HOUSE . . . . . No. 1 9 2 0

By Mr. Gaudette of New Bedford, petition of Robert H. Quinn (Attorney General) and Donald R. Gaudette relative to restricting the right of insurance companies to cancel or to refuse to issue automobile insurance policies and establishing a plan of re-insurance among said companies. Insurance.

The Commonwealth of Massachusetts

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

AN ACT RESTRICTING THE RIGHT OF INSURANCE COMPANIES TO CANCEL OR TO REFUSE TO ISSUE AUTOMOBILE INSURANCE POLICIES AND ESTABLISHING A PLAN OF RE-INSURANCE AMONG THE COMPANIES.

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

SECTION 1. Chapter 175 of the General Laws is hereby amended by striking out section 113E and substituting the following new section: –

Section 113E. No insurance company shall refuse for any reason to issue or execute as surety a motor vehicle liability policy or bond, as defined in section thirty-four A of chapter ninety, to any person applying in good faith for such policy or bond on a form prescribed by the insurance commissioner. Except that no insurance company shall be required to issue such policy or execute such bond if (1) the applicant or any person who usually drives the motor vehicle fails to meet all obligations to pay any insurance company any motor vehicle insurance premiums due or contracted during the immediately preceding twelve months; or (2) any person who usually drives the motor vehicle does not hold or is not eligible to obtain an operator's license.

An insurance company, its agent or any broker may require a deposit premium before issuance of the policy or excution of the bond; however the per vehicle deposit shall not exceed fifteen percent of the annual premium or the full short term prem um

for the insurance requested, whichever is less, with respect to any applicant who has not been in default in the payment of any premium for automobile insurance during the immediately preceding twenty-four months.

No insurance company however shall be required to issue or execute as surety a motor vehicle liability policy or bond as follows: (1) for types of insurance not covered by its license or which it does not customarily write; (2) for classifications of vehicles not covered by its license or which it does not voluntarily insure; (3) for types of vehicles which the insurance company is not qualified to service; or (4) for more than four vehicles from the same applicant except an applicant subject to the requirements of a state or federal administrative authority regulating motor carriers of passengers or property.

SECTION 2. Said chapter 175 is hereby further amended by striking the first paragraph of section 22C and inserting the following in place thereof: –

No company shall issue any policy of insurance which provides property protection insurance, as defined in section thirty four O of chapter ninety, or coverage against loss or damage to, or loss of the use of motor vehicles resulting from collision, fire, lightning, larceny, pilferage, theft, malicious mischief, vandalism, or other perils usually insured against; or which provides personal injury protection; or which insures any person against legal liability for loss or damage on account of the bodily injury or death of any other person or on account of any damages to property of another, arising out of the ownership, maintenance, control or use of a motor vehicle, including motor vehicle liability policies, as defined in section thirty four A of chapter ninety, unless said policy contains a provision that, except with respect to a notice of cancellation issued by the company to take effect within the first ninety days of the policy period for failure of the applicant to complete and furnish the insurance company a renewal application at least thirty days before the expiration of the previous policy period, it shall be non-cancellable by the company, except for non-payment of premiums, fraud or a material misrepresentation in the application for insurance or renewal thereof, or unless the operator's license or motor vehicle registration of the named insured under the policy has been under suspension or revocation during the policy period.

SECTION 3. Said chapter 175 is hereby further amended by striking section 22E and inserting the following new section: –

Section 22E. Every policy of insurance issued by an insurance company which provides property protection insurance, as defined in section thirty four O of chapter ninety, or coverage against loss or damage to, or loss of the use of, a motor vehicle resulting from collision, fire, lightning, larceny, pilferage, theft, malicious mischief, vandalism or other perils usually insured against; or which provides personal injury protection; or which insures any person against legal liability for loss or damage on account of the bodily injury or death of any other person or on account of any damages to property of another, arising out of the ownership, maintenance, control or use of a motor vehicle, including motor vehicle liability policies, as defined in section thirty four A of chapter ninety shall be renewed at the option of the policyholder provided the company is licensed to write such policies in the commonwealth, except for non-payment of premiums, fraud or a material misrepresentation in the application for insurance or renewal thereof, or unless the operator's license or motor vehicle registration of the named insured or of any other operator who usually operates a motor vehicle insured under the policy has been under suspension or revocation during the policy period. No insurance company, or officer or agent thereof, shall refuse to issue, renew or execute as surety a motor vehicle liability policy or bond, or any other insurance based on the ownership or operation of a motor vehicle because of age, sex, race, occupation or principal place of garaging of the vehicle. Any company which is authorized not to issue a renewal policy because of the exceptions contained in this section shall give written notice of its intention not to issue a policy for the ensuing policy period in accordance with the provisions of section one hundred and thirteen F.

