

No. 1977-38

AN ACT

HB 207

Providing for the establishment, organization, operation and termination of fraternal benefit societies; imposing additional powers and duties on the Insurance Department and Insurance Commissioner and providing penalties for violations.

TABLE OF CONTENTS

Chapter 1. General Provisions

- Section 101. Short title.
- Section 102. Definitions.
- Section 103. Severability.
- Section 104. Exemptions from general insurance laws.

Chapter 2. Organization and Related Matters

- Section 201. Initial organization.
- Section 202. Initial papers to be filed with commissioner.
- Section 203. Validity of preliminary certificate.
- Section 204. Solicitation of members on receipt of certificate.
- Section 205. Examination by commissioner.
- Section 206. Exemption.
- Section 207. Approval necessary.
- Section 208. Certain powers of societies.
- Section 209. Review of department order.
- Section 210. Classes of membership.
- Section 211. Corporate powers retained.
- Section 212. Existing voluntary associations.
- Section 213. Location of office.
- Section 214. Consolidations and mergers.
- Section 215. Amendments to articles of incorporation, constitution and laws.
- Section 216. Institutions.
- Section 217. Personal liability.
- Section 218. Waiver.
- Section 219. Conversion of fraternal benefit society into mutual live insurance company.
- Section 220. Reinsurance.

Chapter 3. Benefits and Beneficiaries

- Section 301. Benefits.
- Section 302. Benefits on lives of children.
- Section 303. Nonforfeiture benefits, cash surrender values, certificate loans and other options.
- Section 304. Beneficiaries.
- Section 305. Benefits not attachable.
- Section 306. Contract for benefits.

Chapter 4. Certificates

- Section 401. Approval of certificates.
- Section 402. Certificate provisions required.
- Section 403. Statement of title and premiums.
- Section 404. Grace period of certificate.
- Section 405. Reinstatement.
- Section 406. Default.
- Section 407. Tables.
- Section 408. Contestability of certificate.
- Section 409. Redetermination of premiums in certain circumstances.
- Section 410. Right to maintain insurance.
- Section 411. Surplus.
- Section 412. Loan value of certificate.
- Section 413. Prohibited provisions.

Chapter 5. Accident and Health Insurance and Total and Permanent Disability Insurance Certificates

- Section 501. Commissioner to regulate.
- Section 502. Filing with and approval of contracts by commissioner.
- Section 503. Conditions for certificates.
- Section 504. Standard certificate provision for insurance for accident and health or for permanent and total disability.
- Section 505. Entire contract and changes.
- Section 506. Time limits on certain defenses.
- Section 507. Grace periods.
- Section 508. Reinstatement.
- Section 509. Written notice of claims.
- Section 510. Forms for claims.
- Section 511. Proofs of loss.
- Section 512. Time of payment of claims.
- Section 513. Payment of claims.
- Section 514. Physical examinations and autopsy.
- Section 515. Legal actions.
- Section 516. Change of beneficiary.
- Section 517. Change of occupation.
- Section 518. Misstatement of age.
- Section 519. Other insurance in this society.
- Section 520. Insurance with other benefit members.
- Section 521. Insurance with other societies.
- Section 522. Relation of earnings to insurance.
- Section 523. Nonpayment of premiums.
- Section 524. Cancellation.
- Section 525. Conformity of provisions with State statutes.
- Section 526. Illegal occupation.
- Section 527. Intoxicants and narcotics.
- Section 528. Provisions not applicable in certain circumstances.
- Section 529. Printed order of certain certificate provisions.

Section 530. Third party ownership.

Section 531. Filing procedure.

Chapter 6. Licenses, Fees and Additional Powers for the Commissioner

Section 601. Annual license.

Section 602. Fees.

Section 603. Foreign society.

Section 604. Injunction, liquidation or receivership of domestic society.

Section 605. Suspension, revocation or refusal of license to foreign society.

Section 606. Service of process.

Section 607. Application for injunction.

Section 608. Court review.

Chapter 7. Agents

Section 701. Fraternal insurance agent defined.

Section 702. License required for agents.

Section 703. Payment of commissions forbidden.

Section 704. Commissioner may issue license.

Section 705. Agents' documents on file.

Section 706. Types of licenses to be issued.

Section 707. Refusal to issue license.

Section 708. Term of license.

Chapter 8. Funds, Investments and Investigations

Section 801. Funds.

Section 802. Investments.

Section 803. Report of financial condition.

Section 804. Synopsis of report to each member.

Section 805. Report of valuation of certificates.

Section 806. Reserves, determination.

Section 807. Deferred payments as liability.

Section 808. Certification of valuation.

Section 809. Valuation standards.

Section 810. Other standards for valuation.

Section 811. Excess reserves.

Section 812. Penalty for failure to file statement.

Section 813. Examination of domestic societies.

Section 814. Visitation and examination.

Section 815. Examination of foreign societies.

Section 816. No adverse publications.

Section 817. Misrepresentation.

Section 818. Discrimination and rebates.

Chapter 9. Miscellaneous

Section 901. Taxation.

Section 902. Exemptions.

Section 903. Exemption of certain societies.

Section 904. Penalties.

Section 905. Repealer.

Chapter 10. Effective Date

Section 1001. Effective date.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1 GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the "Fraternal Benefit Society Code."

Section 102. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Commissioner." The Insurance Commissioner of the Commonwealth of Pennsylvania.

"Department." The Insurance Department of the Commonwealth of Pennsylvania.

"Fraternal benefit society." Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 903(a)(2), whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with or without ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this act.

When used in this chapter the word "society," unless otherwise indicated, shall mean fraternal benefit society.

"Lodge system." A society shall be deemed to be operating on the lodge system when the society has a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, rituals, or rules, which subordinate lodges or branches shall be required by the laws of the society to hold regular meetings at least once in each quarter.

"Premium." Any charges, fees, dues, or other required contributions by whatever name known.

"Representative form of government." A society shall be deemed to have a representative form of government when:

- (1) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society's constitution and laws.

(2) The representatives elected constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws.

(3) The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in four calendar years.

(4) Each benefit member shall be eligible for election to act or serve as a delegate to such meeting.

(5) The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or laws of the society.

(6) Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body.

(7) The officers are elected either by the supreme legislative or governing body or by the board of directors.

(8) The members, officers, representatives or delegates shall not vote by proxy.

“Society.” A fraternal benefit society as set forth in this act.

Section 103. Severability.

If any provision of this act is held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this act.

Section 104. Exemptions from general insurance laws.

Except as otherwise provided in this act, a fraternal benefit society holding a certificate of authority shall not be subject to the laws of this Commonwealth now in force relating to the business of insurance and no statute hereafter enacted relating to the business of insurance shall apply to such a society unless such statute shall specifically refer and apply to a society subject to this act.

CHAPTER 2 ORGANIZATION AND RELATED MATTERS

Section 201. Initial organization.

The organization of a society shall be as herein provided. Seven or more citizens of the United States, a majority of whom are citizens of this Commonwealth, who desire to form a fraternal benefit society, may make, sign and acknowledge before an officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(1) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing.

(2) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this act, provided that any

lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society.

(3) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

Section 202. Initial papers to be filed with commissioner.

Such articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefore, receipts and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year shall be filed with the commissioner, who may require such further information as he deems necessary. The bond with sureties approved by the commissioner shall be in such amount, not less than \$5,000 nor more than \$25,000, as required by the commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this act and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided.

Section 203. Validity of preliminary certificate.

No preliminary certificate granted under the provisions of this act shall be valid after one year from its date or after such other period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the 500 applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

Section 204. Solicitation of members on receipt of certificate.

Upon receipt of a preliminary certificate from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of premiums as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

(1) Actual bona fide applications for death benefits have been secured aggregating at least \$500,000 on not less than 500 lives.

(2) All such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society.

(3) Certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society.

