

SENATE....No. 66.

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Commonwealth of Massachusetts.

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IN SENATE, Feb. 9, 1835.

*Ordered*, That the Committee on the Judiciary consider the expediency of providing by a general statute for the regulation of all Mutual Fire Insurance Companies, which may be hereafter incorporated, or whose charters may be renewed.

Attest.

CHARLES CALHOUN, *Clerk*.



## Commonwealth of Massachusetts.

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IN SENATE, Feb. 28, 1835.

The Committee on the Judiciary, to whom was referred an order of the Senate, to enquire into the expediency of a general law regulating Mutual Insurance Companies, have considered the same, and respectfully report the accompanying bill.

Per Order.

GEORGE BLISS.



Commonwealth of Massachusetts.

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In the Year of our Lord One Thousand Eight Hundred  
and Thirty-Five.

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AN ACT

To regulate Mutual Fire Insurance Companies.

1 SEC. 1. **BE** it enacted by the Senate and House  
2 of Representatives, in General Court assembled, and  
3 by the authority of the same, That all Mutual Fire  
4 Insurance Companies, which shall hereafter be in-  
5 corporated, or whose charters shall be extended,  
6 shall be governed by the provisions of this act.

1 SEC. 2. *Be it further enacted*, That the said In-  
2 surance Companies shall be entitled to all the pow-  
3 ers and privileges contained in the statute of the  
4 year one thousand eight hundred and thirty-three,  
5 chapter eighty-three.

1 SEC. 3. *Be it further enacted*, That every such  
2 Corporation shall annually elect not less than five  
3 Directors, who at the time of their election shall be

4 citizens of the Commonwealth, and after the first  
5 election, members of the Corporation, and who shall  
6 manage and conduct all the affairs, and business of  
7 the Corporation; and all elections shall be by ballot,  
8 and in the manner prescribed by the bye-laws, and  
9 absent members may vote by proxy. *Provided*, That  
10 no one member shall be allowed more than five votes.

1 SEC. 4. *Be it further enacted*, That the Directors  
2 shall meet as soon as may be after their election,  
3 and choose one of their number to be President, and  
4 they shall also choose a Secretary and Treasurer;  
5 and the Treasurer shall give bond in such sum, as  
6 the Directors shall order. The Secretary shall be  
7 sworn to the faithful discharge of his duty, and he  
8 shall keep a true record of all votes of the Corpora-  
9 tion and of the Directors, and of all policies, paid  
10 by the Corporation, and of all assignments of such  
11 policies consented to by them. And the record of  
12 said policies and assignments shall be open to the  
13 inspection of any person interest therein, all the offi-  
14 cers shall hold their offices until others are chosen,  
15 and all vacancies may be filled by a special election  
16 in the manner prescribed for annual elections.

1 SEC. 5. *Be it further enacted*, That when the  
2 sum of fifty thousand dollars shall be subscribed, to  
3 be insured by any such Corporation, they may insure  
4 for a term not exceeding seven years, upon any  
5 building within this Commonwealth, any amount not  
6 exceeding three-fourth of the value thereof. And all  
7 policies of insurance by them made, shall be subscrib-  
8 ed by the President, or in case of his death, inability  
9 or absence, by any two of the Directors, and counter-  
10 signed by the Secretary, and shall be binding upon

11 the Corporation, and have the same effect as if un-  
12 der their corporate seal.

1 SEC. 6. *Be it further enacted*, That every person  
2 who shall be insured by said Corporation, shall be a  
3 member thereof so long as he shall be thus insured.

1 SEC. 7. *Be it further enacted*, That the funds of  
2 every such Corporation shall be invested in stocks, or  
3 loaned on security, as the Directors may order, and  
4 shall be appropriated, first, to pay their expenses,  
5 and then to pay the damages which any member may  
6 be entitled to recover on his policy. And if any  
7 member shall have a just claim upon said Corpora-  
8 tion, founded upon a policy issued by them, exceed-  
9 ing the amount of their then existing funds, exclusive  
10 of deposit notes given by the members, the Directors  
11 shall forthwith assess such sum as may be necessary to  
12 pay the same, upon the members, in proportion to the  
13 amount of their premiums and deposits severally, for  
14 seven years, but not to exceed double the amount of  
15 such premiums and deposits.

1 SEC. 8. *Be it further enacted*, That whenever  
2 sufficient goods or estate of any such Corporation  
3 cannot be found, to satisfy any execution issued  
4 against them, founded upon a judgment on any policy  
5 issued by them, and the said Corporation have suffi-  
6 cient goods or estate to satisfy the same, and the Di-  
7 rectors shall neglect or refuse to pay the said execu-  
8 tion; or if the Directors shall refuse or neglect for  
9 thirty days after the rendition of such judgment to  
10 make such an assessment as they may be authorized  
11 to make therefor, and to deliver the same to the  
12 Treasurer, and direct him to collect the same; or if,  
13 when the said assessment is collected, the Directors

14 shall refuse or neglect to apply the same upon said  
15 execution, then and in either case the Directors shall  
16 be personally liable for the full amount of said exe-  
17 cution.

1 SEC. 9. *Be it further enacted*, That whenever the  
2 Directors of any such Corporation shall commit to the  
3 Treasurer any assessment made by them upon the  
4 members, with directions to collect the same, and the  
5 Treasurer shall unreasonably refuse or neglect to col-  
6 lect the same, and to apply the proceeds to the claim  
7 for which said assessment was made, he shall be lia-  
8 ble, in his private capacity, for the aggregate amount  
9 of said assessment to the person entitled thereto, who  
10 may maintain an action against him therefor. And  
11 the Treasurer shall have authority to retain to his  
12 own use any sum or sums which he may pay in con-  
13 sequence thereof, out of any monies by him received  
14 to the use of the Corporation.

