

SENATE No. 490

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relating to the requirements of the private passenger automobile insurance residual market 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 WHEREAS Section 113H of chapter 175 of the General Laws requires the fair and
2 equitable apportionment of the premiums, losses and expenses of the plan among all licensed
3 insurers writing private passenger automobile insurance in the Commonwealth; and

4 WHEREAS the Commissioner of Insurance has adopted rules inconsistent with this
5 mandate in that the rules exempt new market entrants from this apportionment for two years,

6 NOW THEREFORE Section 113H of chapter 175 is hereby amended by striking the
7 second sentence of Section A(2) and replacing it with the following clause:

8 Such a plan shall provide for the fair and equitable apportionment, among all licensed
9 insurance companies writing private passenger automobile insurance in the Commonwealth, of
10 the premiums, losses and expenses generated by the risks insured through the plan. Whether the
11 residual market is shared by direct assignment of risks or otherwise, the risks, premiums, losses
12 and expenses of the plan shall be allocated to all licensed insurers writing private passenger
13 automobile insurance in the Commonwealth based on each insurer’s contemporaneous share of

14 private passenger voluntary exposures, and may include ceded exposures where appropriate, and
15 as adjusted for any credits authorized by the plan, and no exemption from such allocation shall
16 be permitted for any insurer, including new entrants to the market, except in those instances
17 where the Commissioner determines that the continuation of an insurer's obligations under the
18 plan would imminently threaten the solvency of such insurer.

19 Notwithstanding any rule, regulation, order, ruling or decision to the contrary, this
20 amendment is to be effective immediately upon enactment, and the allocation of the residual
21 market as set forth herein shall be applied to all licensed insurance companies that write private
22 passenger automobile insurance in the Commonwealth, regardless of the date on which said
23 insurer first writes such insurance.