

2018 -- H 7231

LC003507

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO HUMAN SERVICES -- RHODE ISLAND AUTOMOBILE ACCIDENT
COMPENSATION CORPORATION ACT

Introduced By: Representatives Perez, Fellela, Ranglin-Vassell, Lombardi, and Hull

Date Introduced: January 18, 2018

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 23

4 RHODE ISLAND AUTOMOBILE COMPENSATION CORPORATION ACT

5 **40-23-1. Short title.**

6 This chapter shall be known and may be cited as the "Automobile Accident
7 Compensation Corporation Act".

8 **40-23-2. Definitions.**

9 As used in this chapter, the following terms shall have the meaning expressed below:

10 (1) "AACC" means the automobile accident compensation corporation.

11 (2) "Board" means the board of directors of the automobile accident compensation
12 corporation.

13 (3) "Children" means children, stepchildren, children by adoption and foster children, it
14 being understood by the latter those individuals who without being children, stepchildren or
15 children by adoption, have been fostered by other persons as if they were their own children,
16 during a term of not less than three (3) years, or during two-thirds (2/3) of the life of such
17 persons, whichever of the two (2) terms is the shorter, immediately and consecutively preceding
18 the date of the accident which originates a claim under the provisions of this chapter.

1 (4) "Dependency" means whenever it is required that a person be dependent on another,
2 such dependency shall be economic, real and direct, of a substantial nature and not merely
3 financial assistance, by which a person depends on the financial contributions of another for
4 sustenance.

5 (5) "Disability" means a disability of such a nature as to prevent the victim from
6 engaging fully and continuously in any employment or occupation for which the person is
7 capable by education, experience and training.

8 (6) "Employer" means any private person or entity that employs one or more workers or
9 employees to render any service. The government of the state, the various municipal
10 governments, boards, commissions, authorities, instrumentalities, public corporations and
11 agencies of the state shall also be deemed as employers with regard to the workers, employees
12 and officials they hire.

13 (7) "Employment" means any service which the victim was performing in exchange for a
14 salary, commission or any other kind of remuneration, at the time the disability occurred.
15 Services rendered by a person shall be deemed as employment under of this chapter, regardless of
16 whether there is an employer-employee relationship, unless and until the existence of the
17 following conditions is demonstrated:

18 (i) The employer does not exert, nor can exert, any command or supervision over the
19 person;

20 (ii) The person renders the service beyond the employer's normal course, or place of
21 business;

22 (iii) The person renders the service as part of the normal activity of the person's work,
23 business or profession, which service is available to other people and does not cease when the
24 contractual relationship with the employer ceases.

25 (8) "Executive director" means the executive director of the automobile accident
26 compensation corporation.

27 (9) "Maintenance" means any type of essential, sudden or unexpected repairs or servicing
28 required by a motor vehicle to start or continue to operate legally and safely on the public
29 highways. It excludes vehicle maintenance done in the home, activities related to motor vehicle
30 cleaning and enhancements, activities related to the business of bodywork, paint and repair of
31 motor vehicle parts that are not physically attached thereto.

32 (10) "Motor vehicles" means any vehicle, including trailers, designed to operate on public
33 highways propelled by power other than muscular, which type of vehicle is authorized to travel
34 on the public highways by the department of transportation by issuing a motor vehicle license to

1 it.

2 (11) "Parents" means father, mother, parents by adoption or foster parents, it being
3 understood by the latter those individuals who, without being the father, mother or parents by
4 adoption of other persons, have fostered these persons as if they were their own children, during a
5 term of not less than three (3) years, or during two-thirds (2/3) of the life of the person so fostered
6 and treated as their own child, whichever of the two (2) terms is the shorter, immediately and
7 consecutively preceding the date of the accident which originates a claim under the provisions of
8 this chapter.

9 (12) "Person not responsible for the accident" means any person who does not cause a
10 traffic accident, but who, at the time the accident occurs, is among the non-coverage exclusions in
11 this chapter. In these cases, the automobile accident compensation corporation shall recover what
12 it disbursed on such person.

13 (13) "Person responsible for the accident" means any person who causes an accident
14 while driving a motor vehicle recklessly or negligently.

15 (14) "Use of the motor vehicle as such" means the use of a motor vehicle for the purpose
16 of a person transporting the person or others to a different place or to carry, push or tow animals,
17 plants or objects. It does not include uses of the vehicle incidental to the purpose mentioned
18 above, nor fortuitous events that do not occur during, or as a direct result of, such use at that
19 moment or reasonably soon afterwards. It includes loading or unloading the vehicle.

20 (15) "Victim" means a natural person who suffers bodily injuries or sickness or death as a
21 result thereof, as a consequence of the maintenance or use by the natural person or by another
22 person of a motor vehicle as such vehicle.

23 (16) "Wife or husband" means the legal spouse or the woman or man who at the time of
24 the death of the victim and during the three (3) years immediately preceding the injury live
25 together with the victim as spouses even though not married.

26 **40-23-3. The automobile accident compensation corporation.**

27 (a) There is hereby created, to carry out the purposes of this chapter, a corporation as a
28 government instrumentality of the government of the state of Rhode Island to act by its own
29 authority, under the name of the automobile accident compensation corporation.

30 (b) The corporate powers of the corporation shall be exercised by a board of directors
31 which shall also be responsible for seeing to the enforcement of the provisions of this chapter.
32 The board shall be composed of four (4) members appointed by the governor with the advice and
33 consent of the senate. At least two (2) of the four (4) members shall represent the public interest
34 and one shall be a person conversant with the insurance business. The first appointments shall be

1 made for a term of two (2) years in the case of the representatives of the public interest and of one
2 year in the case of the other two (2) members and until their successors are appointed and qualify.
3 All subsequent appointments shall be for a term of three (3) years. Three (3) members of the
4 board shall constitute a quorum. Vacancies of the board shall be filled by appointments made for
5 the unexpired term for which the member causing the vacancy was appointed. The governor may
6 remove any member of the board for incompetency in the discharge of duties or for any other
7 good cause, upon charges brought against the member and after giving the member an
8 opportunity to be heard. The board shall elect one of its members to act as chairperson and
9 another to act as secretary. Members of the board shall receive the per diems the board
10 determines by regulations for their services. Those members of the board who are officials of the
11 government of the state of Rhode Island shall receive no compensation for their services. The
12 chairperson of the board may receive an additional fee to be fixed by the board, which shall not
13 exceed an amount equal to fifty percent (50%) of the per diem received by members of the board.
14 The board shall appoint an executive director who shall be responsible for the direction of the
15 corporation in accordance with the standards and conditions that the board may establish.

