

HOUSE No. 3635

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to the Motor Vehicle Board of Appeals..

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 8A of Chapter 26 of the General Laws, as appearing in the 2004 official edition,
2 is hereby amended by striking out Section 8A and inserting in place thereof, the following:-

3 Section 8A. There shall be within the Registry of Motor Vehicles an independent board
4 of motor vehicle appeals consisting of a chairman, appointed by the registrar of motor vehicles, a
5 member of the board appointed by the commissioner of insurance and a member of the board,
6 appointed by the attorney general. The chairman and the members of the board shall serve for a
7 term of seven years, with incumbents serving three years upon enactment, subject to removal by
8 the appointing authority only for nonfeasance or malfeasance in office. Should the position of
9 chairman or member of the board become vacant prior to the expiration of his or her term, the
10 appointing authority shall appoint a successor for a new seven year term.

11 The chairman may appoint and remove an executive director, officers to hear surcharge
12 appeals, and such clerical and other assistants as its work may require.

13 All expenditures incurred under this section shall be paid through a trust fund consisting
14 of the filing fees collected by the board and supplemented by an administrative assessment. The
15 clerical and other assistants shall perform such duties as the chairman or executive director may
16 direct. Any member of the board shall have power to summon and compel the attendance and
17 testimony of witnesses and the production of books, records and documents and may administer
18 oaths. Sections 9 and 11 of chapter 233 as appearing in the 2002 official edition, shall apply to
19 the board and witnesses summoned before it. The fees of witnesses before the board for
20 attendance and travel shall be the same as for witnesses before a court in civil cases and need not
21 be paid nor tendered to them prior to their attendance, and shall be paid by the Commonwealth
22 upon the certification of the board or a member thereof filed with the comptroller.

23 The board may hold hearings at any place within the Commonwealth and the members
24 and executive director thereof shall be allowed their necessary traveling and other expenses in
25 holding hearings beyond its principle offices. The board, in accordance with the provisions of
26 Massachusetts General Laws, chapter 30A, may promulgate and amend reasonable rules and
27 regulations to expedite and regulate hearings and the procedure before it.

28 SECTION 2. The Commissioner of Insurance shall require each insurance company
29 issuing private passenger motor vehicle liability policies in the Commonwealth to collect an
30 assessment to be utilized by the board for the purposes set forth under the provisions of chapter
31 26, section 8A and chapter 175, sections 113B and 113P and chapter 90, section 28. The
32 assessment shall be such amounts as shall be determined and certified annually by the chairman
33 and approved by the statistical agent designated pursuant to chapter 175 section 113H as
34 sufficient to fund the responsibilities of the board subject to appeal to the Commissioner of
35 Insurance. The secretary of administration and finance shall expend from the general funds

36 amounts for indirect and fringe benefit costs, including, but not limited to, group life and health
37 insurance, retirement benefits, paid vacations and holidays, and sick leave, attributable to
38 personnel costs and personal administration of the board's office related to the purposes for
39 which this assessment is collected. This shall be assessed as determined by the commissioner
40 against each private passenger motor vehicle liability issued in the Commonwealth.

41 The commissioner shall annually estimate the total number of earned car years of motor
42 vehicle policies providing private passenger motor vehicle liability coverage in the
43 Commonwealth, and the amount to be assessed equally against such earned car year of exposure
44 sufficient to produce one million five hundred thousand dollars in revenue to the
45 Commonwealth, plus the total amount of funds estimated by the secretary of administration and
46 finance to be expended from the general fund for indirect and fringe benefit costs including but
47 not limited to group life and health insurance, retirement benefits, paid vacations and holidays,
48 and sick leave, attributable to personnel costs of the board's office related to the purposes for
49 which the assessment is collected. Each insurer issuing private passenger motor vehicle liability
50 policies shall collect the amount determined by the commissioner to be assessed from each
51 person to whom a private passenger motor vehicle liability policy is issued. In any year in which
52 such rates are fixed and established pursuant to General Laws chapter 26 section 8A and chapter
53 175, section 113B, the commissioner shall make a specific provision in the expense allowance in
54 private passenger motor vehicle liability rates which shall be adequate to allow this assessment to
55 be recovered in such rates by each insurer. In any year in which such rates are determined by any
56 other method, this assessment shall be approved by the commissioner in the expense allowance
57 for private passenger motor vehicle liability rates. Such assessments shall not be reported or
58 included as premiums for any tax or regulatory purposes. If the Board fails to expend in any

59 fiscal year the total amount for the purposes set forth under the provisions of General Laws
60 chapter 26 section 8A and chapter 175 section 113B, the amount unexpended in such fiscal year
61 shall be reduced by such unexpended amount. The commissioner is authorized to estimate the
62 amount to be collected by each insurer issuing private passenger motor vehicle liability policies
63 based on the number of earned car years of private passenger motor vehicle liability exposure in
64 the prior year and require each such insurer to remit such estimated amount to the
65 Commonwealth. The commissioner shall subsequently notify each of the actual amount of
66 assessment required to be forwarded to the Commonwealth based on each insurer's total earned
67 ear years of private passenger motor vehicle liability exposures. The commissioner shall make
68 appropriate adjustments for any variation between the estimated amount assessed and the actual
69 amount collected by each insurer.