

# HOUSE . . . . No. 1580

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## The Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, April 4, 1924.

The committee on Bills in the Third Reading, to whom was referred the Bill to permit fire insurance companies to issue a single policy of insurance on which they are severally liable (House, No. 165), report recommending that the same be amended by the substitution of the accompanying bill.

For the committee,

PRINCE H. TIRRELL.

## The Commonwealth of Massachusetts.

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

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An Act permitting Fire Insurance Companies to Issue a Single Policy of Insurance on which They are Severally Liable.

*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-five of  
2 the General Laws is hereby amended by inserting after  
3 section one hundred and two the two following new  
4 sections:—

5 *Section 102A.* Two or more stock or two or more  
6 mutual fire companies may issue a single policy of insur-  
7 ance against loss or damage by fire, or by fire and light-  
8 ning, on property or interests in the commonwealth on  
9 which each company shall be severally liable for a speci-  
10 fied percentage of any loss or claim. Such policy shall  
11 be executed by the duly authorized officers of each com-  
12 pany, subject to the provisions of section thirty-three  
13 in the case of a domestic company.

14 No such policy shall be issued or delivered until a  
15 copy of the form thereof has been on file for thirty days  
16 with the commissioner, unless before the expiration of  
17 said thirty days he shall have approved the form of the  
18 policy in writing; nor if the commissioner notifies the  
19 company in writing within said thirty days that in his  
20 opinion the form of the policy does not comply with the  
21 laws of the commonwealth, specifying his reasons there-

22 for, provided, that such action of the commissioner shall  
23 be subject to review by the supreme judicial court; nor  
24 unless it is headed by the corporate name of each com-  
25 pany; nor unless it contains in substance the provisions  
26 of the seventh and eighth clauses of section ninety-nine  
27 and is, except as hereinafter provided, in the standard  
28 form prescribed by said section; provided, that said pro-  
29 visions and said standard form may be modified as to  
30 form and arrangement but only in such manner as the  
31 commissioner may prescribe; nor unless it contains in  
32 substance:—

33 (1) A provision plainly specifying the percentage of any  
34 loss or claim for which each such company shall be liable.

35 (2) A provision that the sworn statement required by  
36 said standard form, the written request by the insured for  
37 a reference under section one hundred or the notice of any  
38 claim authorized by section one hundred and two may  
39 be rendered, made or given to any one of such companies  
40 or, in the case of said notice, to the agent of any one of  
41 such companies, and that such statement, request or  
42 notice so rendered, made or given shall be valid and  
43 binding as to all of such companies.

44 (3) A provision that, in any action or suit under the  
45 policy, service of process may be made on any one of  
46 such companies and that such service shall be deemed  
47 valid and binding service upon all of such companies.

48 (4) A provision, in the case of a policy issued by mu-  
49 tual companies, that the contingent mutual liability of  
50 the insured to each such company shall be based on such  
51 proportion of the total premium as the amount insured  
52 by each such company bears to the total amount insured  
53 under the policy.

54 (5) A provision that upon cancellation by any com-  
55 pany of its liability under the policy the return premium,

56 if any, to be paid or tendered to the insured shall be  
57 based on such proportion of the total premium stated in  
58 the policy as the amount insured by the cancelling com-  
59 pany bears to the total amount insured under the policy.

60 The said provisions shall be printed in or on the policy  
61 under the caption:— "*Provisions Specially Applicable to*  
62 *this Combination Policy*" or such other distinctive cap-  
63 tion as the commissioner may prescribe.

64 Such policies shall be subject to the first to sixth, in-  
65 clusive, and ninth clauses, of said section ninety-nine,  
66 except as otherwise provided herein and except that there  
67 may be printed on or in said policies or on the filing back  
68 thereof such device or devices and such distinctive title  
69 of the policy as the commissioner may approve, together  
70 with the names, locations, dates of incorporation, plan of  
71 operation, the amounts of the paid-up capital stock in  
72 case of stock companies, and the names of the officers  
73 and agents of each such company.

74 *Section 102B.* The provisions of sections seventy-six,  
75 eighty, eighty-one, eighth-three, ninety-six, ninety-eight,  
76 one hundred, one hundred and one and one hundred and  
77 two shall apply to policies issued under section one hun-  
78 dred and two A, and to reference proceedings and to  
79 claims thereunder except as hereinafter provided.

80 The person insured under such a policy issued by  
81 mutual companies shall be deemed to be a member of  
82 each company while the policy is in force and entitled  
83 to one vote at the meetings of each company.

84 The notice, endorsement and statement required by  
85 said sections seventy-six, eighty and eighty-one, respec-  
86 tively, shall be in such form and in such place on the  
87 policy as the commissioner may prescribe.

