HOUSE DOCKET, NO. 510 FILED ON: 1/18/2011

HOUSE . . . . . No. 314

The Commonwealth of Massachusetts

PRESENTED BY:

Angelo J. Puppolo, Jr.

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:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Angelo J. Puppolo, Jr.	*12th Hampden*

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HOUSE . . . . . No. 314

By Mr. Puppolo of Springfield, petition (accompanied by bill, House, No. 314) of Angelo J. Puppolo relative to insurance policies and contracts. Financial Services.

The Commonwealth of Massachusetts

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:

SECTION 1. Section 182 of chapter 175 of the General Laws is hereby repealed.

SECTION 2. Section 183 of chapter 175 of the General Laws is hereby repealed.

SECTION 3. Section 184 of chapter 175 of the General Laws is hereby repealed.

SECTION 4. Section 3 of chapter 176D of the General Laws is hereby amended by striking out clauses (7) through (12) and inserting in place thereof the following: -

(7) Unfair discrimination: (a) making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; or (b) making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

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

24 the end of the first or any subsequent policy year of insurance thereunder, which may be made
25 retroactive only for such policy year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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