

**HOUSE . . . . . No. 00314**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Angelo J. Puppolo, Jr.*

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*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 to facilitate insurance markets and to lower costs for consumers.

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PETITION OF:

NAME:

*Angelo J. Puppolo, Jr.*

DISTRICT/ADDRESS:

*12th Hampden*

# HOUSE . . . . . No. 00314

By Mr. Angelo J. Puppolo of Springfield, petition (accompanied by bill, House, No. 00314) of Angelo J. Puppolo relative to insurance policies and contracts. Joint Committee on Financial Services.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to facilitate insurance markets and to lower costs for consumers.

*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. Section 182 of chapter 175 of the General Laws is hereby repealed.
- 2 SECTION 2. Section 183 of chapter 175 of the General Laws is hereby repealed.
- 3 SECTION 3. Section 184 of chapter 175 of the General Laws is hereby repealed.
- 4 SECTION 4. Section 3 of chapter 176D of the General Laws is hereby amended by striking out  
5 clauses (7) through (12) and inserting in place thereof the following: -  
6 (7) Unfair discrimination: (a) making or permitting any unfair discrimination between  
7 individuals of the same class and equal expectation of life in the rates charged for any contract of  
8 life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any  
9 other of the terms and conditions of such contract; or (b) making or permitting any unfair  
10 discrimination between individuals of the same class and of essentially the same hazard in the

11 amount of premium, policy fees, or rates charged for any policy or contract of accident or health  
12 insurance or in the benefits payable thereunder, or in any of the terms or conditions of such  
13 contract, or in any other manner whatever.

14 Nothing in this clause (7) of this subsection shall be construed as including within the definition  
15 of discrimination any of the following practices:—(i) in the case of any contract of life insurance  
16 or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or  
17 in part out of surplus accumulated from nonparticipating insurance, provided that any such  
18 bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best  
19 interests of the company and its policyholders; (ii) in the case of life insurance policies issued on  
20 the industrial debit plan, making allowance to policyholders who have continuously for a  
21 specified period made premium payment directly to an office of the insurer in the amount which  
22 fairly represents the saving in collection expenses; (iii) readjustment of the rate of premium for a  
23 group insurance policy based on the loss or expense experienced thereunder, at the end of the  
24 first or any subsequent policy year of insurance thereunder, which may be made retroactive only  
25 for such policy year.

26 (8) Unfair claim settlement practices: An unfair claim settlement practice shall consist of any of  
27 the following acts or omissions:

28 (a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

29 (b) Failing to acknowledge and act reasonably promptly upon communications with respect to  
30 claims arising under insurance policies;

31 (c) Failing to adopt and implement reasonable standards for the prompt investigation of claims  
32 arising under insurance policies;

33 (d) Refusing to pay claims without conducting a reasonable investigation based upon all  
34 available information;

35 (e) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss  
36 statements have been completed;

37 (f) Failing to effectuate prompt, fair and equitable settlements of claims in which liability has  
38 become reasonably clear;

39 (g) Compelling insureds to institute litigation to recover amounts due under an insurance policy  
40 by offering substantially less than the amounts ultimately recovered in actions brought by such  
41 insureds;

42 (h) Attempting to settle a claim for less than the amount to which a reasonable man would have  
43 believed he was entitled by reference to written or printed advertising material accompanying or  
44 made part of an application;

45 (i) Attempting to settle claims on the basis of an application which was altered without notice to,  
46 or knowledge or consent of the insured;

47 (j) Making claims payments to insured or beneficiaries not accompanied by a statement setting  
48 forth the coverage under which payments are being made;

49 (k) Making known to insured or claimants a policy of appealing from arbitration awards in favor  
50 of insureds or claimants for the purpose of compelling them to accept settlements of  
51 compromises less than the amount awarded in arbitration;

52 (l) Delaying the investigation or payment of claims by requiring that an insured or claimant, or  
53 the physician of either, submit a preliminary claim report and then requiring the subsequent

54 submission of formal proof of loss forms, both of which submissions contain substantially the  
55 same information;

56 (m) Failing to settle claims promptly, where liability has become reasonably clear, under one  
57 portion of the insurance policy coverage in order to influence settlements under other portions of  
58 the insurance policy coverage; or

59 (n) Failing to provide promptly a reasonable explanation of the basis in the insurance policy in  
60 relation to the facts or applicable law for denial of a claim or for the offer of a compromise  
61 settlement.

62 (9) Failure to maintain complaint handling procedures; failure of any person to maintain a  
63 complete record of all of the complaints which it has received since the date of its last  
64 examination, which record shall indicate in such form and detail as the commissioner may from  
65 time to time prescribe, the total number of complaints, their classification by line of insurance,  
66 and the nature, disposition, and time of processing of each complaint. For purposes of this  
67 subsection, "complaint" shall mean any written communication primarily expressing a grievance.  
68 Agents, brokers and adjusters shall maintain any written communications received by them  
69 which express a grievance for a period of two years from receipt, with a record of their  
70 disposition, which shall be available for examination by the commissioner at any time.

71 (10) Misrepresentation in insurance applications: making false or fraudulent statements or  
72 representations on or relative to an application for an insurance policy, for the purpose of  
73 obtaining a fee, commission, money, or other benefit from any insurers, agent, broker, or  
74 individual.

75 (11) Any violation of sections ninety-five, two B, one hundred eighty-one, one hundred eighty-  
76 seven B, one hundred eighty-seven C, one hundred eighty-seven D, one hundred eighty-nine, one  
77 hundred ninety-three E, or one hundred ninety-three K of chapter one hundred seventy-five.