

HOUSE No. 88.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, February 18, 1876.

The Committee on Insurance, to whom was referred the petition of Ezra Farnsworth, Emory Washburn and others, to be incorporated as a fidelity assurance company, report the accompanying Bill.

For the Committee,

JOSEPH F. PAUL.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-Six.

AN ACT

To incorporate the Fidelity Assurance Company.

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

1 SECT. 1. Ezra Farnsworth, Emory Washburn,
2 J. Gardner White, Henry W. Paine, J. Baxter
3 Upham, Charles J. Whitmore, Edward S. Tobey,
4 Samuel H. Gregory, Frank Goodwin, Samuel B.
5 Rindge, George S. Hale, John Gardner, Francis
6 A. Osborn, William S. Eaton, James P. Melledge,
7 Robert E. Apthorp, William I. Parker, John S.
8 Blatchford and Samuel Batchelder, Junior, their
9 associates and successors, are made a corporation
10 by the name of the Fidelity Assurance Company
11 of Massachusetts, for the purpose hereinafter set
12 forth, to have its place of business in the city of
13 Boston, and to be subject to the provisions of all
14 general laws which now are or hereafter may be
15 in force in relation to such corporations.

1 SECT. 2. The capital stock of said company
2 shall be three hundred thousand dollars, and may
3 be increased to five hundred thousand dollars,
4 by a vote of the stockholders.

1 SECT. 3. The said company is hereby author-
2 ized and empowered to act as surety upon the
3 official bond of any person to the United States, to
4 any state, county, city or town, to any judge of
5 probate, to any corporation or association, public
6 or private. Also to indemnify against loss any
7 person or persons who are responsible as surety or
8 sureties upon a written instrument, or otherwise,
9 for the faithful performance, by others, of any
10 trust, office or duty. And in any case where by
11 law or otherwise two sureties are required upon
12 any obligation which this company is hereby au-
13 thorized to insure, this company may act as sole
14 surety, if so accepted and approved as sole surety
15 by the court or magistrate named as the obligee
16 in the bond. And any judge of probate, upon the
17 settlement of any probate account of any one who
18 may be called to render the same in any matter
19 pending before him, may allow any reasonable sum
20 which said accountant may have paid by way of
21 premium to said company for becoming surety
22 on the probate bond of such accountant.

1 SECT. 4. The said company may stipulate and
2 provide for indemnifying itself against loss occa-
3 sioned by the acts or omissions of any person or
4 persons for whom it shall become responsible, and
5 may enforce any contract, pledge or other secu-
6 rity made or given for that purpose. And for that

7 purpose the said company may also act as the
8 agent or attorney of any such person or persons,
9 with all the powers and privileges, and subject to
10 all the duties and liabilities of the person or per-
11 sons in whose behalf it shall act as aforesaid.

1 SECT. 5. The amount of the responsibility
2 incurred by said company, in behalf of any one
3 person, partnership or company, shall not exceed
4 the amount of ten per cent. upon its paid-in capi-
5 tal; and in the case of bonds filed in any probate
6 or other court of this Commonwealth, shall not
7 exceed on any one bond fifty per cent. of the
8 amount of the net assets of the company. It
9 shall be competent for any judge of probate, to
10 whom or to whose predecessor in office the said
11 company may have become bound in surety in a
12 probate bond, upon the application of said com-
13 pany, to discharge them from liability as such
14 surety on account of any default of the principal
15 in such bond arising after the granting of such
16 discharge, provided good cause for such discharge
17 can be shown by the said company, and provided
18 they shall have been bound by such surety for the
19 period of five years; and the said judge may
20 require new surety or sureties in said bond, to be
21 given as the court shall judge sufficient, as pro-
22 vided in the General Statutes, chapter one hun-
23 dred and one and section sixteen.

1 SECT. 6. After deducting from the earnings of
2 said company (no part of the premiums received
3 from risks not terminated being considered earn-
4 ings), and from the income of its invested funds,

5 such an amount as shall have been required
6 for the costs of management, and for such divi-
7 dends, not exceeding eight per cent. per annum
8 on the capital stock, as the directors may determine
9 upon, the residue shall be annually set apart for
10 the purpose of constituting a reserved fund for
11 the payment of losses, until the said reserved fund
12 shall equal the amount of the capital stock paid in;
13 and in case the reserved fund shall ever be im-
14 paired, it shall be made up to the full amount in
15 the manner originally provided; and the said cap-
16 ital stock shall in no case be impaired or dimin-
17 ished, until said reserved fund shall have been
18 exhausted: *provided*, that whenever the said
19 reserved fund shall equal the amount of the capital
20 stock paid in, the earnings of the company over
21 and above the dividends and the contributions
22 required to keep the reserved fund entire may
23 thereafter be divided among the stockholders in
24 the same manner as is provided for joint stock
25 insurance companies; and *provided, also*, that in
26 closing up the affairs of the said company, the
27 amount then standing to the credit of the said
28 reserved fund shall be divided among the stock-
29 holders in proportion to their respective shares.

1 SECT. 7. The said company shall make all such
2 returns as are now or may be required by law of
3 other like corporations; and shall be subject to all
4 the provisions of law regarding insurance compa-
5 nies having a specific capital, so far as applicable
6 to this company. And in case doubts may arise
7 what are "like corporations," or what are the pro-
8 visions of law "applicable to this company" within

9 the meaning of this section, it is hereby enacted
10 and declared that the decision of the tax commis-
11 sioner, the savings bank commissioner and insur-
12 ance commissioner, or of the major part of them,
13 shall determine such doubts; and the said com-
14 pany shall pay such taxes as may be prescribed
15 by the tax commissioner, who shall be governed
16 by the standard of the highest taxes imposed upon
17 any corporation having analogous powers or pur-
18 poses.

1 SECT. 8. The books of said company shall be
2 open to the inspection of the insurance commis-
3 sioner and of the tax commissioner of the Com-
4 monwealth; also to the inspection of stockholders
5 subject to such limitations as may be prescribed
6 by the by-laws of the company. Every stock-
7 holder shall be furnished with a copy of the char-
8 ter and by-laws of the company.

1 SECT. 9. This act shall take effect upon its
2 passage.