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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO BUSINESS REGULATION

Introduced By: Representatives Kennedy, and Shekarchi

Date Introduced: May 07, 2015

Referred To: House Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 3-5-27 of the General Laws in Chapter 3-5 entitled "Licenses
2 Generally" is hereby amended to read as follows:

3 **3-5-27. Annual reports.** -- (a) Boards, bodies or officials in towns or cities issuing
4 licenses under this title shall annually on or before the first day of December, and at any other
5 times required by the department, make a report to the department, which states the number of
6 licenses granted by them lawfully outstanding at the time of the report with the names and
7 addresses of the licensees, and a description of the licensed places, and the amount of money
8 received and any other information required by the department. The department shall, [make](#)
9 [available, by electronic means, the annual reports filed by said towns and cities to provide those](#)
10 [reports to members of the public and general assembly upon request](#) ~~on or before the first day of~~
11 ~~February in every year, make a report to the governor, for transmission to the general assembly,~~
12 ~~summarizing in that report the reports filed with it on or before December first and reporting upon~~
13 ~~its own activities, showing the amount of beverages of various kinds imported into this state by~~
14 ~~each licensed dealer, and the amount of service charge collected and the general condition~~
15 ~~affecting the use of beverages in this state.~~

16 (b) The department shall, on or before the first day of February in every year, make
17 [available on its website,](#) a report ~~to the governor, for transmission to the general assembly,~~
18 ~~summarizing in that report its own activities,~~ showing the number of manufacturers and
19 wholesalers licenses granted by it lawfully outstanding at the time of the report with the names

1 and addresses of licensees and a description of the licensed places, and the division of taxation
2 shall report the amount of money received, showing the amount of beverages of various kinds
3 imported into this state by each licensed dealer and the amount of service charge collected and the
4 general condition affecting the use of beverages in this state.

5 SECTION 2. Sections 5-1-10 and 5-1-11 of the General Laws in Chapter 5-1 entitled
6 "Architects" are hereby amended to read as follows:

7 **5-1-10. Issuance and renewal of certificates.** -- (a) Upon payment of the fees required
8 by § 5-1-11, an individual who has complied with § 5-1-8 or 5-1-9 is entitled to a certificate of
9 registration indicating that he or she is qualified to practice architecture in this state. Each
10 certificate of registration shall contain the name of the individual to whom it was issued and his
11 or her date of birth.

12 (b) Every certificate of registration is valid for a period of two (2) years and expires on
13 the last day of December of each odd numbered year following its issuance. An architect may
14 renew his or her certificate of registration by paying the renewal fee or fees required by § 5-1-11.
15 An architect who fails to renew his or her certificate of registration prior to December 31 may not
16 thereafter renew his or her certificate of registration except upon payment of the renewal fee or
17 fees and the additional fee required by § 5-1-11. The board may require all applicants for renewal
18 to provide the board with information, including, but not limited to, a brief outline setting forth
19 the professional activities of any applicant during a period in which a certificate of registration
20 has lapsed and other evidence of the continued competence and good character of the applicant,
21 all as the board deems necessary.

22 ~~(c) A duplicate certificate of registration to replace one which has been lost, destroyed,~~
23 ~~or mutilated may be issued by the board upon payment of the fee required by § 5-1-11.~~

24 **5-1-11. Fees -- Payment and disposition.** -- (a) The fees paid by an applicant for filing
25 an application for examination, for the examination, for re-examination, for registration pursuant
26 to § 5-1-9, for annual renewal, or for renewal of an expired certificate, ~~or for issuance of a~~
27 ~~duplicate certificate of registration~~ shall be sixty dollars (\$60).

28 (b) All fees or other monies collected under the provisions of this chapter shall be
29 deposited as general revenues. The controller is authorized and directed to draw his or her orders
30 upon the general treasurer for payment from the fund, upon receipt by the controller of vouchers
31 authenticated by the chairperson or secretary of the board.

32 (c) The fees paid by an applicant for a certificate of authorization pursuant to this section
33 for annual renewal, for renewal of an expired certificate of authorization, or for issuance of a
34 duplicate certificate of authorization, shall be sixty dollars (\$60).

1 SECTION 3. Section 5-3.1-4 of the General Laws in Chapter 5-3.1 entitled "Public
2 Accountancy" is hereby amended to read as follows:

3 **5-3.1-4. Board of accountancy.** -- (a) There is created a board of accountancy in and for
4 the state of Rhode Island, to be known as the Rhode Island board of accountancy. The board shall
5 consist of five (5) members. All members shall be appointed by the governor. Membership of the
6 board shall consist of three (3) members who hold certificates and valid permits to practice as
7 certified public accountants in this state and who are in public practice as certified public
8 accountants in this state, and one member who holds an authority and a valid permit to practice as
9 a public accountant in this state unless the governor shall not be able to find a qualified appointee
10 within the class of public accountants at which time the governor shall appoint a certified public
11 accountant. All four (4) of those members shall have at least ten (10) years' experience in a full-
12 time practice of public accountancy. The fifth member shall be from the public sector and shall
13 have professional or practical experience in the use of accounting services and financial
14 statements as to be qualified to evaluate whether the qualifications, activities, and professional
15 practice of those persons and firms regulated under this chapter conform with the standards
16 established to protect the public interest. The board member from the public sector shall be
17 designated as the public's member to the board for the term of service appointed. Except as
18 provided, the term of the members of the board shall be five (5) years. No member of the board
19 shall be associated in the practice of accountancy, either individually or as a member of a firm,
20 with any other member of the board. The members of the Rhode Island board of accountancy
21 appointed and serving under prior law on July 1, 1995, shall serve out the terms for which they
22 were originally appointed as members of the board created by this section. Vacancies occurring
23 during any term shall be filled by appointment by the governor for the unexpired term. Upon the
24 expiration of his or her term of office, a member shall continue to serve until his or her successor
25 has been appointed and has assumed office. The governor shall remove from the board any
26 member whose certificate, authority or permit has been revoked, suspended, or not renewed. No
27 person who has served two (2) consecutive complete terms is eligible for reappointment. Serving
28 the remainder of an unexpired term upon appointment by the governor to fill a vacancy on the
29 board shall not be considered as serving a complete term.

30 (b) The board shall elect annually from among its members a chairperson and any other
31 officers that it deems appropriate. The board shall meet at any times and places that are fixed by
32 the board and in any event shall meet no less than four (4) times each year. Three (3) members of
33 the board shall constitute a quorum for the transaction of business. The board shall have a seal
34 which shall be judicially noticed. The board shall retain or arrange for the retention of all

1 applications and documents under oath that are filed with the board, and shall maintain a registry
2 of the names and addresses of all licensees. The board shall keep records of its proceedings, and
3 in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this
4 chapter, copies of the records certified as correct under the seal of the board are admissible in
5 evidence.

6 (c) Each member of the board shall be reimbursed for actual and necessary expenses
7 incurred in the discharge of those duties, but shall not receive compensation for their services on
8 the board.

9 (d) All fees and monies derived under the provisions of this chapter shall be paid to and
10 received by the general treasurer of the state of Rhode Island, who shall keep the monies in a
11 restricted receipt account. All monies in the restricted receipt account shall be used to reimburse
12 the board for expenses incurred in the administration and enforcement of this chapter. The board
13 treasurer is authorized and directed to draw orders upon the general treasurer for payment from
14 the restricted receipt account upon receipt by the board treasurer of vouchers authenticated by the
15 chairperson, vice chairperson, or secretary of the board.

16 (e) The board shall ~~file~~ [maintain on its website](#) an annual report of its activities with the
17 governor and the general assembly of this state. The report shall include, but not be limited to, a
18 statement of all receipts and disbursements and a listing of all current licensees. ~~The board shall~~
19 ~~mail a copy of that annual report, upon request, in writing, to any licensee and to any member of~~
20 ~~the public.~~

21 (f) The board shall prescribe any rules and regulations not inconsistent with the
22 provisions of this chapter that it deems consistent with, or required by, the public welfare and
23 policy established in § 5-3.1-2. Those rules and regulations may include:

24 (1) Rules and regulations of procedure for governing the conduct of matters before the
25 board;

26 (2) Rules and regulations of professional conduct for establishing and maintaining high
27 standards of competence and integrity in the profession of public accounting;

28 (3) Rules and regulations governing educational and experience requirements for the
29 issuance of certificates;

30 (4) Rules and regulations establishing requirements for continuing education to promote
31 the professional competence of holders of permits, which the board may require those holders to
32 meet as a condition of their continuing in the practice of public accounting;

33 (5) Rules and regulations governing practice units engaged in the practice of public
34 accounting, including, but not limited to, rules and regulations concerning the style, name, title,

1 and affiliation with any other organization, and establishing reasonable standards as to
2 professional liability insurance;

3 (6) Rules and regulations for reviewing and monitoring professional performance and
4 conducting peer reviews;

5 (7) Any other rules and regulations, which the board deems necessary or appropriate in
6 exercising its functions under this chapter.

