

By Mr. DiMasi of Boston, petition of Salvatore F. DiMasi relative to prohibiting discrimination in insurance policies issued or renewed after September first, nineteen hundred and eighty-eight. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT PROHIBITING DISCRIMINATION IN INSURANCE POLICIES ISSUED OR RENEWED AFTER SEPTEMBER FIRST, NINETEEN HUNDRED AND EIGHTY-EIGHT.

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 175 of the General Laws as appearing
2 in the 1988 Official Edition is hereby amended by striking Section
3 24A and inserting in place the following new section: —

4 Section 24A.

5 (a) Definitions:

6 (1) As used in this section, "insurer" shall mean: any company
7 as defined in section one of chapter one hundred and seventy-five;
8 any fraternal benefit society as defined in section one of chapter
9 one hundred and seventy-six; any hospital service corporation as
10 defined in section one of chapter one hundred and seventy-six A;
11 any medical service corporation as defined in section one of
12 chapter one hundred and seventy-six B; any medical service plan
13 as defined in section one of chapter one hundred and seventy-
14 six C; any dental service corporation as defined in section one of
15 chapter one hundred and seventy-six E; any optometric service
16 corporation as defined in section one of chapter one hundred and
17 seventy-six F; any health maintenance organization as defined in
18 section one of chapter one hundred and seventy-six G; any insured
19 legal services plan as defined in section one of chapter one hundred
20 and seventy-six H; and any savings and insurance bank as defined
21 in section one of chapter one hundred and seventy-eight.

22 (2) As used in this section, "policy" shall mean any insurance
23 contract, policy or plan.

24 (3) As used in this section, “joined insurance/savings plan”
25 shall mean any policy explicitly comprised of a separate
26 investment or savings component and a mortality or morbidity
27 component.

28 (4) Except as provided in (5) below, as used in this section, a
29 policy shall be considered to be “renewed by agreement” when
30 the premiums under an existing policy are subject to change, either
31 by the insurer or by the insured, by an amount not predetermined
32 by the policy, whether or not the change provides an opportunity
33 for the insurer to refuse to continue coverage.

34 (5) As used in this section, any joined insurance/savings plan
35 shall be considered to be “renewed by agreement” when the
36 schedule of charges for the mortality or morbidity component of
37 the plan changes, whether or not the overall premium for the
38 joined insurance/savings plan changes.

39 (6) As used in this section, sex includes, but is not limited to,
40 conditions unique to one sex, such as pregnancy.

41 (b) Prohibited Practices:

42 (1) No policy subject to this section shall be based on or use
43 any table (whether for mortality, life expectancy, disability,
44 disability termination or losses) or any other statistical
45 compilation as a basis for any action which classifies residents of
46 the Commonwealth into separate classes on the basis of race,
47 color, religion, sex, marital status or national origin.

48 (2) No policy subject to this section shall, on the basis of race,
49 color, religion, sex, marital status or national origin, treat any
50 covered person or any applicant for coverage, who is a resident
51 of the Commonwealth, differently than it treats or would treat
52 any other covered person or applicant for coverage, who is a
53 resident of the Commonwealth, with respect to the availability,
54 terms, conditions, rates, benefits or requirements of any such
55 policy delivered or issued for delivery within or without the
56 Commonwealth which covers one or more residents of the
57 Commonwealth.

58 (3) No policy subject to this section shall charge or collect
59 premium payments or contributions from residents of the
60 Commonwealth which become due after the effective date of this
61 section or determine the amount of or pay to any insured or other
62 beneficiary under an insurance, annuity or pension contract any

63 periodic or lump sum payment after the effective date of this
64 section which violate any provision of this section; and

65 (4) An insurer subject to this section may modify the premium
66 and contribution rates and may increase but not refund any
67 portion of the premiums and contributions which were payable
68 to the insurer prior to the effective date of this section or pay any
69 additional amounts for the benefits which were payable by the
70 insurer prior to the effective date of this section.

71 (c) Scope and Effective Date:

72 (1) This section shall apply to any policy offered by an insurer
73 which covers one or more residents of the Commonwealth and
74 which is issued or renewed by agreement within or without the
75 Commonwealth, on or after September 1, 1988.

76 (2) This section shall apply to all changes made on or after
77 September 1, 1988 by an insurer in payments, in the amount of
78 insurance coverage, in premiums or in benefits under existing
79 insurance policies, the dollar amount of which is not calculable
80 from the terms of the original insurance policy.

81 (3) This section shall apply on September 1, 1991 to any group
82 policy existing on September 1, 1988 which has not been renewed
83 by agreement prior to September 1, 1991.

84 (4) Nothing in this section shall be construed to prohibit the
85 use of any blended table approved pursuant to 211 C.M.R. 32.00.

86 (5) Nothing in this section shall be construed to prohibit an
87 insurer from issuing family policies.

88 (6) Nothing in this section shall be deemed to prevent an insurer
89 which regularly provides insurance coverage solely to persons of
90 a single religious affiliation from continuing to provide insurance
91 solely to persons of that religious affiliation.

1 SECTION 2. Paragraph (c) of subdivision six of section one
2 hundred and forty-four of the General Laws as appearing in the
3 1988 Official Edition is hereby amended by adding at the end
4 thereof the following sentence: — To the extent computations
5 made pursuant to this subdivision six would violate section
6 twenty-four A, computations shall be made on the basis of
7 mortality tables referred to in subdivision six A(h)(b).

1 SECTION 3. Subparagraph (6) of paragraph (h) of subdivi-
2 sion six A of section one hundred and forty-four of the General

3 Laws as so appearing is hereby amended in lines two hundred and
4 ninety-six and two-hundred and ninety-seven by striking the
5 words "Any ordinary mortality tables, adopted after 1980 by the
6 National Association of Insurance Commissioners" and inserting
7 in place thereof the following: — Other mortality tables to be used
8 for the purpose of implementing section twenty-four A.