1 SEC. 10. *Be it further enacted*, That whenever the  
2 Directors shall be liable by the provisions of this act,  
3 to pay any execution against any such Corporation,  
4 an action of debt against any or all of them, may be  
5 sued by the creditor in such execution, the declara-  
6 tion in which action shall state the claim against the  
7 Corporation, and the ground on which the plaintiff  
8 expects to charge the defendants personally, or the  
9 liability of the said Directors, or of any of them, may  
10 be ascertained and enforced by proceedings in chan-  
11 cery in the Supreme Judicial Court. And any Direc-  
12 tor who may voluntarily, or by compulsion, pay any  
13 execution against the Corporation for which he is  
14 personally liable, shall have a remedy by bill in chan-  
15 cery before said court, for a contribution against any

16 other Director or Directors, for his or their due pro-  
17 portion thereof. And the Directors shall also have a  
18 remedy by action at law, or a bill in chancery against  
19 the Corporation for the money so paid by them.

1 SEC. 11. *Be it further enacted*, That each policy  
2 issued by any such Corporation shall of itself, and  
3 without any other ceremony, create a lien on the in-  
4 terest of the person insured, in any building thereby  
5 insured, and in the land under the same, for the secu-  
6 rity and payment of any sums for which he may be  
7 liable to be assessed, in consequence of taking or  
8 holding said policy: *provided*, the extent of such lia-  
9 bility, and the intent of the Corporation to rely upon  
10 such lien, shall be set forth in the policy; and that such  
11 lien shall cease, upon the expiration of the policy, or  
12 upon the alienation of the estate to a *bona fide* pur-  
13 chaser, unless the policy shall be continued in force  
14 by consent of the purchaser, notwithstanding such  
15 alienation. And if it shall become necessary to re-  
16 sort to such lien for the payment of any deposit note  
17 or any assessment secured by such lien, the Treasu-  
18 rer shall demand payment thereof from the assured,  
19 or his legal representatives, and also from any tenant  
20 in possession of the insured premises, setting forth in  
21 writing the sum so due; and in case the same is not  
22 paid, the Corporation may maintain an action there-  
23 for, and may levy any execution issued in such action,  
24 upon the estate subject to the lien. And the officer  
25 making the levy may sell the whole or any part  
26 thereof at auction, and shall apply the proceeds of  
27 such sale, in the same manner as is required by law,  
28 in the sale upon execution of equities of redemption  
29 of mortgaged premises; and the owner shall have the

30 same right to redeem the same as is provided in case  
31 of such sales of equities of redemption.

1 SEC. 12. *Be it further enacted*, That each mem-  
2 ber of any such Corporation shall, at the expiration of  
3 his policy, have a right to demand and receive from  
4 them his share of the funds then remaining, after pay-  
5 ing all expenses and losses then incurred, in propor-  
6 tion to the sum or sums by him actually paid in con-  
7 sequence of said policy.

1 SEC. 13. *Be it further enacted*, That all such Cor-  
2 porations shall be liable to be taxed by any general  
3 law taxing similar institutions; and the Directors  
4 thereof shall, when required by the Legislature, lay  
5 before them, or any Committee appointed by them,  
6 a statement of their affairs and business, and submit  
7 to an examination concerning the same, under oath.

Mr. Shattuck moves to amend the foregoing Bill, by inserting between the 7th and 8th Sections, the following Sections, to wit.

1 *Be it further enacted*, That in case of any loss or  
2 damage by fire, happening to any member, upon  
3 property insured, the said member shall give notice  
4 in writing to some one of the Directors or to the Sec-  
5 retary of the Company where said property has been  
6 insured, within thirty days from the time when such  
7 loss happened, and the Directors shall ascertain and  
8 determine the amount of such loss, or damage ; and  
9 if the party suffering be not satisfied with the deter-  
10 mination of the Directors, the question may be sub-  
11 mitted to referees, or said party may bring an action  
12 against the Company for said loss, at any court com-  
13 petent to try the same ; and if upon trial of said  
14 action, a greater sum shall be recovered, than the  
15 amount determined upon by the Directors, the party  
16 suffering shall have judgment therefor against said  
17 Company with interest thereon, from the time said  
18 loss happened, with cost of suit ; but if no more shall  
19 be recovered than the amount aforesaid, the said  
20 Company shall recover costs. *Provided*, That exe-  
21 cution shall not issue on any judgment against said  
22 Company, until after the expiration of ninety days  
23 from the rendition thereof. And the Directors shall  
24 settle and pay all losses within ninety days after the  
25 time they shall be notified, as aforesaid, unless they  
26 shall judge it proper within that time to repair the

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27 building damaged, which they are authorised to do in  
28 a reasonable time.

1 *Be it further enacted*, That when any building or  
2 other property shall be alienated by sale or other-  
3 wise, the policy shall thereupon be void, and be sur-  
4 rendered to the Company to be cancelled, and upon  
5 such surrender, the assured shall be entitled to re-  
6 ceive his deposit note, upon the payment of his pro-  
7 portion of all losses and expenses which have accru-  
8 ed prior to such surrender. *Provided*, The grantee  
9 or alienee, having the policy assigned to him, may  
10 have the same ratified and confirmed, within thirty  
11 days after such assignment, upon his giving security  
12 to the satisfaction of the Directors for such proportion  
13 of the deposit note as shall remain unpaid.