7 (g) The promulgation of any rule, regulation, or amendment to it under subsection (f) of
8 this section or under any other provision of this chapter shall be in accordance with § 42-35-3.

9 (h) The board may employ any personnel and arrange for any assistance, legal or
10 otherwise, that it requires for the performance of its duties. It may also establish one or more
11 advisory committees as it deems necessary in the performance of its duties. The authority and
12 term of that advisory committee may be permanent or temporary in nature as determined by the
13 board.

14 (i) In addition to its rulemaking authority, the board has the power to take all action that
15 is necessary and proper to effectuate the purposes of this chapter, including the power to:

16 (1) Sue and be sued in its official name as an agency of this state;

17 (2) Investigate all complaints and charges of unprofessional conduct, including, but not
18 limited to, conduct specified under § 5-3.1-12, against any licensee or any applicant for a
19 certificate or permit, and to hold hearings, in accordance with the provisions of § 5-3.1-14, to
20 determine whether those complaints and charges are substantiated;

21 (3) Appoint one or more members of the board, legal counsel, and/or an independent
22 investigator to act on behalf of the board in investigating the conduct of any licensee, or of any
23 applicant for a certificate or permit, or in the alternative to appoint a probable cause committee to
24 investigate that conduct on its behalf, the committee to be comprised of licensees in good
25 standing, as the board determines; and

26 (4) Issue subpoenas, administer oaths, and summon and examine witnesses in connection
27 with any investigation conducted under authority of this chapter. If a subpoena is disobeyed, the
28 board may invoke the aid of any court of competent jurisdiction in this state to require the
29 attendance and testimony of witnesses and the production of documentary evidence.

30 (j) The board and its members and agents are immune from personal liability for actions
31 taken in good faith in the discharge of the board's responsibilities, and the state of Rhode Island
32 shall indemnify the board and those members and agents for, and holds them harmless from, any
33 and all costs, damages, and reasonable attorneys' fees arising from or related in any way to claims
34 or actions against them as to matters to which the immunity applies.

1 (k) The board shall adopt rules and regulations to implement substantial equivalency as
2 set forth in § 5-3.1-7(g).

3 SECTION 4. Section 5-8-3 of the General Laws in Chapter 5-8 entitled "Engineers" is
4 hereby amended to read as follows:

5 **5-8-3. Board -- Creation -- Duties -- Composition -- Appointments -- Terms. --** (a)

6 The duty of the board of engineers is to administer those provisions of this chapter that relate to
7 the regulation of professional engineering and the registration of professional engineers.

8 (b) Subject to the approval of the director, the board of engineers shall establish any
9 rules and regulations for the conduct of its own proceedings, for examination of applicants, for
10 registration of professional engineers and engineers-in-training, for continuing education
11 requirements, for investigating complaints to the board and for governing the practice of
12 engineering all that it deems appropriate.

13 (c) (1) Members of the board are subject to the provisions of chapter 14 of title 36. The
14 board consists of five (5) persons, who are appointed by the governor, and must have the
15 qualifications required by § 5-8-4. Each member of the board shall receive a certificate of his or
16 her appointment from the governor and shall file with the secretary of state his or her written oath
17 or affirmation for the faithful discharge of his or her official duty. Appointments to the board
18 shall be in the manner and for a period of time that the term of each member expires at a different
19 time. On the expiration of the term of any member, the governor shall in the manner previously
20 provided appoint for a term of five (5) years a registered professional engineer having the
21 qualifications required in § 5-8-4. A member may be reappointed to succeed himself or herself,
22 but shall not serve more than two (2) full consecutive terms. Each member may hold office until
23 the expiration of the term for which appointed or until a successor has been appointed and has
24 qualified.

25 (2) The board shall designate and establish a system of registration by discipline not later
26 than December 31, 1994, and shall subsequently administer that registration system.

27 (3) The registration system shall provide, at a minimum, for the registration of:

- 28 (i) Civil engineers;
- 29 (ii) Chemical engineers;
- 30 (iii) Electrical engineers;
- 31 (iv) Mechanical engineers;
- 32 (v) Structural engineers;
- 33 (vi) Environmental engineers; and
- 34 (vii) Fire protection engineers.

1 (4) The board may establish additional classifications by rule and regulation subject to
2 the approval of the director.

3 (5) Classification of disciplines shall conform to the standards established by the
4 NCEES. Nothing in this section shall be construed to limit the registration of a qualified applicant
5 to only one discipline.

6 ~~(d) The board shall annually provide a written report to the director of the department of
7 business regulation presenting a summary of all fees collected, a list of all individuals registered,
8 a summary of all disciplinary actions taken, and the disposition of all complaints made to the
9 board. After reviewing the board's report, the director shall submit a copy of the report with his or
10 her comments on the performance of the board, its compliance with this chapter and the director's
11 recommendations, to the governor, the general assembly, and the board.~~

12 SECTION 5. Sections 5-8.1-8, 5-8.1-10 and 5-8.1-11 of the General Laws in Chapter 5-
13 8.1 entitled "Land Surveyors" are hereby amended to read as follows:

14 **5-8.1-8. Board of registration for professional land surveyors -- Records and**
15 **reports. --** (a) The board of land surveyors shall keep a record of its proceedings and of all
16 applications for registration, which applications shall show:

- 17 (1) Name, date of birth, and last known address of each applicant;
- 18 (2) Date of the application;
- 19 (3) The last known place of business of the applicant;
- 20 (4) The education, experience and other qualifications of the applicant;
- 21 (5) The type of examination administered;
- 22 (6) Whether or not the applicant was accepted or rejected;
- 23 (7) Whether or not a certificate of registration was granted;
- 24 (8) The date of action of the board; and
- 25 (9) Any other information that the board deems appropriate.

26 (b) Board records and papers of the following classes are of a confidential nature and are
27 not public records:

- 28 (1) Examination material for examinations not yet given;
- 29 (2) File records of examination problem solutions;
- 30 (3) Letters of inquiry and references concerning applicants;
- 31 (4) Completed board inquiry forms concerning applicants;
- 32 (5) Investigatory files where any investigation is still pending; and
- 33 (6) All other materials of like nature.

34 (c) The record of the board of land surveyors is prima facie evidence of the proceedings

1 of the board and a certified transcript by the board is admissible in evidence with the same force
2 and effect as if the original were produced.

3 (d) A complete roster showing the names and last known addresses of all registered
4 professional land surveyors and surveyors-in-training and any sole proprietorship, partnership,
5 limited liability partnership, corporation or limited liability company receiving a certificate of
6 authorization shall be [available on the board's website](#) ~~compiled by the board of land surveyors~~
7 ~~once each year, or at intervals as established by board regulations. Copies of this roster shall be~~
8 ~~placed on file with the secretary of state and may be mailed to each person listed in the roster and,~~
9 ~~in addition, may be distributed or sold to the public.~~

10 **5-8.1-10. Board of registration for professional land surveyors--Issuance and**
11 **renewal of certificates.** -- (a) Surveyors previously registered. - Each land surveyor holding a

12 certificate of registration under the laws of this state as previously in effect shall be deemed
13 registered as a professional land surveyor under this chapter.

14 (b) Surveyors-in-training previously registered. - Each surveyor-in-training previously
15 enrolled under the laws of this state as previously in effect shall be deemed enrolled under this
16 chapter.

17 (c) Certificates of registration. - With the assistance of the department, the board of land
18 surveyors shall issue a certificate of registration upon payment of the registration fee as provided
19 for in this chapter to any applicant, who, in the judgment of the board, has met the requirements
20 of this chapter. Enrollment cards are issued to those who qualify as surveyors-in-training. The
21 certificate of registration shall:

- 22 (1) Carry the designation "professional land surveyor";
23 (2) Show the full name of the registrant, without any titles;
24 (3) Have a serial number; and
25 (4) Be signed by both the chairperson and secretary of the board of land surveyors.

