

HOUSE No. 4765

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, December 15, 2016.

The committee on Ways and Means, to whom was referred the Senate Bill relative to self-storage insurance (Senate, No. 2233), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 4765.

For the committee,

BRIAN S. DEMPSEY.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. Chapter 175 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by adding the following section:-

3 Section 228. (a) For the purposes of this section, the term "self-service storage agent"
4 shall mean a self-storage facility operator who is licensed under this section. The terms
5 "occupant", "operator", "personal property" and "self-service storage facility" shall have the
6 same meanings as provided in section 1 of chapter 105A.

7 (b) The commissioner may issue a renewable self-service storage agent license for a term
8 of not more than 2 years to an operator that has complied with this section, authorizing the
9 operator to sell or offer to sell the insurance prescribed in this section in connection with and
10 incidental to the rental of space at a self-service storage facility. Notwithstanding any general or
11 special law to the contrary, a license issued pursuant to this section shall authorize the licensee
12 and its employees or authorized representatives to engage in the activities that are authorized in
13 this section.

14 (c) An applicant for a self-service storage agent license shall file a written application in a
15 form prescribed by the commissioner. The applicant shall be at least 18 years of age, provide a
16 physical address of the applicant's company headquarters and a list of all self-service storage

17 facilities where the self-service storage agent will conduct business under the license and, upon
18 request, such list shall be provided to the commissioner or a designee upon 30 days notice. An
19 applicant shall maintain a list of all employees and authorized representatives who will be
20 authorized to sell or offer to sell insurance under the license and shall provide a copy of the list
21 to the commissioner upon request. A self-service storage agent shall not be required to have a
22 separate license for each self-service storage facility or other place where business is transacted.
23 The self-service storage agent shall notify the commissioner not less than 15 days prior to
24 commencing business under the self-service storage agent's license at any locations not included
25 on the application or if a location ceases to conduct business under the license.

26 (d) A self-service storage agent may sell or offer to sell insurance only in connection with
27 and incidental to the rental of space at a self-service storage facility on a master, corporate,
28 commercial, group or individual policy basis and only with respect to personal property
29 insurance that provides coverage to occupants at the self-service storage facility where the
30 insurance is transacted for the loss of or damage to stored personal property that occurs at the
31 covered facility.

32 (e) A self-service storage agent shall not sell or offer to sell insurance pursuant to this
33 section unless the self-service storage agent makes readily available to the prospective occupant
34 brochures or other written materials that have been reviewed and approved by the commissioner
35 that:

36 (i) summarize the material terms of insurance coverage offered to occupants, including
37 the identity of the insurer, the amount of any applicable deductible and how it shall be paid, the
38 benefits of the coverage, and any exclusions and conditions;

39 (ii) disclose that the policies offered by the self-service storage agent may provide a
40 duplication of coverage already provided by an occupant's homeowner's insurance policy,
41 renter's insurance policy, motor vehicle insurance policy, watercraft insurance policy or other
42 source of property insurance coverage;

43 (iii) state that if insurance is required as a condition of rental, the requirement may be
44 satisfied by the occupant purchasing the insurance prescribed in this section or by presenting
45 evidence of other applicable insurance coverage;

46 (iv) describe the process for filing a claim, including any appeal process
47 for a denial;

48 (v) state that an enrolled customer may cancel enrollment for coverage
49 under a self-storage insurance policy at any time and the person paying the premium shall
50 receive a refund or credit of any applicable unearned premium;

51 (vi) all costs and charges related to the insurance are stated in writing;

52 (vii) require evidence of coverage or a voluntary declination of coverage, in a
53 form approved by the insurer, is provided to each occupant to whom coverage is offered;
54 provided, however, that if insurance is required as a condition of rental under subclause (3) of
55 clause (i), the requirement of evidence of a voluntary declination of coverage shall not apply; and

56 (viii) the insurance is provided by an insurer authorized to provide the applicable
57 kind of insurance in the commonwealth.

