

Thursday, July 19, 2012.

Met according to adjournment at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag. Pledge of allegiance.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Ashe of Longmeadow) honoring the rock band Aerosmith; Aerosmith.

Resolutions (filed by Mr. Garballey of Arlington) honoring Nancy Mary Mazerolle McKenna on the occasion of her ninetieth birthday; and Nancy Mary McKenna.

Resolutions (filed by Representatives Swan of Springfield, Coakley-Rivera of Springfield, Puppolo of Springfield and Fox of Boston) congratulating former State Representative Raymond A. Jordan on the occasion of his retirement; Raymond A. Jordan.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Ms. Wolf of Cambridge, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Annual Report.

The annual report of the Commission on the Status of Women (under Section 66 of Chapter 3 of the General Laws) for the fiscal year 2012, was placed on file. Status of Women.

Petitions.

Petitions severally were presented and referred as follows:

By Representative Binienda of Worcester and Senator Moore, a joint petition (subject to Joint Rule 12) of John J. Binienda and Michael O. Moore that the Cedar Meadow Lake Watershed District within the town of Leicester be authorized to assess betterments and acquire dams within said town. Leicester,—Meadow Lake.

By Representative Madden of Nantucket and Senator Murray, a joint petition (subject to Joint Rule 12) of Timothy R. Madden, David T. Vieira and Therese Murray that the retirement board in the town of Falmouth be authorized to acquire property and equipment and employ personnel for the administration of the retirement system of said town. Falmouth,—retirement system.

By Mr. Scibak of South Hadley and Senator Rosenberg, a joint petition (subject to Joint Rule 12) of John W. Scibak and Stanley C. Rosenberg for legislation to direct the Commissioner of Capital Asset South Hadley,—land.

Management and Maintenance to convey certain land in the town of South Hadley to said town.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

Plymouth,—
charter.

A Bill amending the charter of the town of Plymouth (Senate, No. 2295) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Petitions were referred, in concurrence, as follows:

Seekonk,—
liquor
license.

Petition (accompanied by bill, Senate, No. 2352) of James E. Timilty and Steven S. Howitt (by vote of the town) for legislation to authorize the town of Seekonk to convert seasonal licenses to annual licenses for the sale of all alcoholic beverages to be drunk on the premises.

Id.

Petition (accompanied by bill, Senate, No. 2353) of James E. Timilty and Steven S. Howitt (by vote of the town) for legislation to authorize the town of Seekonk to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises.

Severally to the committee on Consumer Protection and Professional Licensure.

West
Stockbridge,—
evictions.

Petition (accompanied by bill, Senate, No. 2351) of Benjamin B. Downing and William Smitty Pignatelli (by vote of the town) for legislation to provide for the establishment and administration of rent regulations and the control of evictions in mobile home accommodations in the town of West Stockbridge. To the committee on Municipalities and Regional Government.

Reports of Committees.

Midwives,—
certification.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill relative to certified professional midwives (House, No. 2368),— and recommending that the same be referred to the committee on Ways and Means, with the amendment previously recommended by the committee on Health Care Financing pending. Under Rule 42, the report was considered forthwith; and it was accepted.

Special
education,—
costs.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4201) of William C. Galvin relative to special education costs,— and recommending that the same be referred to the committee on Education.

Acushnet,—
manufactured
housing.

By Ms. Spiliotis of Peabody, for the committee on Municipalities and Regional Government, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4221) of Robert M. Koczera (by vote of the town) for legislation to establish rent board for the purpose of regulating rents for the use or occupancy of manufactured housing accommodations in the town of Acushnet,— and recommending that the same be referred to the committee on Housing.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence.

By Mr. Walsh of Lynn, for the committee on Health Care Financing, that the Bill to curtail tobacco addiction and related health care costs (House, No. 2452), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4291). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently, with the amendment pending.

Tobacco
addiction.

By Mr. Walsh of Lynn, for the committee on Health Care Financing, that the Bill relative to prevailing wages (House, No. 2306), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4290). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Prevailing
wages.

Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Senate Bill to establish a sales tax holiday August [sic] 2012 (printed as Senate, No. 157) ought to pass [Representative Balsler of Newton dissenting]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Sales tax
holiday.