26 (d) Effect of certification. - The issuance of a certificate of registration by the board of
27 land surveyors is prima facie evidence that the person named in the certificate is entitled to all
28 rights and privileges of a professional land surveyor while the certificate of registration remains
29 unrevoked or unexpired.

30 (e) Expiration and renewals. - Certificates of registration that expire are invalid,
31 rendering practice authorized on the basis of that certificate illegal. It is the duty of the board of
32 land surveyors to notify every person registered under this chapter of the date of the expiration of
33 his or her certificate and the amount of the fee required for its renewal. That notice shall be
34 mailed to the registrant at his or her last known address at least one month in advance of the date

1 of the expiration of that certificate and it is the responsibility of each person registered under this
2 chapter to renew his or her certificate of registration prior to its expiration. Renewal may be
3 effected at any time prior to or during the month of June of each odd-numbered year (meaning
4 biennially) commencing in year 2003 (provided, that any said renewal shall be post-marked no
5 later than June 30th in that year in order to be valid), or at any other time that the law provides
6 for, by the payment of the fee required by this chapter. Renewal of an expired certificate may be
7 effected, with the director's approval, within a period of four (4) years, provided, that evidence is
8 submitted to the board of land surveyors attesting to the continued competence and good
9 character of the applicant. The amount to be paid for the renewal of a certificate after the date of
10 expiration shall be double the regular fee. In the event renewal is not made before the end of the
11 second year, the board of land surveyors may require any re-examination that it deems
12 appropriate and the amount to be paid for the renewal shall be as stated in this section.

13 (f) Lapsed certificates. - Any registrant who allows his or her certificate of registration to
14 lapse for more than four (4) years shall reapply for registration in accordance with the
15 requirements stated in § 5-8.1-9.

16 (g) ~~Re-issuance of certificate. - A duplicate certificate of registration, to replace any~~
17 ~~certificate lost, destroyed, or mutilated may be issued by the board of land surveyors upon~~
18 ~~payment of the fee required by § 5-8.1-11.~~

19 (h) Any party aggrieved by the board's decision regarding license issuance or renewal
20 may, within ten (10) days of the decision, appeal the matter to the director by submitting a written
21 request for a formal hearing to be conducted in accordance with the provisions of § 5-8.1-15.

22 **5-8.1-11. Board of registration for professional land surveyors -- Fees -- Payment**

23 **and disposition.** -- (a) The fees paid by an applicant for filing an application for examination, ~~or~~
24 ~~for renewal, or for issuance of a duplicate certificate~~ shall be determined by the board and shall
25 not exceed one hundred eighty dollars (\$180) per year plus any administrative costs associated
26 with an application for examination, reexamination, ~~or~~ annual renewal, ~~or duplicate certificate.~~
27 The administrative costs shall be determined by the board. All revenues received pursuant to this
28 section shall be deposited as general revenues.

29 (b) The fees paid by an applicant for the examination, for reexamination, or for renewal
30 of any expired certificate shall be determined by the board to cover the direct expenses associated
31 with administering the examination, reexamination, or the renewal of an expired certificate.

32 SECTION 6. Section 5-20.5-11 of the General Laws in Chapter 5-20.5 entitled "Real
33 Estate Brokers and Salespersons" is hereby amended to read as follows:

34 **5-20.5-11. Fees and license renewals.** -- (a) The following fees shall be charged by the

1 director:

2 (1) For each application, a fee of ten dollars (\$10.00);

3 (2) For each examination a fee, the cost of which is limited to the charge as designated
4 by the appropriate testing service's contract with the department of business regulation;

5 (3) For each original broker's license issued, a fee of eighty-five dollars (\$85.00) per
6 annum for the term of the license and for each annual renewal of the license, a fee of eighty-five
7 dollars (\$85.00) per annum for the term of renewal. The total fees for the term of initial licensure
8 and of renewal must be paid at the time of application for the license;

9 (4) For each original salesperson's license issued, a fee of sixty-five dollars (\$65.00) per
10 annum for the term of the license and for each renewal of the license, a fee of sixty-five dollars
11 (\$65.00) per annum for the term of the license. The total fees for the term of initial licensure and
12 of renewal must be paid at the time of application for the license.

13 (5) For each change from one broker to another broker by a salesperson, or a broker, a
14 fee of twenty-five dollars (\$25.00), to be paid by the salesperson or the broker;

15 ~~(6) For each duplicate license, where a license is lost or destroyed and affidavit is made
16 of that fact, a fee of twenty five dollars (\$25.00);~~

17 ~~(7) For each duplicate pocket card, where the original pocket card is lost or destroyed
18 and affidavit is made of that fact, a fee of twenty five dollars (\$25.00);~~

19 ~~(8)~~(6) For each broker's license reinstated after its expiration date, a late fee of one
20 hundred dollars (\$100), in addition to the required renewal fee;

21 ~~(9)~~(7) For each salesperson's license reinstated after its expiration date, a late fee of one
22 hundred dollars (\$100) in addition to the required renewal fee.

23 (b) Every licensed real estate broker and salesperson who desires to renew a license for
24 the succeeding year term shall apply for the renewal of the license upon a form furnished by the
25 director and containing information that is required by the director. Any renewal of a license is
26 subject to the same provisions covering issuance, suspension, and revocation of any license
27 originally issued. At no time shall any license be renewed without examination if the license has
28 expired beyond a period of one year.

29 SECTION 7. Sections 5-51-11 and 5-51-14 of the General Laws in Chapter 5-51 entitled
30 "Rhode Island State Board of Examiners of Landscape Architects" are hereby amended to read as
31 follows:

32 ~~**5-51-11. Duplicate licenses -- Seals -- Rubber stamps. --**~~ **Seals -- Rubber stamps. --**

33 ~~(a) Only one certificate of registration or license shall be issued to a licensed landscape architect.~~

34 ~~A duplicate certificate may be issued by the board should the original certificate be lost or~~

1 ~~damaged. Applications for a duplicate certificate shall be submitted to the board office. The~~
2 ~~required fee must be submitted with the application for a duplicate certificate.~~

3 ~~(b)~~(a)(1) For the purpose of signing all final drawings, plans, specifications, reports, and
4 other contract documents, each licensed landscape architect shall obtain an individual seal, and a
5 rubber stamp (a facsimile of the seal) to be used on documents prepared by him or her, or under
6 his or her supervision.

7 (2) Firms consisting of more than one licensed landscape architect may use a single seal
8 identifying a partner (if a partnership or limited liability partnership), officer, or director (if a
9 corporation) or a member or manager (if a limited liability company) as being personally
10 responsible for the professional services provided.

11 (3) The board shall furnish a copy of the authorized seal from which the applicant can
12 have a seal and stamp made.

13 ~~(e)~~(b) The application of the seal impression, to the first sheet of bound sets of drawings
14 (with index of drawings included), title page of specifications, and to other drawings and contract
15 documents shall constitute the registered landscape architect stamp.

16 ~~(d)~~(c) The rubber stamp may be applied on all tracings to produce legible reproduction
17 on all copies or prints made from the tracings. This provision does not in any manner modify the
18 requirements of this section.

19 **5-51-14. Fees.** -- The following is the schedule of fees to be charged by the board:

20 (1) The fees to be paid by an applicant for examination or reexamination to determine his
21 or her fitness to receive a certificate of registration shall be determined by the board so as to cover
22 expenses associated with administering and evaluating the examination or reexamination.

23 (2) The fee to be paid for the restoration of an expired certificate of registration shall not
24 exceed one hundred fifty dollars (\$150) for every year or portion of a year the applicant has been
25 delinquent, plus a penalty of twenty-five dollars (\$25.00).

26 (3) The fee to be paid upon the renewal of a certificate of registration shall not exceed
27 one hundred fifty dollars (\$150).

28 (4) The fee to be paid by an applicant for a certificate of registration who is a landscape
29 architect registered or licensed under the laws of another state under § 5-51-7, shall not exceed
30 one hundred eighty dollars (\$180).

31 (5) The fee to be paid by an applicant for a certificate of registration who qualifies and is
32 a resident of this state is thirty-six dollars (\$36.00).

33 ~~(6) The fee to be paid for a duplicate certificate is thirty-six dollars (\$36.00).~~

34 ~~(7)~~(6) The initial fee for a certificate of authorization shall not exceed one hundred fifty

1 dollars (\$150).

2 ~~(8)~~(7) The annual renewal fee for a certificate of authorization is sixty dollars (\$60.00).

