

**HOUSE . . . . . No. 939**

By Mr. Fagan of Taunton, petition of James H. Fagan relative to preventing fraud in life and accident and health insurance policies issued in the Commonwealth. Financial Services.

**The Commonwealth of Massachusetts**

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO PREVENTING 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 186 of chapter 175 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by adding  
3 at the end thereof, the following paragraph:—

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

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