

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Department of Business Regulation

DIVISION: Insurance

RULE IDENTIFIER: 230-RICR-20-05-8

ERLID: 8169

REGULATION TITLE: Rhode Island Automobile Insurance Plan (formerly Insurance Regulation 98)

RULEMAKING ACTION: Proposed Rulemaking

TYPE OF FILING: Amendment

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public notice date: May 11, 2018

Hearing date: June 14, 2018

End of comment period date: June 22, 2018

SUMMARY OF PROPOSED RULE: The rule regulates the residual market for automobile insurance known as the Rhode Island Automobile Insurance Plan. The amendments are designed to change this system from one in which the risks are assigned to specific insurers to one in which the Rhode Island Automobile Insurance Plan issues the insurance on its own paper with the losses shared through assessment on the voluntary writers in the market. The substantive changes by section are:

§ 8.2(A) – Adds specificity to the purpose section to make clear that the purpose is to authorize the method of issuance of residual market automobile insurance.

§ 8.3 – Adds definitions of terms used in the Regulation.

§ 8.4 – Adds language to specify that the policies will be issued on the paper of the Rhode Island Automobile Insurance Plan and assessments will be made on insurers doing business in Rhode Island.

§ 8.6 – Adds authorizing language indicating the authorization of the Plan, the obligations of participating insurers and the regulation of the Plan as an insurance company.

§ 8.8 – The effective date provision is amended to clarify that the new system will be in place on January 1, 2019 and all policies prior to that date will be governed by the prior regulation.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by June 22, 2018 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: 1511 Pontiac Avenue, Cranston, RI 02920

Email Address: elizabeth.dwyer@dbr.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: 1511 Pontiac Avenue, Cranston, RI 02920

PUBLIC HEARING INFORMATION:

Hearing date: June 14, 2018

Hearing Time: 10:00 AM

Hearing Location: 1511 Pontiac Avenue, Cranston, RI 02920

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-462-9551 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Dwyer, Esq., Deputy Director, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, RI 02920 401.462-9617 elizabeth.dwyer@dbr.ri.gov

Regulatory Analysis:

These proposed amendments will result in no impact on small businesses.

Authority for This Rulemaking: R.I. Gen. Laws § 27-9-3

Regulatory Findings:

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.

The Proposed Amendment:

Department of Business Regulation proposes to amend 230-RICR-20-05-8 as follows:

230-RICR-20-05-8

TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 20 – INSURANCE

SUBCHAPTER 05 – PERSONAL LINES – AUTOMOBILE AND HOMEOWNERS INSURANCE

PART 8 – Rhode Island Automobile Insurance Plan

8.1 Authority

This Regulation Part is promulgated pursuant to R.I. Gen. Laws §§ 27-9-41~~3~~ and ~~42-35-3~~ 31-33-8.

8.2 Purpose

A. The purpose of this Regulation Part is to:

1. Make automobile insurance available to eligible applicants who have been unable to secure such insurance in the voluntary market;
2. Establish the parameters under which insurers writing automobile insurance in Rhode Island will satisfy their obligation to provide for assigned risk policies;
3. Authorize the Plan to establish rates for insurance as authorized pursuant to R.I. Gen. Laws §§ 31-33-8 and 27-9-41; and
4. Provide that amounts assessed by the Plan on Insurers may be included in the data used by those Insurers in the development of automobile insurance rates for voluntary business; and
5. Provide the Plan with the authority to issue policies on its own account as detailed in this Part and the Plan of Operation adopted by the Insurers.

8.3 Definitions

A. The following definitions shall apply to this Part:

1. “Assigned risk” means those policies issued by the Plan to eligible applicants who have been unable to secure such insurance in the voluntary market.

