HOUSE DOCKET, NO. FILED ON: 1/18/2012

HOUSE . . . . . No. 3776

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relating to insurance company rebates..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 182 of chapter 175 of the General Laws, as appearing in the 2010 Official Edition, shall be amended by striking the section in its entirety and replacing it with the following section:-

Section 182. No company, no officer or agent thereof and no insurance broker shall pay or allow, or offer to pay or allow, in connection with placing or negotiating any policy of insurance or any annuity or pure endowment contract or the continuance or renewal thereof, any valuable consideration or inducement in an amount greater than one-hundred dollars, or any cash, or gift cards, not specified in the policy or contract, or any special favor or advantage in the dividends or other benefits to accrue thereon; or shall give, sell or purchase, or offer to give, sell or purchase, anything of value in an amount greater than one-hundred dollars whatsoever not specified in the policy; or shall give, sell, negotiate, deliver, issue, or authorize to issue or offer to give, sell, negotiate, deliver, issue, or authorize to issue any policy of workers' compensation insurance, or any motor vehicle liability bond or any motor vehicle liability policy, both as defined in section thirty-four A of chapter ninety, at a rate different from that fixed, established

15 or approved by the commissioner. Valuable consideration or inducement shall not include any
16 advice or services provided by or through an insurance company, insurance agent, or third party
17 provided by either, related to risk assessment, risk management tools, claims assistance, claims
18 reduction, administrative consulting, or advice or services designed to reduce risk, claims or
19 claims expenses. No such company, officer, agent or broker shall at any time pay or allow, or
20 offer to pay or allow, any rebate of any premium paid or payable on any policy of insurance or
21 any annuity or pure endowment contract. Nothing in this chapter shall prevent any life company
22 from making supplemental agreements, not specified in the policy, which give the policy owner
23 or insured the right to borrow money from the life company in connection with a student loan
24 insurance program, pursuant to United States Public Law 89-329, or pursuant to any similar
25 federal statute; provided, however, that such loans are to be made, issued, assumed or guaranteed
26 by the United States of America or any instrumentality thereof, or by any state of the United
27 States.

28

29 SECTION 2. Section 183 of chapter 175 of the General Laws, as appearing in the 2010
30 Official Edition, shall be amended by striking the section in its entirety and replacing it with the
31 following section:-

32 Section 183. No person shall receive or accept from any company or officer or agent
33 thereof, or any insurance broker, or any other person, any such rebate of premium paid or
34 payable on the policy or contract, or any special favor or advantage in the dividends or other
35 benefits to accrue thereon, or any valuable consideration or inducement in an amount greater
36 than one-hundred dollars , or any cash, or gift cards, not specified in the policy or contract or any

37 policy of workers' compensation insurance, or any motor vehicle liability bond or any motor
38 vehicle liability policy, both as defined in section thirty-four A of chapter ninety, at a rate
39 different from that fixed, established or approved by the commissioner. Valuable consideration
40 or inducement shall not include any advice or services provided by or through an insurance
41 company, insurance agent, or third party provided by either, related to risk assessment, risk
42 management tools, claims assistance, claims reduction, administrative consulting, or advice or
43 services designed to reduce risk, claims or claims expenses. No person shall be excused from
44 testifying, or from producing any books, papers, contracts, agreements or documents at the trial
45 of any other person charged with violating any provision of this and the preceding section, on the
46 ground that such testimony or evidence may tend to incriminate himself; but no person shall be
47 prosecuted for any act concerning which he shall be compelled so to testify or produce evidence,
48 documentary or otherwise, except for perjury committed in so testifying.

49 SECTION 3. Section 3 of chapter 176D of the General Laws, as appearing in the 2010
50 Official Edition, shall be amended by striking paragraph (8) in its entirety and replacing it with
51 the following paragraph:-

52 (8) Rebates: Except as otherwise expressly provided by law, knowingly permitting or
53 offering to make or making any insurance contract, including but not limited to a contract for life
54 insurance, life annuity or accident and health insurance, or agreement as to such contract other
55 than as plainly expressed in the insurance contract issued thereon, or paying or allowing, or
56 giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance
57 or annuity any rebate of premiums payable on the contract, or any special favor or advantage in
58 the dividends or other benefits thereon, or any valuable consideration or inducement in an
59 amount greater than one-hundred dollars, or any cash, or gift cards, not specified in the contract;

60 or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such
61 insurance contract, or annuity or in connection therewith, any stocks, bonds, or other securities of
62 any insurance company or other corporation, association, or partnership, or any dividends or
63 profits accrued thereon, or anything of value whatsoever not specified in the contract. Valuable
64 consideration or inducement shall not include any advice or services provided by or through an
65 insurance company, insurance agent, or third party provided by either, related to risk assessment,
66 risk management tools, claims assistance, claims reduction, administrative consulting, or advice
67 or services designed to reduce risk, claims or claims expenses.

