

# HOUSE . . . . No. 1081

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By Mr. Cappucci of Boston, petition of Enrico Cappucci that the requirements be changed for the admission of certain foreign mutual casualty insurance companies to do business in the Commonwealth. Insurance.

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## The Commonwealth of Massachusetts

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

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AN ACT CHANGING THE REQUIREMENTS FOR THE ADMISSION OF CERTAIN FOREIGN MUTUAL CASUALTY INSURANCE COMPANIES TO DO BUSINESS IN THE COMMONWEALTH.

*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. Clause second of section 151 of said  
2 chapter 175 is hereby amended by striking out sub-  
3 division (3) (c), as appearing in section 7 of chapter  
4 488 of the acts of 1939, and inserting in place thereof  
5 the following: —

6 (c), if it proposes to transact business under the  
7 sixth clause of said section forty-seven, net cash  
8 assets, so computed, of not less than two hundred  
9 thousand dollars, or net cash assets, so computed, of  
10 not less than one hundred thousand dollars and  
11 contingent assets of not less than four hundred  
12 thousand dollars; provided, that if it proposes to

13 transact business under subdivision (b) of said sixth  
14 clause it shall in addition thereto have a fully paid-up  
15 guaranty capital established in accordance with the  
16 laws of its home state of two hundred thousand dol-  
17 lars, unimpaired on the basis fixed by sections ten to  
18 twelve, inclusive; or, in lieu of such a guaranty  
19 of not less than two hundred thousand dollars, un-  
20 impaired on the basis fixed by sections ten to twelve,  
21 inclusive, and created in accordance with the law of  
22 its home state by segregating the amount of such a  
23 fund or surplus from its net cash assets;

1 SECTION 2. Said clause second of said section 151  
2 is hereby further amended by striking out subdivision  
3 (3) (f), as appearing in section 8 of said chapter 488,  
4 and inserting in place thereof the following: —

5 (f), if it proposes to transact business under any  
6 two or more of the fourth, fifth, sixth, seventh,  
7 eighth, ninth, tenth, twelfth and thirteenth clauses  
8 of said section forty-seven, net cash assets, computed  
9 as aforesaid, at least equal to the amount of capital  
10 required by said sections forty-eight and fifty-one of  
11 a domestic stock company transacting the same  
12 classes of business, or net cash assets, computed as  
13 aforesaid, of not less than seventy-five thousand dol-  
14 lars and contingent assets of not less than one hun-  
15 dred and fifty thousand dollars, for each clause under  
16 which it proposes to transact business; provided,  
17 that it shall in addition thereto have the guaranty  
18 capital or guaranty fund and net cash assets required  
19 by (b) hereof if it proposes to transact business under  
20 said fourth clause; and provided further that it shall  
21 in addition thereto have the net cash or net cash and  
22 contingent assets required by (c) hereof, if it proposes

23 to transact business under said sixth clause, and, in  
24 addition thereto, the guaranty capital or guaranty  
25 fund or special contingent surplus required by (c)  
26 hereof if it proposes to transact business under sub-  
27 division (b) of said sixth clause;

1 SECTION 3. The first paragraph of section 6 of  
2 said chapter 175, as most recently amended by sec-  
3 tion 2 of chapter 488 of the acts of 1939, is hereby  
4 further amended by striking out said first paragraph  
5 and inserting in place thereof the following: —

6 If it appears to the commissioner that the capital  
7 of a domestic stock company other than a life com-  
8 pany is impaired to the extent of one quarter or more  
9 on the basis fixed by sections ten to twelve, inclusive,  
10 but that the company can with safety to the public  
11 and its policyholders be permitted to continue to  
12 transact business, he shall notify the company in  
13 writing that its capital is legally subject to be made  
14 good as provided in section sixty-nine. If such a  
15 company other than a life company shall not within  
16 three months after receiving such notice satisfy the  
17 commissioner that it has fully made good its capital  
18 or reduced it as provided in section seventy-one, or,  
19 if he is satisfied that any domestic company is in-  
20 solvent or in an unsound financial condition, or that  
21 its business policies or methods are unsound or im-  
22 proper, or that its condition or management is such  
23 as to render its further transaction of business haz-  
24 ardous to the public or to its policyholders or creditors,  
25 or that it is transacting business fraudulently or that  
26 it or its officers or agents have refused to submit to  
27 an examination under section four or seventy-three,  
28 or that it has attempted or is attempting to com-

