

**SENATE . . . . . No. 503**

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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 Credit System For Homeowner's Insurance Under The Massachusetts Property Insurance Underwriting Association..

*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 175C of the General Laws, as so appearing in the 2006 Official  
2 Edition, is hereby amended by striking out section 4 in its entirety and inserting in place thereof  
3 the following: -

4 Section 4. (a) All insurers licensed to write and engaged in writing in this commonwealth,  
5 on a direct basis, basic property insurance or any component thereof in multi-peril policies, shall  
6 cooperate in organizing a joint underwriting association which shall provide basic property  
7 insurance to eligible applicants who are otherwise unable to obtain such coverage in the  
8 voluntary market. Every such insurer shall be a member of the association and remain a member  
9 as a condition of its authority to transact such insurance within the commonwealth.

10 (b) Such association shall be authorized to inspect properties, issue policies, collect  
11 premiums and accept payment in installments under plans approved by to commissioner  
12 consistent with plans offered by voluntary market insurers and reflecting options for at least 6  
13 payments annually, adjust claims and pay losses on behalf of its members, employ officers,

14 agents and other employees, enter into contracts, sue and be sued in its own name and take all  
15 other actions necessary or appropriate to carry out its functions.

16 (c) The association shall submit to the commissioner a proposed plan of operation,  
17 consistent with the purposes of this chapter, to provide for the prompt and efficient provision of  
18 basic property insurance to eligible applicants who meet reasonable underwriting standards and  
19 are otherwise unable to obtain coverage from insurers in the voluntary market. Such plan of  
20 operation shall provide for economical, fair and nondiscriminatory administration including, but  
21 not limited to, provisions for preliminary assessment of all members for initial expenses  
22 necessary to commence operations, establishment of necessary facilities, management of the  
23 association, assessment of members to defray losses and expenses, commissions, reasonable  
24 underwriting standards and limits of liability, purchase of reinsurance and procedures for  
25 determining amounts of insurance to be provided.

26 (d) The plan of operation shall be subject to approval by the commissioner and shall take  
27 effect 10 days after the commissioner approves it. If the commissioner disapproves the proposed  
28 plan of operation, the association shall, within 30 days, submit for review an appropriately  
29 revised plan of operation and, if the association fails to submit such a plan or if the revised plan  
30 is also disapproved by the commissioner, the commissioner shall adopt a plan of operation  
31 consistent with this section. The association may, on its own initiative or at the request of the  
32 commissioner, amend the plan of operation, subject to approval by the commissioner.

33 (e) (1) All members of the association shall participate in its writing, expenses, profits  
34 and losses in the proportion that the premiums written by each such member for basic property  
35 insurance, as defined in section one, except premiums for insurance on automobile and

36 manufacturing risks excluded from the plan and that portion of the premiums attributable to the  
37 operation of the association during the preceding calendar year, bear to the aggregate premiums  
38 for such insurance written during the preceding calendar years as disclosed in the annual  
39 statements and other reports filed by the insurer with the commissioner.

40 (2) The participation of each member of the association writing personal lines coverage  
41 shall be adjusted based on the homeowners premiums written by such a member in any credit-  
42 eligible zip code, defined as all zip codes in Massachusetts where the Fair Plan market share  
43 exceeds 1.5 times the Fair Plan statewide market share, never less than 15%, average over the  
44 latest three calendar years, in accordance with the following clauses:

45 (i) The participation ratio of each member writing personal lines insurance shall be  
46 recalculated, in accordance with the procedures set forth in subparagraph (1) but subtracting the  
47 premium written by members of the association writing only commercial lines insurance from  
48 the aggregate premiums written in the commonwealth by all members of the association.

49 (ii) The participation ratio of each member writing personal lines insurance as  
50 recalculated in clause (i) shall be multiplied by the sum of the total premium written by the  
51 association in the commonwealth and 150% of the total industry homeowners credit eligible  
52 premium written in credit-eligible zip codes, as defined in this chapter.

53 (iii) The product of the multiplication described in clause (ii) of the subsection shall be  
54 (A) reduced by subtracting therefrom 150% of the homeowners premium written by each  
55 member in any credit-eligible zip code in the year MPIUA loss or (B) shall be increased by  
56 adding therefrom 150% of the homeowners premium written by each member in any credit-  
57 eligible zip code in the year of an MPIUA profit.

58 (iv) The result of the calculation described in clause (iii) for a carrier, never less than  
59 zero, shall be divided by sum of this calculation across all carriers. The resulting ratio shall be  
60 the adjusted participation ratio for the member.

61 (v) The adjusted participation ratio of those members whose participation ratio is  
62 calculated as provided in this subparagraph shall apply to that portion of the writings, expenses,  
63 profits and losses of the association not recovered by applying the participation ratios of the  
64 remaining members of the association as calculated, as provided in subparagraph (1).

65 (3) The participation of any member of the association writing personal lines insurance  
66 shall be further adjusted if such member has written homeowners insurance during the preceding  
67 calendar year, hereafter called the base year, on property that was insured by the association in  
68 the year immediately preceding such base year and which is located in any credit eligible zip  
69 code, defined as all zip codes in Massachusetts where the Fair Plan market share exceeds 1.5  
70 times the Fair Plan statewide market share, never less than 15%, average over the latest three  
71 calendar years. The participation of such a member shall be adjusted by (i) reducing the amount  
72 of premium written by such member in subparagraph (1) by one hundred percent of the total  
73 homeowners insurance premiums written by the member on property described in this clause in  
74 the year of an MPIUA loss or by (ii) increasing the amount of premium written by such member  
75 in subparagraph (1) by one hundred percent of the total homeowners insurance premiums written  
76 by the member on property described in this clause in the year of an MPIUA profit. Such  
77 adjustment shall not apply to any insurance written on property that was insured by the member  
78 or any affiliate or subsidiary member in either of the two years preceding the base year.

79           (f) The association shall be governed by a board of 18 directors, who shall serve without  
80 compensation. Ten directors shall be elected annually by the members of the association by  
81 cumulative voting; 2 directors of associations of insurance agents and brokers doing business in  
82 the commonwealth appointed by the commissioner; 4 directors from the general public appointed  
83 by the commissioner; and 2 directors from the general public appointed by the attorney general.  
84 The 6 directors appointed from the general public by the commissioner of insurance and the  
85 attorney general shall serve 3 year terms, staggered in a manner to ensure the annual expiration  
86 of the terms of 2 directors, and shall not serve as director for more than 3 consecutive terms. The  
87 6 directors appointed from the general public may not have affiliations with the insurance  
88 industry. Cumulative voting by members shall be permitted at all such elections.