

No. 2002-110

AN ACT

HB 599

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," further providing for requisites for foreign companies to do business; deleting provisions relating to admitted assets; further providing for standard nonforfeiture law for individual deferred annuities and for title insurance agents; further defining "wet marine and transportation insurance"; further providing for placement of surplus lines insurance, for requirements for eligible surplus lines insurers, for surplus lines licensee's duty to notify insured, for declarations, for licensing of surplus lines licensee, for records of surplus lines licensee, for suspension, revocation or nonrenewal of surplus lines licensee's license and for service of process in actions against surplus lines insurer; providing for fraternal benefit societies; and making a repeal.

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

Section 1. Section 301(d) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, is amended to read:

Section 301. Requisites for Foreign Companies To Do Business.—No stock or mutual insurance company or association of any other State or foreign government shall be admitted and authorized to do business until:

* * *

[(d) It shall file in the office of the Auditor General a statement showing: (I) The name of the company or association; (II) the date of incorporation or organization; (III) the act of Assembly or authority under which incorporated or organized; (IV) the place of business; (V) the post office address and names of the president, secretary, and treasurer; (VI) the amount of capital authorized by its charter; and (VII) the amount of capital paid into the treasury of the company.

Any company or association which shall neglect or refuse to file such statement shall be subject to a penalty of five hundred dollars (\$500.00), which penalty shall be collected, on an account settled by the Auditor General and State Treasurer, in the same manner as taxes on stock are settled and collected.]

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Section 2. Section 320.1 of the act is repealed.

Section 3. Section 410C of the act is amended by adding a subsection to read:

Section 410C. Standard Nonforfeiture Law for Individual Deferred Annuities.—* * *

(m) Notwithstanding the provisions of subsection (d), for any contract issued on or after July 1, 2002, and before January 1, 2005, the interest rate at which minimum nonforfeiture amounts, partial withdrawals and partial surrenders shall be accumulated shall be one and one-half per centum (1.5%) per annum.

Section 4. Section 724(b) of the act, amended December 21, 1995 (P.L.714, No.79), is amended to read:

Section 724. Agents; Defined.—* * *

[(b) No bank, trust company, bank and trust company or other lending institution, mortgage service, mortgage brokerage or mortgage guaranty company or any officer or employe of any of the foregoing shall be permitted to act as an agent for a title insurance company.] The word “agent” shall not include approved attorneys, nor shall it include officers and salaried employes of any title insurance company authorized to do a title insurance business within this Commonwealth.

Section 5. The definition of “wet marine and transportation insurance” in section 1602 of the act, added December 18, 1992 (P.L.1519, No.178), is amended to read:

Section 1602. Definitions.—As used in this article the following words and phrases shall have the meanings given to them in this section:

* * *

“Wet marine and transportation insurance.” Any of the following:

(1) Insurance upon vessels, crafts or hulls and of interests therein or with relation thereto.

(2) Insurance of marine builder’s risks, marine war risks and contracts of marine protection and indemnity insurance.

(3) Insurance of freights and disbursements pertaining to a subject of insurance coming within this definition.

(4) Insurance of personal property and interest therein, in the course of exportation from or importation into any country, or in the course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in connection with any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, transshipment or reshipment [**incident thereto**]. *Insurance of personal property and interests therein shall not be considered wet marine and transportation insurance if:*

(i) the property has been transported solely by land;

(ii) the property has reached its final destination as specified in the bill of lading or other shipping document; or

(iii) the insured no longer has an insurable interest in the property.

Section 6. Section 1604 of the act, added December 18, 1992 (P.L.1519, No.178), is amended to read:

Section 1604. Placement of Surplus Lines Insurance.—Insurance may be procured through a surplus lines licensee from nonadmitted insurers if the following requirements are met:

(1) Each insurer is an eligible surplus lines insurer.

(2) The placement satisfies the criteria set forth in at least one of the following subparagraphs:

(i) The full amount or kind of insurance cannot be obtained from admitted insurers. Such full amount or kind of insurance or any portion thereof may be procured from eligible surplus lines insurers, provided that a diligent search is made among the admitted insurers who are writing, in this Commonwealth, coverage comparable to the coverage being sought.

(ii) The full amount or kind of insurance cannot be obtained from any admitted insurers because **[no such insurers are writing]** coverage comparable to the coverage being sought *generally is not available in the authorized market.*

(iii) The kind of insurance sought to be obtained from admitted insurers requires a unique form of coverage not available in the admitted market.

