans for the physical, economic, and social development of  
5     the state; the continued growth and development of the state presents problems that cannot be met  
6     by the cities and towns individually and that require effective planning by the state; and state and  
7     local plans and programs must be properly coordinated with the planning requirements and  
8     programs of the federal government.

9           **(b) Establishment of statewide planning program.**

10          (1) A statewide planning program is hereby established to prepare, adopt, and amend  
11     strategic plans for the physical, economic, and social development of the state and to recommend  
12     these to the governor, the general assembly, and all others concerned.

13          (2) All strategic planning, as defined in subsection (c) of this section, undertaken by all  
14     departments and agencies of the executive branch unless specifically exempted, shall be conducted  
15     by or under the supervision of the statewide planning program. The statewide planning program  
16     shall consist of a state planning council, and the division of planning, which shall be a division  
17     within the department of administration.

18          (c) Strategic planning. Strategic planning includes the following activities:

19           (1) Establishing or identifying general goals;

20           (2) Refining or detailing these goals and identifying relationships between them;

21           (3) Formulating, testing, and selecting policies and standards that will achieve desired  
22     objectives;

23           (4) Preparing long-range or system plans or comprehensive programs that carry out the  
24     policies and set time schedules, performance measures, and targets;

25           (5) Preparing functional, short-range plans or programs that are consistent with established  
26     or desired goals, objectives, and policies, and with long-range or system plans or comprehensive  
27     programs where applicable, and that establish measurable, intermediate steps toward their  
28     accomplishment of the goals, objectives, policies, and/or long-range system plans;

29           (6) Monitoring the planning of specific projects and designing of specific programs of short  
30     duration by the operating departments, other agencies of the executive branch, and political  
31     subdivisions of the state to ensure that these are consistent with, and carry out the intent of,  
32     applicable strategic plans; and

33           (7) Reviewing the execution of strategic plans, and the results obtained, and making  
34     revisions necessary to achieve established goals.

1 (d) State guide plan. Components of strategic plans prepared and adopted in accordance  
2 with this section may be designated as elements of the state guide plan. The state guide plan shall  
3 be comprised of functional elements or plans dealing with land use; physical development and  
4 environmental concerns; economic development; housing production; energy supply, including the  
5 development of renewable energy resources in Rhode Island, and energy access, use, and  
6 conservation; human services; climate change and resiliency; and other factors necessary to  
7 accomplish the objective of this section. The state guide plan shall be a means for centralizing,  
8 integrating, and monitoring long-range goals, policies, plans, and implementation activities related  
9 thereto. State agencies concerned with specific subject areas, local governments, and the public  
10 shall participate in the state guide planning process, which shall be closely coordinated with the  
11 budgeting process.

12 (e) Membership of state planning council. The state planning council shall consist of the  
13 following members:

14 (1) The director of the department of administration as chairperson;

15 (2) The director, policy office, in the office of the governor, as vice-chairperson;

16 (3) The governor, or his or her designee;

17 (4) [Deleted by P.L. 2019, ch. 88, art. 4, § 13.]

18 (5) The secretary of housing or designee;

19 (6) The highest-ranking administrative officer of the division of planning, as secretary;

20 (7) The president of the Rhode Island League of Cities and Towns or his or her designee;

21 (8) The executive director of the Rhode Island League of Cities and Towns;

22 (9) Three (3) chief elected officials of cities and towns appointed by the governor after  
23 consultation with the Rhode Island League of Cities and Towns, one of whom shall be from a  
24 community with a population greater than 40,000 persons; one of whom shall be from a community  
25 with a population of between 20,000 and 40,000 persons; and one of whom shall be from a  
26 community with a population less than 20,000 persons;

27 (10) One representative of a nonprofit community development or housing organization  
28 appointed by the governor;

29 (11) Four (4) public members, appointed by the governor, one of whom shall be an  
30 employer with fewer than fifty (50) employees; one of whom shall be an employer with greater  
31 than fifty (50) employees; one of whom shall represent a professional planning or engineering  
32 organization in Rhode Island; and one of whom shall represent a chamber of commerce or  
33 economic development organization;

34 (12) Two (2) representatives of private, nonprofit, environmental or environmental justice

1 advocacy organizations, both to be appointed by the governor;

2 (13) The director of planning and development for the city of Providence;

3 (14) The director of the department of transportation;

4 (15) The director of the department of environmental management;

5 (16) The director of the department of health;

6 (17) The chief executive officer of the commerce corporation;

7 (18) The commissioner of the Rhode Island office of energy resources;

8 (19) The chief executive officer of the Rhode Island public transit authority;

9 (20) The executive director of Rhode Island housing;

10 (21) The executive director of the coastal resources management council; and

11 (22) The director of the Rhode Island emergency management agency.

12 (f) Powers and duties of state planning council. The state planning council shall have the

13 following powers and duties:

14 (1) To adopt strategic plans as defined in this section and the long-range state guide plan,

15 and to modify and amend any of these, following the procedures for notification and public hearing

16 ~~set forth in § 42-35-3~~ in accordance with the provisions of chapter 35 of this title, and to

17 recommend and encourage implementation of these goals to the general assembly, state and federal

18 agencies, and other public and private bodies; approval of strategic plans by the governor; and to

19 ensure that strategic plans and the long-range state guide plan are consistent with the findings,

20 intent, and goals set forth in § 45-22.2-3, the “Rhode Island comprehensive planning and land use

21 regulation act”;

22 (2) To coordinate the planning and development activities of all state agencies, in

23 accordance with strategic plans prepared and adopted as provided for by this section;

24 (3) To review and comment on the proposed annual work program of the statewide

25 planning program;

26 (4) To adopt rules and standards and issue orders concerning any matters within its

27 jurisdiction as established by this section and amendments to it;

28 (5) To establish advisory committees and appoint members thereto representing diverse

29 interests and viewpoints as required in the state planning process and in the preparation or

30 implementation of strategic plans. At minimum, the state planning council shall appoint permanent

31 committees:

32 (i) A technical committee, comprised of public members from different geographic areas

33 of the state representing diverse communities. This committee shall advise the state planning

34 council on issues related to local comprehensive planning and land use. This committee shall also



1     advise the state planning council on any other matter referred to it by the council; and

2             (ii) An executive committee consisting of major participants of a Rhode Island geographic

3     information system with oversight responsibility for its activities; and

4             (iii) A transportation advisory committee, made up of diverse representation, including,

5     but not limited to, municipal elected and appointed officials; representatives of various

6     transportation sectors, departments, and agencies; and other groups and agencies with an interest

7     in transportation operations, maintenance, construction, and policy, who shall review

8     transportation-related plans and amendments and recommend action to the state planning council;

9             (6) To adopt, amend, and maintain, as an element of the state guide plan or as an

10    amendment to an existing element of the state guide plan, standards and guidelines for the location

11    of eligible, renewable energy resources and renewable energy facilities in Rhode Island with due

12    consideration for the location of such resources and facilities in commercial and industrial areas,

13    agricultural areas, areas occupied by public and private institutions, and property of the state and

14    its agencies and corporations, provided these areas are of sufficient size, and in other areas of the

15    state as appropriate;

16             (7) To act as the single, statewide metropolitan planning organization for transportation

17    planning, and to promulgate all rules and regulations that are necessary thereto; and

18             (8) To assist the Rhode Island infrastructure bank in establishing review criteria, evaluating

19    applications, approving and issuing grants, and to assist municipalities pursuant to the provisions

20    of chapter 11.4 of this title, and any rules or regulations promulgated thereunder.

21             (g) **Division of statewide planning.**

22             (1) The division of statewide planning shall be the principal staff agency of the state

23    planning council for preparing and/or coordinating strategic plans for the comprehensive

24    management of the state's human, economic, and physical resources. The division of statewide

25    planning shall recommend to the state planning council specific guidelines, standards, and

26    programs to be adopted to implement strategic planning and the state guide plan and shall undertake

27    any other duties established by this section and amendments thereto.

28             (2) The division of statewide planning shall maintain records (which shall consist of files

29    of complete copies) of all plans, recommendations, rules, and modifications or amendments thereto

30    adopted or issued by the state planning council under this section. The records shall be open to the

31    public.

32             (3) The division of statewide planning shall manage and administer the Rhode Island

33    geographic information system of land-related resources, and shall coordinate these efforts with

34    other state departments and agencies, including the university of Rhode Island, which shall provide

1 technical support and assistance in the development and maintenance of the system and its  
2 associated database.

3 (4) The division of statewide planning shall coordinate and oversee the provision of  
4 technical assistance to political subdivisions of the state in preparing and implementing plans to  
5 accomplish the purposes, goals, objectives, policies, and/or standards of applicable elements of the  
6 state guide plan and shall make available to cities and towns data and guidelines that may be used  
7 in preparing comprehensive plans and elements thereof and in evaluating comprehensive plans and  
8 elements thereby.

9 (h) [Deleted by P.L. 2011, ch. 215, § 4, and by P.L. 2011, ch. 313, § 4.]

10 (i) The division of planning shall be the principal staff agency of the water resources board  
11 established pursuant to chapter 15 of title 46 (“Water Resources Board”) and the water resources  
12 board corporate established pursuant to chapter 15.1 of title 46 (“Water Supply Facilities”).

13 SECTION 20. Section 42-11-13 of the General Laws in Chapter 42-11 entitled  
14 "Department of Administration" is hereby amended to read as follows:

15 **42-11-13. Rhode Island organ transplant fund.**

16 (a) There is hereby created the Rhode Island organ transplant fund, hereinafter referred to  
17 as “the fund”. The general treasurer shall invest and reinvest the same in accordance with § 35-10-  
18 2. The department of human services shall administer the organ transplant program. Disbursement  
19 of funds from the fund shall be made by the general treasurer upon receipt by him or her of properly  
20 authenticated vouchers from the department of human services.

21 (b) The fund shall consist of all revenues received pursuant to § ~~44-30-2.1~~ 44-30-2.5 and  
22 gifts, grants, and donations from public and private sources. All revenues credited to the fund shall  
23 not be subject to expenditure except for the purposes hereinafter stated.

24 (c) The fund shall be used to help defray any expenses of human organ transplants incurred  
25 by Rhode Island residents and their families. For purposes of the fund, family shall be limited to  
26 the parents or spouse or guardian or next-of-kin of the recipient of the organ transplant. Expenses  
27 shall be limited to non-reimbursed costs associated with organ transplants including hospital and  
28 medical care, all drugs prescribed which relate to organ transplant maintenance (disbursement from  
29 fund for maintenance drugs shall be limited to fifty percent (50%) of average wholesale price or  
30 fifty percent (50%) of non-reimbursed costs whichever is less), and out-of-state living expenses of  
31 the family for a period of not more than sixty (60) days at the time of the organ transplant operation.  
32 (The disbursement from the fund for out-of-state living expenses shall not exceed the per diem rate  
33 allowed state employees for accommodations and sustenance.) Disbursement from the fund shall  
34 not be made until the principal of the fund equals fifteen thousand dollars (\$15,000). The general

1 treasurer shall publicly announce when the principal of the fund equals fifteen thousand dollars  
2 (\$15,000). Application for the disbursement from the fund shall not be made or accepted until the  
3 principal of the fund equals fifteen thousand dollars (\$15,000). In addition to the foregoing  
4 allowable disbursements, disbursement for organ transplant recipients may be made from the organ  
5 transplant fund to meet the recipient's spend-down requirement for the Rhode Island medical  
6 assistance program (Medicaid), provided that the recipient's income does not exceed twelve  
7 thousand dollars (\$12,000) per year, and the funds are repaid by the recipient and deposited in the  
8 organ transplant fund **are repaid by the recipient and deposited in the organ transplant fund**  
9 over the six (6) month Medicaid spend-down period in six (6) equal monthly payments.

10 (d) Disbursements from the fund and the fund itself are not entitlement programs. The fund  
11 shall not incur a deficit.

12 (e) The director of the department of human services shall promulgate rules and  
13 regulations, in accordance with the Administrative Procedures Act, § 42-35-1 et seq., to implement  
14 the operation of the fund. The director of the department of human services or his or her designee  
15 shall confer with the general treasurer prior to promulgating rules and regulations.

16 (f) This fund shall operate prospectively provided, however, a Rhode Island resident on  
17 maintenance drugs as set forth in subsection (c) of this section may apply for disbursement after  
18 the principal of the fund equals fifteen thousand dollars (\$15,000).

19 SECTION 21. Section 42-12.2-2 of the General Laws in Chapter 42-12.2 entitled  
20 "Independent Living Services and Centers" is hereby amended to read as follows:

21 **42-12.2-2. Definitions.**

22 **As used in this chapter:**

23 ~~(a)~~**(1)** "Center for independent living" means a program of services or a facility which  
24 offers a combination of independent living services for individuals with significant disabilities or  
25 groups of individuals with significant disabilities such as, but not limited to:

26 ~~(1)~~**(i)** Intake counseling to determine the individual with significant disabilities need for  
27 specific independent living services;

28 ~~(2)~~**(ii)** Referrals and counseling services with respect to attendant care;

29 ~~(3)~~**(iii)** Counseling and advocacy services with respect to legal and economic rights and  
30 benefits;

31 ~~(4)~~**(iv)** Peer counseling;

32 ~~(5)~~**(v)** Independent living skills, counseling and training, including training in the  
33 maintenance of necessary equipment, counseling on therapy needs and programs, and special  
34 independent living skill training for individuals who are blind or deaf;

1           ~~(6)~~(vi) Housing and transportation referral and assistance;

2           ~~(7)~~(vii) Surveys, directories, and other activities to identify appropriate housing and

3 accessible transportation and other support services;

4           ~~(8)~~(viii) Community group living arrangements;

5           ~~(9)~~(ix) Education and training necessary for living in the community and participating in

6 community activities;

7           ~~(10)~~(x) Individual and group social and recreational activities;

8           ~~(11)~~(xi) Other programs and services necessary to provide resources, training, counseling

9 services, or other assistance of substantial benefit in promoting the independence, productivity, and

10 quality of life for individuals with significant disabilities.

11           ~~(1)~~(2) “Client directed services” means services that are planned and delivered with the

12 active involvement of the client (consumer).

13           ~~(e)~~(3) “Consumer” means a person or groups of persons with severe disabilities who are or

14 would be capable of independently managing and directing their own lives given the appropriate

15 training and resources.

16           ~~(4)~~(4) “Consumer directed organization” means:

17           ~~(1)~~(i) An organization with substantial involvement of consumers on its boards of directors

18 and at the staff level;

19           ~~(2)~~(ii) An organization which subscribes rigorously to a policy of client directed services.

20           ~~(e)~~(6) “Nonprofit organization” means an organization incorporated in the state of Rhode

21 Island and exempt from federal taxation under the provisions of § 501(c)(3) of the Internal Revenue

22 Code, 26 U.S.C. § 501(c)(3).

23           ~~(4)~~(5) “Individual with a significant disability” means an individual with a severe physical

24 or mental impairment whose ability to function independently in the family or community or whose

25 ability to obtain, maintain, or advance in employment is substantially limited and for whom the

26 delivery of independent living services will improve the ability to function, continue functioning,

27 or move towards functioning independently in the family or community or to continue in

28 employment, respectively.

29           SECTION 22. Section 42-12.3-5.1 of the General Laws in Chapter 42-12.3 entitled "Health

30 Care for Children and Pregnant Women" is hereby amended to read as follows:

31           **42-12.3-5.1. Emergency Care.**

32           The department of human services shall ensure that managed care organizations providing

33 services under this chapter comply with the “prudent ~~lay person~~ layperson” emergency care

34 coverage standard as required by ~~§ 1931 (b) of Title XIX of the Social Security Act~~ 42 U.S.C. §

1396u-2.

SECTION 23. Section 42-14.2-9 of the General Laws in Chapter 42-14.2 entitled "Department of Business Regulation — Automobile Wrecking and Salvage Yards" is hereby amended to read as follows:

**42-14.2-9. Denial or revoking of licenses.**

The department may deny an application for a license, or suspend or revoke a license after it has been granted, or refuse to renew a license for any of the following reasons:

(1) Proof of unfitness of the applicant or licensee to engage in this business.

(2) A material misstatement by the applicant or licensee in his application for a license or renewal thereof.

(3) Willful failure of the applicant or licensee to comply with the provisions of this chapter or with any rule or regulation promulgated by the ~~board~~department.

(4) Proof that the applicant or licensee has willfully defrauded the owner of a motor vehicle.

SECTION 24. Section 42-14.5-2.1 of the General Laws in Chapter 42-14.5 entitled "The Rhode Island Health Care Reform Act of 2004 — Health Insurance Oversight" is hereby amended to read as follows:

**42-14.5-2.1. Definitions.**

As used in this chapter:

(1) "Accountability standards" means measures including service processes, client and population outcomes, practice standard compliance and fiscal integrity of social and human service providers on the individual contractual level and service type for all state ~~contacts~~contracts of the state or any subdivision or agency to include, but not limited to, the department of children, youth and families (DCYF), the department of behavioral healthcare, developmental disabilities and hospitals (BHDDH), the department of human services (DHS), the department of health (DOH), and Medicaid. This may include mandatory reporting, consolidated, standardized reporting, audits regardless of organizational tax status, and accountability dashboards of aforementioned state departments or subdivisions that are regularly shared with the public.

(2) "Executive Office of Health and Human Services (EOHHS)" means the department that serves as "principal agency of the executive branch of state government" (§ 42-7.2-2) responsible for managing the departments and offices of: health (RIDOH), human services (DHS), healthy aging (OHA), veterans services (VETS), children, youth and families (DCYF), and behavioral healthcare, developmental disabilities and hospitals (BHDDH). EOHHS is also designated as the single state agency with authority to administer the Medicaid program in Rhode Island.

(3) “Rate review” means the process of reviewing and reporting of specific trending factors that influence the cost of service that informs rate setting.

(4) “Rate setting” means the process of establishing rates for social and human service programs that are based on a thorough rate review process.

(5) “Social and human service program” means a social, mental health, developmental disability, child welfare, juvenile justice, prevention services, habilitative, rehabilitative, substance use disorder treatment, residential care, adult or adolescent day services, vocational, employment and training, or aging service program or accommodations purchased by the state.