68 3791

69 An Act relative to affiliate transfers.

70 SECTION 1. Section 193P of chapter 175 of the General Laws, as appearing in the 2010
71 Official Edition, is hereby amended by inserting at the end thereof the following new paragraph:
72 -

73 Nothing in this section shall be construed to require notice if an insurer within the same
74 group of insurers issues a succeeding policy to the insured that provides coverage on the same
75 terms and conditions as the preceding policy. Insurers that offer or issue a succeeding policy to
76 the insured through a different company within the same company group must notify the insured
77 in writing of any changes in coverage from the preceding policy at the time of issuance.

78 SECTION 2. Section 113F of chapter 175 of

79 the General Laws, as appearing in the 20010 Official Edition, is hereby amended by
80 inserting in line 47 after the word “company.” the following new paragraph: -

81 Nothing in this section shall be construed to require notice if an insurer within the same
82 group of insurers issues a succeeding policy to the insured on the same terms and conditions as
83 the preceding policy. Insurers that offer or issue a succeeding policy to the insured through a
84 different company within the same company group must notify the insured in writing of any
85 changes in coverage from the preceding policy at the time of issuance.

86 3795

87 An Act banning the use of credit in underwriting and rating private passenger motor
88 vehicle insurance.

89 SECTION 1. Chapter 175 of the General Laws is hereby amended by inserting after
90 Section 4D, as appearing in the 2010 Official Edition, the following section:-

91 Section 4E. No insurer engaged in writing private passenger motor vehicle insurance in
92 the commonwealth shall, in connection with underwriting of said insurance, refuse to issue or
93 renew a private passenger motor vehicle insurance policy or bond based on the ownership or
94 operation of a private passenger motor vehicle based upon credit information, including but not
95 limited to a numerical credit-based insurance score or credit rating of an insured; and provided,
96 further, no insurer shall file rates for private passenger motor vehicle insurance, pursuant to
97 chapter 175E, based on credit information, including but not limited to a numerical credit-based
98 insurance score or credit rating of an applicant or insured. Nothing in this section shall be
99 construed to restrict any insurer from obtaining or using its own payment history information or
100 information contained in an insurance claims history report, a motor vehicle or driver history
101 report, or any other report from the Massachusetts Registry of Motor Vehicles or its out-of-state
102 equivalent.

103 SECTION 2. Section 113B of said chapter 175, as so appearing in the 2010 Official
104 Edition, is hereby amended by adding the following paragraph:- The commissioner shall not fix
105 or establish any private passenger motor vehicle insurance rates, premium charges, premium
106 adjustments, or classifications of risks based in whole or in part on credit information relating to
107 an insured, including but not limited to a numerical credit-based insurance score or credit rating
108 of an insured; and provided, further, that no insurer, in connection with underwriting private
109 passenger motor vehicle insurance or bonds based on the ownership or operation of a private
110 passenger motor vehicle, shall refuse to issue or renew said insurance or bond based upon credit
111 information, including but not limited to a numerical credit-based insurance score, other credit
112 rating of an insured or applicant. Nothing in this paragraph shall be construed to restrict any
113 insurer from obtaining or using its own payment history information or information contained in
114 an insurance claims history report, a motor vehicle or driver history report, or any other report
115 from the Massachusetts Registry of Motor Vehicles or its out-of-state equivalent.

116 SECTION 3. Section 4 of chapter 175E of the General Laws, as so appearing in the 2010
117 Official Edition, inserting after the word "discriminatory", in line 5, the following sentence:- In
118 connection with private passenger motor vehicle insurance, rates shall not be based in whole or
119 in part on any credit information relating to an insured, including but not limited to, a numerical
120 credit-based insurance score or other credit rating of an insured; and provided, further, that no
121 insurer, in connection with underwriting private passenger motor vehicle insurance or bonds
122 based on the ownership or operation of a private passenger motor vehicle, shall refuse to issue or
123 renew said insurance or bond based upon credit information, including but not limited to a
124 numerical credit-based insurance score or other credit rating of an insured or applicant. Nothing
125 in this section shall be construed to restrict any insurer from obtaining or using its own payment

126 history information or information contained in an insurance claims history report, a motor

127 vehicle or driver history report, or any other report from the Massachusetts Registry of Motor

128 Vehicles or its out-of-state equivalent.