(3) **[The] *With respect to personal lines policies or contract forms, the policy or contract form used by the insurer does not differ materially from policies or contracts customarily used by admitted insurers for the kind of insurance involved. [Coverage] Personal lines coverage*** may be placed in an eligible surplus lines insurer using a unique form or policy designed for the kind of insurance *only* if a copy of such form is *first* filed with the department by the surplus lines licensee desiring to use it **[simultaneously with the affidavit required by section 1609]. *The form shall be deemed approved by the commissioner unless, within ten (10) days after receipt of the same, the commissioner shall find that the use of such form will be contrary to law or public policy.***

(4) All other requirements of this article are met.

Section 7. Section 1605 of the act, amended or added December 18, 1992 (P.L.1519, No.178) and February 17, 1994 (P.L.92, No.9), is amended to read:

Section 1605. Requirements for Eligible Surplus Lines Insurers.—(a) No surplus lines licensee shall place any coverage with a nonadmitted insurer unless, at the time of placement, such nonadmitted insurer:

(1) Is of good repute and financial integrity.

(2) Qualifies under any of the following subparagraphs:

(i) Has policyholder surplus equal to or greater than two times the minimum capital and surplus required to be fully licensed in this Commonwealth. Two (2) years from the effective date of this article is granted to allow those nonadmitted insurers which are eligible-surplus lines insurers on the effective date of this article to achieve this capital and surplus requirement. If an alien insurer, as defined by the act of December 10, 1974 (P.L.804, No.266), referred to as the Alien Insurer Domestication

Law, it shall maintain in the United States an irrevocable trust fund in either a national bank or a member of the Federal Reserve System, in an amount not less than that currently required by the National Association of Insurance Commissioners' **[Nonadmitted Insurers Information Office]** *International Insurers Department or its successor* for the protection of all of its policyholders in the United States, and such trust fund consists of cash, securities, letters of credit or investments of substantially the same character and quality as those which are eligible investments for admitted insurers authorized to write like kinds of insurance in this Commonwealth. Such trust fund will be in addition to the capital and surplus required in this subparagraph and shall have an expiration date which at no time shall be less than five (5) years.

(ii) Is any Lloyd's or other similar group of insurers which includes unincorporated individual insurers that maintains a trust fund of not less than fifty million (\$50,000,000) dollars as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group. Such trust funds shall likewise comply with the terms and conditions established in subparagraph (i) for alien insurers.

(iii) Is an insurance exchange created by the laws of individual states that maintains capital and surplus or the substantial equivalent thereof of not less than fifteen million (\$15,000,000) dollars in the aggregate. For insurance exchanges which maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus or the substantial equivalent thereof of not less than one million five hundred thousand (\$1,500,000) dollars. In the event the insurance exchange does not maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements of subparagraph (i).

(3) Has provided to the department a copy of its current annual financial statement certified by such insurer, such statement to be provided no more than thirty (30) days after the date required for filing an annual financial statement in its domiciliary jurisdiction and which is either:

- (i) certified by the regulatory authority in the domicile of the insurer; or
- (ii) certified by an accounting or auditing firm licensed in the jurisdiction of the insurer's domicile.

In the case of an insurance exchange, the statement may be an aggregate statement of all underwriting syndicates operating during the period reported.

(b) In addition to meeting the requirements in subsection (a), a nonadmitted insurer shall be an eligible surplus lines insurer if it appears on the most recent list of eligible surplus lines insurers published by the department from time to time but at least semiannually. Nothing in this section shall require the department to place or maintain the name of any nonadmitted insurer on the list of eligible surplus lines insurers.

Section 8. Sections 1608, 1609, 1615, 1619, 1623 and 1624 of the act, added December 18, 1992 (P.L.1519, No.178), are amended to read:

Section 1608. Surplus Lines Licensee's Duty to Notify Insured.—At the time of presenting a quotation to the insured, the surplus lines licensee shall present to the insured or to the producing broker written notice that the insurance or a portion thereof involves placement with nonadmitted insurers. The licensee shall, either directly or through the producing broker, give notice to the insured that:

- (1) the insurer with which the licensee places the insurance is not licensed by the Pennsylvania Insurance Department and is subject to its limited regulation; and
- (2) in the event of the insolvency of an eligible surplus lines insurer, losses will not be paid by the Pennsylvania *Property and Casualty* Insurance Guaranty Association.

Section 1609. Declarations.—(a) In the case of each placement of insurance in accordance with this article:

(1) Within thirty (30) days after the surplus lines licensee has placed insurance with an eligible surplus lines insurer, the producing broker must execute and forward to the surplus lines licensee a written statement, in a form prescribed by the department, declaring that:

(i) A diligent effort to procure the desired coverage from admitted insurers was made.