(4) Ten subordinate lodges or branches have been established into which the 500 applicants have been admitted.

(5) There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefore.

(6) It shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least \$2,500, all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. The advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, as herein provided, such premiums shall be returned to the applicants.

Section 205. Examination by commissioner.

The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this act. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

Section 206. Exemption.

The provisions of sections 204 and 205 of this chapter shall not apply to:

(1) Any society organized prior to April 6, 1893 under any statute of this Commonwealth which was engaged in doing business in this Commonwealth on such date. Any such society may exercise after the effective date of this act all the rights conferred by this act and all the rights, powers, privileges, and exemptions now exercised or possessed by it, under its charter or articles of incorporation or articles of association, and neither its existence as a corporation nor its right to exercise any corporate rights, vested in it by virtue of its past incorporation, shall be affected by anything contained in this act.

(2) Any fraternal benefit society incorporated under the provisions of the act of April 6, 1893 (P.L.10, No.6), the act of May 20, 1921

(P.L.916, No.324), or the act of July 17, 1935 (P.L.1092, No.357), relating to fraternal benefit societies.

For the purposes of this act, a corporation which is exempt from the requirements of sections 204 and 205 of this chapter by reason of paragraph (1) of this section shall be deemed to be a holder of a certificate of authority issued under this chapter.

Section 207. Approval necessary.

No society, authorized to transact business as set forth above, shall issue any insurance forms, endorsements, or riders without first having obtained the necessary approval.

Section 208. Certain powers of societies.

Every society shall have the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs and the fixing of the premiums of its members from time to time. It shall have the power to change, alter, add to or amend *such constitution* and laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

Section 209. Review of department order.

Orders of the Insurance Department upon an application for a certificate of authority under this section shall be subject to judicial review in the manner and within the time provided by law.

Section 210. Classes of membership.

(a) Two classes of membership.—Every society authorized to do business in this Commonwealth may admit to membership two classes of members: benefit members and social members by whatever name known. Social members shall not be entitled to any of the benefits prescribed by sections 301 and 302 and shall have no voice or vote in the management of the insurance affairs of the society. *Benefit members may be either adult members or juvenile members.* Juvenile members shall have no voice or vote in the management of the insurance affairs of the society.

(b) Adult benefit membership.—Every such society may admit to adult benefit membership any person not less than 15 years of age at nearest birthday. Any person so admitted prior to attaining the full age of 18 years shall be deemed competent to contract for insurance benefits and to exercise and enjoy every right, privilege and benefit provided by any insurance certificate on such minor subject to the limitations contained in section 302 as to the designation of beneficiary.

(c) Evidence of insurability required.—Every adult benefit member entitled to insurance benefits shall, as to each application for insurance, have furnished evidence of insurability acceptable to the society.

Section 211. Corporate powers retained.

Any incorporated society authorized to transact business in this Commonwealth at the time this act becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this act and in its charter or articles of incorporation as far as consistent with this act. A domestic society shall not be required to reincorporate.

Section 212. Existing voluntary associations.

(a) Necessity of incorporation.—One year from the effective date of this act, no unincorporated or voluntary association shall be permitted to transact business in this Commonwealth as a fraternal benefit society unless such association incorporates pursuant to the provisions of this act.

(b) Receipt of certificate on incorporation.—Any domestic voluntary association now authorized to transact business in this Commonwealth may incorporate and shall receive from the commissioner a permanent certificate of incorporation as a fraternal benefit society when:

(1) It shall have completed its conversion to an incorporated society not later than one year from the effective date of this act.

(2) It has filed its articles of incorporation and has satisfied the other requirements described in section 102.

(3) The commissioner shall have made such examination and procured whatever additional information he shall deem advisable.

(c) Obligations and benefits.—Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing suits, claims or contracts.

Section 213. Location of office.

The principal office of any domestic society shall be located in this Commonwealth. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least five subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this Commonwealth.

Section 214. Consolidations and mergers.

(a) Right to consolidate or merge.—A domestic society may consolidate or merge with any other society by complying with the provisions of this section.

(b) Statements to be filed.—It shall file with the Commissioner of Insurance:

(1) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger.

(2) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the commissioner but not earlier than December 31, next preceding the date of the contract.

(3) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society.

(4) Evidence that at least 60 days prior to the action of the supreme legislative or governing body of each society, the text of the contract has

been furnished to all members of each society either by mail or by publication in full in the official organ of each society.

(c) *Commissioner to approve.*—If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval is filed with the commissioner of this Commonwealth or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the Commissioner of Insurance of such state or territory and a certificate of such approval filed with the commissioner of this Commonwealth.

(d) *Property merged.*—Upon the consolidation or merger becoming effective, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this Commonwealth in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

(e) *Affidavit as evidence.*—The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressee.

Section 215. Amendments to articles of incorporation, constitution and laws.

(a) *Power to amend.*—A domestic society may amend its articles of incorporation, constitution or laws in accordance with the provisions thereof, by action of its supreme legislative or governing body at any regular or special meeting or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its articles of incorporation, constitution or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods herein specified.

(b) Amendments require approval of commissioner.—No amendment in the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the commissioner who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this Commonwealth or with the character, objects and purposes of the society. Unless the commissioner shall disapprove any such amendment within 60 days after the filing of the amendment, such amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves such amendment, the reasons therefore shall be stated in such written notice.

(c) Copies of changes.—Within 90 days from the approval thereof by the commissioner, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

(d) Power of commissioner to review.—The Commissioner of Insurance shall have the power to review existing articles of incorporation, constitutions and bylaws of domestic fraternal benefit societies at any time in order to determine whether said articles, constitutions or bylaws comply with the minimum standards set forth in this act.

(e) Foreign societies to file.—Every foreign or alien society authorized to do business in this Commonwealth shall file with the commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within 90 days after the enactment of same.

(f) Printed copies as evidence.—Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

Section 216. Institutions.

(a) Power to own or establish.—It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. For such purpose it may own, hold or lease personal property or real property located within or without this Commonwealth, with necessary buildings thereon. Such property shall be reported in every annual statement but shall not be allowed as an admitted asset of such society.

(b) Not to operate for profit.—Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefore, but no such institution shall be operated for profit. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement.

No society shall own or operate funeral homes or undertaking establishments.

Section 217. Personal liability.

The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

Section 218. Waiver.

The constitution and laws of the society shall provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

Section 219. Conversion of fraternal benefit society into mutual life insurance company.

Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the financial requirements of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921," if such plan of conversion has been approved by the Commissioner of Insurance. Such plan shall be prepared in writing setting forth in full, the terms and conditions thereof. The board of directors shall submit such plan to the supreme legislative or governing body of such society at any regular or special meeting thereof, by giving a full, true and complete copy of such plan with the notice of such meeting. Such notice shall be given as provided in the laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of two-thirds of all members of such body shall be necessary for the approval of such agreement. No such conversion shall take effect unless and until approved by the commissioner who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

Section 220. Reinsurance.

A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) having the power to make such reinsurance and authorized to do business in this Commonwealth, or if not so authorized, one which is approved by the commissioner, but no such society may reinsure in excess of 50% all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this act, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

CHAPTER 3 BENEFITS AND BENEFICIARIES

Section 301. Benefits.

(a) Power to grant benefits.—Any fraternal benefit society holding a certificate of authority under this act may enter into contracts in such forms and grant such benefits as its laws may authorize. In the case of life insurance benefits, it shall provide for the accumulation and maintenance of assets required for the payment of such benefits, when valued upon an interest basis, not exceeding 4% per annum, and mortality standards adopted by it within the limitations provided in this act or, at the option of the society, in the statutes relating to life insurance companies. Any life certificates issued on a renewable term basis shall set forth clearly thereon the successive future rates of contribution to be paid thereunder.

