

Chapter 9 of the Acts of 2009

AN ACT RELATIVE TO AN APPEAL PROCESS OF INSURANCE PREMIUM SURCHARGES UNDER MANAGED COMPETITION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for a right to appeal at-fault accident rulings for consumers of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 1 of chapter 175E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting before the definition of "Commissioner" the following definition:-

"Board", the board of appeals on motor vehicle liability policies and bonds established in section 8A of chapter 26.

SECTION 2. Said chapter 175E is hereby further amended by inserting after section 7 the following section:-

Section 7A. An insured aggrieved by a determination of an insurer as to the application of a provision of an insurer's safe driver insurance plan or merit rating plan placed on file with the commissioner pursuant to regulations promulgated in accordance with section 10 of this chapter and section 15 of chapter 175A, may, within 30 days thereafter, file a written complaint with the board. That complaint shall be accompanied by a filing fee to be determined by the board. The board shall provide the insurer and the insured with at least 10 days notice of any hearing held under this section. If, after a hearing, the board finds that the application of the safe driver insurance plan or merit rating plan was in accordance with the standards promulgated by the board and the insurer's provisions of the safe driver insurance plan or merit rating plan placed on file with the commissioner, it shall deny the appeal. If the board finds that the insurer's application of the safe driver insurance plan, merit rating plan or determination of fault was not in accordance with those standards and provisions, it shall order the insurer to make the appropriate premium adjustment and the insurer shall notify the merit rating board and any other data collection agency the insurer reported the surcharge or at fault accident to, to remove the insured's corresponding surcharge points and at fault determination. The board may designate a person to act as a hearing officer pursuant to this section. The hearing officer shall file a memorandum of his findings or order in the office of the board, and shall send a copy to the insurer and the insured.

Any insured or insurer aggrieved by a finding or order of the board may appeal therefrom to the superior court department of the trial court, pursuant to section 14 of chapter 30A. The appellant shall file with his appeal a duly certified copy of the complaint and of the finding and order thereon and, if the appeal is taken from a finding and order of the board in respect to a

cancellation, the clerk of the court shall immediately, upon the filing of such an appeal, give written notice of the filing thereof to the registrar of motor vehicles and to the appellee. That court shall hold a hearing on the appeal after such notice to the parties as it deems reasonable. The court shall have such jurisdiction in equity to review all questions of fact and law, to affirm or reverse the board's finding or order and to make an appropriate decree. The court may allow the appeal, finding or order to be amended. The decision of the court shall be final. The clerk of the court shall, within 2 days after entry thereof, send an attested copy of the decree to each of the parties, to the commissioner and to the registrar of motor vehicles. The court may make an order as to costs as it deems equitable. The court may make reasonable rules to secure prompt hearings on such appeals and a speedy disposition thereof.

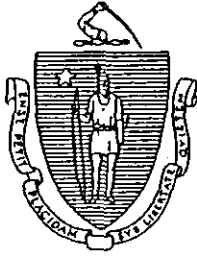
SECTION 3. The commissioner of insurance shall file a report with the joint committee on financial services no later than July 1, 2009, or within 90 days of the effective date of this act, providing a summary of efforts made to facilitate the transition of exclusive representative producers to voluntary agents and the outcome of those efforts, including the remaining number of non-appointed agents in the market. The report shall further examine private passenger automobile insurance premium payment plans and down payments required by insurers in the voluntary and residual market. The commissioner shall meet with all exclusive representative producers and insurers writing private passenger automobile insurance in the commonwealth who request such a meeting to provide agents with technical assistance and encourage voluntary contracts between agents and insurers. The meetings shall take place within 30 days of the effective date of this act.

Approved April 15, 2009

Return to:

List of Laws passed in 2009 Session
General Court home page, or
Commonwealth of Massachusetts home page.