(6) “Social and human service provider” means a provider of social and human service programs pursuant to a contract with the state or any subdivision or agency to include, but not be limited to, the department of children, youth and families (DCYF), the department of behavioral healthcare, developmental disabilities and hospitals (BHDDH), the department of human services (DHS), the department of health (DOH), and Medicaid.

(7) “State government and the provider network” refers to the contractual relationship between a state agency or subdivision of a state agency and private companies the state contracts with to provide the network of mandated and discretionary social and human services.

SECTION 25. Section 42-14.6-3 of the General Laws in Chapter 42-14.6 entitled "Rhode Island All-Payer Patient-Centered Medical Home Act" is hereby amended to read as follows:

**42-14.6-3. Definitions.**

As used in this ~~section~~ chapter, the following terms shall have the following meanings:

(1) “Commissioner” means the health insurance commissioner.

(2) “Health insurer” means all entities licensed, or required to be licensed, in this state that offer health benefit plans in Rhode Island including, but not limited to, nonprofit hospital service corporations and nonprofit medical-service corporations established pursuant to chapters 19 and 20 of title 27, and health maintenance organizations established pursuant to chapter 41 of title 27 or as defined in chapter 62 of this title, a fraternal benefit society or any other entity subject to state insurance regulation that provides medical care on the basis of a periodic premium, paid directly or through an association, trust or other intermediary, and issued, renewed, or delivered within or without Rhode Island.

(3) “Health insurance plan” means any individual, general, blanket or group policy of health, accident and sickness insurance issued by a health insurer (as herein defined). Health Insurance Plan shall not include insurance coverage providing benefits for:

(i) Hospital confinement indemnity;

(ii) Disability income;

- 1 (iii) Accident only;
- 2 (iv) Long-term care;
- 3 (v) Medicare supplement;
- 4 (vi) Limited benefit health;
- 5 (vii) Specified disease indemnity;
- 6 (viii) Sickness or bodily injury or death by accident or both; and
- 7 (ix) Other limited benefit policies.
- 8 (4) "Personal clinician" means a physician, physician assistant, or an advanced practice
- 9 nurse licensed by the department of health.
- 10 (5) "State healthcare program" means medical assistance, RIteCare, and any other health
- 11 insurance program provided through the office of health and human services (OHHS) and its
- 12 component state agencies; state healthcare program does not include any health insurance plan
- 13 provided as a benefit to state employees or retirees.
- 14 (6) "Patient-centered medical home" means a practice that satisfies the characteristics
- 15 described in § 42-14.6-2, and is designated as such by the secretary, or through alternative models
- 16 as provided for in § 42-14.6-7, based on standards recommended by the patient-centered medical
- 17 home collaborative.
- 18 (7) "Patient-centered medical home collaborative" means a community advisory council,
- 19 including, but not limited to, participants in the existing Rhode Island patient-centered medical
- 20 home pilot project, and health insurers, physicians and other clinicians, employers, the state
- 21 healthcare program, relevant state agencies, community health centers, hospitals, other providers,
- 22 patients, and patient advocates which shall provide consultation and recommendations to the
- 23 secretary and the commissioner on all matters relating to proposed regulations, development of
- 24 standards, and development of payment mechanisms.

25 (8) "Secretary" means the secretary of the executive office of health and human services.

26 SECTION 26. Section 42-17.8-2 of the General Laws in Chapter 42-17.8 entitled "The

27 Rhode Island Environmental Compliance Incentive Act" is hereby amended to read as follows:

28 **42-17.8-2. Definitions.**

29 As used in this chapter:

- 30 (1) "Administrative penalty" means a monetary penalty that does not exceed the civil
- 31 penalty specified by statute.
- 32 (2) "Department" means the department of environmental management.
- 33 (3) "Director" means the director of the department of environmental management or his
- 34 or her duly authorized agent.

1           (4) “Due diligence” means a regulated entity’s regular, customary and systematic efforts  
2 to prevent, detect and correct violations by consistently employing practices in its operation that  
3 ensures protection of the natural environment through the use of an environmental management  
4 system.

5           (5) “Environmental audit” means a systematic, documented, and objective review of a  
6 regulated entity’s facility operations and occupational practices which affect the regulated entity’s  
7 compliance with environmental laws.

8           (6) “Environmental audit report” means the analysis, conclusions, and recommendations  
9 made based upon information or data obtained in or testimonial evidence concerning the  
10 environmental audit.

11           (7) “Environmental law” means all federal, state or municipal statutes, rules, regulations,  
12 permits, licenses or other legal requirements that are administered or enforced by the department,  
13 and shall also include any judicial or administrative order or consent agreement.

14           (8) “Environmental management system” means a systemic and objective mechanism for  
15 assuring the compliance policies, standards and procedures are being carried out, including  
16 monitoring and auditing systems reasonably designed to detect and correct violations and periodic  
17 evaluation of the overall performance of the environmental management system. The  
18 environmental management system of any business shall include provisions for commitment of the  
19 management of the business to the environmental management system, to pollution prevention, and  
20 to the principle of sustainability. An environmental management system shall lead to an exemplary  
21 record of compliance with environmental laws which shall include, but shall not be limited to: (i)  
22 evidence that the business has not been found in violation of any environmental law, other than a  
23 secondary violation as defined in this statute, within the preceding three (3) years; and (ii) has  
24 complied with the provisions of applicable general statutes, and any orders of the director under  
25 those statutes, with regard to any secondary violation, as defined in those statutes. An  
26 environmental management system must also meet the following criteria:

27           (A) The system must implement specific policies and procedures for employees and agents  
28 that explain how to comply with environmental laws;

29           (B) The system must identify those persons or positions within the business that are: (I)  
30 responsible for monitoring/overseeing compliance, (II) authorized to act, to stop violations, achieve  
31 compliance, and mitigate violations, and (III) responsible to report violations to the business and/or  
32 regulators;

33           (C) The system must lay out a procedure for employees to report violations to the business  
34 and/or regulators;



1 (D) The system must explain how employees are educated about the system and the  
2 policies/procedures in it;

3 (E) The system must layout a procedure for modifying the system itself to prevent  
4 reoccurrence of violations.

5 (9) "Gravity-based penalties" means that portion of an administrative penalty over and  
6 above a regulated entity's direct economic gain from noncompliance with any environmental laws,  
7 and costs or expenses incurred by the state relating to a regulated entity's violation of any  
8 environmental law.

9 (10) "Person" means any agency or political subdivision of the state, any state public or  
10 private corporation or authority, individual, trust, firm, joint stock company, partnership,  
11 association, or other entity or any group of them or any officer, employee, or agent of them.

12 (11) "Regulated entity" means any person including a federal, state or municipal agency or  
13 facility, regulated under federal or state environmental laws.

14 (12) "Secondary violation" means a violation that poses no actual threat or a low potential  
15 for threat to human health and the environment.

16 (13) "Violation" means infraction of or noncompliance with any environmental law  
17 enforced or administered by the department.

18 ~~(i) The system must implement specific policies and procedures for employees and~~  
19 ~~agents that explain how to comply with environmental laws;~~

20 ~~(ii) The system must identify those persons or positions within the business that are:~~  
21 ~~(A) responsible for monitoring/overseeing compliance, (B) authorized to act to stop violations,~~  
22 ~~achieve compliance, and mitigate violations, and (C) responsible to report violations to~~  
23 ~~regulators;~~

24 ~~(iii) The system must lay out a procedure for employees to report violations to the~~  
25 ~~business and/or regulators;~~

26 ~~(iv) The system must explain how employees are educated about the system and the~~  
27 ~~policies/procedures in it;~~

28 ~~(v) The system must layout a procedure for modifying the system itself to prevent~~  
29 ~~reoccurrence of violations.~~

30 SECTION 27. Section 42-17.9-4 of the General Laws in Chapter 42-17.9 entitled  
31 "Preservation of State Open Space" is hereby amended to read as follows:

32 **42-17.9-4. Limitation of application.**

33 The evaluation procedures to be implemented pursuant to §§ 42-17.9-6 and 42-17.9-7 of  
34 this chapter shall apply only to properties or portions of properties where the state is the sole

1 property owner, or the state through a grant, lease-hold, or other legal instrument has the functional  
2 equivalent of ownership and the state controls the use of the property.

3 SECTION 28. Section 42-20-3 of the General Laws in Chapter 42-20 entitled  
4 "Administration of State Departments" is hereby amended to read as follows:

5 **42-20-3. Powers exercised by heads of departments — Designations of subordinates.**

6 Whenever certain powers or duties are conferred or imposed by existing law upon an  
7 official or employee of the state having a definite title, those powers and duties shall be exercised  
8 and performed by the director or other head of a department [or](#) by the independent agency, his or  
9 her or its assistants, to which the department or agency those powers and duties are by this title  
10 transferred. The head of any department may, with the approval of the governor, designate the  
11 official titles or designations of subordinate officers or employees to be used by them in the official  
12 business of the state whenever the necessity thereof may require, and they shall be so entitled and  
13 described in all official functions, duties, or business.

14 SECTION 29. Section 42-28.6-14 of the General Laws in Chapter 42-28.6 entitled "Law  
15 Enforcement Officers' Due Process, Accountability, and Transparency Act" is hereby amended to  
16 read as follows:

17 **42-28.6-14. Retaliation for exercising rights.**

18 (a) No law enforcement officer shall be discharged, demoted, disciplined, or denied  
19 promotion, transfer or reassignment, or otherwise discriminated against in regard to his or her  
20 employment or be threatened with any such treatment, by reason of his or her exercise of or demand  
21 for rights granted in this ~~subtitle~~ [chapter](#), or by reason of the lawful exercise of his or her  
22 constitutional rights.

23 (b) Any law enforcement officer who is denied any right afforded by this ~~subtitle~~ [chapter](#)  
24 may apply, either individually or through his or her certified or recognized employee organization,  
25 to the superior court where he or she resides or is regularly employed for any order directing the  
26 law enforcement agency to show cause why the right should not be afforded.

27 SECTION 30. Section 42-30.1-2 of the General Laws in Chapter 42-30.1 entitled "Uniform  
28 Law on Notarial Acts" is hereby amended to read as follows:

29 **42-30.1-2. Definitions.**

30 For purposes of this chapter, the following definitions apply:

31 (1) "Acknowledgment" means a declaration by an individual before a notarial officer that  
32 the individual has signed a record for the purpose stated in the record and, if the record is signed in  
33 a representative capacity, that the individual signed the record with proper authority and signed it  
34 as the act of the individual or entity identified in the record.

1           (2) “Commissioning agency” means the Rhode Island office of the secretary of state.

2           (3) “Commissioning officer” means the governor of the state of Rhode Island.

3           (4) “Communication technology” means an electronic device or process that:

4           (i) Allows simultaneous communication by sight and sound between a notary public and a

5 remotely located individual; and

6           (ii) When necessary and consistent with other applicable law, facilitates communication

7 with a remotely located individual who has a vision, hearing, or speech impairment by providing

8 reasonable accommodations.

9           (5) “Electronic” means relating to technology having electrical, digital, magnetic, wireless,

10 optical, electromagnetic, or similar capabilities.

11           (6) “Electronic signature” means an electronic symbol, sound, or process attached to, or

12 logically associated with, a record and executed or adopted by an individual with the intent to sign

13 the record.

14           (7) “Foreign state” means a jurisdiction other than the United States, a state, territory, or a

15 federally recognized Indian tribe.

16           (8) “Identity proofing” means a process or service by which a third person provides a notary

17 public with a means to verify the identity of a remotely located individual by a review of personal

18 information from public or private data sources.

19           (9) “In a representative capacity” means acting as:

20           (i) An authorized officer, agent, partner, trustee, or other representative for a person other

21 than an individual;

22           (ii) A public officer, personal representative, guardian, or other representative, in the

23 capacity stated in a record;

24           (iii) An agent or attorney-in-fact for a principal; or

25           (iv) An authorized representative of another in any other capacity.

26           (10) “Notarial act” means an act, whether performed with respect to a tangible or electronic

27 record, that a notarial officer may perform under the law of this state. The term includes taking an

28 acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation,

29 witnessing or attesting a signature, certifying or attesting a copy, noting a protest of a negotiable

30 instrument and ~~transact~~ transacting, ~~do~~ doing and ~~finish~~ finishing all matters and things relating

31 to protests and protesting bills of exchange and promissory notes, and all other matters within their

32 office required by law, ~~take~~ taking depositions as prescribed by law, and acknowledgments of

33 deeds and other instruments.

34           (11) “Notarial officer” means a notary public or other individual authorized to perform a

1 notarial act.

2 (12) “Notary public” means an individual commissioned to perform a notarial act by the  
3 commissioning officer.

4 (13) “Official stamp” means a physical image affixed to a tangible record or an electronic  
5 image attached to, or logically associated with, an electronic record.

6 (14) “Outside the United States” means a location outside the geographic boundaries of the  
7 United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession,  
8 or other location subject to the jurisdiction of the United States.

9 (15) “Person” means an individual, corporation, business trust, statutory trust, estate, trust,  
10 partnership, limited-liability company, association, joint venture, public corporation, government  
11 or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

12 (16) “Record” means information that is inscribed on a tangible medium or that is stored  
13 in an electronic or other medium and is retrievable in perceivable form.

14 (17) “Remotely located individual” means an individual who is not in the physical presence  
15 of the notary public who performs a notarial act pursuant to § 42-30.1-12.1.

16 (18) “Sign” means, with present intent to authenticate or adopt a record:

17 (i) To execute or adopt a tangible symbol; or

18 (ii) To attach to, or logically associate with, the record an electronic symbol, sound, or  
19 process.

20 (19) “Signature” means a tangible symbol or an electronic signature that evidences the  
21 signing of a record.

22 (20) “Stamping device” means:

23 (i) A physical device capable of affixing an official stamp upon a tangible record; or

24 (ii) An electronic device or process capable of attaching to, or logically associating an  
25 official stamp with, an electronic record.

26 (21) “State” means a state of the United States of America, the District of Columbia, Puerto  
27 Rico, the United States Virgin Islands, or any territory or insular possession subject to the  
28 jurisdiction of the United States.

29 (22) “Verification on oath or affirmation” means a declaration that a statement in a record  
30 is true, made by an individual under oath or by affirmation before a notarial officer.

31 SECTION 31. Sections 42-35-2.7, 42-35-2.9 and 42-35-3.2 of the General Laws in Chapter  
32 42-35 entitled "Administrative Procedures" are hereby amended to read as follows:

33 **42-35-2.7. Notice of proposed rulemaking.**

34 (a) At least thirty (30) days before the filing of a final rule with the secretary of state, an

1 agency shall publish the notice of the proposed rulemaking on the agency's website. The agency  
2 shall file notice of the proposed rulemaking with the secretary of state, in accordance with  
3 procedures established by the secretary of state, for publication in the state register and for  
4 electronic notification to interested parties pursuant to subsection (c). The notice shall be mailed  
5 by the agency to all persons who have made timely request of the agency for notice of its  
6 rulemaking proceedings, and published in a newspaper or newspapers having aggregate general  
7 circulation throughout the state; provided, however, that if the action is limited in its applicability  
8 to a particular area, then the publication may be in a newspaper having general circulation in the  
9 area. In lieu of newspaper publication, advance notice of proposed rulemaking by all agencies may  
10 be posted via electronic media on a website maintained by the office of secretary of state. Copies  
11 of proposed rules shall be available at the agency at the time of the notice required by this  
12 subsection, and by mail to any member of the public upon request.

13 (b) The notice shall include:

14 (1) A short explanation of the purpose of the proposed rule;

15 (2) A citation or reference to the specific, legal authority authorizing the proposed rule;

16 (3) The text of the proposed rule;

17 (4) How a copy of the full text of any regulatory analysis of the proposed rule may be  
18 obtained;

19 (5) Where, when, and how a person may comment on the proposed rule and request a  
20 hearing, including the beginning and end dates of the public-comment period;

21 (6) The date of the filing of the notice of the proposed rulemaking with the secretary of  
22 state;

23 (7) A citation to each scientific or statistical study, report, or analysis that served as a basis  
24 for the proposed rule, together with an indication of how the full text of the study, report, or analysis  
25 may be obtained;

26 (8) Any proposed additions, deletions, or other amendments to the rules and regulations.  
27 New proposed language must be clearly marked using underline formatting for proposed insertions,  
28 and strikethrough formatting for proposed deletions. If an agency proposes a new rule which will  
29 supersede an existing rule, the agency shall make available a summary of all non-technical  
30 differences between the existing and proposed rules. An agency's lawful promulgation of  
31 amendments to an existing rule shall be deemed to supersede and repeal the previous enactments  
32 of that rule, provided that the public notice required under subdivision (a) ~~(1)~~ indicated such an  
33 intent; and

34 (9) Any regulatory analysis prepared under § 42-35-2.9.

(c) The secretary of state shall establish a process to provide timely notification via electronic mail to any person that requests information concerning agency notices of proposed rulemaking. Requests under this section may be submitted to the secretary of state's office through its website.

**42-35-2.9. Regulatory analysis.**

(a) An agency shall prepare a regulatory analysis for a proposed rule. The analysis must be completed before notice of the proposed rulemaking is published. The summary of the analysis prepared under subsection (c) must be published with the notice of proposed rulemaking.

(b) A regulatory analysis must contain:

(1) An analysis of the benefits and costs of a reasonable range of regulatory alternatives reflecting the scope of discretion provided by the statute authorizing the proposed rule;

(2) Demonstration that there is no alternative approach among the alternatives considered during the rulemaking proceeding which would be as effective and less burdensome to affected private persons as another regulation. This standard requires that an agency proposing to write any new regulation must identify any other state regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication; and

(3) A determination whether:

(i) The benefits of the proposed rule justify the costs of the proposed rule; and

(ii) The proposed rule will achieve the objectives of the authorizing statute in a more cost-effective manner, or with greater net benefits, than other regulatory alternatives.

~~(c)~~ ~~(iii)~~ An agency preparing a regulatory analysis under this section shall prepare a concise summary of the analysis.