16 (c) The board shall adopt rules for its organization and internal operation and shall
17 approve and shall cause the promulgation of the necessary regulations to enforce the provisions of
18 this chapter pursuant to chapter 35 of title 42 ("administrative procedures act") including the
19 proceedings for the payment of premiums and for the payment of claims. In addition to the duties
20 arising from this chapter, the board shall have the following faculties and obligations:

21 (1) Hold, at least four (4) times a year, regular meetings and those special sessions as may
22 be deemed necessary. The board shall keep full minutes of all its proceedings;

23 (2) Consider and make resolutions on matters referred by the executive director;

24 (3) May investigate and shall decide on appeal, at the request of a party, controversies
25 arising between claimants of the corporation and the executive director; and

26 (4) As soon as possible after each fiscal year, but not later than November 1 of each year,
27 revise, approve and direct that it be transmitted to the governor and to the general assembly an
28 annual report containing, among other things, a balance sheet of the economic conditions; a
29 statement of the receipts and expenditures for the year; detailed statements on the claims
30 experience of the corporation for the year, a report on titles of property investment of the
31 corporation; and other statistics and financial data that may be considered necessary for an
32 adequate interpretation of the situation of the corporation and of the results of its operations.

33 **40-23-4. Applicability and benefits.**

34 Every natural person who suffers bodily injury, sickness or death as a result thereof, as a

1 consequence of the maintenance or use by the person or by another person of a motor vehicle as
2 such shall be entitled to the benefits provided in this chapter. Said person shall hereinafter be
3 known as "the victim".

4 **40-23-5. Beneficiaries.**

5 The following persons shall be deemed as beneficiaries of the victim with the rights and
6 limitations established hereinbelow:

7 (1) The children of the victim under eighteen (18) years of age on the date of the
8 accident.

9 (2) The children of the victim between the ages of eighteen (18) and twenty-one (21) who
10 depended on the victim and were students at the moment of the accident.

11 (3) The husband or wife of the victim who depends thereon for support.

12 (4) The parents of the victim when they depended thereon for their support because they
13 were unable to provide for themselves and have no other means of support.

14 (5) Any person who depends on the victim and is unable to be independent without help
15 therefrom.

16 **40-23-6. Benefits. General.**

17 (a) Benefits. The benefits provided herein include disability payments, medical hospital
18 services, dismemberment, death and funeral expenses.

19 (b) Payable benefits and available services. The payable benefits shall be as hereinbelow
20 stipulated, after deducting therefrom any other benefits from other insurance programs to which
21 the victim or the victim's beneficiaries are eligible and which deduction is provided for hereunder.

22 (c) If the victim receives from the department of human services services to which the
23 victim is eligible under other insurance programs and for which deduction is herein provided, and
24 said deduction is not made in the cases where it applies, the amount of the corresponding
25 deduction shall be deducted from the benefits to which the victim is entitled in accordance with
26 said programs and shall be paid by the agency in charge of the department of human services of
27 said programs directly to the AACCC, up to the limit of the coverage of the insurance programs.

28 (d) If a victim is eligible to receive weekly compensation benefits for bodily injuries
29 received from the temporary disability insurance of other applicable state insurance fund, by
30 reason of the same automobile accident, benefit payments for transitory disability, and the
31 manager of the fund decides that the injury of the victim is one of a non-occupational nature, said
32 payments shall be deducted from the weekly compensation benefits to which the victim is entitled
33 under this chapter. This deduction shall never be made for an amount exceeding the weekly
34 compensation benefits to which the victim is entitled. The amount so deducted shall be

1 reimbursed by the AACC to the state insurance fund, upon previous presentation by the manager
2 of the fund of a certified voucher showing liquidation of the payments made to the victim.

3 (e) The claiming and obtaining of benefits by a claimant under the provisions of this
4 chapter through false information or statements shall be guilty of the crimes of perjury and fraud.

5 (f) If the victim receives payments from other sources for medical-surgical and
6 hospitalization services rendered as provided in this chapter, the corporation may recover from
7 the victim's beneficiaries up to a sum equal to the value of the services rendered.

8 (g) Deductible benefits. All benefits or advantages that the victim or the victim's
9 beneficiaries may receive or may be entitled to receive from other sources on account of the
10 injuries suffered shall be deducted from the benefits corresponding to the victim under this
11 chapter, except when otherwise provided herein. Whenever the victim uses the services provided
12 by this chapter, the payments that the victim or the victim's beneficiaries may receive or may be
13 entitled to receive from other insurance programs by reason of said services shall be paid to the
14 corporation, up to a sum not to exceed the amount expended by the corporation to render said
15 service.

16 (h) Nondeductible benefits. The following benefits shall be considered nondeductible
17 benefits and shall not diminish the amount to be collected or received from the corporation, nor
18 shall they be payable to the corporation in case the services herein provided are used:

19 (1) Benefits by reason of the obligation of the family support;

20 (2) Inheritance estates;

21 (3) Life insurance;

22 (4) Gifts;

23 (5) Social security benefits. Payments made by the employer to employees shall not be
24 considered as gifts.

25 (i) The death benefit provided in § 40-23-8 shall be paid provided the victim dies as a
26 result of the injuries suffered within one year after the date of the accident.

