

SENATE No. 453

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to homeowners 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. Chapter 175 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended by inserting after section 4C the following section:-Section 4D. The
3 commissioner shall adopt regulations to require all insurers licensed to write and engaged in the
4 writing of homeowners insurance the commonwealth and the joint underwriting association,
5 established in chapter 175C, shall produce a standard outline of coverage written in language
6 prescribed or approved by the commissioner that describe the features of the coverage. Each
7 insurer, including the joint underwriting association, shall be required to provide this information
8 to each policyholder upon the issuance or renewal of a policy.

9 SECTION 2. Said chapter 175, as so appearing, is hereby amended by inserting after
10 section 99C the following 2 sections: - Section 99D. (a) In all instances where an insurance
11 company licensed to write property insurance in the commonwealth offers or includes any
12 deductible for wind related damages and mitigation measures related to such deductible, the
13 insurance company shall provide prominent and clear notice to the insured that shall be included
14 with the policy issuance or renewal package, and shall fully disclose all details pertaining to any

15 such deductible and mitigation measure in a format approved by the commissioner of
16 insurance.(b) An insurer may only apply a deductible for wind related damages in personal lines
17 of insurance, where:(1) the deductible is specifically approved by the commissioner and shall not
18 exceed 3 per cent of the insured value of the dwelling;(2) the deductible shall be applicable to
19 losses due to a hurricane during the period commencing with the issuance of a hurricane warning
20 or hurricane wind speed warning for any part of the state by the National Hurricane Center and
21 concluding 24 hours after the termination of the last hurricane warning or hurricane wind speed
22 warning for any part of the state;(3) the deductible, whether a flat dollar amount or a percentage
23 of insured value, shall be presented in at least 2 examples that illustrate the application of the
24 deductible to the insured. Nothing herein shall prohibit the insurer from providing any additional
25 information to the insured to assist in the insured's understanding of the deductible to be applied
26 to the insured's policy.(c) The commissioner, in consultation with the board of building and
27 regulations and standards, shall investigate mitigation measures designed to reduce losses from
28 wind related damages. Based so far as reasonably feasible on national standards for such
29 measures and practices in other comparable states, the commissioner shall adopt regulations
30 describing approved mitigation measures and the minimum corresponding benefits, such as
31 credits, lower deductibles, and reduced premiums that policyholders will receive from insurers
32 upon completion of said measures and either inspection of the property by the insurer or
33 submission of satisfactory proof of installation of the approved mitigation measures by the
34 insured. (d) The commissioner shall adopt regulations to implement this section. Section 99E. (a)
35 There shall be a Center for Hurricane Research, hereinafter referred to as the center, at the
36 University of Massachusetts at Lowell. The center shall employ such expert, clerical, or other
37 assistants as the work of the center may require. For the purpose of carrying out its duties as set

38 forth in this section the center may expend such funds as may be appropriated to the University
39 of Massachusetts at Lowell. (b) The center shall develop criteria for hurricane loss projection
40 models and methodologies that are specific to Massachusetts and may from time to time adopt
41 revisions to these criteria. In establishing the criteria, the center shall consider any models, model
42 software, methods, principles, standards, data, inputs, manuals, validation studies and output
43 ranges that have the potential for improving the accuracy of or reliability of the hurricane loss
44 projections used in homeowners' insurance rate filings. The criteria developed under this
45 subsection shall be based on actual data on Massachusetts construction practices, codes, and
46 buildings. Criteria developed by the center for this purpose shall be a public record. (c) Insurers
47 filing rates for approval by the commissioner shall submit to the center all hurricane models,
48 model software, methods, principles, standards, data, inputs, manuals, validation studies and
49 output ranges relevant to the insurer's hurricane loss projection model or methodology that is
50 intended to be used during a rate proceeding on an insurer's rate filing in advance of the rate
51 proceeding. The center shall review the accuracy or reliability of particular models, model
52 software, methods, principles, standards, data, inputs, manuals, validation studies and output
53 ranges submitted to the center by insurers and shall make recommendations relative to the
54 accuracy and reliability of the particular models, model software, methods, principles, standards,
55 data, inputs, manuals, validation studies and output ranges submitted to the center by insurers
56 using the criteria developed by the center under subsection (b). The center shall have discretion
57 to review findings made by similar centers, commissions, or regulatory bodies and to focus on
58 those aspects of the hurricane loss projection methodologies submitted to the center by insurers
59 that are specific to Massachusetts. All models, model software, methods, principles, standards,
60 data, inputs, manuals, validation studies and output ranges shall be submitted to the center for

