

# HOUSE . . . . No. 964

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, February 6, 1928.

The committee on Bills in the Third Reading, to whom was referred the bill to permit insurance companies to issue policies of "Sprinkler, etc., Leakage Insurance" upon which they are severally liable and relative to certain policies of liability insurance (House, No. 153), report recommending that the same be amended by the substitution of the accompanying bill (House, No. 964).

For the committee,

THOMAS R. BATEMAN.

## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Twenty-Eight.

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An Act relative to the Issue by Two or More Fire Insurance Companies of Policies of Sprinkler Leakage Insurance, so called, upon Which They shall be severally liable and relative to Certain Policies of Liability 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. Chapter one hundred and seventy-  
2 five of the General Laws is hereby amended by in-  
3 serting after section one hundred and seventeen,  
4 under the heading "Sprinkler Leakage Insurance",  
5 the following new section:—

### SPRINKLER LEAKAGE INSURANCE.

6 *Section 117A.* Two or more stock or two or more  
7 mutual fire companies authorized to transact busi-  
8 ness under the eighth clause of section forty-seven  
9 may issue a single policy of insurance against loss or  
10 damage caused by any or all of the hazards specified  
11 in said eighth clause on property or interests in the  
12 commonwealth on which each company shall be  
13 severally liable for a specified percentage of any loss  
14 or claim. Such policy shall be executed by the  
15 duly authorized officers of each company subject to

16 the provisions of section thirty-three in the case of a  
17 domestic company.

18 No such policy shall be issued or delivered until a  
19 copy of the form thereof has been on file for thirty  
20 days with the commissioner, unless before the expira-  
21 tion of said thirty days he shall approve the form of  
22 the policy in writing; nor if the commissioner notifies  
23 the company in writing within thirty days that in his  
24 opinion the form of the policy does not comply with  
25 the laws of the commonwealth, specifying his reasons  
26 therefor, provided, that such action of the commis-  
27 sioner shall be subject to review by the supreme  
28 judicial court; nor unless it is headed by the corporate  
29 name of each company, nor unless it contains in  
30 substance the provisions numbered (1), (3), (4) and  
31 (5) in section one hundred and two A and a provision  
32 that any notice, sworn statement or proof of loss,  
33 which may be required by the provisions of said  
34 policy may be rendered, made or given to any one of  
35 such companies or to a duly authorized agent of any  
36 one of such companies, and that such notice, sworn  
37 statement or proof of loss so rendered, made or given  
38 shall be valid and binding as to all of such companies.

39 The provisions of sections seventy-six, eighty,  
40 eight-one, eighty-three and ninety-eight applicable  
41 to policies issued by mutual fire companies, persons  
42 insured under such policies and dividends and assess-  
43 ments thereunder shall apply to each policy issued  
44 under this section by mutual companies, to persons  
45 insured thereunder and to dividends and assessments  
46 thereunder, except as hereinafter provided.

47 The person insured under such a policy issued as  
48 aforesaid shall be deemed to be a member of each

49 such company while the policy is in force and entitled  
50 to one vote at the meetings of each company.

51 The notice, endorsement and statement required  
52 by said sections seventy-six, eighty and eighty-one,  
53 respectively, shall be in such form and in such place  
54 on the policy as the commissioner shall prescribe.

55 The dividend under said section eighty and the  
56 contingent mutual liability of the insured fixed by  
57 said sections eighty-one and eighty-three in respect  
58 to each such company shall be computed or based on  
59 such proportion of the total premium for the policy  
60 as the amount insured by such company bears to the  
61 full amount insured under the policy.

62 The notice to policyholders required by said sec-  
63 tion eighty shall be sent by each such company to  
64 the insured. The provisions of said section ninety-  
65 eight shall apply to the application, if any, of the  
66 insured to each such company and to their by-laws.

67 Nothing in this section shall be construed as affect-  
68 ing, except as provided herein, any provision of law  
69 relative to the rights, powers, duties and liabilities  
70 of mutual fire companies and persons insured thereby.

1 SECTION 2. Section eighteen of said chapter one  
2 hundred and seventy-five, as amended by section two  
3 of chapter two hundred and eighty-five of the acts of  
4 nineteen hundred and twenty-four and by section two  
5 of chapter one hundred and sixty-four of the acts of  
6 nineteen hundred and twenty-five, is hereby further  
7 amended by striking out the first paragraph and in-  
8 serting in place thereof the following: — *Section 18.*  
9 Every company shall conduct its business in the com-  
10 monwealth in its corporate name, and all policies and  
11 contracts, other than contracts of corporate surety-

12 ship, issued by it shall, except as provided in sections  
13 one hundred and two A, one hundred and eleven A and  
14 one hundred and seventeen A of this chapter and in  
15 section fifty-six of chapter one hundred and fifty-two,  
16 be headed or entitled only by such name.

1 SECTION 3. Section one hundred and eleven A of  
2 said chapter one hundred and seventy-five, inserted  
3 by section one of said chapter one hundred and sixty-  
4 four, is hereby amended by striking out provisions  
5 numbered (3) and (4) and inserting in place thereof  
6 the following: —

7 (3) The provisions numbered (3) and (5) in section  
8 one hundred and two A.

9 (4) The provision, in the case of a policy issued by  
10 a mutual company, numbered (4) in said section one  
11 hundred and two A.

12 Nothing in this section shall permit two or more  
13 companies to issue a single motor vehicle liability  
14 policy as defined in section thirty-four A of chapter  
15 ninety.

1 SECTION 4. Chapter two hundred and twenty-  
2 three of the General Laws is hereby amended by  
3 striking out section thirty-nine A, as inserted by sec-  
4 tion five of said chapter two hundred and eighty-five,  
5 and as amended by section three of said chapter one  
6 hundred and sixty-four, and inserting in place thereof  
7 the following: —

8 *Section 39A.* In an action against insurance com-  
9 panies severally liable upon a policy of insurance  
10 issued under section one hundred and two A, one hun-  
11 dred and eleven A or one hundred and seventeen A  
12 of chapter one hundred and seventy-five, or jointly

13 and severally liable upon a policy of insurance issued  
14 under said section one hundred and eleven A, or in a  
15 suit against insurance companies brought by a judg-  
16 ment creditor under section one hundred and thirteen  
17 of said chapter one hundred and seventy-five and  
18 clause ten of section three of chapter two hundred and  
19 fourteen under a policy of liability insurance issued  
20 under said section one hundred and eleven A, service  
21 upon any one of said companies shall be a valid and  
22 sufficient service upon all of such companies as are  
23 named in the process. Such service, if on a domestic  
24 company, shall be made in the manner provided in  
25 this chapter and, if on a foreign company, in the  
26 manner provided in section thirty-nine of this chapter,  
27 or in the third clause of section one hundred and fifty-  
28 one and section one hundred and fifty-four of said  
29 chapter one hundred and seventy-five.