27 (j) If the injuries suffered in an accident caused the losses set forth in this chapter within
28 fifty-two (52) weeks after the date of the accident, the corporation shall pay the sum provided for
29 such losses.

30 (k) The board of directors of the automobile accident compensation corporation, with the
31 approval of the commissioner of insurance of Rhode Island, shall increase the benefits provided
32 by this chapter, including payments for disability, medical-hospital services, dismemberment,
33 death and funeral expenses benefits. The office of commissioner of insurance shall have sixty
34 (60) days to determine the source or denial of the increase proposed by the board of directors of

1 AACC. If the sixty (60) days elapse without any statement from the office of commissioner of
2 insurance, it shall be understood that there is no objection to the proposed benefits increase and
3 they shall take effect immediately and/or on the date provided in the determination of increase
4 made by the board of directors of AACC.

5 (l) Benefits for dismemberment. The following benefits for dismemberment shall be paid
6 by the AACC in the event the indicated disabilities occur:

7 (1) Loss of sight of both two (2) eyes ten thousand dollars (\$10,000);

8 (2) Loss of both two (2) feet at or above the ankle ten thousand dollars (\$10,000);

9 (3) Loss of both two (2) arms at or above the wrist ten thousand dollars (\$10,000);

10 (4) Loss of one arm and one leg ten thousand dollars (\$10,000);

11 (5) Loss of one arm at or above the wrist seven thousand five hundred dollars (\$7,500);

12 (6) Loss of one leg at or above the ankle seven thousand five hundred dollars (\$7,500);

13 (7) Loss of one hand or one foot five thousand dollars (\$5,000);

14 (8) Total loss of sight of one eye five thousand dollars (\$5,000);

15 (9) Loss of at least three (3) fingers or three (3) toes two thousand five hundred dollars
16 (\$2,500); and

17 (10) In case a person suffers more than one of the losses indicated above, the maximum
18 amount for all the losses shall be ten thousand dollars (\$10,000).

19 (m) Compensation for loss of income due to disability; reinstatement.

20 **40-23-7. Compensation for loss of income due to disability - reinstatement.**

21 (a) Compensation:

22 (1) If, within the twenty (20) days following the date of the accident, the injuries received
23 disable a victim, other than a housewife, the AACC shall pay to the victim a benefit for loss of
24 income by disability. The benefit shall be equivalent to fifty percent (50%) of the weekly income
25 not received by the victim, subject to a maximum of one hundred dollars (\$100) weekly while the
26 victim is disabled, during the first fifty-two (52) weeks reckoning from the date of the accident,
27 and to fifty percent (50%) of the weekly income not received by the victim, subject to a
28 maximum of one hundred dollars (\$100) weekly while the victim is disabled, during the
29 subsequent fifty-two (52) weeks.

30 (2) To avail oneself of the benefit of weekly compensation it shall be required that at the
31 time of the accident or during any six (6) of the twelve (12) months preceding same the victim
32 was holding a remunerated job or performing an activity or engaged in a profession or in an
33 income-yielding business of the victim.

34 (3) The regular disability benefit provided by this subsection shall not be paid during the

1 first fifteen (15) days following the date the disability begins.

2 (b) For the purposes of computing the compensation contemplated in this chapter, there
3 shall be understood that the week consists of five (5) working days and the workday of eight (8)
4 hours; except that from the facts investigated it is deduced that the victim worked regularly more
5 than forty (40) hours a week.

6 (c)(1) The loss of income shall be determined by taking as a basis the income earned by
7 the victim at the time of the accident. If the victim had then no income, the loss of income shall
8 be computed on the basis of the equivalent of the average weekly income earned by the victim
9 during the last six (6) of the last twelve (12) months immediately preceding the accident, when
10 the victim was holding a remunerated job or performed an activity or engaged in a profession or
11 in an income-yielding business of the victim.

12 (i) The corporation shall by regulation ad hoc establish the criteria that may facilitate the
13 determination of loss of income of the victims.

14 (ii) When the disabled victim is a housewife (man), the corporation shall pay the victim a
15 benefit of twenty-five dollars (\$25.00) a week subject to a maximum of sixteen (16) weeks.

16 (2) The loss of income requirement to be entitled to collect weekly compensation for total
17 and continuous disability shall be deemed as established even though the claimant continues to
18 receive regular salary payments for accumulated vacation leave, it being understood that in such a
19 case there is a real loss of income. However, there shall be no loss of income when one continues
20 to receive regular salary for accumulated sick leave; in that case, the loss of income shall be
21 established solely if the victim would have been entitled to liquidate sick leave accumulated and
22 not used, in cash, sometime within the term of one year from the date of the accident, in which
23 case all the time that the victim is absent from work due to injuries suffered in the accident shall
24 be counted as accumulated and then the loss of income shall be determined in accordance with
25 what was actually earned or not earned.

26 (d) Reinstatement. In the cases of disability covered by this chapter, when the injured
27 person is employed, the employer shall reserve the job the worker was doing when the disability
28 commenced and to reinstate the worker in it, subject to the following conditions:

29 (1) That the worker requires the employer to reinstate the worker in said job within the
30 term of fifteen (15) days, counting from the date the worker is discharged from treatment,
31 provided said requirement is not made after six (6) months have passed from the date of inception
32 of the disability;

33 (2) That the worker is mentally and physically able to fill said job when the worker asks
34 the employer for reinstatement; and

1 (3) That said job exists when the worker requests reinstatement. It shall be understood
2 that the job exists when it is vacant or filled by another worker. It shall be presumed that the job
3 was vacant when it was filled by another worker within thirty (30) days following the date the
4 reinstatement was requested. If the employer does not comply with the provisions of this clause,
5 the worker shall be bound to pay the worker or beneficiaries the wages said worker would have
6 earned if reinstated. The worker shall also be liable for any damages caused. The worker or the
7 worker's beneficiaries shall file and process the corresponding claim for reinstatement and/or
8 damages in superior court.

