



HouseJudiciary@rilegislature.gov

April 4, 2024

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

Re: House 7974 – An Act Relating to Insurance – Unfair Claims Settlement Practices Act

Dear Chair Craven:

This statement in opposition to H.7974 is submitted by the American Property Casualty Insurance Association (APCIA).¹

House 7974 is a vague and troubling proposal that would allow an insured to bring a civil action against an insurer for an alleged violation of the unfair claims practices law. Especially troubling is the language added at lines 10 and 11 on page 1 stating: a) An "unfair claims practice" is an improper action by an insurer intended to reduce a payout on a claim or settlement made under an insurance policy".

This provision represents a "Catch-22" for insurers. What is proper or improper will vary depending on the circumstances and the eyes of the beholder. APCIA is very concerned with the potential that almost any action an insurer takes that could potentially reduce a settlement payout, could also potentially be a violation of this law. As compliance-driven entities, this makes compliance quite challenging. And a bit of a shot in the dark. Arguably, this provision as now written, could be constitutionally suspect as being void for vagueness.

From a cost perspective, Rhode Island is already one of the most expensive states in the country for both auto and homeowners' coverage. This bill, if enacted, has the potential to make every claim an unfair claims practice dispute. This will add costs to the system and potentially destabilize the market here in Rhode Island. Such has been the case in Florida and Louisiana, two states with especially challenging claims environments.

The Negative Effects of Similar Proposals Can Be Seen Across the Country

¹ 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 casualty insurance sold in the state.

In Washington state, a 2011 study found that Washington's adoption of statutory first-party bad faith law immediately and dramatically increased loss costs in a variety of first party insurance, including \$190 million in two years of homeowner's claims, and \$17.4 million in UM claims immediately after passage.²

Florida is the best known and most heavily studied state with respect to statutory bad faith and it is a cautionary tale. A 2010 study³ found Florida's average personal automobile UM/UIM pure premium was 188% higher than the average for states without a bad faith cause of action. A 2019 study concluded that the annual premium impact attributable to bad faith in Florida was approximately \$6.6 billion, or 13.5%.⁴ That study found the effect of the current bad faith law on annual automobile first party UM/UIM losses to be an increase of 17.4%.

In New Jersey, a 2019 study estimated that first party UM/UIM losses will increase 17.4% and a corresponding \$130 million in increased premiums (approximately a 15% increase).⁵ Similarly, in New York, a 2020 study found that a statutory bad faith bill would negatively impact all premiums by nearly 15% (14.8) and increase first party UM/UIM premiums by 17.4% and No-Fault Personal Injury Protection by 31%.⁶

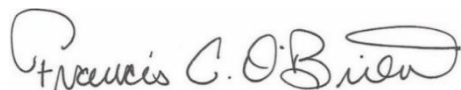
In Michigan, a 2023 study estimated that bad faith legislation could have had a 16.1% estimated average increase across all property-casualty insurance premiums resulting \$3,555,000,000 in increased premiums⁷. Consequently, the bill was defeated.

Practical Issues

In addition to the issues mentioned above, there are several practical issues surrounding the implementation of the administrative process at DBR contemplated by the bill. DBR is neither staffed nor funded to handle this and would require more of both. The process itself appears illusory as the aggrieved party seems to have right to a de novo review of DBR's decision, and the "effective upon passage language in Section 2 is just impossible to comply with.

In sum, for all these reasons, APCIA opposes H.7974 and urges that it be held for further study.

Very truly yours,



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

² Insurance Research Council, The Impact of First-Party Bad Faith Legislation on Key Insurance Claims Trends in Washington State, Feb. 2011

³ Berkeley Research Group, "The Impact of Bad Faith Lawsuits in Florida and Nationwide," ES-3, Sept. 15, 2010

⁴ Milliman, "Review of Florida 'Bad Faith' Claim Law," Aug. 2019

⁵ Milliman, "Review of Proposed Bill: New Jersey Insurance Fair Conduct Act," Sept. 2019.

⁶ Milliman, "Review of Proposed New York State Bad Faith Bills, June 2020.

⁷ Milliman, "Review of Michigan Bills HB 4681/SB329 Insurance Policyholder Bill of Rights," August 31, 2023