

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Public Notice of Proposed Rule-Making

Pursuant to the provisions of R.I. Gen. Laws § 5-38-1 *et seq* and 42-14-16, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to amend Insurance Regulation 78 – Procedures in Payment of Automobile Damage Claims.

The purpose of this amendment is to clarify the procedure which should be followed with regard to the work completion certification form and the procedures to be followed for consumers who chose not to have their vehicle repaired.

The proposed amended regulation and concise summary of non-technical amendments are available for public inspection at www.dbr.ri.gov, in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, requested by email edwyer@dbr.ri.gov or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed amendments by August 23, 2011 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, edwyer@dbr.ri.gov. A public hearing to consider the proposed amendments shall be held on August 23, 2011 at 10:00 a.m. at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling (401) 462 9520 or TDD 711.

Paul McGreevy
Director, Department of Business Regulation

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Concise Summary of Proposed Non-technical Amendments
to
Insurance Regulation Number 78 – Procedures in Payment of Automobile Damage
Claims

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, following is a concise summary of proposed non-technical amendments:

1. Section 2 has been amended to clarify the intent of the regulation.
2. Section 3 has been amended to add definitions of automobile body shop and consumer. The title of the form has been changed to reflect the statutory title.
3. Section 4 has been clarified to outline the procedure of how the Work Completion Form should be completed and circulated between the insurer, consumer and automobile body shop. The section has also been clarified with regard to prohibitions on payment by insurers to unlicensed automobile body shops and direct payment to consumers.
4. Appendix A is proposed to be amended the clarify work completion certification form, incorporate 'consumer'; add signature of the automobile body shop representative and rewrite the notice to consumers who do not have vehicle repaired.

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DEPARTMENT OF BUSINESS REGULATION
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~~233 Richmond Street~~1511 Pontiac Avenue, Bldg. 69-2
Providence~~Cranston~~, RI ~~02903~~02920

INSURANCE REGULATION 78

PROCEDURES IN PAYMENT OF AUTOMOBILE REPAIRER DAMAGE CLAIMS CERTIFICATION

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Section 1 Authority

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 5-38-28, 27-10.1-9(b), and 42-14-17.

Section 2 Purpose

The purpose of this Regulation is to ~~require an automobile repairer set forth the procedure that must be followed with regard to the Work Completion Certification Form, to certify, under the penalty of perjury, the repairs that have been made to a particular vehicle and to assist in the reinspection of vehicles pursuant to R.I. Gen. Laws § 27-10.1-9(b) to clarify insurers obligations with regard to requests for payment to unlicensed automobile body shops and to prescribe the language of a warning to consumers that choose to accept the value of automobile damage rather than have the automobile repaired.~~

Section 3 Definitions

For the purpose of this Regulation:

- A. "Automobile Body Shop" means an auto body shop as defined in R.I. Gen. Laws § 5-38-1.
- B. "Claimant Consumer" means a first party claimant (an insured who asserts a claim against his or her Insurer) or a third party claimant (a person asserting a right to

~~payment under a policy or certificate of an insured which right to payment arises out of an occurrence or a contingency or loss covered by the policy). person or entity making a claim under an insurance policy issued in the State of Rhode Island.~~

- ~~BC.~~ "Director" means the Director of Business Regulation or his or her designee.
- ~~CD.~~ "Insurer" means any person engaged in the business of property and casualty insurance.
- ~~DE.~~ "Work Completion Certification of Automobile Repairs Form" means the form attached hereto as Appendix A promulgated in accordance with R.I. Gen. Laws § 5-38-28.
- ~~E.~~ "Automobile Body Shop" means an auto body shop as defined in R.I. Gen. Laws § 5-38-1.

Section 4 *Certification of Procedures in Payment of Automobile Repairs Damage Form Claims*

- A. Any insurer that settles a property damage claim arising out of an insurance policy issued in the State of Rhode Island shall follow the following procedure with regard to the Work Completion Certification Form.
1. Upon settlement of a property damage claim the insurer shall complete Section 1 of ~~the Certification of Automobile Repairs-Work Completion Certification~~ Form attached hereto as Appendix A ~~shall be completed pursuant to section VI of the Motor Vehicle Body Repair Regulation.~~
 2. The insurer shall send the form with Section 1 completed to the consumer with instructions that the consumer should complete Section 3 of the form and return it to the insurer. The insurer shall include a stamped self addressed envelope if the form is sent by regular mail. Electronic transmission is acceptable if the consumer elects that option.
 3. Upon receipt of the completed form from the consumer, the insurer shall send the form with Sections 1 and 3 completed to the automobile body repair shop for completion of Section 2.
 4. Upon return of the completed form by the automobile body shop, the insurer shall retain the completed Work Completion Certification form with the claim file.
- B. The ~~Certification of Automobile Repair Form~~ shall be retained by the Insurer and, if requested, copies shall be given to the ~~Automobile Body Shop and Claimant.~~ An insurer shall not pay an unlicensed automobile body shop for the performance of

any work for which a license is required by R.I. Gen. Laws § 5-38-4 or regulations promulgated thereunder.

1. The provisions of this section do not prohibit payment to an automobile body shop which is not required to hold a license under R.I. Gen. Laws § 5-38-4, including shops located in other states, and shall not prohibit payment for goods or services for which the facility is not required to hold a license.

2. The provisions of this section do not prohibit the insurer from paying the consumer the value of the repairs directly. If an insurer has a concern about licensing of an automobile body shop it shall not delay payment to the consumer as a result of those concerns.

