

Senate, No. 2022

[Senate, March 20, 2009 - Text of the new draft from the committee on Financial Services for Senate, No. 461 and House, Nos. 888 and 1053]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT RELATIVE TO AN APPEAL PROCESS OF INSURANCE PREMIUM SURCHARGES UNDER MANAGED COMPETITION

Whereas, the deferred operation of this act would tend to defeat its purpose which is to provide for a right to appeal at-fault accident rulings for consumers of the commonwealth, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Chapter 175E of the General Laws, as so appearing in the 2006 Official
- 2 Edition, is hereby amended by inserting after Section 7 the following new section:-
- 3 Section 7A. Any insured aggrieved by any determination of an insurer as to the application of
- 4 any provision of an insurer's safe driver insurance plan or merit rating plan placed on file with

5 commissioner pursuant to regulations promulgated in accordance with Section 10 of this chapter
6 and section 15 of Chapter 175A, may within thirty days thereafter, file a written complaint with
7 the board of appeals on motor vehicle policies and bonds, hereinafter called the board. Such
8 complaint shall be accompanied by a filing fee to be determined by the board. In the notice of
9 its decision to deny the complaint by the insured, the board shall notify the insured that he has a
10 right to a hearing on the application of the safe driver insurance plan or merit rating plan.

11 The board shall provide the insurer and the insured with at least ten days notice of any hearing
12 held under this section. If, after a hearing, the board finds that the application of the safe driver
13 insurance plan or merit rating plan was in accordance with the standards promulgated by the
14 board and an insurer's provisions of the safe driver insurance plan or merit rating plan placed on
15 file with the commissioner, it shall deny the appeal. If the board finds that the insurer's
16 application of the safe driver insurance plan or merit rating plan was not in accordance with said
17 standards and provisions, it shall order the insurer to make the appropriate premium adjustment
18 and it shall notify the merit rating board to remove the insured's surcharge points. The board
19 may designate a person to act as a hearing officer pursuant to this section. The hearing officer
20 shall file a memorandum of his findings or order in the office of the board, and shall send a
21 copy to the insurer and the insured.

22 Any person or company aggrieved by any finding or order of the board may appeal therefrom to
23 the superior court department of the trial court, pursuant to the provisions of section fourteen of
24 chapter thirty A. The appellant shall file with his appeal a duly certified copy of the complaint
25 and of the finding and order thereon, and, if the appeal is taken from a finding and order of the
26 board in respect to a cancellation, the clerk of such court shall forthwith, upon the filing of such
27 an appeal, give written notice of the filing thereof to the registrar of motor vehicle and to the

28 appellee. Said court shall, after such notice to the parties as it deems reasonable, give a
29 summary hearing on such appeal and shall have such jurisdiction in equity to review all
30 questions of fact and law, and to affirm or reverse such finding or order and may make any
31 appropriate decree. Said court or justice may allow such appeal, finding or order to be
32 amended. The decision of the court or justice shall be final. The clerk of such court shall,
33 within two days after entry thereof, send an attested copy of the decree to each of the parties and
34 the commissioner and to said registrar, or his office. Said court or justice may make such order
35 as to costs as it or he deems equitable. Said court may make reasonable rules to secure prompt
36 hearings on such appeals and a speedy disposition thereof.

37 SECTION 2. Section 1 shall apply to any insured aggrieved by a determination of an
38 insurer's safe driver insurance plan or merit rating plan before, on or after April 1, 2009.