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on a petition, a Bill authorizing the city of Medford to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4246) [Local Approval Received].

Medford,—
alcoholic
beverages.

By the same member, for the same committee, on House, No. 3677, a Bill [sic] of special legislation authorizing the town of Braintree to grant additional liquor licenses (House, No. 4292) [Local Approval Received].

Braintree,—
alcoholic
beverages.

By the same member, for the same committee, on House, No. 4149, a Bill relative to the town of Fairhaven issuing a package store/all alcohol license (House, No. 4293) [Local Approval Received].

Fairhaven,—
alcoholic
beverages.

By the same member, for the same committee, on House, No. 4231, a Bill relative to a liquor license for the Irish Social Club, Inc[sic], in the city of Boston (House, No. 4294) [Local Approval Received].

Boston,—
Irish
Club.

By Ms. Spiliotis of Peabody, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to at risk dogs (House, No. 562, changed in line 87 by inserting after the word "Euthanasia" the following: "may be recommended or mandated as a final solution by the animal control officer, municipal officials or the court. Euthanasia shall be performed by a trained individual following the human standards outlined by the AVMA Panel on Euthanasia. The owner of the dog shall pay the cost to euthanize and dispose of the body.").

Dangerous
dogs.

By Mr. Scibak of South Hadley, for the committee on Public Service, on a joint petition, a Bill authorizing the town of Hatfield to continue the employment of the chief of police (House, No. 4142) [Local Approval Received].

Hatfield,—
police chief.

By the same member, for the same committee, on a petition, a Bill amending special act, Chapter 327 of the Acts of 1988 to authorize the Orleans, Brewster and Eastham Groundwater Protection District to provide retirement benefits for district employees (House, No. 4175).

Cape Cod,—
retirement
benefits.

Corrections
officers.

By the same member, for the same committee, on a petition, a Bill relative to sons and daughters of corrections officers (House, No. 4182).

Acton,—
energy
fund.

By Mr. Keenan of Salem, for the committee on Telecommunications, Utilities and Energy, on a joint petition, a Bill establishing the town of Acton energy efficiency fund (House, No. 4106) [Local Approval Received].

Newbury,—
land.

By the same member, for the same committee, on a joint petition, a Bill authorizing the city of Newburyport to acquire interests in land in the town of Newbury (House, No. 4164) [Local Approval Received].

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measure.

State
government
and
finance.

The engrossed Bill to improve the administration of state government and finance (see Senate, No. 2342), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 8 to 0. Sent to the Senate for concurrence.

Bill
enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills.

Engrossed bills

Bills
enacted.

Authorizing the town of Natick to lease certain town-owned property (see House, No. 3870, amended);

Authorizing the town of Natick to lease certain town-owned property (see House, No. 3871, amended); and

Designating a certain overpass in the town of Yarmouth as the Marine Corporal Nicholas G. Xiarhos Veterans Memorial Overpass (House, No. 4156);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

House bills

Third
reading
bills.

Authorizing the town of Groton, acting by and through its board selectmen and board of water commissioners, to convey a conservation restriction on certain parcels of land to the Division of Fisheries and Wildlife by its department of fish and game (printed in House, No. 3886); and

Prohibiting robocalls to all mobile telephone devices (House, No. 4073);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

The House Bill making faculty sabbatical provisions at state universities consistent with other higher education institutes (House, No. 3805), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Third reading
bill amended.

Pending the question on passing the bill to be engrossed, Mr. O'Day of West Boylston moved that it be amended by substitution of a bill with the same title (House, No. 4295).

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

Recess.

At seventeen minutes after eleven o'clock A.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the Chair; and at twelve minutes after three o'clock the House was called to order with Mr. Donato in the Chair.

Recess.

Emergency Measure.

The engrossed Bill relative to sentencing and improving law enforcement tools (see House, No. 3818, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Sentencing
and law
enforcement.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Engrossed Bill.

The engrossed Bill establishing Fragile X Awareness Day (see House, No. 843, amended) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Id.

Orders of the Day.

The House Bill relative to life settlements and stranger originated life insurance (House, No. 3877), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Life insurance
settlements.

