Rhode Island Insurance Federation

Via Email to SenateJudiciary@rilegislature.gov

March 31, 2026

Senator Matthew LaMountain
Chair, Senate Judiciary Committee
Rhode Island State House
Providence, RI 02903

RE: Rhode Island Insurance Federation Statement Opposing the Homeowners Insurance Package of Senate Bills 2311, 2312, and 2959

Dear Chair LaMountain:

The Rhode Island Insurance Federation submits this statement in opposition to Senate Bill 2311 and two bills that underlie its intent—Senate Bills 2312 and 2959. It is important to note that this is part of a package by the advocates of the bill to upend the property insurance system in Rhode Island, those other bills include Senate Bills 2204, 2205, 2261, and 2769. Together this package would endanger the property insurance market in Rhode Island by creating vague legal standards for the property insurance claims settlement process and ease the burden to bring forward bad faith claims against insurers.

While the advocates have couched this as a homeowners package of bills, Senate Bill 2311 actually expands the bad faith standard for all forms of insurance. Rhode Island already has strong protections for policyholders under **§ 9-1-33. Insurer's bad faith refusal to pay a claim made under any insurance policy. The statute reads as follows, and only applies in the first-party context:**

> **(a)** Notwithstanding any law to the contrary, an insured under any insurance policy as set out in the general laws or otherwise may bring an action against the insurer issuing the policy when it is alleged the insurer wrongfully and in bad faith refused to pay or settle a claim made pursuant to the provisions of the policy, or otherwise wrongfully and in bad faith refused to timely perform its obligations under the contract of insurance. In any action brought pursuant to this section, an insured may also make claim for compensatory damages, punitive damages, and reasonable attorney fees. In all cases in which there has been no trial in the superior court on or before May 20, 1981, the question of whether or not an insurer has acted in bad faith in refusing to settle a claim shall be a question to be determined by the trier of fact.

(b) The provisions of this section shall apply to all actions against insurers which have been commenced and are pending in any state or federal court on May 20, 1981.

Through numerous court decisions, the Rhode Island Supreme Court as also generally set the standard for bad faith as requiring 1) that there **is no reasonable basis in fact or law** for denying or delaying the claim; and 2) that the insurer **knew of or recklessly disregarded** that lack of a reasonable basis. Rhode Island also generally requires a breach of contract to occur.

Senate Bill 2311, would make Rhode Island a true outlier in not requiring a breach of contract for a bad faith allegation, expanding the ability of third parties or those with an assignment of benefits to fill the shoes of the first party claimant, and sets Rhode Island on a dangerous path of creating a system of regulation through litigation.

Other states have shown us the impacts of expansive third-party bad faith standards.

California—California does not have a statute, but in 1979 *case* law began allowing third-party bad faith tort liability, until the court reversed the *Royal Globe Insurance Company v. Superior Court* standard in 1988. This 9-year period is known as *The Royal Globe Era* and the following data was established in a study by the *RAND Institute for Civil Justice in 2001:* Bodily Injury payments increased between 32-53% during this period, impacting total liability premium by 17-29%. Frequency of Bodily Injury claims were higher in California during the Royal Globe Era and frequency declined after the reversal of the *Royal Globe* decision in 1988.

Florida—The state established a 3rd party private cause of action for bad faith in 1995 and a first-party cause of action was established in 1997. According to a study by Berkeley Research Group in 2010, by allowing third-party Bodily Injury lawsuits against insurance companies, the median pure premium for Bodily Injury increased by 30%. The premium paid by consumers is even higher than pure premium, because pure premium does not account for loss adjustment costs, premium taxes, and other factors. That study also analyzed the impact of bad faith lawsuits in the first-party Uninsured Motorist/Underinsured Motorist (UM/UIM) context. Those results showed that the average of all states that allow a first-party cause of action the premium for UM/UIM is 80.8% higher than the 5 states without a defined cause of action, while Florida is 188% higher than the average of the five states.

Washington—In 2007, Washington passed a very similar set of bad faith standards. **Key findings from a study by the Insurance Research Council are below:**

- The adoption of R-67 is associated with a significant increase in the severity of homeowners insurance claims in Washington, contributing to an estimated overall increase in loss costs totaling as much as $190 million during the first two years following enactment
- The adoption of R-67 also is associated with an increase in uninsured motorists (UM) coverage loss costs. In other states similar to pre R-67 Washington, UM claim frequency dropped significantly over the study period. UM claim frequency in Washington, however, was unchanged. Excess UM loss costs attributable to R-67 may have totaled as much as $17.4 million during the first two years following enactment.

- Every type of insurance coverage involves unique coverage characteristics. Claiming behavior and the claim settlement process also vary for different types of coverage. For these reasons, R-67 may not affect all insurance coverages in the same manner or at the same rate. For some coverages, the impact of R-67 may not coincide with, or even follow soon after, enactment of the new law. Until the courts have interpreted the new law in the context of a specific type of insurance coverage and provided a clear and consistent set of signals to participants in the system on how the law will be applied, behavioral changes may not occur and the ultimate impact of R-67 may not be known.

