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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO INSURANCE

Introduced By: Representatives Kennedy, Palumbo, and Keable

Date Introduced: February 27, 2013

Referred To: House Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-2.1-1 and 27-2.1-2 of the General Laws in Chapter 27-2.1
2 entitled "Additional Fees for Foreign Insurance Companies" are hereby amended to read as
3 follows:

4 **27-2.1-1. New application fee.** -- Any foreign insurance company applying for licensure
5 within the state of Rhode Island to transact insurance business must upon filing of an application
6 submit to the insurance commissioner a non-refundable application fee of ~~one thousand dollars~~
7 ~~(\$1,000)~~ one thousand, two hundred dollars (\$1,200). ~~Any foreign insurance company that has~~
8 ~~previously filed an application for licensure within the state of Rhode Island and whose~~
9 ~~application is currently pending must also submit a non-refundable filing fee of one thousand two~~
10 ~~hundred dollars (\$1,200) to keep the application current.~~

11 **27-2.1-2. Review of application fee.** -- Whenever any foreign insurance company has
12 made application to transact insurance business within the state, the applicant shall be assessed
13 for the actual time incurred in conducting the analysis in accordance with the expense calculation
14 for examinations under subdivision 27-13.1-7(a)(1). ~~and the application is to be reviewed by the~~
15 ~~insurance division, as a condition precedent to the review, the company shall pay to the insurance~~
16 ~~commissioner a non-refundable fee of one thousand eight hundred dollars (\$1,800) to cover the~~
17 ~~costs of the review by the insurance division.~~

18 SECTION 2. Section 27-2.4-16 of the General Laws in Chapter 27-2.4 entitled "Producer
19 Licensing Act" is hereby amended to read as follows:

1 ~~27-2.4-16. Notification to insurance commission of termination.~~ Notification to
2 insurance commissioner of termination. -- (a) Termination for cause. - An insurer or authorized
3 representative of the insurer that terminates the employment contract or other insurance business
4 relationship with an insurance producer shall notify the insurance commissioner within thirty (30)
5 days following the effective date of the termination, using a format prescribed by the insurance
6 commissioner, if the reason for termination is one of the reasons set forth in section 27-2.4-14 or
7 the insurer has knowledge the insurance producer was found by a court, government body, or
8 self-regulatory organization authorized by law to have engaged in any of the activities in section
9 27-2.4-14. Upon the written request of the insurance commissioner, the insurer shall provide
10 additional information, documents, records or other data pertaining to the termination or activity
11 of the insurance producer.

12 ~~(b) Termination without cause. -- An insurer or authorized representative of the insurer~~
13 ~~that terminates the employment or contract with an insurance producer for any reason not set~~
14 ~~forth in section 27-2.4-14 shall notify the insurance commissioner within thirty (30) days~~
15 ~~following the effective date of the termination, using a format prescribed by the insurance~~
16 ~~commissioner. Upon written request of the insurance commissioner, the insurer shall provide~~
17 ~~additional information, documents, records or other data pertaining to the termination.~~

18 ~~(e)~~(b) Ongoing notification requirement. - The insurer or the authorized representative of
19 the insurer shall promptly notify the insurance commissioner in a format acceptable to the
20 insurance commissioner if, upon further review or investigation, the insurer discovers additional
21 information that would have been reportable to the insurance commissioner in accordance with
22 subsection (a) of this section had the insurer then known of its existence.

23 ~~(d)~~(c) Copy of notification to be provided to the insurance producer.

24 (1) Within fifteen (15) days

25 (2) Within thirty (30) days after the insurance producer has received the original or
26 additional notification, the insurance producer may file written comments concerning the
27 substance of the notification with the insurance commissioner. The insurance producer shall, by
28 the same means, simultaneously send a copy of the comments to the reporting insurer, and the
29 comments shall become a part of the insurance commissioner's file and accompany every copy of
30 a report distributed or disclosed for any reason about the insurance producer as permitted under
31 subsection ~~(f)~~(e) of this section.

32 ~~(e)~~(d) Immunities. - (1) In the absence of actual malice, an insurer, the authorized
33 representative of the insurer, an insurance producer, the insurance commissioner, or an
34 organization of which the insurance commissioner is a member and that compiles the information

1 and makes it available to other insurance commissioners or regulatory or law enforcement
2 agencies shall not be subject to civil liability, except as provided in this section, and a civil cause
3 of action of any nature shall not arise against these entities or their respective agents or
4 employees, except as provided in this section, as a result of any statement or information required
5 by or provided pursuant to this section or any information relating to any statement that may be
6 requested in writing by the insurance commissioner, from an insurer or insurance producer; or a
7 statement by a terminating insurer or insurance producer to an insurer or insurance producer
8 limited solely and exclusively to whether a termination for cause under subsection (a) of this
9 section was reported to the insurance commissioner, provided that the propriety of any
10 termination for cause under subsection (a) of this section is certified in writing by an officer or
11 authorized representative of the insurer or insurance producer terminating the relationship.