~~(d)~~ ~~(iv)~~ If an agency has made a good-faith effort to comply with this section, a rule is not invalid solely if there are errors or paucity of data in the regulatory analysis for the proposed rule.

**42-35-3.2. Incorporation by reference.**

(a) An agency may incorporate the following by reference in its rules without publishing the incorporated material in full:

(1) Federal rules, codes, or standards published in full in the Federal Register or the Code of Federal Regulations;

(2) Federal rules, codes, or standards that have been properly incorporated by reference in the Federal Register as part of a duly promulgated final rule or in the Code of Federal Regulations pursuant to federal legal requirements;

(3) Published codes, standards or guidelines of any nationally recognized scientific or technical association or organization.

(b) For the purposes of subdivision (a)(3) of this section, “nationally recognized scientific or technical association or organization” means an association or organization that is regularly in the business of developing scientific or technical standards or guidelines, is recognized by those in the relevant professional community as having a high degree of expertise and competence in its field, and whose publications are widely distributed and easily available throughout the nation and the state of Rhode Island.

(c) An agency may incorporate by reference the material set forth in subsection (a) of this section only if the issuing agency, organization, or association makes copies of the material available to the public. An agency may not incorporate any material by reference unless the material has been properly identified in the notice of proposed rule-making pursuant to § ~~42-35-3~~ 42-35-2.7.

(d) The reference to any incorporated material shall identify the incorporated material by appropriate agency, organization, or association and by date, title, or citation. The reference shall also state that the rule does not include later amendments to or editions of the incorporated material.

(e) If an agency proposes to incorporate any material by reference in a state rule, the agency shall maintain a copy of the material and shall allow public inspection of the material and provide copies of any non-copyrighted material to the public at cost upon request beginning no later than the date of publication of the notice of proposed rule-making. If any material to be incorporated by reference has been copyrighted, the agency shall upon request provide information about the publisher and the citation to the material.

SECTION 32. Section 42-35.1-3 of the General Laws in Chapter 42-35.1 entitled "Small Business Regulatory Fairness in Administrative Procedures" is hereby amended to read as follows:

**42-35.1-3. Economic impact statements.**

(a) Prior to the adoption of any proposed regulation that may have an adverse impact on small businesses, with the exception of emergency regulations adopted in accordance with § ~~42-35-3(b)~~ 42-35-2.10 and excluding those businesses defined in subsection (c) of this section, each agency shall prepare and submit, in conjunction with assistance and oversight from the office of regulatory reform, the proposed regulations to both the governor’s office and the office of regulatory reform at least fifteen (15) days in advance of the commencement of the formal rulemaking process, and in congruence with the analysis required in subsection (b) of this section, an economic impact statement that includes the following:

(1) An identification and estimate of the number of the small businesses subject to the proposed regulation;

(2) The projected reporting, recordkeeping, and other administrative costs required for

1 compliance with the proposed regulation, including the type of professional skills necessary for  
2 preparation of the report or record;

3 (3) A statement of the effect or probable effect on impacted small businesses;

4 (4) A description of any less intrusive or less costly alternative methods of achieving the  
5 purpose of the proposed regulation.

6 (b) The economic impact statement required herein shall be published in guide form as  
7 well as posted on the department of administration and the office of management and budget  
8 websites. The guide should be published and/or posted on or around the same date as the regulation  
9 change and shall include a description of actions needed by the small business to meet the  
10 requirement of the regulation. The office of regulatory reform shall develop criteria for the  
11 economic impact statement.

12 (c) The following professional and business activities, extensively regulated pursuant to  
13 state and federal law and subject to significant capital requirements and other regulatory standards,  
14 shall be excluded from this section:

15 (1) All public utilities, as defined in § 39-1-2, whose rates are subject to approval by the  
16 public utilities commission; and

17 (2) All regulated institutions as defined in § 19-1-1(10); broker dealers as defined in § 7-  
18 11-101(1); and insurance companies chartered or licensed pursuant to chapters 1 and 2 of title 27.

19 SECTION 33. Section 42-37-1 of the General Laws in Chapter 42-37 entitled "New  
20 England State Police Compact" is hereby amended to read as follows:

21 **42-37-1. New England State Police Compact.**

22 The New England State Police Compact is hereby entered into and enacted into law with  
23 any and all of the states legally joining therein in the form substantially as follows:

24 NEW ENGLAND STATE POLICE COMPACT

25 ARTICLE I — PURPOSES

26 The purposes of this compact are to:

27 (1) Provide close and effective cooperation and assistance in detecting and apprehending  
28 those engaged in organized criminal activities;

29 (2) Establish and maintain a central criminal intelligence bureau to gather, evaluate and  
30 disseminate to the appropriate law enforcement officers of the party states information concerning  
31 organized crime, its leaders and their associates;

32 (3) Provide mutual aid and assistance in the event of police emergencies, and to provide  
33 for the powers, duties, rights, privileges and immunities of police personnel when rendering such  
34 aid.



1           ARTICLE II — ENTRY INTO FORCE AND WITHDRAWAL

2           (a) This compact shall enter into force when enacted into law by any three (3) of the states  
3 of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. Thereafter,  
4 this compact shall become effective as to any other of the aforementioned states upon its enactment  
5 thereof.

6           (b) Any party state may withdraw from this compact by enacting a statute repealing the  
7 same, but no such withdrawal shall take effect until one year after the governor of the withdrawing  
8 state has given notice in writing of the withdrawal to the governors of all other party states. No  
9 withdrawal shall effect any liability already incurred by or chargeable to a party state prior to the  
10 time of such withdrawal, and any records, files, or information obtained by officers or employees  
11 of a withdrawing state shall continue to be kept, used, and disposed of only in such manner as is  
12 consistent with this compact and any rules or regulations pursuant thereto.

13           ARTICLE III — THE CONFERENCE

14           (a) There is hereby established the “New England State Police Administrators’  
15 Conference,” hereinafter called the “Conference,” to be composed of the administrative head of the  
16 state police department of each party state.

17           (b) If authorized by the laws of his or her party state, the administrative head of the state  
18 police department of a party state may provide for the discharge of his or her duties and the  
19 performance of his or her functions on the conference, for periods none of which shall exceed  
20 fifteen (15) days, by an alternate. No such alternate shall be entitled to serve unless notification of  
21 his or her identity and appointment shall have been given to the conference in such form as the  
22 conference may require.

23           (c) An alternate serving pursuant to subdivision (b) of this article shall be selected only  
24 from among the officers and employees of the state police department, the head of which such  
25 alternate is to represent.

26           (d) The members of the conference shall be entitled to one vote each. No action of the  
27 conference shall be binding unless taken at a meeting at which a majority of the total number of  
28 votes on the conference are cast in favor thereof. Action of the conference shall be only at a meeting  
29 at which a majority of the members of the conference, or their alternates, are present.

30           (e) The conference shall have a seal.

31           (f) The conference shall elect annually, from among its members, a chairperson, (who shall  
32 not be eligible to succeed himself or herself) a vice chairperson, and a treasurer. The conference  
33 shall appoint an executive secretary and fix his or her duties and compensation. Such executive  
34 secretary shall serve at the pleasure of the conference, and together with the treasurer shall be

1 bonded in such amount as the conference shall determine. The executive secretary also shall serve  
2 as general secretary of the conference.

3 (g) Irrespective of the civil service, personnel or other merit system laws of any of the party  
4 states, the executive secretary subject to the direction of the conference, shall appoint, remove or  
5 discharge such personnel as may be necessary for the performance of the conference functions, and  
6 shall fix the duties and compensation of such personnel.

7 (h) The conference may establish and maintain independently or in conjunction with any  
8 one or more of the party states, a suitable retirement system for its full-time employees. Employees  
9 of the conference shall be eligible for social security coverage in respect of old age and survivor's  
10 insurance provided that the conference takes such steps as may be necessary pursuant to the laws  
11 of the United States, to participate in such program of insurance as a governmental agency or unit.  
12 The conference may establish and maintain or participate in such additional programs of employee  
13 benefits as may be appropriate. Employment by the conference of a retired officer or employee of  
14 a party state shall not affect the pension or other retirement-connected benefits paid to such officer  
15 or employee by a party state.

16 (i) The conference may borrow, accept or contract for the services of personnel from any  
17 party state, the United States, or any subdivision or agency of the aforementioned governments, or  
18 from any agency of two (2) or more of the party states or their subdivisions.

19 (j) The conference may accept for any of its purposes and functions under this compact any  
20 and all donations, grants of money, equipment, supplies, materials, and services, conditional or  
21 otherwise, from any state, the United States, or any other governmental agency, or from any person,  
22 firm or corporation, and may receive, utilize and dispose of the same. The conference shall publish  
23 in its annual report the terms, conditions, character, and amount of any resources accepted by it  
24 pursuant hereto together with the identity of the donor.

25 (k) The conference may establish and maintain such facilities as may be necessary for the  
26 transacting of its business. The conference may acquire, hold, and convey real and personal  
27 property and any interest therein.

28 (l) The conference shall adopt bylaws for the conduct of its business and shall have the  
29 power to amend and rescind these bylaws. The conference shall publish its bylaws in convenient  
30 form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency  
31 or officer in each of the party states. The bylaws shall provide for appropriate notice to the  
32 conference members of all conference meetings.

33 (m) The conference annually shall make to the governor and legislature of each party state  
34 a report covering the activities of the conference for the preceding year, and embodying such

1 recommendations as may have been issued by the conference. The conference may make such  
2 additional reports as it may deem desirable.

#### 3 ARTICLE IV — CONFERENCE POWERS

4 The conference shall have power to:

5 (1) Establish and operate a New England Criminal Intelligence Bureau, hereinafter called  
6 “the Bureau,” in which shall be received, assembled and kept case histories, records, data, personal  
7 dossiers, and other information concerning persons engaged or otherwise associated with organized  
8 crime.

9 (2) Consider and recommend means of identifying leaders and emerging leaders of  
10 organized crime and their associates.

11 (3) Facilitate mutual assistance among the state police of the party states pursuant to article  
12 VII of this compact.

13 (4) Formulate procedures for claims and reimbursements, pursuant to article VII of this  
14 compact.

15 (5) Promote cooperation in law enforcement and make recommendations to the party states  
16 and other appropriate law enforcement authorities for the improvement of such cooperation.

17 (6) Do all things which may be necessary and incidental to the exercise of the foregoing  
18 powers.

#### 19 ARTICLE V — DISPOSITION OF RECORDS AND INFORMATION

20 The bureau established and operated pursuant to article ~~IV(a)~~ IV(1) of this compact is  
21 hereby designated and recognized as the instrument for the performance of a central criminal  
22 intelligence service to the state police departments of the party states. The files, records, data and  
23 other information of the bureau and, when made pursuant to the bylaws of the conference, any  
24 copies thereof shall be available only to duly designated officers and employees of the state police  
25 departments of the party states acting within the scope of their official duty. In the possession of  
26 the aforesaid officers and employees, such records, data, and other information shall be subject to  
27 use and disposition in the same manner and pursuant to the same laws, rules and regulations  
28 applicable to similar records, data, and information of the officer’s or employee’s agency and the  
29 provision of this compact.

#### 30 ARTICLE VI — ADDITIONAL MEETINGS AND SERVICES

31 The members of the conference from any two (2) or more party states, upon notice to the  
32 chairperson as to the time and purpose of the meeting, may meet as a section for the discussion of  
33 problems common to their states. Any two (2) or more party states may designate the conference  
34 as a joint agency to maintain “for them” such additional common services as they may deem

1 desirable for combating organized crime. Except in those cases where all party states join in such  
2 designation for common services, the representative of any group of such designating states in the  
3 conference shall constitute a separate section of such conference for the performance of the  
4 common service or services so designated provided that, if any additional expense is involved, the  
5 state so acting shall provide the necessary funds for this purpose. The creation of such a section or  
6 joint agency shall not affect the privileges, powers, responsibilities or duties of the states  
7 participating therein as embodied in the other articles of this compact.

#### 8 ARTICLE VII — MUTUAL AID

9 (a) As used in this article:

10 (1) “*Emergency*” means an occurrence or condition, temporary in nature, in which the state  
11 police department of a party state is, or may reasonably be expected to be, unable to cope with  
12 substantial and imminent danger to the public safety, and in which the cooperation of or aid from  
13 local police forces within the state is, or may reasonably be expected to be insufficient. Also  
14 “*emergency*” shall mean a situation in which an investigation of an aspect of organized crime, or  
15 events connected with organized crime, require augmentation, for a limited time, of the  
16 investigative personnel of the state police department from without the state.

17 (2) “*Requesting state*” means the state whose state police department requests assistance  
18 in coping with an emergency.

19 (3) “*Responding state*” means the state furnishing aid, or requested to furnish aid, pursuant  
20 to this article.

21 (b) In case of emergency, upon the request of the administrative head of the state police  
22 department of a party state, the administrative head of the state police department of each  
23 responding state, shall order such part of his or her state police forces as he or she, in his or her  
24 discretion, may find necessary, to aid the state police forces of the requesting state in order to carry  
25 out the purposes set forth in this compact. In such case, it shall be the duty of the administrative  
26 head of the state police department of each responding state to issue the necessary orders for such  
27 use of state police forces of his or her state without the borders of his or her state, and to direct such  
28 forces to place themselves under the operational control of the administrative head of the state  
29 police department of the requesting state.

30 (c) The administrative head of the state police department of any party state, in his or her  
31 discretion, may withhold or recall the police forces of his or her state or any part or any member  
32 thereof, serving without its borders.

33 (d) Whenever any of the state police forces of any party state are engaged outside their own  
34 state in carrying out the purposes of this compact, the individual members so engaged shall have

1 the same powers, duties, rights, privileges and immunities as members of the state police  
2 department of the state in which they are engaged, but in any event, a requesting state shall save  
3 harmless any members of a responding state police department serving within its borders for any  
4 act or acts done by him or her in the performance of his or her duty while engaged in carrying out  
5 the purposes of this compact.

6 (e) All liability that may arise under the laws of the requesting state or under the laws of  
7 the responding state or under the laws of a third state on account of or in connection with a request  
8 for aid, shall be assumed and borne by the requesting state.

9 (f) Any responding state rendering aid pursuant to this compact shall be reimbursed by the  
10 requesting state for any loss or damage to, or expense incurred in the operation of any equipment  
11 answering a request for aid, and for the cost of the materials, transportation and maintenance of  
12 state police personnel and equipment incurred in connection with such request: provided, that  
13 nothing herein contained shall prevent any responding state from assuming such loss, damage,  
14 expense or other cost.

15 (g) Each party state shall provide, in the same amounts and manner as if they were on duty  
16 within their state, for the pay and allowances of the personnel of its state police department while  
17 engaged without the state pursuant to this compact and while going to and returning from such duty  
18 pursuant to this compact.

19 (h) Each party state providing for the payment of compensation and death benefits to  
20 injured members and the representatives of deceased members of its state police department in case  
21 such members sustain injuries or are killed within their own state, shall provide for the payment of  
22 compensation and death benefits in the same manner and on the same terms in case such members  
23 sustain injury or are killed while rendering aid pursuant to this compact.

#### 24 ARTICLE VIII — FINANCE

25 (a) The conference shall submit to the governor or designated officer or officers of each  
26 party state a budget of its estimated expenditures for such period as may be required by the laws of  
27 that party state for presentation to the legislature thereof.

28 (b) Each of the conference's budgets of estimated expenditures shall contain specific  
29 recommendations of the amount or amounts to be appropriated by each of the party states. The total  
30 amount of appropriations under any such budget shall be apportioned among the party states as  
31 follows: one-third ( $\frac{1}{3}$ ) in equal shares; one-third ( $\frac{1}{3}$ ) divided among the party states in the  
32 proportions that their populations bear to the total population of all the party states; and one-third  
33 ( $\frac{1}{3}$ ) divided among the party states in the proportions that the major crimes committed in each party  
34 state bear to the total number of major crimes committed in all the party states. In determining

1 population pursuant to this paragraph, the most recent decennial census compiled by the United  
2 States government shall be used. Numbers of major crimes shall be as reported in the most recent  
3 annual "Uniform Crime Report" compiled by the Federal Bureau of Investigation of the United  
4 States Department of Justice, or by any agency which may assume responsibility for such  
5 compilation in the place of such bureau. In the event that any source of information required to be  
6 used for the purpose of this paragraph shall be discontinued, the conference shall make its  
7 calculations on the basis of the best alternative sources of information and shall identify the sources  
8 used.

9 (c) The conference shall not pledge the credit of any party state. The conference may meet  
10 any of its obligations in whole or in part with funds available to it under article III (j) of this  
11 compact, provided that the conference takes specific action setting aside such funds prior to  
12 incurring any obligation to be met in whole or in part in such manner. Except where the conference  
13 makes use of funds available to it under article III (j) hereof, the conference shall not incur any  
14 obligation prior to the allotment of funds by the party states adequate to meet the same.

15 (d) The conference shall keep accurate accounts of all receipts and disbursements. The  
16 receipts and disbursements of the conference shall be subject to the audit and accounting procedures  
17 established under its rules. However, all receipts and disbursements of funds handled by the  
18 conference shall be audited yearly by a qualified, public accountant and the report of the audit shall  
19 be included in and become part of the annual report of the conference.

20 (e) The accounts of the conference shall be open at any reasonable time for inspection by  
21 duly constituted officers of the party states and any persons authorized by the conference.

22 (f) Nothing contained herein shall be construed to prevent conference compliance with  
23 laws relating to audit or inspection of accounts by or on behalf of any government contributing to  
24 the support of the conference.

## 25 ARTICLE IX — CONSTRUCTION AND SEVERABILITY

26 This compact shall be liberally construed so as to effectuate the purposes thereof. The  
27 provisions of this compact shall be severable and if any phrase, clause, sentence or provision of  
28 this compact is declared to be contrary to the constitution of any state or of the United States or the  
29 applicability thereof to any government, agency, person or circumstance is held invalid, validity of  
30 the remainder of this compact and the applicability thereof to any government, agency, person or  
31 circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution  
32 of any state participating herein, the compact shall remain in full force and effect as to the remaining  
33 party states and in full force and effect as to the state affected as to all severable matters.

