

Substituted by the House, on motion of Mr. Dever of Arlington, for a bill with the same title (House, No. 5703). June 21.

The Commonwealth of Massachusetts

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

AN ACT PROTECTING BUYERS OF INSURANCE FROM THE EFFECTS OF THE CANCELLATION, TERMINATION AND OTHER MODIFICATIONS OF THE AUTHORITY OF INSURANCE AGENTS.

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 163 of chapter 175 of the General Laws is hereby
2 amended by adding the following four paragraphs: —

3 No company shall cancel the authority of any independent
4 insurance agent for fire or casualty insurance, or both, if said
5 agent is not an employee of said company and no company shall
6 modify a contract with such an agent unless the company gives
7 written notice of its intent to cancel such an agent or its intent to
8 modify such a contract at least ninety days before the proposed
9 effective date of any such cancellation or modification. No
10 company shall allow the license of any such agent to expire
11 unless the company gives written notice of its intent to do so at
12 least ninety days before the proposed effective date of any such
13 expiration. Except as otherwise provided herein, any agent
14 receiving any notice required by the preceding two sentences
15 may, within fifteen days after receipt thereof, make a written
16 demand for reference to three referees of the question as to
17 whether or not such cancellation, modification or expiration will
18 so affect the renewal, continuation or replacement of any
19 policies placed with the company through the efforts of the
20 agent, or the services needed by any policyholder doing business
21 with the company as a result of the efforts of the agent, as to
22 justify renewal or continuation of any policies expiring within six

29 months of the issuance of any such notice at fair compensation
30 for one additional policy period equal in length to the most
31 recent policy period of any such expiring policy, but in no event
32 for more than one additional year.

33 Any agent making a written demand for reference as aforesaid
34 shall accompany said written demand with the names and
35 addresses of three persons, the company shall within fifteen days
36 thereof notify the agent of its choice of one of the said persons
37 to act as one of the referees and at the same time submit the
38 names and addresses of three persons to the agent, who shall
39 within fifteen days after receiving such names, notify the
40 company in writing of his choice of one of such persons to act as
41 a second of the three references. The commissioner shall be
42 notified by the agent that both the company and the agent have
43 chosen referees, such notice to the commissioner to be in a form
44 prescribed by him and given at the same time the agent notifies
45 the company of his choice of a second referee, and the
46 commissioner shall, within ten days thereof, appoint a third
47 person to serve as the third referee, notifying such person and the
48 agent and company in writing of such appointment. Every person
49 nominated, specified or appointed as a referee shall be disinter-
50 ested, a resident of the commonwealth and willing to act as
51 referee. They shall meet within ten working days of the
52 appointment of the third referee, who shall serve as chairman,
53 hear the evidence, reduce their decision to writing and execute it
54 in triplicate with one copy delivered to the agent, one to the
55 company and the third to the commissioner.

56 Any insurance company and any insurance agent may by
57 written contract between them modify the provisions of the
58 preceding two paragraphs, other than the requirement of a 90
59 day notice, by provisions presented to and approved by the
60 commissioner which he finds after due hearing and investigation
61 will adequately protect both the right of a policyholder to a
62 continuance of insurance and the services of any agent of his own
63 choosing and the right of an agent to fair compensation for the
64 insurance placed with a company as a result of his efforts. The
65 commissioner may make reasonable rules of general application
66 regarding such provisions to achieve the aforementioned pur-
67 poses.

68 The decision of the referees may provide for the renewal or
69 continuance of any or all policies expiring as aforesaid and/or for
70 continuance of previous contractual provisions if they, or a
71 majority of them, find such a decision will best protect the right
72 of a policyholder to a continuance of insurance and the services
73 of an agent of his own choosing and the right of any agent to
74 compensation for the insurance placed with a company as a
75 result of his efforts giving due consideration to the possibility the
76 affected agent has of obtaining similar coverage for policyholders
77 affected from other companies at reasonable compensation. The
78 decisions rendered in accordance with the provisions of this
79 section providing for reference shall be binding on all companies
80 and agents affected thereby. If such a decision orders the renewal
81 or continuance of any policies, policyholders and the affected
82 practices as were in effect prior to reference in so far as amounts
83 and types of coverage, credit terms and agency services are
84 concerned. The referees, or a majority of them, shall fix a fair
85 compensation for the agent affected whenever they order such a
86 renewal or continuance of policies.

87 All policies expiring within 6 months of the notice may be
88 renewed as aforesaid but no agent or company relying on this
89 section shall again refer the same issue to referees upon the
90 expiration of such policies and no order for continuance shall
91 remain effective for more than one additional policy period or
92 for one year whichever is less for each policy affected thereby.
93 Where however other provisions of the general laws require
94 notice to policyholders before non-renewal of any coverages, the
95 company shall at the request of the agent who is unable to
96 replace any such policy comply with those provisions of law.