12 (2) In any action brought against a person that may have immunity under this chapter for
13 making any statement required by this section or providing any information relating to any
14 statement that may be requested by the insurance commissioner, the party bringing the action
15 shall plead specifically in any allegation that subdivision ~~(e)~~(d)(1) of this section does not apply
16 because the person making the statement or providing the information did so with actual malice.

17 (3) This chapter shall not abrogate or modify any existing statutory or common law
18 privileges or immunities.

19 ~~(f)~~(e) Confidentiality. - (1) Any documents, materials or other information in the control
20 or possession of the department that is furnished by an insurer, insurance producer or an
21 employee or agent of the insurer or insurance producer acting on behalf of the insurer or
22 insurance producer, or obtained by the insurance commissioner in an investigation pursuant to
23 this section, shall be confidential by law and privileged, shall not be subject to chapter 2 of title
24 38, shall not be subject to subpoena, and shall not be subject to discovery or admissible in
25 evidence in any private civil action. The insurance commissioner is authorized to use the
26 documents, materials or other information in the furtherance of any regulatory or legal action
27 brought as a part of the insurance commissioner's duties.

28 (2) Neither the insurance commissioner nor any person who received documents,
29 materials or other information while acting under the authority of the insurance commissioner
30 shall be permitted or required to testify in any private civil action concerning any confidential
31 documents, materials, or information subject to this chapter.

32 (3) In order to assist in the performance of the insurance commissioner's duties under
33 this chapter, the insurance commissioner:

34 (i) May share documents, materials or other information, including the confidential and

1 privileged documents, materials or information subject to this chapter, with other state, federal,
2 and international regulatory agencies, with the NAIC, its affiliates or subsidiaries, and with state,
3 federal, and international law enforcement authorities, provided that the recipient agrees to
4 maintain the confidentiality and privileged status of the document, material or other information;

5 (ii) May receive documents, materials or information, including confidential and
6 privileged documents, materials or information, from the NAIC, its affiliates or subsidiaries and
7 from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall
8 maintain as confidential or privileged any document, material or information received with notice
9 or the understanding that it is confidential or privileged under the laws of the jurisdiction that is
10 the source of the document, material or information;

11 (iii) May enter into agreements governing sharing and use of information consistent with
12 this subsection;

13 (iv) No waiver of any applicable privilege or claim of confidentiality in the documents,
14 materials, or information shall occur as a result of disclosure to the commissioner under this
15 section or as a result of sharing as authorized in this chapter;

16 (v) Nothing in this chapter shall prohibit the insurance commissioner from releasing
17 final, adjudicated actions including for cause terminations that are open to public inspection
18 pursuant to chapter 2 of title 38 to a database or other clearinghouse service maintained by the
19 NAIC, its affiliates or subsidiaries; and

20 (vi) If the department releases to an unauthorized third party any documents, materials or
21 other information provided to the department pursuant to this section, then the department shall
22 be subject to a fine not to exceed one thousand dollars (\$1,000) after a hearing on this violation
23 brought in the Superior Court.

24 ~~(g)~~(f) Penalties for Failing to Report. - An insurer, the authorized representative of the
25 insurer, or insurance producer that fails to report as required under the provisions of this section
26 or that is found to have reported with actual malice by a court of competent jurisdiction may, after
27 notice and hearing, have its license or certificate of authority suspended or revoked and may be
28 fined in accordance with section 42-14-16.

29 SECTION 3. Section 27-4.8-4 of the General Laws in Chapter 27-4.8 entitled "Group
30 Life Insurance" is hereby amended to read as follows:

31 **27-4.8-4. Dependent group life insurance.** -- Except for a policy issued under
32 subdivision 27-4.8-1(2), a group life insurance policy may be extended to insure the employees or
33 members against loss due to the death of their spouses and dependent children, or any class or
34 classes thereof, subject to the following:

1 (1) The premium for the insurance shall be paid either from funds contributed by the
2 employer, union, association or other person to whom the policy has been issued, or from funds
3 contributed by the covered persons, or from both. Except as provided in subdivision (2), a policy
4 on which no part of the premium for the spouse's and dependent child's coverage is to be derived
5 from funds contributed by the covered persons shall insure all eligible employees or members
6 with respect to their spouses and dependent children, or any class or classes thereof.

7 (2) An insurer may exclude or limit the coverage on any spouse or dependent child as to
8 whom evidence of individual insurability is not satisfactory to the insurer.

