

**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 eliminate the use of the work completed certification form which was eliminated from statute by amendment to R.I. Gen. Laws §§ 5-38-28 and 27-10.1-9. The proposed amendments also clarify procedures to be followed in settlement of automobile damage claims.

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, or 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 regulations by February 12, 2013 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 amendment shall be held on February 12, 2013 at 11:00 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

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

Concise Summary of Proposed Non-technical Amendments to Insurance Regulation
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. Sections 1, 2, 3 and 4 and Appendix A are deleted to reflect the amendment to R.I. Gen. Laws § 5-38-28 that removed the requirement of a “work completed form.”
2. Section 4(B) is added to provide reference to other statutes and regulation relating to automobile damage claims

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Division of Insurance
1511 Pontiac Avenue
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INSURANCE REGULATION 78

PROCEDURES IN PAYMENT OF AUTOMOBILE DAMAGE CLAIMS

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~~Appendix A — Work Completion Certification Form~~

Section 1 **Authority**

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ ~~5-38-28~~, 27-10.1-~~9(b)~~, 6 and 42-14-17.

Section 2 **Purpose**

The purpose of this Regulation is to ~~set forth the procedure which must be followed with regard to the Work Completion Certification Form, 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. "Consumer" means a person or entity making a claim under an insurance policy issued in the State of Rhode Island.
- C. "Director" means the Director of Business Regulation or his or her designee.
- D. "Insurer" means any person engaged in the business of property and casualty insurance.

~~E. "Work Completion Certification Form" means the form attached hereto as Appendix A promulgated in accordance with R.I. Gen. Laws § 5-38-28.~~

Section 4 Procedures in Payment of Automobile Damage Claims

A. Any insurer that settles a property damage claim arising out of an insurance policy issued in the State of Rhode Island in which the consumer requests to receive payment directly rather than have the automobile repaired, shall inform the consumer of the following prior to or contemporaneously with payment of the claim:~~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 Work Completion Certification Form attached hereto as Appendix A.~~
- ~~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.~~

If you do not repair all or part of the damages allowed by the insurer, and you have a subsequent loss, previous damage may affect the subsequent loss. If you subsequently repair the damage, you should notify the insurer. The insurer may elect to inspect your automobile. No insurer or its representative may make payment on a claim to an automobile body shop if the shop is required to be but is not licensed in accordance with R.I. Gen. Laws § 5-38-1 et seq.

B. Insurers adjusting automobile damage claims in Rhode Island must assure that their actions are compliant with Rhode Island law and regulation governing their conduct, including but not limited to, R.I. Gen. Laws §§ 27-9.1-1 et seq., 27-10-1 et seq., 27-10.1-1 et seq., 27-29-1 et seq. and Insurance Regulations 42, 43 and 73. The Department also releases bulletins to interpret the statutes and regulations under its jurisdiction and insurers should be fully apprised of the currently effective bulletins at the time of adjusting a Rhode Island loss.

BC. An insurer shall not negotiate, agree to a price or 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.
3. If an insurer has reason to believe that a shop chosen by a consumer does not hold a required license, the insurer~~s~~ should notify the Commercial Licensing Division of the Department of its concern along with all supporting facts and documentation.

~~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.~~

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 |
| AMENDED: | March 1, 2012 |
| <u>AMENDED:</u> | <u>March , 2013</u> |

~~Appendix A~~
~~WORK COMPLETION CERTIFICATION FORM~~

~~R.I. Gen. Laws § 5-38-28 requires that the following Work Completion Certification Form be completed and signed. The return of this form is not a condition of payment, and payment shall not be withheld for failure to complete this form. 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~~

~~Consumer Name: _____ Claim Number: _____~~
~~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: _____~~

Section 3
TO BE COMPLETED BY THE 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 CONSUMER~~

~~IF YOU DO NOT REPAIR ALL OR PART OF THE DAMAGES ALLOWED BY THE INSURER, AND YOU HAVE A SUBSEQUENT LOSS PREVIOUS DAMAGE MAY EFFECT THE SUBSEQUENT LOSS. IF YOU SUBSEQUENTLY REPAIR THE DAMAGE, YOU SHOULD NOTIFY THE INSURER. THE INSURER MAY ELECT TO INSPECT YOUR AUTOMOBILE. NO INSURER OR ITS REPRESENTATIVE MAY MAKE PAYMENT ON A CLAIM TO AN AUTOMOBILE BODY SHOP IF THE SHOP IS REQUIRED TO BE BUT IS NOT LICENSED IN ACCORDANCE WITH R.I. GEN. LAWS § 5-38-1 et seq~~

~~Date: _____ Signature of Consumer _____~~

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