HOUSE DOCKET, NO. 1222 FILED ON: 1/14/2015

HOUSE . . . . . No. 3457

The Commonwealth of Massachusetts

PRESENTED BY:

Claire D. Cronin

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to clarify reimbursement of workers compensation insurers to prevent double recovery by injured workers in third party cases.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Claire D. Cronin	*11th Plymouth*
Jeffrey N. Roy	*10th Norfolk*

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HOUSE . . . . . No. 3457

By Ms. Cronin of Easton, a petition (accompanied by bill, House, No. 3457) of Claire D. Cronin and Jeffrey N. Roy relative to reimbursement of workers' compensation. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to clarify reimbursement of workers compensation insurers to prevent double recovery by injured workers in third party cases.

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

SECTION 1. Section 15 of chapter 152 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the third and fourth sentences and inserting in place thereof the following 2 sentences:- The sum recovered attributed to damage elements for which compensation was paid shall be for the benefit of the insurer, unless such sum is greater than that paid by it to the employee, in which event the excess shall be retained by or paid to the employee. For the purposes of this section, "excess" shall mean the amount by which the gross sum received in payment attributed to damage elements for which compensation was paid exceeds the compensation paid under this chapter.

SECTION 2. Said section 15 of said chapter 152, as so appearing, is hereby further amended by striking out the ninth and tenth sentences and inserting in place thereof the following 2 sentences:- At such hearing the court shall inquire and make a finding as to the taking of evidence on the merits of the settlement, on the fair allocation of amounts payable to

13 the employee, including amounts attributed to the employee's pain and suffering, and amounts
14 payable to the employee's spouse, children, parents and any other member of the employee's
15 family or next of kin who may have claims arising from the injury for which are benefits are
16 payable, under this chapter in which the action has been commenced after an opportunity has
17 been afforded both the insurer and the employee to be heard on the merits of the settlement and
18 on the amount, if any, to which the insurer is entitled out of such settlement by way of
19 reimbursement, and on the amount of excess that shall be subject to offset against any future
20 payment of benefits under this chapter by the insurer, which amount shall be determined at the
21 time of such approval. In determining the amount of "excess" that shall be subject to offset
22 against any future compensation payment the board, the reviewing board, or the court in which
23 the action has been commenced shall consider the fair allocation of amounts attributed to the
24 employee's pain and suffering, and amounts payable to and amongst family members who may
25 have claims arising from the injury for which said compensation is payable.