

2016 -- H 7412

=====  
LC004346  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————  
A N A C T

RELATING TO INSURANCE - UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Representatives Palangio, Barros, Kazarian, Melo, and Winfield

Date Introduced: January 29, 2016

Referred To: House Corporations

It is enacted by the General Assembly as follows:

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

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

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

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

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

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

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

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

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

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

- 1 person would believe the insured or beneficiary was entitled by reference to written or printed  
2 advertising material accompanying or made part of an application;
- 3 (9) Attempting to settle or settling claims on the basis of an application that was  
4 materially altered without notice to, or knowledge or consent of, the insured;
- 5 (10) Making claims payments to an insured or beneficiary without indicating the  
6 coverage under which each payment is being made;
- 7 (11) Unreasonably delaying the investigation or payment of claims by requiring both a  
8 formal proof of loss form and subsequent verification that would result in duplication of  
9 information and verification appearing in the formal proof of loss form;
- 10 (12) Failing in the case of claims denials or offers of compromise settlement to promptly  
11 provide a reasonable and accurate explanation of the basis of those actions;
- 12 (13) Failing to provide forms necessary to present claims within ten (10) calendar days  
13 of a request with reasonable explanations regarding their use;
- 14 (14) Failing to adopt and implement reasonable standards to assure that the repairs of a  
15 repairer owned by or required to be used by the insurer are performed in a workmanlike manner;
- 16 (15) Misleading a claimant as to the applicable statute of limitations;
- 17 (16) Failing to respond to a claim within thirty (30) days, unless the insured shall agree  
18 to a longer period;
- 19 (17) Engaging in any act or practice of intimidation, coercion, threat or  
20 misrepresentation of consumers rights, for or against any insured person, claimant, or entity to  
21 use a particular rental car company for motor vehicle replacement services or products; provided,  
22 however, nothing shall prohibit any insurance company, agent or adjuster from providing to such  
23 insured person, claimant or entity the names of a rental car company with which arrangements  
24 have been made with respect to motor vehicle replacement services; provided, that the rental car  
25 company is licensed pursuant to Rhode Island general laws § 31-5-33; or
- 26 (18) Refusing to honor a "direction to pay" executed by an insured, claimant, indicating  
27 that the insured or claimant, wishes to have the insurance company directly pay his or her motor  
28 vehicle replacement vehicle rental benefit to the rental car company of the consumer's choice;  
29 provided, that the rental car company is licensed pursuant to Rhode Island general laws § 31-5-  
30 33. Nothing in this section shall be construed to prevent the insurance company's ability to  
31 question or challenge the amount charged, in accordance with its policy provisions, and the  
32 requirements of the department of business regulation;
- 33 (19) Modifying any published manual (i.e. motors, mitchells, or any automated appraisal  
34 system) relating to auto body repair without prior agreement between the parties;

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

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

5 (22) Failing to comply with the requirements of Rhode Island General Laws § 31-47-  
6 12.1.

7 (23) Failure to have an appraisal performed by a licensed appraiser where the motor  
8 vehicle has sustained damage estimated to exceed two thousand five hundred dollars (\$2,500).  
9 Said licensed appraiser referred to herein must be unaffiliated with the repair facility repairing the  
10 subject motor vehicle.

11 (24) Failure to perform a supplemental appraisal inspection of a vehicle within four (4)  
12 business days after a request is received from an auto body repair shop.

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

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

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

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

28 (26) Refusing to compensate a claimant for loss of use of a rental vehicle registered in the  
29 state of Rhode Island, shall be recognized as an element of damage in a property damage liability  
30 claim; provided, however, that a claim for loss of use for a rental vehicle shall be limited to  
31 reasonable and necessary expenses for the time necessary to repair or replace the rental vehicle,  
32 and shall be paid without regard to fleet utilization or any other requirement. Within ninety (90)  
33 days of the effective date of this subsection, the department of business regulation shall determine  
34 the daily rate of loss based on the average rental rate, available for all consumers for a similar

1 [vehicle within the state of Rhode Island.](#)

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

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

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

11 SECTION 2. This act shall take effect upon passage.

=====  
LC004346  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE - UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

\*\*\*

- 1           This act would make refusing to compensate a claimant for loss of use of a rental vehicle
- 2   an unfair claims practice and would indicate the factors used to calculate the amount of the claim
- 3   for loss of use.
- 4           This act would take effect upon passage.

=====  
LC004346  
=====