(b) Family eligibility.—Benefits may be provided on the lives of members or, upon application of a member, on the lives of the member's family, including the member, the member's spouse and minor children, in the same or separate certificates.

Section 302. Benefits on lives of children.

(a) Power to provide benefit on children's lives.—A society may provide for insurance benefits or annuity benefits or both on the lives of children under the minimum age for adult membership but not greater than 18 years of age at time of application therefore, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section 301(a). A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice or vote in the management of the society.

(b) Change of beneficiary.—A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

Section 303. Nonforfeiture benefits, cash surrender values, certificate loans and other options.

(a) Power to make.—A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued on and after the effective date of this act, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts or contracts of term insurance of a uniform amount of 15 years or less expiring before age 66.

(b) Reserves computed on other basis.—In the case of certificates other than those for which reserves are computed on the Commissioner's 1941 Standard Ordinary Mortality Table, the 1941 Standard Industrial Table or the Commissioner's 1958 Standard Ordinary Mortality Table, or any more recent table made applicable to life insurance companies the value of every

paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of (1) over (2) as follows:

(1) The reserve under the certificate determined on the basis specified in the certificate.

(2) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to 2 ½% of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

(c) Reserves computed on substandard basis.—However, in the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than 130% of those shown by the mortality table specified in the certificate for the computation of the reserve.

(d) Reserves computed on certain tables.—In the case of certificates for which reserves are computed on the Commissioner's 1941 Standard Ordinary Mortality Table, the 1941 Standard Industrial Table or the Commissioner's 1958 Standard Ordinary Mortality Table or any more recent table made applicable to life insurance companies, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this Commonwealth applicable to life insurance companies issuing policies containing like insurance benefits based upon such tables.

Section 304. Beneficiaries.

(a) Power to change beneficiaries.—Unless otherwise provided in the contract:

(1) The member shall have the right at all times to change the beneficiary or beneficiaries and to assign the certificate.

(2) No beneficiary shall have or obtain any interest in the proceeds of any certificate until a certificate becomes due and payable in conformity with its provisions.

(b) Limitation on scope of beneficiaries.—Every society by its constitution, laws and rules may limit the scope of beneficiaries.

(c) Payment of funeral benefits, limitation.—A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of \$1,000.

(d) Payment to personal representative.—If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral

benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

Section 305. Benefits not attachable.

No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

Section 306. Contract for benefits.

(a) Materials forming contract.—Every society authorized to do business in this Commonwealth shall issue a certificate to the benefit member, or the spouse of a member, or to the applicant for a juvenile, specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for benefits and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for benefits and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

(b) Statements and waiver.—All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

(c) Amendments to bind.—Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

(d) Responsibility of society members for deficiency.—Every society shall contain in its laws and in each certificate of life insurance it issues, a provision, to which every certificate of insurance issued by the society shall be subject, that if the financial position of the society becomes impaired, subject to the prior written approval of the commissioner, the board of directors or the supreme governing body may determine on an equitable basis the proportionate share of the deficiency of each member of the society. Each benefit member may then either pay his share of the deficiency, or accept the imposition of a lien on the certificate of insurance, to bear interest at the rate charged on policy loans under the certificate, if applicable, otherwise at a rate approved by the commissioner, compounded annually until paid, or may accept a proportionate reduction in benefits under his certificate. The society may specify the manner of the

election and which alternative is to be presumed if no election is made, subject to the prior written approval of the commissioner in the case of domestic societies.

CHAPTER 4 CERTIFICATES

Section 401. Approval of certificates.

(a) Submission to and approval by commissioner.—It shall be unlawful for any fraternal benefit society doing business in this Commonwealth to issue, sell, or dispose of any certificate, covering life, health, accident, or contracts pertaining to pure endowments or annuities, or any other contracts of insurance, or use applications, riders, or endorsements, in connection therewith, until the forms of the same have been submitted to and formally approved by the commissioner, and copies filed in the Insurance Department: Provided, That riders and endorsements relating to the manner of distribution of benefits, and to the reservation of rights and benefits under any such certificate, and used at the request of the individual certificate holder, and any forms which, in the opinion of the commissioner, do not require his approval need not be filed with the Insurance Department.

(b) Approval after thirty days.—Forms so filed shall be deemed approved at the expiration of 30 days after filing, unless earlier approved or disapproved by the Commissioner of Insurance. The commissioner, by written notice to the society may, within such 30 day period, extend the period for approval or disapproval for an additional 30 days.

(c) Approval void on disapproval.—Such approval shall become void upon any subsequent notice of disapproval from the commissioner, or upon any subsequent withdrawal of license or refusal of the commissioner to relicense any such fraternal benefit society, or upon the subsequent passage of an act which would no longer make such contracts or related forms a fit subject for approval, except that this provision shall not affect contracts issued prior thereto.

(d) Notification of disapproval.—Upon any disapproval, the commissioner shall notify the society in writing, specifying the reason for such disapproval; and within 30 days from the date of mailing of such notice to the society, such society may make written application to the commissioner for a hearing thereon. The hearing shall be held within 30 days after receipt of the application. The procedure before the commissioner shall be in accordance with the adjudication procedure set forth in the act of June 4, 1945 (P.L. 1388, No. 442), known as the "Administrative Agency Law," and the society shall be entitled to the judicial review as provided for by law.

(e) Penalty for violations.—Any person, corporation, order, or society that shall, either as principal, or agent, issue, or cause to be issued, any certificate or contract of insurance within the Commonwealth, contrary to this section, shall be guilty of a misdemeanor of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$2,500.

(f) Additional sanctions.—Upon satisfactory evidence of the violation of this section by any such person, corporation, order, or society, the commissioner may, in his discretion, pursue any one or more of the following courses of action:

- (1) Suspend or revoke the license of such offending person, corporation, order, or society.
- (2) Refuse, for a period of not to exceed one year thereafter, to issue a new license to such person, corporation, order, or society.
- (3) Impose a fine of not more than \$1,000 for each and every act in violation of this act.

When the commissioner shall take action in any of the ways above recited, the person, corporation, order, or society aggrieved may appeal to the Commonwealth Court of Pennsylvania.

Section 402. Certificate provisions required.

The certificate shall contain in substance the standard provisions set forth in sections 403 to 412 or, in lieu thereof provisions which are more favorable to the member. Any of the mandated provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

Section 403. Statement of title and premiums.

There shall appear on the face of the filing page of the certificate a statement of the title of the certificate and a brief description which clearly and correctly describes its form and identifies the insurer as a member of a fraternal benefit society. There shall also appear a provision stating the amount of premiums, dues or other required contributions, by whatever name known, which are payable by the insured under the certificate.

Section 404. Grace period of certificate.

There shall be a provision that the member is entitled to a grace period of not less than a full month (or 30 days at the option of the society) in which the payment of any premium after the first, may be made. During the grace period the certificate shall continue in full force and effect, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of the overdue payment or payments may be deducted in any settlement under the certificate.

Section 405. Reinstatement.

There shall be a provision that the member shall be entitled to have the certificate reinstated at any time within three years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding 6% per annum compounded annually.

Section 406. Default.

- (a) Society to grant paid-up nonforfeiture benefit.—Except in the case

of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of 15 years or less expiring before age 66, there shall be a provision that, in the event of default in payment of any premium after three full years premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this act.

(b) **Optional payment provisions.**—The certificate may provide, if the society's laws so specify, and if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate.

(c) **Member may elect different paid-up nonforfeiture benefit.**—There shall be a statement that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than 60 days after the due date of the premium in default.

(d) **Section not to apply.**—The provisions of this section shall not apply in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of 15 years or less expiring before age 66.

Section 407. Tables.

(a) **Mortality table and interest rate.**—There shall be a statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general description of the method used in calculating such benefits.

(b) **Table of certain values.**—There shall be a table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate whichever is shorter.

Section 408. Contestability of certificate.