9 ~~(3) The amounts of insurance for any covered spouse or dependent child under the policy~~
10 ~~may not exceed the amount of insurance for which the employee or member is insured.~~

11 SECTION 4. Section 27-9-4.1 of the General Laws in Chapter 27-9 entitled "Casualty
12 Insurance Rating" is hereby repealed.

13 ~~27-9-4.1. Automobile insurance territories. -- The director of the department of~~
14 ~~business regulation shall formulate a plan of automobile insurance territories based upon the most~~
15 ~~recent available actuarial data.~~

16 SECTION 5. Sections 27-14.5-3 and 27-14.5-4 of the General Laws in Chapter 27-14.5
17 entitled "Voluntary Restructuring of Solvent Insurers" are hereby amended to read as follows:

18 **27-14.5-3. Notice.** -- (a) Wherever in this chapter notice is required, the applicant shall,
19 within ten (10) days of the event triggering the requirement, cause transmittal of the notice:

20 (1) By first class mail and facsimile to the insurance regulator in each jurisdiction in
21 which the applicant is doing business;

22 (2) By first class mail to [the national conference of insurance guaranty funds and](#) all
23 ~~guarantee~~ [guaranty](#) associations [for the states in which the applicant is doing business](#);

24 (3) Pursuant to the notice provisions of reinsurance agreements or, where an agreement
25 has no provision for notice, by first class mail to all reinsures of the applicant;

26 (4) By first class mail to all insurance agents or insurance producers of the applicant;

27 (5) By first class mail to all persons known or reasonably expected to have claims
28 against the applicant including all policyholders, at their last known address as indicated by the
29 records of the applicant;

30 (6) By first class mail to federal, state, and local government agencies and
31 instrumentalities as their interests may arise; and

32 (7) By publication in a newspaper of general circulation in the state in which the
33 applicant has its principal place of business and in any other locations that the court overseeing
34 the proceeding deems appropriate.

1 (b) If notice is given in accordance with this section, any orders under this chapter shall
2 be conclusive with respect to all claimants and policyholders, whether or not they received notice.

3 (c) Where this chapter requires that the applicant provide notice but the commissioner
4 has been named receiver of the applicant, the commissioner shall provide the required notice.

5 **27-14.5-4. Commutation plans.** -- (a) Application. - Any commercial run-off insurer
6 may apply to the court for an order implementing a commutation plan.

7 (b) Procedure.

8 (1) The applicant shall give notice of the application and proposed commutation plan.

9 (2) All creditors shall be given the opportunity to vote on the plan.

10 (3) All creditors, assumption policyholders, reinsurers, and guaranty associations shall be
11 provided with access to the same information relating to the proposed plan and shall be given the
12 opportunity to file comments or objections with the court.

13 (4) Approval of a commutation plan requires consent of: (i) fifty percent (50%) of each
14 class of creditors; and (ii) the holders of seventy-five percent (75%) in value of the liabilities
15 owed to each class of creditors.

16 (c) Implementation order.

17 (1) The court shall enter an implementation order if: (i) the plan is approved under
18 subdivision (b)(4) of this section; and (ii) the court determines that implementation of the
19 commutation plan would not materially adversely affect either the interests of objecting creditors
20 or the interests of assumption policyholders.

21 (2) The implementation order shall:

22 (i) Order implementation of the commutation plan;

23 (ii) Subject to any limitations in the commutation plan, enjoin all litigation in all
24 jurisdictions between the applicant and creditors other than with the leave of the court;

25 (iii) Require all creditors to submit information requested by the bar date specified in the
26 plan;

27 (iv) Require that upon a noticed application, the applicant obtain court approval before
28 making any payments to creditors other than, to the extent permitted under the commutation plan,
29 payments in the ordinary course of business, this approval to be based upon a showing that the
30 applicant's assets exceed the payments required under the terms of the commutation plan as
31 determined based upon the information submitted by creditors under paragraph (iii) of this
32 subdivision;

33 (v) Release the applicant of all obligations to its creditors upon payment of the amounts
34 specified in the commutation plan;

1 (vi) Require quarterly reports from the applicant to the court and commissioner
2 regarding progress in implementing the plan; and

3 (vii) Be binding upon the applicant and upon all creditors and owners of the applicant,
4 whether or not a particular creditor or owner is affected by the commutation plan or has accepted
5 it or has filed any information on or before the bar date, and whether or not a creditor or owner
6 ultimately receives any payments under the plan.

7 (3) The applicant shall give notice of entry of the order.

8 (d) Applicable law and procedure with respect to dispute resolution procedures.

