

**State of Rhode Island and Providence Plantations**  
**DEPARTMENT OF BUSINESS REGULATION**  
*Division of Insurance*  
**233 Richmond Street**  
**Providence, RI 02903**

**NOTICE OF PROPOSED AMENDMENT TO REGULATIONS  
AND NOTICE OF PUBLIC HEARING**

Notice is hereby given, in accordance with R.I. Gen. Laws §§ 42-14-17 and 42-35-3, that the Director of the Department of Business Regulation (“Department”) proposes to amend the following Insurance Regulations:

**Insurance Regulation 16 – Automobile Insurance Policies:  
Cancellation and Renewal Provisions**

The Proposed Amended Regulation continues the effective date of the changes made in 2005 from December 31, 2005 to March 31, 2006. The Department has determined that this amendment is necessary to allow enough time for implementation of the changes.

**Insurance Regulation 25 – Automobile Insurance Merit Rating Plan**

The Proposed Amended Regulation continues the effective date of the changes made in 2005 from December 31, 2005 to March 31, 2006. The Department has determined that this amendment is necessary to allow enough time for implementation of the changes. Additionally, the proposal removes the word “solely” from section 7 to clarify the prohibition of this section as expressed in Insurance Bulletin 2005-10 issued September 16, 2005.

**Insurance Regulation 62 – Plan of Automobile Insurance Rating  
Territories**

The Proposed Amended Regulation continues the effective date of the changes made in 2005 from December 31, 2005 to March 31, 2006. The Department has determined that this amendment is necessary to allow enough time for implementation of the changes.

Notice is also hereby given, in accordance with R.I. Gen. Laws § 42-35-3, that the Department of Business Regulation will hold a public hearing beginning at 10:00 a.m. on December 19, 2005 in the Main Hearing Room of the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903, regarding the Proposed Amended Regulations.

Copies of the Proposed Amended Regulations are on file at the Department and copies may be obtained from the Legal Division, Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 during normal working hours on regular business days or by mail upon request. The Proposed Amended Regulations may also be obtained from the Department's website [www.dbr.state.ri.us](http://www.dbr.state.ri.us).

In the development of the Proposed Amended Regulations, consideration was given to overlapping approaches, overlap and duplication with other statutory and regulatory provisions and economic impact on small business and cities and towns.

All interested persons may submit their views, data or arguments regarding the Proposed Amended Regulations, including information relating to alternative approaches, duplication or overlap with other state rules or regulations and the economic impact of the Proposed Amended Regulations on small business and/or cities and towns, orally at the public hearing or in writing, either by delivering the same in person or United States mail with postage pre-paid thereon to the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 attention Elizabeth Kelleher Dwyer, Hearing Officer or by e-mail to [Elizabeth\\_dwyer@dbr.state.ri.us](mailto:Elizabeth_dwyer@dbr.state.ri.us)

ALL WRITTEN SUBMISSION MUST BE RECEIVED NOT LATER THAN  
DECEMBER 19, 2005 AT 10:00 A.M.

The hearing room is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Legal Counsel at (401) 222 5400 or TDD (401) 222 2999 not less than ninety-six (96) hours in advance of the hearing date.

A. Michael Marques  
Director, Department of Business Regulation

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**PROPOSED AMENDMENTS TO**  
**INSURANCE REGULATION 25**

**AUTOMOBILE INSURANCE RATING**

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**Section 1**     **Authority**

This Regulation is promulgated in accordance with authority granted by R.I. Gen. Laws §§ 27-9-1 *et seq.*, 31-47-18 and 42-14-17.

**Section 2**     **Purpose**

The purpose of this Regulation is to set forth rules and procedural requirements to carry out the provisions of a uniform minimum guideline for motor vehicle insurance in this state.

**Section 3**     **Definitions**

As used in this Regulation:

- A.     “Chargeable Accident” shall mean any motor vehicle accident other than those set forth in Section 8 of this Regulation.

