

By Mr. Marzilli of Arlington, petition of J. James Marzilli, Jr. relative to voting and other rights of mutual insurance policyholders and increasing the accountability of mutual insurance companies. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO REFORM VOTING AND OTHER RIGHTS OF MUTUAL POLICY-
HOLDERS TO MAKE MUTUALS MORE ACCOUNTABLE TO THEIR OWNERS.

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 1. Chapter 175 of the General Laws is hereby amended
2 by striking out Section 94 in its entirety and inserting in place
3 thereof the following section:—
4 Section 94. Except as provided in this section and in sections
5 thirty-six, one hundred and thirty-two D and one hundred and thirty-
6 seven, every person insured under a policy of life or endowment
7 insurance issued by a domestic mutual life company shall be a
8 member thereof and entitled to one vote, and except in the case of a
9 policy of life or endowment insurance which is a contract on a vari-
10 able basis, one vote additional for each five thousand dollars of
11 insurance in excess of the first five thousand dollars, every person
12 holding an annuity or pure endowment contract issued by any such
13 company shall be a member, and thus an owner thereof and entitled
14 to one vote and., except in the case of an annuity contract which is a
15 contract on a variable basis, one vote additional for each one hun-
16 dred and fifty dollars of annual annuity income in excess of the first
17 one hundred and fifty dollars, and, except as provided in section one
18 hundred and ten, every person insured under any policy of insurance
19 issued by any such company under clause six of section forty-seven
20 shall be a member and thus an owner thereof and entitled to one
21 vote. Holders of such policies or contracts shall be notified annually
22 of the annual meetings of the company by written notice, and shall
23 also be imprinted in the form prescribed by section seventy-six upon

24 the filing back of its policies or contracts, or, in the case of policies
25 upon which premiums are payable monthly or oftener, on some other
26 prominent place on each policy, and also upon premium receipts or
27 certificates or renewal.

28 A notice shall be mailed to each member, at least sixty days prior
29 to the annual meeting. Notice shall include the agenda, corporate
30 resolutions and nominations for the board of directors. The notice
31 will include a proxy statement, and indicate how members may
32 order and obtain without cost to them financial and other corporate
33 information germane to the company's operations and governance
34 prior to the meeting. The notice shall also contain an explanation of
35 member procedures for proposing agenda items, resolutions, nomi-
36 nations for the next meeting, all of which shall be made possible
37 under the by-laws.

38 Nominations to the Board of Directors shall be made in accor-
39 dance with company by-laws which must provide a reasonable and
40 accessible mechanism through which members who are not
41 employees or officers of the company may propose nominations and
42 by which those nominations may be considered by members. To
43 assist in this process, the by-laws shall establish a nomination com-
44 mittee of fifteen members who shall be selected randomly from the
45 membership in a process conducted by an outside auditor, none of
46 whom may be employees, agents or board members of the company
47 and all of whom must have been policyholders for each of the last
48 three or more years and who agree to serve for staggered two-year
49 terms. The total number of nominations to the board of directors
50 must be equal to at least two times the number of vacancies which,
51 at the time of nomination, it is anticipated will be required to be
52 filled. Nominations of one or more candidates may also be made in
53 each year by petition of 5 percent of the number of non-employee
54 members attending the last annual meeting or 25 members who are
55 not employees of the company, whichever is less. Members and
56 guarantee capital shareholders may vote by proxies dated and exe-
57 cuted within three months and returned and recorded on the books of
58 the company on the day of the meeting at which they are to be used;
59 but no member or guarantee capital shareholder of such a company
60 shall, in person, or by proxy, cast more than twenty votes. Annual
61 meetings must satisfy a quorum requirement excluding proxies of at
62 least 1 percent or 1,000 members who may not be employees of the

63 company, whichever is less. The company must file with the com-
64 missioner within 30 days of the annual meeting, a report demon-
65 strating compliance with this provision to include the total
66 attendance and total vote count, in person and by proxy, and the total
67 number of members eligible to vote. The report must also include
68 the results of the elections for the board of directors, any resolutions
69 and the meeting minutes. After the first election, the directors shall
70 be chosen by and from the policyholders; provided, that in case of a
71 company having outstanding a guaranty capital, up to a maximum of
72 one third of the directors may be chosen by and from the stock-
73 holders thereof in direct proportion to the value of the guaranty cap-
74 ital to the total assets of the company. No person shall be qualified to
75 serve as a director after he ceases to be such a policyholder or stock-
76 holder, as the case may be. The provisions of section sixty shall
77 apply to the officers of every such company, and the provisions of
78 the second and third paragraph of section seventy-seven shall apply
79 to every such company. The second and third paragraph of section
80 seventy-eight shall apply to every such company.

1 SECTION 2. Section 76 of Chapter 175 of the General Laws is
2 hereby amended by striking out the paragraph that begins with the
3 words, "Members may vote by proxies...", and inserting in place
4 thereof the following:—

5 The second, third, fourth and fifth paragraphs of section ninety-
6 four shall apply to every such company.

1 SECTION 3. Chapter 175 of the General Laws is hereby amended
2 by striking out Section 77 in its entirety and inserting in place
3 thereof the following section:—

4 Section 77. The number of the board of directors of every such
5 company and requirements for eligibility, if any, shall be fixed by or
6 determined in the manner provided in the bylaws but shall not be
7 less than seven, and not less than five shall constitute a quorum.
8 Such companies having a guaranty capital shall choose up to one-
9 third of directors according to the provisions in the fifth paragraph of
10 section ninety-four of this chapter.

11 Directors shall hold office for one year or for the term provided in
12 the bylaws, and until their successors are qualified. The bylaws of
13 such a company may divide its board of directors into one, two,

14 three or four classes, and provide for the election thereof in such
15 manner that one class only shall retire and their successors be chosen
16 each year. Special meetings of the members of such a company may
17 be called by the directors, or as the bylaws may provide, and shall be
18 called by the secretary, or in case of the death, absence, incapacity or
19 refusal of the secretary, by any other officer upon written application
20 of members numbering at least five percent of the number of non-
21 employee members who attended the last annual meeting or one-half
22 of one percent of the members, whichever is less, or the owners of
23 one-fifth of the guaranty capital, upon such notice as the bylaws pro-
24 vide, as long as it is meaningful notice, and, in case none of the offi-
25 cers is able and willing to call a special meeting, the supreme
26 judicial court or superior court, upon application of non-employee
27 members numbering at least five percent of the number of members
28 who attended the last annual meeting or one-half of one percent of
29 the members, whichever is less,- or the owners of one-fifth of the
30 guaranty capital, shall have jurisdiction in equity to authorize one or
31 more of such members or stockholders to call a meeting by giving
32 such notice as is required by law.

1 SECTION 4. Chapter 175 of the General Laws is hereby amended
2 by striking out Section 188 in its entirety and inserting in place
3 thereof the following section:—

4 Section 188. A paid officer of a domestic mutual company who
5 asks for, receives or procures to be obtained or uses a proxy to vote
6 in violation of any provision of section seventy~six or ninety~four
7 shall be punished by a fine of five thousand dollars for each vote so
8 sought or procured.