9 **40-23-8. Death benefits.**

10 (a) A death benefit of one thousand dollars (\$1,000) shall be paid for funeral expenses.
11 This benefit may be paid, up to the sum of the expenses incurred, to any person who produces
12 acceptable evidence to the corporation of having incurred the funeral expenses of the victim. Any
13 remaining balance shall be paid to the beneficiaries of the victim.

14 (b) There shall also be paid the following death benefits, subject to the conditions herein
15 below indicated:

16 (1) Ten thousand dollars (\$10,000) to the primary dependent;

17 (2) One Thousand dollars (\$1,000) to each secondary dependent up to a maximum of five
18 thousand dollars (\$5,000).

19 (3) The following benefits to the children of the victim:

20 (i) Five thousand dollars (\$5,000) for each disabled child regardless of their age;

21 (ii) Five thousand dollars (\$5,000) for each child four (4) years of age or under;

22 (iii) Four thousand dollars (\$4,000) for each child over four (4) years, but under ten (10)
23 years of age;

24 (iv) Three thousand dollars (\$3,000) for each child ten (10) years or more but under
25 fifteen (15) years of age;

26 (v) Two thousand dollars (\$2,000) for each child fifteen (15) years of age or over, but
27 under eighteen (18) years; those children between the ages of eighteen (18) and twenty-one (21)
28 years of age who depended on the victim and were students at the time of the accident shall also
29 be entitled to this benefit. If the benefit for the children, computed according to the preceding
30 formula, exceeds ten thousand dollars (\$10,000), each one's benefit shall be adjusted by
31 multiplying ten thousand dollars (\$10,000) by the ratio there is between the benefit corresponding
32 to each child according to the above scale and the sum total of the benefits corresponding to all
33 the children, according to that scale. If the children also qualify as primary dependents, the
34 benefit corresponding to each one shall be determined by multiplying ten thousand dollars

1 (\$10,000) by the ratio there is between the benefit corresponding to each child as such, and the
2 sum total of the benefits corresponding to all the children as such, according to the provisions of
3 this section.

4 (c) For the purposes of the death benefit, there shall be considered as primary dependents:

5 (1) The wife of the victim, or in lieu thereof;

6 (2) The husband of the victim, or in lieu thereof;

7 (3) The children of the victim, or in lieu thereof; and

8 (4) The parents of the victim.

9 (d) For purposes of the death benefit, there shall be considered as secondary dependent:

10 (1) The parents of the victim when they do not qualify as primary dependents, or in lieu
11 thereof;

12 (2) Other dependents.

13 **40-23-9. Medical-hospital benefits.**

14 (a) The victim shall be entitled to receive the medical, hospitalization, convalescence
15 home, and rehabilitation services and medicines that may be reasonably required by the victim's
16 condition during the two (2) year term following the accident, which may be available within the
17 jurisdiction of the state of Rhode Island. In the case of paraplegics and quadriplegics, and in cases
18 of severe trauma and/or multiple fractures with complications of such a nature as to require
19 prolonged medical treatment, said services may be given for a term longer than two (2) years as
20 provided by the board through regulations. In connection with the above, "severe trauma" means
21 injuries whose treatment and rehabilitation require a term longer than two (2) years, in the
22 judgment of a medical evaluation committee created by the department of human services.

23 (b) The corporation shall provide said services under contract with physicians and
24 facilities, or directly according to the limits, criteria, and methods of providing services which it
25 establishes through regulations to such effects. If the victim receives emergency treatment in a
26 hospital or other types of facilities which do not have service contracts with the corporation, or if
27 the latter authorizes the victim to use such facilities, they shall provide the services and the
28 corporation shall pay them for the cost of the services rendered based on an average of the rates
29 used by the department of human services at present to pay for similar services to hospitals,
30 physicians, laboratories and other entities which provide health services under contract in the area
31 they are located. In the event the victim has paid for such services, the victim would be entitled to
32 claim from the corporation the cost of such services on the basis of the above-stated average. The
33 invoices for claims for health services rendered shall be filed no later than one hundred twenty
34 (120) days as of the date on which the services were rendered. All claims with respect to the

1 return of invoices or payments made by the corporation for health services invoices shall be filed
2 within forty-five (45) days as of the date of the payment. When the last day to file invoices for
3 claims on time is Saturday, Sunday, or a non-working holiday for the corporation, said invoices
4 shall be considered as filed on time, as long as they are filed on the next working day. The
5 corporation shall not pay invoices received after the deadline for their filing. All terms and
6 conditions established in this clause are of a jurisdictional nature and noncompliance therewith
7 bars the corporation or the court with authority from considering such matters.

8 **40-23-10. Benefits: Payment.**

9 (a) The corporation shall, by regulation, establish the standards that will govern the
10 payment of all benefits provided in this chapter, both to victims of accidents and to their
11 beneficiaries; provided, that:

12 (1) When the payment of a benefit for dismemberment is in order, same shall be
13 liquidated systematically so that the benefits that the victim may receive from the corporation do
14 not exceed the equivalent of fifty dollars (\$50.00) weekly.

15 (2) The death benefits shall be paid at the rate of the equivalent of fifty dollars (\$50.00)
16 weekly for family unit. The corporation shall determine by regulation what is a family unit and
17 how the benefit shall be paid when the latter does not exist.

18 (3) The corporation may authorize payments of more than the equivalent of fifty dollars
19 (\$50.00) weekly or the liquidation of the benefit in one single sum, when it is shown that it will
20 redound in benefit of the victim or the victim's beneficiaries.

21 (4) If the amount of the benefit one is entitled to is greater than two thousand dollars
22 (\$2,000), the corporation may require the victim or the victim's beneficiaries to use said benefit or
23 any part thereof for the purchase of a farm or house, or to acquire a productive business or to
24 make any other profitable investment.

25 (b) The benefits payable under this chapter may not be assigned, sold or transferred and
26 any contract to such effect shall be void. Benefits may not be seized or confiscated, nor shall the
27 victim or the victim's beneficiaries be deprived, through a lawsuit, of the possession of same.

