



**HouseJudiciary@rilegislature.gov**

March 12, 2024

Representative Robert E. Craven, Sr.  
Chair, House Judiciary Committee  
Rhode Island State House  
Providence, RI 02903

**Re: House 7528 – An Act Relating to Courts and Civil Procedure – Procedure Generally – Decisions, Special Findings, And Assessment of Damages**

Dear Chair Craven:

This statement in opposition to H.7528 is submitted by the American Property Casualty Insurance Association (APCIA).<sup>1</sup>

Rhode Island is one of 12 states that still has a pure comparative negligence system on the books. This bill, likely driven by the facts and results of a case, adds language to the statute to the effect that a person's assumption of a risk is not bar a recovery, but damages shall be diminished by the finder of fact in proportion to the amount of negligence attributable to the person injured, or the owner of the property or the person having control over the property.

While there is not an assumption of the risk statute in Rhode Island, long-standing case law has provided that assumption of the risk is an affirmative defense that absolves a defendant of liability regardless of the defendant's own negligence. See, e.g., *Loffredo v. Merrimack Mutual Fire Ins. Co.*, 669 A.2d 1162 (R.I. 1996). Further, the Rhode Island Supreme Court has made clear that contributory negligence and assumption of the risk do not overlap. See, e.g., *Kennedy v. Providence Hockey Club, Inc.* 376 A.2d 329 (1977).

In essence, this bill would legislatively overturn these well-established precedents. From an insurance perspective it would increase liability exposure risks in some situations, perhaps significantly, and since premium is tied to risk, increased risk generally means increased premium. In other words, high costs.

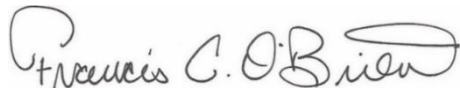
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<sup>1</sup> Representing nearly 65% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, 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 almost 72% of the property and casualty insurance sold in the state.

This bill is one of several before the committee this session that in ways both subtle and overt seek to reduce or limit the defenses available to a defendant in a civil action while tilting both the playing field and the potential size of a judgement more firmly in favor of the plaintiff. This is their sole purpose, but in that focus, they lose sight of the larger picture and the potential negative impact on Rhode Island's economy.

APCIA respectfully request that H.7528 be held 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 initial 'F' and a distinct 'O'Brien' ending.

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