2024 -- H 7974

========
LC005389
========

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

AN ACT

RELATING TO INSURANCE -- UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Introduced By: Representatives J. Brien, Solomon, and Baginski
Date Introduced: March 05, 2024
Referred To: House Judiciary

House Judiciary Hearing Date: April 4, 2024

WRITTEN TESTIMONY OF NEW ENGLAND PROPERTY SERVICES GROUP, LLC

IN FAVOR OF PASSAGE

Dear Representatives of the House Judiciary Committee:

Speaking from personal experience, in the last two years alone, litigating approximately seventy-five insurance claims originating under residential homeowner's policies, it is evident that unfair claim settlement practices are widespread in Rhode Island. In fact, they seem to be a fundamental aspect of the business model for insurers operating in the state. Clearly, existing laws and regulations meant to restrict and deter such practices are insufficient. Consequently, Rhode Island homeowners and policyholders urgently need more avenues to hold insurers accountable for unfair claim settlement practices. H 7974 would be a valuable tool for Rhode Islanders to ensure they are treated fairly by their insurers.

To enhance effectiveness and acknowledge business realities, H 7974 should explicitly extend the private right of action contemplated under 27-9.1-4 subsection (c) to all **claimants**, not just policyholders. This alignment ensures seamless integration with regulations promulgated under 27-9.1, like 230-RICR-20-40-2, which utilize and define the term "claimant," as opposed to "policyholder." Furthermore, insurance claims often change hands in real estate transactions and business sales, where they are transferred to the buyer as part of the deal. Claims are also transferred as consideration for home restoration contracts with companies like SERVPRO and New England Property Services Group, LLC, in exchange for the repair of the loss. To help prevent unfair claim settlement practices, the private right of action should attach to the insurance claim itself, rather than being limited to the policyholder.

TA

In nearly every Rhode Island claim I've encountered, I've observed a standard unfair settlement practice among insurers: they fail to inform claimants about the availability of the appraisal dispute resolution mechanism, which is required to be included in every homeowner's policy by R.I. Gen. Laws §§ 27-5-2 and 27-5-3. This statutorily mandated appraisal mechanism allows policyholders to resolve disagreements with their insurers regarding the insurer's estimate for the amount of loss in a claim, without resorting to expensive litigation.

230-RICR-20-40-2.5(A) and (B), regulations promulgated under R.I. Gen. Laws § 27-9.1, prohibit insurers from failing to fully disclose or otherwise conceal benefits, coverages, or other policy provisions pertinent to a filed claim. Due to the linguistic complexity of homeowner's policies, policyholders often lack full comprehension of available avenues to dispute undervalued claims. This knowledge gap is exploited by insurance companies, which fail to inform policyholders about the option of appraisal, a policy benefit pertinent to nearly every claim, except those settled for the full policy limit. This failure to disclose the appraisal provision violates § 27-9.1 and 230-RICR-20-40-2.5. It occurs in essentially every claim, resulting in an unfair windfall for insurers at the expense of those claimants who would have invoked appraisal had they known about it – which is likely a substantial number. By neglecting to inform claimants of their right to invoke appraisal, insurers ultimately pay them less than they are entitled to in most cases, undermining the statutory appraisal process designed for the claimant's benefit.

Currently, there is no private right of action for violations of R.I. Gen. Laws § 27-9.1 and its associated regulations, such as 230-RICR-20-40-2. Instead, policyholders or claimants must litigate conduct that contravenes the clear and specific provisions of § 27-9.1-4 and 230-RICR-20-40-2 as a broader breach of the insurer's covenant of good faith and fair dealing in a breach of contract count or as a general bad faith violation of R.I. Gen. Laws § 9-1-33. Determining breaches of the covenant of good faith and fair dealing and/or bad faith settlement practices are issues of fact to be decided by the factfinder at trial. See, *Knapp Shoes v. Sylvania Shoe Manufacturing*, 72 F.3d 190, 199 (1st Cir. 1995) and the text of § 9-1-33. Consequently, aggrieved claimants or policyholders must undergo costly and time-consuming litigation through the point of trial to recover damages for conduct that violates the clear terms of § 27-9.1-4 and/or 230-RICR-20-40-2.

Passage of H 7974 would allow violations of § 27-9.1-4 and 230-RICR-20-40-2 to be enforced directly by policyholders or claimants as matters of law at the summary judgment stage, if DBR Insurance Division action is insufficient, potentially reducing litigation expenses. This would enhance enforcement of § 27-9.1 and ensure that the statute and associated regulations effectively deter unfair claim settlement practices in Rhode Island by reducing enforcement time and costs.

New England Property Services Group, LLC supports the passage of H 7974 as it would strengthen the practical effect of current laws regulating unfair claim settlement practices.

Respectfully submitted,

Thomas J. Alves, Esq.
In-House Legal Counsel
New England Property Services Group, LLC