

By Mr. Flaherty of Boston, petition of Michael F. Flaherty relative to remedies for certain unfair insurance practices. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-One.

AN ACT RELATIVE TO REMEDIES FOR CERTAIN UNFAIR INSURANCE PRACTICES.

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

1 Chapter 176D of the General Laws is hereby amended by insert-
2 ing after section 11 the following section: —

3 *Section 11A.* (1) Any person injured or damaged by a claim
4 settlement practice declared unfair by clause (9) of section three
5 may bring an action in superior court for damages and such
6 equitable relief, including an injunction, as the court deems to be
7 necessary and proper.

8 (2) Any person entitled to bring such action may, if the use or
9 employment of the unfair claim settlement practice has caused
10 similar injury to numerous other persons similarly situated and if
11 the court finds in a preliminary hearing that he adequately and
12 fairly represents such other persons, bring the action on behalf of
13 himself and such other similarly injured and situated persons; the
14 court shall require that notice of such action be given to unnamed
15 petitions in the most effective practicable manner. Such action
16 shall not be dismissed, settled or compromised without the approv-
17 al of the court, and notice of any proposed dismissal, settlement or
18 compromise shall be given to all members of the class of petitions
19 in such manner as the court directs.

20 (3) At least thirty days prior to the filing of any such action a
21 written demand for relief, identifying the claimant and reasonably
22 describing the unfair claim settlement practice relied upon and
23 injury or damaged suffered, shall be mailed or delivered to any
24 prospective respondent.

25 (4) If the court finds in any action commenced hereunder that
 26 there has been a violation of clause (9) of section three, the petition-
 27 er shall, in addition to other relief provided by this section and
 28 irrespective of the amount in controversy, be awarded reasonable
 29 attorney's fees and costs incurred in connection with said action.