Text available at:
<http://www.mass.gov/legis/laws/seslaw09/sl090009.htm>



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND NINE

AN ACT RELATIVE TO AN APPEAL PROCESS OF MOTOR VEHICLE INSURANCE SURCHARGES UNDER MANAGED COMPETITION

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 175E of the General Laws, as so appearing in the 2006 Official Edition, is hereby amended by inserting after Section 7 the following new section:-

Section 7A. Any insured aggrieved by any determination of an insurer as to the application of any provision of an insurer's merit rating plan filed and approved by the commissioner pursuant to regulations promulgated in accordance with Section 10 of this chapter and section 15 of Chapter 175A, may within thirty days thereafter, file a written complaint with the board of appeals on motor vehicle policies and bonds, hereinafter called the board. Such complaint shall be accompanied by a filing fee to be determined by the board. The board may deny such appeal without a hearing on the basis of the standards of fault to be promulgated by the board. In the notice of its decision to deny the complaint by the insured, the board shall notify the insured that he has a right to a hearing on the application of the safe driver insurance plan.

The board shall provide the insurer and the insured with at least ten days notice of any hearing held under this section. If, after a hearing, the board finds that the application of the safe driver insurance plan was in accordance with the standards promulgated by the board and an insurer's provisions of the safe driver insurance plan approved by the commissioner, it shall deny the appeal. If the board finds that the insurer's application of the safe driver insurance plan was

not in accordance with said standards and provisions, it shall order the insurer to make the appropriate premium adjustment. The board may designate a person to act as a hearing officer pursuant to this section. The hearing officer shall file a memorandum of his findings or order in the office of the board, and shall send a copy to the insurer and the insured.

Any person or company aggrieved by any finding or order of the board may appeal therefrom to the superior court department of the trial court, pursuant to the provisions of section fourteen of chapter thirty A. The appellant shall file with his appeal a duly certified copy of the complaint and of the finding and order thereon, and, if the appeal is taken from a finding and order of the board in respect to a cancellation, the clerk of such court shall forthwith, upon the filing of such an appeal, give written notice of the filing thereof to the registrar of motor vehicle and to the appellee. Said court shall, after such notice to the parties as it deems reasonable, give a summary hearing on such appeal and shall have such jurisdiction in equity to review all questions of fact and law, and to affirm or reverse such finding or order and may make any appropriate decree. Said court or justice may allow such appeal, finding or order to be amended. The decision of the court or justice shall be final. The clerk of such court shall, within two days after entry thereof, send an attested copy of the decree to each of the parties and the commissioner and to said registrar, or his office. Said court or justice may make such order as to costs as it or he deems equitable. Said court may make reasonable rules to secure prompt hearings on such appeals and a speedy disposition thereof.

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Paul J. Donato

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to an appeal process of motor vehicle insurance surcharges under managed competition.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen J. Buoniconti	Hampden
Paul J. Donato	35th Middlesex
Angelo J. Puppolo, Jr.	12th Hampden
Rosemary Sandlin	3rd Hampden
John P. Fresolo	16th Worcester
Peter v. Kocot	1st Hampshire
Thomas A. Golden, Jr.	16th Middlesex
Angelo M. Scaccia	14th Suffolk
Sarah K. Peake	4th Barnstable
Stephen Stat Smith	28th Middlesex
James R. Miceli	19th Middlesex
Dennis Rosa	4th Worcester
William Smitty Pignatelli	4th Berkshire
F. Jay Barrows	1st Bristol
Stephen R. Canessa	12th Bristol
James H. Fagan	3rd Bristol
Louis L. Kafka	8th Norfolk
William Lantigua	16th Essex
Patricia A. Haddad	5th Bristol
David J. Holway <input type="checkbox"/> Res. 246C	
Stephen Kulik	1st Franklin
David P. Linsky	5th Middlesex
Theodore C. Speliotis	13th Essex
Antonio F.D. Cabral	13th Bristol
Susan Williams Gifford	2nd Plymouth

