

HOUSE No. 1797

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT,
STATE HOUSE, BOSTON, May 25, 1943.

To the Honorable Senate and House of Representatives:

Attached hereto is a letter from the Commissioner of Insurance together with a draft of a bill entitled AN ACT AMENDING CERTAIN PROVISIONS OF THE STANDARD FIRE INSURANCE POLICY.

The Commissioner informs me that stock and mutual insurance companies are agreed upon giving this additional coverage to our citizens who wish to avail themselves of it.

I am therefore glad to make this recommendation which I trust, if my information is correct, will not be a burdensome matter for you to consider in the late days of the session.

LEVERETT SALTONSTALL,
Governor.

THE COMMONWEALTH OF MASSACHUSETTS,
DEPARTMENT OF BANKING AND INSURANCE,
DIVISION OF INSURANCE,
100 NASHUA STREET, BOSTON, May 24, 1943.

His Excellency LEVERETT SALTONSTALL, *Governor of the Commonwealth of Massachusetts, State House, Boston, Massachusetts.*

Re: WAR DAMAGE EXCLUSION CLAUSE IN STATUTORY FIRE INSURANCE POLICY.

DEAR GOVERNOR: — For nearly a year, a Committee of the National Association of Insurance Commissioners has been negotiating with the private insurance companies in an effort to bridge the gap between the coverage afforded by the War Damage Corporation and that presently afforded by the private insurance companies.

We have now reached the point where the private companies recommend that a new war exclusion clause be incorporated in the statutory fire policies of the several States. New York has already taken action by including in its law the suggested war exclusion clause agreed upon after conference with numerous persons interested in the fire insurance contract. It has been suggested that the public should be informed definitely concerning those hazards which private companies are unwilling to assume, and further, that the war exclusion clause should be brought more nearly into conformity with the coverage afforded by the War Damage Corporation, in order to eliminate an overlapping of coverage which might possibly result in confusion if a claim were to arise.

The line of cleavage between the coverage afforded by the War Damage Corporation and that of the private companies will be more clearly drawn if we adopt, in Massachusetts, the new war clause set forth in the accompanying bill. This war clause is identical with the clause recently adopted in the State of New York. The main change appears in subdivision (a) in the attached bill, which fits the exclusion into the coverage of the War Damage Corporation. There is also excluded from the present war clause the words "foreign enemies, civil commotion and military power". By deleting these words from the present war exclusion clause, broader coverage is afforded the public.

The only possible curtailment of coverage might come in the insertion of subdivision (j), stating that the company will not be liable for loss by theft, but in our opinion, if theft is the indirect result of a fire this exclusion would not be material.

There is considerable demand upon the part of the public for protection against the war hazards which presently appear not to fall within the coverage provided by the private companies or by the War Damage Corporation. This demand should be met if possible. To accomplish the purpose requires skilful application of the technical knowledge of insurance as a condition precedent to meeting the demand. The adoption of the new war clause is absolutely essential.

We realize fully your reluctance to submit new problems to the Legislature at this time, but we are also aware of your desire that the Legislature should act upon any matters which will assist in the solution of our war-time problems. For this reason, we strongly urge that you arrange for the submission to the Legislature of the attached bill.

For your information, I have discussed this with representatives of stock and mutual companies, both locally and nationally, and I have been assured that there will be no objections on their part to this bill.

If you desire to discuss this matter with me further, please let me know.

Respectfully yours,

CHARLES F. J. HARRINGTON,
Commissioner of Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Three.

AN ACT AMENDING CERTAIN PROVISIONS OF THE STANDARD FIRE INSURANCE 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 ninety-nine of chapter one hundred and
2 seventy-five of the General Laws, as appearing in the
3 Tercentenary Edition, is hereby amended by striking
4 out the seventh paragraph appearing after Clause
5 Ninth in said section and inserting in place thereof
6 the following:—

7 Said property is insured for the term of
8 beginning on the day of , in the
9 year nineteen hundred and , at noon, and
10 continuing until the day of , in
11 the year nineteen hundred and , at noon,
12 against all loss or damage by FIRE originating from
13 any cause, except that this company shall not be
14 liable for loss by fire or other perils insured against
15 in this policy caused directly or indirectly by:
16 (a) enemy attack by armed forces, including action
17 taken by military, naval or air forces in resisting an
18 actual or an immediately impending enemy attack;
19 (b) invasion; (c) insurrection; (d) rebellion; (e) rev-
20 olution; (f) civil war; (g) usurped power; (h) order
21 of any civil authority except acts of destruction at

22 the time of and for the purpose of preventing the
23 spread of fire, provided that such fire did not originate
24 from any of the perils excluded by this policy;
25 (i) neglect of the insured to use all reasonable means
26 to save and preserve the property at and after a loss,
27 or when the property is endangered by fire in neigh-
28 boring premises; (j) nor shall this company be liable
29 for loss by theft; the amount of said loss or damage
30 to be estimated according to the actual value of the
31 insured property at the time when such loss or damage
32 happens, but not to include loss or damage caused by
33 explosions of any kind unless fire ensues, and then
34 to include that caused by fire only.