Pending the question on passing the bill to engrossed, Mr. Costello of Newburyport moved to amend it in section 1

In line 8, by inserting after the word "public" the words " , directly or indirectly",

In line 12, by inserting after the word "including" the words " , but not limited to",

In line 28, by inserting after the word "including," the following words "but not limited to",

In line 30, by inserting after the word "law." the following definition:—

Life insurance settlements.

“Fraudulent life settlement act”, (1) acts or omissions committed by a person who, in connection with a life settlement contract, knowingly and with an intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits or permits its employees or its agents to engage in acts, including, but not limited to, the following:

(i) Presenting, causing to be presented or preparing with knowledge and belief that it will be presented to or by a life settlement provider, premium finance lender, life settlement broker, insurer, insurance producer or any other person, false material information or concealing material information, as part of, in support of or concerning a fact material to 1 or more of the following:

(A) an application for the issuance of a life settlement contract or insurance policy;

(B) the underwriting of a life settlement contract or insurance policy;

(C) a claim for payment or benefit pursuant to a life settlement contract or insurance policy;

(D) premiums paid on an insurance policy;

(E) payments and changes in ownership or beneficiary made in accordance with the terms of a life settlement contract or insurance policy;

(F) the reinstatement or conversion of an insurance policy;

(G) the solicitation, offer to enter into or effectuation of, a life settlement contract or insurance policy;

(H) the issuance of written evidence of life settlement contracts or insurance;

(I) an application for, or the existence of or any payments related to, a loan secured directly or indirectly by any interest in a life insurance policy; or

(J) engaging in stranger-originated life insurance.

(ii) Failing to disclose to the insurer, where the request for such disclosure has been asked for by the insurer, that the prospective insured has undergone a life expectancy evaluation by a person or entity other than the insurer or its authorized representatives in connection with the issuance of the policy. (iii) Employing any device, scheme, or artifice to defraud in the business of life settlements.

(2) acts committed by a person, or that such person permits an employee or agent to commit, in the furtherance of a fraud, or to prevent the detection of fraud:

(i) to remove, conceal, alter, destroy or sequester from the commissioner the assets or records of a licensee or other person engaged in the business of life settlements;

(ii) to misrepresent or conceal the financial condition of a licensee, financing entity, insurer or other person;

(iii) to transact the business of life settlements in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of life settlements;

(iv) to file with the commissioner or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise concealing information about a material fact from the commissioner;

(v) to engage in embezzlement, theft, misappropriation or conversion of money, funds, premiums, credits or other property of a life set-

tlement provider, insurer, insured, owner, insurance policy owner or other person engaged in the business of life settlements or insurance;

(vi) to knowingly and with an intent to defraud, enter into, broker or otherwise deal in a life settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information requested concerning any fact material to the policy, where the owner or the owner's agent intended to defraud the policy's issuer;

(vii) to attempt to commit, assist, aid or abet in the commission of, or conspiracy to commit the acts or omissions specified in this subsection; or

(viii) to misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to sections 212 to 223H, inclusive, for the purpose of evading or avoiding the provisions of said sections 212 to 223H, inclusive.;

In lines 38, 39 and 40, by striking out the definition contained therein;

In lines 46, 47 and 48, by striking out the definition contained therein and inserting in place thereof the following definition:—

“Life settlement contract”, (a)(1) a written agreement entered into between a life settlement provider and an owner, establishing the terms under which compensation or anything of value shall be paid, which compensation or thing of value is less than the expected death benefit of the insurance policy or certificate, in return for the owner's assignment, transfer, sale, devise or bequest of the death benefit or any portion of an insurance policy or certificate of insurance for compensation; provided, however, that the minimum value for a life settlement contract shall be greater than a cash surrender value or accelerated death benefit available at the time of an application for a life settlement contract;

(2) the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns such policy if the trust or other entity was formed or availed of for the principal purpose of acquiring 1 or more life insurance contracts, which life insurance contract insures the life of a person residing in the commonwealth; or

(3) a premium finance loan made for a policy on or before the date of issuance of the policy where: (i) the loan proceeds are not used solely to pay premiums for the policy and any costs or expenses incurred by the lender or the borrower in connection with the financing; (ii) on the date of the premium finance loan, the owner receives a guarantee of the future life settlement value of the policy; or (iii) the owner agrees on the date of the premium finance loan to sell the policy or a portion of its death benefit on any date following the issuance of the policy.