West Virginia— West Virginia's private cause of action for 3rd party claimants was judicially created in 1981, and within 8 years caused the state to have one of the highest auto insurance rates in the country. Facing an insurance crisis in 2005, Governor Joe Manchin signed into law a bill to reverse this case law, and within the first year West Virginia's consumers saved over $70 Million through rate reductions and $200 Million in the first 5 years. These savings are only based on the elimination of the 3rd party tort.

Senate Bill 2311 will invite a flood of new cases from entrepreneurial attorneys, which will increase the cost of claims and thus increase premiums. Social inflation is already a large-scale concern to the price of insurance products as the legal system abuses once seen in Florida and Georgia make their way to Rhode Island. In addition to the legislation not requiring a breach of contract, it also uses extraordinarily vague terms to define who can even investigate the claim. To that end, the language in the proposed 9-1-33(e) would likely ban important organizations like the National Insurance Crime Bureau from even being able to operate in the State of Rhode Island, which would be an unprecedented law for any state.

Importantly this legislation also encourages the types of assignment of benefit abuses that forced the Florida insurance market into near collapse prior to their 2023 reforms. AOB abuses in Florida led their insurer of last resort to be the top property insurance writer in the state with over 1.4 million policies at its height in 2023. Just 3 years later, Florida has depopulated their insurer of last resort to under 400,00 policies. We should not allow Rhode Island to become the next Florida of the pre-2023 era.

Senate Bill 2312 and 2959 are just tools to help get to a bad faith claim. Specific to 2959 this language is larger than just insurance and saddles the entire business community in Rhode Island with another regulatory burden. Relative to insurance companies, the Department of Business Regulation, as a national leader in insurance regulations, already requires much of the registration requirements to permit market entry, so this legislation would only duplicate insurer requirements, while forcing new requirements on the rest of the business of the community. This bill is about easing access to the courts for the bad faith expansion under Senate Bill 2311.

Everything about this package, including Senate Bill 2205 appear to directly appeal to the legislature to change the case law which the Rhode Island Supreme Court decided just last year in two separate decisions.[1&2] In one case, the Supreme Court not only found in favor of the insurer but made sure to

[1] https://law.justia.com/cases/rhode-island/supreme-court/2025/23-238.html
[2] https://www.courts.ri.gov/Opinions/Supreme-24-67.pdf

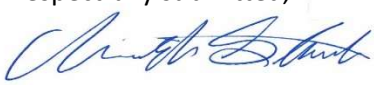
insert this footnote into their decision: "*Moreover, a review of court records yields dozens of pending cases in the Superior Court involving the plaintiff and a multitude of homeowners' insurance companies. The plaintiff should beware of continually arguing inconsistent positions in litigation. See Gaumond v. Trinity Repertory Company, 909 A.2d 512, 520 (R.I. 2006) ("Judicial estoppel should be employed when a litigant is playing fast and loose with the courts, and when intentional self-contradiction is being used as a means of obtaining unfair advantage in a forum provided for suitors seeking justice.") (quoting Patriot Cinemas, Inc. v. General Cinemas Corp., 834 F.2d 208, 212 (1st Cir. 1987)).*" Much like the Supreme Court, this legislature should promptly put this issue to bed by giving this entire package an indefinite postponement.

This package of bills is anti-insurer, anti-consumer, anti-public adjustor, and is designed to make a simple single mistake eligible for attorney fees and punitive damages and creates a system of regulation through litigation that will clog our courts. To use terms like "the duty to conduct a reasonable investigation of a claim using competent, **properly licensed**, and legally authorized individuals, and to timely evaluate, negotiate, and settle claims based upon all information reasonably available to the insurer" means that insurers will have the Sword of Damocles hanging over every claim, which inevitably leads to unnecessarily larger settlements, increased propensity for fraud, and a cost to all Ocean State policyholders. Rhode Island already has a robust system of regulatory oversight at the Department of Business Regulation, and through case law, to protect consumers from wanton actors in the market. Unfortunately, Senate Bills 2311, 2312, and 2959 (when combined with the rest of the package) will upend the insurance market for consumers by creating standards for the entirety of the property insurance claims settlement practices that legitimizes an inherent conflict of interest and sets Rhode Island on a course to see rampant abuses in the assignment of benefits.

For the above reasons, the Rhode Island Insurance Federation respectfully asks the Senate Commerce Committee to indefinitely postpone action on Senate Bils 2311, 2312, and 2959, along with this entire package of bills.

Thank you for the opportunity to offer the Federation's concerns on behalf of our members and Rhode Island's policyholders.

Respectfully submitted,



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