- B. "Company" shall mean an insurance company, corporation or other entity authorized to transact insurance business in this State.
- C. "Department" shall mean the Department of Business Regulation.
- D. "Insurance Commissioner" shall mean the Director of the Department of Business Regulation or his or her designee.
- E. "Insurance Score" shall mean a number, rating or any categorization that is derived from an algorithm, computer application, model or other process that is based in whole or in part on credit history for the purposes of predicting the future insurance loss experience of an individual applicant or insured.
- F. "Moving Violation" shall mean any violation of statute or ordinance which requires operation of a motor vehicle as an element of the offense, and which occurred no more than three (3) years prior to the time the policy is issued or renewed.
- G. "Private Passenger Automobile" shall mean any vehicle insured by a personal automobile insurance policy.

**Section 4**     *Scope*

This Regulation shall apply to all private passenger automobile rates filed with the Department on behalf of companies seeking to satisfy the requirements of R.I. Gen. Laws §§ 27-9-1 *et seq* and 31-47-18.

**Section 5**     *Additive amounts for policy assessment*

Companies shall develop and have approved for use within the State of Rhode Island programs showing an additive amount for assessment(s) to individual(s) as the result of a Chargeable Accident(s) and/or Moving Violation(s), as defined in this Regulation without regard to age, sex or where the motor vehicle is garaged. These additive amounts must be clearly shown as a flat dollar rate in the insurers' rate manual and may vary by coverage, liability limits, age and price of car, physical damage deductible, etc. However, the additive amount must be reasonable, not excessive, nor unfairly discriminatory.

**Section 6**     *Reductive amounts for policy credits*

Companies shall develop and have approved for use within the State of Rhode Island programs showing a reductive amount for credit(s) to individual(s) as a result of their lack of Chargeable Accident(s) and/or Moving Violations, as defined in this Regulation without regard to age, sex or where the motor vehicle is garaged. These reductive amounts must be clearly shown as a flat dollar rate in the insurers' rate manual and may vary by coverage, liability limits, age and price of car, physical damage

deductible, etc. However, the reductive amount must be reasonable, not excessive, nor unfairly discriminatory. Nothing in this section affects an insurer's ability to provide non-driving related discounts that are not related to any accident or moving violation.

### **Section 7**      ***Premium Surcharges***

No insurer shall charge a higher premium as a result of any loss for which a surcharge is prohibited by R.I. Gen. Laws § 27-9-4 and § 27-9-53 or section 8 of this regulation. Insurers must offer each insured the lowest premium for which that insured qualifies, within the insurer or group, at policy issuance and renewal. No insurer shall place an insured into a non-standard tier or company ~~solely~~-based upon prior non-standard placement.

No insurer may establish a premium surcharge or penalty, remove a discount, decline an award of credits, tier or re-tier, or place insured with a member company or otherwise alter premium for any loss(es) other than a Chargeable Accident or Moving Violation. Insurers may not establish "loss free discounts" or "tiers" which take into account losses which are not Chargeable Accident(s) or Moving Violation(s) as defined in this Regulation, and/or which occurred more than three (3) years prior to the time the policy is issued or renewed.

No insurer may charge an increased premium (including an increase in premium which occurs by moving the insured into or out of a "tier") or eliminate a discount solely as a result of an insured being sixty-five (65) years or older, as prohibited by R.I. Gen. Laws § 27-9-4(a)(5).

Any premium increases for a permitted purpose shall be instituted only at renewal of the policy. This does not apply to alterations of the underlying risk, in which case the premium may be altered but only to account for the alteration of the risk.

### **Section 8**      ***Chargeable Accident***

An accident will not be deemed chargeable against an individual who can show one of the following:

- (a) the accident occurred more than three (3) years prior to the time the policy is issued or renewed;
- (b) the property damage claim payment made as a result of the accident was less than one thousand dollars (\$1,000);
- (c) the automobile involved in the motor vehicle accident was legally parked and unattended at the time of the damage;
- (d) the insured covered by that policy is fifty percent (50%) or less at fault;