9 (1) Any dispute resolution procedure in any commutation plan brought by a ceding
10 insurance creditor to challenge the value of its claim assessed in any commutation plan will be
11 consistent with the provisions of title 9, United States code;

12 (2) The adjudicator and the court, if applicable, hearing any appeal from an adjudication
13 proceeding where the ceding insurance creditor challenges the value of its claim assessed by the
14 applicant in its commutation plan, shall:

15 (i) Not attempt to enforce a reinsurance contract on terms different than those set forth in
16 the reinsurance contract;

17 (ii) Not apply the laws of Rhode Island to reinsurance agreements of ceding insurers not
18 domiciled in Rhode Island unless the reinsurance contract provides that Rhode Island law shall
19 apply;

20 (iii) Apply the law applicable to the underlying contract between the ceding insurer and
21 the applicant or, if the underlying reinsurance contract has no choice of law provision, the law of
22 the state of domicile of the ceding insurer shall apply.

23 ~~(e)~~(e) Order of dissolution or discharge.

24 (1) Upon completion of the commutation plan, the applicant shall advise the court.

25 (2) The court shall then enter an order that:

26 (i) Is effective upon filing with the court proof that the applicant has provided notice of
27 entry of the order;

28 (ii) Transfers those liabilities subject to an assumption reinsurance agreement to the
29 assumption reinsurer, thereby notating the original policy by substituting the assumption reinsurer
30 for the applicant and releasing the applicant of any liability relating to the transferred liabilities;

31 (iii) Assigns each assumption reinsurer the benefit of reinsurance on transferred
32 liabilities, except that the assignment shall only be effective upon the consent of the reinsurer if
33 either:

34 (A) The reinsurance contract requires that consent; or

1 (B) The consent would otherwise be required under applicable law; and

2 (iv) Either:

3 (A) The applicant be discharged from the proceeding without any liabilities; or

4 (B) The applicant be dissolved.

5 (3) The applicant shall provide notice of entry of the order.

6 ~~(e)~~(f) Reinsurance. - Nothing in this chapter shall be construed as authorizing the
7 applicant, or any other entity, to compel payment from a reinsurer on the basis of estimated
8 incurred but not reported losses or loss expenses, or case reserves for unpaid losses and loss
9 expenses.

10 ~~(f)~~(g) Modifications to plan. - After provision of notice and an opportunity to object, and
11 upon a showing that some material factor in approving the plan has changed, the court may
12 modify or change a commutation plan, except that upon entry of an order under subdivision ~~(f)~~
13 (e) (2) of this section, there shall be no recourse against the applicant's owners absent a showing
14 of fraud.

15 ~~(g)~~(h) Role of commissioner and guaranty funds; relationship to
16 rehabilitation/liquidation statutes.

17 (1) The commissioner and guaranty funds shall have the right to intervene in any and all
18 proceedings under this section; provided, that notwithstanding any provision of title 27, any
19 action taken by a commercial run-off insurer to restructure pursuant to chapter 14.5, including the
20 formation or re-activation of an insurance company for the sole purpose of entering into a
21 voluntary restructuring shall not affect the guaranty fund coverage existing on the business of
22 such commercial run-off insurer prior to the taking of such action.

23 (2) If, at any time, the conditions for placing an insurer in rehabilitation or liquidation
24 specified in chapter 14.3 of this title exist, the commissioner may request and, upon a proper
25 showing, the court shall order that the commissioner be named statutory receiver of the applicant.

26 (3) If no implementation order has been entered, then upon being named receiver, the
27 commissioner may request, and if requested, the court shall order, that the proceeding under this
28 chapter be converted to a rehabilitation or liquidation pursuant to chapter 14.3 of this title. If an
29 implementation order has already been entered, then the court may order a conversion upon a
30 showing that some material factor in approving the original order has changed.

31 (4) The commissioner, any creditor, or the court on its own motion may move to have
32 the commissioner named as receiver. The court may enter such an order only upon finding either
33 that one or more grounds for rehabilitation or liquidation specified in chapter 14.3 of this title
34 exist or that the applicant has materially failed to follow the commutation plan or any other court

1 instructions.

2 (5) Unless and until the commissioner is named receiver, the board of directors or other
3 controlling body of the applicant shall remain in control of the applicant.

4 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE

1 This act would make changes to insurance statutes which: (1) Amend the fee for foreign
2 insurance company licenses; (2) Repeal the reporting of producer terminations without cause; (3)
3 Amend the group life insurance statute to allow the dependents of an employee to purchase a
4 greater amount of life insurance through the employer; (4) Repeal the unnecessary requirement
5 that the director establish automobile insurance territories; and (5) Amend the solvent run off
6 statute to address issues raised by federal legislation.

7 This act would take effect upon passage.

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