(ii) The insured was expressly advised in writing prior to placement of the insurance that:

(A) the insurer with whom the insurance is to be placed is not admitted to transact business in this Commonwealth and is subject to limited regulation by the department; and

(B) in the event of the insolvency of the insurer, losses will not be paid by the Pennsylvania *Property and Casualty* Insurance Guaranty Association.

This written declaration shall be open to public inspection.

(2) Within forty-five (45) days after insurance has been placed in an eligible surplus lines insurer, the surplus lines licensee shall file with the department a written declaration of his lack of knowledge of how the coverage could have been procured from admitted insurers. The surplus lines licensee shall simultaneously file the written declaration of the producing broker, as set forth in paragraph (1).

(3) In a particular transaction where the producing broker and surplus lines licensee are one in the same entity, he shall execute both declarations.

(b) Subsection (a) shall not apply to any insurance which has been placed continuously with an eligible surplus lines insurer for a period of at least three (3) consecutive years immediately preceding the current placement. However, within forty-five (45) days after insurance has been placed with an eligible surplus lines insurer, the surplus lines licensee shall

file with the department his written declaration on a form prescribed by the department.

Section 1615. Licensing of Surplus Lines Licensee.—(a) No agent or broker licensed by the department shall transact surplus lines insurance with any nonadmitted insurer unless such agent or broker possesses a valid surplus lines agent's license issued by the department.

(b) The department shall issue a surplus lines agent's license to any resident *or nonresident* of this Commonwealth who is a qualified holder of a current property and casualty broker's license, but only when the broker has complied with the following:

(1) Remitted the license fee to the department.

(2) Submitted a properly completed license application on a form supplied by the department.

(3) Passed a qualifying examination approved by the department, except that all holders of a license prior to the effective date of this article shall be deemed to have passed such an examination.

[(4) Filed with the department and maintained concurrent with the term of the license, in force and unimpaired, a bond in favor of the Commonwealth of Pennsylvania in the penal sum of at least fifty thousand (\$50,000) dollars, aggregate liability, with corporate sureties approved by the department. The bond shall be conditioned that the surplus lines licensee will conduct business in accordance with the provisions of this article and will promptly remit the taxes as provided by law. No bond shall be terminated except for nonpayment of premiums. Termination notice shall be given to the surplus lines licensee and to the department at least thirty (30) days prior to the termination date.]

(c) Corporations and partnerships shall be eligible to be resident *or nonresident* surplus lines licensees, upon the following conditions:

(1) The corporation or partnership licensee shall list all employees, including at least one active officer or partner, who have satisfied the requirements of this article to become surplus lines licensees.

(2) Only those employees [**resident in this Commonwealth**] holding a certificate of eligibility may transact surplus lines insurance.

(d) Each surplus lines license shall expire on the last day of February of each year and shall be renewed before March 1 of each year upon payment of the annual fee, in compliance with other provisions of this section. Any surplus lines licensee who fails to apply for renewal of a license before expiration of the current license shall pay a penalty of two times the license fee and be subject to other penalties as provided by law before his license will be renewed.

Section 1619. Records of Surplus Lines Licensee.—(a) Each surplus lines licensee shall keep in its office [**in this Commonwealth**] a full and true record of each surplus lines insurance contract placed by or through it,

including a copy of the policy, certificate, cover note or other evidence of insurance, showing such of the following items as may be applicable:

- (1) Amount of the insurance and perils insured.
 - (2) Brief description of the risk insured and its location.
 - (3) Gross premium charged.
 - (4) Any return premium paid.
 - (5) Rate of premium charged for each risk insured.
 - (6) Effective date and terms of the contract.
 - (7) Name and address of the insured.
 - (8) Name and address of the eligible surplus lines insurer and any nonadmitted insured involved pursuant to section 1606.
 - (9) Amount of tax and other sums to be collected from the insured.
 - (10) Identity of the producing broker, any confirming correspondence from the insurer or its representative and the application.
 - (11) A copy of the written notice required by section 1408.
- (b) The record of each contract shall be kept open at all reasonable times to examination by the department without notice for a period of not less than five (5) years following termination of the contract.

Section 1623. Suspension, Revocation or Nonrenewal of Surplus Lines Licensee's License.—The department may suspend, revoke or refuse to renew the license of a surplus lines licensee after notice and a hearing, as provided under the applicable provision of the laws of this Commonwealth, upon any one or more of the following grounds:

[(1) Removal of the resident surplus lines licensee's office from this Commonwealth.