3 ~~(9)~~(8) The fee to be paid for the reinstatement of an expired certificate of authorization is
4 sixty dollars (\$60.00) for every year or portion of a year the applicant has been delinquent, plus a
5 penalty of twenty-five dollars (\$25.00).

6 ~~(10)~~(9) All fees received by the board shall be deposited as general revenues.

7 SECTION 8. Section 5-58-1 of the General Laws in Chapter 5-58 entitled "Auctioneers"
8 is hereby amended to read as follows:

9 **5-58-1. Licensing of auctioneers and apprentices.** -- (a) Any person desiring to hold an
10 auctioneer's license or apprentice auctioneer's permit shall make written application for that
11 license or permit on appropriate forms provided by the director of the department of business
12 regulations. Each applicant shall be a person who has a good reputation for honesty, truthfulness,
13 and fair dealing; good moral character, and is competent and financially qualified to conduct the
14 business of an auctioneer or apprentice all of which may be considered by the director along with
15 any other information the director deems appropriate in determining whether the granting of the
16 application is in the public interest. Other information deemed appropriate includes, but is not
17 limited to, a criminal records check. The director shall process the criminal records check for all
18 resident applicants for an auctioneer's license. Non-resident applicants for an auctioneer's license
19 shall apply to the bureau of criminal identification of the state police for a nationwide criminal
20 records check. The bureau of criminal identification of the state police shall forward the results of
21 the criminal records check to the director. The director may deny any application for a license if
22 the director finds, based upon the results of the criminal records check, that the applicant has been
23 convicted of a felony. Each application for an auctioneer, apprentice auctioneer, or nonresident
24 auctioneer's license shall be accompanied by an application fee of ten dollars (\$10.00).

25 (b) Prior to the taking of the examination, each applicant shall pay an examination fee in
26 an amount to be established by the director of business regulation. Each applicant granted an
27 auctioneer's license shall pay a licensing fee of two hundred dollars (\$200) per annum. Each
28 nonresident auctioneer applicant granted a license shall pay a licensing fee of three hundred
29 dollars (\$300) per annum. Each applicant granted an apprentice auctioneer permit shall pay a
30 permit fee of twenty dollars (\$20.00) per annum. ~~There is a five dollar (\$5.00) charge for issuance~~
31 ~~of a duplicate license or permit to replace a lost, damaged, or destroyed original or renewal~~
32 ~~license or permit.~~ Fees ~~for the replacement and~~ for an original or renewal license or permit shall
33 be paid into the general fund. The director shall promulgate rules and regulations mandating the
34 term of the license or permit for each category of license or permit issued pursuant to this chapter.

1 No license or permit shall remain in force for a period in excess of three (3) years. The fee for the
2 initial license or renewal shall be determined by multiplying the per annum fee by the number of
3 years in the term of license or renewal. The entire fee for the full term of licensure must be paid
4 in full prior to issuing the renewal or initial license.

5 SECTION 9. Section 19-4-9 of the General Laws in Chapter 19-4 entitled "Regulatory
6 Oversight" is hereby amended to read as follows:

7 **19-4-9. Reports to general assembly.** -- The director shall ~~report annually to the general~~
8 ~~assembly the condition of~~ make available, by electronic means, the annual reports filed by all
9 financial institutions and credit unions regulated by him or her, ~~with any recommendations as he~~
10 ~~or she may deem proper~~ and shall provide such reports to members of the public and general
11 assembly upon request.

12 SECTION 10. Section 19-14-1 of the General Laws in Chapter 19-14 entitled "Licensed
13 Activities" is hereby amended to read as follows:

14 **19-14-1. Definitions. [Effective July 1, 2015.]** -- Unless otherwise specified, the
15 following terms shall have the following meanings throughout chapters 14, 14.1, 14.2, 14.3, 14.4,
16 14.6, 14.8, 14.10, and 14.11 of this title:

17 (1) "Check" means any check, draft, money order, personal money order, or other
18 instrument for the transmission or payment of money. For the purposes of check cashing,
19 travelers checks or foreign denomination instruments shall not be considered checks. "Check
20 cashing" means providing currency for checks;

21 (2) "Deliver" means to deliver a check to the first person who, in payment for the check,
22 makes, or purports to make, a remittance of, or against, the face amount of the check, whether or
23 not the deliverer also charges a fee in addition to the face amount and whether or not the deliverer
24 signs the check;

25 (3) "Electronic money transfer" means receiving money for transmission within the
26 United States or to locations abroad by any means including, but not limited to, wire, facsimile, or
27 other electronic transfer system;

28 (4) (i) "Lender" means any person who makes or funds a loan within this state with the
29 person's own funds, regardless of whether the person is the nominal mortgagee or creditor on the
30 instrument evidencing the loan;

31 (ii) A loan is made or funded within this state if any of the following conditions exist:

32 (A) The loan is secured by real property located in this state;

33 (B) An application for a loan is taken by an employee, agent, or representative of the
34 lender within this state;

- 1 (C) The loan closes within this state;
- 2 (D) The loan solicitation is done by an individual with a physical presence in this state;
- 3 or
- 4 (E) The lender maintains an office in this state.
- 5 (iii) The term "lender" shall also include any person engaged in a transaction whereby
- 6 the person makes or funds a loan within this state using the proceeds of an advance under a line
- 7 of credit over which proceeds the person has dominion and control and for the repayment of
- 8 which the person is unconditionally liable. This transaction is not a table-funding transaction. A
- 9 person is deemed to have dominion and control over the proceeds of an advance under a line of
- 10 credit used to fund a loan regardless of whether:
- 11 (A) The person may, contemporaneously with, or shortly following, the funding of the
- 12 loan, assign or deliver to the line of credit lender one or more loans funded by the proceeds of an
- 13 advance to the person under the line of credit;
- 14 (B) The proceeds of an advance are delivered directly to the settlement agent by the line-
- 15 of-credit lender, unless the settlement agent is the agent of the line-of-credit lender;
- 16 (C) One or more loans funded by the proceeds of an advance under the line-of-credit is
- 17 purchased by the line of credit lender; or
- 18 (D) Under the circumstances, as set forth in regulations adopted by the director, or the
- 19 director's designee, pursuant to this chapter;
- 20 (5) "Licensee" means any person licensed under this chapter;
- 21 (6) "Loan" means any advance of money or credit including, but not limited to:
- 22 (i) Loans secured by mortgages;
- 23 (ii) Insurance premium finance agreements;
- 24 (iii) The purchase or acquisition of retail installment contracts or advances to the holders
- 25 of those contracts;
- 26 (iv) Educational loans;
- 27 (v) Any other advance of money; or
- 28 (vi) Any transaction such as those commonly known as "payday loans," "payday
- 29 advances," or "deferred-presentment loans," in which a cash advance is made to a customer in
- 30 exchange for the customer's personal check, or in exchange for the customer's authorization to
- 31 debit the customer's deposit account, and where the parties agree either, that the check will not be
- 32 cashed or deposited, or that customer's deposit account will not be debited, until a designated
- 33 future date.
- 34 (7) "Loan broker" means any person who, for compensation or gain, or in the expectation

1 of compensation or gain, either directly or indirectly, solicits, processes, negotiates, places, or
2 sells a loan within this state for others in the primary market, or offers to do so. A loan broker
3 shall also mean any person who is the nominal mortgagee or creditor in a table-funding
4 transaction. A loan is brokered within this state if any of the following conditions exist:

5 (i) The loan is secured by real property located in this state;

6 (ii) An application for a loan is taken or received by an employee, agent, or
7 representative of the loan broker within this state;

8 (iii) The loan closes within this state;

9 (iv) The loan solicitation is done by an individual with a physical presence in this state;

10 or

11 (v) The loan broker maintains an office in this state.