(a) **Incontestable after two years.**—A provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two years from its date of issue except for nonpayment of premiums. At the option of the society, supplemental provisions relating to waiver of premium and provisions which grant additional insurance specifically against death by accident may also be excepted.

(b) **Contestability on reinstatement.**—The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two years from date of reinstatement based on the information in the reinstatement application.

Section 409. Redetermination of premiums in certain circumstances.

There shall be a provision that in case the age or sex of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age or sex has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable under the certificate shall be such as the premium would have purchased at the correct age and sex. If the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on actuarial principles.

Section 410. Right to maintain insurance.

There shall be a statement that any benefit member expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

Section 411. Surplus.

(a) **Right to surplus.**—There shall be a provision that the certificate shall participate in the surplus of the society, and that, beginning not later than the end of the third certificate year, the society will annually determine the portion of the divisible surplus accruing on the certificate, and that the member entitled to elect such option shall have the right to have the dividend arising from such participation paid in cash, or applied in accordance with any one of such other dividend options as may be provided by the certificate. If any such other dividend options are provided, the certificate shall further state which option shall be automatically effective, if such member shall not have elected some other option.

(b) **Optional surplus provision.**—The certificate may contain a provision that the certificate shall participate in the surplus of the society, and that, beginning not later than the end of the fifth certificate year, the society will determine the portion of the divisible surplus accruing on the certificate, and that the member entitled thereto shall have the right to have the current dividend arising from such participation paid in cash, and that, at periods of not more than five years thereafter, such apportionment and payment, at the option of such member, shall be had.

(c) **Surplus on term certificates.**—Renewable term certificates of ten years or less may provide that the surplus accruing to such certificates shall be determined and apportioned each year after the second certificate year, and accumulated during each renewal period, and that at the end of any renewal period, or renewal of the certificate by the member, the society shall apply the accumulated surplus as an annuity for the next succeeding renewal term in the reduction of premiums.

Section 412. Loan value of certificate.

There shall be a provision for a loan value at any time after three full

years' premiums have been paid and while no premium is in default beyond the grace period of payment.

In the case of any certificate issued on or after the effective date of this act, the loan provision shall provide that the society will advance, on proper assignment or pledge of the certificate, and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the member entitled thereto, less than, the cash surrender value at the end of the current certificate year as required by section 302 and that the society may deduct from such loan value (in addition to any indebtedness deducted in determining such value) any unpaid balance of the premium for the current certificate year, and may collect interest in advance on the loan to the end of the current certificate year. The society shall reserve the right to defer such loan, except any made to pay premiums to the society, for 60 days after application therefore is made. This section shall not apply to term insurance.

Section 413. Prohibited provisions.

On and after the effective date of this act, no life benefit certificate shall be delivered or issued for delivery in this Commonwealth containing in substance any of the following provisions:

(1) Any provision limiting the time within which any action at law or in equity may be commenced to less than two years after the cause of action shall accrue.

(2) Any provision by which the certificate shall purport to be issued or to take effect more than six months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made.

(3) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

CHAPTER 5

ACCIDENT AND HEALTH INSURANCE AND TOTAL AND PERMANENT DISABILITY INSURANCE CERTIFICATES

Section 501. Commissioner to regulate.

The commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in accident and health insurance contracts and in total and permanent disability insurance contracts, and the regulations shall conform, as far as practicable, to sections 502 to 527.

Section 502. Filing with and approval of contracts by commissioner.

No certificate of insurance against loss from sickness, or loss or damage from bodily injury or death of the insured by accident, shall be issued or delivered by any society, association or exchange issuing such certificate, to any person in this Commonwealth until a copy of the form thereof, and of the classification of risks and the dues, premiums, or other required

contribution pertaining thereto, have been filed with and formally approved by the commissioner. If the commissioner shall notify in writing the society which has filed such form that it does not comply with the requirements of law specifying the reason for his opinion, it shall be unlawful for any such society to issue any certificate in such form. The action of the commissioner in this regard shall be subject to review by the Commonwealth Court.

Section 503. Conditions for certificates.

(a) General conditions.—No such certificate shall be delivered or issued for delivery to any person in this Commonwealth unless all of the following conditions are met:

(1) The entire money and other considerations therefore are expressed within the certificate.

(2) The time at which the insurance takes effect and terminates is expressed within the certificate.

(3) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult head of a family who shall be deemed the certificate holder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the certificate holder.

(4) The style, arrangement and overall appearance of the certificate gives no undue prominence to any portion of the text, and every printed portion of the text of the certificate and of any endorsements or attached papers is plainly printed in light faced type of a style in general use, the size of which type shall be uniform and not less than ten-point with a lower case unspaced alphabet length not less than 120 point (the "text" shall include all printed matter except the name and address of the society, name or title of the certificate, the brief description, if any, and captions and subcaptions).

(5) The exceptions and reductions of indemnity are set forth in the certificate and, except those which are set forth in this chapter, are printed, at the society's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "exceptions," or "exceptions and reductions": Provided, That if an exception or reduction specifically applies only to a particular benefit of the certificate, a statement of such exception or reduction shall be included with the benefit provision to which it applies.

(6) Each such form including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof.

(7) It contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the society a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

(8) If such certificate is entitled or referred to as "noncancellable," such noncancellable certificate is automatically renewable until age 60 upon payment of the required premiums by the insured.

(9) A certificate delivered or issued for delivery after January 1, 1968 under which coverage of a dependent of a certificate holder terminates at a specified age, shall, with respect to an unmarried child covered by the certificate prior to the attainment of the age of 19 who is incapable of self-sustaining employment by reason of mental retardation or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such certificate holder for support and maintenance, not terminate while the certificate remains in force and the dependent remains in such condition, if the certificate holder has within 31 days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this paragraph shall not require a society to insure a dependent who is a mentally retarded or physically handicapped child where the certificate is underwritten on evidence of insurability based on health factors set forth in the application or where such dependent does not satisfy the conditions of the certificate as to any requirement for evidence of insurability or other provisions of the certificate, satisfaction of which is required for coverage thereunder to take effect. In any such case, the terms of the certificate shall apply with regard to the coverage or exclusion from coverage of such dependent.

(b) Nonresident members.—If any certificate is issued by a society domiciled in this Commonwealth for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such certificate is not subject to approval or disapproval by such official, the commissioner may by ruling require that such certificate meet the standards set forth in section 401 and this chapter. Section 504. Standard certificate provision for insurance for accident and health or for permanent and total disability.

Except as provided in this act, each certificate delivered or issued for delivery to any person in this Commonwealth shall contain the provisions specified in sections 505 to 527 in the words in which the same appear in this act: Provided, however, That the society may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the benefit member or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this section or, at the option of the society, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

Section 505. Entire contract and changes.

There shall be a provision as follows:

Entire Contract; Changes: This certificate, including the society's bylaws, the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this certificate shall be valid until

approved by an executive officer of the society and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this certificate or to waive any of its provisions.

Section 506. Time limits on certain defenses.

(a) Limitation.—There shall be a provision as follows:

Time Limit on Certain Defenses: After three years from the date of issue of this certificate no misstatements, except fraudulent misstatements, made by the applicant in the application for such certificate shall be used to void the certificate or to deny a claim for loss incurred or disability (as defined in the certificate) commencing after the expiration of such three-year period.

(b) Nonapplicability.—The foregoing certificate provision shall not be so construed as to affect any legal requirement for avoidance of a certificate or denial of a claim during such initial three-year period, nor to limit the application of sections 505, 506, 507, 508 and 509 in the event of misstatement with respect to age or occupation or other insurance.

(c) Optional language for weekly payment situations.—

(1) In a certificate where the dues, premiums or other required contributions are payable weekly, the words “if such application is made a part of the certificate” may be inserted in the foregoing certificate provision between the word “certificate” and the word “shall” immediately following.

