

SENATE NO. 640

AN ACT TO ESTABLISH A SPECIAL COMMISSION TO RESEARCH THE BENEFITS OF COMPETITION FOR OUR CURRENT AUTOMOBILE INSURANCE RATING SYSTEM, AND METHODS OF INCORPORATING SUCH BENEFITS

*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. It is hereby found and declared:

2 That there is a need to research the extent to which some form of competition could offer a
3 more consumer-beneficent system of pricing automobile insurance, especially in the higher-rated
4 territories.

5 It is therefore the purpose of this act to establish a genuinely consumer-weighted research
6 commission:

7 to conduct in-depth research into the feasibility and benefits of a competitive pricing system;

8 to develop, in close conjunction with the Joint Committee on Financial Services, specific
9 approaches to implement the results of this research; and,

10 to file proposed legislation to present to the Joint Committee on Financial Services.

11 SECTION 2. Establishment of a special research commission.

12 There shall be established a special research commission, hereinafter referred to as the

13 commission, to accomplish the purposes described in Sections 2 and 3 below, said purposes to be:

14 1) The conduct of in-depth research into the issues of competition, including the effects
15 of the activities of Commonwealth Automobile Reinsurers ("CAR");

16 2) The development of specific concepts of these issues, in close conjunction with the
17 Joint Committee on Financial Services; and,

18 3) The filing of proposed legislation to present to the Joint Committee on Financial
19 Services.

20 The commission shall be authorized to contract with recognized established actuarial
21 organizations to develop actuarial analyses as needed.

22 Said commission shall consist of seven members, all of them to be Massachusetts citizens, as
23 follows:

24 Three (3) genuine consumers with comprehensive awareness of Massachusetts automobile
25 insurance issues, with demonstrated commitment to the public good, and with no affiliations with
26 either the insurance industry or the trial bar, the method of their selection to be determined by the Joint
27 Committee on Financial Services;

28 One (1) person to be appointed by the House of Representatives Co-Chair of the Joint
29 Committee on Financial Services;

30 One (1) person to be appointed by the Senate Co-Chair of the Joint Committee on
31 Financial Services;

32 One (1) person to be appointed by the Attorney-General of Massachusetts; and,

33 One (1) person to be appointed by the Secretary of the Office of Consumer Affairs.

34 Section 2A of Chapter 4 of the General Laws of Massachusetts, which deals with the rules of
35 conduct of special legislative commissions, shall not be applicable to this commission.

36 Five members of the commission shall constitute a quorum, and, providing that a quorum is
37 present, a majority of those members present shall be required for any action voted by said
38 commission, including but not limited to voting on formal recommendations and/or proposed
39 legislation. The chair of the commission shall be selected by a majority vote of all the members
40 thereof.

41 Said commission shall report to the Joint Committee on Financial Services on a monthly basis
42 as to its progress on the above issues.

43 Said commission shall develop specific legislation incorporating its findings, together with any
44 necessary supporting discussions and/or documentation, to present to the Joint Committee on Financial
45 Services six months from the date of the enactment of this act, in order that it may be considered by
46 that Committee and presented to the General Court for consideration of implementation during the
47 2007-2008 legislative session.

48 The commission shall be dissolved at the discretion of the Joint Committee on Financial
49 Services following the completion of its duties.

50 SECTION 3. Areas of concern for the commission.

51 The commission shall concentrate upon, but not necessarily limit its review, analysis, and
52 consideration to, the issue of competition, especially as it applies to affordability of insurance by less-
53 affluent insureds in high-rated territories. As part of its review, analysis, and consideration of this
54 issue, the commission shall take up the following concerns:

55 a. The extent to which the recent proliferation of group insurance plans indicates a readiness
56 and need for competition;

57 b. The extent to which competition can offer significant benefits in terms of:

58 (1) Lower overall prices;

59 (2) Devising innovative plans such as so-called "Good Student"

60 discounts;

61 (3) Other incentives for safe driving; and,

62 (4) Whether competitive safe-driver plans could avoid the problems of the state's

63 current Safe Driver Incentive Plan, including but not limited to:

64 the six-year experience period, so-called;

65 the minor at-fault accident threshold, so-called;

66 the clean slate rule, so-called; and,

67 antiquated traffic law violations.

68 c. Merit rating plans

69 (1) Whether such plans would be developed by the industry in response to competitive

70 pressures;

71 (2) The effects of such plans on the behavior of Massachusetts motorists; and,

72 (3) The effects of such plans on premiums.

73 d. The type of automobile insurance rate regulation most beneficial to Massachusetts

74 motorists, such as prior approval, flex rating, "deemed-approved", file-and-use, use-and-file, other.

75 e. The experience of other states as to their types of rate regulation.

76 f. The current rate cross-subsidization:

77 (1) The effects of its absence in the 1977 attempt at competition; and,

78 (2) How to avoid the problems of 1977.

79 g. The difference of the effects of a competitive market upon insureds in different parts of the

80 state.

81 h. Effects upon insurance industry:

- 82 (1) Upon automobile insurance companies:
- 83 ((a)) Effect upon those companies currently doing business in Massachusetts;
- 84 ((b)) Whether new companies would be formed within the Massachusetts
- 85 market; and,
- 86 ((c)) Whether out-of-state companies would be attracted to Massachusetts.

87 (2) Upon insurance agents and brokers:

- 88 ((a)) Effect upon agents' commissions; and,
- 89 ((b)) Whether current agents would be sought by new companies.

90 i. Evaluation of plans to combine the benefits of competition with the benefits of the current

91 cross-subsidization of urban insureds, including the following approach:

92 (1) A cross-subsidization fund, with the following provisions:

- 93 ((a)) Allowing competition to set prices;
- 94 ((b)) Surcharging of all insureds in lower-rated territories in amounts
- 95 comparable to their current contribution to the current cross-subsidization, into a cross-subsidization
- 96 fund; and,
- 97 ((c)) Provision of subsidies for insureds in high-rated territories from said fund.

98 j. How rating territories could be determined:

- 99 (1) By the state's Division of Insurance as at present;
- 100 (2) By the industry, including allowing individual companies to utilize differing sets of
- 101 territories;
- 102 (3) Any combination(s) of the above; and/or,
- 103 (4) The accuracy and fairness of both the state's current territory rating system and any
- 104 competitive territory rating system.

105 k. Implementation of competition.

106 (1) Whether best accomplished quickly or gradually; and,

107 (2) What methods to use.

108 1. Commonwealth Automobile Reinsurer rules:

109 (1) Extent of their inhibition of competition;

110 (2) To what extent the penalty for withdrawing from Massachusetts business is a
111 deterrent to out-of-state companies; and,

112 (3) Whether there is a better way to handle the involuntary market.

113 SECTION 4. Funding of the commission.

114 The commission and its activities shall be funded by a surcharge of twenty-five cents (\$0.25)
115 on each bodily injury automobile insurance policy purchased or renewed during the one-year period
116 starting with the date of the enactment of this act.

117 SECTION 5. This act shall take effect upon its passage.