- (e) the owner or operator has received at least fifty percent (50%) reimbursement from the other driver involved in the automobile accident;
- (f) the individual has received a judgment in a court of law against the other owner or operator involved in the accident for at least fifty percent (50%) of the loss incurred;
- (g) there has been a determination by a law enforcement agency that the damage inflicted on the owned or operated vehicle was done by an individual operating a stolen vehicle whether or not that individual was apprehended;
- (h) the other operator or owner of the vehicle involved in the automobile accident with the insured vehicle has had his license and/or registration suspended by action of the Registry of Motor Vehicles for failing to satisfy financial responsibility requirements;
- (i) the loss or incident involved a bus driver, while in the course of his or her employment for the Rhode Island public transit authority or private or municipal school bus companies;
- (j) the loss involved a law enforcement officer, while in the course of his or her employment for the state, city, or town police departments; or
- (k) the loss or incident involved a commercial vehicle driver, defined as the driver of a motor vehicle with a gross weight in excess of ten thousand (10,000) pounds or a motor vehicle used for public livery, while in the course of his or her employment.

**Section 9**      **Duration of Assessments**

The additive assessments resulting from the adoption of this regulation shall be included on new and renewal policies issued by companies doing business in the State of Rhode Island for a maximum of three (3) policy years (using the anniversary date of the original coverage as the starting point of such experience measuring period or a period not to exceed forty five (45) days in advance of such time) following the date of accident, conviction, pleading or a suspension of license.

**Section 10**    **Appeal**

Any dispute as to the applicability of assessments shall be governed in accordance with the Registry of Motor Vehicles requirement for listing of accidents or convictions with the burden of proof resting upon the owner or operator of the insured vehicle to show that he falls within one of the above mentioned exceptions.

**Section 11**     **Use of Insurance Score in Rating or Underwriting**

No insurer is required to use an Insurance Score in rating any insurance policy. If an insurer chooses to utilize Insurance Scores in insurance rating, where applicable statutes allow such use, the insurer must, in addition to the requirements of R.I. Gen. Laws § 27-9-56, comply with the following:

1. Demonstrate the statistically predictive nature of the Insurance Score utilized in conjunction with its rate filing.
2. Confirm that none of the “negative factors” listed in R.I. Gen. Laws § 27-9-56(c) have been utilized in determining an Insurance Score or in the rating or underwriting process.
3. If the insurer chooses to use an Insurance Score it may do so only in accordance with R.I. Gen. Laws § 27-9-56 and this Regulation and may do so only upon initiation or renewal of the policy.
4. If the use of an Insurance Score increases the insured’s rate in any manner, including making the insured ineligible for a “tier”, the insurer shall explain, in writing sent to the insured, all information required by the Federal Fair Credit Reporting Act and the insured’s rights pursuant to R.I. Gen. Laws § 27-9-56 (a)(2).
5. If requested by the insured, pursuant to R.I. Gen. Laws § 27-9-56(a)(2), the insurer must obtain an updated Insurance Score once every two (2) years unless the insured is in the most favorably priced tier of the insurer or group or credit score was not used for the insured when the policy was initially written. If required by R.I. Gen. Laws § 27-9-56(a)(2), once the updated Insurance Score is obtained the insurer shall:
  - a. Provide a decreased premium to the insured at renewal, if the updated Insurance Score indicates that the insured is entitled to a decrease in premium.
  - b. If the updated Insurance Score indicates that the insured may be charged an increased premium, the insurer may only increase the premium at renewal due to the Insurance Score if:
    - i. the worsening is due to a bankruptcy, tax lien, garnishment, foreclosure or judgment; or
    - ii. a subsequent Insurance Score undertaken no sooner than six (6) months later confirms the worsening in score.

**Section 12**    *Severability*

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

**Section 13**    *Effective Date*

This Regulation shall be effective ~~as indicated below. The 2005 amendments to the Regulation shall be effective~~ for all policies issued or renewed after ~~December 31, 2005~~ March 31, 2006.

EFFECTIVE DATE:	January 1, 1979
CORRECTIONS:	March 5, 1979
AMENDED:	July 1, 1992
	February 17, 1997
REFILED:	December 19, 2001
AMENDED:	May 9, 2005
<u>AMENDED:</u>	<u>December , 2005</u>