34 SECTION 34. Section 42-41-9 of the General Laws in Chapter 42-41 entitled "Budgeting,

1 Appropriation and Receipt of Federal Monies" is hereby amended to read as follows:

2 **42-41-9. Grant audit revenue.**

3 (a) The auditor general may enter into agreements or contracts with the federal government  
4 or its agencies, or with state departments, agencies, commissions, and state created authorities,  
5 acting in behalf thereof for the purpose of conducting financial and compliance audits of programs  
6 funded in whole or in part by the federal government and carried out by agencies of the state.

7 (b) These audits shall be undertaken only after related contracts or agreements between the  
8 parties have been filed with the joint committee on legislative affairs.

9 (c) The costs of the audits, including, but not limited to, salaries and operating expenses,  
10 shall be charged at rates to be established jointly by the auditor general and the director of  
11 administration, and shall not exceed the amount of funds available for this purpose. The auditor  
12 general shall document the hours expended on those audits on a biweekly basis, and the  
13 documentation shall be the basis for expenditures from the account maintained by the general  
14 treasurer under § ~~42-41-5(b)~~ 42-41-8(c). The state controller is hereby authorized and directed to  
15 draw his or her orders upon the general treasurer for the payment of such charges, or so much  
16 thereof as may be required from time to time, upon receipt by him or her of proper vouchers duly  
17 authenticated.

18 (d) The auditor general shall expend such funds as received without additional  
19 appropriation for the purpose of conducting, or causing to be conducted, audits of federal assistance  
20 grants. The term of employment of any individual hired by the office of the auditor general under  
21 the provisions of this section shall be expressly limited in duration by the availability of federal  
22 funds and shall expire on the date of expiration of the federal funds.

23 **ARTICLE II –STATUTORY CONSTRUCTION**

24 SECTION 1. Section 5-39.3-15 of the General Laws in Chapter 5-39.3 entitled  
25 "Counseling Compact" is hereby amended to read as follows:

26 **5-39.3-15. Binding effect of compact and other laws.**

27 (a) A licensee providing professional counseling services in a remote state under the  
28 privilege to practice shall adhere to the laws and regulations, including scope of practice, of the  
29 remote state.

30 (b) Nothing herein prevents the enforcement of any other law of a member state that is not  
31 inconsistent with the compact.

32 (c) Any laws in a member state in conflict with the compact are superseded to the extent  
33 of the conflict.

34 (d) Any lawful actions of the commission, including all rules and bylaws properly

1 promulgated by the commission, are binding upon the member states.

2 (e) All permissible agreements between the commission and the member states are binding  
3 in accordance with their terms.

4 (f) In the event any provision of the compact exceeds the constitutional limits imposed on  
5 the legislature of any member state, the provision shall be ineffective to the extent of the conflict  
6 with the constitutional provision in question in that member state. ~~The compact also provides for  
7 the establishment of a commission which may promulgate rules, hire employees, purchase  
8 real estate and fix their composition among other powers. The commission may levy on and  
9 collect an annual assessment from each member state. The aggregate annual assessment  
10 amount shall be allocated based upon a formula to be determined by the commission, which  
11 shall promulgate a rule binding upon all member states. By majority vote, the commission  
12 may initiate legal action in the United States District Court for the District of Columbia or  
13 the federal district court where the commission has its principal office against a member state  
14 in default to enforce compliance with the provisions of the compact and its promulgated rules  
15 and by laws.~~

16 SECTION 2. Section 5-95-5 of the General Laws in Chapter 5-95 entitled "Licensing of  
17 Massage Therapists" is hereby amended to read as follows:

18 **5-95-5. Special provisions.**

19 Nothing contained in this chapter shall prohibit:

20 (1) A person who is otherwise licensed, certified, or registered in accordance with the  
21 general laws of Rhode Island, from performing services within their authorized scope of practice  
22 and who does not hold themselves out to be a massage therapist or practicing massage therapy.

23 (2) A nonresident massage therapist holding a valid license, permit, certificate, or  
24 registration issued by another state or territory of the United States, the District of Columbia, or a  
25 foreign country when incidentally in this state to provide service as part of an emergency response  
26 team working in conjunction with disaster relief officials.

27 (3) A nonresident massage therapist holding a valid license, permit, certificate, or  
28 registration issued by any other state or territory of the United States, the District of Columbia, or  
29 by a foreign country and temporarily practicing massage therapy in this state for a period not  
30 exceeding thirty (30) days for the purpose of presenting educational or clinical programs, lectures,  
31 seminars, or workshops to massage therapists.

32 (4) A currently enrolled student in an approved massage therapy education program from  
33 engaging in the practice of massage therapy, under the supervision of a licensed massage therapist  
34 or healthcare provider, provided the practice, conduct, activities, or services constitute a part of a



1 required course of study in the program and that such persons are identified as students.

2 (5) A graduate from an approved educational program ~~may practice~~ from practicing  
3 massage therapy only under the supervision of one, assigned, onsite licensed massage therapist.  
4 Graduates have ninety (90) days from the date on the application fee receipt to meet licensure  
5 requirements of this state in accordance with regulations prescribed by the board.

6 (6) A massage therapist who provides acceptable evidence of being currently licensed to  
7 practice massage therapy by examination or endorsement under the laws of other states or territories  
8 of the United States, the District of Columbia, or by a foreign country ~~has~~ from working during  
9 a grace period of forty-five (45) days from the date on the application fee receipt to meet licensure  
10 requirements of this state in accordance with regulations prescribed by the board. The original  
11 privilege to work forty-five (45) days from the date on the application fee receipt shall not be  
12 extended or renewed.

13 (7) A nonresident massage therapist holding a valid license, permit, certificate, or  
14 registration issued by any other state or territory of the United States, the District of Columbia, or  
15 by a foreign country when in this state as part of a charity/event where massage is appropriate.

16 SECTION 3. Section 6-1-5 of the General Laws in Chapter 6-1 entitled "Filing of Trade  
17 Name" is hereby amended to read as follows:

18 **6-1-5. Changes in registration — Filing notice of change.**

19 (a) A notice of change shall be filed with the secretary of state when ~~a change occurs in:~~

20 (1) ~~The~~ A change occurs in any true and real name of a person conducting a business with  
21 a trade name registered under this chapter; or

22 (2) ~~Any~~ A change occurs in any mailing address or email address set forth on the  
23 registration or any subsequently filed notice of change; or

24 (3) An addition, deletion, or any change of person or persons conducting business under  
25 the registered trade name occurs; or

26 (4) There is a change in the wording or spelling of the trade name since initial registration  
27 or renewal.

28 (b) A notice of cancellation shall be filed with the secretary of state when use of a trade  
29 name is discontinued.

30 SECTION 4. Section 11-37.1-6 of the General Laws in Chapter 11-37.1 entitled "Sexual  
31 Offender Registration and Community Notification" is hereby amended to read as follows:

32 **11-37.1-6. Community notification.**

33 (1)(a) Sex Offender Board of Review. The governor shall appoint eight (8) persons  
34 including experts in the field of the behavior and treatment of sexual offenders by reason of training

1 and experience, victim's rights advocates, and law enforcement representatives to the sex offender  
2 board of review. At least one member of the sex offender board of review shall be a qualified  
3 child/adolescent sex offender treatment specialist. These persons shall serve at the pleasure of the  
4 governor or until their successor has been duly qualified and appointed.

5 (b) Duties of the board. Upon passage of this legislation, the sex offender board of review  
6 will utilize a validated risk assessment instrument where available and other material approved by  
7 the parole board to determine the level of risk an offender poses to the community and to assist the  
8 sentencing court in determining if that person is a sexually violent predator. If the offender is a  
9 juvenile, the Department of Children, Youth and Families shall select and administer a risk  
10 instrument appropriate for juveniles and shall submit the results to the sex offender board of review.  
11 In cases where an accepted validated risk assessment instrument does not exist, the sex offender  
12 board of review shall use a structured professional judgment (SPJ) approach, in which the board  
13 shall evaluate the presence or absence of commonly employed risk variables (both static and  
14 dynamic), together with all other information available to the board, to make a determination  
15 concerning the level of risk.

16 (c) Duties of other state agencies. Six (6) months prior to release of any person having a  
17 duty to register under § 11-37.1-3, or upon sentencing of a person having a duty to register under  
18 § 11-37.1-3, if the offender is not incarcerated, the agency having supervisory responsibility and  
19 the Interstate Compact Unit of the Rhode Island department of corrections upon acceptance of  
20 supervision of a sexual offender from the sending jurisdiction shall refer the person to the sex  
21 offender board of review, together with any reports and documentation that may be helpful to the  
22 board, for a determination as to the level of risk an offender poses to the community and to assist  
23 the sentencing court in determining if that person is a sexually violent predator.

24 (2)(i) The board shall within thirty (30) days of a referral of a person ~~shall~~ conduct the  
25 validated risk assessment, review other material provided by the agency having supervisory  
26 responsibility and assign a risk of re-offense level to the offender. In addition, the board may find  
27 that, based on the assessment score and other material, that the person may possess a mental  
28 abnormality or personality disorder that makes the person likely to engage in sexually violent  
29 predatory offenses. In these cases, the committee shall ask the parole board psychiatrist or if the  
30 offender is a juvenile, a DCYF psychiatrist to conduct a sex offender evaluation to determine if the  
31 offender possesses a mental abnormality or personality disorder that affects the emotional or  
32 volitional capacity of the person in a manner that predisposes that person to the commission of  
33 criminal sexual acts to a degree that makes the person a menace to the health and safety of other  
34 persons.

1 (ii) Upon receipt of a sex offender evaluation that suggests there is sufficient evidence and  
2 documentation to suggest that a person may be a sexually violent predator, the sex offender board  
3 of review shall forward a report to the attorney general for consideration by the court.

4 (iii) Upon receipt of a report from the attorney general, the court, after notice to the offender  
5 and his or her counsel, shall upon consideration of the report and other materials, make a  
6 determination as to whether or not a person is a sexually violent predator.

7 (iv) Effect of determination. In the event that a determination is made by the court that a  
8 person is a sexually violent predator, that person shall be required to register and verify his or her  
9 address in accordance with §§ 11-37.1-3, 11-37.1-4, and 11-37.1-8(b).

10 (3) No cause of action or liability shall arise or exist against the committee or any member  
11 or agent of the board as a result of the failure of the board to make any findings required by this  
12 section within the time period specified by subsection (2) of this section.

13 (4) Notwithstanding any other provision of law, the board shall have access to all relevant  
14 records and information in the possession of any state official or agency having a duty under § 11-  
15 37.1-5(a)(1) through (6), relating to the juvenile and adult offenders under review by the board,  
16 including, but not limited to, police reports; prosecutor's statements of probable cause, presentence  
17 investigations and reports, complete judgments and sentences, current classification referrals,  
18 juvenile and adult criminal history records, violation and disciplinary reports, all psychological  
19 evaluations and psychiatric evaluations, psychiatric hospital records, sex offender evaluations and  
20 treatment reports, substance abuse evaluations and treatment reports to the extent allowed by  
21 federal law. Records and information obtained by the board of review under this subsection shall  
22 remain confidential, provided that the board of review may disclose the records and information to  
23 the sentencing court in accordance with the provisions of this chapter.

24 (5) Duties of the director of the department of corrections/director of the department of  
25 children, youth and families. Not less than sixty (60) days prior to release of any person subject to  
26 this chapter, the director of the department of corrections or, in the event the person is a juvenile,  
27 the director of the department of children, youth and families, or their respective designees, shall  
28 seek verification that the duties of the sex offender board of review and any other state agency have  
29 been fulfilled as specified in § 11-37.1-6 et seq. In the event that the director of the department of  
30 corrections or, in the event the person is a juvenile, the director of the department of children, youth  
31 and families, cannot obtain verification, he or she shall, no less than thirty (30) days prior to the  
32 release of a person subject to this chapter, file with the presiding judge of the superior court or, in  
33 the case of a juvenile, the chief judge of the family court, a petition in the nature of mandamus,  
34 seeking compliance with this chapter. The court shall promptly, but no less than ten (10) days from

1 the filing of the petition, hold a hearing on the petition. The court may, in its discretion, enter any  
2 orders consistent with this chapter to compel compliance, however, the court may not delay the  
3 release of any person subject to this chapter for the failure of the sex offender board of review or  
4 any state agency to fulfill its obligations under this chapter.

5 SECTION 5. Section 12-13-1.1 of the General Laws in Chapter 12-13 entitled "Bail and  
6 Recognizance" is hereby amended to read as follows:

7 **12-13-1.1. Hearings when state opposes bail — Medical disability of accused.**

8 (a) In all cases where the state opposes the granting of bail in respect to offenses punishable  
9 by imprisonment for life, and/or offenses involving the use or threat of use of a dangerous weapon  
10 by one already convicted of ~~the~~ such an offense or of an offense punishable by imprisonment for  
11 life pursuant to the provisions of R.I. Const., Art. I, Sec. IX, hearings shall be held in the superior  
12 court unless arrangements are made by the parties for a stenographic or electronic recording of  
13 proceedings in the district court.

14 (b) In the event an accused person fails to appear in superior court for arraignment on ~~the~~  
15 such an offense and ~~the~~ said accused is under the care of a private physician who has determined  
16 that the accused is medically unable to appear in court for arraignment, the justice of the superior  
17 court in charge of the criminal calendar shall order the immediate examination of ~~the~~ said accused  
18 by a licensed physician, who shall file his or her medical report with the court within seven (7) days  
19 of his or her examination of the accused. Should the justice after hearing thereon decide that the  
20 accused is medically unable to appear in superior court for arraignment, he or she shall make  
21 whatever arrangements are necessary to have the accused arraigned at a location other than the  
22 superior court.

23 (c) The accused person shall be liable for all expenses incurred by the state as a direct result  
24 of the inability of the accused to appear in court for arraignment and/or the inability to transfer the  
25 accused to the adult correctional institutions or hospital facility owned by the state.

26 SECTION 6. Section 16-7-22 of the General Laws in Chapter 16-7 entitled "Foundation  
27 Level School Support [See Title 16 Chapter 97 — The Rhode Island Board of Education Act]" is  
28 hereby amended to read as follows:

29 **16-7-22. Determination of average daily membership.**

30 Each community shall be paid pursuant to the provisions of § 16-7-17 an amount based  
31 upon the following provisions:

32 (1) On or before September 1 of each year the average daily membership of each city and  
33 town for the reference year shall be determined by the commissioner of elementary and secondary  
34 education from data supplied by the school committee in each community in the following manner:

1 The aggregate number of days of membership of all pupils enrolled full time in grade twelve (12)  
2 and below, except that pupils below grade one who are not full time shall be counted on a full-time  
3 equivalent basis: (i) Increased by the aggregate number of days of membership of pupils residing  
4 in the particular city or town whose tuition in schools approved by the department of elementary  
5 and secondary education in other cities and towns is paid by the particular city or town; and (ii)  
6 Decreased by the aggregate number of days of membership of nonresident pupils enrolled in the  
7 public schools of the particular city or town and further decreased by the aggregate number of days  
8 of membership equal to the number of group home beds calculated for the purposes of  
9 reimbursement pursuant to § 16-64-1.1; and (iii) Decreased further, in the case of a city or town  
10 that is a member of a regional school district during the first year of operation of the regional school  
11 district by the aggregate number of days of membership of pupils residing in the city or town who  
12 would have attended the public schools in the regional school district if the regional school district  
13 had been operating during the previous year, divided by the number of days during which the  
14 schools were officially in session during the reference year. The resulting figures shall be the  
15 average daily membership for the city or town for the reference year. For purposes of calculating  
16 the permanent foundation education aid as described in § 16-7.2-3(a)(1) and 16-7.2-3(a)(2), the  
17 average daily membership for school districts shall exclude charter school and state school students,  
18 and beginning in school year 2014-2015, include an estimate to ensure that districts converting  
19 from a half-day to a full-day kindergarten program pursuant to § 16-99-4 are credited on a full-time  
20 basis beginning in the first year of enrollment and are funded notwithstanding the transition plan  
21 pursuant to § 16-7.2-7.

22 (2) The average daily membership of pupils attending public schools shall apply for the  
23 purposes of determining the percentage of the state's share under the provisions of §§ 16-7-16(3),  
24 16-7-16(10), 16-7-18, 16-7-19, 16-7-20, 16-7-21, and 16-7.2-4.

25 (3) In the case of regional school districts, the aggregate number of days of membership by  
26 which each city or town is decreased in subsection (1)(iii) of this section, divided by the number of  
27 days during which the schools attended by the pupils were officially in session, shall determine the  
28 average daily membership for the regional school district during the first year of operation. After  
29 the first year of operation, the average daily membership of each regional school district, except  
30 the Chariho regional high school district, shall be determined by the commissioner of elementary  
31 and secondary education from data supplied by the school committee of each regional school  
32 district for the reference year in the manner provided in subsection (1) of this section.

33 (4) For all fiscal years beginning after June 30, 2024, notwithstanding subsection (1)(ii)  
34 above, the decrease for group home beds shall not apply to residential facility "beds" located or

1 associated with the CRAFT program pursuant to § 16-64-1.1.

2 SECTION 7. Section 23-12.7-3 of the General Laws in Chapter 23-12.7 entitled "The  
3 Breast Cancer Act" is hereby amended to read as follows:

4 **23-12.7-3. Program established.**

5 (a) Through funding from the ~~Rhode Island Cancer Council~~ U.S. Centers for Disease  
6 Control and Prevention, the Rhode Island department of health is required to establish a program  
7 of free mammography screening according to American Cancer Society standards, and, where  
8 required, follow-up, diagnostic testing, and case management for women in the state who are  
9 uninsured or underinsured.

10 (b) The screening program shall:

11 (1) Secure radiology facilities to participate in the screening program;

12 (2) Pay for screening mammograms;

13 (3) Ensure that screening results are sent by mail, electronically, or otherwise, to the patient  
14 in a timely manner;

15 (4) Provide diagnostic tests as required to diagnose breast cancer;

16 (5) Provide case management facilitating appropriate contact to breast surgeons, medical  
17 oncologists, and radiation oncologists; and

18 (6) Provide follow-up support to women who are found to have breast cancer as a result of  
19 this screening program.

