

By Mr. Fagan of Taunton, petition of James H. Fagan and Robert S. Creedon, Jr., for legislation to further regulate fraud in claims on life, accident and health insurance policies issued in the Commonwealth. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO DISCOURAGE FRAUD.

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 124 of chapter 175 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking in line 2 the words "without previous medical examina-
4 tion or."

1 SECTION 2. Section 186 of chapter 175 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 adding at the end thereof, the following paragraph:—

4 Notwithstanding the provisions of sections one hundred and
5 eight and one hundred and thirty-two of this chapter, no company
6 shall be barred by the passage of any period of time from
7 asserting as a defense to a claim under any insurance policy, or as
8 grounds for rescission, that the statements contained in the life or
9 accident or sickness insurance policy application, or any reinstatement
10 application, were fraudulent and made with actual intent to
11 deceive and gain coverage that the applicant or insured would not
12 otherwise have qualified for. Said defense to a claim under this
13 paragraph must be pertinent to said policy; and, provided further,
14 that inadvertent mistakes made by an insured in the negotiation of
15 a policy of insurance as set out in this paragraph shall not constitute
16 fraud. Any such action for rescission hereunder must be
17 brought within three years of the time that the insurer discovered
18 or reasonably should have discovered the fraud by the applicant.

1 SECTION 3. This act shall apply to all life and accident and
2 health policies hereafter delivered or issued for delivery in the
3 Commonwealth, any contract provision notwithstanding, and to
4 any policy of life or accident and health insurance that has not
5 become incontestable by its terms prior to the effective date of
6 this act.