

# HOUSE . . . . . No. 874

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act relative to the funding, staffing, and market conduct examinations of the Division of Insurance ..

*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. Section 8C of Chapter 26 of the General Laws of Massachusetts, as  
2 appearing in the 2006 Official Edition, is hereby amended by striking out the first two  
3 paragraphs in lines 1 through 19, and inserting in place thereof the following:

4           The commissioner of insurance shall make an assessment in each fiscal year against all  
5 licensed insurers in the commonwealth. Such assessment shall be deposited into the Division of  
6 Insurance Trust Fund. All monies deposited into the trust fund shall be expended, without  
7 appropriation, exclusively by the division of insurance. Such assessment shall be made at a rate  
8 sufficient to produce fifteen million dollars (\$15,000,000) in the fiscal year two thousand and  
9 eight, and shall be increased annually thereafter by a rate equal to the most recent annual  
10 consumer price index calculated by the Bureau of Labor Statistics of the United States  
11 Department of Labor for the northeast region for all urban consumers. In addition to such  
12 assessment, the commissioner of insurance shall also collect an amount equal to indirect costs as  
13 determined by the commissioner for administration, and for the persons within the division, an

amount equal to the cost of fringe benefits as established by the commissioner of administration. Said amounts shall be expended, without appropriation, for such indirect costs and for such persons' fringe benefits. If the commissioner of insurance shall fail to expend any money collected under this paragraph in any fiscal year other than monies collected for fringe benefit and indirect costs, such unexpended amount shall be credited against the assessment to be made in the following year so that the assessment in the following year shall be reduced accordingly. Funds collected under this section may be used to compensate consultants retained by the division and to defray its reasonable operating expenses and administrative overhead costs. The amounts to be so assessed shall be made against all licensed domestic companies and foreign companies in proportion to their net premiums written and annuity considerations in the commonwealth as shown in the most recent annual report available of each of said insurers filed with the division. The assessment, including the collection for indirect costs and fringe benefits, shall be collected by the commissioner of insurance. All licensed insurers shall pay the amount assessed within thirty days after the date of the notice of assessment from the commissioner.

Within the division there shall be, as determined by the commissioner, adequate numbers of actuary-statisticians, mathematicians, and certified public accountants; provided, however, that at a minimum the staffing requirements set forth in sections eight E through eight I of chapter twenty-six shall be met. Each actuary-statistician shall be a member of the casualty actuarial society or society of actuaries or shall have attained a doctoral degree in a related discipline. Each mathematician shall be engaged in a program of study recommended by the casualty actuarial society or shall have substantial mathematical and statistical training. All actuary-statisticians, mathematicians, and certified public accountants in the division shall be appointed by the commissioner, shall be exempt from the provisions of chapters thirty and thirty-

one, and shall be paid salaries set at levels determined to be appropriate by the commissioner, giving due consideration to the salary levels of actuary-statisticians, mathematicians, and certified public accountants employed in the private sector.

SECTION 2. Chapter 26 of the General Laws, as above, is further amended by adding after Section 8J the following new section:

Section 8K. Market conduct examinations.

The division shall regularly perform market conduct examinations, and shall annually report in April to the Legislature:

- a) The substance and scope of each open market conduct examination;
- b) The substance, scope, and resolution of each market conduct examination completed in the five previous calendar years;
- c) The names of division full-time employees devoted solely to market conduct activities;
- d) For each of the states of Connecticut, New York, Pennsylvania, New Jersey, Florida, and Michigan, and for any state whose insurance industry net premiums written in such state is similar to those written in the commonwealth:
  - i) The substance and scope of each open market conduct examination in such state;

55                   ii)     The substance, scope, and resolution of each market conduct examination  
56 completed in such state in the most recent twelve-month period for which said information is  
57 available from such state; and,

58                   iii)     The number of full-time employees in the insurance department of such  
59 state that are devoted solely to market conduct activities;

60                   e)   Any other market conduct information deemed relevant by the commissioner.

61           SECTION 3. This act shall take effect upon passage.