(2) In certificates whereon the dues, premiums, or the required contributions are payable weekly, the words “or from the date of any reinstatement thereof” may be inserted in the foregoing certificate provision between the word “certificate” and the word “shall” immediately following.

(d) Optional language where certificate member has power to continue certificate.—A certificate which the benefit member has the right to continue in force subject to its terms by the timely payment of the dues, premium, or other required contribution:

(1) until at least age 50; or

(2) in the case of a certificate issued after age 44, for at least five years from its date of issue, may contain in lieu of the language in section 509(a) the following provision (from which the clause in parentheses may be omitted at the insurer’s option) under the caption “incontestable.” After this certificate has been in force for a period of three years during the lifetime of the benefit member (excluding any period during which the benefit member is disabled), it shall become incontestable as to the statements contained in the application.

(e) Nondenial or reduction of certain claims prohibited.—No claim for loss incurred or disability (as defined in the certificate) commencing after three years from the date of issue of this certificate shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this certificate.

Section 507. Grace periods.

(a) Period established.—There shall be a grace period of (insert a

number not less than "7" for weekly dues, premium, or other required contribution certificates, "10" for monthly dues, premium or other required contribution certificates and "31" for all other certificates) days will be granted for the payment of each dues, premium, or other required contribution falling due after the first dues, premium, or other required contribution during which grace period the certificate shall continue in force.

(b) Optional language available.—A certificate which contains a cancellation provision may add, at the end of the provision, "subject to the right of the benefit member to cancel in accordance with the cancellation provision hereof."

(c) Language where society reserves certain rights.—A certificate in which the society reserves the right to refuse any renewal shall have, at the beginning of the provision set forth in subsection (a), "unless not less than 30 days prior to the dues, premium, or other required contribution due date the society has delivered to the benefit member or has mailed to his last address as shown by the records of the society written notice of its intention not to renew this certificate beyond the period for which the dues, premium, or other required contribution has been accepted."

Section 508. Reinstatement.

There shall be a provision as follows:

Reinstatement: If any renewal dues, premium, or other required contribution be not paid within the time granted the society for payment, a subsequent acceptance of dues, premium, or other required contribution by the society or by any agent duly authorized by the society to accept such dues, premium, or other required contribution without requiring in connection therewith an application for reinstatement, shall reinstate the certificate: Provided, however, That if the society or such agent requires an application for reinstatement and issues a conditional receipt for the dues, premium, or other required contribution tendered, the certificate will be reinstated upon approval of such application by the society, or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the society has previously notified the benefit member in writing of its disapproval of such application. The reinstated certificate shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the benefit member and society shall have the same rights thereunder as they had under the certificate immediately before the due date of the defaulted dues, premium, or other required contribution subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any dues, premium, or other required contribution accepted in connection with a reinstatement shall be applied to a period for which the dues, premium, or other required contribution has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement. The last sentence of the above provision may be omitted:

(1) From any certificate which the benefit member has the right to continue in force subject to its terms by the timely payment of the dues, premiums, or other required contributions:

(i) until at least age 50; or

(ii) in the case of a certificate issued after age 44, for at least five years from the date of its issue.

(2) From any certificate on which the dues, premiums, or other required contributions are payable weekly.

Section 509. Written notice of claims.

(a) Notice of claim.—There shall be a provision as follows:

Notice of Claim: Written notice of claim must be given to the society within 20 days after the occurrence or commencement of any loss covered by the certificate, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the benefit member or the beneficiary to the society at (insert the location of such office as the society may designate for the purpose), or to any authorized agent of the society, with information sufficient to identify the benefit member, shall be deemed notice to the society.

(b) Optional language for weekly payment insurance.—In a certificate whereon the dues, premiums, or other required contributions are payable weekly, the first sentence of the foregoing certificate provision may read “written notice of claim must be given to the society within 10 days of the commencement of any nonhospital confining sickness covered by the certificate and within 20 days after the occurrence or commencement of any other loss covered by the certificate, or as soon thereafter as is reasonably possible.”

(c) Language in loss of time benefit insurance.—In a certificate providing a loss of time benefit which may be payable for at least two years, a society may, at its option, insert the following between the first and second sentences of the above provision: Subject to the qualifications set forth below, if the benefit member suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the society notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the benefit member or any payment by the society on account of such claim or any denial of liability in whole or in part by the society shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the benefit member’s right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.

Section 510. Forms for claims.

There shall be a provision as follows:

Claim Forms: The society, upon receipt of a notice claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such

notice, the claimant shall be deemed to have complied with the requirements of this certificate as to proof of loss upon submitting, within the time fixed in the certificate for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

Section 511. Proofs of loss.

There shall be a provision as follows:

Proofs of Loss: Written proof of loss must be furnished to the society at its said office in case of claim for loss for which this certificate provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the society is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

Section 512. Time of payment of claims.

There shall be a provision as follows:

Time of Payment of Claims: Indemnities payable under this certificate for any loss other than loss for which this certificate provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this certificate provides periodic payment will be paid (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

Section 513. Payment of claims.

(a) **Basic clause.**—There shall be a provision as follows:

Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the benefit member's death may, at the option of the society, be paid either to such beneficiary or to such estate, all other indemnities will be payable to the benefit member.

(b) **Optional language available to society.**—The following provisions, or either of them may be included with the foregoing provision at the option of the society:

(1) If any indemnity of this certificate shall be payable to the estate of the benefit member, or to a benefit member or beneficiary who is a minor or otherwise not competent to give a valid release, the society may pay such indemnity, up to an amount not exceeding \$ (insert an amount which shall not exceed \$1,000), to any relative by blood or connection by marriage of the benefit member or beneficiary who is deemed by the society to be equitably entitled thereto. Any payment

made by the society in good faith pursuant to this provision shall fully discharge the society to the extent of such payment.

(2) Subject to any written direction of the benefit member in the application or otherwise, all or a portion of any indemnities provided by this certificate on account of hospital, nursing, medical, or surgical services may, at the society's option and, unless the benefit member requests otherwise in writing, not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.

Section 514. Physical examinations and autopsy.

There shall be a provision as follows:

Physical Examinations and Autopsy: The society at its own expense shall have the right and opportunity to examine the person of the benefit member when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

Section 515. Legal actions.

There shall be a provision relating to legal actions as follows:

Legal Actions: No action at law or in equity shall be brought to recover on this certificate prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this certificate. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

Section 516. Change of beneficiary.

There shall be a provision as follows:

Change of Beneficiary: Unless the benefit member makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the benefit member and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this certificate or to any change of beneficiary or beneficiaries, or to any other changes in this certificate. The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the society's option.

Section 517. Change of occupation.

There shall be a provision as follows:

Change of Occupation: If the benefit member be injured or contract sickness after having changed his occupation to one classified by the society as more hazardous than that stated in this certificate or while doing for compensation anything pertaining to an occupation so classified, the society will pay only such portion of the indemnities provided in this certificate as the dues, premiums, or other required contributions paid would have purchased at the rates and within the limits fixed by the society for such more hazardous occupation. If the benefit member changes his occupation to one classified by the society as less hazardous than that stated in this certificate, the society, upon receipt of proof of such change of occupation, will reduce the dues, premiums, or other required contributions accordingly, and will return the excess pro rata unearned

dues, premiums, or other required contributions from the date of change of occupation or from the certificate anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the dues, premiums, or other required contributions shall be such as have been last filed by the society prior to the occurrence of the loss for which the society is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the benefit member resided at the time this certificate was issued; but if such filing was not required, then the classification of occupational risk and the dues, premiums, or other required contributions shall be those last made effective by the society in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

Section 518. Misstatement of age.

There shall be a provision as follows:

Misstatement of Age: If the age of the benefit member has been misstated, all amounts payable under this certificate shall be such as the dues, premiums, or other required contributions paid would have purchased at the correct age.