28 (c) The following persons shall not be entitled to collect the benefits provided by this
29 chapter for the victim of the accident, but the victim's beneficiaries shall be entitled to the benefits
30 corresponding to them as such:

31 (1) Those whose injuries were caused by an act or omission on their part performed for
32 the purpose of causing damage to their own person.

33 (2) Those who at the time of the accident were driving a motor vehicle without a driver's
34 license in effect at the time and for the operation of that particular motor vehicle, or whose

1 vehicle has no valid motor vehicle license and license plate on that date. To the effects of this
2 clause, a learner's permit is not sufficient authorization to operate a motorcycle or moped.

3 (3) Those who at the time of the accident were participating in automobile races or in
4 speed tests, either as drivers, passengers, spectators or as officials or employees in areas reserved
5 for such activities.

6 (4) Those whose injuries occurred while committing a criminal act other than a violation
7 of the traffic laws.

8 (5) Those who at the time of the accident were driving their automobile in a state of
9 drunkenness or under the effect of drugs.

10 (d) The benefits provided by this chapter may not be used for the payment of fees for
11 legal services rendered to the victim by virtue of an application for benefits or of a lawsuit filed
12 under this chapter, except in the manner the corporation may by regulation provide.

13 (5) The benefits of this chapter shall only be paid for injuries which have occurred in
14 Rhode Island and the medical and hospital services shall only be rendered in the state of Rhode
15 Island.

16 **40-23-11. Rights of the corporation to indemnity.**

17 (a)(1) The corporation shall be entitled to be indemnified by the person responsible for
18 the accident for all the expenses incurred by the corporation in connection to said accident, if the
19 damages were caused intentionally or under the effects of alcohol or narcotic drugs, or while
20 driving an automobile without a legal permit to do so, or while committing a criminal act other
21 than a violation of the traffic laws, or while participating in automobile races or speed tests.

22 (2) The corporation shall be entitled to be indemnified by the person who is not
23 responsible for the accident for all expenses incurred by the corporation with respect to said
24 person.

25 (b) When the victim in the cases provided herein files a legal action against the driver
26 involved in the accident and the court grants said victim an indemnification under the principle of
27 liability on the grounds of negligence, the defendant shall inquire, before payment of the
28 judgment, if the corporation is entitled to be reimbursed for any or all of the benefits paid by the
29 latter to the victim. If the corporation is entitled to such reimbursement, the payment shall be
30 issued separately in favor of the corporation and of the claimant victim for the respective amount
31 corresponding to them. In such cases, if the defendant pays the judgment without considering the
32 interests of the corporation, and if the latter is unable to recover the corresponding sum from the
33 victim, the corporation shall be entitled to be indemnified by the defendant or the plaintiff for the
34 loss thus suffered.

1 (1) The corporation shall be entitled to resort to the competent court of first instance in
2 any case seeking indemnification before the courts, based on the application of the principle of
3 liability on the grounds of negligence, for damages or injuries for which benefits were provided
4 pursuant to this chapter. The victim or the victim's legal heirs shall be required by the
5 corresponding court, so that prior to the continuation of the proceedings of the case, the plaintiff
6 to notify the corporation with a copy of the claim filed, which shall include in its caption or in one
7 of its allegations, the number of the case of their claim in the corporation. Non-compliance with
8 the provisions in this section shall be sufficient cause for the corresponding legal action of the
9 case to be dismissed without prejudice, before the court grants a discretionary term for compliance
10 with these provisions, which shall never be of less than thirty (30) days.

11 (2) The corporation shall be entitled to be indemnified, for the expenses incurred, by the
12 owner of the motor vehicle according to the corresponding registration in the department of
13 transportation, who shall be severally liable therefor before the corporation, unless the victim is
14 able to prove that the vehicle was stolen.

15 (3) In every circumstance under this section in which the corporation is entitled to
16 indemnification, it shall exercise the corresponding action within fifteen (15) years from the date
17 of the accident. The filing of a claim before the court, the authentic extrajudicial claim, or any act
18 of recognition of a debt by the debtor shall interrupt the term of prescription. In every case where
19 the fifteen (15) year prescriptive term applies, once the term has elapsed and the reasonable
20 collections pursuant to the regulation it is hereby authorized to approve, the corporation shall
21 proceed to remove the account off its books, having accredited the collections made.

22 (4) In all cases whereby the corporation is notified of an action under this chapter, it shall
23 appear in court to exercise its rights. Should the corporation fail to appear in court within a term
24 of one year, its cause of action shall be understood to have been abandoned with prejudice, and
25 the court shall pass judgment to that effect.

26 (c) In all cases in which there is a right to recover, pursuant to the preceding subsection, a
27 lien shall be created over the motor vehicle and over the driver's license of the person liable to
28 indemnify the corporation. The corporation shall file an application for a notation of lien for
29 money it is owed at the department of transportation. Said notation shall constitute an actual lien
30 over said motor vehicle and a prohibition against the transfer of said motor vehicle or the issuing
31 or renewal of any type of motor vehicle license and/or driver's license until the lien is paid,
32 nullified or until an agreement to pay is reached with the corporation. The corporation, shall
33 establish the procedure for the agreements to pay through regulations. Notwithstanding the
34 provisions of the previous subsection, the title of the motor vehicle with an annotation of lien may

1 be transferred if the lien is imposed after the date in which the motor vehicle changes owner; in
2 other words, the date of the formalized transfer on the back of the registration of the motor
3 vehicle or trailer or by attesting document. The department of transportation shall notify the
4 imposition of the lien in the same manner it is done with respect to administrative fines and the
5 victim shall keep a register of liens. If the owner of the vehicle and/or driver's license holder
6 affected by the notation of administrative lien considers that the AACC is not entitled to recover
7 against the victim or that the amount imposed for recovery is incorrect, the victim may request an
8 administrative review at the office of the AACC corresponding to the victim domicile, by filing a
9 request for a review within thirty (30) days after being notified of the administrative lien. The
10 corporation shall provide the procedure for the administrative review before the AACC through
11 regulation. The decision from the administrative review shall be reviewable by the court of first
12 instance, using the procedure provided in the vehicles and traffic act of Rhode Island for the
13 review of administrative fines. The liens may be paid at the locations and in the manner stated
14 hereinbelow:

15 (1) At the department of transportation, taken in person or through an agent, in cash,
16 check or certified check, or money order, or a certified check or money order sent by mail,
17 payable to the automobile accident compensation corporation.

