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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO INSURANCE -- UNAUTHORIZED INSURANCE BUSINESS--HEALTH  
INSURANCE

Introduced By: Representatives Filippi, Reilly, Roberts, Price, and Costa

Date Introduced: February 26, 2015

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-16-1.2 of the General Laws in Chapter 27-16 entitled  
2 "Unauthorized Insurance Business" is hereby amended to read as follows:

3 **27-16-1.2. Certificate of compliance -- Exceptions.** -- (a) It shall be unlawful for any  
4 insurer to transact insurance business in this state as set forth in subsection (b) of this section  
5 without a certificate of compliance from the commissioner; provided, that this section shall not  
6 apply to:

7 (1) The lawful transaction of surplus lines insurance;

8 (2) The lawful transaction of reinsurance by insurers;

9 (3) Transactions in this state involving a policy lawfully solicited, written, and delivered  
10 outside of this state covering only subjects of insurance not resident, located, or expressly to be  
11 performed in this state at the time of issuance, and which transactions are subsequent to the  
12 issuance of the policy;

13 (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of  
14 claims or losses;

15 (5) Transactions in this state involving group life and group sickness and accident or  
16 blanket sickness and accident insurance or group annuities where the master policy of the groups  
17 was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was  
18 authorized to do an insurance business, to a group organized for purposes other than the

1 procurement of insurance, and where the policyholder is domiciled or has a bona fide situs;

2 (6) Transactions in this state involving any policy of insurance or annuity contract issued  
3 prior to May 15, 1973;

4 (7) Transactions in this state relative to a policy issued outside of this state involving  
5 insurance on vessels, craft, or hulls, cargoes, marine protection, and indemnity or other risk,  
6 including strikes and war risks commonly insured under ocean or wet marine forms of policy;

7 (8) Transactions in this state involving contracts of insurance issued to one or more  
8 industrial insured. An industrial insured is defined as an insured:

9 (i) Which procures the insurance of any risk by the use of the services of a full-time  
10 employee acting as insurance manager or buyer or the services of a regularly and continuously  
11 retained qualified insurance consultant;

12 (ii) Whose aggregate annual premiums on all risks excluding workers' compensation and  
13 group total at least twenty-five thousand dollars (\$25,000); and

14 (iii) Which has at least twenty-five (25) full-time employees; and

15 (9) (i) Transactions in this state involving life insurance, health insurance, or annuities  
16 provided to educational or religious or charitable institutions organized and operated without  
17 profit to any private shareholder or individual for the benefit of the institutions and individuals  
18 engaged in the service of the institutions;

19 (ii) This exemption shall be conditional upon the company complying with the following  
20 requirements:

21 (A) Payment of an annual registration fee of five hundred dollars (\$500);

22 (B) Filing a copy of any policy or contract form, including annuities issued to any Rhode  
23 Island residents with the commissioner of insurance. Each policy and contract form, including  
24 annuities, shall contain (on its front and declaration page) in at least twelve (12) point type the  
25 following notice:

26 (B) NOTICE TO RHODE ISLAND RESIDENTS

27 THIS CONTRACT HAS BEEN PLACED WITH AN INSURER NOT LICENSED TO  
28 DO BUSINESS IN THE STATE OF RHODE ISLAND BUT ELIGIBLE AS AN UNLICENSED  
29 REGISTERED INSURER PURSUANT TO THE UNAUTHORIZED BUSINESS STATUTE.  
30 THE INSURER IS NOT A MEMBER OF THE RHODE ISLAND LIFE AND HEALTH  
31 GUARANTY ASSOCIATION. SHOULD THE INSURER BECOME INSOLVENT, THE  
32 PROTECTION AND BENEFITS OF THE ASSOCIATION ARE NOT AVAILABLE.

33 (C) Filing a copy of its annual statement, prepared pursuant to the laws of its state of  
34 domicile, and any other financial material that may be requested by the commissioner; and

1 (D) The company agrees to appoint the commissioner of insurance, and his or her  
2 successors in office, as its attorney to receive service of legal process issued against it in Rhode  
3 Island. The appointment is to be irrevocable and to bind the commissioner, and any successors in  
4 interest, and to remain in effect as long as there is in force in this state any contract issued by the  
5 company or any obligations arising from a contract.