Section 519. Other insurance in this society.

There shall be a provision as follows:

Other Insurance in This Society: If an accident or sickness or accident and sickness certificate or certificates previously issued by the society to the benefit member be in force concurrently herewith, making the aggregate indemnity for (insert type of coverage or coverages) in excess of \$ (insert maximum limit of indemnity or indemnities), the excess insurance shall be void and all dues, premiums, or other required contributions paid for such excess shall be returned to the benefit member or to his estate or, in lieu thereof, insurance effective at any one time on the benefit member under a like certificate or certificates in this society is limited to the one such certificate elected by the benefit member, his beneficiary or his estate, as the case may be, and the society will return all dues, premiums, or other required contributions paid for all other such certificates.

Section 520. Insurance with other benefit members.

(a) Coverage outside of issuing society.—There shall be a provision as follows:

Insurance with Other Benefit Members: If there be other valid coverage, not with this society, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this society has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this certificate shall be for such proportion of the loss of the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this society had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the dues, premiums, or

other required contributions paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

(b) **Caption change in certain circumstances.**—If the foregoing certificate provision is included in a certificate which also contains the certificate provision, set forth in section 521, there shall be added to the caption of the foregoing provision the phrase ". . . Expense Incurred Benefits." The society may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition, such term shall not include group insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing certificate provision with respect to any benefit member, any amount of benefit provided for such benefit member pursuant to any compulsory benefit statute (including any workmen's compensation or employers' liability statute), whether provided by a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the society has had notice. In applying the foregoing certificate provision, no third party liability coverage shall be included as "other valid coverage."

Section 521. Insurance with other societies.

(a) **Valid coverage with other benefit societies.**—There shall be a provision as follows:

Insurance with Other Societies: If there be other valid coverage, not with this society, providing benefits for the same loss on other than an expense incurred basis and of which this society has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this certificate shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the society had notice (including the indemnities under this certificate) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the dues, premiums, or other required contributions paid as shall exceed the pro rata portion for the indemnities thus determined.

(b) **Additional caption changes available.**—If the foregoing certificate provision is included in a certificate which also contains the certificate provision set forth in section 520, there shall be added to the caption of the foregoing provision the phrase ". . . other benefits." The society may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited

subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition, such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing certificate provision with respect to any benefit member, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), whether provided by a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the society has had notice. In applying the foregoing certificate provision, no third party liability coverage shall be included as "other valid coverage."

Section 522. Relation of earnings to insurance.

(a) Reduction of payments to rates with earnings.—There shall be a provision as follows:

Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the benefit member, whether payable on a weekly or monthly basis, shall exceed the monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the society will be liable only for such proportionate amount of such benefits under this certificate as the amount of such monthly earnings or such average monthly earnings of the benefit member bears to the total amount of monthly benefits for the same loss under all such coverage upon the benefit member at the time such disability commences and for the return of such part of the dues, premiums, or other required contributions paid during such two years as shall exceed the pro rata amount of the dues, premiums, or other required contributions for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the benefit member below the sum of \$200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

(b) Limited use of provision.—The foregoing certificate provision may be inserted only in a certificate which the benefit member has the right to continue in force subject to its terms by the timely payment of dues, premiums, or other required contributions:

(1) until at least age 50; or

(2) in the case of a certificate issued after age 44, for at least five years from its date of issue.

The society may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the

United States or any province of Canada, or to any other coverage, the inclusion of which may be approved by the commissioner, or any combination of such coverages. In the absence of such definition, such term shall not include any coverage provided for such benefit member pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Section 523. Nonpayment of premiums.

There shall be a provision as follows:

Unpaid Dues, Premiums, or Other Required Contributions: Upon the payment of a claim under this certificate, any dues, premiums, or other required contributions then due and unpaid or covered by any note or written order may be deducted therefrom.

Section 524. Cancellation.

There shall be a provision as follows:

Cancellation: The society may cancel this certificate at any time by written notice delivered to the benefit member or mailed to his last address as shown by the records of the society, stating when, not less than 30 days thereafter, such cancellation shall be effective; and after the certificate has been continued beyond its original term, the benefit member may cancel this certificate at any time by written notice delivered or mailed to the society, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the society will return promptly the unearned portion of any dues, premiums, or other required contributions paid. If the benefit member cancels, the unearned dues, premiums, or other required contributions shall be computed by the use of the short rate table last filed with the state official having supervision of insurance in the state where the benefit member resided when the certificate was issued. If the society cancels, the earned dues, premiums, or other required contributions shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

Section 525. Conformity of provisions with state statutes.

There shall be a provision as follows:

Conformity with State Statutes: Any provision of this certificate which, on its effective date, is in conflict with the statutes of the state in which the benefit member resides on such date, is hereby amended to conform to the minimum requirements of such statutes.

Section 526. Illegal occupation.

There shall be a provision as follows:

Illegal Occupation: The society shall not be liable for any loss to which a contributing cause was the benefit member's commission of or attempt to commit a felony, or to which a contributing cause was the benefit member's being engaged in an illegal occupation.

Section 527. Intoxicants and narcotics.

There shall be a provision as follows:

Intoxicants and Narcotics: The society shall not be liable for any loss

sustained or contracted in consequence of the benefit member's being intoxicated, or under the influence of any narcotic unless administered on the advice of a physician.

Section 528. Provisions not applicable in certain circumstances.

If any provision of this chapter is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of certificate, the society, with the approval of the commissioner, shall omit from such certificate any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the certificate consistent with the coverage provided by the certificate.

Section 529. Printed order of certain certificate provisions.

The provisions which are the subject of this chapter or any corresponding provisions which are used in lieu thereof in accordance with such chapter, shall be printed in the consecutive order of the provisions in such chapter or, at the option of the society, any such provision may appear as a unit in any part of the certificate, with other provisions to which it may be logically related, provided the resulting certificate shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the certificate is offered, delivered or issued.

Section 530. Third party ownership.

The word "benefit member," as used in this act, shall not be construed as preventing a person other than the benefit member with a proper insurable interest from making application for and owning a certificate covering the benefit member or from being entitled under such a certificate to any indemnities, benefits and rights provided therein.

Section 531. Filing procedure.

The commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of certificates subject to this act as are necessary, proper or advisable to the administration of this act. This provision shall not abridge any other authority granted the commissioner by law. Where the Commissioner of Insurance deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member.

CHAPTER 6 LICENSES, FEES AND ADDITIONAL POWERS FOR THE COMMISSIONER

Section 601. Annual license.

Societies which are now authorized to transact business in this Commonwealth may continue such business until the first day of April next succeeding the effective date of this act. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding April. However, a license so issued shall continue in full force and effect until the new license be issued or specifically refused. A duly certified copy or duplicate of such

license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this act.

Section 602. Fees.

The Insurance Commissioner shall charge and collect fees as follows:

- (1) Filing copy of charter of a domestic, foreign or alien society, in addition to any fee for filing such charter with the Department of State is \$25.
- (2) The filing of an annual or other statement is \$40.
- (3) License to society, or certified copy, or duplicate thereof is \$5.
- (4) Each listing for written examination of an applicant for license as an agent is \$10.
- (5) Each applicant for such licenses for which an examination is not required is \$5.
- (6) Agent's license for each domestic or foreign society, for life and/or accident and health lines, regardless of the number of powers, excepting variable annuities, for which licensed is \$5.

All of the said agents' license fees shall be paid in full at time of issuance of license and shall not be apportioned pro rata over the initial license period.