58 (f) An employee or authorized representative of a self-service storage agent may sell or
59 offer to sell self-storage insurance to occupants and such employee or authorized representative

60 shall not be subject to licensure as a self-service storage agent; provided, however, that such
61 employee or authorized representative shall be at least 18 years of age and the self-service
62 storage agent shall obtain a license to authorize its employees or authorized representatives to
63 sell or offer self-storage insurance pursuant to this section; and provided further, that no
64 employee or authorized representative of a self-service storage agent shall advertise, represent or
65 otherwise hold themselves out as having a self-storage agent license.

66 (g) Each self-service storage agent shall provide a training program that gives employees
67 and authorized representatives of the self-service storage agent who are directly engaged in the
68 activity of selling or offering to sell self-storage insurance basic instructions about this section,
69 including the kinds of insurance coverage authorized in this section. A self-service storage agent
70 shall provide the training materials to the commissioner upon request.

71 (h) A self-service storage agent shall not: (i) sell or offer to sell insurance except in
72 connection with and incidental to the rental of space at a self-service storage facility; or (ii)
73 advertise, represent or otherwise portray itself or any of its employees or agents as licensed
74 insurers or insurance producers.

75 (i) Nothing in this section shall prohibit: (i) an insurer from paying, and a self-service
76 storage agent from receiving, a reasonable commission, service fee or other valuable
77 consideration dependent on the sale of the type of insurance authorized in this section; or (ii) a
78 self-service storage agent from paying, and its employees or agents from receiving reasonable
79 production payments or incentive payments; provided, however, that such payments shall not
80 depend solely on the sale of insurance.

81 (j) An operator shall not be required to be licensed pursuant to this section solely to
82 display and make available to prospective occupants brochures and other promotional materials
83 created by or on behalf of an authorized insurer or by a surplus lines insurer.

84 (k) Section 177 shall apply to all persons not authorized to sell or offer to sell self-storage
85 insurance pursuant to this section.

86 (l) A self-service storage agent shall not be subject to the continuing education
87 requirements of section 177E.

88 (m) The charges for insurance coverage pursuant to this section may be billed and
89 collected by the self-service storage agent. Any charge to the enrolled occupant for coverage that
90 is not included in the cost associated with the rental of space at a self-service storage facility
91 shall be separately itemized on the occupant's bill. If the coverage is included with the rental of
92 space at a self-service storage facility, the self-service storage agent shall clearly and
93 conspicuously disclose to the occupant that the coverage is included with the rental of space at a
94 self-service storage facility. Self-service storage agents billing and collecting the charges shall
95 not be required to maintain the funds in a segregated account provided that the agent is
96 authorized by the insurer to hold the funds in an alternative manner and remits the amounts to the
97 supervising entity within 60 days of receipt.. All funds received by a self-service storage facility
98 from an occupant for the sale of self-storage insurance coverage shall be considered funds held
99 in trust by the self-service storage agent in a fiduciary capacity for the benefit of the insurer. A
100 self-service storage agent may receive reasonable compensation for billing and collection
101 services.

102 (n) Notwithstanding any general or special law to the contrary, if the self-storage
103 insurance coverage terms and conditions are changed, then the self-service storage agent shall
104 provide each occupant with a revised certificate, endorsement, updated brochure or other
105 evidence indicating that a change in the terms and conditions has occurred and a summary of
106 material changes.

107 (o) If a self-service storage agent or its employee or authorized representative violates
108 this section, the commissioner may, after notice and a hearing, impose:

109 (i) a fine not to exceed \$500 per violation or \$5,000 in the aggregate for
110 the violation; and

111 (ii) other penalties that the commissioner considers necessary and
112 reasonable to carry out the purpose of this section, including: (1) suspending the privilege of
113 transacting self-storage insurance pursuant to this section at specific business locations where
114 any such violations have occurred; and (2) suspending or revoking the right of individual
115 employees or authorized representatives to act under the license.

116 (p) Chapter 176D shall apply to self-service storage agents, administrators and other
117 persons marketing, selling or offering to sell self-storage insurance coverage.

118 (q) Nothing in this section shall be construed to require an insurer to obtain an insurance
119 producer license pursuant to section 162I.

120 (r) The commissioner may promulgate regulations necessary to administer this section.