20 (c) The director of the Rhode Island department of health is required to provide an annual  
21 report due to the general assembly on May 15 on the program of free mammography screening,  
22 follow-up diagnostic testing and case management, and public education. An advisory committee  
23 concerned with advocacy, outreach, and public education shall meet on a quarterly basis and report  
24 to the director.

25 SECTION 8. Section 28-27-11 of the General Laws in Chapter 28-27 entitled "Mechanical  
26 Trades" is hereby amended to read as follows:

27 **28-27-11. Journeyman license — Test fees — License fees and qualifications —**

28 **Filing deadline for journeyman.**

29 (a) No application for a journeyman's test shall be filed by the department nor shall any  
30 applicant be permitted to take the examination for a license as a journeyman unless:

31 (1) The test application is accompanied by a test fee as outlined in § 28-27-17;

32 (2) Upon passing of a journeyman test, payment of a license fee as outlined in § 28-27-  
33 17 is required and the journeyman license will be issued as provided in § 28-27-15; and

34 (3) The applicant has possessed prior to the filing of the application a certificate of

1 registration in full force and effect from the department of labor and training specifying the person  
2 as a registered apprentice pursuant to § 28-45-13, and the application of an applicant:

3 (i) Is accompanied by an affidavit or affidavits of their employer or former employers or  
4 other reasonably satisfactory evidence showing that the applicant has been actually engaged in  
5 pipefitting or refrigeration/air conditioning, sheet metal or fire protection sprinkler systems work  
6 as an apprentice registered ~~for at least ten thousand (10,000) hours in the state of Rhode Island~~  
7 in accordance with the hourly requirements pursuant to §§ 28-27-4.1 and 28-27-4.2;

8 (ii) Is accompanied by an affidavit or other reasonably satisfactory evidence showing that  
9 the applicant has been registered as a student in a recognized college, university, or trade school  
10 and has pursued a course of pipefitting or refrigeration/air conditioning, sheet metal or fire  
11 protection sprinkler systems for at least two (2) academic years or is the recipient of an associate  
12 degree in pipefitting or refrigeration/air conditioning or fire protection sprinkler systems, and has  
13 thereafter been registered by the department of labor and training as an apprentice for at least three  
14 (3) years and employed as a registered apprentice by a duly licensed pipefitter or refrigeration/air  
15 conditioning or fire protection sprinkler systems master or sheet metal contractors in this state for  
16 a period of three (3) years; or

17 (iii) Is accompanied by an affidavit or other reasonably satisfactory evidence showing that  
18 the applicant possesses a certificate of license issued under the laws of another state specifying that  
19 person as a journeyperson.

20 (4) [Deleted by P.L. 2024, ch. 330, § 7 and P.L. 2024, ch. 331, § 7.]

21 (b) The test application is to be filed with the department at least fifteen (15) days prior to  
22 the examination date.

23 SECTION 9. Section 28-45-9 of the General Laws in Chapter 28-45 entitled  
24 "Apprenticeship Programs in Trade and Industry" is hereby amended to read as follows:

25 **28-45-9. Standards of apprenticeship programs.**

26 An apprenticeship program, to be eligible for approval and registration with the department  
27 of labor and training, shall conform to regulations issued by the department of labor and training  
28 and 29 C.F.R. Part 29 and 29 C.F.R. Part 30 and shall conform to the following standards:

29 (1) The program is an organized, written plan embodying the terms and conditions of  
30 employment, training, and supervision of one or more apprentices in the apprenticeable occupation,  
31 as defined in this chapter and subscribed to by a sponsor who has undertaken to carry out the  
32 apprentice training program.

33 (2) The program standards contain the equal opportunity pledge prescribed in 29 C.F.R §  
34 30.3(c) and, when applicable, an affirmative action plan in accordance with 29 C.F.R. § 30.4, a

1 selection method authorized in 29 C.F.R § 30.10, or similar requirements expressed in a state plan  
2 for equal employment opportunity in apprenticeship adopted pursuant to 29 C.F.R. Part 30 and  
3 approved by the United States Department of Labor, and provisions concerning the following:

4 (i) The employment and training of the apprentice in a skilled occupation;

5 (ii) A term of apprenticeship not less than two thousand (2,000) hours of work experience,  
6 consistent with training requirements as established by industry practice, which for an individual  
7 apprentice may be measured either through the completion of the industry standard for on-the-job  
8 learning (at least two thousand (2,000) hours) (time-based approach), the attainment of competency  
9 (competency-based approach), or a blend of the time-based and competency-based approaches  
10 (hybrid approach):

11 (A) The time-based approach measures skill acquisition through the individual apprentice's  
12 completion of at least two thousand (2,000) hours of on-the-job learning as described in a work  
13 process schedule;

14 (B) The competency-based approach measures skill acquisition through the individual  
15 apprentice's successful demonstration of acquired skills and knowledge, as verified by the program  
16 sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job  
17 learning component of registered apprenticeship. The program standards must address how on-the-  
18 job learning will be integrated into the program, describe competencies, and identify an appropriate  
19 means of testing and evaluation for such competencies;

20 (C) The hybrid approach measures the individual apprentice's skill acquisition through a  
21 combination of specified minimum number of hours of on-the-job learning and the successful  
22 demonstration of competency as described in a work process schedule; and

23 (D) The determination of the appropriate approach for the program standards is made by  
24 the program sponsor, subject to approval by the registration agency of the determination as  
25 appropriate to the apprenticeable occupation for which the program standards are registered;

26 (iii) An outline of the work processes in which the apprentice will receive supervised work  
27 experience and training on the job, and the allocation of the approximate time to be spent in each  
28 major process;

29 (iv) Provision for organized, related, and supplemental instruction in technical subjects  
30 related to the trade. A minimum of one hundred forty-four (144) hours for each year of  
31 apprenticeship is recommended. This instruction in technical subjects may be accomplished  
32 through media, such as classroom, occupational or industry courses, electronic media, or other  
33 instruction approved by the department of labor and training; every apprenticeship instructor must:

34 (A) Meet the Rhode Island department of elementary and secondary education



1 requirements for a vocational-technical instructor, or be a subject matter expert, which is an  
2 individual, such as a journey worker, who is recognized within an industry as having expertise in a  
3 specific occupation; and

4 (B) Have training in teaching techniques and adult learning styles, which may occur before  
5 or after the apprenticeship instructor has started to provide the related technical instruction;

6 (v) A statement of the progressively increasing scale of wages to be paid the apprentice  
7 consistent with the skill acquired, the entry wage to be not less than the minimum wage prescribed  
8 by the federal and state labor standards act, where applicable, unless a higher wage is required by  
9 other applicable federal law, state law, respective regulations, or by collective bargaining  
10 agreement;

11 (vi) A provision for periodic review and evaluation of the apprentice's progress in job  
12 performance and related instruction, and the maintenance of appropriate progress records;

13 (vii) The numeric ratio of apprentices to journeypersons consistent with proper supervision,  
14 training, safety, and continuity of employment, and applicable provisions in collective bargaining  
15 agreements, except where the ratios are expressly prohibited by the collective bargaining  
16 agreement. The ratio language shall be specific and clear as to application in terms of jobsite, work  
17 force, department, or plant;

18 (viii) A probationary period reasonable in relation to the full apprenticeship term, with full  
19 credit given for the period toward completion of apprenticeship; the probationary period shall not  
20 exceed twenty-five percent (25%) of the length of the program or one year, whichever is shorter;

21 (ix) Adequate and safe equipment and facilities for training and supervision, and safety  
22 training for apprentices on the job and in related instruction;

23 (x) The minimum qualifications required by a sponsor for persons entering the  
24 apprenticeship program, with an eligible starting age not less than sixteen (16) years;

25 (xi) The placement of an apprentice under a written apprenticeship agreement that  
26 conforms to the requirements of this chapter. The agreement shall directly, or by reference,  
27 incorporate the standards of the program as part of the agreement;

28 (xii) The granting of advanced standing or credit for demonstrated competency, previously  
29 acquired experience, training, or skills for all applicants equally, with commensurate wages for any  
30 progression step so granted;

31 (xiii) The transfer of an apprentice between apprenticeship programs and within an  
32 apprenticeship program must be based on agreement between the apprentice and the affected  
33 apprenticeship committees or program sponsors, and must comply with the following requirements:

34 (A) The transferring apprentice must be provided a transcript of related instruction and on-

1 the-job learning by the committee or program sponsor;

2 (B) Transfer must be to the same occupation; and

3 (C) A new apprenticeship agreement must be executed when the transfer occurs between

4 program sponsors;

5 (xiv) Assurance of qualified training personnel and adequate supervision on the job;

6 (xv) Recognition for successful completion of apprenticeship evidenced by an appropriate

7 certificate issued by the department of labor and training;

8 (xvi) Program standards that utilize the competency-based or hybrid approach for

9 progression through an apprenticeship and that choose to issue interim credentials must clearly

10 identify the interim credentials; demonstrate how these credentials link to the components of the

11 apprenticeable occupation; and establish the process for assessing an individual apprentice's

12 demonstration of competency associated with the particular interim credential; further, interim

13 credentials must only be issued for recognized components of an apprenticeable occupation,

14 thereby linking interim credentials specifically to the knowledge, skills, and abilities associated

15 with those components of the apprenticeable occupation;

16 (xvii) Identification of the department of labor and training as the registration agency;

17 (xviii) Provision for the registration, cancellation, and deregistration of the program, and

18 requirement for the prompt submission of any modification or amendment to the department of

19 labor and training for approval;

20 (xix) Provision for registration of apprenticeship agreements, modifications, and

21 amendments; notice to the department of labor and training of persons who have successfully

22 completed apprenticeship programs; and notice of transfers, cancellations, suspensions, and

23 terminations of apprenticeship agreements and a statement of the reasons therefor;

24 (xx) Authority for the cancellation of an apprenticeship agreement during the probationary

25 period by either party without stated cause. Cancellation during the probationary period will not

26 have an adverse impact on the sponsor's completion rate;

27 (xxi) Compliance with 29 C.F.R. Part 30, including the equal opportunity pledge prescribed

28 in 29 C.F.R. § 30.3~~(b)~~(c); an affirmative action plan complying with 29 C.F.R. § 30.4; and a method

29 for the selection of apprentices authorized by 29 C.F.R. § ~~30.5~~ 30.10, or compliance with parallel

30 requirements contained in a state plan for equal opportunity in apprenticeship adopted under 29

31 C.F.R. Part 30 and approved by the department. The apprenticeship standards must also include a

32 statement that the program will be conducted, operated, and administered in conformity with

33 applicable provisions of 29 C.F.R. Part 30, as amended, or if applicable, an approved state plan for

34 equal opportunity in apprenticeship;

(xxii) Name and address, telephone number, and e-mail address (if applicable) of the appropriate authority under the program to receive, process, and make disposition of complaints;

(xxiii) Recording and maintenance of all records concerning apprenticeship as may be required by the office of apprenticeship or the department of labor and training and other applicable law.

SECTION 10. Section 31-1-23 of the General Laws in Chapter 31-1 entitled "Definitions and General Code Provisions" is hereby amended to read as follows:

**31-1-23. Types of roads.**

(a) "Bicycle lane" means a portion of highway right-of-way designated by the state and identified by official traffic control devices (pavement markings) for the exclusive use of bicyclists. The operation and parking of motor vehicles is prohibited within the lane identified for exclusive use by bicyclists, except when making a turn, entering or leaving the roadway or a parking lane, or when required in the course of official duty.

(b) "Bicycle route" means a shared right-of-way along a highway, designated by the state and identified by official traffic control devices (signs) for use by bicyclists.

(c) "Bicycle trail or path" means a bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way. Bicycle trails or paths may also be used by pedestrians, skaters, riders of Class 1 electric bicycles as defined in § 31-19.7-1, wheelchair users, joggers, and other nonmotorized users.

(d) "Laned roadway" means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(e) "Limited access highway" means every highway, street, or roadway to or from which owners or occupants of abutting lands and other persons have no legal right of access except at those points and in that manner determined by the public authority having jurisdiction over it.

(f) "Local highway" means every street or highway other than a state highway, private road, or driveway.

(g) "Private road or driveway" means every way or place in private ownership that is used for vehicular travel only by the owner and by those others having express or implied permission from the owner.

(h) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, excluding the sidewalk, berm, or shoulder even when used by persons riding bicycles. In the event a highway includes two (2) or more separate roadways, "roadway" refers to the roadway separately and not the roadways collectively.

1 (i) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of  
2 a roadway, and the adjacent property lines intended for the use of pedestrians.

3 (j) "State highway" means every street or highway constructed and/or maintained by the  
4 ~~director of public works and the division of roads and bridges~~ department of transportation.

5 (k) "Street or highway" means the entire width between boundary lines of every way when  
6 any part of it is open to the use of the public for purposes of vehicular traffic.

7 (l) "Through highway" means every highway or portion of a highway having entrances  
8 from intersecting highways at which vehicular traffic is required by law to stop before entering or  
9 crossing, and where stop signs are erected under the provisions of chapters 1 — 27 of this title.

10 SECTION 11. Section 31-27-2 of the General Laws in Chapter 31-27 entitled "Motor  
11 Vehicle Offenses" is hereby amended to read as follows:

12 **31-27-2. Driving under influence of liquor or drugs. [Effective until July 1, 2025.]**

13 (a) Whoever drives or otherwise operates any vehicle in the state while under the influence  
14 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of  
15 title 21, or any combination of these, shall be guilty of a misdemeanor, except as provided in  
16 subsection (d)(3), and shall be punished as provided in subsection (d) of this section.

17 (b)(1) Any person charged under subsection (a), whose blood alcohol concentration is eight  
18 one-hundredths of one percent (.08%) or more by weight, as shown by a chemical analysis of a  
19 blood, breath, or urine sample, shall be guilty of violating subsection (a). This provision shall not  
20 preclude a conviction based on other admissible evidence, including the testimony of a drug  
21 recognition expert or evaluator, certified pursuant to training approved by the Rhode Island  
22 department of transportation office on highway safety. Proof of guilt under this section may also  
23 be based on evidence that the person charged was under the influence of intoxicating liquor, drugs,  
24 toluene, or any controlled substance defined in chapter 28 of title 21, or any combination of these,  
25 to a degree that rendered the person incapable of safely operating a vehicle. The fact that any person  
26 charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not  
27 constitute a defense against any charge of violating this section.

28 (2) [Deleted by P.L. 2021, ch. 170, § 1 and P.L. 2021, ch. 171, § 1.]

29 (c) In any criminal prosecution for a violation of subsection (a), evidence as to the amount  
30 of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or  
31 any combination of these, in the defendant's blood at the time alleged as shown by a chemical  
32 analysis of the defendant's breath, blood, saliva or urine or other bodily substance, shall be  
33 admissible and competent, provided that evidence is presented that the following conditions have  
34 been complied with:

1           (1) The defendant has consented to the taking of the test upon which the analysis is made.  
2 Evidence that the defendant had refused to submit to the test shall not be admissible unless the  
3 defendant elects to testify.

4           (2) A true copy of the report of the test result was hand delivered at the location of the test  
5 or mailed within seventy-two (72) hours of the taking of the test to the person submitting to a breath  
6 test.

7           (3) Any person submitting to a chemical test of blood, urine, saliva or other body fluids  
8 shall have a true copy of the report of the test result mailed to him or her within thirty (30) days  
9 following the taking of the test.

10          (4) The test was performed according to methods and with equipment approved by the  
11 director of the department of health of the state of Rhode Island and by an authorized individual.

12          (5) Equipment used for the conduct of the tests by means of breath analysis had been tested  
13 for accuracy within thirty (30) days preceding the test by personnel qualified as hereinbefore  
14 provided, and breathalyzer operators shall be qualified and certified by the department of health  
15 within three hundred sixty-five (365) days of the test.

16          (6) The person arrested and charged with operating a motor vehicle while under the  
17 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of  
18 title 21 or any combination of these in violation of subsection (a), was afforded the opportunity to  
19 have an additional chemical test. The officer arresting or so charging the person shall have informed  
20 the person of this right and afforded him or her a reasonable opportunity to exercise this right, and  
21 a notation to this effect is made in the official records of the case in the police department. Refusal  
22 to permit an additional chemical test shall render incompetent and inadmissible in evidence the  
23 original report.

24          (d)(1)(i) Every person found to have violated subsection (b)(1) shall be sentenced as  
25 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one  
26 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence  
27 of any scheduled controlled substance as defined in chapter 28 of title 21, shall be subject to a fine  
28 of not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300); shall be  
29 required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be  
30 imprisoned for up to one year. The sentence may be served in any unit of the adult correctional  
31 institutions in the discretion of the sentencing judge and/or shall be required to attend a special  
32 course on driving while intoxicated or under the influence of a controlled substance; provided,  
33 however, that the court may permit a servicemember or veteran to complete any court-approved  
34 counseling program administered or approved by the Veterans' Administration, and his or her

1 driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days. The  
2 sentencing judge or magistrate may prohibit that person from operating a motor vehicle, pursuant  
3 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system  
4 and/or blood and urine testing as provided in § 31-27-2.8.

5 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-  
6 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent  
7 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less than  
8 one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required to  
9 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for  
10 up to one year. The sentence may be served in any unit of the adult correctional institutions in the  
11 discretion of the sentencing judge. The person's driving license shall be suspended for a period of  
12 three (3) months to twelve (12) months. The sentencing judge shall require attendance at a special  
13 course on driving while intoxicated or under the influence of a controlled substance and/or  
14 alcoholic or drug treatment for the individual; provided, however, that the court may permit a  
15 servicemember or veteran to complete any court-approved counseling program administered or  
16 approved by the Veterans' Administration. The sentencing judge or magistrate may prohibit that  
17 person from operating a motor vehicle that is not equipped with an ignition interlock system as  
18 provided in § 31-27-2.8.

