

# HOUSE . . . . . No. 1114

By Mr. Vallee of Franklin, petition of James E. Vallee relative to clarifying the authority of the Commissioner of Insurance under the motor vehicle insurance competitive rating law. Financial Services.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT CLARIFYING THE AUTHORITY OF THE COMMISSIONER OF INSURANCE UNDER THE AUTO INSURANCE COMPETITIVE RATING LAW.

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

1 Chapter 175E of the General Laws, as appearing in the 2004  
2 Official Edition, is hereby amended by striking out section 5 and  
3 inserting in place thereof the following:—

4 Section 5. (a) If the commissioner determines, after a hearing, at  
5 which representatives of consumers and other interested parties may  
6 participate, and on the basis of findings of fact and conclusions, that,  
7 with respect to any territory or to any kind, subdivision or class of  
8 insurance, competition has been either (i) insufficient to assure that  
9 rates will not be excessive, or (ii) so conducted as to be destructive  
10 of competition or detrimental to the solvency of insurers, he shall,  
11 within ninety days or as soon thereafter as possible and without  
12 regard to calendar dates specified in section one hundred and thir-  
13 teen B of chapter one hundred and seventy-five, fix and establish the  
14 rates for such insurance or territory pursuant to the provisions of  
15 section one hundred and thirteen B of chapter one hundred and  
16 seventy-five. Such procedure shall have a specified duration of not  
17 more than one year but may be renewed by the commissioner upon  
18 appropriate findings of fact, conclusions and order. Notwithstanding  
19 the one-year limitation on the duration of the fix and establish proce-  
20 dure, the commissioner may provide for a transition to competitive  
21 rating over a period of more than one year and in so doing may  
22 allow the forms of limited competition specified in subsection  
23 (c)(iii). During such transition, the commissioner shall each year

24 determine whether to allow a resumption of full competitive rating  
25 or to continue to fix and establish rates in part.

26 (b) In determining whether to renew the procedure for fixing and  
27 establishing rates, the commissioner shall consider, the following  
28 factors, among others: (i) whether there are a sufficient number of  
29 companies writing private passenger auto insurance in the market;  
30 (ii) whether such companies have sufficient capital and capacity for  
31 the risks presented; (iii) whether consumers have sufficient choices  
32 of prices, products and services; (iv) whether consumers have access  
33 to the same types of discounts and innovative products and services  
34 as are available under competitive rating systems in other states; and  
35 (iv) the extent to which the fix and establish procedure affects the  
36 number of companies writing private passenger auto insurance in the  
37 Commonwealth and the choices available to consumers.

38 (c) Upon making the required findings, the commissioner may: (i)  
39 allow for a return to full competitive rating under this chapter; (ii)  
40 renew the procedure for fixing and establishing rates; or (iii) allow  
41 limited competition by territory, by coverage, by service or by such  
42 other category as the commissioner shall determine, and such limited  
43 competition may include, but not be limited to, authorization for  
44 companies to decrease or increase rates within prescribed bands  
45 from year to year and/or to file and competitively rate coverage  
46 enhancements, endorsements or modifications and services.

47 (d) Within thirty days after the close of the hearing the commis-  
48 sioner shall make this determination in a report which shall be made  
49 public.