6 (10) Rental car companies and their employees principally engaged in the rental of motor  
7 vehicles and which offer in connection with and incidental to the rental of motor vehicles various  
8 optional insurance coverage during the term of the rental, which shall be no more than sixty (60)  
9 days.

10 (11) Transactions that are insurance securitization or reinsurance transactions entered  
11 into by a protected cell of a protected cell company organized under the Protected Cell  
12 Companies Act, chapter 64 of this title, as those terms are defined or utilized in that chapter.

13 (12) Health insurance provided by an out-of-state insurer, provided that the insurer  
14 conforms to requirements imposed upon insurers licensed to do business in this state.  
15 HealthSourceRI shall take all steps necessary to insure that residents of this state are allowed to  
16 purchase such insurance.

17 (b) Any of the following acts in this state effected by mail or otherwise, by or on behalf  
18 of an insurer, is deemed to constitute the transaction of an insurance business in this state. The  
19 venue of an act committed by mail is at the point where the matter transmitted by mail is  
20 delivered and takes effect. Unless indicated, "insurer," as used in this section, includes all  
21 corporations, associations, partnerships, and individuals engaged as principals in the business of  
22 insurance and also includes interinsurance exchanges and mutual benefit societies:

23 (1) The making or proposing to make, as an insurer an insurance contract;

24 (2) The making of or proposing to make, as guarantor or surety, any contract of guaranty  
25 or suretyship as a vocation and not merely incidental to any other legitimate business or activity  
26 of the guarantor or surety;

27 (3) The taking or receiving of any application for insurance;

28 (4) The receiving or collection of any premium, commission, membership fees,  
29 assessments, dues, or other consideration for an insurance or any part of an insurance;

30 (5) The issuance or delivery of contracts of insurance to residents of this state or to  
31 persons authorized to do business in this state;

32 (6) Directly or indirectly acting as an agent or insurance producer for or representing or  
33 aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement, or  
34 effectuation of insurance or renewals of insurance or in the dissemination of information as to

1 coverage or rates, forwarding of applications, delivery of policies or contracts, inspection of risks,  
2 fixing of rates or investigation or adjustment of claims or losses, or in the transaction of matters  
3 subsequent to effectuation of the contract and arising out of it, or in any other manner  
4 representing or assisting a person or insurer in the transaction of insurance with respect to  
5 subjects of insurance, resident, located, or to be performed in this state. The provisions of this  
6 subsection shall not operate to prohibit full-time salaried employees of a corporate insured from  
7 acting in the capacity of an insurance manager or buyer in placing insurance in behalf of the  
8 employer;

9 (7) The transaction of any kind of insurance business specifically recognized as  
10 transacting an insurance business within the meaning of the statutes relating to insurance; or

11 (8) The transacting or proposing to transact any insurance business in substance  
12 equivalent to any of these in a manner designed to evade the provisions of the statutes.

13 (c) The failure of an insurer transacting insurance business in this state to obtain a  
14 certificate of compliance shall not impair the validity of any act or contract of the insurer and  
15 shall not prevent the insurer from defending any action at law or suit in equity in any court of this  
16 state, but no insurer transacting insurance business in this state without a certificate of authority  
17 shall be permitted to maintain an action in any court of this state to enforce any right, claim, or  
18 demand arising out of the transaction of insurance business until the insurer shall have obtained a  
19 certificate of authority.

20 (d) In the event of the failure of any unauthorized insurer to pay any claim or loss within  
21 the provisions of the insurance contract, any person who assisted or in any manner aided directly  
22 or indirectly in the procurement of the insurance contract shall be liable to the insured for the full  
23 amount of the claim or loss in the manner provided by the provisions of the insurance contract.

24 SECTION 2. 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 -- UNAUTHORIZED INSURANCE BUSINESS--HEALTH  
INSURANCE

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- 1           This act would permit Rhode Island residents to purchase health insurance from out-of-
- 2 state companies, and would require HealthSourceRI to make this option known to consumers.
- 3           This act would take effect upon passage.

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