



### A. Statutes of Limitations and Notice of a Claim (Where Applicable)

- **Personal Injury** – Three years from the date of the accident (“after the cause of action shall accrue”) – R.I. Gen. Laws § 9-1-14(b). **Where an action is properly/timely filed against an insured tortfeasor, an action against the insurer under § 27-7-2 has an extended statute of limitations: 120 days after the expiration of the statute of limitations in the first action.** R.I. Gen. Laws § 9-1-14(c).
- **Wrongful Death** – Three years after the death of the person – R.I. Gen. Laws § 10-7-2. “With respect to any death caused by any wrongful act, neglect or default which is not known at the time of death, the action shall be commenced within three (3) years of the time that the wrongful act, neglect or default is discovered or, in the exercise of reasonable diligence, should have been discovered.” *Id.*
- **Personal Property – TEN YEARS** after the cause of action shall accrue – R.I. Gen. Laws § 9-1-13.
- **Actions against Municipalities** – “A person with a claim or demand of money against a town must present to the town council of that town an account of that person’s claim, debt, damages, or demand, and how incurred or contracted; if just satisfaction is not made upon that person within forty days after the presentment, the person may commence suit against the town treasurer.” R.I. Gen. Laws § 45-15-5. Further, written notice of an injury on a highway or bridge must be filed with the town within 60 days of the injury. R.I. Gen. Laws § 45-15-9(a). For when suit must be brought: **three years** R.I. Gen. Laws § 9-1-25; **three years** against towns for injury or damage arising out of maintenance of highways, causeways, or bridges. R.I. Gen. Laws § 45-15-9. There is a general \$100,000 cap on claims against a local government. R.I. Gen. Laws § 9-31-3 (“provided, however, that in all instances in which the city or town or fire district was engaged in a proprietary function in the commission of the tort, the limitation of damages set forth in this section shall not apply.”).
- **Actions against the State/Political Subdivision Thereof – three years.** R.I. Gen. Laws § 9-1-25. Notice of Claim must be given within three years from the date the cause of action accrues. *Id.* There is a general \$100,000 cap on claims against the State. R.I. Gen. Laws § 9-31-2 (“provided, however, that in all instances in which the state was engaged in a proprietary function in the commission of the tort, or in any situation whereby the state has agreed to indemnify the federal government or any agency thereof for any tort liability, the limitation on damages set forth in this section shall not apply.”).

### B. Contributory Negligence

Rhode Island is a pure comparative negligence state, meaning a plaintiff would still recover 10% of their damages if found 90% at fault. R.I. Gen. Laws § 9-20-4. In addition, interest runs at 12% annually **from the date of incident (not date of suit)**. R.I. Gen. Laws § 9-21-10. Fault in Rhode Island is actually adjudicated amongst the co-defendants, as opposed to proportional share among joint tortfeasors.

### C. Joint & Several Liability

A plaintiff may recover 100% of his or her damages from a joint tortfeasor who has contributed to the injury in any degree, and that joint tortfeasor can either seek statutory contribution in a separate action or implead the other tortfeasor ("pure" joint and several liability). R.I. Gen. Laws § 10-6-2; *Roberts-Robertson v. Lombardi*, 598 A.2d 1380 (R.I. 1991). There is a one year statute of limitations after judgment or settlement. R.I. Gen. Laws § 10-6-4.

### D. Serious Injury Threshold

None. As an at fault state, Rhode Island does not require a plaintiff to meet any kind of threshold for injuries or damages before filing suit.

### E. Non-Economic Damages

Rhode Island allows for the recovery of non-economic damages, namely loss of consortium, pain & suffering, scarring/disfigurement, and emotional distress, as well as possibly punitive damages. For punitive damages, there must be "evidence of such willfulness, recklessness, or wickedness, on the part of the party at fault, as amounts to criminality that should be punished." *Fenwick v. Oberman*, 847 A.2d 852, 854 (R.I. 2004). It is therefore quite rare for punitive damages to be awarded in a personal or property injury matter.

In wrongful death claims, recovery of punitive damages is available if such damages would have been recoverable had the decedent survived. R.I. Gen. Laws § 10-7-7.1. In essence, punitive damages are available under the same circumstances as a typical tort, where there must be "evidence of such willfulness, recklessness, or wickedness, on the part of the party at fault, as amounts to criminality that should be punished." *Fenwick v. Oberman*, 847 A.2d 852, 854 (R.I. 2004). Surviving spouses, parents, and/or children may be awarded damages for their losses resulting from the decedent's death. R.I. Gen. Laws § 10-7-1.2. Further, it is important to note that R.I. Gen. Laws § 10-7-2 provides for 'minimum damages' against a liable tortfeasor in a wrongful death action: a plaintiff who prevails will receive at least \$250,000 in damages for the wrongful death of the decedent.

### F. Med Pay

As an at fault state; any insurance policy issued in Rhode Island does not offer any PIP coverage. Residents are required to obtain automobile insurance, however, with statutory minimum coverages. For automobile insurance policies issued in Rhode Island, insurers are required to provide at least \$2,500.00 in medical payments coverage for each individual and \$5,000.00 in the aggregate. R.I. Gen. Laws § 27-7-2.5(a). However, a named insured can reject that coverage in writing. *Id.*

Subrogation is allowed, subject to a pro-rata sharing of recovery costs. *Jennings v. Nationwide Ins. Co.*, 669 A.2d 534 (R.I. 1996). Additionally, "[s]ubrogation is an insurer's right, if it pays a loss incurred by its insured, to assert the insured's rights against the 'third party who was responsible for the injury.' *Lombardi*, 429 A.2d at 1291 (citing *Silva v. Home Indemnity Co.* R.I., 416 A.2d 664 (R.I. 1980)). **According to the 'made whole' principle, an insurer may not subrogate to its insured's right against the tortfeasor until the insured's total judgment is satisfied.** *Id.*, at 1291-93 (summarizing authorities)." *Footte v. Geico Indem. Co.*, No. WC-2011-0040, 2013 R.I. Super. LEXIS 28, at \*26 (Super. Ct. Jan. 5, 2013) (emphasis added).

## G. Graves Amendment

Under the Graves Amendment, the owner of a leased or rented vehicle cannot be held vicariously liable for the negligent operation of that vehicle. The Rhode Island Supreme Court in *Puerini et al. v. LaPierre*, 208 A.3d 1157 (R.I. 2019) held that R.I. Gen. Laws § 31-34-4 (which allows for recovery against the title owner of a vehicle through vicarious liability) “clearly conflicts with the Graves Amendment” and was thus specifically preempted by the Graves Amendment with respect to owners of leased or rented vehicles.

Pursuant to 49 U.S.C. § 30106, the Graves Amendment preempts all state statutory and common law to the extent those laws hold owners in the business of renting or leasing motor vehicles, vicariously liable for the negligence of drivers.

49 USC § 30106(a) states:

- (a) In general. – An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if –
  - (1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and
  - (2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).