18 (2) At the office of the automobile accident compensation corporation. Taken in person
19 or through an agent in cash, or certified check or money order payable to the automobile accident
20 compensation corporation. Should the payment of the lien be made in the offices of the
21 automobile accident compensation corporation, the latter shall remit to the department of
22 transportation an authorization to cancel the lien and it shall notify the interested party in writing.
23 The department of transportation, the general treasurer, and the automobile accident
24 compensation corporation are hereby authorized to establish by regulations those other provisions
25 that are necessary to implement the liens' system established herein.

26 **40-23-12. Claims.**

27 (a) Every accident which gives rise to a claim for benefits under this chapter shall be
28 notified to the police and to the corporation.

29 (b) Every person entitled to claim a benefit under this chapter shall file a person's claim
30 with the corporation, except in case of death benefits, within the fifteen (15) days following the
31 date of the accident.

32 (c) The persons entitled to death benefits shall file their claim within one hundred twenty
33 (120) days after the death of the victim, but in all cases the accident must have been notified to
34 the corporation within the fifteen (15) days following the date of its occurrence.

1 (d) Every person entitled to claim a benefit under this chapter shall submit to the
2 corporation within the sixty (60) days following the date of the claim, all the evidence that it may
3 be reasonably possible to obtain in connection with the circumstances of the accident and the loss
4 suffered and any other data or evidence, including information on plans, contracts or policies
5 covering or that may cover the benefits provided by this chapter, as well as any other additional
6 evidence that may be required of the person.

7 (e) Noncompliance with the provisions of the preceding subsections may be sufficient
8 cause for the corporation to deny the benefits provided by this chapter, unless the claimant shows
9 to the satisfaction of the corporation that it was impossible for the person to comply with the
10 provisions hereof and that the person did it as soon as the circumstances allowed.

11 **40-23-13. Tort and related items.**

12 (a) The benefits provided by this chapter for injuries sustained as a result of automobile
13 accidents which occurred in the state of Rhode Island shall be paid, up to the limits indicated in
14 this section, in substitution of the sums that the victim, the victim's survivors or any other person
15 would otherwise be entitled to claim by reason of the accident under the principle of liability on
16 the basis of tort, relieving the responsible party from the payment of all claims up to said limits or
17 up to the amount of the benefits collected by the victim and the victim's beneficiaries, whichever
18 is greater.

19 (b) Any person responsible, through a negligent act on the victim's part, for damages or
20 injuries for which benefits are provided herein, shall be exempted from application of the
21 principle of liability on the basis of negligence. Said exemption shall be limited to:

22 (1) The amount of one thousand dollars (\$1,000) for physical and mental sufferings
23 including pain, humiliation and similar damages; and

24 (2) The sum of two thousand dollars (\$2,000) by reason of other damages or losses not
25 included in subsection (b)(1) of this section.

26 (c) Any person whom a court declares in a civil action responsible for having caused
27 through negligence injuries for which the victim, the victim's survivors or any other person are
28 entitled to receive benefits or medical-surgical and hospital services under this chapter, shall be
29 entitled to a reduction in the sentence to be imposed by the court up to the amount indicated in
30 this section.

31 (1) In each case in which this section applies the court must separately indicate the
32 amount of indemnity granted for damages due to pain and physical and mental sufferings and the
33 amount of indemnity granted for other losses.

34 (2) The deduction applicable to damages for physical and mental sufferings shall be one

1 thousand dollars (\$1,000).

2 (3) The deduction applicable to damages and losses for causes other than physical and
3 mental sufferings shall be the sum of two thousand dollars (\$2,000) or the amount of the total
4 benefits paid by the corporation, if said amount is greater than two thousand dollars (\$2,000).

5 (4) The indemnity that a court may grant to the survivors of the victim, even when it be
6 only by reason of moral damages sustained by them on account of the death of said victim, shall
7 be reduced by a sum equal to the amount of the benefits that the victim and the victim's
8 beneficiaries have received from the corporation.

9 (5) If the liability for the damages caused lie upon two (2) or more persons, the
10 deductions provided in this section shall be deducted only once. Same shall be deducted from the
11 total judgment to be paid by all the parties. The court shall determine the amount of the deduction
12 which shall apply to each one of said parties.

13 (6) The provisions of this section shall be applicable to the judgments rendered in claim
14 actions brought in connection with accidents which have occurred on and after July 1, 2018.

15 **40-23-14. Examination, treatment and rehabilitation of injuries; Finding of fact.**

16 (a) Whenever the physical and mental condition of a person be of importance to a claim
17 filed or to be filed for payment of past or future benefits, the corporation may direct said person
18 to submit to the medical examinations as may be necessary.

19 (b) If the person refuses to be submitted to said medical examination or to comply with
20 any order given by the corporation in accordance with this section, the corporation shall not make
21 any payment whatsoever to said person or to the person's beneficiaries.

22 (c) The corporation may direct any victim to submit to the rehabilitation treatment or
23 training that may be reasonable and justified. Refusal to comply with these orders may entail the
24 loss of the benefits provided under this chapter.

25 (d) Every employer shall be under obligation to allow the examining and copying of and
26 to furnish to the corporation, at its request, payrolls, work records and sworn statements showing
27 the salaries earned by the victim subsequent to the date of the injuries and during a period of one
28 year prior to the date of the accident.