- (7) Each copy of any paper filed in the department, 25¢ per page and \$2 for certifying the same.
- (8) Any other certificate required is \$2.
- (9) Making examinations, the expense of the examination.
- (10) Filing and reviewing agreements of merger of domestic, foreign and alien societies, \$50 for the first two societies involved and \$10 for each additional society.
- (11) Filing and review of a plan of conversion from a fraternal benefit society to a mutual company and for filing each amendment to registration statement is \$50.
- (12) For issuing a certificate of compliance, deposit or surety, or any other certificate required to be issued by the department, \$5 for each certificate.
- (13) Filing and review of qualification of a society to issue variable annuities is \$100.
- (14) Certification of an agent's license, or for duplicate or replacement licenses is \$5.
- (15) Any other certificate issued by the division of agents is \$5.
- (16) Each renewal of license as an individual agent is \$5.
- (17) Each additional variable annuity power in such license is \$5.

All fees collected shall be paid daily into the State Treasury.

Section 603. Foreign society.

(a) License required.—No foreign or alien society shall transact business in this Commonwealth without a license issued by the commissioner. Any such society may be licensed to transact business in this Commonwealth upon filing with the commissioner:

- (1) A duly certified copy of its charter or articles of incorporation.

(2) A copy of its constitution and laws, certified by its secretary or corresponding officer.

(3) A power of attorney to the Commissioner of Insurance as prescribed in section 606.

(4) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the commissioner of this Commonwealth.

(5) A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein.

(6) Copies of its certificate forms.

(7) Such other information as he may deem necessary.

(8) Upon a showing that its assets are invested in accordance with the provisions of this act.

(b) *Qualifications.*—Any foreign or alien society desiring admission to this Commonwealth shall have the qualifications required of domestic societies organized under this act.

Section 604. Injunction, liquidation or receivership of domestic society.

(a) *Findings and notification.*—When the commissioner upon investigation finds that a domestic society:

(1) has exceeded its powers;

(2) has failed to comply with any provision of this act;

(3) is not fulfilling its contracts in good faith;

(4) has a membership of less than 400 after an existence of one year or more; or

(5) is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business;

he shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. He shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected. After such notice the society shall have a 30 day period in which to comply with the commissioner's request for correction, and if the society fails to comply, the commissioner shall notify the society of his findings of noncompliance and require the society to show cause, on a date named, why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

(b) *Presentation to Attorney General.*—If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts relating thereto to the Attorney General who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto.

(c) *Court notification of society.*—The court shall thereupon notify the

officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

(d) Prerequisites for injunction.—No society so enjoined shall have the authority to do business until:

(1) The commissioner finds that the violation complained of has been corrected.

(2) The costs of such action shall have been paid by the society if the court finds that the society was in default as charged.

(3) The court has dissolved its injunction.

(4) The commissioner has reinstated the certificate of authority.

(e) Court order for liquidation.—If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society, and under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

(f) Necessity of Attorney General.—No action under this section shall be recognized in any court of this Commonwealth unless brought by the Attorney General upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as such receiver.

(g) Applicability to voluntary discontinuance.—The provisions of this section relating to hearing by the commissioner, action by the Attorney General at the request of the commissioner, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

Section 605. Suspension, revocation or refusal of license to foreign society.

(a) Findings and notification.—When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this Commonwealth:

(1) has exceeded its powers;

(2) has failed to comply with any of the provisions of this act;

(3) is not fulfilling its contracts in good faith; or

(4) is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public;

he shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. He shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After such notice the society shall have a 30 day period in which to comply with the commissioner's request for correction, and if the society fails to comply, the commissioner shall notify the society of his findings of noncompliance and require the society to show cause, on a date named, why its license should not be suspended, revoked or refused. If on such date the society does not present good and sufficient reason why its authority to do business in this Commonwealth should not be suspended,

revoked or refused, he may suspend or refuse the license of the society to do business in this Commonwealth until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this Commonwealth.

(b) *Continuation of contract.*—Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this Commonwealth during the time such society was legally authorized to transact business herein.

Section 606. *Service of process.*

(a) *Appointment of commissioner to receive process.*—Every society authorized to do business in this Commonwealth shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this Commonwealth. Copies of such appointment, certified by said commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(b) *Method of service.*—Service shall only be made upon the commissioner or upon his legal counsel's office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than 30 days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein proscribed. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of \$10.

Section 607. *Application for injunction.*

No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this Commonwealth unless made by the Attorney General upon request of the Commissioner of Insurance.

Section 608. *Court review.*

All decisions and findings of the commissioner made under the provisions of this act shall be subject to review by proper proceedings in the Commonwealth Court.

CHAPTER 7 AGENTS

Section 701. *Fraternal insurance agent defined.*

The term "fraternal insurance agent" as used in this chapter means any authorized or acknowledged agent or representative of a society who acts

as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term "fraternal insurance agent" shall not include:

- (1) any regular salaried officer or employee of a licensed society whose services are devoted substantially to activities other than the solicitation of fraternal insurance contracts, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or
- (2) any member of a society whose solicitation or negotiation of fraternal insurance contracts is incidental to securing new members for his society, and whose only remuneration consists of prizes in the form of merchandise or payments of nominal amounts.

Section 702. License required for agents.

Agents of societies shall be licensed in accordance with the provisions of this chapter.

Section 703. Payment of commissions forbidden.

No society doing business in this Commonwealth shall pay any commission or other compensation to any person for any services in obtaining in this Commonwealth any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed, fraternal insurance agent of such society.

Section 704. Commissioner may issue license.

The commissioner may issue a license to any person who has paid the annual license fee and who has complied with the requirements of this chapter, authorizing such licensees to act as a fraternal insurance agent on behalf of any society named in such license which is authorized to do business in this Commonwealth.

Section 705. Agents' documents on file.

Before any fraternal insurance agent's license shall be issued there shall be on file in the office of the commissioner the following documents:

- (1) A written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe.
- (2) A certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such fraternal insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

Section 706. Types of licenses to be issued.

Except as otherwise provided in this chapter, fraternal insurance agents shall be licensed as life and/or accident and health agents, except that the examination requirements of such provisions shall not be applicable to:

- (1) Any fraternal insurance agent who was in the service of a society on the effective date of this act.
- (2) A fraternal insurance agent who, in the preceding calendar year,

has solicited and procured life insurance contracts on behalf of any society in an amount of insurance not in excess of \$100,000, or, in the case of any other kinds of insurance which the society might write, on the persons of not more than 25 individuals and who has received or will receive a commission or compensation therefore.

Section 707. Refusal to issue license.

The commissioner may refuse to issue or renew any fraternal insurance agent's license if, in his judgment, the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

Section 708. Term of license.

The term, expiration, renewal procedures, termination notice requirements, causes for revocation or suspension of the license shall be the same as contained in Article VI of "The Insurance Department Act of one thousand nine hundred and twenty-one," of May 17, 1921 (P.L.789, No.285), dealing with license of life, accident and health agents except as inconsistent herewith.

CHAPTER 8 FUNDS, INVESTMENTS AND INVESTIGATIONS

Section 801. Funds.

(a) Assets for use and benefit of society.—All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

(b) Use of funds.—A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

(c) Statement of purposes and proportions of payments.—Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for life insurance companies for certificates issued after one year from the effective date of this act, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

Section 802. Investments.

A society shall invest its funds only in such investments as are authorized by the laws of this Commonwealth for the investment of assets of life insurance companies and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this Commonwealth which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

Section 803. Report of financial condition.

Every society transacting business in this Commonwealth shall annually, on or before March 1, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee in accordance with section 602. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

Section 804. Synopsis of report to each member.

A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

Section 805. Report of valuation of certificates.

As a part of the annual statement herein required, each society shall, on or before March 1, file with the commissioner a valuation of its certificates in force on December 31 last preceding, provided the commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present midyear value of the promised benefits provided in the certificates of such society in force and the present midyear value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present midyear value of future net premiums exceeds the present midyear value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this act shall be determined in accordance with the provisions of law applicable prior to the effective date of this act and as to certificates issued on or after one year from the effective date of this act shall not be less than the reserves determined according to the commissioners' reserve valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the midyear or tabular values are not appropriate.

