

# HOUSE . . . . . No. 1099

By Mr. Spellane of Worcester, petition of Robert P. Spellane and Harriett L. Stanley relative to the credit system applicable to homeowners insurance and the Massachusetts Property Insurance Underwriting Association. Financial Services.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE CREDIT SYSTEM APPLICABLE TO HOMEOWNERS INSURANCE AND THE MASSACHUSETTS PROPERTY INSURANCE UNDERWRITING ASSOCIATION.

*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 4 of Chapter 175C of the General Laws, as appearing in  
2 the 2002 Official Edition, is hereby amended by striking the entire  
3 section and inserting in place thereof the following:—

4 Section 4. (a) All insurers licensed to write and engaged in  
5 writing in this Commonwealth, on a direct basis, basic property  
6 insurance or any component thereof in multi-peril policies, shall  
7 cooperate in organizing a joint underwriting association which shall  
8 provide basic property insurance to eligible applicants who are oth-  
9 erwise unable to obtain such coverage in the voluntary market.  
10 Every such insurer shall be a member of the association and remain  
11 a member as a condition of its authority to transact such insurance  
12 within the Commonwealth.

13 (b) Such association shall be authorized to inspect properties,  
14 issue policies, collect premiums and accept payment in installments  
15 under plans approved by the commissioner consistent with plans  
16 offered by voluntary market insurers, adjust claims and pay losses  
17 on behalf of its members, employ officers, agents and other  
18 employees, enter into contracts, sue and be sued in its own name and  
19 take all other actions necessary or appropriate to carry out its func-  
20 tions hereunder.

21 (c) The association shall submit to the commissioner a proposed  
22 plan of operation, consistent with the purposes of this chapter, to

23 provide for the prompt and efficient provision of basic property  
24 insurance to eligible applicants who meet reasonable underwriting  
25 standards and are otherwise unable to obtain coverage from insurers  
26 in the voluntary market. Such plan of operation shall provide for  
27 economical, fair and nondiscriminatory administration including, but  
28 not limited to, provisions for preliminary assessment of all members  
29 for initial expenses necessary to commence operations, establish-  
30 ment of necessary facilities, management of the association, assess-  
31 ment of members to defray losses and expenses, commissions,  
32 reasonable underwriting standards and limits of liability, purchase of  
33 reinsurance and procedures for determining amounts of insurance to  
34 be provided.

35 (d) The plan of operation shall be subject to approval by the com-  
36 missioner and shall take effect ten days after having been approved  
37 by him. If the commissioner disapproves the proposed plan of opera-  
38 tion, the association shall, within thirty days, submit for review an  
39 appropriately revised plan of operation and, if the association fails to  
40 submit such a plan or if the revised plan is also disapproved by the  
41 commissioner, the commissioner shall promulgate a plan of opera-  
42 tion consistent with this section. The association may, on its own ini-  
43 tiative or at the request of the commissioner, amend the plan of  
44 operation, subject to approval by the commissioner.

45 (e) (1) All members of the association shall participate in its  
46 writing, expenses, profits and losses in the proportion that the pre-  
47 miums written by each such member for basic property insurance, as  
48 defined in section one, except premiums for insurance on automobile  
49 and manufacturing risks excluded from the plan and that portion of  
50 the premiums attributable to the operation of the association during  
51 the preceding calendar year, bear to the aggregate premiums for such  
52 insurance written in the commonwealth by all members of the asso-  
53 ciation. Such participation by each insurer in the association shall be  
54 determined annually on the basis of such premiums written during  
55 the preceding calendar years as disclosed in the annual statements  
56 and other reports filed by the insurer with the commissioner.

57 (2) The participation of each member of the association writing  
58 personal lines coverage shall be adjusted based on the homeowners  
59 premiums written by such a member in any credit-eligible zip code,  
60 as defined by the plan of operation of the association and subject to

61 the approval of the commissioner, in accordance with the following  
62 clauses:—

63 (i) The participation ratio of each member writing personal lines  
64 insurance shall be recalculated, in accordance with the procedures  
65 set forth in subparagraph (1) but subtracting the premium written by  
66 members of the association writing only commercial lines insurance  
67 from the aggregate premiums written in the commonwealth by all  
68 members of the association.

69 (ii) The participation ratio of each member writing personal lines  
70 insurance as recalculated in clause (i) shall be a) multiplied by the  
71 sum of the total premium written by the association in the common-  
72 wealth and the total industry homeowners premium written in credit-  
73 eligible zip codes, as defined by the plan of operation of the  
74 association, in the year of an association loss or b) shall be multi-  
75 plied by the total premium written by the association in the Com-  
76 monwealth less the total industry homeowners premium written in  
77 credit-eligible zip codes in the year of an association profit.

78 (iii) In determining the total industry homeowners premium  
79 written in credit-eligible zip codes, as defined by the plan of opera-  
80 tion of the association, premium written in all credit-eligible zip  
81 codes shall be considered.

82 (iv) The product of the multiplication described in clause (ii) of  
83 this subsection shall be a) reduced by subtracting there from the  
84 homeowners premium written by each member in any credit-eligible  
85 zip code, as defined by the plan of operation of the association, in  
86 the year of an association loss or b) shall be increased by adding  
87 thereto the homeowners premium written by each member in any  
88 credit-eligible zip code in the year of an association profit.

89 (v) The result of the calculation described in clause (iv) shall be  
90 divided by the total premium written by the association in the com-  
91 monwealth. The resulting ratio shall be the adjusted participation  
92 ratio for the member.

93 (vi) The adjusted participation ratio of those members whose par-  
94 ticipation ratio is calculated as provided in this subparagraph shall  
95 apply to that portion of the writings, expenses, profits and losses of  
96 the association not recovered by applying the participation ratios of  
97 the remaining members of the association as calculated, as provided  
98 in subparagraph (1).

99 (3) The participation of any member of the association writing  
100 personal lines insurance shall be further adjusted if such member has  
101 written homeowners insurance during the preceding calendar year,  
102 hereafter called the “base year”, on property that was insured by the  
103 association in the year immediately preceding such base year and  
104 which is located in any coastal zip code, as determined by the asso-  
105 ciation subject to the approval of the commissioner, in which the rate  
106 of increase in the market share of the association has exceeded sixty  
107 percent in the base year and in the preceding calendar year. The par-  
108 ticipation of such a member shall be adjusted by a) reducing the  
109 amount of premium written by such member in subparagraph (1) by  
110 twenty percent of the total homeowners insurance premiums written  
111 by the member on property described in this clause in the year of an  
112 association loss or by b) increasing the amount of premium written  
113 by such member in subparagraph (1) by twenty percent of the total  
114 homeowners insurance premiums written by the member on prop-  
115 erty described in this clause in the year of an association profit. Such  
116 adjustment shall not apply to any insurance written on property that  
117 was insured by the member or any affiliate or subsidiary member in  
118 either of the two years preceding the base year.

119 (f) The association shall be governed by a board of eighteen  
120 directors, who shall serve without compensation, ten to be elected  
121 annually by the members of the association by cumulative voting,  
122 and two representatives of associations of insurance agents and bro-  
123 kers doing business in the Commonwealth and six public representa-  
124 tives not affiliated with the insurance industry to be appointed  
125 annually by the commissioner of insurance. Cumulative voting by  
126 members shall be permitted at all such elections.