29 promise with its creditors on the ground that it is  
30 financially unable to pay its claims, in full, or that,  
31 when its assets are less than its liabilities, inclusive of  
32 unearned premiums but exclusive of capital, if any,  
33 it has attempted or is attempting to the disadvantage  
34 of policyholders who have sustained losses to prefer  
35 or, has preferred, by reinsurance, policyholders who  
36 have sustained no losses, he shall, except as provided  
37 in section one hundred and eighty B or one hundred  
38 and eighty C, or, if he is satisfied that any domestic  
39 company has exceeded its powers or has violated any  
40 provision of law, or that the amount of its funds,  
41 insurance in force or premiums or number of risks is  
42 deficient or that its guaranty capital or guaranty fund  
43 is impaired, as set forth in sections twenty-three,  
44 seventy-four, ninety-three D and one hundred and  
45 sixteen, he may, apply to the supreme judicial court  
46 for an injunction restraining it in whole or in part  
47 from further proceeding with its business and for the  
48 appointment of a receiver or receivers. The court  
49 may issue a temporary injunction and appoint one or  
50 more temporary receivers forthwith, and it may after  
51 a full hearing make the injunction permanent and  
52 appoint one or more permanent receivers to take  
53 possession of all the property and effects of the com-  
54 pany, to settle its affairs, and to distribute its assets,  
55 subject to such rules and orders as the court may  
56 prescribe. In the case of a domestic company trans-  
57 acting business in any other reciprocal state, as de-  
58 fined in section one hundred and eighty A, the com-  
59 missioner, instead of proceeding under this section,  
60 may institute a proceeding under section one hundred  
61 and eighty B or one hundred and eighty C.

1 SECTION 4. Section 11 of said chapter 175 is hereby  
2 amended by striking out the first paragraph, as most  
3 recently amended by section 3 of chapter 207 of the  
4 acts of 1943, and inserting in place thereof the follow-  
5 ing paragraph:—

6 Beside the reserve provided for in sections nine  
7 and ten he shall, except as provided in section twelve,  
8 charge to each company as a liability all unpaid losses  
9 and claims for losses, and all other debts and liabilities,  
10 including in the case of a stock company its capital  
11 stock and including, in the case of a mutual company  
12 with a guaranty capital or guaranty fund or special  
13 contingent surplus, such capital or fund or surplus.  
14 He shall allow to the credit of a company in the ac-  
15 count of its financial condition only such assets as are  
16 available for the payment of losses in this common-  
17 wealth, including all assets deposited with officers of  
18 other states or countries for the security of the policy-  
19 holders of such company; but no holding or parcel of  
20 real estate described in section sixty-six A shall be  
21 allowed as an asset unless the average net rental  
22 value of the apartment, tenement or other dwelling  
23 house erected thereon, as estimated at the commence-  
24 ment of its construction, is sixteen dollars or less per  
25 room per month; and no holding or parcel of real  
26 estate shall be given a higher value than would be  
27 adequate to yield at three per cent annual interest  
28 the average amount of its net rental for three years  
29 next preceding, except that if a company shows to his  
30 satisfaction that the actual value of any of its real  
31 estate is greater than the value so ascertained, then  
32 the actual value of the said real estate as determined  
33 by the commissioner shall be allowed. The commis-

34 sioner may, in his discretion, require any company to  
35 furnish such information as may be needed to sub-  
36 stantiate the values above prescribed.

1 SECTION 5. Section 23A of said chapter 175, as  
2 appearing in the Tercentenary Edition, is hereby  
3 amended by striking out the first sentence and insert-  
4 ing in place thereof the following sentence:— Every  
5 stock company, every foreign company described in  
6 section one hundred and fifty-five and every mutual  
7 company, other than a life company, having a guaranty  
8 capital or guaranty fund or special contingent surplus,  
9 shall forthwith notify the commissioner in writing in  
10 such form and detail as he may require of any impair-  
11 ment thereof, on the basis fixed by sections ten to  
12 twelve inclusive.

1 SECTION 6. Section 54 of said chapter 175, as most  
2 recently amended in subdivision (e) by section 3 of  
3 chapter 488 of the acts of 1939, is hereby further  
4 amended by inserting after the word "ninety-three",  
5 in line eighteen, the words:— or a guaranty fund as  
6 provided in section ninety D, — so that said subdivi-  
7 sion (e) will read as follows:— (e) Any one or more  
8 of the fourth, fifth, sixth, seventh, eighth, ninth, tenth,  
9 twelfth and thirteenth clauses, if authorized to trans-  
10 act business under any one of said clauses, provided  
11 that before transacting business under any such ad-  
12 ditional clause, other than the fourth, it shall have  
13 net cash assets over all its liabilities, computed on the  
14 basis fixed by sections ten to twelve, inclusive, of not  
15 less than one hundred thousand dollars for each addi-  
16 tional clause, which net cash assets shall be main-  
17 tained as long as it transacts business under such

18 additional clause; and provided further, that before  
19 transacting business under the fourth clause, it shall  
20 have a fully paid-up guaranty capital as provided in  
21 section ninety B or a guaranty fund as provided in  
22 section ninety C, and net cash assets, so computed,  
23 exclusive of said capital or fund, of not less than one  
24 hundred thousand dollars, and that before transacting  
25 business under subdivision (b) of the sixth clause, it  
26 shall have a fully paid-up guaranty capital as provided  
27 in section ninety-three or a guaranty fund as provided  
28 in section ninety D, in addition to the net cash assets  
29 hereinbefore required for transacting business under  
30 the sixth clause. Any mutual company transacting  
31 business under this clause may accumulate and main-  
32 tain the net cash assets required hereunder in addition  
33 to the amount permitted by section eighty. The  
34 provision of section twenty-one that a mutual boiler  
35 company may insure in a single risk an amount not  
36 exceeding one fourth of its net assets shall not apply  
37 to any mutual company transacting business under  
38 this clause.

