

SENATE No. 2233

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Thursday, April 21, 2016

The committee on Ways and Means, to whom was referred the Senate Bill relative to self-storage insurance (Senate, No. 533),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2233).

For the committee,
Karen E. Spilka

The Commonwealth of Massachusetts

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

An Act relative to self-storage 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 Chapter 175 of the General Laws is hereby amended by adding the following section:-

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

6 (b) The commissioner may issue a renewable self-service storage agent license for a term
7 of not more than 2 years to an operator that has complied with this section authorizing the
8 operator to sell or offer to sell the insurance prescribed in this section in connection with and
9 incidental to the rental of space at a self-service storage facility.

10 (c) An applicant for a self-service storage agent license shall file a written application in a
11 form prescribed by the commissioner. The applicant shall be at least 18 years of age, provide a
12 physical address of the applicant's company headquarters and a list of all self-service storage
13 facilities where the self-service storage agent will conduct business under the license and, upon

14 request, that list shall be provided to the commissioner or a designee upon 30 days notice. An
15 applicant shall maintain a list of all employees and authorized representatives who will be
16 authorized to sell or offer to sell insurance under the license and shall provide a copy of the list
17 to the commissioner upon request. A self-service storage agent shall not be required to have a
18 separate license for each self-service storage facility or other place where business is transacted.
19 The self-service storage agent shall notify the commissioner not less than 15 days prior to
20 commencing business under the self-service storage agent's license at any locations not included
21 on the application or if a location ceases to do business under the license. Notwithstanding any
22 general or special law to the contrary, a license issued pursuant to this section shall authorize the
23 licensee and its employees or authorized representatives to engage in the activities that are
24 authorized in this section.

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

31 (e) A self-service storage agent shall not sell or offer to sell insurance pursuant to this
32 section unless:

33 (i) the self-service storage agent makes readily available to the prospective
34 occupant brochures or other written materials that have been reviewed and approved by the
35 commissioner and that:

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

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

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

46 (4) describe the process for filing a claim, including any appeals process
47 for a denial; and

48 (5) 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 receive
50 a refund or credit of any applicable unearned premium;

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

52 (iii) evidence of coverage in a form approved by the insurer is provided to each
53 occupant who purchases the coverage; and

54 (iv) the insurance is provided by an insurer authorized to provide the applicable
55 kind of insurance in the commonwealth.

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

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

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

73 (i) Nothing in this section shall prohibit: (i) an insurer from paying, and a self-service
74 storage agent from receiving, a reasonable commission, service fee or other valuable
75 consideration dependent on the sale of the type of insurance authorized in this section; or (ii) a
76 self-service storage agent from paying, and its employees or agents from receiving reasonable

77 production payments or incentive payments; provided, however, that such payments shall not
78 depend solely on the sale of insurance.

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

82 (k) A self-service storage agent shall not be subject to the continuing education
83 requirements of section 177E.

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

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

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

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

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

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

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

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

116 (r) The commissioner shall promulgate regulations necessary to administer this section.