19 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen  
20 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any  
21 controlled substance as defined in subsection (b)(1), shall be subject to a fine of five hundred dollars  
22 (\$500) and shall be required to perform twenty (20) to sixty (60) hours of public community  
23 restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit  
24 of the adult correctional institutions in the discretion of the sentencing judge. The person's driving  
25 license shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing  
26 judge shall require attendance at a special course on driving while intoxicated or under the influence  
27 of a controlled substance and/or alcohol or drug treatment for the individual; provided, however,  
28 that the court may permit a servicemember or veteran to complete any court-approved counseling  
29 program administered or approved by the Veterans' Administration. The sentencing judge or  
30 magistrate shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9)  
31 or (d)(10) of this section, that is not equipped with an ignition interlock system and/or blood and  
32 urine testing as provided in § 31-27-2.8.

33 (2)(i) Every person convicted of a second violation within a five-year (5) period with a  
34 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than

1     fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or  
2     who has a blood presence of any controlled substance as defined in chapter 28 of title 21, and every  
3     person convicted of a second violation within a five-year (5) period, regardless of whether the prior  
4     violation and subsequent conviction was a violation and subsequent conviction under this statute  
5     or under the driving under the influence of liquor or drugs statute of any other state, shall be subject  
6     to a mandatory fine of four hundred dollars (\$400). The person's driving license shall be suspended  
7     for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten  
8     (10) days, nor more than one year, in jail. The sentence may be served in any unit of the adult  
9     correctional institutions in the discretion of the sentencing judge; however, not less than forty-eight  
10    (48) hours of imprisonment shall be served consecutively. The sentencing judge shall require  
11    alcohol or drug treatment for the individual; provided, however, that the court may permit a  
12    servicemember or veteran to complete any court-approved counseling program administered or  
13    approved by the Veterans' Administration and shall prohibit that person from operating a motor  
14    vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition  
15    interlock system and/or blood and urine testing as provided in § 31-27-2.8.

16           (ii) Every person convicted of a second violation within a five-year (5) period whose blood  
17    alcohol concentration is fifteen hundredths of one percent (.15%) or above, by weight as shown by  
18    a chemical analysis of a blood, breath, or urine sample, or who is under the influence of a drug,  
19    toluene, or any controlled substance as defined in subsection (b)(1), shall be subject to mandatory  
20    imprisonment of not less than six (6) months, nor more than one year; a mandatory fine of not less  
21    than one thousand dollars (\$1,000); and a mandatory license suspension for a period of two (2)  
22    years from the date of completion of the sentence imposed under this subsection. The sentencing  
23    judge shall require alcohol or drug treatment for the individual; provided, however, that the court  
24    may permit a servicemember or veteran to complete any court approved counseling program  
25    administered or approved by the Veterans' Administration. The sentencing judge or magistrate  
26    shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10)  
27    of this section, that is not equipped with an ignition interlock system and/or blood and urine testing  
28    as provided in § 31-27-2.8.

29           (3)(i) Every person convicted of a third or subsequent violation within a five-year (5)  
30    period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above,  
31    but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is  
32    unknown or who has a blood presence of any scheduled controlled substance as defined in chapter  
33    28 of title 21, regardless of whether any prior violation and subsequent conviction was a violation  
34    and subsequent conviction under this statute or under the driving under the influence of liquor or

1 drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory fine of  
2 four hundred (\$400) dollars. The person's driving license shall be suspended for a period of two  
3 (2) years to three (3) years, and the individual shall be sentenced to not less than one year and not  
4 more than three (3) years in jail. The sentence may be served in any unit of the adult correctional  
5 institutions in the discretion of the sentencing judge; however, not less than forty-eight (48) hours  
6 of imprisonment shall be served consecutively. The sentencing judge shall require alcohol or drug  
7 treatment for the individual; provided, however, that the court may permit a servicemember or  
8 veteran to complete any court-approved counseling program administered or approved by the  
9 Veterans' Administration, and shall prohibit that person from operating a motor vehicle, pursuant  
10 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system  
11 and/or blood and urine testing as provided in § 31-27-2.8.

12 (ii) Every person convicted of a third or subsequent violation within a ten-year (10) period  
13 whose blood alcohol concentration is fifteen hundredths of one percent (.15%) or above by weight  
14 as shown by a chemical analysis of a blood, breath, or urine sample, or who is under the influence  
15 of a drug, toluene, or any controlled substance as defined in subsection (b)(1), shall be subject to  
16 mandatory imprisonment of not less than three (3) years, nor more than five (5) years; a mandatory  
17 fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000);  
18 and a mandatory license suspension for a period of three (3) years from the date of completion of  
19 the sentence imposed under this subsection. The sentencing judge shall require alcohol or drug  
20 treatment for the individual. The sentencing judge or magistrate shall prohibit that person from  
21 operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not  
22 equipped with an ignition interlock system and/or blood and urine testing as provided in § 31-27-  
23 2.8.

24 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent  
25 violation within a five-year (5) period, regardless of whether any prior violation and subsequent  
26 conviction was a violation and subsequent conviction under this statute or under the driving under  
27 the influence of liquor or drugs statute of any other state, shall be subject, in the discretion of the  
28 sentencing judge, to having the vehicle owned and operated by the violator seized and sold by the  
29 state of Rhode Island, with all funds obtained by the sale to be transferred to the general fund.

30 (4) Whoever drives or otherwise operates any vehicle in the state while under the influence  
31 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of  
32 title 21, or any combination of these, when his or her license to operate is suspended, revoked, or  
33 cancelled for operating under the influence of a narcotic drug or intoxicating liquor, shall be guilty  
34 of a felony punishable by imprisonment for not more than three (3) years and by a fine of not more



1 than three thousand dollars (\$3,000). The court shall require alcohol and/or drug treatment for the  
2 individual; provided, the penalties provided for in this subsection (d)(4) shall not apply to an  
3 individual who has surrendered his or her license and served the court-ordered period of suspension,  
4 but who, for any reason, has not had his or her license reinstated after the period of suspension,  
5 revocation, or suspension has expired; provided, further, the individual shall be subject to the  
6 provisions of subsection (d)(2)(i), (d)(2)(ii), (d)(3)(i), (d)(3)(ii), or (d)(3)(iii) regarding subsequent  
7 offenses, and any other applicable provision of this section.

8 (5)(i) For purposes of determining the period of license suspension, a prior violation shall  
9 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.1.

10 (ii) Any person over the age of eighteen (18) who is convicted under this section for  
11 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of  
12 these, while a child under the age of thirteen (13) years was present as a passenger in the motor  
13 vehicle when the offense was committed shall be subject to immediate license suspension pending  
14 prosecution. Any person convicted of violating this section shall be guilty of a misdemeanor for a  
15 first offense and may be sentenced to a term of imprisonment of not more than one year and a fine  
16 not to exceed one thousand dollars (\$1,000). Any person convicted of a second or subsequent  
17 offense shall be guilty of a felony offense and may be sentenced to a term of imprisonment of not  
18 more than five (5) years and a fine not to exceed five thousand dollars (\$5,000). The sentencing  
19 judge shall also order a license suspension of up to two (2) years, require attendance at a special  
20 course on driving while intoxicated or under the influence of a controlled substance, and alcohol  
21 or drug education and/or treatment. The individual may also be required to pay a highway  
22 assessment fee of no more than five hundred dollars (\$500) and the assessment shall be deposited  
23 in the general fund.

24 (6)(i) Any person convicted of a violation under this section shall pay a highway  
25 assessment fine of five hundred dollars (\$500) that shall be deposited into the general fund. The  
26 assessment provided for by this subsection shall be collected from a violator before any other fines  
27 authorized by this section.

28 (ii) Any person convicted of a violation under this section shall be assessed a fee of eighty-  
29 six dollars (\$86).

30 (7)(i) If the person convicted of violating this section is under the age of eighteen (18)  
31 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of  
32 public community restitution and the juvenile's driving license shall be suspended for a period of  
33 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing  
34 judge shall also require attendance at a special course on driving while intoxicated or under the

1 influence of a controlled substance and alcohol or drug education and/or treatment for the juvenile.  
2 The juvenile may also be required to pay a highway assessment fine of no more than five hundred  
3 dollars (\$500) and the assessment imposed shall be deposited into the general fund.

4 (ii) If the person convicted of violating this section is under the age of eighteen (18) years,  
5 for a second or subsequent violation regardless of whether any prior violation and subsequent  
6 conviction was a violation and subsequent conviction under this statute or under the driving under  
7 the influence of liquor or drugs statute of any other state, he or she shall be subject to a mandatory  
8 suspension of his or her driving license until such time as he or she is twenty-one (21) years of age  
9 and may, in the discretion of the sentencing judge, also be sentenced to the Rhode Island training  
10 school for a period of not more than one year and/or a fine of not more than five hundred dollars  
11 (\$500).

12 (8) Any person convicted of a violation under this section may undergo a clinical  
13 assessment at the community college of Rhode Island's center for workforce and community  
14 education. Should this clinical assessment determine problems of alcohol, drug abuse, or  
15 psychological problems associated with alcoholic or drug abuse, this person shall be referred to an  
16 appropriate facility, licensed or approved by the department of behavioral healthcare,  
17 developmental disabilities and hospitals, for treatment placement, case management, and  
18 monitoring. In the case of a servicemember or veteran, the court may order that the person be  
19 evaluated through the Veterans' Administration. Should the clinical assessment determine  
20 problems of alcohol, drug abuse, or psychological problems associated with alcohol or drug abuse,  
21 the person may have their treatment, case management, and monitoring administered or approved  
22 by the Veterans' Administration.

23 (9) Notwithstanding any other sentencing and disposition provisions contained in this  
24 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was  
25 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled  
26 substance as evidenced by the presence of controlled substances on or about the person or vehicle,  
27 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a  
28 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration,  
29 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement of  
30 an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition  
31 to operating a motor vehicle as provided in § 31-27-2.8.

32 (10) Notwithstanding any other sentencing and disposition provisions contained in this  
33 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was  
34 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled

1 substance as evidenced by the presence of controlled substances on or about the person or vehicle,  
2 or other reliable indicia or articulable conditions thereof and intoxicating liquor based on a  
3 preliminary breath test, results from a breathalyzer that indicates blood alcohol concentration, or  
4 both, the judge or magistrate may require an ignition interlock system in addition to blood and/or  
5 urine testing as a condition to operating a motor vehicle as provided in § 31-27-2.8.

6 (e) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per  
7 one hundred cubic centimeters (100 cc) of blood.

8 (f)(1) There is established an alcohol and drug safety unit within the division of motor  
9 vehicles to administer an alcohol safety action program. The program shall provide for placement  
10 and follow-up for persons who are required to pay the highway safety assessment. The alcohol and  
11 drug safety action program will be administered in conjunction with alcohol and drug programs  
12 licensed by the department of behavioral healthcare, developmental disabilities and hospitals.

13 (2) Persons convicted under the provisions of this chapter shall be required to attend a  
14 special course on driving while intoxicated or under the influence of a controlled substance, and/or  
15 participate in an alcohol or drug treatment program, which course and programs must meet the  
16 standards established by the Rhode Island department of behavioral healthcare, developmental  
17 disabilities and hospitals; provided, however, that the court may permit a servicemember or veteran  
18 to complete any court-approved counseling program administered or approved by the Veterans'  
19 Administration. The course shall take into consideration any language barrier that may exist as to  
20 any person ordered to attend, and shall provide for instruction reasonably calculated to  
21 communicate the purposes of the course in accordance with the requirements of the subsection.  
22 Any costs reasonably incurred in connection with the provision of this accommodation shall be  
23 borne by the person being retrained. A copy of any violation under this section shall be forwarded  
24 by the court to the alcohol and drug safety unit. In the event that persons convicted under the  
25 provisions of this chapter fail to attend and complete the above course or treatment program, as  
26 ordered by the judge, then the person may be brought before the court, and after a hearing as to  
27 why the order of the court was not followed, may be sentenced to jail for a period not exceeding  
28 one year.

29 (3) The alcohol and drug safety action program within the division of motor vehicles shall  
30 be funded by general revenue appropriations.

31 (g) The director of the department of health is empowered to make and file with the  
32 secretary of state regulations that prescribe the techniques and methods of chemical analysis of the  
33 person's body fluids or breath and the qualifications and certification of individuals authorized to  
34 administer this testing and analysis.

1 (h) Jurisdiction for misdemeanor violations of this section shall be with the district court  
2 for persons eighteen (18) years of age or older and to the family court for persons under the age of  
3 eighteen (18) years. The courts shall have full authority to impose any sentence authorized and to  
4 order the suspension of any license for violations of this section. Trials in superior court are not  
5 required to be scheduled within thirty (30) days of the arraignment date.

6 (i) No fines, suspensions, assessments, alcohol or drug treatment programs, course on  
7 driving while intoxicated or under the influence of a controlled substance, public community  
8 restitution, or jail provided for under this section can be suspended.

9 (j) An order to attend a special course on driving while intoxicated, that shall be  
10 administered in cooperation with a college or university accredited by the state, shall include a  
11 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars  
12 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into  
13 the general fund.

14 (k) For the purposes of this section, any test of a sample of blood, breath, or urine for the  
15 presence of alcohol that relies in whole or in part upon the principle of infrared light absorption is  
16 considered a chemical test.

17 (l) If any provision of this section, or the application of any provision, shall for any reason  
18 be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of the  
19 section, but shall be confined in this effect to the provision or application directly involved in the  
20 controversy giving rise to the judgment.

21 (m) For the purposes of this section, "servicemember" means a person who is presently  
22 serving in the armed forces of the United States, including the Coast Guard, a reserve component  
23 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,  
24 including the Coast Guard of the United States, a reserve component thereof, or the National Guard,  
25 and has been discharged under other than dishonorable conditions.

26 **31-27-2. Driving under influence of liquor or drugs. [Effective July 1, 2025.]**

27 (a) Whoever drives or otherwise operates any vehicle in the state while under the influence  
28 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of  
29 title 21, or any combination of these, shall be guilty of a misdemeanor, except as provided in  
30 subsection (d)(3), and shall be punished as provided in subsection (d) of this section.

31 (b)(1) Any person charged under subsection (a), whose blood alcohol concentration is eight  
32 one-hundredths of one percent (.08%) or more by weight, as shown by a chemical analysis of a  
33 blood, breath, or urine sample, shall be guilty of violating subsection (a). This provision shall not  
34 preclude a conviction based on other admissible evidence, including the testimony of a drug

1 recognition expert or evaluator, certified pursuant to training approved by the Rhode Island  
2 department of transportation office on highway safety. Proof of guilt under this section may also  
3 be based on evidence that the person charged was under the influence of intoxicating liquor, drugs,  
4 toluene, or any controlled substance defined in chapter 28 of title 21, or any combination of these,  
5 to a degree that rendered the person incapable of safely operating a vehicle. The fact that any person  
6 charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not  
7 constitute a defense against any charge of violating this section.

8 (2) [Deleted by P.L. 2021, ch. 170, § 1 and P.L. 2021, ch. 171, § 1.]

9 (c) In any criminal prosecution for a violation of subsection (a), evidence as to the amount  
10 of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or  
11 any combination of these, in the defendant's blood at the time alleged as shown by a chemical  
12 analysis of the defendant's breath, blood, saliva or urine or other bodily substance, shall be  
13 admissible and competent, provided that evidence is presented that the following conditions have  
14 been complied with:

15 (1) The defendant has consented to the taking of the test upon which the analysis is made.  
16 Evidence that the defendant had refused to submit to the test shall not be admissible unless the  
17 defendant elects to testify.

18 (2) A true copy of the report of the test result was hand delivered at the location of the test  
19 or mailed within seventy-two (72) hours of the taking of the test to the person submitting to a breath  
20 test.

21 (3) Any person submitting to a chemical test of blood, urine, saliva or other body fluids  
22 shall have a true copy of the report of the test result mailed to him or her within thirty (30) days  
23 following the taking of the test.

24 (4) The test was performed according to methods and with equipment approved by the  
25 director of the department of health of the state of Rhode Island and by an authorized individual.

26 (5) Equipment used for the conduct of the tests by means of breath analysis had been tested  
27 for accuracy within thirty (30) days preceding the test by personnel qualified as hereinbefore  
28 provided, and breathalyzer operators shall be qualified and certified by the department of health  
29 within three hundred sixty-five (365) days of the test.

30 (6) The person arrested and charged with operating a motor vehicle while under the  
31 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of  
32 title 21 or any combination of these in violation of subsection (a), was afforded the opportunity to  
33 have an additional chemical test. The officer arresting or so charging the person shall have informed  
34 the person of this right and afforded him or her a reasonable opportunity to exercise this right, and

1 a notation to this effect is made in the official records of the case in the police department. Refusal  
2 to permit an additional chemical test shall render incompetent and inadmissible in evidence the  
3 original report.

4 (d)(1)(i) Every person found to have violated subsection (b)(1) shall be sentenced as  
5 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one  
6 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence  
7 of any scheduled controlled substance as defined in chapter 28 of title 21, shall be subject to a fine  
8 of not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300); shall be  
9 required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be  
10 imprisoned for up to one year. The sentence may be served in any unit of the adult correctional  
11 institutions in the discretion of the sentencing judge and/or shall be required to attend a special  
12 course on driving while intoxicated or under the influence of a controlled substance; provided,  
13 however, that the court may permit a servicemember or veteran to complete any court-approved  
14 counseling program administered or approved by the Veterans' Administration, and his or her  
15 driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days. The  
16 sentencing judge or magistrate may prohibit that person from operating a motor vehicle, pursuant  
17 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system  
18 and/or blood and urine testing as provided in § 31-27-2.8.

19 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-  
20 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent  
21 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less than  
22 one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required to  
23 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for  
24 up to one year. The sentence may be served in any unit of the adult correctional institutions in the  
25 discretion of the sentencing judge. The person's driving license shall be suspended for a period of  
26 three (3) months to twelve (12) months. The sentencing judge shall require attendance at a special  
27 course on driving while intoxicated or under the influence of a controlled substance and/or  
28 alcoholic or drug treatment for the individual; provided, however, that the court may permit a  
29 servicemember or veteran to complete any court-approved counseling program administered or  
30 approved by the Veterans' Administration. The sentencing judge or magistrate may prohibit that  
31 person from operating a motor vehicle that is not equipped with an ignition interlock system as  
32 provided in § 31-27-2.8.