Christopher J. Donelan	2nd Franklin
Thomas M. Stanley	9th Middlesex
James J. O'Donoghue	14th Worcester District
John W. Scibak	2nd Hampshire
Robert S. Hargraves	1st Middlesex
George N. Peterson, Jr.	9th Worcester
Bill Bowles	2nd Bristol
Paul K. Frost	7th Worcester
Mark V. Falzone	9th Essex
James B. Eldridge	Middlesex and Worcester
Michael R. Knapik	Second Hampden and Hampshire
Scott P. Brown	Norfolk, Bristol and Middlesex
Harriette L. Chandler	First Worcester
Thomas P. Kennedy	Second Plymouth and Bristol
James E. Timilty	Bristol and Norfolk
Jennifer L. Flanagan	Worcester and Middlesex
Joan M. Ménard	First Bristol and Plymouth
Susan C. Tucker	Second Essex and Middlesex
Marc R. Pacheco	First Plymouth and Bristol
Joyce A. Spiliotis	12th Essex
Jennifer Benson	37th Middlesex
Thomas J. Calter	12th Plymouth
Donald F. Humason, Jr.	4th Hampden
Matthew C. Patrick	3rd Barnstable
James Dwyer	30th Middlesex
Tom Sannicandro	7th Middlesex
Cleon H. Turner	1st Barnstable
Colleen M. Garry	36th Middlesex
John D. Keenan	7th Essex
Bradley H. Jones, Jr.	20th Middlesex
John V. Fernandes	10th Worcester
Joseph F. Wagner	8th Hampden
Danielle W. Gregoire	4th Middlesex
John J. Binienda	17th Worcester
James T. Welch	6th Hampden
Kay Khan	11th Middlesex
David M. Torrisi	14th Essex
Cheryl A. Coakley-Rivera	10th Hampden
Steven A. Tolman	Second Suffolk and Middlesex
Geraldo Alicea	6th Worcester
John F. Quinn	9th Bristol
Katherine Clark	32nd Middlesex
A. Stephen Tobin	2nd Norfolk
Christopher G. Fallon	33rd Middlesex
Bradford R. Hill	4th Essex
Steven M. Walsh	11th Essex
Viriato Manuel deMacedo	1st Plymouth
Robert L. Rice, Jr.	2nd Worcester
William N. Brownsberger	24th Middlesex
Kathi-Anne Reinstein	16th Suffolk
Mary E. Grant	6th Essex
James Arciero	2nd Middlesex
Kevin J. Murphy	18th Middlesex

Karen E. Spilka	Second Middlesex and Norfolk
James E. Vallee	10th Norfolk
Ilen J. McCarthy	7th Plymouth
Paul McMurtry	11th Norfolk
Anne M. Gobi	5th Worcester
Kevin G. Honan	17th Suffolk
Steven J. D'Amico	4th Bristol
Timothy Madden	Barnstable, Dukes and Nantucket
Lida E. Harkins	13th Norfolk
Robert P. Spellane	13th Worcester
Elizabeth A. Malia	11th Suffolk
Marie P. St. Fleur	5th Suffolk
Pam Richardson	6th Middlesex
Timothy Madden	Barnstable, Dukes and Nantucket
Kevin Aguiar	7th Bristol
Sean Curran	9th Hampden
Kate Hogan	3rd Middlesex

Ann-Margaret Ferrante 5th Essex
 Peter J. Koutoujian 10th Middlesex
 William G. Greene, Jr. 22nd Middlesex
 Carlo P. Basile 1st Suffolk
 Anthony D. Galluccio Middlesex, Suffolk and Essex
 Carolyn Dykema 8th Middlesex
 Kevin Aguiar 7th Bristol
 Paul Kujawski 8th Worcester
 Jeffrey Davis Perry 5th Barnstable
 Barbara A. L'Italien 18th Essex
 Alice Hankon Peisch 14th Norfolk
 Sean Garballey 23rd Middlesex
 Jay R. Kaufman 15th Middlesex
 Richard J. Ross 9th Norfolk
 Timothy J. Toomey, Jr. 26th Middlesex
 James E. Timilty Bristol and Norfolk
 Elizabeth Poirier 14th Bristol