29 (e) Every physician, hospital, clinic or institution of medical services which provides any
30 services related with an injury for which benefits or services are claimed under this chapter or
31 which has previously attended the victim in connection with any former injury or condition which
32 may be connected in any way with the injury for which the claim is made, shall furnish, upon
33 request of the corporation, all the information available from records or memory, including a
34 written report on the history, condition, treatment, dates and costs of the treatment and other

1 services rendered to the injured person, and shall produce and permit the inspection of all the
2 records related with said medical history, the condition, treatment, and the dates and cost thereof,
3 and any other information deemed necessary.

4 (f) Every physician-employer, hospital, clinic or any person or institution that furnishes
5 information requested under the terms of this section, may be reimbursed the cost of furnishing
6 such information, in accordance with the rates that the corporation may establish to that effect.

7 (g) The information obtained by the corporation or by its duly authorized employees
8 during the course of the investigations performed in the exercise of the powers granted in this
9 chapter shall be privileged and confidential in nature and may only be divulged with the
10 authorization of the executive director or that of a court of competent jurisdiction when the
11 physical condition or the medical treatment of the victim who has filed a claim against the
12 corporation is a controversial fact in a judicial proceeding. In the latter case, the court's
13 authorization shall be deemed to extend only to information related to the claimant's physical
14 condition or treatment.

15 **40-23-15. Proceedings to facilitate the investigation and award claims.**

16 (a) When there is required the appearance of persons, their testimony or the production of
17 any document or evidence pertinent to any proceeding or investigation under this chapter, the
18 following provisions shall govern:

19 (1) Every summons, requirement or certification issued by the executive director or
20 authorized representative, or by the board or any of its members, or by the secretary, shall bear
21 the seal of the corporation or of the board, as the case may be, and may be served at any place in
22 the state.

23 (2) When a person summoned or required in accordance with the present provisions fails
24 to appear to testify or fails to produce or to permit the copying of the books, registries, payrolls,
25 records or documents, as required, or when any person thus summoned refuses to answer any
26 question in connection with any matter or investigation under consideration of the corporation,
27 the latter may request the assistance of the court of first instance of Rhode Island to compel the
28 appearance and the testimony of such person and the production and delivery of the books,
29 registries, payrolls, records or documents requested on the matter under consideration.

30 (3) Once the petition is filed with the court of first instance, said court shall issue a
31 summons requiring and ordering the person to appear and depose or to produce the evidence
32 requested, or both. Disobedience of the order issued by the court shall be punished as contempt
33 and the payment of costs and attorneys' fees shall be imposed on the guilty person.

34 (b) Any person, except government employees, summoned and appearing before the

1 corporation as a witness shall receive for each day of appearance a sum equal to that received by
2 witnesses appearing before the courts of justice.

3 **40-23-16. Proceedings of claim awards appeals.**

4 (a) The executive director shall investigate and decide the claims filed against the
5 corporation using such proceedings as the director may deem convenient, as long as the rights of
6 the parties are guaranteed. In the event that a claimant disagrees with the executive director's
7 decision, the claimant may request its reconsideration within thirty (30) days from the date of
8 notice thereof the determination is served or from the date of the postmark if the claimant
9 presents it, whichever is later. The claimant may be represented by counsel in this phase and give
10 testimony and present the evidence the claimant deems convenient. If the claimant disagrees with
11 the result of the reconsideration, the claimant may request a public hearing before the executive
12 director or an examiner designated by the claimant within thirty (30) days from the date the
13 determination is served or the date of the postmark if the claimant presents it, whichever is later.
14 At this public hearing the claimant cannot submit any evidence to the consideration of the
15 executive director which the executive director did not have when making the determination,
16 unless the impossibility of obtaining it previously is shown to the satisfaction of the executive
17 director. The claimant may appear in person or represented by counsel and a record shall be kept
18 of the proceedings and of all the testimony given at the hearing, but the testimony need not be
19 transcribed unless a subsequent appeal is made. In the event that more than one claim is presented
20 in connection with the same victim and the evidence submitted is the same or substantially the
21 same in nature, only one record shall be kept of the proceedings and such evidence as may be
22 produced with respect to one proceeding may be deemed to be produced with respect to the
23 others, provided the claimant is not harmed thereby. The rules of evidence that prevail in a court
24 of justice shall not be mandatory in any proceeding before the executive director. After the
25 hearing is held, the executive director shall make determinations and conclusions and shall
26 furnish to each party a copy of a decision and of the findings and conclusions on which it is
27 based. This decision shall be final unless an appeal is filed before the board.

28 (b) The appeal shall be executed by filing a writ of appeal with the secretary of the board
29 within the thirty (30) days following the date the decision of the executive director is served or of
30 the date of the postmark if presented, whichever is later. The claimant shall be entitled to appear
31 in the claimant's own right or assisted by counsel. The executive director shall cause a certified
32 copy of the record of the case and the transcription of the oral evidence to be transmitted to the
33 board. The parties may stipulate that the record be limited to a part of the proceedings or the
34 transcription of the oral evidence. The board shall decide on the basis of the record before it and

1 of any brief the parties may wish to present. It may, at its discretion, grant oral hearings to hear
2 the arguments of the parties before deciding. Its decision may be to sustain, modify or revoke the
3 decision of the executive director, or it may return the case to the latter, with the pertinent
4 instructions, including an order to consider additional evidence. In cases in which the board holds
5 oral hearings, these may be presided by a single member of the board designated by its chairman
6 or by one or more examiners designated by it. The board and each one of its members, the
7 examiners and the executive director shall be empowered to administer oaths.

8 (c) The decision of the board shall be final unless the claimant or the executive director
9 requests its judicial review by filing a petition to that effect with the sixth division district court
10 within thirty (30) days after the parties and their respective counsel have been notified of the
11 decision of the board by mail or in person. The jurisdiction of the court of first instance shall be
12 limited to issues of law, and the findings of facts, if sustained by substantial evidence, shall be
13 final.

14 (d) All the terms established in this section are of a jurisdictional nature and their
15 noncompliance deprives the corporation or the court of authority to deal with the petition filed.
16 The date of filing of a petition for reconsideration, for a public hearing before the executive
17 director or for an appeal before the board of directors shall be the date it is received at the
18 corporation, when filed personally, or that of the postmark when it is sent by mail.

