To accompany the petition of Richard H. Lee for legislation to provide that the owners of motor vehicles registered in Massachusetts shall be co-insurers of a portion of the insurance required by law. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Four.

AN ACT PROVIDING THAT THE OWNERS OF MOTOR VEHICLES REGISTERED IN MASSACHUSETTS SHALL BE CO-INSURERS OF A PORTION OF THE INSURANCE REQUIRED BY LAW.

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

1 Chapter 175 of the General Laws is hereby amended by inserting after section 113H the following section 113I:

Section 113I. The motor vehicle liability policy defined in section thirty-four A of chapter ninety and regulated in accordance with sections one hundred and thirteen A, B, C, D, E, F, G, and H above shall further provide that the assured motor vehicle owner is a co-insurer to the extent of twenty-five per cent of the liability on all claims, not exceeding one thousand dollars arising from any one accident and on the first one thousand dollars of claims exceeding that amount, and shall further be co-insurer to the extent of five per cent on the excess over one thousand dollars of any liability arising out of any one accident resulting in injury to or death of one or more persons.

Upon the entry of judgment in any court of appropriate jurisdiction, in a cause of action covered by
such policy of insurance, the insurer shall have the primary obligation of making payment to the plaintiff of the entire amount covered under the maximum policy limit, and the said insurer shall then be subrogated to the right of the plaintiff to collect from the assured motor vehicle owner the amount which he is required to pay as co-insurer under this section, and if the said assured fails to reimburse the insurer within sixty days after written demand, mailed postage prepaid to the address furnished by said assured, or delivered in hand; upon certification of the said failure to the registrar of motor vehicles, the registration of said insured shall be cancelled and shall not be reissued until he has satisfied the registrar of his full compliance with the provisions of this section.

The insurance commissioner, in fixing rates, may make allowance for bad debts anticipated from uncollectible reimbursements and may permit insurers to require advance deposits from applicants for insurance with poor credit rating.

In case the insurer, under a policy of compulsory insurance, desires to settle a claim arising under said policy out of court, without a formal adjudication thereof, upon terms which would bind the assured as co-insurer hereunder to make a contribution, it shall, prior to entering into final settlement, notify the insured of its intention to settle the said claim for not more than a stated sum of money (within the policy limits), and inform the said assured that if he insists upon proceeding to trial, he must within ten days tender to the insurer the amount of counsel and witness fees, which amount shall be estimated by the insurer and stated in the notice, or in the alternative, the assured must furnish counsel, experienced in the trial of tort cases, ready to defend the case without further expense to the insurer for counsel and witness fees. In the absence of such payment, or furnishing of counsel within said ten day period, the insurer shall be free to compromise and settle said claim or claims.
58 in accordance with its notice and to claim partial
59 reimbursement as above stated, and may do so at
60 any time upon written waiver of such notice signed
61 by the assured.
62 Nothing in this section shall be construed as for-
63 bidding both assured and insurer from being repre-
64 ssented by counsel at any trial of claims covered by
65 insurance under this section, nor shall any motor
66 vehicle owner be prohibited from voluntarily obtain-
67 ing in a separate clause or policy insurance covering
68 his liability as co-insurer hereunder.