12 (8) "Personal money order" means any instrument for the transmission or payment of
13 money in relation to which the purchaser or remitter appoints, or purports to appoint, the seller as
14 his or her agent for the receipt, transmission, or handling of money, whether the instrument is
15 signed by the seller, or by the purchaser, or remitter, or some other person;

16 (9) "Primary market" means the market in which loans are made to borrowers by lenders,
17 whether or not through a loan broker or other conduit;

18 (10) "Principal owner" means any person who owns, controls, votes, or has a beneficial
19 interest in, directly or indirectly, ten percent (10%) or more of the outstanding capital stock
20 and/or equity interest of a licensee;

21 (11) "Sell" means to sell, to issue, or to deliver a check;

22 (12) "Small loan" means a loan of less than five thousand dollars (\$5,000), not secured
23 by real estate, made pursuant to the provisions of chapter 14.2 of this title;

24 (13) "Small-loan lender" means a lender engaged in the business of making small loans
25 within this state;

26 (14) "Table-funding transaction" means a transaction in which there is a
27 contemporaneous advance of funds by a lender and an assignment by the mortgagee or creditor of
28 the loan to the lender;

29 (15) "Check casher" means a person or entity that, for compensation, engages, in whole
30 or in part, in the business of cashing checks;

31 (16) "Deferred-deposit transaction" means any transaction, such as those commonly
32 known as "payday loans," "payday advances," or "deferred-presentment loans," in which a cash
33 advance is made to a customer in exchange for the customer's personal check or in exchange for
34 the customer's authorization to debit the customer's deposit account and where the parties agree

1 either that the check will not be cashed or deposited, or that the customer's deposit account will
2 not be debited until a designated future date;

3 (17) "Insurance premium finance agreement" means an agreement by which an insured,
4 or prospective insured, promises to pay to an insurance premium finance company the amount
5 advanced, or to be advanced, under the agreement to an insurer or to an insurance producer, in
6 payment of a premium, or premiums, on an insurance contract, or contracts, together with interest
7 and a service charge, as authorized and limited by this title;

8 (18) "Insurance premium finance company" means a person engaged in the business of
9 making insurance premium finance agreements or acquiring insurance premium finance
10 agreements from other insurance premium finance companies;

11 (19) "Simple interest" means interest computed on the principal balance outstanding
12 immediately prior to a payment for the actual number of days between payments made on a loan
13 over the life of a loan;

14 (20) "Nonprofit organization" means a corporation qualifying as a 26 U.S.C. § 501(c)(3)
15 nonprofit organization, in the operation of which no member, director, officer, partner, employee,
16 agent, or other affiliated person profits financially other than receiving reasonable salaries if
17 applicable;

18 (21) "Mortgage loan originator" has the same meaning set forth in § 19-14.10-3(6);

19 (22) "Mortgage loan" means a loan secured in whole, or in part, by real property located
20 in this state;

21 (23) "Loan solicitation" shall mean an effectuation, procurement, delivery and offer, and
22 advertisement of a loan. Loan solicitation also includes providing or accepting loan applications
23 and assisting persons in completing loan applications and/or advising, conferring, or informing
24 anyone regarding the benefits, terms and/or conditions of a loan product or service. Loan
25 solicitation does not include loan processing or loan underwriting as defined in this section. Loan
26 solicitation does not include telemarketing that is defined, for purposes of this section, to mean
27 contacting a person by telephone with the intention of collecting such person's name, address, and
28 telephone number for the sole purpose of allowing a mortgage loan originator to fulfill a loan
29 inquiry;

30 (24) "Processes" shall mean, with respect to a loan, any of a series of acts or functions,
31 including the preparation of a loan application and supporting documents, performed by a person
32 that leads to, or results in, the acceptance, approval, denial, and/or withdrawal of a loan
33 application, including, without limitation, the rendering of services, including loan underwriting,
34 obtaining verifications, credit reports or appraisals, communicating with the applicant and/or the

1 lender or loan broker, and/or other loan processing and origination services, for consideration by
2 a lender or loan broker. Loan processing does not include the following:

- 3 (i) Providing loan closing services;
- 4 (ii) Rendering of credit reports by an authorized credit reporting agency; and
- 5 (iii) Rendering of appraisal services.

6 (25) "Loan underwriting" shall mean a loan process that involves the analysis of risk
7 with respect to the decision whether to make a loan to a loan applicant based on credit,
8 employment, assets, and other factors, including evaluating a loan applicant against a lender's
9 various lending criteria for creditworthiness, making a determination for the lender as to whether
10 the applicant meets the lender's pre-established credit standards, and/or making a
11 recommendation regarding loan approval;

12 (26) "Negotiates" shall mean, with respect to a loan, to confer directly with, or offer
13 advice directly to, a loan applicant or prospective loan applicant for a loan product or service
14 concerning any of the substantive benefits, terms, or conditions of the loan product or service;

15 (27) "Natural person employee" shall mean any natural person performing services as a
16 bona-fide employee for a person licensed under § 19-14-1, et. seq., in return for a salary, wage, or
17 other consideration, where such salary, wage, or consideration is reported by the licensee on a
18 federal form W-2 payroll record. The term does not include any natural person or business entity
19 performing services for a person licensed under the provisions of Rhode Island general laws in
20 return for a salary, wage, or other consideration, where such salary, wage, or consideration is
21 reported by the licensee on a federal form 1099;

22 (28) "Bona fide employee" shall mean an employee of a licensee who works under the
23 oversight and supervision of the licensee;

24 (29) "Oversight and supervision of the licensee" shall mean that the licensee provides
25 training to the employee, sets the employee's hours of work, and provides the employee with the
26 equipment and physical premises required to perform the employee's duties;

27 (30) "Operating subsidiary" shall mean a majority-owned subsidiary of a financial
28 institution or banking institution that engages only in activities permitted by the parent financial
29 institution or banking institution;

30 (31) "Provisional employee" means a natural person who, pursuant to a written
31 agreement between the natural person and a wholly owned subsidiary of a financial holding
32 company, as defined in The Bank Holding Company Act of 1956, as amended, a bank-holding
33 company, savings-bank-holding company, or thrift holding company, is an exclusive agent for the
34 subsidiary with respect to mortgage loan originations, and the subsidiary: (a) Holds a valid loan

1 broker's license; and (b) Enters into a written agreement with the director, or the director's
2 designee, to include:

3 (i) An "undertaking of accountability", in a form prescribed by the director, or the
4 director's designee, for all of the subsidiary's exclusive agents to include full-and-direct financial
5 and regulatory responsibility for the mortgage loan originator activities of each exclusive agent as
6 if said exclusive agent were an employee of the subsidiary;

7 (ii) A business plan, to be approved by the director, or the director's designee, for the
8 education of the exclusive agents, the handling of consumer complaints related to the exclusive
9 agents, and the supervision of the mortgage loan origination activities of the exclusive agents; and

10 (iii) A restriction of the exclusive agents' mortgage loan originators' activities to loans to
11 be made only by the subsidiary's affiliated bank.

12 (32) "Multi-state licensing system" means a system involving one or more states, the
13 District of Columbia, or the Commonwealth of Puerto Rico established to facilitate the sharing of
14 regulatory information and the licensing, application, reporting, and payment processes, by
15 electronic or other means, for mortgage lenders and loan brokers and other licensees required to
16 be licensed under this chapter;

17 (33) "Negative equity" means the difference between the value of an asset and the
18 outstanding portion of the loan taken out to pay for the asset, when the latter exceeds the former
19 amount;

20 (34) "Loan-closing services" means providing title services, including title searches, title
21 examinations, abstract preparation, insurability determinations, and the issuance of title
22 commitments and title insurance policies, conducting loan closings, and preparation of loan
23 closing documents when performed by, or under the supervision of, a licensed attorney, licensed
24 title agency, or licensed title insurance company;

25 (35) "Servicing" means receiving a scheduled periodic payment from a borrower
26 pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments
27 to the owner of the loan or other third party of principal and interest and other payments with
28 respect to the amounts received from the borrower as may be required pursuant to the terms of the
29 servicing loan documents or servicing contract. In the case of a home equity conversion mortgage
30 or a reverse mortgage, servicing includes making payment to the borrower;

31 (36) "Third-party loan servicer" means a person who, directly or indirectly, engages in
32 the business of servicing a ~~loan made to a resident of Rhode Island, or a~~ loan secured by
33 residential real estate located in Rhode Island, for a personal, family, or household purpose, owed
34 or due or asserted to be owed or due another, or a person or entity that owns the servicing rights

1 [to a loan secured by residential real estate located in Rhode Island whether or not that owner](#)
2 [services the loan themselves or contracts with another person or entity for the servicing;](#) and

3 (37) "Writing" means hard-copy writing or electronic writing that meets the
4 requirements of § 42-127.1-1 et seq.

