

# HOUSE . . . . No. 1042

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 2, 1928.

The committee on Insurance, to whom was referred so much of the recommendations of the Commissioner of Insurance (House, No. 152) as relates to preferring claims for losses against insolvent domestic insurance companies over certain other claims (accompanied by bill, House, No. 154), report the accompanying bill (House, No. 1042).

For the committee,

FRANK A. BRAINERD.

## The Commonwealth of Massachusetts

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

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An Act to prefer Claims for Losses against Certain Insolvent Domestic Insurance Companies over Claims for Return Premiums, to regulate the Termination of the Policies issued by Such Companies and to define the Rights of Policyholders in Such Companies to Return Premiums.

*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 forty-six of chapter one hun-  
2 dred and seventy-five of the General Laws is hereby  
3 amended by striking out said section and inserting in  
4 place thereof the following:—

5 *Section 46.* When any domestic company becomes  
6 insolvent, or is unable to pay in full its liabilities, as  
7 set forth in sections ten, eleven and twelve, claims for  
8 unpaid losses under its policies, other than life or en-  
9 dowment policies or annuity or pure endowment con-  
10 tracts, shall, in the distribution of its assets, whether  
11 liquidation is effected by a receiver or otherwise, be  
12 deemed and treated as preferred over claims for return  
13 premiums on cancelled or unexpired policies. Noth-  
14 ing in this section shall impair the obligation now or  
15 hereafter imposed by law upon the officers of a mutual  
16 company, other than a life company, to make assess-  
17 ments on its members to pay its incurred losses and  
18 expenses.

1 SECTION 2. Section six of said chapter one hun-  
2 dred and seventy-five, as amended by section three of  
3 chapter one hundred and fifty-four and by section one  
4 of chapter two hundred and sixty-seven, both of the  
5 acts of nineteen hundred and twenty-five, by section  
6 three of chapter one hundred and fourteen of the acts  
7 of nineteen hundred and twenty-six and by section  
8 three of chapter two hundred and eighty-four of the  
9 acts of nineteen hundred and twenty-seven, is hereby  
10 further amended by adding at the end thereof the  
11 following paragraph: —

12 The appointment of a permanent receiver or re-  
13 ceivers under this section shall terminate the liability  
14 of the company under all of its policies or contracts  
15 in force on the date of said appointment in respect to  
16 claims arising after thirty days from said date; pro-  
17 vided, however, that its liability under motor vehicle  
18 liability policies or bonds, both as defined in section  
19 thirty-four A of chapter ninety, which are in force on  
20 said date, shall terminate on and from the effective  
21 date of the new certificate, if any, filed under section  
22 thirty-four H of said chapter ninety, or, if no certifi-  
23 cate is filed as aforesaid, on and from the effective  
24 date of the revocation under said section thirty-four  
25 H of the registration of the motor vehicle or trailer  
26 covered by such policy or bond. The insured under  
27 any policy, other than a motor vehicle liability policy  
28 or bond, both defined as aforesaid, which is in force  
29 on the thirtieth day following the date of the appoint-  
30 ment of such receiver or receivers and which by its  
31 terms provides for a cancellation thereof either by  
32 the insured or the company, shall be entitled, subject  
33 to the provisions of section forty-six, to a return  
34 premium calculated on a pro rata basis as of the

35 thirtieth day following the date of said appointment,  
36 if he has paid the premium thereon to the company,  
37 or its agent who issued the policy or to the duly  
38 licensed insurance broker, if any, through whom the  
39 policy was negotiated; and the insured under a motor  
40 vehicle liability policy or the principal on a motor  
41 vehicle liability bond, defined as aforesaid, shall be  
42 entitled, subject to said section forty-six, if he has  
43 paid the premium thereon as aforesaid, to a return  
44 premium calculated on a pro rata basis as of the  
45 effective date of the new certificate, if any, filed by  
46 him under section thirty-four H of said chapter ninety,  
47 or, if no certificate is filed as aforesaid, as of the  
48 effective date of the revocation under said section  
49 thirty-four H of the registration of the motor vehicle  
50 or trailer covered by such policy or bond. Nothing  
51 in this section shall be construed in any case to con-  
52 tinue any policy or contract in force beyond its date  
53 of expiration, to prohibit a cancellation thereof by  
54 the insured or by the receiver in accordance with  
55 law and its terms during the said period of thirty  
56 days or prior to the filing of a new certificate as afore-  
57 said, or to affect the liability of a policyholder to pay  
58 to the receiver or receivers the full amount of the  
59 premium due on any policy or contract or the liability  
60 of a policyholder in a mutual company, other than a  
61 life company, to pay the full amount of any valid  
62 assessment levied on its policyholders.

1 SECTION 3. Section forty-six A of said chapter  
2 one hundred and seventy-five, inserted by chapter  
3 four hundred and seven of the acts of nineteen hun-  
4 dred and twenty-two, is hereby amended by striking

5 out said section and inserting in place thereof the  
6 following:—

7 *Section 46A.* When any domestic company which  
8 has insured the payment of the compensation pro-  
9 vided for by chapter one hundred and fifty-two be-  
10 comes insolvent, or is unable to pay in full its liabilities  
11 as set forth in sections ten and twelve, unpaid losses  
12 under its workmen's compensation policies shall, in  
13 the distribution of its assets, whether liquidation is  
14 effected by a receiver or otherwise, be deemed and  
15 treated as preferred over all claims except debts due  
16 the United States and debts or taxes due the com-  
17 monwealth or any city or town thereof.





