

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Mr. Pacheco**

*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 Relative to the Credit System For Homeowner's Insurance Under The Massachusetts Property Insurance Underwriting Association.**

PETITION OF:

NAME:

Mr. Pacheco

DISTRICT/ADDRESS:

First Plymouth and Bristol

# The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand and Nine  
\_\_\_\_\_

## AN ACT RELATIVE TO THE CREDIT SYSTEM FOR HOMEOWNER'S INSURANCE UNDER THE MASSACHUSETTS PROPERTY INSURANCE UNDERWRITING ASSOCIATION.

*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 175C of the General Laws, as so appearing in the 2006 Official  
2 Edition, is hereby amended by striking out section 4 in its entirety and inserting in place thereof  
3 the following: -

4 Section 4. (a) All insurers licensed to write and engaged in writing in this commonwealth, on a  
5 direct basis, basic property insurance or any component thereof in multi-peril policies, shall  
6 cooperate in organizing a joint underwriting association which shall provide basic property  
7 insurance to eligible applicants who are otherwise unable to obtain such coverage in the  
8 voluntary market. Every such insurer shall be a member of the association and remain a  
9 member as a condition of its authority to transact such insurance within the commonwealth.

10           (b) Such association shall be authorized to inspect properties, issue policies, collect  
11 premiums and accept payment in installments under plans approved by to commissioner

12 consistent with plans offered by voluntary market insurers and reflecting options for at least 6  
13 payments annually, adjust claims and pay losses on behalf of its members, employ officers,  
14 agents and other employees, enter into contracts, sue and be sued in its own name and take all  
15 other actions necessary or appropriate to carry out its functions.

16 (c) The association shall submit to the commissioner a proposed plan of operation,  
17 consistent with the purposes of this chapter, to provide for the prompt and efficient provision  
18 of basic property insurance to eligible applicants who meet reasonable underwriting standards  
19 and are otherwise unable to obtain coverage from insurers in the voluntary market. Such plan  
20 of operation shall provide for economical, fair and nondiscriminatory administration including,  
21 but not limited to, provisions for preliminary assessment of all members for initial expenses  
22 necessary to commence operations, establishment of necessary facilities, management of the  
23 association, assessment of members to defray losses and expenses, commissions, reasonable  
24 underwriting standards and limits of liability, purchase of reinsurance and procedures for  
25 determining amounts of insurance to be provided.

26 (d) The plan of operation shall be subject to approval by the commissioner and shall  
27 take effect 10 days after the commissioner approves it. If the commissioner disapproves the  
28 proposed plan of operation, the association shall, within 30 days, submit for review an  
29 appropriately revised plan of operation and, if the association fails to submit such a plan or if  
30 the revised plan is also disapproved by the commissioner, the commissioner shall adopt a plan  
31 of operation consistent with this section. The association may, on its own initiative or at the

32 request of the commissioner, amend the plan of operation, subject to approval by the  
33 commissioner.

34 (e) (1) All members of the association shall participate in its writing, expenses, profits  
35 and losses in the proportion that the premiums written by each such member for basic  
36 property insurance, as defined in section one, except premiums for insurance on automobile  
37 and manufacturing risks excluded from the plan and that portion of the premiums attributable  
38 to the operation of the association during the preceding calendar year, bear to the aggregate  
39 premiums for such insurance written during the preceding calendar years as disclosed in the  
40 annual statements and other reports filed by the insurer with the commissioner.

41 (2) The participation of each member of the association writing personal lines coverage  
42 shall be adjusted based on the homeowners premiums written by such a member in any credit-  
43 eligible zip code, defined as all zip codes in Massachusetts where the Fair Plan market share  
44 exceeds 1.5 times the Fair Plan statewide market share, never less than 15%, average over the  
45 latest three calendar years, in accordance with the following clauses:

46 (i) The participation ratio of each member writing personal lines insurance shall be  
47 recalculated, in accordance with the procedures set forth in subparagraph (1) but subtracting  
48 the premium written by members of the association writing only commercial lines insurance  
49 from the aggregate premiums written in the commonwealth by all members of the association.

50 (ii) The participation ratio of each member writing personal lines insurance as  
51 recalculated in clause (i) shall be multiplied by the sum of the total premium written by the

52 association in the commonwealth and 150% of the total industry homeowners credit eligible  
53 premium written in credit-eligible zip codes, as defined in this chapter.

54 (iii) The product of the multiplication described in clause (ii) of the subsection shall be  
55 (A) reduced by subtracting therefrom 150% of the homeowners premium written by each  
56 member in any credit-eligible zip code in the year MPIUA loss or (B) shall be increased by  
57 adding therefrom 150% of the homeowners premium written by each member in any credit-  
58 eligible zip code in the year of an MPIUA profit.

59 (iv) The result of the calculation described in clause (iii) for a carrier, never less than  
60 zero, shall be divided by sum of this calculation across all carriers. The resulting ratio shall be  
61 the adjusted participation ratio for the member.

62 (v) The adjusted participation ratio of those members whose participation ratio is  
63 calculated as provided in this subparagraph shall apply to that portion of the writings, expenses,  
64 profits and losses of the association not recovered by applying the participation ratios of the  
65 remaining members of the association as calculated, as provided in subparagraph (1).

66 (3) The participation of any member of the association writing personal lines insurance  
67 shall be further adjusted if such member has written homeowners insurance during the  
68 preceding calendar year, hereafter called the base year, on property that was insured by the  
69 association in the year immediately preceding such base year and which is located in any credit  
70 eligible zip code, defined as all zip codes in Massachusetts where the Fair Plan market share  
71 exceeds 1.5 times the Fair Plan statewide market share, never less than 15%, average over the  
72 latest three calendar years. The participation of such a member shall be adjusted by (i)

73 reducing the amount of premium written by such member in subparagraph (1) by one hundred  
74 percent of the total homeowners insurance premiums written by the member on property  
75 described in this clause in the year of an MPIUA loss or by (ii) increasing the amount of  
76 premium written by such member in subparagraph (1) by one hundred percent of the total  
77 homeowners insurance premiums written by the member on property described in this clause  
78 in the year of an MPIUA profit. Such adjustment shall not apply to any insurance written on  
79 property that was insured by the member or any affiliate or subsidiary member in either of the  
80 two years preceding the base year.

81 (f) The association shall be governed by a board of 18 directors, who shall serve without  
82 compensation. Ten directors shall be elected annually by the members of the association by  
83 cumulative voting; 2 directors of associations of insurance agents and brokers doing business in  
84 the commonwealth appointed by the commissioner; 4 directors from the general public  
85 appointed by the commissioner; and 2 directors from the general public appointed by the  
86 attorney general. The 6 directors appointed from the general public by the commissioner of  
87 insurance and the attorney general shall serve 3 year terms, staggered in a manner to ensure  
88 the annual expiration of the terms of 2 directors, and shall not serve as director for more than 3  
89 consecutive terms. The 6 directors appointed from the general public may not have affiliations  
90 with the insurance industry. Cumulative voting by members shall be permitted at all such  
91 elections.