

To accompany the petition of Wesley E. Monk for legislation relative to the arbitration of claims and proceedings under the standard fire policy. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Seven.

An Act relative to the Arbitration of Claims under
the Standard Fire Policy.

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

1 Section one hundred of chapter one hun-
2 dred and seventy-five of the General Laws, as
3 amended by chapter one hundred and fifty-two
4 and by section one of chapter one hundred and
5 ninety-eight, both of the acts of nineteen hun-
6 dred and twenty-three, and by section eight of
7 chapter four hundred and six of the acts of
8 nineteen hundred and twenty-four, is hereby
9 further amended by striking out said section
10 and inserting in place thereof the following: —

11 *Section 100.* If a claim is made for loss or dam-
12 age under any fire policy issued on property or
13 interests in the commonwealth in the standard
14 form set forth in the preceding section and if
15 the parties fail to agree as to the amount of such
16 loss or damage and if a written request is made
17 to the company under the provisions for arbi-

18 tration in such policy to appoint referees, then
19 the company shall, within seven days after the
20 receipt of such written request, name three per-
21 sons, each of whom shall be a resident of the
22 commonwealth and willing to act as one of such
23 referees and no one of whom, without the written
24 consent of the insured, shall be a person who
25 has served in that capacity for said company
26 within the four months next preceding the date
27 of such nomination.

28 From the three persons named the insured
29 shall, within seven days after receiving said
30 names, make known to the company his choice
31 of one of them to act as one of such referees,
32 and the company shall within seven days after
33 receiving the names of three persons who shall
34 be named by the insured and each of whom shall
35 be a resident of the commonwealth and shall be
36 willing to act as one of such referees, and no
37 one of whom, without the written consent of
38 the company, shall be a person who has served
39 in that capacity for said insured within four
40 months next preceding the date of said nomina-
41 tion, make known to the insured its choice of
42 one of them to act as one of such referees. If
43 under the provisions for arbitration in such
44 policy the two referees thus chosen shall, within
45 seven days from the choice of the second referee,
46 fail to agree upon and select a third referee who
47 is a resident of the commonwealth and willing
48 to act in said capacity, then either of said
49 referees or parties may make a written applica-
50 tion under penalty of perjury to the commis-

51 sioner in such form as he may require requesting
52 him to appoint such third referee. Thereupon,
53 the commissioner shall make such appointment
54 and shall send a written notification of the same
55 to the parties.

56 If, by reason of death, resignation or dis-
57 ability, any referee or referees so chosen or
58 appointed shall be unable to serve before the
59 amount of loss shall have been determined by
60 an award, then either of said referees or any
61 one of the parties may make a written applica-
62 tion under penalty of perjury to the commis-
63 sioner in such form as he may require, request-
64 ing him to appoint a person or persons to act
65 in the place of the referee or referees so unable
66 to serve. Said commissioner shall thereupon
67 make such appointment or appointments and
68 shall send written notification thereof to the
69 parties.

70 The third referee shall forthwith upon the
71 publication of the award furnish the company
72 and the insured with a written statement of his
73 charge for compensation and expenses. The
74 company and the insured shall each be liable
75 to the third referee for one half of his compen-
76 sation and expenses, the payment of which shall
77 not preclude the company from contesting the
78 validity of the award. In case there is no award
79 rendered by the referees or a majority thereof,
80 the company shall pay to said third referee the
81 full amount of the compensation and expenses
82 to which he is entitled.

83 The company shall not pay an award in favor

84 of the insured prior to the expiration of five
85 days from its publication nor until the decision
86 of the commissioner on a petition for review as
87 hereinafter provided, whether or not the sixty
88 day period prescribed in said standard form and
89 in section one hundred and two has expired,
90 but the company shall not be liable for interest
91 during said period of five days and pending the
92 decision of the commissioner on a petition as
93 aforesaid.

94 The company shall in all cases withhold from
95 the amount of such award one half of the com-
96 pensation and one half of the expenses of the
97 third referee as demanded, and it shall immedi-
98 ately pay to said third referee the full amount
99 of the compensation and expenses to which he
100 is entitled, except in case of a review as herein-
101 after provided.

102 A company or an insured objecting to the
103 compensation and/or the expenses demanded by
104 the third referee in any case may, within five
105 days from the publication of the award, file a
106 written petition with the commissioner in such
107 form as he may require, to review such charge
108 for compensation and expenses and the com-
109 missioner after due hearing thereon shall review
110 and approve or disapprove in whole or in part
111 such compensation and/or expenses and his de-
112 cision in respect thereto shall be final and con-
113 clusive upon the parties. Written notice of such
114 petition and of the hearing thereon shall forth-
115 with be given by the commissioner to the com-

116 pany, the third referee and the insured, and he
117 shall give like notice to the aforesaid parties of
118 his decision thereon, which shall be rendered as
119 soon as may be after said hearing. The com-
120 pany shall thereupon immediately pay to the
121 said referee the full amount of the compensation
122 and expenses to which he is entitled.

123 A company which in compliance with this
124 section joins in reference proceedings shall not
125 thereby be held to have waived any legal de-
126 fense to the claim in respect to which the refer-
127 ence proceedings are held and such proceedings
128 shall fix only the amount of the loss or damage
129 sustained by the insured and the sound value
130 of the property as hereinbefore provided, unless
131 both parties shall agree in writing that the refer-
132 ence shall be held and shall proceed under the
133 provisions of chapter two hundred and fifty-one.

134 A company, or an officer, agent, adjuster or
135 representative thereof having authority to rep-
136 resent the company in respect to a reference
137 under this section, who wilfully refuses to com-
138 ply with the provisions of this section shall be
139 punished by a fine of not less than one hundred
140 nor more than five hundred dollars.

141 The appointment of a receiver for a domestic
142 fire company, whether before or after any ref-
143 erees are chosen or appointed under this section,
144 shall not affect the requirements of said section,
145 and the receiver shall be under the same duties
146 and obligations and have the same rights and
147 powers in relation to referees as are imposed

148 and conferred by said section upon the com-
149 pany. Any claim of a referee, whether chosen
150 or appointed before or after the receiver's ap-
151 pointment, for his compensation and expenses
152 due from the company or the receiver shall be
153 deemed and treated as preferred over claims for
154 losses.