88 The dividends under said section eighty, the contingent  
89 mutual liability of the insured fixed by said sections



90 eighty-one and eighty-three and the liability of each  
91 company for the proportionate excess mentioned in said  
92 section ninety-six shall be computed or based on such  
93 proportion of the total premium for the policy as the  
94 amount insured by such company bears to the total  
95 amount insured under the policy.

96 The notice to policyholders required by said section  
97 eighty shall be sent by each such company to the insured.  
98 The provisions of section ninety-eight shall apply to the  
99 application, if any, of the insured to each such company  
100 and to their by-laws.

101 The written request by the insured for a reference  
102 under said section one hundred, the written notice of a  
103 claim authorized by said section one hundred and two  
104 or the sworn statement upon the written demand by a  
105 company as provided in said section one hundred and  
106 two may be made or given to any one of such com-  
107 panies or, in the case of said notice, to the agent of  
108 any one of such companies, and such request, notice  
109 or statement so made or given shall be deemed valid  
110 and sufficient as to all such companies. The request  
111 for a sworn statement under said section one hundred  
112 and two may be made by any such company, and such  
113 request shall be deemed a sufficient request upon the  
114 insured as to all of such companies. All such com-  
115 panies shall, upon the written request under section one  
116 hundred being made to any one of such companies,  
117 join in the reference proceeding and shall jointly exer-  
118 cise the powers and perform the duties imposed upon a  
119 company by said section.

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

1 SECTION 2. Section eighteen of said chapter one  
2 hundred and seventy-five is hereby amended by insert-  
3 ing after the word "in" in the fourth line the words:—  
4 section one hundred and two A of this chapter and in,  
5 — so that the first paragraph will read as follows:—  
6 *Section 18.* Every company shall conduct its business  
7 in the commonwealth in its corporate name, and all  
8 policies and contracts, other than contracts of corporate  
9 suretyship, issued by it, shall, except as provided in  
10 section one hundred and two A of this chapter and in  
11 section fifty-six of chapter one hundred and fifty-two,  
12 be headed or entitled only by such name.

1 SECTION 3. Section ninety-nine of said chapter one  
2 hundred and seventy-five, as amended by chapter one  
3 hundred and thirty-seven of the acts of nineteen hun-  
4 dred and twenty-three, is hereby further amended by  
5 inserting after the word "except", in the third line, the  
6 words:— as provided in section one hundred and two  
7 A and except, — so that the first paragraph will read  
8 as follows:— *Section 99.* No fire company shall issue  
9 fire insurance policies on property or interests in the  
10 commonwealth, other than those of the standard form  
11 herein set forth, except as provided in section one hun-  
12 dred and two A and except as follows:

1 SECTION 4. Section one hundred and ninety-two of  
2 said chapter one hundred and seventy-five is hereby  
3 amended by inserting after the word "thereunder"  
4 in the ninth line, the words:— , and riders or endorse-  
5 ments used under the ninth clause of section ninety-  
6 nine in connection with policies of fire insurance issued  
7 under section one hundred and two A, — so as to read  
8 as follows:— *Section 192.* All provisions of law relative

9 to the filing of policy forms with, and the approval of  
10 such forms by, the commissioner shall also apply to all  
11 forms of riders, endorsements and applications designed  
12 to be attached to such policy forms and when so at-  
13 tached to constitute a part of the contract; provided,  
14 that riders or endorsements used at the request of  
15 individual policy holders in connection with policies of  
16 life or endowment insurance relative to the distribution  
17 of benefits payable under their policies or to the reser-  
18 vation of rights or benefits thereunder, and riders or  
19 endorsements used under the ninth clause of section  
20 ninety-nine in connection with policies of fire insurance  
21 issued under section one hundred and two A, may be  
22 used, so far as consistent with law, without such ap-  
23 proval.

1 SECTION 5. Chapter two hundred and twenty-three  
2 of the General Laws is hereby amended by inserting  
3 after section thirty-nine the following new section:—  
4 *Section 39A.* In an action against insurance companies  
5 severally liable upon a policy of insurance issued under  
6 section one hundred and two A of chapter one hundred  
7 and seventy-five, service upon any one of such com-  
8 panies shall be a valid and sufficient service upon all of  
9 such companies, if all such companies are named in the  
10 writ. Such service, if on a domestic company, shall be  
11 made in the manner provided by this chapter and, if  
12 on a foreign company, in the manner prescribed by  
13 section thirty-nine, or by the third clause of section one  
14 hundred and fifty-one and section one hundred and  
15 fifty-four of chapter one hundred and seventy-five.

