

HOUSE No. 1128

By Mr. Rawson of Newton, petition of James F. Qualter for legislation relative to rates for workmen's compensation insurance. Labor and Industries.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO RATES FOR WORKMEN'S COMPENSATION INSURANCE.

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. Section 52 of chapter 152 of the Gen-
2 eral Laws, as appearing in the Tercentenary Edition,
3 is hereby amended by inserting in the seventh line
4 thereof, after the word "insurance", the words:—
5 or, if it is a member of or subscriber to a rating or
6 ganization licensed under section fifty-two C, author-
7 ize such rating organization to file with the commis-
8 sioner of insurance on its behalf, — so as to read as
9 follows:— *Section 52.* Any insurance company au-
10 thorized to transact business in this commonwealth
11 under subdivision (b) or (e) of the sixth clause of sec-
12 tion forty-seven of chapter one hundred and seventy-
13 five may, except as provided in clause (c) of section
14 fifty-four of said chapter, insure the payment of the
15 compensation provided for by this chapter, and when

16 any such company insures the payment of such com-
17 pensation it shall file with the commissioner of in-
18 surance or, if it is a member of or subscriber to a
19 rating organization licensed under section fifty-two C,
20 authorize such rating organization to file with the
21 commissioner of insurance on its behalf its classifica-
22 tions of risks and premiums relating thereto and subse-
23 quent proposed classifications or premiums, which
24 shall not take effect until approved by the commis-
25 sioner of insurance as adequate and reasonable for the
26 risks to which they respectively apply; provided,
27 that upon petition of the company or of any other
28 party aggrieved the opinion of the commissioner shall
29 be subject to review by the supreme judicial court.
30 The commissioner may withdraw his approval.

1 SECTION 2. Said chapter 152 is hereby further
2 amended by inserting after section 52B the following
3 new section: —

4 *Section 52C.* (a) A corporation, an unincorporated
5 association, a partnership or an individual, whether
6 located within or outside this state, may make appli-
7 cation to the commissioner of insurance for license as
8 a rating organization and shall file therewith (1) a
9 copy of its constitution, its articles of agreement or
10 association or its certificate of incorporation, and of
11 its by-laws, rules and regulations governing the con-
12 duct of its business, (2) a list of its members and sub-
13 scribers, (3) the name and address of a resident of
14 this state upon whom notices or orders of the com-
15 missioner of insurance or process affecting such rating
16 organization may be served and (4) a statement of its
17 qualifications as a rating organization. If the com-
18 missioner of insurance finds that the applicant is

19 competent, trustworthy and otherwise qualified to act
20 as a rating organization and that its constitution,
21 articles of agreement or association or certificate of
22 incorporation, and its by-laws, rules and regulations
23 governing the conduct of its business conform to the
24 requirements of law, he shall issue a license authoriz-
25 ing it to act as a rating organization. Every such ap-
26 plication shall be granted or denied in whole or in
27 part by the commissioner of insurance within sixty
28 days of the date of its filing with him. Licenses
29 issued pursuant to this section shall remain in effect
30 for three years unless sooner suspended or revoked
31 by the commissioner of insurance. The fee for said
32 license shall be twenty-five dollars. Licenses issued
33 pursuant to this section may be suspended or revoked
34 by the commissioner of insurance, after hearing upon
35 notice, in the event the rating organization ceases to
36 meet the requirements of this subsection. Every
37 rating organization shall notify the commissioner of
38 insurance promptly of every change in (1) its consti-
39 tution, its articles of agreement or association or its
40 certificate of incorporation, and its by-laws, rules and
41 regulations governing the conduct of its business,
42 (2) its list of members and subscribers and (3) the
43 name and address of the resident of this state desig-
44 nated by it upon whom notices or orders of the com-
45 missioner of insurance or process affecting such rating
46 organization may be served.

47 (b) Subject to the rules and regulations which have
48 been approved by the commissioner of insurance as
49 reasonable, each rating organization shall permit any
50 insurer, not a member, to be a subscriber to its rating
51 services. Notice of proposed changes in such rules
52 and regulations shall be given to subscribers. Each

53 rating organization shall furnish its rating services
54 without discrimination to its members and sub-
55 sscribers. The reasonableness of any rule or regula-
56 tion in its application to subscribers, or the refusal
57 of any rating organization to admit an insurer as a
58 subscriber, shall at the request of any subscriber or
59 any such insurer, be reviewed by the commissioner
60 of insurance at a hearing held upon at least ten days'
61 written notice to such rating organization and to
62 such subscriber or insurer. If the commissioner of
63 insurance finds that such rule or regulation is un-
64 reasonable in its application to subscribers, he shall
65 order that such rule or regulation shall not be ap-
66 plicable to subscribers. If the rating organization
67 fails to grant or reject an insurer's application for
68 subscribership within thirty days after it was made,
69 the insurer may request a review by the commissioner
70 of insurance as if the application had been rejected.
71 If the commissioner of insurance finds that the in-
72 surer has been refused admittance to the rating or-
73 ganization as a subscriber without justification, he
74 shall order the rating organization to admit the
75 insurer as a subscriber. If he finds that the action
76 of the rating organization was justified, he shall
77 make an order affirming its action.

78 (c) No rating organization shall adopt any rule
79 the effect of which would be to prohibit or regulate
80 the payment of dividends, savings or unabsorbed
81 premium deposits allowed or returned by insurers to
82 their policyholders, members or subscribers.

83 (d) Co-operation among rating organizations or
84 among rating organizations and insurers in rate
85 making or in other matters within the scope of this
86 act is hereby authorized, provided the filings result-

87 ing from such co-operation are subject to all the pro-
88 visions of this act which are applicable to filings
89 generally. The commissioner of insurance may re-
90 view such co-operative activities and practices and
91 if, after a hearing, he finds that any such activity
92 or practice is unfair or unreasonable or otherwise
93 inconsistent with the provisions of this act, he may
94 issue a written order specifying in what respects such
95 activity or practice is unfair or unreasonable or
96 otherwise inconsistent with the provisions of this act,
97 and requiring the discontinuance of such activity or
98 practice.

99 (e) The commissioner of insurance shall, at least
100 once in five years, make or cause to be made an ex-
101 amination of each rating organization licensed in
102 this state as provided in this section. The reasonable
103 costs of any such examination shall be paid by the
104 rating organization examined upon presentation to
105 it of a detailed account of such costs. The officers,
106 manager, agents and employees of such rating or-
107 ganization may be examined at any time under oath
108 and shall exhibit all books, records, accounts, docu-
109 ments or agreements governing its method of opera-
110 tion. In lieu of any such examination the commis-
111 sioner of insurance may accept the report of an ex-
112 amination made by the insurance supervisory official
113 of another state, pursuant to the laws of such state.

114 (f) All rates shall be made in accordance with the
115 following provisions:— (1) Due consideration shall
116 be given to past and prospective loss experience
117 within and outside this state, to catastrophe hazards,
118 if any, to a reasonable margin for underwriting profit
119 and contingencies, to dividends, savings or unab-
120 sorbed premium deposits allowed or returned by in-

121 surers to their policyholders, members or subscribers,
122 to past and prospective expenses both countrywide
123 and those specially applicable to this state, and to
124 all other relevant factors within and outside this
125 state; (2) The systems of expense provisions in-
126 cluded in the rates for use by any insurer or group of
127 insurers may differ from those of other insurers or
128 groups of insurers to reflect the requirements of the
129 operating methods of any such insurer or group of
130 insurers.