61 review within a reasonable period of time, as determined by the center, prior to being admitted as
62 evidence during a rate proceeding before the commissioner of insurance. If any insurer fails to
63 submit any item or items required by the center under this subsection, the commissioner shall
64 direct the insurer to remove the hurricane loss projection from its filing.(d) There shall be a
65 rebuttable presumption that the recommendations made by the center relative to the accuracy or
66 reliability of particular models, model software, methods, principles, standards, data, inputs,
67 manuals, validation studies and output ranges submitted to the center by insurers shall be
68 considered by the commissioner to be relevant evidence in a rate proceeding on an insurer's rate
69 filing, provided, however that an exemption from the disclosure of trade secrets to the public
70 may apply as set forth in subsection (e). (e) A trade secret used in designing and constructing a
71 hurricane loss model or methodology, provided by an insurer to the center under subsection (c),
72 is confidential and shall not be deemed a public record, as defined in clause Twenty-sixth of
73 section 7 of chapter 4. The center shall maintain custody of any records made confidential by this
74 paragraph using a secure location or website. That portion of a rate proceeding on an insurer's
75 rate filing at which a trade secret is discussed shall be deemed confidential and not open to
76 disclosure under the open meetings law, but may be discussed at a closed meeting as provided
77 for in section 11A ½ of chapter 30A. Employees, volunteers, and students of the center will be
78 bound not to disclose information made confidential.(f) The center may form a multi-state center
79 with the states of Rhode Island, Connecticut and any other interested state in furtherance of the
80 goals of this section.

81 SECTION 3. Clause (1) of subsection (A) of section 177O of said chapter 175, as so
82 appearing, is hereby amended by striking out, in line 7, the word "producer" and inserting in
83 place there of the words "reinsurance intermediary broker"

84 SECTION 4. Clause (1) of subsection D of said section 177O of said chapter 175, as so
85 appearing, is hereby amended by striking out the second sentence.

86 SECTION 5. Section 1 of chapter 175C of the general laws, as so appearing, is hereby
87 amended by striking out definition of “Basic property insurance” and inserting in place thereof
88 the following definition:-“Basic property insurance”, insurance against direct loss to property as
89 defined and limited in the standard fire policy and extended coverage endorsement thereon, filed
90 with and accepted by the commissioner, and insurance against direct loss to such property from
91 the perils of vandalism and malicious mischief and dwelling coverages, including liability
92 coverages for one (1) to four (4) family owner and non-owner occupied dwellings either by
93 endorsement or as a stand-alone policy and homeowners coverages, excluding the unlimited
94 guaranteed replacement cost endorsement, but including the scheduled personal property
95 endorsement and such other coverages as the commissioner after public hearing shall determine
96 or the secretary of the United States department of housing and urban development shall
97 designate by rule made in accordance with the provisions of the Urban Property Protection and
98 Reinsurance Act of 1968 (Public Law 90-448) but shall not include insurance on automobile or
99 manufacturing risks except such classes of manufacturing risks as may, after proper hearing, be
100 designated by the commissioner.

101 SECTION 6. Chapter 175C of the General Laws, as so appearing, is hereby amended by
102 striking out section 4 and inserting in place thereof the following section:-Section 4. (a) All
103 insurers licensed to write and engaged in writing in this commonwealth, on a direct basis, basic
104 property insurance or any component thereof in multi-peril policies, shall cooperate in
105 organizing a joint underwriting association which shall provide basic property insurance to
106 eligible applicants who are otherwise unable to obtain such coverage in the voluntary market.