SECTION 4. Sections 22F and 22G of chapter 175 of the General Laws are hereby repealed.

SECTION 5. Chapter 175 of the General Laws is hereby amended by striking out sections 113H and 113I and substituting the following two sections: –

4 *Section 113H.* Insurance companies which issue motor
5 vehicle liability policies or bonds, as defined in section
6 thirty-four A of chapter ninety, shall cooperate in the prepara-
7 tion and submission of a plan for the fair and equitable
8 apportionment among such insurance companies of losses and
9 expenses incurred under policies issued to applicants which said
10 companies choose to re-insure with such a plan.
11 Such plan shall be prepared and administered by a governing
12 committee of five members representing and elected by insurance
13 companies participating in the plan and three members appointed
14 by the commissioner from associations of Massachusetts insur-
15 ance procedures. Not more than one insurer in a group under the
16 same management shall serve on the committee at the same time.
17 Such plan shall be filed with the commissioner, who shall
18 conduct a public hearing within thirty days to determine whether
19 such plan meets the requirements of this section. At such hearing
20 insurance companies and any other party having a direct interest
21 shall have an opportunity to be heard. Such plan shall be deemed
22 to meet the requirements of this section if it is not disapproved
23 in writing by the commissioner within thirty days after the
24 public hearing.
25 Amendments to such plan shall be prepared and filed in the
26 same manner as herein provided with respect to the original plan.
27 A filing of such amendments shall be deemed to meet the
28 requirements of this section if they are not disapproved in
29 writing by the commissioner within thirty days from the date of
30 filing. Prior to the disapproval of any such amendments the
31 commissioner shall issue a notice specifying in what respects the
32 amendments do not meet the requirements of this section and
33 fixing a date for a public hearing at which insurance companies
34 and any other party having a direct interest shall have an
35 opportunity to be heard.
36 When such plan or amendments thereto have been approved or
37 promulgated, no insurer shall thereafter issue a motor vehicle
38 liability policy or bond, unless such insurer shall participate in
39 such an approved or promulgated plan. Any insurer and any
40 other party affected may appeal to the commissioner from any
41 ruling or decision with reference to the operation of such a plan.
42 Such a plan shall provide reasonable rules governing the fair
43 and equitable distribution of expenses and losses by reinsurance

44 or otherwise. The rules for such plan shall require that separate
45 statistical data be recorded for risks re-insured in the plan and
46 shall provide incentives and penalties to prevent abuse of such
47 plan. The rules for such plan shall also include a provision
48 authorizing the commissioner, after due hearing and investiga-
49 tion, to assign to any company he finds using practices which
50 have the effect of distributing expenses and losses of risks
51 re-insured in the plan unfairly and inequitably on other
52 companies or agents or brokers a share of the expenses and losses
53 of said risks to insure a fair and equitable distribution.
54 Any insurer or group of insurers participating in such plan and
55 any other person aggrieved may petition the commissioner
56 alleging unfair, unreasonable or improper practices by any
57 insurer. The commissioner shall conduct a hearing on such
58 petition and shall issue such orders as he deems appropriate.
59 Any ruling, order or decision of the commissioner under
60 authority of this section shall be subject to review by appeal to
61 the superior court for the county of Suffolk.
62 *Section 113I.* Nothing in this chapter shall be construed to
63 abridge or restrict the freedom of contract between insurers and
64 agents or brokers. Nor to require an insurer to issue policies in
65 any way other than through its ordinary and usual methods of
66 marketing. This section shall not be construed to restrict the
67 application of section one hundred and sixty-three.