Section 806. Reserves, determination.

Reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net

premiums therefore. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the ~~then present~~ present value of such benefits provided for by the certificate and the excess of (A) over (B) as follows:

(A) A net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided however, that such net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate.

(B) A net one year term premium for such benefits provided for in the first certificate year.

Reserves according to the commissioners' reserve valuation method for:

- (1) Life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums.
- (2) Annuity and pure endowment benefits.
- (3) Disability and accidental death benefits in all certificates and contracts.
- (4) All other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of this section.

Section 807. Deferred payments as liability.

The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in sections 808, 809 and 810.

Section 808. Certification of valuation.

The valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the Department of Insurance of the state of domicile of the society.

Section 809. Valuation standards.

(a) Valuation for certificates prior to this act.—The minimum standards of valuation for certificates issued prior to one year from the effective date of this act shall be those provided by the law applicable immediately prior to the effective date of this act but not lower than the standards used in the calculating of rates for such certificates.

(b) Valuation for certificates after this act.—The minimum standard of valuation for certificates issued after one year from the effective date of this act shall be 3 ½% interest and the following tables:

- (1) For certificates of life insurance — American Men Ultimate Table of Mortality, with Bowerman's or Davis' Extension thereof or with the consent of the commissioner, the Commissioners 1941 Standard

Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, using actual age of the insured for male risks and an age not more than three years younger than the actual age of the insured for female risks.

(2) For annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates — the 1937 Standard Annuity Mortality Table or the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

(3) For total and permanent disability benefits in or supplementary to life insurance certificates — Hunter's Disability Table, or the Class III Disability Table (1926) modified to conform to the contractual waiting period, or the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries with due regard to the type of benefit. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance certificates.

(4) For accidental death benefits in or supplementary to life insurance certificates — the Inter-Company Double Indemnity Mortality Table or the 1959 Accidental Death Benefits Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates.

(5) For noncancellable accident and health benefits — the Class III Disability Table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society's own experience.

Provided, however, that any society may value its certificates in accordance with valuation standards authorized by the laws of this Commonwealth for the valuation of policies issued by life insurance companies.

Section 810. Other standards for valuation.

The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this Commonwealth. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

Section 811. Excess reserves.

Any society, with the consent of the Commissioner of Insurance of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in

excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

Section 812. Penalty for failure to file statement.

A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which such neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this Commonwealth shall cease while such default continues.

Section 813. Examination of domestic societies.

Societies which have been examined by the commissioner have the privilege of objecting to the report of examination within 30 days after reception of such report. If any objection is made, the commissioner will grant a hearing to the society before making the report available for public inspection.

Section 814. Visitation and examination.

The commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society and he shall make such examination at least once in every three years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. The minutes of the proceedings of the supreme legislative or governing body and of the board of directors or corresponding body of a society shall be in the English language. In making any such examination, the commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society. A summary of the report of the commissioner and such recommendations or statements of the commissioner as may accompany such report, shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed so to do by the commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following receipt thereof. A copy of the report, recommendations, and statements of the commissioner shall be furnished by the society to each member of such board of directors or other governing body. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

Section 815. Examination of foreign societies.

The commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this Commonwealth. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may in his discretion accept, in lieu of such examination, the examination of the Insurance Department of the state, territory, district, province or country

where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the commissioner.

Section 816. No adverse publications.

Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

Section 817. Misrepresentation.

(a) Misrepresentation.—No person shall cause or permit to be made, issued or circulated in any form:

(1) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this Commonwealth, or the financial condition of any society.

(2) Any false or misleading estimate or statement concerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract.

(3) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete if it does not compare in detail:

(i) The gross rates, and the gross rates less any dividend or other reduction allowed at the date of the comparison.

(ii) Any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured;

or if it omits from consideration:

(iii) Any benefit or value provided in the contract.

(iv) Any differences as to amount or period of rates.

(v) Any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

(b) Penalty.—Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine not less than \$100 nor more than \$1000, or by imprisonment in the county jail not less than 30 days nor more than one year, or both fine and imprisonment and

shall in addition, be liable for a civil penalty in the amount of three times the sum received by such violator as compensation or commission, which penalty may be sued for and recovered by any person or society aggrieved for his or its own use and benefit in accordance with the rules of civil practice.

Section 818. Discrimination and rebates.

(a) *Discrimination.*—No society doing business in this Commonwealth shall make or permit any unfair discrimination between benefit members, spouses or dependents of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes.

(b) *Rebates.*—No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, any valuable consideration or inducement to, or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in the contract of insurance.

CHAPTER 9 MISCELLANEOUS

Section 901. Taxation.

Every society organized or licensed under this act is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every State, county, district, municipal and school tax other than taxes on real estate and office equipment.

Section 902. Exemptions.

Except as herein provided, societies shall be governed by this act and shall be exempt from all other provisions of the insurance laws of this Commonwealth, not only in governmental relations with the Commonwealth, but for every other purpose. No present law or any law hereafter enacted shall apply to them, unless they be expressly designated therein. To the extent that laws and regulations are applicable to societies, the terms thereof shall be deemed of no effect to the extent that they are inconsistent with the expressed terms of this act.

Section 903. Exemption of certain societies.

(a) *Exemption.*—Nothing contained in this act shall be so construed as to affect or apply to:

- (1) grand or subordinate lodges of societies, orders or associations now doing business in this Commonwealth which provide benefits exclusively through local or subordinate lodges;
- (2) orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the

same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

(3) domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than \$400 or disability benefits of not more than \$350 to any person in any one year, or both; or

(4) domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than \$400 or for disability benefits of not more than \$350 to any one person in any one year, or both.

(b) Coverage extended.—Any such society or association described in paragraphs (3) or (4) supra which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (4) which has more than 1000 members, shall not be exempted from the provisions of this act but shall comply with all requirements thereof.

(c) Prohibition.—No society which, by the provisions of this section, is exempt from the requirements of this act, except any society described in subsection (a)(2), shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(d) Subject to act.—Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this act except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

(e) Information may be rejected.—The Commissioner of Insurance may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this act.

Section 904. Penalties.

(a) False statements.—It shall be prohibited for any person to willfully make a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society.

(b) Filing of false statement.—Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this act, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefore prescribed by law.

(c) Solicitation by nonlicensed society.—Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this Commonwealth shall upon conviction be fined not less than \$500 nor more than \$1000.

(d) Penalty for other violation.—Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this act for which a penalty is not otherwise prescribed, shall be guilty of a misdemeanor and shall upon conviction, be subject to a fine not exceeding \$500. Upon satisfactory evidence of a violation of any provision of this act, the commissioner may in his discretion, in lieu of seeking criminal prosecution, pursue any one or more of the following courses of action:

(1) Suspend or revoke or refuse to renew the license of such offending party or parties.

(2) Impose a civil penalty of not more than \$1000 for each and every act in violation of any of said sections by said party or parties.

Section 905. Repealer.

The following acts of assembly are hereby repealed absolutely from and after the effective date of this act insofar as expressly inconsistent with this act:

Act of June 4, 1937 (P.L.1643, No.342).

Act of August 9, 1971 (P.L.286, No.74).

Act of November 15, 1972 (P.L.1063, No.271).

CHAPTER 10 EFFECTIVE DATE

Section 1001. Effective date.

This act shall take effect in six months.

APPROVED—The 29th day of July, A. D. 1977.

It is my intention in approving this bill that the repealer clause (Section 905) repeals the Act of August 9, 1971 (P.L.286, No.74) and the Act of November 15, 1972 (P.L.1063, No.271) only to the extent that they are expressly inconsistent with this act. The repealer clause operates, therefore, only upon those provisions in the cited acts which deal with fraternal benefit societies and which expressly conflict with this act.

MILTON J. SHAPP