(b) A life settlement contract shall not include:

(1) a policy loan by a life insurance company pursuant to the terms of the life insurance policy or accelerated death provisions contained in the life insurance policy, whether issued with the original policy or as a rider;

(2) a premium finance loan or a loan made by a bank or other licensed financial institution; provided that neither a default on such loan nor the transfer of a policy in connection with such default is pur-

Life insurance settlements.

suant to an agreement or understanding with another person for the purpose of evading regulation under sections 212 to 223H, inclusive;

(3) a collateral assignment of a life insurance policy by an owner;

(4) a loan made by a lender pursuant to chapter 255C; provided, however, that such loan is not described in paragraph (a)(3) and is not otherwise within the definition of life settlement contract;

(5) an agreement where all parties: (i) are closely related to the insured by blood or law; or (ii) have a lawful substantial economic interest in the continued life, health and bodily safety of the person insured, or are trusts established primarily for the benefit of such parties;

(6) a designation, consent or agreement by an insured who is an employee of an employer in connection with the purchase by the employer or trust established by the employer, of life insurance on the life of the employee;

(7) a bona fide business succession planning arrangement: (i) between 1 or more shareholders in a corporation or between a corporation and 1 or more of its shareholders or 1 or more trusts established by its shareholders; (ii) between 1 or more partners in a partnership or between a partnership and 1 or more of its partners or 1 or more trusts established by its partners; or (iii) between 1 or more members in a limited liability company or between a limited liability company and 1 or more of its members or 1 or more trusts established by its members;

(8) an agreement entered into by a service recipient or a trust established by the service recipient and a service provider, or a trust established by the service provider that performs significant services for the service recipient's trade or business; or

(9) any other contract, transaction or arrangement from the definition of life settlement contract that the commissioner determines is not of the type intended to be regulated by sections 212 to 223H, inclusive.

(c) An insurer that issued a policy that is the subject of a life settlement contract shall not be responsible for any act or omission of a life settlement broker, life settlement provider or purchaser arising out of, or in connection with, the life settlement transaction, unless the insurer receives compensation for the placement of the life settlement contract from the life settlement provider, life settlement broker or purchaser.,

In line 55, by inserting before the word "person" the word "natural",

In lines 105 to 113, inclusive, by striking out the definition contained therein and inserting in place thereof the following definition:—

"Stranger-originated life insurance", an act, practice or arrangement to initiate the issuance of a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the life of the insured. Such acts, practices or arrangements include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person, who, at the time of policy inception, could not lawfully initiate the policy and where, at the time of inception, there is an arrangement or agreement, whether verbal or written, to directly or indirectly transfer the ownership of the policy or the policy benefits to a third party. Trusts that are created to give the appearance of insurable interest and that are used to initiate policies for investors violate insurable interest laws and the prohibition against wagering on life. Stranger-originated life insur-

ance arrangements shall not include lawful life settlement contracts as permitted by sections 212 to 223H, inclusive, or those practices set forth in subsection (b) of the definition of life settlement contract, provided that such life settlement contracts or practices are not part of a transaction otherwise prohibited by sections 212 to 223H, inclusive.

By striking out the text contained in lines 116 to 166, inclusive,

In line 171, by inserting after the figure “7” the words “; provided, however that the term and fees for a life settlement provider license shall be equal to that of a foreign stock life insurance company and the term and fees of a life settlement broker license shall be equal to that of an insurance producer license”,

In line 196, by striking out the words “of life settlements” and inserting in place thereof the words “for which the license is applied”, and

In lines 670 to 721, inclusive, by striking out subsection 223B and inserting in place thereof the following subsection:

“Section 223B. A person shall not commit a fraudulent life settlement act.”; and

In section 3, in line 907, by striking out the year “2012” and inserting in place thereof the year “2013”.

The amendments were adopted; and the bill (House, No. 4296, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o’clock A.M. Next sitting.

At twenty-eight minutes before four o’clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o’clock A.M., in an Informal Session.