33 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen  
34 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any

1 controlled substance as defined in subsection (b)(1), shall be subject to a fine of five hundred dollars  
2 (\$500) and shall be required to perform twenty (20) to sixty (60) hours of public community  
3 restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit  
4 of the adult correctional institutions in the discretion of the sentencing judge. The person's driving  
5 license shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing  
6 judge shall require attendance at a special course on driving while intoxicated or under the influence  
7 of a controlled substance and/or alcohol or drug treatment for the individual; provided, however,  
8 that the court may permit a servicemember or veteran to complete any court-approved counseling  
9 program administered or approved by the Veterans' Administration. The sentencing judge or  
10 magistrate shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9)  
11 or (d)(10) of this section, that is not equipped with an ignition interlock system and/or blood and  
12 urine testing as provided in § 31-27-2.8.

13 (2)(i) Every person convicted of a second violation within a ten-year (10) period with a  
14 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than  
15 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or  
16 who has a blood presence of any controlled substance as defined in chapter 28 of title 21, and every  
17 person convicted of a second violation within a ten-year (10) period, regardless of whether the prior  
18 violation and subsequent conviction was a violation and subsequent conviction under this statute  
19 or under the driving under the influence of liquor or drugs statute of any other state, shall be subject  
20 to a mandatory fine of four hundred dollars (\$400). The person's driving license shall be suspended  
21 for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten  
22 (10) days, nor more than one year, in jail. The sentence may be served in any unit of the adult  
23 correctional institutions in the discretion of the sentencing judge; however, not less than forty-eight  
24 (48) hours of imprisonment shall be served consecutively. The sentencing judge shall require  
25 alcohol or drug treatment for the individual; provided, however, that the court may permit a  
26 servicemember or veteran to complete any court-approved counseling program administered or  
27 approved by the Veterans' Administration and shall prohibit that person from operating a motor  
28 vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition  
29 interlock system and/or blood and urine testing as provided in § 31-27-2.8.

30 (ii) Every person convicted of a second violation within a ten-year (10) period whose blood  
31 alcohol concentration is fifteen hundredths of one percent (.15%) or above, by weight as shown by  
32 a chemical analysis of a blood, breath, or urine sample, or who is under the influence of a drug,  
33 toluene, or any controlled substance as defined in subsection (b)(1), shall be subject to mandatory  
34 imprisonment of not less than six (6) months, nor more than one year; a mandatory fine of not less

1 than one thousand dollars (\$1,000); and a mandatory license suspension for a period of two (2)  
2 years from the date of completion of the sentence imposed under this subsection. The sentencing  
3 judge shall require alcohol or drug treatment for the individual; provided, however, that the court  
4 may permit a servicemember or veteran to complete any court approved counseling program  
5 administered or approved by the Veterans' Administration. The sentencing judge or magistrate  
6 shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10)  
7 of this section, that is not equipped with an ignition interlock system and/or blood and urine testing  
8 as provided in § 31-27-2.8.

9 (3)(i) Every person convicted of a third or subsequent violation within a ten-year (10)  
10 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above,  
11 but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is  
12 unknown or who has a blood presence of any scheduled controlled substance as defined in chapter  
13 28 of title 21, regardless of whether any prior violation and subsequent conviction was a violation  
14 and subsequent conviction under this statute or under the driving under the influence of liquor or  
15 drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory fine of  
16 four hundred (\$400) dollars. The person's driving license shall be suspended for a period of two  
17 (2) years to three (3) years, and the individual shall be sentenced to not less than one year and not  
18 more than three (3) years in jail. The sentence may be served in any unit of the adult correctional  
19 institutions in the discretion of the sentencing judge; however, not less than forty-eight (48) hours  
20 of imprisonment shall be served consecutively. The sentencing judge shall require alcohol or drug  
21 treatment for the individual; provided, however, that the court may permit a servicemember or  
22 veteran to complete any court-approved counseling program administered or approved by the  
23 Veterans' Administration, and shall prohibit that person from operating a motor vehicle, pursuant  
24 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system  
25 and/or blood and urine testing as provided in § 31-27-2.8.

26 (ii) Every person convicted of a third or subsequent violation within a ten-year (10) period  
27 whose blood alcohol concentration is fifteen hundredths of one percent (.15%) or above by weight  
28 as shown by a chemical analysis of a blood, breath, or urine sample, or who is under the influence  
29 of a drug, toluene, or any controlled substance as defined in subsection (b)(1), shall be subject to  
30 mandatory imprisonment of not less than three (3) years, nor more than five (5) years; a mandatory  
31 fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000);  
32 and a mandatory license suspension for a period of three (3) years from the date of completion of  
33 the sentence imposed under this subsection. The sentencing judge shall require alcohol or drug  
34 treatment for the individual. The sentencing judge or magistrate shall prohibit that person from



1 operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not  
2 equipped with an ignition interlock system and/or blood and urine testing as provided in § 31-27-  
3 2.8.

4 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent  
5 violation within a ten-year (10) period, regardless of whether any prior violation and subsequent  
6 conviction was a violation and subsequent conviction under this statute or under the driving under  
7 the influence of liquor or drugs statute of any other state, shall be subject, in the discretion of the  
8 sentencing judge, to having the vehicle owned and operated by the violator seized and sold by the  
9 state of Rhode Island, with all funds obtained by the sale to be transferred to the general fund.

10 (4) Whoever drives or otherwise operates any vehicle in the state while under the influence  
11 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of  
12 title 21, or any combination of these, when his or her license to operate is suspended, revoked, or  
13 cancelled for operating under the influence of a narcotic drug or intoxicating liquor, shall be guilty  
14 of a felony punishable by imprisonment for not more than three (3) years and by a fine of not more  
15 than three thousand dollars (\$3,000). The court shall require alcohol and/or drug treatment for the  
16 individual; provided, the penalties provided for in this subsection (d)(4) shall not apply to an  
17 individual who has surrendered his or her license and served the court-ordered period of suspension,  
18 but who, for any reason, has not had his or her license reinstated after the period of suspension,  
19 revocation, or suspension has expired; provided, further, the individual shall be subject to the  
20 provisions of subsection (d)(2)(i), (d)(2)(ii), (d)(3)(i), (d)(3)(ii), or (d)(3)(iii) regarding subsequent  
21 offenses, and any other applicable provision of this section.

22 (5)(i) For purposes of determining the period of license suspension, a prior violation shall  
23 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.1.

24 (ii) Any person over the age of eighteen (18) who is convicted under this section for  
25 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of  
26 these, while a child under the age of thirteen (13) years was present as a passenger in the motor  
27 vehicle when the offense was committed shall be subject to immediate license suspension pending  
28 prosecution. Any person convicted of violating this section shall be guilty of a misdemeanor for a  
29 first offense and may be sentenced to a term of imprisonment of not more than one year and a fine  
30 not to exceed one thousand dollars (\$1,000). Any person convicted of a second or subsequent  
31 offense shall be guilty of a felony offense and may be sentenced to a term of imprisonment of not  
32 more than five (5) years and a fine not to exceed five thousand dollars (\$5,000). The sentencing  
33 judge shall also order a license suspension of up to two (2) years, require attendance at a special  
34 course on driving while intoxicated or under the influence of a controlled substance, and alcohol

1 or drug education and/or treatment. The individual may also be required to pay a highway  
2 assessment fee of no more than five hundred dollars (\$500) and the assessment shall be deposited  
3 in the general fund.

4 (6)(i) Any person convicted of a violation under this section shall pay a highway  
5 assessment fine of five hundred dollars (\$500) that shall be deposited into the general fund. The  
6 assessment provided for by this subsection shall be collected from a violator before any other fines  
7 authorized by this section.

8 (ii) Any person convicted of a violation under this section shall be assessed a fee of eighty-  
9 six dollars (\$86).

10 (7)(i) If the person convicted of violating this section is under the age of eighteen (18)  
11 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of  
12 public community restitution and the juvenile's driving license shall be suspended for a period of  
13 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing  
14 judge shall also require attendance at a special course on driving while intoxicated or under the  
15 influence of a controlled substance and alcohol or drug education and/or treatment for the juvenile.  
16 The juvenile may also be required to pay a highway assessment fine of no more than five hundred  
17 dollars (\$500) and the assessment imposed shall be deposited into the general fund.

18 (ii) If the person convicted of violating this section is under the age of eighteen (18) years,  
19 for a second or subsequent violation regardless of whether any prior violation and subsequent  
20 conviction was a violation and subsequent conviction under this statute or under the driving under  
21 the influence of liquor or drugs statute of any other state, he or she shall be subject to a mandatory  
22 suspension of his or her driving license until such time as he or she is twenty-one (21) years of age  
23 and may, in the discretion of the sentencing judge, also be sentenced to the Rhode Island training  
24 school for a period of not more than one year and/or a fine of not more than five hundred dollars  
25 (\$500).

26 (8) Any person convicted of a violation under this section may undergo a clinical  
27 assessment at the community college of Rhode Island's center for workforce and community  
28 education. Should this clinical assessment determine problems of alcohol, drug abuse, or  
29 psychological problems associated with alcoholic or drug abuse, this person shall be referred to an  
30 appropriate facility, licensed or approved by the department of behavioral healthcare,  
31 developmental disabilities and hospitals, for treatment placement, case management, and  
32 monitoring. In the case of a servicemember or veteran, the court may order that the person be  
33 evaluated through the Veterans' Administration. Should the clinical assessment determine  
34 problems of alcohol, drug abuse, or psychological problems associated with alcohol or drug abuse,

1 the person may have their treatment, case management, and monitoring administered or approved  
2 by the Veterans' Administration.

3 (9) Notwithstanding any other sentencing and disposition provisions contained in this  
4 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was  
5 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled  
6 substance as evidenced by the presence of controlled substances on or about the person or vehicle,  
7 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a  
8 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration,  
9 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement of  
10 an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition  
11 to operating a motor vehicle as provided in § 31-27-2.8.

12 (10) Notwithstanding any other sentencing and disposition provisions contained in this  
13 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was  
14 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled  
15 substance as evidenced by the presence of controlled substances on or about the person or vehicle,  
16 or other reliable indicia or articulable conditions thereof and intoxicating liquor based on a  
17 preliminary breath test, results from a breathalyzer that indicates blood alcohol concentration, or  
18 both, the judge or magistrate may require an ignition interlock system in addition to blood and/or  
19 urine testing as a condition to operating a motor vehicle as provided in § 31-27-2.8.

20 (e) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per  
21 one hundred cubic centimeters (100 cc) of blood.

22 (f)(1) There is established an alcohol and drug safety unit within the division of motor  
23 vehicles to administer an alcohol safety action program. The program shall provide for placement  
24 and follow-up for persons who are required to pay the highway safety assessment. The alcohol and  
25 drug safety action program will be administered in conjunction with alcohol and drug programs  
26 licensed by the department of behavioral healthcare, developmental disabilities and hospitals.

27 (2) Persons convicted under the provisions of this chapter shall be required to attend a  
28 special course on driving while intoxicated or under the influence of a controlled substance, and/or  
29 participate in an alcohol or drug treatment program, which course and programs must meet the  
30 standards established by the Rhode Island department of behavioral healthcare, developmental  
31 disabilities and hospitals; provided, however, that the court may permit a servicemember or veteran  
32 to complete any court-approved counseling program administered or approved by the Veterans'  
33 Administration. The course shall take into consideration any language barrier that may exist as to  
34 any person ordered to attend, and shall provide for instruction reasonably calculated to

1 communicate the purposes of the course in accordance with the requirements of the subsection.  
2 Any costs reasonably incurred in connection with the provision of this accommodation shall be  
3 borne by the person being retrained. A copy of any violation under this section shall be forwarded  
4 by the court to the alcohol and drug safety unit. In the event that persons convicted under the  
5 provisions of this chapter fail to attend and complete the above course or treatment program, as  
6 ordered by the judge, then the person may be brought before the court, and after a hearing as to  
7 why the order of the court was not followed, may be sentenced to jail for a period not exceeding  
8 one year.

9 (3) The alcohol and drug safety action program within the division of motor vehicles shall  
10 be funded by general revenue appropriations.

11 (g) The director of the department of health is empowered to make and file with the  
12 secretary of state regulations that prescribe the techniques and methods of chemical analysis of the  
13 person's body fluids or breath and the qualifications and certification of individuals authorized to  
14 administer this testing and analysis.

15 (h) Jurisdiction for misdemeanor violations of this section shall be with the district court  
16 for persons eighteen (18) years of age or older and to the family court for persons under the age of  
17 eighteen (18) years. The courts shall have full authority to impose any sentence authorized and to  
18 order the suspension of any license for violations of this section. Trials in superior court are not  
19 required to be scheduled within thirty (30) days of the arraignment date.

20 (i) No fines, suspensions, assessments, alcohol or drug treatment programs, course on  
21 driving while intoxicated or under the influence of a controlled substance, public community  
22 restitution, or jail provided for under this section can be suspended.

23 (j) An order to attend a special course on driving while intoxicated, that shall be  
24 administered in cooperation with a college or university accredited by the state, shall include a  
25 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars  
26 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into  
27 the general fund.

28 (k) For the purposes of this section, any test of a sample of blood, breath, or urine for the  
29 presence of alcohol that relies in whole or in part upon the principle of infrared light absorption is  
30 considered a chemical test.

31 (l) If any provision of this section, or the application of any provision, shall for any reason  
32 be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of the  
33 section, but shall be confined in this effect to the provision or application directly involved in the  
34 controversy giving rise to the judgment.

1 (m) For the purposes of this section, “servicemember” means a person who is presently  
2 serving in the armed forces of the United States, including the Coast Guard, a reserve component  
3 thereof, or the National Guard. “Veteran” means a person who has served in the armed forces,  
4 including the Coast Guard of the United States, a reserve component thereof, or the National Guard,  
5 and has been discharged under other than dishonorable conditions.

6 SECTION 12. Sections 35-23-2 and 35-23-6 of the General Laws in Chapter 35-23 entitled  
7 "Rhode Island Secure Choice Retirement Savings Program Act" are hereby amended to read as  
8 follows:

9 **35-23-2. Definitions.**

10 As used in this chapter:

11 (1) “Eligible employee” means a person age eighteen (18) years or older who is employed  
12 by an eligible or optional employer and has been employed for a period of not less than one hundred  
13 twenty (120) days. “Eligible employee” does not include:

14 (i) Any employee covered under the federal Railway Labor Act (45 U.S.C. §§ 151—164  
15 and 45 U.S.C §§ 181—188), or any employee engaged in interstate commerce not subject to the  
16 legislative powers of the state, except insofar as application of this chapter is authorized under the  
17 United States Constitution or laws of the United States; or

18 (ii) Any employee on whose behalf an employer makes contributions to a Taft-Hartley  
19 pension trust fund.

20 (2) “Eligible employer” means a person or entity engaged in a business, industry,  
21 profession, trade, or other enterprise in the state, whether for-profit or not-for-profit, excluding the  
22 federal government, the state, any municipal corporation, or any of the state’s units or  
23 instrumentalities, that has five (5) or more employees and that satisfies the requirements to establish  
24 or participate in a payroll deposit retirement savings arrangement. “Eligible employer” does not  
25 include an employer that provides a tax-qualified retirement savings program as described in § ~~35-~~  
26 ~~23-10~~ 35-23-9.

27 (3) “IRA” means an individual retirement account or individual retirement annuity under  
28 26 U.S.C § 408 or § 408A (the federal Internal Revenue Code).

29 (4) “Optional employer” means a person or entity engaged in a business, industry,  
30 profession, trade, or other enterprise in the state, whether for-profit or not-for-profit, excluding the  
31 federal government, the state, any municipal corporation, or any of the state’s units or  
32 instrumentalities, that has under five (5) employees.

33 (5) “Participating employer” means an eligible or optional employer that provides a payroll  
34 deposit retirement savings arrangement provided for by this chapter for eligible employees.

1           (6) “Payroll deposit retirement savings arrangement” means an arrangement by which an  
2 employer allows employees to remit payroll deduction contributions to the RISavers retirement  
3 savings program.

4           (7) “RISavers retirement savings program” or “program” means a retirement savings  
5 program offered by the Rhode Island secure choice retirement savings program.

6           (8) “State investment commission” or “commission” means the state investment  
7 commission established pursuant to the provisions of § 35-10-1.