Daniel K. Webster 6th Plymouth
 Susan C. Fargo Third Middlesex
 Karyn E. Polito 11th Worcester
 Todd M. Smola 1st Hampden
 Lewis G. Evangelidis 1st Worcester
 Brian Michael Ashe 2nd Hampden
 James Cantwell 4th Plymouth
 Barry R. Finegold 17th Essex
 Stanley C. Rosenberg Hampshire and Franklin
 Thomas P. Conroy 13th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

Senate, No. 2022

Presented by:

For legislation relative to an appeal process of insurance premium surcharges under managed competition

- 3/23/2009S Reported from the committee on Joint Committee on Financial Services
3/23/2009S New draft of S461, H888 and H1053
3/23/2009S Bill reported favorably by committee and referred to the Senate Committee On Ways and Means
3/24/2009S Committee recommended ought to pass with an amendment
3/24/2009S Rules suspended
3/24/2009S Read second, amended (as recommended by the committee on Ways and Means) and ordered to a third reading
3/24/2009S Taken out of the Orders of the Day
3/24/2009S Read third
3/24/2009S Motion to lay on the table pending and postponed to the next session
3/25/2009S Motion to lay on the table negatived
3/25/2009S Amendment adopted
3/25/2009S Passed to be engrossed - 39 YEAS to 0 NAYS (See Senate Roll Call, No. 21)
3/26/2009H Read; and referred to the House Committee On Ways and Means
4/2/2009 HCommittee recommended ought to pass and referred to the House Committee On Steering, Policy and Scheduling
4/2/2009 HCommittee reported that the matter be placed in the Orders of the Day for the next sitting
4/2/2009 HRead second and ordered to a third reading
4/2/2009 HRules suspended
4/2/2009 HRead third
4/2/2009 HAmendment adopted
4/2/2009 HQuorum roll call - 144 members in attendance [See Yea and Nay in Supplement, No. 47]
4/2/2009 HPassed to be engrossed - 156 YEAS to 0 NAYS (See Yea and Nay in Supplement, No. 48)
4/8/2009 S Rules suspended
4/8/2009 S Senate concurred in the House amendment
4/8/2009 S Vote doubted, roll call ordered
4/8/2009 S Senate concurred in the House amendment - 37 YEAS to 0 NAYS (See Senate Roll Call, No. 30)
4/9/2009 H Emergency preamble adopted
4/9/2009 H Enacted
4/9/2009 S Emergency preamble adopted
4/9/2009 S Enacted and laid before the Governor
4/15/2009G Signed by the Governor, Chapter 9 of the Acts of 2009

Return to:

Bill inquiry screen.

General Court home page, or

Commonwealth of Massachusetts home page.

100

Senate, No. 461



Presented by: Buoniconti, Stephen (SEN)

100
100
100

For legislation relative to an appeal process of insurance premium surcharges under managed competition

1/20/2009S Referred to the Joint Committee on Financial Services

1/20/2009H House concurred

3/23/2009S Accompanied a new draft, see S02022

Return to:

Bill inquiry screen,

General Court home page, or

Commonwealth of Massachusetts home page.

100
100
100



100
100
100



100
100
100

100
100
100

»

House, No. 1053

 Presented by: **Walter F. Timilty**

Relative to the board of appeals in the Division of Insurance

1/20/2009H Referred to the Joint Committee on Financial Services

1/20/2009S Senate concurred

3/23/2009S Accompanied a new draft, see S02022

Return to:

Bill inquiry screen,

General Court home page, or

Commonwealth of Massachusetts home page.