19 **40-23-17. Other faculties and duties of the executive director.**

20 (a) The executive director shall direct and supervise all technical and administrative
21 activity of the corporation and shall appoint or shall hire with the approval of the board of
22 directors, the administrative and technical personnel necessary to carry out the functions of the
23 corporation and to pay for such services the compensation that the board may determine. The
24 executive director shall also have the following obligations:

25 (1) To establish an office for the corporation and to provide everything necessary for the
26 installation of a complete and adequate system of accounting, registries and adjustment of claims;

27 (2) To adopt the procedures necessary to compile and keep the statistical data that may be
28 necessary to make periodical analysis of the operation costs of the corporation and actuarial
29 studies of its operations;

30 (3) To attend all meetings of the board and to execute all the resolutions recommended by
31 it;

32 (4) To certify all the necessary payments which have to be made according to the
33 provisions of this chapter;

34 (5) To remit or deposit in the name of the corporation and to render accounts, according

1 to law and with the regulations in force, of all the monies received belonging to the corporation;

2 (6) To prepare regulations for the approval of the board;

3 (7) To make recommendations to the board for the investment of the resources of the
4 corporation;

5 (8) To prepare the annual report and to submit it to the board for its revision and
6 approval;

7 (9) Submit to the board any report that it may request; and

8 (10) Personally, or through the persons delegated, to administer oaths, require the
9 appearance of persons and the production of any documents or evidence pertinent to any
10 procedure or investigation authorized by this chapter.

11 **40-23-18. Other powers and faculties of the corporation.**

12 (a) The corporation shall have the following powers and functions, in addition to those
13 established in this chapter:

14 (1) It shall have perpetual existence, may sue and be sued, and in any action in which it
15 may intervene it shall be exempt from the payment of costs, charges and counsel fees; counsel
16 shall be officially designated.

17 (2) Investigate all the phases of the problem of automobile accidents including the phases
18 of the financial liability and of accident prevention and make the pertinent recommendations to
19 the governor and to the legislature.

20 (3) Contract physicians, hospitals, clinics, laboratories and other suppliers of medical
21 services to carry out the purposes of this chapter. It may also enter into agreements with the state
22 insurance fund, established under the workers' compensation act, to use its medical-hospital
23 facilities and with the department of health for the use of the medical hospital facilities of the
24 state.

25 (4) Fix, annually, with the approval of the insurance commissioner the premium that each
26 vehicle shall pay at the time of registering same, in accordance with the experience and the
27 corresponding actuarial study.

28 (5) To acquire properties for its corporate purposes by purchase or donation, grant or
29 bequest; to own and exercise all property rights thereon and to dispose of them in accordance
30 with the terms and conditions that its board of directors may determine; as well as to borrow
31 money or use any other facility or type of financing for the acquisition of goods that it deems
32 necessary in the form and means the board of directors deems convenient.

33 (6) Acquire all kinds of properties in partial or full payment of debts previously
34 contracted with the department of human services, when such acquisition is necessary to diminish

1 or avoid losses in connection with same, to retain such properties for the time it may deem
2 convenient, to exercise thereon all property rights and to dispose of same in accordance with the
3 terms and conditions that its board of directors may determine.

4 (7) Exercise all those incidental powers as may be necessary or convenient for the
5 purposes of carrying out its businesses or purposes.

6 (8) Exercise all those corporate powers compatible with those herein set forth which are
7 conferred by the laws of Rhode Island to corporations and to exercise all those powers, within
8 and without Rhode Island in the same extent as would or may be done as a natural person.

9 (9) Own an official seal and alter same when it so deems convenient.

10 **40-23-19. Financing.**

11 (a) The cost of this insurance shall be distributed among all the motor vehicle owners
12 through an annual contribution to be paid at the time of registering the vehicle.

13 (b) At the time of its registration, every vehicle shall pay the annual premium fixed by the
14 corporation with the approval of the insurance commissioner. Said premium shall be renewed on
15 the same date on which the motor vehicle or trailer's license and plates must be renewed. Van
16 trailer vehicles engaged in maritime transportation to bring freight to Rhode Island from abroad,
17 and which enter Rhode Island as transients, may choose to pay a special premium instead of the
18 above stated annual premium, based on their short stay in Rhode Island, regardless of whether or
19 not they are registered, or regardless of the type of registry. This special premium shall be fixed
20 by the board of directors of the corporation as previously provided and based on how many times
21 these trailers enter Rhode Island. The payment mechanism for these special premiums shall be
22 provided through a procedure that shall be established by the corporation to such effect.

23 (c) At the time of registration every vehicle shall pay an annual premium fixed by the
24 corporation with the approval of the insurance commissioner. Said premium shall be renewed on
25 the same date on which the vehicle's or trailer's license and plates must be renewed.

26 (d) Any receipts not required for the payment of claims and expenses shall be deposited
27 in a reserve fund which shall be used exclusively for the payment of claims in subsequent years,
28 in case that the claims incurred in any of the said years exceeds the advance claims upon
29 determining the type of contribution.

30 (e) If in any year the receipts and the reserves accrued are not sufficient to cover the
31 losses and the expenses incurred, the general assembly shall provide to the corporation funds
32 available in the general fund of the state, as an advance, the sums required to remediate or cover
33 the deficiency.

34 **40-23-20. Appropriation.**

1 The sum of one million dollars (\$1,000,000) is hereby appropriated from unencumbered
2 funds in the general fund to the corporation as initial capital to carry out the purposes of this
3 chapter.

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

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LC003507
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HUMAN SERVICES -- RHODE ISLAND AUTOMOBILE ACCIDENT
COMPENSATION CORPORATION ACT

1 This act would create an accident compensation fund to provide payments and benefits to
2 persons injured by uninsured motorists, to be administered by the automobile accident
3 compensation corporation.

4 This act would take effect upon passage.

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