5 SECTION 11. Sections 27-10.1-1 and 27-10.1-7 of the General Laws in Chapter 27-10.1
6 entitled "Motor Vehicle Damage Appraisers" are hereby amended to read as follows:

7 **27-10.1-1. Purpose of chapter -- Issuance of license -- Penalties -- Renewal --**

8 **Revocation or suspension. --** (a) The purpose of this chapter is to subject certain individuals to
9 the jurisdiction of the insurance commissioner. The legislature declares that it is concerned with
10 the business of appraising damaged automobiles and to this end authorizes the insurance
11 commissioner to regulate that business. No person shall act as an appraiser for motor vehicle
12 physical damage claims on behalf of any insurance company or firm or corporation engaged in
13 the adjustment or appraisal of motor vehicle claims unless that person has first secured a license
14 from the insurance commissioner and has paid a license fee of ~~sixty dollars (\$60.00)~~ [one hundred](#)
15 [fifty dollars \(\\$150\)](#) for each ~~fiscal year~~ [biennial license term](#) or fraction ~~of a year~~ [thereof](#). The
16 license shall be issued only upon the successful passage of the examination that shall be
17 administered at the discretion of the insurance commissioner, but in no event less than quarterly.
18 ~~Each person applying for a physical damage appraisers license shall pay an application fee of~~
19 ~~fifty dollars (\$50.00) to and for the use of the state.~~ The commissioner may prescribe reasonable
20 regulations concerning standards for qualifications, suspension, or revocation, and the methods
21 with which licensees conduct their business, in addition to the requirements specifically
22 delineated within this chapter. ~~The commissioner shall submit an annual report on his or her~~
23 ~~findings and recommendations to the governor and the general assembly on January 30 of each~~
24 ~~year.~~

25 (b) Any person who violates any provision of this chapter shall be ~~finned not more than~~
26 ~~five hundred dollars (\$500) or imprisoned not more than one year, or both~~ [subject to](#)
27 [administrative penalties pursuant to § 42-14-16.](#)

28 ~~(c) The insurance commissioner shall promulgate rules and regulations mandating the~~
29 ~~term of license for each category of license issued pursuant to this chapter; and no license shall~~
30 ~~remain in force for a period in excess of four (4) years.~~

31 ~~(d)(c) Any mandated license fee shall be determined by multiplying the number of years~~
32 ~~of the license by the fee described in subsection (a).~~ A license shall be renewed upon the payment
33 of the appropriate renewal fee [unless a finding is made pursuant to subsection \(d\) of this section.](#)
34 The fee for the total term of the licensure or renewal shall be paid at the time of initial application

1 or renewal.

2 ~~(e)~~(d) Nothing in this section shall be construed to limit the authority of the insurance
3 commissioner to sooner suspend or revoke any license issued pursuant to this chapter. Any action
4 for suspension or revocation of any license shall be in accordance with Administrative Procedures
5 Act, chapter 35 of title 42, upon proof that the license was obtained by fraud or misrepresentation,
6 or that the interests of the insurer or the interests of the public are not properly served under the
7 license, or for cause.

8 **27-10.1-7. Violations -- Penalties. --** Any person licensed under this chapter who
9 violates the provisions of § 27-10.1-6, 27-10.1-8 or 27-10.1-8.1 or any rules and regulations
10 promulgated by the department of business regulation shall be subject to ~~the following sanctions~~
11 ~~which may be imposed by the director:~~

12 ~~(1) Revocation or suspension of his or her license;~~

13 ~~(2) Probation for a specified period of time; or~~

14 ~~(3) Fines up to five hundred dollars (\$500)~~ administrative penalties pursuant to § 42-14-
15 16.

16 SECTION 12. Section 27-12-5 of the General Laws in Chapter 27-12 entitled "Annual
17 Reports of Insurance Companies" is hereby amended to read as follows:

18 **27-12-5. Abstracts printed for general assembly. --** The insurance commissioner shall
19 ~~prepare an abstract of the statements and returns made~~ make available, by electronic means, the
20 annual reports filed by all insurance companies ~~and their insurance producers, which abstracts~~
21 ~~shall be printed and laid before~~ licensed in the state and provide these reports to members of the
22 general assembly, upon request ~~in each year.~~

23 SECTION 13. Sections 27-35-1 and 27-35-5.5 of the General Laws in Chapter 27-35
24 entitled "Insurance Holding Company Systems" are hereby amended to read as follows:

25 **27-35-1. Definitions. --** (a) "Affiliate." An "affiliate" of, or person "affiliated" with, a
26 specific person, is a person that directly, or indirectly through one or more intermediaries
27 controls, or is controlled by, or is under common control with, the person specified. An "affiliate"
28 does not include a protected cell of a protected cell company organized under the Protected Cell
29 Companies Act, chapter 64 of this title.

30 (b) "Commissioner." The term "commissioner" means the director of the department of
31 business regulation and any assistant to the director designated and authorized by him or her
32 while acting under that designation.

33 (c) "Control." The term "control" (including the terms "controlling," "controlled by" and
34 "under common control with"), means the possession, direct or indirect, of the power to direct or

1 cause the direction of the management and policies of a person, whether through the ownership of
2 voting securities, by contract other than a commercial contract for goods or management services,
3 or otherwise, unless the power is the result of an official position with or corporate office held by
4 the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls,
5 holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the
6 voting securities of any other person. This presumption may be rebutted by a showing made in
7 the manner provided by § 27-35-3(k) that control does not exist in fact. The commissioner may
8 determine, after furnishing all persons in interest notice and opportunity to be heard and making
9 specific findings of fact to support the determination, that control exists in fact, notwithstanding
10 the absence of a presumption to that effect.

11 (d) "Group-wide supervisor" means the regulatory official authorized to engage in
12 conducting and coordinating group-wide supervision activities who is determined or
13 acknowledged by the commissioner under § 27-35-5.5(d) to have sufficient significant contacts
14 with the internationally active insurance group.

15 ~~(d)~~(e) "Insurance holding company system." An "insurance holding company system"
16 consists of two (2) or more affiliated persons, one or more of which is an insurer.

17 ~~(e)~~(f) "Insurer." The term "insurer" means any person or persons or corporation,
18 partnership or company authorized by the laws of this state to transact the business of insurance
19 in this state, including entities organized or authorized to transact business in this state pursuant to
20 chapters 19, 20, 20.1, 20.2, 20.3, and 41 of this title, except that it shall not include agencies,
21 authorities, or instrumentalities of the United States, its possessions and territories, the
22 Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a
23 state.

24 (g) "Internationally active insurance group" means an insurance holding company system
25 that:

26 (1) Includes an insurer registered under § 27-35-3; and

27 (2) Meets the following criteria:

28 (i) Premiums written in at least three (3) countries;

29 (ii) The percentage of gross premiums written outside the United States is at least ten
30 percent (10%) of the insurance holding company system's total gross written premiums; and

31 (iii) Based on a three (3) year rolling average, the total assets of the insurance holding
32 company system are at least fifty billion dollars (\$50,000,000,000) or the total gross written
33 premiums of the insurance holding company system are at least ten billion dollars
34 (\$10,000,000,000).

1 ~~(h)~~(h) "Enterprise Risk." "Enterprise Risk" means any activity, circumstance, event or
2 series of events involving one or more affiliates of an insurer that, if not remedied promptly, is
3 likely to have a material adverse effect upon the financial condition or liquidity of the insurer or
4 its insurance holding company system as a whole, including, but not limited to, anything that
5 would cause the insurer's risk-based capital to fall into company action level as set forth in
6 chapters 27-4.6 and 27-4.7 or would cause the insurer to be in a hazardous financial condition as
7 set forth in chapter 27-14.2.

8 ~~(g)~~(i) "NAIC." means the national association of insurance commissioners.

9 ~~(h)~~(j) "Person." A "person" is an individual, a corporation, a limited liability company, a
10 partnership, an association, a joint stock company, a trust, an unincorporated organization, or any
11 similar entity or any combination of the foregoing acting in concert, but shall not include any
12 joint venture partnership exclusively engaged in owning, managing, leasing or developing real or
13 tangible personal property.

14 ~~(i)~~(k) "Securityholder." A "securityholder" of a specified person is one who owns any
15 security of such person, including common stock, preferred stock, debt obligations, and any other
16 security convertible into or evidencing the right to acquire any of the foregoing.

17 ~~(j)~~(l) "Subsidiary." A "subsidiary" of a specified person is an affiliate controlled by such
18 person directly, or indirectly through one or more intermediaries.

19 ~~(k)~~(m) "Voting security." The term "voting security" shall include any security
20 convertible into or evidencing a right to acquire a voting security.