C. The return of the Work Completion Certification form is not a condition of payment, and payment shall not be withheld for failure to complete this form.

D. If a consumer requests that the insurer pay the value of the repairs directly to the consumer, rather than to an automobile body shop on the consumers behalf, the insurer shall provide in writing or electronic means at the time of payment the following warning to the consumer:

Since you have chosen to accept the value of the damage to your automobile rather than having the automobile repaired, we are required to inform you that if your automobile is subsequently damaged an issue regarding prior damage may arise. If you do have your vehicle repaired you are advised to inform the insurer and provide documentation. This may or may not affect the issue of prior damage in a subsequent loss.

Section 5 **Effective Date**

This Regulation shall become effective twenty (20) days from the date of filing as indicated below.

EFFECTIVE DATE:	February 4, 1994
AMENDED:	May 1, 1994
	April 8, 1999
REFILED:	December 19, 2001
<u>AMENDED:</u>	<u>September , 2011</u>

Appendix A

WORK COMPLETION CERTIFICATION OF AUTOMOBILE REPAIRS FORM

R.I. Gen. Laws § 5-38-1 ~~et seq.~~ 28 requires that the following Work Completion eCertification Form be completed and signed by the Automobile Body Shop and Consumer. ~~The law requires submission of the repair invoice whenever repairs are made, and although the law does not mandate how or if the automobile is repaired, it does mandate the completion of this form and its return to the insurer.~~ The return of this form is not a condition of payment, and payment shall not be withheld for failure to complete this form. ~~A return envelope has been furnished for your convenience.~~ R.I. Gen. Laws § 5-38-29 requires that each repair bill must contain an itemized listing of the manufactured parts, used parts, and generic parts installed by the Automobile Body Shop in the repair of the vehicle and the repair bill must be furnished to the consumer when the automobile has been repaired.

Section 1
TO BE COMPLETED BY THE INSURER

Claimant Claim Number: _____
Consumer Name: _____
Address: _____ Policy Number: _____
Date of Accident: _____
Name of Insurer: _____
Address: _____

I, _____, representing _____, [insert name of insurance company] have verified the automobile body shop listed below has a valid automobile body shop license in accordance with existing laws.

Date: _____
Signature of insurance company representative: _____

Section 2
TO BE COMPLETED BY THE AUTOMOBILE BODY SHOP

I, _____, a representative of _____ automobile body shop, located at _____, holding auto body license number _____ do certify, under penalties of perjury that I have made the repairs listed on the attached repair bill to the automobile owned by _____.

Date: _____
Signature of automobile body shop representative: _____

After signing this form return it to [insert name and contact information for insurer.]

Section 3

TO BE COMPLETED BY THE ~~CLAIMANT~~CONSUMER

I, _____, certify, under penalties of perjury, that: CHECK (a) OR (b) OR (c). YOU MUST ALSO CHECK (d) IF DIRECT PAYMENT TO THE REPAIRER IS DESIRED.

- (a) _____ I have not had any repairs made to my automobile as a result of the accident on _____; OR
- (b) _____ All the repairs allowed by the insurer have been repaired by the automobile body shop, and I have paid \$ ____ (may be \$0.) to the automobile body shop, which amount is the deductible amount applicable to this accident; OR
- (c) _____ My automobile has been repaired according to the attached repair bill and I have paid \$ ____ (may be \$0.) to my automobile body shop.
- (d) _____ I hereby authorize payment of \$ _____ directly to the auto body shop identified in Part 2.

IMPORTANT NOTICE TO ~~CLAIMANT~~CONSUMER

~~IF YOU ARE A FIRST PARTY INSURED AND~~ IF YOU DO NOT REPAIR ALL OR PART OF THE DAMAGES ALLOWED BY THE INSURER, AND YOU HAVE A SUBSEQUENT LOSS, ~~THE INSURER MAY, TO THE EXTENT RELEVANT, DEDUCT FOR SUCH ITEM(S) AS~~ PREVIOUS DAMAGE MAY EFFECT IN SETTLING THE SETTLEMENT OF THE SUBSEQUENT LOSS. ~~THEREFORE, IF AFTER SIGNING THIS CERTIFICATION, YOU REPAIR THE DAMAGE, YOU SHOULD NOTIFY THE INSURER IMMEDIATELY. THE INSURER MAY AT THAT TIME ELECT TO INSPECT YOUR AUTOMOBILE. WHETHER YOU ARE A FIRST PARTY INSURED OR NOT~~ NO INSURER OR ITS REPRESENTATIVE MAY MAKE PAYMENT ON A CLAIM TO AN CLAIMANT OR AUTOMOBILE BODY SHOP IF ~~REPAIRS ARE MADE AT A FACILITY~~ THE SHOP IS REQUIRED TO BE BUT IS NOT LICENSED IN ACCORDANCE WITH R.I. LAWS § 5-38-1 *et seq*

Date: _____ Signature of Claimant Consumer _____

After signing this form return it to [insert name and contact information for insurer.]

~~NOTICE: CLAIMANT MUST COMPLETE FORM AND RETURN TO INSURER AS LISTED IN SECTION 1. UPON RECEIPT, THE INSURER SHALL THEN FORWARD SAID FORM TO THE AUTOMOBILE BODY SHOP TO COMPLETE SECTION 2. SAID SHOP SHALL THEN COMPLETE AND RETURN SAID FORM TO INSURER.~~