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TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 20 – INSURANCE

SUBCHAPTER 05 – PERSONAL LINES – AUTOMOBILE AND HOMEOWNERS INSURANCE

PART 8 – Rhode Island Automobile Insurance Plan (formerly Insurance Regulation 98)

8.1 Authority

This Part is promulgated pursuant to R.I. Gen. Laws §§ 27-9-43 and 31-33-8.

8.2 Purpose

A. The purpose of this 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 §§ 27-9-41 and 31-33-8~~ and 27-9-41~~;

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~~4. "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 §§ 27-9-43 and 31-33-8 ~~and § 27-9-43~~.

~~6~~5. "Plan" means the Rhode Island Automobile Insurance Plan.

~~7~~6. "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 sustained by the Plan in the issuance of assigned risk insurance as authorized by this Part.

B. Assessments by the Plan for operating expenses or to cover any net losses, paid by 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 (1) 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 (1) year.

E. In issuing these policies the Plan shall be subject to all statutes and Regulations applicable to insurers issuing private passenger automobile insurance, including the exemption for the plan in § ~~230-RICR-20-05-~~ 2.4(C) of this Subchapter, Automobile Insurance Cancellation, unless a contrary provision is specifically provided in this Part or the Department determines an exemption is in the public interest.

F. In order to accomplish the goals of this Part, the Plan is required to maintain a Certificate of Authority and file quarterly and annual financial statements electronically with NAIC. The Plan is subject to all laws and Regulations applicable to Rhode Island domestic insurance companies, except for:

1. The Plan is not a "member insurer" pursuant to R.I. Gen. Laws § 27-34-5(14).

2. The Plan is not an "insurance company" or "those corporations and other entities subject to this title and chapter" pursuant to R.I. Gen. Laws § 27-36-2.

3. The Plan is not an "insurance company doing business in this state" pursuant to R.I. Gen. Laws § 42-14-10.

4. The Plan is not required to maintain the statutory minimum capital and surplus requirements that apply to other domestic insurance companies.

5. The Plan is not required to maintain a minimum risk-based capital requirements that apply to other domestic and foreign insurance companies.

8.7 Severability

If any section, term, or provision of this 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 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.