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June 12, 2024

Representative Joseph J. Solomon, Jr.  
Chair, House Committee On Corporations  
Rhode Island State House  
Providence, RI 02903

Re: House 8252 – An Act Relating To Insurance – Unfair Claims Settlement Practices Act

Dear Chair Solomon:

This statement in opposition to H.8252, the annual autobody bill, and is submitted by the American Property Casualty Insurance Association (APCIA).<sup>1</sup>

Rhode Island has passed more autobody-related legislation than any other state in the country combined. As a result, the state's Unfair Claims Settlement Practice Act is dominated by autobody related provisions to an extent unheard of anywhere else. This bill proposes more of the same. And it will produce more of the same.

Depending on who is doing the ranking and how it is done, Rhode Island is generally on the list of the top ten most expensive states for auto insurance. This bill now seeks to add more only in Rhode Island provisions that will make auto insurance in Rhode Island even more expensive. You just can't keep adding costs like this bill does, especially when costs are rising like they are now, and expect there won't be an impact.

In addition, H.8252's proposed changes are sometimes internally inconsistent, and both confuse and conflate various concepts. Many of the proposed requirements are found nowhere else. The potential unintended consequences for consumers, lenders, the autobody industry, and insurers are numerous.

Proposed Subsection 18 (ii) deals with direction to pay procedures and must be remedied to address the issue of lienholder rights. The lienholder on a vehicle is entitled to be included on a loss payment, so

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<sup>1</sup> Representing nearly 65% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. Several APCIA members are located in Rhode Island and many more do business here. Together, APCIA members write over 75% of the auto insurance sold in the state.

forcing a carrier to issue a single party payment to a shop to the detriment of the lienholder needs a remedy or hold harmless provision. There needs to be protection for the carrier to limit the risk of making duplicate payment if another person or entity had interest in the vehicle title (i.e., what happens if only one spouse signs the direction to pay? We see these issues come up regularly with divorce situations, vehicles owned by trusts, vehicles titled to one individual but another person has a bill of sale, etc.).

This subsection should also include requirements for the repair shop to provide W9s, Tax ID numbers, and other basic documentation necessary to allow for the processing of a payment. It should also make it clear that the carrier's obligation to direct payment to the shop only begins when the carrier has possession of a direction to pay. Carriers often issue payments directly to insureds/claimants prior to receipt of a direction to pay and should have no liability for those prior payments.

If this change were to go forward, we suggest that same language from the immediately preceding subsection (i) ("Nothing in this section shall be construed to prevent the insurance company's ability to question or challenge the amount charged, in accordance with its policy provisions, and the requirements of the department of business regulation...") be added.

Subsection 22 is not a surprise, but is an over-reach and gives far too much credence to OEM position statements. There are some position statements where the OEMs "require" certain repair procedures because of safety. There are others where the OEM "recommends" or uses softer language. There is substantial ambiguity in many of the position statements with few mechanisms for getting clarity from the OEMs, as there is no third-party independent review of the position statements, and they can be self-serving for the OEM industry as they typically recommend things like not using aftermarket parts, thus allowing them to sell more OEM parts, and have broad recommendations without consideration to severity, location of damages, etc.

The OEM parts issue is especially concerning. Rhode Island law is already very aggressive on the use of OEM parts and the use of OEM parts in Rhode Island is at a rate far higher than other states. It is a significant cost driver and will be even more so if this bill and other pending legislation further restricting the use of aftermarket parts both pass this session.

Subsection 31 is simply unclear. Is it seeking to address third-party situations, commercial fleet policies, or something else? In the Senate, ABARI asserted the intention of the language is to require Rhode Island registered vehicles repaired in Rhode Island to be repaired in accordance with Rhode Island law no matter where the accident took place and no matter what state the insurance policy paying for the repairs came from. We note that typical choice of law procedures would have the law of the state where the accident happened control.

We also suggest that this new language conflicts with Section 27-9.1-1, the very chapter this bill seeks to amend.<sup>2</sup> It is also likely in conflict with the full faith and credit clause of the US Constitution as it would

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<sup>2</sup> Section 27-9.1-1 states: The purpose of this chapter is to set forth standards for the investigation and disposition of *claims arising under policies or certificates of insurance issued to residents of Rhode Island*. It is not intended to cover claims involving workers' compensation, fidelity, suretyship or boiler and machinery insurance. Nothing contained in this chapter shall be construed to create or imply a private cause of action for violation of this chapter. (Emphasis added).


result in situations where Rhode Island law would potentially be applied in an extraterritorial fashion.<sup>3</sup> This particular provision will be the source, we believe, of some litigation.

Finally, the provisions of Section 2 would make the changes in this bill apply immediately upon passage. This is simply not reasonable.

It is just not possible to make the unique changes required by this bill, whatever they may end up being, instantaneously. Forms need to be developed and approved by the regulator, claims procedures changed, and compliance procedures put in place. This will take six months to a year – minimum. Therefore, we suggest that if this bill moves forward, Section 2 be changed to read as follows: This act shall apply to policies issued or renewed on or after June 1, 2025.

For all these reasons, APCIA urges the committee to hold H.8252 for further study.

Very truly yours,

A handwritten signature in black ink that reads "Francis C. O'Brien". The signature is written in a cursive style with a large, looping initial "F".

Francis C. O'Brien  
Vice President, State Gov't. Relations

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<sup>3</sup> Article IV, Section 1: Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.