

SENATE No. 490

The Commonwealth of Massachusetts

PRESENTED BY:

Joan M. Menard

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 passage of the accompanying bill:

An Act relating to the requirements of the private passenger automobile insurance residual market plan.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joan M. Menard	First Bristol and Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and 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 equitable
2 apportionment of the premiums, losses and expenses of the plan among all licensed insurers writing
3 private passenger automobile insurance in the Commonwealth; and

4 WHEREAS the Commissioner of Insurance has adopted rules inconsistent with this mandate in
5 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 second
7 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 insurance
9 companies writing private passenger automobile insurance in the Commonwealth, of the premiums,
10 losses and expenses generated by the risks insured through the plan. Whether the residual market is
11 shared by direct assignment of risks or otherwise, the risks, premiums, losses and expenses of the plan
12 shall be allocated to all licensed insurers writing private passenger automobile insurance in the
13 Commonwealth based on each insurer's contemporaneous share of private passenger voluntary exposures,
14 and may include ceded exposures where appropriate, and as adjusted for any credits authorized by the
15 plan, and no exemption from such allocation shall be permitted for any insurer, including new entrants to

16 the market, except in those instances where the Commissioner determines that the continuation of an
17 insurer's obligations under the plan would imminently threaten the solvency of such insurer.

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