1 SECTION 7. Section 93D of said chapter 175, as  
2 most recently amended by section 6 of chapter 488 of  
3 the acts of 1939, is hereby further amended by insert-  
4 ing after the word "ninety-three" in line sixteen, the  
5 words:— or whose guaranty fund established under  
6 section ninety D,— and by inserting after "C" in  
7 line twenty-three the words:—, ninety D,— so as  
8 to read as follows:— *Section 93D.* No domestic  
9 mutual company transacting business under clause  
10 three, five, six, seven, eight, nine, ten, twelve or  
11 thirteen of section forty-seven, or under clause (b),  
12 (c) or (d) of section forty-eight A, whose amount of

13 insurance in force or premiums or number of risks on  
14 its books become at any time from any cause less than  
15 the amounts or number required by section ninety A,  
16 ninety-two, ninety-three, ninety-three A or ninety-  
17 three B, and no mutual company transacting business  
18 under the fourth clause of section forty-seven whose  
19 guaranty capital required by section ninety B or  
20 whose guaranty fund established under section  
21 ninety C is impaired on the basis fixed by sections  
22 ten to twelve, inclusive, and no mutual company  
23 transacting business under subdivision (b) of the sixth  
24 clause of section forty-seven whose guaranty capital  
25 required by section ninety-three or whose guaranty  
26 fund established under section ninety D is so im-  
27 paired, shall make any further insurance until it has  
28 secured applications for policies which shall restore  
29 the amount of insurance or premiums or number of  
30 risks to the amounts and number required by said  
31 section ninety A, ninety-two, ninety-three, ninety-  
32 three A and ninety-three B, nor until such guaranty  
33 capital or guaranty fund is restored to the amount  
34 required by said section ninety B, ninety C, ninety D  
35 or ninety-three, nor until such company in any case  
36 has obtained a certificate as provided in section  
37 seventy-four.

1 SECTION 8. Section 1 of said chapter 175, as  
2 amended, is hereby further amended by inserting  
3 after the word "fund" in the eleventh line of the  
4 paragraph defining "Net assets", as appearing in the  
5 Tercentenary Edition, the words: — or special con-  
6 tingent surplus, — so that said paragraph will read  
7 as follows: — "Net assets", the funds of a company  
8 available for the payment of its obligations in the



9 commonwealth, including, in the case of a mutual fire  
10 company, its deposit notes or other contingent funds,  
11 and, in the case of a mutual marine company its sub-  
12 scription fund and premium notes absolutely due, and  
13 also including uncollected and deferred premiums not  
14 more than three months due, or in the case of business  
15 originating outside the North American continent,  
16 Hawaii, Puerto Rico, Cuba and the West Indies not  
17 more than six months due, on policies actually in  
18 force, after deducting from such funds all unpaid losses  
19 and claims, and claims for losses, and all other debts  
20 and liabilities inclusive of net value of policies and ex-  
21 clusive of capital, guaranty capital or guaranty fund  
22 or special contingent surplus, if any.

1 SECTION 9. Section 5 of said chapter 175, as most  
2 recently amended by section 2 of chapter 107 of the  
3 acts of 1933, is hereby further amended by inserting  
4 after the word "fund", in lines thirteen and fifteen,  
5 the words: — or special contingent surplus, — so that  
6 the first sentence will read as follows: — If the com-  
7 missioner is satisfied, upon examination or other  
8 evidence submitted to him, that any foreign company  
9 is insolvent or is in an unsound financial condition, or  
10 that its business policies or methods are unsound or  
11 improper, or that its condition or management is such  
12 as to render its further transaction of business haz-  
13 ardous to the public or its policyholders, or that it is  
14 transacting business fraudulently, or that its officers  
15 or agents have refused to submit to an examination  
16 under section four or to perform any legal obligation  
17 relative thereto or that the amount of its funds, net  
18 cash or contingent assets is deficient or that its capital  
19 stock or deposit or guaranty capital or guaranty fund

20 or special contingent surplus is impaired, as set forth  
21 in section twenty-three A, or that such capital stock,  
22 deposit or guaranty capital or guaranty fund or special  
23 contingent surplus has been reduced below the amount  
24 required by section one hundred and fifty-one, he shall  
25 revoke the license issued to said company under sec-  
26 tion one hundred and fifty-one and the licenses issued  
27 to all of its agents under this chapter; or, if he is  
28 satisfied, as aforesaid, that any foreign company has  
29 violated any provision of law or has failed to comply  
30 with its charter, he may revoke such licenses or sus-  
31 pend them for a period not exceeding the unexpired  
32 terms thereof.



