



## Department of Business Regulation

### *Insurance Division*

1511 Pontiac Avenue, Bldg. 69-2

Cranston, Rhode Island 02920

# Insurance Bulletin Number 2013-1

## Insurability of Punitive Damages

Punitive Damages are not insurable under Rhode Island law. The Department will, therefore, reject any form filing that includes insuring of punitive damages.

There is no statute on this subject in Rhode Island. However, this issue has been addressed by the Rhode Island Supreme Court. In evaluating a claim for recovery of punitive damages from an insurer, the Court acknowledged a split between jurisdictions but concluded "...this court believes that the sounder approach bars the wrongdoer from shifting the punitive damages to the insurer." *Allen v. Simmons*, 533 A.2d 541 (R.I. 1987).

Therefore, until such time as a statute is enacted specifically permitting an insurer to assume the obligation for punitive damages or our Supreme Court revisits the policy expressed in *Allen v. Simmons* policy forms which include indemnification for punitive damages will not be approved for use in Rhode Island.

Insurers that have had forms previously approved that contradict this bulletin should withdraw those forms and file compliant forms no later than June 1, 2013. As always, the Department will audit compliance with this directive through market conduct.

Joseph Torti III  
Superintendent of Insurance  
March 28, 2013