

**HOUSE . . . . . No. 4476**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act RELATIVE TO EXEMPTIONS IN THE MASSACHUSETTS AUTOMOBILE INSURANCE PLAN..

*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. The second paragraph of subsection (A) of section 113H of chapter 175, as  
2 appearing in the 2006 Official Edition, is hereby amended by adding at the end thereof the  
3 following: -

4           Notwithstanding any law, rule, regulation, order, ruling or decision to the contrary, on  
5 and after January 1, 2011 every insurance company writing private passenger auto insurance in  
6 the Commonwealth shall be required to accept assignments of risks and/or any apportionment of  
7 premiums, losses or expenses, pursuant to the plan, and no exemption from such assignments, or  
8 from the apportionment of premiums, losses or expenses, shall thereafter be permitted; provided,  
9 however, that any exemption from the assignment of risks previously afforded any such  
10 insurance company shall be allowed to continue to be used until its expiration, but in no event  
11 shall any such exemption continue beyond December 31, 2012. Assignments of risks and the  
12 apportionment of premiums, losses and expenses shall equal the proportion that each such

13 company's voluntary business bears to all such companies' voluntary business and as adjusted  
14 for any credits calculated by the plan.

15 SECTION 2. Subsection (B) of section 113H of chapter 175 of the General Laws, as  
16 appearing in the 2006 Official Edition, is hereby amended by striking out the first paragraph and  
17 inserting in place thereof the following new paragraph: -

18 (B) Such a plan shall be prepared and administered by a governing committee appointed  
19 by the commissioner for terms of six years, consisting of six members from insurance companies  
20 participating in the plan and one additional representative from a domestic insurer in the  
21 commonwealth whose annual motor vehicle policy premiums amount to less than two and one  
22 half percent (2.5%) of the private passenger insurance market and unaffiliated with any other  
23 insurance company represented on the governing committee, and six members from associations  
24 of insurance producers. Effective as of July first, nineteen hundred and eighty-two, the  
25 governing committee shall consist of three members from insurance companies participating in  
26 the plan and two members from associations of insurance producers appointed for terms of six  
27 years, two members from insurance companies participating in the plan, two members from  
28 associations of insurance producers appointed for terms of four years, two members from  
29 insurance companies participating in the plan and two members from associations of insurance  
30 producers for terms of two years. The provisions of this section shall not be construed so as to  
31 alter or amend the terms of the present governing members. The governing committee shall be  
32 responsible for the hiring of the employees of the plan.

33           SECTION 3. Subsection (D) of section 113H of chapter 175, as appearing in the 2006  
34 Official Edition, is hereby amended by inserting after the first paragraph the following new  
35 paragraph: -

36           A duly licensed insurance producer, certified to place business in the plan, shall own and  
37 have an exclusive right, as the insured's producer of record, to use certain insurance information  
38 of the insured embodying the records of the insurance agency which shall include but not be  
39 limited to the name of the insured, the policy inception date, the amount of insurance coverage,  
40 the policy number and the terms of insurance. If a policyholder, insured through the plan with an  
41 assigned risk carrier, is offered voluntary coverage by said carrier and the policyholder accepts  
42 the offer, the insured's producer of record shall continue to represent the insured written or  
43 renewed in the voluntary market, and such policy shall be continued to be serviced through the  
44 producer of record, unless: (1) said producer is decertified or suspended by the plan or the  
45 commissioner; (2) at the insured's request, the insured terminates such producer as its producer  
46 of record; or     (3) the producer of record is precluded from dealing with other insurance  
47 companies pursuant to an exclusive agency contract; provided, further, if a policy is written or  
48 renewed on a voluntary basis, the assigned risk carrier shall pay the insured's producer of record  
49 the commission rate as set forth in the first paragraph of subsection (D), regardless of whether  
50 the producer of record has an agency agreement with that assigned risk carrier.

51           SECTION 4. Chapter 271 of the Acts of 2008 is hereby amended by striking out in the  
52 first paragraph the word "2010" in each instance and inserting in place thereof the following  
53 word: - 2015; and by striking out in the second paragraph the word "2011" and inserting in place  
54 thereof the following word: - 2014.