107 Every such insurer shall be a member of the association and remain a member as a condition of
108 its authority to transact such insurance within the commonwealth. (b) Such association shall be
109 authorized to inspect properties, issue policies, collect premiums and accept payment in
110 installments under plans approved by the commissioner consistent with plans offered by
111 voluntary market insurers and reflecting options for at least 6 payments annually, adjust claims
112 and pay losses on behalf of its members, employ officers, agents and other employees, enter into
113 contracts, sue and be sued in its own name and take all other actions necessary or appropriate to
114 carry out its functions. (c) The association shall submit to the commissioner a proposed plan of
115 operation, consistent with the purposes of this chapter, to provide for the prompt and efficient
116 provision of basic property insurance to eligible applicants who meet reasonable underwriting
117 standards and are otherwise unable to obtain coverage from insurers in the voluntary market.
118 Such plan of operation shall provide for economical, fair and nondiscriminatory administration
119 including, but not limited to, provisions for preliminary assessment of all members for initial
120 expenses necessary to commence operations, establishment of necessary facilities, management
121 of the association, assessment of members to defray losses and expenses, commissions,
122 reasonable underwriting standards and limits of liability, purchase of reinsurance and procedures
123 for determining amounts of insurance to be provided. (d) The plan of operation shall be subject
124 to approval by the commissioner and shall take effect 10 days after the commissioner approves
125 it. If the commissioner disapproves the proposed plan of operation, the association shall, within
126 30days, submit for review an appropriately revised plan of operation and, if the association fails
127 to submit such a plan or if the revised plan is also disapproved by the commissioner, the
128 commissioner shall adopt a plan of operation consistent with this section. The association may,
129 on its own initiative or at the request of the commissioner, amend the plan of operation, subject

130 to approval by the commissioner. (e) (1) All members of the association shall participate in its
131 writing, expenses, profits and losses in the proportion that the premiums written by each such
132 member for basic property insurance, as defined in section one, except premiums for insurance
133 on automobile and manufacturing risks excluded from the plan and that portion of the premiums
134 attributable to the operation of the association during the preceding calendar year, bear to the
135 aggregate premiums for such insurance written in the commonwealth by all members of the
136 association. Such participation by each insurer in the association shall be determined annually on
137 the basis of such premiums written during the preceding calendar years as disclosed in the annual
138 statements and other reports filed by the insurer with the commissioner. (2) The participation of
139 each member of the association writing personal lines coverage shall be adjusted based on the
140 homeowners premiums written by such a member in any credit-eligible zip code, defined as all
141 zip codes in Massachusetts where the Fair Plan market share exceeds 1.5 times the Fair Plan
142 statewide market share, never less than 15%, averaged over the latest three calendar years, in
143 accordance with the following clauses:(i) The participation ratio of each member writing
144 personal lines insurance shall be recalculated, in accordance with the procedures set forth in
145 subparagraph (1) but subtracting the premium written by members of the association writing
146 only commercial lines insurance from the aggregate premiums written in the commonwealth by
147 all members of the association. (ii) The participation ratio of each member writing personal lines
148 insurance as recalculated in clause (i) shall be multiplied by the sum of the total premium written
149 by the association in the commonwealth and 150% of the total industry homeowners credit
150 eligible premium written in credit-eligible zip codes, as defined in this chapter.(iii) The product
151 of the multiplication described in clause (ii) of this subsection shall be (A) reduced by
152 subtracting therefrom 150% of the homeowners premium written by each member in any credit-

153 eligible zip code in the year of an MPIUA loss or (B) shall be increased by adding therefrom
154 150% of the homeowners premium written by each member in any credit-eligible zip code in the
155 year of an MPIUA profit. (iv) The result of the calculation described in clause (iii) for a carrier,
156 never less than zero, shall be divided by sum of this calculation across all carriers. The resulting
157 ratio shall be the adjusted participation ratio for the member. (v) The adjusted participation ratio
158 of those members whose participation ratio is calculated as provided in this subparagraph shall
159 apply to that portion of the writings, expenses, profits and losses of the association not recovered
160 by applying the participation ratios of the remaining members of the association as calculated, as
161 provided in subparagraph (1). (3) The participation of any member of the association writing
162 personal lines insurance shall be further adjusted if such member has written homeowners
163 insurance during the preceding calendar year, hereafter called the base year, on property that was
164 insured by the association in the year immediately preceding such base year and which is located
165 in any credit eligible zip code, defined as all zip codes in Massachusetts where the Fair Plan
166 market share exceeds 1.5 times the Fair Plan statewide market share, never less than 15%,
167 averaged over the latest three calendar years. The participation of such a member shall be
168 adjusted by (i) reducing the amount of premium written by such member in subparagraph (1) by
169 one hundred percent of the total homeowners insurance premiums written by the member on
170 property described in this clause in the year of an MPIUA loss or by (ii) increasing the amount of
171 premium written by such member in subparagraph (1) by one hundred percent of the total
172 homeowners insurance premiums written by the member on property described in this clause in
173 the year of an MPIUA profit. Such adjustment shall not apply to any insurance written on
174 property that was insured by the member or any affiliate or subsidiary member in either of the
175 two years preceding the base year. (f) The association shall be governed by a board of 18

