

HOUSE No. 95

Accompanying the sixth recommendation of the Commissioner of Insurance (House, No. 88). Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Three.

An Act relative to Guaranty Capital of Certain Domestic Mutual Insurance Companies.

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 seventy-nine of chapter one
2 hundred and seventy-five of the General Laws is
3 hereby amended by striking out said section and
4 inserting in place thereof the following:—*Section 79.*
5 A mutual fire company may be formed with, or an
6 existing mutual fire company may, by a two thirds
7 vote of its policyholders present and voting at a
8 meeting duly called for that purpose, establish a
9 guaranty capital of not less than twenty-five thou-
10 sand nor more than two hundred thousand dollars,
11 divided into shares of a par value of one hundred
12 dollars each, to be invested as provided by this chap-
13 ter for the investment of the capital stock of domes-
14 tic stock companies. Any such company may at any
15 time by a like vote, and with the written approval
16 of the commissioner, increase said guaranty capital

17 to an amount not exceeding two hundred thousand
18 dollars. The stockholders of the guaranty capital
19 shall be entitled to a semi-annual dividend of not
20 more than three and one half per cent on their re-
21 spective shares if the net profits or unused premiums,
22 left after all expenses, losses and liabilities then in-
23 curred, with the reserve for reinsurance, are pro-
24 vided for, shall be sufficient to pay the same. Share-
25 holders and members of such companies shall, except
26 as otherwise provided herein, be subject to the same
27 provisions of law relative to their right to vote as
28 apply respectively to shareholders in stock companies
29 and policyholders in mutual fire companies. The
30 guaranty capital shall be applied to the payment of
31 losses only when the company has exhausted its
32 assets, exclusive of uncollected premiums; and when
33 thus impaired, the directors may make good the
34 whole or any part of it by assessments upon the
35 contingent funds of the company at the date of such
36 impairment. Such guaranty capital shall be retired
37 by the directors of the company at par when the
38 profits accumulated under section eighty equal two
39 per cent of its insurance in force, and may be re-
40 duced or retired by a vote of two thirds of its policy-
41 holders present and voting at a meeting duly called
42 for that purpose, and the written assent of the com-
43 missioner, if the net assets of the company above its
44 reinsurance reserve and all other claims and obliga-
45 tions, exclusive of guaranty capital, for two years last
46 preceding and including the date of its last annual
47 statement under section twenty-five, shall be not
48 less than twenty-five per cent of the guaranty cap-
49 ital. Due notice of any action under this section on
50 the part of the company shall be mailed to each

51 policyholder of the company not less than thirty
52 days before the meeting when such action may be
53 taken, and shall also be advertised in two papers of
54 general circulation, approved by the commissioner,
55 not less than three times a week for a period of not
56 less than four weeks before said meeting. No com-
57 pany with a guaranty capital which has ceased to
58 do new business shall retire such capital or pay any
59 dividends thereon, except from income from its in-
60 vestments, until it shall have performed or cancelled
61 its obligations, and upon such retirement, or in the
62 case of the liquidation of such a company having a
63 guaranty capital, the holders thereof shall not be en-
64 titled to share in the distribution of its funds except
65 to the amount of the par value of their shares and
66 dividends previously declared and payable thereon.

1 SECTION 2. Section ninety B of said chapter one
2 hundred and seventy-five, inserted by section seven
3 of chapter two hundred and sixty-seven of the acts
4 of nineteen hundred and twenty-five, is hereby
5 amended by striking out said section and inserting
6 in place thereof the following:—*Section 90B.* No
7 policy shall be issued by a mutual company formed
8 to transact business under the fourth clause of sec-
9 tion forty-seven until it has established a fully paidup
10 guaranty capital of not less than two hundred
11 thousand dollars nor more than five hundred thou-
12 sand dollars which shall be subject to the provisions
13 of section seventy-nine, except as hereinafter and in
14 section ninety-three D provided. Any such com-
15 pany may, subject to all of the provisions of section
16 seventy-nine relative to the increase of the guaranty
17 capital of a domestic mutual fire company, increase

18 said guaranty capital to an amount not exceeding
19 five hundred thousand dollars. Such guaranty cap-
20 ital shall be maintained while the company transacts
21 business under said clause and the provisions of said
22 section seventy-nine relative to the retirement of
23 the guaranty capital of a mutual fire company shall
24 not apply thereto.

25 The principal on any bond or obligation executed
26 by a mutual company as surety shall be deemed the
27 member of the company under sections seventy-six,
28 seventy-nine, eighty, eighty-one, eighty-three to
29 eighty-five, inclusive, and ninety.