

HOUSE No. 1079

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing protections to victims of domestic violence in connection with property insurance claims.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/18/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/22/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2019</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>2/1/2019</i>

HOUSE No. 1079

By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 1079) of Sarah K. Peake and others relative to property insurance claims of victims of domestic violence. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act providing protections to victims of domestic violence in connection with property insurance claims.

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 175 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by inserting, after section 95B, the following section:-

3 Section 95C. (a) As used in this section, the following words shall have the following
4 meanings unless context clearly requires otherwise:

5 “Confidential domestic violence information” means information about acts of domestic
6 violence against a victim, information about a person’s domestic violence victim status, the
7 address and telephone numbers of a victim of domestic violence and the whereabouts of a victim
8 of domestic violence.

9 “Domestic violence” shall have the same meaning as “abuse” as defined in section 1 of
10 chapter 209A.

11 “Domestic violence-related property damage claim” means a property damage claim by
12 an innocent co-insured under a policy resulting from an act of domestic violence.

13 “Domestic violence victim status” means that a person is, has been, or is at substantial
14 risk of being the subject of domestic violence.

15 “Innocent co-insured” means an insured who did not, directly or indirectly, plan,
16 cooperate in, contribute to, conspire with or otherwise participate in the creation of the loss or
17 conduct that caused the property damage giving rise to the domestic violence-related property
18 claim. Innocent co-insured does not include persons who were directly or indirectly involved in
19 causing a loss for the purpose of recovering insurance.

20 “Insured” means a person named on a property policy as an individual with legal rights to
21 the benefits provided by such policy.

22 “Insurer” means an entity engaged in the business of residential property insurance in the
23 Commonwealth of Massachusetts. For purposes of this section only, the Massachusetts Fair Plan
24 is considered a property insurer.

25 “Policy” means a contract of insurance covering residential property located in the
26 Commonwealth of Massachusetts.

27 “Victim of domestic violence” means a person against whom an act of domestic violence
28 has been directed; who has current or prior injuries, illnesses or disorders that result from
29 domestic violence; or who seeks, may have sought or had reason to seek medical or
30 psychological treatment for domestic violence; or protection, court-ordered protection or shelter
31 from domestic violence.

32 (b) No property insurer shall deny, limit, restrict, exclude, or refuse to provide coverage
33 for a domestic violence-related property damage claim filed under a property policy on the basis
34 of an insured's domestic violence victim status.

35 Notwithstanding contract language that would otherwise bar coverage due to the
36 intentional nature of the conduct giving rise to a domestic violence-related property claim, no
37 insurer delivering a policy in the Commonwealth of Massachusetts shall refuse to pay a domestic
38 violence-related property damage claim when such a claim arises out of domestic violence
39 committed by another person who is insured under the innocent co-insured's property policy.
40 Payments made under such circumstances may be limited to the extent of the innocent co-
41 insured's legal ownership interest in the covered property, as reduced by any payments to a
42 mortgagor or other secured lienholder, up to the available limits of coverage provided by the
43 policy.

44 Nothing herein is intended to prohibit insurers from denying claims where there is
45 evidence of fraud or evidence of intent to cause a loss for the purpose of recovering insurance.

46 Nothing herein shall be construed to prohibit an insurer from engaging in ordinary claims
47 investigation and from applying reasonable standards of proof relative to claims under this
48 section.

49 Nothing herein is intended to create or compel coverage for claims that otherwise would
50 not be covered due to conditions or exclusions that would apply irrespective of the intentional
51 nature of the conduct giving rise to the claim.

52 (c) When a property insurer has information in its possession that clearly indicates that
53 the insured is a subject of domestic violence, the insurer shall use reasonable efforts to protect

54 against the disclosure or transfer of confidential domestic violence information, as defined in this
55 section, to any person, except an insurer may disclose such information:

56 (1) to the victim of the domestic violence or to an individual specifically designated in
57 writing by the victim of domestic violence;

58 (2) when ordered by the Commissioner of Insurance or a court of competent jurisdiction,
59 when subpoenaed or when otherwise required by law; or

60 (3) when necessary for a valid business purpose in connection with the adjusting of the
61 claim, including transacting business with reinsurers, consultants, attorneys, and agents.

62 (d) Any innocent co-insured aggrieved by any conduct prohibited by subsection 2 herein
63 may bring an action in the Superior Court for recovery of the benefits payable under the policy in
64 accordance with this section.

65 SECTION 2. This act shall take effect on January 1, 2020.