176 directors, who shall serve without compensation. Ten directors shall be elected annually by the
177 members of the association by cumulative voting; 2 directors of associations of insurance agents
178 and brokers doing business in the commonwealth appointed by the commissioner; 4 directors
179 from the general public appointed by the commissioner; and 2 directors from the general public
180 appointed by the attorney general. The 6 directors appointed from the general public by the
181 commissioner of insurance and the attorney general shall serve 3 year terms, staggered in a
182 manner to ensure the annual expiration of the terms of 2 directors, and shall not serve as director
183 for more than 3 consecutive terms. The 6 directors appointed from the general public may not
184 have affiliations with the insurance industry. Cumulative voting by members shall be permitted
185 at all such elections.

186 SECTION 7. Subsection (c) of section 5 of said chapter 175C, as so appearing, is hereby
187 amended by inserting after the third sentence, the following sentence: “Nothing in this subsection
188 shall be construed as to prevent the commissioner from considering the following premium
189 adjustments on owner’s policy forms for homeowners in all territories: adjustments to key
190 factors to keep costs reasonable for applicants with Coverage A amounts less than the median
191 Coverage A amount within that territory, coastal area rating factors that are based upon predicted
192 hurricane losses associated with distance from the coast, approving rating adjustments to keep
193 costs reasonable for primary residents, and approving rating adjustments to keep costs reasonable
194 for insureds over the age of 64.”

195 SECTION 8. Said section 5 of said chapter 175C, as so appearing, is hereby further
196 amended by inserting the following subsection:-(d) The commissioner shall develop a disclosure
197 form to inform individuals seeking to purchase basic property insurance about the risks
198 associated with choosing solely a stand alone liability policy. This form shall be written in plain

199 language, explained to an individual seeking to purchase stand along liability coverage as their
200 sole basic property insurance, and signed by that individual.

201 SECTION 9. Said chapter 175C is hereby further amended by adding the following
202 section:—Section 10. The association shall pay a dividend on homeowners insurance premiums
203 for coastal properties occupied as primary residences having a Coverage A limit not greater than
204 the median Coverage A for the territory in which the property is located. This dividend shall be
205 paid in a year which is the third consecutive year in which there have been no hurricane-related
206 losses in the territory and this dividend shall be a third of all hurricane loss premiums, less the
207 cost of reinsurance purchased by the association. This dividend shall not be paid in a year when
208 such payment shall cause the association to realize a net loss for that year, and shall only be
209 made in a year in which the association has purchased adequate reinsurance for hurricane losses,
210 as determined by the commissioner. The possibility of a dividend shall not be considered by the
211 commissioner in approving rates proposed by the association

212 SECTION 10. Notwithstanding the provisions of section 7, the appointment of the 4
213 directors from the general public appointed by the commissioner of insurance shall be as follows:
214 2 directors shall be appointed for a term of 3 years, 1 director shall be appointed for a term of 2
215 years, and 1 director shall be appointed for a term of 1 year. The appointment of the 2 directors
216 from the general public appointed by the attorney general shall be as follows: 1 director shall be
217 appointed for a term of 2 years and 1 director shall be appointed for a term of 1 year. Upon
218 expiration of these appointments, all subsequent appointments of directors from the general
219 public shall be appointed for 3 year terms

220 SECTION 11. The department of revenue, in consultation with the division of insurance,
221 shall make an investigation and study relative to the benefits and viability of a low interest loan
222 program to assist homeowners in the commonwealth with both the costs associated with the
223 purchase and installation of approved mitigation measures as described in section 2 and
224 homeowners insurance deductibles on damage associated with wind storms. The department
225 shall also study the potential utilization by homeowners as well as the funding required to
226 support such a loan program. The department of revenue shall file a report of the results of its
227 investigation, along with any legislative and regulatory recommendations, with the joint
228 committee on financial services and the clerks of the senate and house of on or before January
229 15, 2009.

230 SECTION 12. Section 99D of chapter 175 of the General Laws shall apply to all policies
231 issued or renewed on or after June 30, 2009.