2. “Department” means Department of Business Regulation, Division of Insurance.
3. “Governing committee” means the body established by the Plan of Operation to administer the Plan and to perform the duties as outlined in the Plan of Operation.
4. “Insurance Commissioner” means the Director of the Department of Business Regulation or his or her designee.
5. “Insurer” means any licensed insurance company writing automobile insurance in this State which is required because of licensure to participate in the assigned risk plan in accordance with R.I. Gen. Laws §31-33-8 and § 27-9-43.
6. “Plan” means the Rhode Island Automobile Insurance Plan.
7. “Plan of operation” means that plan adopted by Insurers required to participate in the automobile assigned risk plan by the provisions of R.I. Gen. Laws §§ 27-9-43 and 31-33-8 and submitted to and approved by the Department which shall serve as the basis for the issuance and managing of insurance issued by the Plan.

8.4 Allocation of Plan Expenses and Losses

- A. R.I. Gen. Laws § 27-9-4 provides in relevant part that, in making of rates, past and prospective loss experience and past and prospective expenses shall be given due consideration. This includes the amounts assessed by the Plan to provide the Plan’s operating expenses and to cover any net losses ~~to the insurer from the assignments received from~~ sustained by the Plan in the issuance of assigned risk insurance as authorized by this Part.
- B. ~~If losses~~ Assessments by the Plan for operating expenses or to cover any net losses, paid by any company Insurers, are considered ~~as~~ an expense of doing business in Rhode Island, and such expense may be considered in the development of rates for voluntary business.
- C. The Plan of Operation will identify how the Plan will apportion the expenses of operation and losses of assigned risk policies among licensed Insurers writing in the Rhode Island market. All Insurers must pay their apportionment to continue to issue automobile insurance in Rhode Island.

8.5 Rate Adjustment

The Plan’s operations may indicate a need for adjustment of its rates. It is the responsibility of the Plan to file as needed with the Department to

adjust such rates, and when it does so, to supply such evidentiary material to the Department as the Department needs in its review.

8.6 Authority to Issue Assigned Risk Automobile Insurance Policies

A. The Plan shall be authorized to:

- 1. Issue insurance policies in the name of the Plan for risks eligible pursuant to the Plan of Operation;**
- 2. Investigate and adjust all claims under policies issued, defend all policyholders, pay losses, hold reserves and perform all such functions as are usual in servicing such policies;**
- 3. Issue assessments to Insurers doing business in Rhode Island and make referrals to the Department if such assessments are not paid; and**
- 4. Otherwise incur expenses consistent with the purposes of the Plan.**

B. Obligations of participating Insurers

- 1. Each Insurer participating in the Plan shall share in the operating results of the Plan to the extent of the Insurers' participation in the Rhode Island automobile insurance market for that calendar year. The Plan will file quarterly/annual statements with the Department and the National Association of Insurance Commissioners. Plan Insurers shall record their share of operating results as a Boards/Bureau expense.**
- 2. Liability of each Insurer shall be several, each for itself, and not joint and no insurer shall be liable for the liability of any other insurers except as may otherwise be provided in the approved Plan of Operations.**

C. Attorney In Fact

- 1. The Governing Committee shall from time to time designate in writing one or more persons to act as attorney in fact for all Insurers to execute policies on behalf of all insurers.**
- 2. No policy shall be affected or invalidated by any change of the attorney in fact who, at the time such policy was issued, shall have duly acted pursuant to the powers in him or her then vested.**
- 3. Any policy of insurance issued pursuant to this Part may be executed on behalf of the Insurers by any attorney in fact appointed**

hereunder and each Insurer will be bound thereby to the extent of its participation in the Plan as determined in accordance with the Plan of Operation.

- D. All policies shall be for automobile insurance as provided for in accordance with the approved provisions of the Plan of Operation.
1. All policies shall be issued on forms approved by the Department.
 2. All policies shall be issued for a term of one year.
- E. In issuing these policies the plan shall be subject to all statutes and regulations applicable to insurers issuing private passenger automobile insurance unless a contrary provision is specifically provided in this Part or the Department determines an exemption is in the public interest.

8.7 Severability

If any section, term, or provision of this ~~Regulation~~Part should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.

8.8 Effective Date

~~This Regulation shall be effective twenty (20) days from the date of filing with the Secretary of State~~ Part shall be effective for all assigned risk insurance policies issued on or after January 1, 2019. All assigned risk insurance policies issued prior to that date shall be governed by the former Insurance Regulation 98.