

SENATE No. 461

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to an appeal process of insurance premium surcharges under managed competition..

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 175E of the General Laws, as so appearing in the 2006 Official
2 Edition, is hereby amended by inserting after Section 7 the following new section:-

3 Section 7A. Any insured aggrieved by any determination of an insurer as to the
4 application of any provision of an insurer’s merit rating plan filed and approved by the
5 commissioner pursuant to regulations promulgated in accordance with Section 10 of this chapter
6 and section 15 of Chapter 175A, may within thirty days thereafter, file a written complaint with
7 the board of appeals on motor vehicle policies and bonds, hereinafter called the board. Such
8 complaint shall be accompanied by a filing fee to be determined by the board. The board may
9 deny such appeal without a hearing on the basis of the standards of fault to be promulgated by
10 the board. In the notice of its decision to deny the complaint by the insured, the board shall
11 notify the insured that he has a right to a hearing on the application of the safe driver insurance
12 plan.

13 The board shall provide the insurer and the insured with at least ten days notice of any
14 hearing held under this section. If, after a hearing, the board finds that the application of the safe
15 driver insurance plan was in accordance with the standards promulgated by the board and an
16 insurer's provisions of the safe driver insurance plan approved by the commissioner, it shall deny
17 the appeal. If the board finds that the insurer's application of the safe driver insurance plan was
18 not in accordance with said standards and provisions, it shall order the insurer to make the
19 appropriate premium adjustment. The board may designate a person to act as a hearing officer
20 pursuant to this section. The hearing officer shall file a memorandum of his findings or order in
21 the office of the board, and shall send a copy to the insurer and the insured.

22 Any person or company aggrieved by any finding or order of the board may appeal
23 therefrom to the superior court department of the trial court, pursuant to the provisions of section
24 fourteen of chapter thirty A. The appellant shall file with his appeal a duly certified copy of the
25 complaint and of the finding and order thereon, and, if the appeal is taken from a finding and
26 order of the board in respect to a cancellation, the clerk of such court shall forthwith, upon the
27 filing of such an appeal, give written notice of the filing thereof to the registrar of motor vehicle
28 and to the appellee. Said court shall, after such notice to the parties as it deems reasonable, give
29 a summary hearing on such appeal and shall have such jurisdiction in equity to review all
30 questions of fact and law, and to affirm or reverse such finding or order and may make any
31 appropriate decree. Said court or justice may allow such appeal, finding or order to be amended.
32 The decision of the court or justice shall be final. The clerk of such court shall, within two days
33 after entry thereof, send an attested copy of the decree to each of the parties and the
34 commissioner and to said registrar, or his office. Said court or justice may make such order as to

35 costs as it or he deems equitable. Said court may make reasonable rules to secure prompt
36 hearings on such appeals and a speedy disposition thereof.