21 **27-35-5.5. Supervisory colleges Group supervision.** -- (a) Power of the Commissioner.
22 - With respect to any insurer registered under § 27-35-3, and in accordance with subsection (c)
23 below, the commissioner shall also have the power to participate in a supervisory college for any
24 domestic insurer that is part of an insurance holding company system with international
25 operations in order to determine compliance by the insurer with this chapter. The powers of the
26 commissioner with respect to supervisory colleges include, but are not limited to, the following:

- 27 (1) Initiating the establishment of a supervisory college;
- 28 (2) Clarifying the membership and participation of other supervisors in the supervisory
29 college;
- 30 (3) Clarifying the functions of the supervisory college and the role of other regulators,
31 including the establishment of a group-wide supervisor;
- 32 (4) Coordinating the ongoing activities of the supervisory college, including planning
33 meetings, supervisory activities, and processes for information sharing; and
- 34 (5) Establishing a crisis management plan.

1 (b) Expenses. - Each registered insurer subject to this section shall be liable for and shall
2 pay the reasonable expenses of the commissioner's participation in a supervisory college in
3 accordance with subsection (c) below, including reasonable travel expenses. For purposes of this
4 section, a supervisory college may be convened as either a temporary or permanent forum for
5 communication and cooperation between the regulators charged with the supervision of the
6 insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for
7 the payment of these expenses.

8 (c) Supervisory College. - In order to assess the business strategy, financial position,
9 legal and regulatory position, risk exposure, risk management and governance processes, and as
10 part of the examination of individual insurers in accordance with § 27-35-5, the commissioner
11 may participate in a supervisory college with other regulators charged with supervision of the
12 insurer or its affiliates, including other state, federal and international regulatory agencies. The
13 commissioner may enter into agreements in accordance with subsection 27-35-6(c) providing the
14 basis for cooperation between the commissioner and the other regulatory agencies, and the
15 activities of the supervisory college. Nothing in this section shall delegate to the supervisory
16 college the authority of the commissioner to regulate or supervise the insurer or its affiliates
17 within its jurisdiction.

18 (d) The commissioner is authorized to act as the group-wide supervisor for any
19 internationally active insurance group in accordance with the provisions of this section. However,
20 the commissioner may otherwise acknowledge another regulatory official as the group-wide
21 supervisor where the internationally active insurance group:

22 (1) Does not have substantial insurance operations in the United States;

23 (2) Has substantial insurance operations in the United States, but not in this state; or

24 (3) Has substantial insurance operations in the United States and this state, but the
25 commissioner has determined pursuant to the factors set forth in subsections (e) and (i) of this
26 section that the other regulatory official is the appropriate group-wide supervisor.

27 An insurance holding company system that does not otherwise qualify as an
28 internationally active insurance group may request that the commissioner make a determination
29 or acknowledgment as to a group-wide supervisor pursuant to this section.

30 (e) In cooperation with other state, federal and international regulatory agencies, the
31 commissioner will identify a single group-wide supervisor for an internationally active insurance
32 group. The commissioner may determine that the commissioner is the appropriate group-wide
33 supervisor for an internationally active insurance group that conducts substantial insurance
34 operations concentrated in this state. However, the commissioner may acknowledge that a

1 regulatory official from another jurisdiction is the appropriate group-wide supervisor for the
2 internationally active insurance group. The commissioner shall consider the following factors
3 when making a determination or acknowledgment under this subsection:

4 (1) The place of domicile of the insurers within the internationally active insurance group
5 that hold the largest share of the group's written premiums, assets or liabilities;

6 (2) The place of domicile of the top-tiered insurer(s) in the insurance holding company
7 system of the internationally active insurance group;

8 (3) The location of the executive offices or largest operational offices of the
9 internationally active insurance group;

10 (4) Whether another regulatory official is acting or is seeking to act as the group-wide
11 supervisor under a regulatory system that the commissioner determines to be:

12 (i) Substantially similar to the system of regulation provided under the laws of this state;
13 or

14 (ii) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk
15 analysis, and cooperation with other regulatory officials; and

16 (5) Whether another regulatory official acting or seeking to act as the group-wide
17 supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

18 However, a commissioner identified under this section as the group-wide supervisor may
19 determine that it is appropriate to acknowledge another supervisor to serve as the group-wide
20 supervisor. The acknowledgment of the group-wide supervisor shall be made after consideration
21 of the factors listed in this subsection and shall be made in cooperation with and subject to the
22 acknowledgment of other regulatory officials involved with supervision of members of the
23 internationally active insurance group, and in consultation with the internationally active
24 insurance group.

25 (f) Notwithstanding any other provision of law, when another regulatory official is acting
26 as the group-wide supervisor of an internationally active insurance group, the commissioner shall
27 acknowledge that regulatory official as the group-wide supervisor. However, in the event of a
28 material change in the internationally active insurance group that results in:

29 (1) The internationally active insurance group's insurers domiciled in this state holding
30 the largest share of the group's premiums, assets or liabilities; or

31 (2) This state being the place of domicile of the top-tiered insurer(s) in the insurance
32 holding company system of the internationally active insurance group, the commissioner shall
33 make a determination or acknowledgment as to the appropriate group-wide supervisor for such an
34 internationally active insurance group pursuant to subsection (e) of this section.

1 (g) Pursuant to § 27-35-5, the commissioner is authorized to collect from any insurer
2 registered pursuant to § 27-35-3 all information necessary to determine whether the commissioner
3 may act as the group-wide supervisor of an internationally active insurance group or if the
4 commissioner may acknowledge another regulatory official to act as the group-wide supervisor.
5 Prior to issuing a determination that an internationally active insurance group is subject to group-
6 wide supervision by the commissioner, the commissioner shall notify the insurer registered
7 pursuant to § 27-35-3 and the ultimate controlling person within the internationally active
8 insurance group. The internationally active insurance group shall have not less than thirty (30)
9 days to provide the commissioner with additional information pertinent to the pending
10 determination. The commissioner shall publish on its internet website the identity of
11 internationally active insurance groups that the commissioner has determined are subject to
12 group-wide supervision by the commissioner.

13 (h) If the commissioner is the group-wide supervisor for an internationally active
14 insurance group, the commissioner is authorized to engage in any of the following group-wide
15 supervision activities:

16 (1) Assess the enterprise risks within the internationally active insurance group to ensure
17 that:

18 (i) The material financial condition and liquidity risks to the members of the
19 internationally active insurance group that are engaged in the business of insurance are identified
20 by management; and

21 (ii) Reasonable and effective mitigation measures are in place;

22 (2) Request, from any member of an internationally active insurance group subject to the
23 commissioner's supervision, information necessary and appropriate to assess enterprise risk,
24 including, but not limited to, information about the members of the internationally active
25 insurance group regarding:

26 (i) Governance, risk assessment and management;

27 (ii) Capital adequacy; and

28 (iii) Material intercompany transactions;

29 (3) Coordinate and, through the authority of the regulatory officials of the jurisdictions
30 where members of the internationally active insurance group are domiciled, compel development
31 and implementation of reasonable measures designed to ensure that the internationally active
32 insurance group is able to timely recognize and mitigate enterprise risks to members of such
33 internationally active insurance group that are engaged in the business of insurance;

34 (4) Communicate with other state, federal and international regulatory agencies for

1 members within the internationally active insurance group and share relevant information subject
2 to the confidentiality provisions of § 27-35-6, through supervisory colleges as set forth in
3 subsection (c) of this section or otherwise;

4 (5) Enter into agreements with or obtain documentation from any insurer registered under
5 § 27-35-3, any member of the internationally active insurance group, and any other state, federal
6 and international regulatory agencies for members of the internationally active insurance group,
7 providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor,
8 including provisions for resolving disputes with other regulatory officials. Such agreements or
9 documentation shall not serve as evidence in any proceeding that any insurer or person within an
10 insurance holding company system not domiciled or incorporated in this state is doing business in
11 this state or is otherwise subject to jurisdiction in this state; and

12 (6) Other group-wide supervision activities, consistent with the authorities and purposes
13 enumerated above, as considered necessary by the commissioner.

14 (i) If the commissioner acknowledges that another regulatory official from a jurisdiction
15 that is not accredited by the NAIC is the group-wide supervisor, the commissioner is authorized
16 to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision
17 undertaken by the group-wide supervisor, provided that:

18 (1) The commissioner's cooperation is in compliance with the laws of this state; and

19 (2) The regulatory official acknowledged as the group-wide supervisor also recognizes
20 and cooperates with the commissioner's activities as a group-wide supervisor for other
21 internationally active insurance groups where applicable. Where such recognition and
22 cooperation is not reasonably reciprocal, the commissioner is authorized to refuse recognition and
23 cooperation.