8           **35-23-6. Powers of the office of the general treasurer.**

9           (a) The office of the general treasurer shall have the power and authority to do all of the  
10 following:

11           (1) Adopt a seal and change and amend it from time to time;

12           (2) Make provisions for the payment of costs of administration and operation of the  
13 program;

14           (3) Retain and contract with a Rhode Island public retirement system, consultants,  
15 actuaries, counsel, auditors, and other professionals as necessary;

16           (4) Procure insurance against any loss in connection with the property, assets, or activities  
17 of the program;

18           (5) Set minimum and maximum contribution levels in accordance with contribution limits  
19 set for IRAs by the Internal Revenue Code;

20           (6) Collaborate and cooperate with private financial institutions, service providers, and  
21 business, financial, trade, membership, and other organizations to the extent necessary or desirable  
22 for the effective and efficient design, implementation, and administration of the program and to  
23 maximize outreach to eligible or optional employers and eligible employees;

24           (7) Collaborate with, and evaluate the role of, licensed insurance agents and financial  
25 advisors in assisting and providing guidance for eligible employees;

26           (8) Cause expenses incurred to initiate, implement, maintain, and administer the program  
27 to be paid from contributions to, or investment returns or assets of, the program or arrangements  
28 established under the program, to the extent permitted under state and federal law;

29           (9) Facilitate compliance by the retirement savings program or arrangements established  
30 under the program with all applicable requirements for the program under the Internal Revenue  
31 Code of 1986, including tax qualification requirements or any other applicable law and accounting  
32 requirements, including providing or arranging for assistance to program sponsors and individuals  
33 in complying with applicable law and tax qualification requirements in a cost-effective manner;

34           (10) Carry out the duties and obligations of the Rhode Island secure choice retirement

1 savings program pursuant to this ~~title~~ [chapter](#) and exercise any and all other powers as appropriate  
2 for the effectuation of the purposes, objectives, and provisions of this title pertaining to the  
3 program;

4 (11) Enter into intergovernmental agreements with any state agency to further the  
5 successful implementation and operation of the program and all such agencies and instrumentalities  
6 shall cooperate with the office of the general treasurer. All state agencies shall cooperate as  
7 requested by the program in the performance of its duties under this chapter, including, unless  
8 otherwise prohibited, the sharing of relevant data as the parties shall mutually agree;

9 (12) Make and enter into contracts, agreements, memoranda of understanding,  
10 arrangements, partnerships, or other arrangements to collaborate, cooperate, coordinate, contract,  
11 or combine resources, investments, or administrative functions with other governmental entities,  
12 including any states or their agencies or instrumentalities that maintain or are establishing  
13 retirement savings programs compatible with the program, including collective, common, or pooled  
14 investments with other funds of other states' programs with which the assets of the program and  
15 trust are permitted by law to be collectively invested, to the extent necessary or desirable for the  
16 effective and efficient design, administration, and implementation of the program consistent with  
17 the purposes set forth in this ~~title~~ [chapter](#), including the purpose of achieving economies of scale  
18 and other efficiencies designed to minimize costs for the program and its participants; and

19 (13) Develop and implement an investment policy that defines the program's investment  
20 objectives, consistent with the objectives of the program, and that provides for policies and  
21 procedures consistent with those investment objectives. The office of the general treasurer shall  
22 designate appropriate default investments that include a mix of asset classes, such as target date  
23 and balanced funds. The office of the general treasurer shall seek to minimize participant fees and  
24 expenses of investment and administration. The office of the general treasurer shall strive to design  
25 and implement investment options available to holders of accounts established as part of the  
26 program and other program features that are intended to achieve maximum possible income  
27 replacement balanced with an appropriate level of risk in an IRA-based environment consistent  
28 with the investment objectives under the policy. The investment options may encompass a range  
29 of risk and return opportunities and allow for a rate of return commensurate with an appropriate  
30 level of risk in view of the investment objectives under the policy. The menu of investment options  
31 shall be determined taking into account the nature and objectives of the program, the desirability  
32 (based on behavioral research findings) of limiting investment choices under the program to a  
33 reasonable number, and the extensive investment choices available to participants in the event that  
34 they roll over to an IRA outside the program.

1 (b) The office of the general treasurer shall adopt regulations it deems necessary to  
2 implement this chapter consistent with the Internal Revenue Code and regulations issued pursuant  
3 to that code to ensure that the program meets all criteria for federal tax-deferral or tax-exempt  
4 benefits, or both.

5 SECTION 13. Section 37-2-82 of the General Laws in Chapter 37-2 entitled "State  
6 Purchases" is hereby amended to read as follows:

7 **37-2-82. Utilization of North American Contractor Certification companies.**  
8 **[Effective January 30, 2025.]**

9 (a) All public works renovation projects that exceed an aggregate amount of one million  
10 dollars (\$1,000,000), and all new construction projects that exceed an aggregate amount of five  
11 million dollars (\$5,000,000), that include glazing work, shall have glazing work performed by  
12 North American Contractor Certification ("NACC") certified companies and initially, on and after  
13 July 1, 2024, shall have one architectural glass and metal technician ("AGMT") certified worker  
14 employed by the company or contractor. On and after January 1, 2025, each crew performing work  
15 that meets the criteria of this section shall have one AGMT certified worker on site. On and after  
16 January 1, 2026, for each crew performing work that meets the criteria of this section, twenty-five  
17 percent (25%) of that crew shall be comprised of AGMT certified individuals on site. On and after  
18 January 1, 2027, for each crew performing work that meets the criteria of the section, fifty percent  
19 (50%) of that crew shall be comprised of AGMT certified individuals on site.

20 (b) As used herein, the term "glazing work" includes, but is not limited to, replacement and  
21 installation of windows, curtain walls, interior glass partitions, glass handrails, aluminum  
22 entrances, skylights, store fronts, and general installation of architectural glass and metal.

23 (c)(1) The department of labor and training shall enforce the provisions of this **chapter**  
24 **section**. If the director, or designee, determines that a violation of these provisions has occurred,  
25 the director, or designee, shall order a hearing at a time and place to be specified, and shall give  
26 notice, together with a copy of the complaint or the purpose thereof, or a statement of the facts  
27 disclosed upon investigation, which notice shall be served personally or by mail on any person,  
28 business, corporation, or entity of any kind affected thereby.

29 (2) The person, business, corporation, or entity shall have an opportunity to be heard in  
30 respect to the matters complained of at the time and place specified in the notice.

31 (3) The hearing shall be conducted by the director, or designee. The hearing officer in the  
32 hearing shall be deemed to have jurisdiction and dispositive authority to hear and adjudicate the  
33 matter, and shall have the right to issue subpoenas, administer oaths, and examine witnesses. The  
34 enforcement of a subpoena issued under this section shall be regulated by civil practice law and the



1 rules of civil procedure. The hearing shall be expeditiously conducted and upon such hearing the  
2 hearing officer shall determine the issues raised and shall make a determination and enter an order  
3 within thirty (30) days of the close of the hearing, and forthwith serve a copy of the order, with a  
4 notice of the filing, upon the parties to the proceeding, personally or by mail.

5 (4) The order shall dismiss the complaint or determine that a violation of the provisions of  
6 this ~~chapter~~ section occurred. The order shall represent a final action by the department of labor  
7 and training.

8 (d) Any contractor or subcontractor determined to have violated the provisions of this  
9 ~~chapter~~ section shall be subject to a civil penalty of not less than one thousand five hundred dollars  
10 (\$1,500) and not greater than three thousand dollars (\$3,000), and shall be subject to the revocation  
11 of any relevant professional or occupational license, if the violation is deemed to have been  
12 intentional or egregious.

13 (e) This section is applicable to all public works projects that fit the other criteria as  
14 provided in this section.

15 SECTION 14. Section 39-26.1-10 of the General Laws in Chapter 39-26.1 entitled "Long-  
16 Term Contracting Standard for Renewable Energy" is hereby amended to read as follows:

17 **39-26.1-10. Energy storage programs.**

18 (a) The general assembly finds that while the commission develops new energy market  
19 rules for the use of energy storage systems, it is in the public interest to support the deployment of  
20 the following energy storage capacity:

- 21 (1) Ninety megawatts (90 MW) by December 31, 2026;
- 22 (2) One hundred ninety-five megawatts (195 MW) by December 31, 2028;
- 23 (3) Six hundred megawatts (600 MW) by December 31, 2033; and
- 24 (4) Subsequent targets may be proposed and set pursuant to chapter ~~31~~ 33 of title 39.

25 (b) The Rhode Island infrastructure bank, in consultation with the office of energy  
26 resources, shall develop one or more programs and shall distribute funds made available pursuant  
27 to this chapter to meet the goals established in subsection (a) of this section.

28 (c) The Rhode Island infrastructure bank may take in funds from the following sources in  
29 support of this program:

- 30 (1) Money appropriated in the state budget to the fund or otherwise made available to the  
31 infrastructure bank;
- 32 (2) Money made available to the fund through federal programs or private contributions;
- 33 (3) Application or other fees paid to the infrastructure bank to process applications; and
- 34 (4) Any other money made available to the bank.

(d) The program(s) shall establish supplemental funding efforts to support the deployment of energy storage systems for:

- (1) Residential classes of electric customers;
- (2) Low-income residential classes of electric customers;
- (3) Commercial and residential classes of electric customers; and
- (4) Energy storage systems connected to the distribution or transmission system in front of the meter and not associated with a customer's electric load.

(e) The program shall provide for grants, no-interest loans, and low-interest loans to support:

- (1) The co-locate energy storage systems with distributed energy resources; or
- (2) Energy storage systems that would allow for the interconnection of distributed energy resources without distribution system upgrade costs.

(f) Any local distribution company that serves greater than one hundred thousand (100,000) customers shall not be eligible for the financial support described in this section.

(g) The infrastructure bank shall have the authority to adopt, amend, and implement such rules and regulations as may be necessary and desirable to effectuate the purposes of this section.

SECTION 15. Section 44-20.1-3 of the General Laws in Chapter 44-20.1 entitled "Delivery Sales of Cigarettes" is hereby amended to read as follows:

**44-20.1-3. Age verification requirements.**

(a) No person, including but not limited to online retailers, shall mail, ship, or otherwise deliver cigarettes, other tobacco products, or electronic nicotine-delivery systems in connection with a delivery sale unless such person prior to the first delivery sale to such purchaser:

- (1) Obtains from the prospective purchaser a certification that includes:
  - (i) A reliable confirmation that the purchaser is at least the legal minimum sales age; and
  - (ii) A statement signed by the prospective purchaser in writing that certifies the prospective purchaser's address and that the purchaser is at least twenty-one (21) years of age. Such statement shall also confirm:

- (A) That the prospective purchaser understands that signing another person's name to such certification is illegal;

- (B) That the sale of cigarettes to individuals under the legal minimum sales age is illegal;
- and

- (C) [Deleted by P.L. 2024, ch. 117, art. 6, § 19.]

- (D) That the prospective ~~consumer~~ purchaser wants to receive mailings from a tobacco company;

1 (2) Makes a good faith effort to verify the information contained in the certification  
2 provided by the prospective ~~consumer~~ purchaser pursuant to subsection (a)(1) of this section  
3 against a commercially available database, or obtains a photocopy or other image of the valid,  
4 government-issued identification stating the date of birth or age of the individual placing the order;

5 (3) Provides to the prospective purchaser, via e-mail or other means, a notice that meets  
6 the requirements of § 44-20.1-4; and

7 (4) In the case of an order for cigarettes and/or other tobacco products, and/or electronic  
8 nicotine-delivery system products pursuant to an advertisement on the internet, receives payment  
9 for the delivery sale from the prospective purchaser by a credit or debit card that has been issued  
10 in such purchaser's name or by check.

11 (b) Persons accepting purchase orders for delivery sales may request that the prospective  
12 purchasers provide their e-mail addresses.

13 (c) The division of taxation, in consultation with the department of health, may promulgate  
14 rules and regulations pertaining to this section.

15 SECTION 16. Section 45-21.2-9 of the General Laws in Chapter 45-21.2 entitled "Optional  
16 Retirement for Members of Police Force and Firefighters" is hereby amended to read as follows:

17 **45-21.2-9. Retirement for accidental disability.**

18 (a) Any member in active service, regardless of length of service, is entitled to an accidental  
19 disability retirement allowance. Application for the allowance is made by the member or on the  
20 member's behalf, stating that the member is physically or mentally incapacitated for further service  
21 as the result of an injury or illness sustained while in the performance of duty and certifying to the  
22 time, place, and conditions of the duty performed by the member that resulted in the alleged  
23 disability and that the alleged disability was not the result of the willful negligence or misconduct  
24 on the part of the member, and was not the result of age or length of service. The application shall  
25 be made within eighteen (18) months of the alleged accident from which the injury has resulted in  
26 the member's present disability and shall be accompanied by an accident report and a physician's  
27 report certifying to the disability. If the member was able to return to his or her employment and  
28 subsequently reinjures or aggravates the same injury or illness, the member shall make another  
29 application within eighteen (18) months of the reinjury or aggravation that shall be accompanied  
30 by a physician's report certifying to the reinjury or aggravation causing the disability. If a medical  
31 examination made by three (3) physicians engaged by the retirement board, and other investigations  
32 as the board may make, confirms the statements made by the member, the board may grant the  
33 member an accidental disability retirement allowance.

34 (b) For the purposes of subsection (a), "aggravation" shall mean an intervening work-

1 related trauma that independently contributes to a member's original injury or illness that amounts  
2 to more than the natural progression of the preexisting disease or condition and is not the result of  
3 age or length of service. The intervening independent trauma causing the aggravation must be an  
4 identifiable event or series of work-related events that are the proximate cause of the member's  
5 present condition of disability.

6 (c) "Occupational cancer," as used in this section, means a cancer arising out of  
7 employment as a firefighter, due to injury or illness due to exposures to smoke, fumes, or  
8 carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty in  
9 the fire department.

10 (d) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original work-  
11 related injury or illness from a specific ascertainable event. The specific event must be the  
12 proximate cause of the member's present condition of disability.

13 (e) Any firefighter, including one employed by the state, or a municipal firefighter  
14 employed by a municipality that participates in the optional retirement for police officers and  
15 firefighters as provided in this chapter, who is unable to perform his or her duties in the fire  
16 department by reason of a disabling occupational cancer (as defined in §§ 45-19.1-2 and 45-19.1-  
17 4) that develops or manifests itself during a period while the firefighter is in the service of the  
18 department, and any retired member of the fire force of any city or town who develops occupational  
19 cancer (as defined in §§ 45-19.1-2 and 45-19.1-4), is entitled to receive an occupational cancer  
20 disability and he or she is entitled to all of the benefits provided for in this chapter, chapters 19,  
21 19.1, and 21 of this title, and chapter 10 of title 36 if the firefighter is employed by the state.

22 (f) Any police officer or firefighter as defined in §§ 45-19-1(b) and (c) who is unable to  
23 perform their duties by reason of post-traumatic stress injury/PTSD as set forth in § 45-19-1(a)(2)  
24 is entitled to receive an accidental disability retirement allowance and the police officer or  
25 firefighter is entitled to all of the benefits provided for in this chapter (including the presumption  
26 set forth in ~~subsection (a)(2) of this section~~ § 45-19-1(a)(2)), chapters 19, 19.1, and 21 of this title,  
27 and chapter 10 of title 36 if the firefighter is employed by the state.

28 (g) In the event that any party is aggrieved by the determination of the retirement board  
29 pursuant to § 45-19-1, for an injury or illness occurring on or after July 1, 2011, the party may  
30 submit an appeal to the Rhode Island workers' compensation court. The appellant shall file a notice  
31 of appeal with the retirement board and with the workers' compensation court within twenty (20)  
32 days of the entry of the retirement board's decision and shall serve a copy of the notice of appeal  
33 upon the opposing party.

34 (h) Within twenty (20) days of the receipt of the notice of appeal, the retirement board shall

1 transmit the entire record of proceedings before it, together with its order, to the workers'  
2 compensation court.

3 (i) In the event that a party files a notice of appeal to the workers' compensation court, the  
4 order of the retirement board shall be stayed pending further action by the court pursuant to the  
5 provisions of § 28-35-20.

6 (j) Upon receipt of the notice of appeal, the court shall assign the matter to a judge and  
7 shall issue a notice at the time advising the parties of the judge to whom the case has been assigned  
8 and the date for pretrial conference in accordance with § 28-35-20.

9 (k) All proceedings filed with the workers' compensation court pursuant to this section  
10 shall be de novo and shall be subject to the provisions of chapters 29 — 38 of title 28 for all case  
11 management procedures and dispute resolution processes, as provided under the rules of the  
12 workers' compensation court. The workers' compensation court shall enter a pretrial order in  
13 accordance with § 28-35-20(c) that grants or denies, in whole or in part, the relief sought by the  
14 petitioner. The pretrial order shall be effective upon entry and any payments ordered by it shall be  
15 paid within fourteen (14) days of the entry of the order. Provided, however, that in the event that  
16 the retirement board files a claim for trial of the pretrial order entered by the court, the order of the  
17 court shall be stayed until a final order or decree is entered by the court. If after trial and the entry  
18 of a final decree the court sustains the findings and orders entered in the pretrial order, the  
19 retirement board shall reimburse the municipality all benefits paid by it from the time the pretrial  
20 order was entered until the time the final decree is entered by the court. Where the matter has been  
21 heard and decided by the workers' compensation court, the court shall retain jurisdiction to review  
22 any prior orders or decrees entered by it. The petitions to review shall be filed directly with the  
23 workers' compensation court and shall be subject to the case management and dispute resolution  
24 procedures set forth in chapters 29 — 38 of title 28 ("Labor and Labor Relations").

25 (l) If the court determines that a member qualifies for accidental disability retirement, the  
26 member shall receive a retirement allowance equal to sixty-six and two-thirds percent (66⅔%) of  
27 the rate of the member's compensation at the date of the member's retirement, subject to the  
28 provisions of § 45-21-31.

29 (m) If the court determines that a member does not qualify for accidental disability  
30 retirement, and after all appeals have been exhausted by the member (i.e., appeals to the workers'  
31 compensation appellate division and the Rhode Island supreme court), said member shall have  
32 twenty (20) days within which to either:

33 (1) File an application for ordinary disability retirement pursuant to § 45-21.2-7; however,  
34 if the member does not have the requisite time on the job to file such application, then the

1 participating municipality shall continue to consider the member injured on duty pursuant to § 45-  
2 19-1 until such time that the member has the necessary time on the job to file the application for an  
3 ordinary disability retirement; or

4 (2) File an application for a service retirement pursuant to § 45-21.2-5; or

5 (3) Return to duty provided the member has received medical clearance to perform those  
6 duties.

7 Nothing in this subsection shall prohibit the member from making an agreement with the  
8 member's participating municipality as to what options and benefits the member may be entitled  
9 to in lieu of the options and benefits set forth in this subsection. In addition, nothing in this  
10 subsection shall prohibit the member's bargaining unit and participating municipality from entering  
11 into a collective bargaining agreement that addresses the issues in this subsection.

12 **ARTICLE III--EFFECTIVE DATE**

13 SECTION 1. Article I of this act shall take effect on December 31, 2025, and Article II of  
14 this act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO STATUTES AND STATUTORY CONSTRUCTION

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1           This act makes technical amendments to the general laws, prepared at the recommendation  
2   of the law revision office. Article I contains the reenactment of title 25, chapters 1 through 18.9 of  
3   title 27, and chapters 1 through 46 of title 42. Article II contains the statutory construction  
4   provisions and Article III contains the effective date.

5           Article I of this act would take effect on December 31, 2025 and Article II of this act would  
6   take effect upon passage.

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