24 (j) The commissioner is authorized to enter into agreements with or obtain documentation
25 from any insurer registered under § 27-35-3, any affiliate of the insurer, and other state, federal
26 and international regulatory agencies for members of the internationally active insurance group,
27 that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

28 (k) The commissioner may promulgate regulations necessary for the administration of
29 this section.

30 (l) A registered insurer subject to this section shall be liable for and shall pay the
31 reasonable expenses of the commissioner's participation in the administration of this section,
32 including the engagement of attorneys, actuaries and any other professionals and all reasonable
33 travel expenses.

34 SECTION 14. Section 27-65-1 of the General Laws in Chapter 27-65 entitled

1 "Commercial Special Risks" is hereby amended to read as follows:

2 **27-65-1. Commercial special risks.** -- (a) Commercial special risks. - Notwithstanding
3 any other provisions of this title to the contrary and except as limited in subsection (b) of this
4 section, insurers shall not be required to file with, nor to receive approval from, the insurance
5 division of the department of business regulation for policy forms or rates used in the insurance of
6 commercial special risks located in this state. Commercial special risks are defined as:

7 (1) Risks written as commercial lines insurance, defined as insurance issued for purposes
8 other than for personal, family or household, and which are written on an excess or umbrella
9 basis;

10 (2) Those risks, or portions of them, written as commercial lines insurance, defined as
11 insurance issued for purposes other than for personal, family or household, and which are not
12 rated according to manuals, rating plans, or schedules including "A" rates;

13 (3) Risks written as commercial lines insurance that employ or retain the services of a
14 "risk manager" and which also meet any one of the following criteria:

15 (i) Net worth over ten million dollars (\$10,000,000);

16 (ii) Net revenue/sales of over five million dollars (\$5,000,000);

17 (iii) More than twenty-five (25) employees per individual company or fifty (50)
18 employees per holding company in the aggregate;

19 (iv) Aggregates premiums of over thirty thousand dollars (\$30,000) excluding group life,
20 group health, workers' compensation and professional liability (including but not limited to errors
21 and omissions and directors and officers liability);

22 (v) Is a not for profit, or public entity with an annual budget or assets of at least twenty-
23 five million dollars (\$25,000,000); or

24 (vi) Is a municipality with a population of over twenty thousand (20,000);

25 (4) Specifically designated commercial special risks including:

26 (i) All risks classified as highly protected risks.

27 "Highly protected risk" means a fire resistive building that meets the highest standards of
28 fire safety according to insurance company underwriting requirements;

29 (ii) All commercial insurance aviation risks;

30 (iii) All credit property insurance risks which are defined as "insurance of personal
31 property of a commercial debtor against loss, with the creditor as sole beneficiary" or "insurance
32 of personal property of a commercial debtor, with the creditor as primary beneficiary and the
33 debtor as beneficiary of proceeds not paid to the creditor". For the purposes of this definition,
34 "personal property" means furniture, fixtures, furnishings, appliances and equipment designed for

1 use in a business trade or profession and not used by a debtor for personal or household use;

2 (iv) All boiler and machinery risks;

3 (v) All inland marine risks written as commercial lines insurance defined as insurance
4 issued for purposes other than for personal, family or household; ~~and~~

5 (vi) All fidelity and surety risks; ~~and~~

6 (vii) All crime and burglary and theft risks; ~~;~~ and

7 (viii) All directors and officers risks.

8 (b) Notwithstanding subsection (a) of this section, the following lines of business shall
9 remain subject to all filing and approval requirements contained in this title even if written for
10 risks which qualify as commercial special risks:

11 (1) Life insurance;

12 (2) Annuities;

13 (3) Accident and health insurance;

14 (4) Automobile insurance which is mandated by statute;

15 (5) Workers' compensation and employers' liability insurance; and

16 (6) Issuance through residual market mechanisms.

17 (c) Any insurer which provides coverage to a commercial special risk shall disclose to
18 the insured that forms used and rates charges are exempt from filing and approval requirements
19 by this subsection. Records of all such disclosures shall be maintained by the insurer.

20 (d) Brokers for exempt commercial policyholders as defined in subdivision (a)(3) of this
21 section shall be exempt from the due diligence requirements of § 27-3-38(b).

22 (e) Notwithstanding any other provisions of this title, the requirements of § 27-5-2 shall
23 not apply to any policy insuring one or more commercial special risks located in this state.

24 SECTION 15. Section 42-14.2-2 of the General Laws in Chapter 42-14.2 entitled
25 "Department of Business Regulation - Automobile Wrecking and Salvage Yards" is hereby
26 amended to read as follows:

27 **42-14.2-2. Duties of the department of business regulation.** ~~-- (a)~~ The department is
28 hereby authorized to establish rules and regulations as appropriate in the public interest. ~~An~~
29 ~~annual report of its activities, meetings, programs, policies, findings, and recommendations shall~~
30 ~~be filed by the department of business regulation with the general assembly.~~ The records of the
31 department shall be open to inspection.

32 ~~(b) The department shall conduct a town-by-town verification of the number of salvage~~
33 ~~yards and shops operating within the state and otherwise compile an updated listing of the same.~~
34 ~~All owners and operators shall be provided new application forms for the completion of licensing~~

1 ~~data and given notice that the application must be completed and returned within ninety (90) days~~
2 ~~in order to receive consideration as a license holder. The application and licensing form shall~~
3 ~~contain sufficient data to enable the department to understand the scope of work and business at~~
4 ~~the location, reflect full ownership by all corporations and persons interested, indicate employees~~
5 ~~and provide other data on the business as may be indicated and in the public interest.~~

6 SECTION 16. Section 5-8-16 of the General Laws in Chapter 5-8 entitled "Engineers" is
7 hereby repealed.

8 ~~**5-8-16. Reissuance of lost, destroyed, or mutilated certificates.** --- A certificate of~~
9 ~~registration to replace any certificate lost, destroyed, or mutilated shall be issued subject to the~~
10 ~~rules of the board. A charge of twenty five dollars (\$25.00) shall be made for that issuance.~~

11 SECTION 17. Section 41-5.1-3 of the General Laws in Chapter 41-5.1 entitled
12 "Commission on Professional Boxing, Wrestling, and Kick Boxing" is hereby repealed.

13 ~~**41-5.1-3. Record -- Reports.** --- The commission on professional boxing, wrestling, and~~
14 ~~kick boxing shall keep a record of all its transactions and shall, at the January session in each~~
15 ~~year, and may at any other time make a report of its doings and of its recommendations to the~~
16 ~~general assembly. The reports shall state in detail the nature of and extent of the commission's~~
17 ~~investigations of the previous year and an outline of its proposed goals and projects for the~~
18 ~~forthcoming year.~~

19 SECTION 18. Chapter 27-1.1 of the General Laws entitled "Credit for Reinsurance Act"
20 is hereby amended by adding thereto the following sections:

21 **27-1.1-9. Asset or deduction from liability.** – No credit shall be allowed as an admitted
22 asset or as a deduction from liability to any ceding company for reinsurance unless the
23 reinsurance is payable by the assuming company on the basis of the liability of the ceding
24 company under the contractor contracts reinsured without diminution because of the insolvency
25 of the ceding company.

26 **27-1.1-10. Payment by assuming company.** – (a) No credit shall be allowed for
27 reinsurance unless the reinsurance agreement provides that payments by the assuming company
28 shall be made directly to the ceding company or to its liquidator, receiver, or statutory successor,
29 except where the contract specifically provides direct payment of the reinsurance to the insured or
30 a claimant on behalf of the insured in the event of the insolvency of the ceding company, or
31 where the assuming company, with the consent of the direct insured or insureds, has assumed the
32 policy obligations of the ceding company to the payees under the policies and in substitution for
33 the obligations of the ceding company to the payees.

34 (b) Except as provided in this section, no assuming company may pay or settle, or agree

1 to pay or settle, any policy claim, or any portion of a claim, directly to or with a policyholder of
2 any ceding company if an order of rehabilitation or liquidation has been entered against the
3 ceding company.

4 SECTION 19. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESS REGULATION

1 This act would make amendments to various sections of the law permitting the filing of
2 annual reports to be made available to the public by way of electronic means, and would amend
3 certain provisions relative to reinsurance.

4 This act would take effect upon passage.

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