(2) Removal of the resident surplus lines licensee's accounts and records from this Commonwealth during the period during which such accounts and records are required to be maintained under section 1619.]

(3) Closing of the surplus lines licensee's office for a period of more than thirty (30) business days, unless permission is granted by the department.

(4) Failure to make and file required reports.

(5) Failure to transmit required tax on surplus lines premiums.

[(6) Failure to maintain required bonds.]

(7) Failure to remit premiums due insurers or return premiums due insureds in the normal course of business and within reasonable time limits.

(8) Violation of any provision of this article.

(9) For any other cause for which an insurance agent's or broker's license could be denied, revoked or suspended or refused upon renewal.

Section 1624. Service of Process in Actions Against Surplus Lines Insurer.—(a) An eligible surplus lines insurer may be sued upon any cause of action arising in this Commonwealth under any surplus lines insurance contract made by it or evidence of insurance issued or delivered by the surplus lines licensee. Service of process shall be made pursuant to the

procedures provided by 42 Pa.C.S. Ch. 53 Subch. B (relating to interstate and international procedure). Any such [policy] *surplus lines insurance contract or evidence of insurance* delivered by the surplus lines licensee shall contain a provision stating the substance of this section and designating the person to whom process shall be mailed.

(b) Each nonadmitted insurer accepting surplus lines insurance shall be deemed thereby to have subjected itself to accepting service of process under 42 Pa.C.S. Ch. 53 Subch. B.

(c) The service of process procedures provided in this section are in addition to any other methods provided by law for service of process upon insurers.

Section 9. The act is amended by adding an article to read:

**ARTICLE XXIV
FRATERNAL BENEFIT SOCIETIES**

**SUBARTICLE A
GENERAL PROVISIONS**

Section 2401. Scope.

This article deals with fraternal benefit societies.

Section 2402. Definitions.

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

"Benefit contract." *The agreement for provision of benefits authorized by section 2431 as that agreement is described in section 2434(a).*

"Benefit member." *An adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.*

"Certificate." *The document issued as written evidence of the benefit contract.*

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

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

"Impaired." *For a society that does not write variable contracts, "impaired" means whenever the society's assets are less than its total liabilities. For a society that does write variable contracts, "impaired" means whenever the society's assets are less than its total liabilities, plus the required surplus for a mutual life insurer to write such contracts.*

"Insurance laws." *Laws and regulations pertaining to insurance companies.*

"Laws." *The society's articles of incorporation, constitution and bylaws, however designated.*

"Lodge." *Subordinate member units of the society, known as camps, courts, councils, branches or by any other designation.*

“Premiums.” Premiums, rates, dues or other required contributions by whatever name known, which are payable under the certificate.

“Rules.” Rules, regulations or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.

“Society.” Fraternal benefit society, unless otherwise indicated.

Section 2403. Fraternal benefit societies.

Any incorporated society, order or supreme lodge without capital stock, including one exempted under the provisions of section 2466(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 providing benefits in accordance with this article is declared to be a fraternal benefit society.

Section 2404. Lodge system.

(a) **General rule.**—A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated or admitted in accordance with its laws, rules and rituals. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once in each quarter in furtherance of the purposes of the society.

(b) **Lodges for children.**—A society may, at its option, organize and operate lodges for children under the minimum age for adult membership. 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.

Section 2405. Representative form of government.

A society has a representative form of government when the following circumstances occur:

(1) It has a supreme governing body constituted in one of the following ways:

(i) The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws.

(ii) *The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed four years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society.*

(2) *The officers of the society are elected either by the supreme governing body or by the board of directors.*

(3) *Only benefit members are eligible for election to the supreme governing body, the board of directors or any intermediate assembly.*

(4) *Each voting member has one vote; no vote may be cast by proxy.*

Section 2406. Purposes, powers and limitations of societies.

(a) **Purposes.**—*A society shall operate for the benefit of members and their beneficiaries by:*

(1) *providing benefits as specified in section 2431; and*

(2) *operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic or religious purposes for the benefit of its members, which may also be extended to others.*

These purposes may be carried out directly by the society or indirectly through subsidiary corporations or affiliated organizations.

(b) **Powers.**—*Every society shall have the power to adopt laws and rules for the government of the society, the admission of its members and the management of its affairs. The society shall have the power to change, alter, add to or amend such laws and rules and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.*

(c) **Limitations.**—*No society or subsidiary corporation or affiliated organization through which a society carries out its purposes shall own or operate a funeral home or undertaking establishment.*

SUBARTICLE B MEMBERSHIP

Section 2411. Qualifications for membership.

(a) **General rule.**—*A society shall specify in its laws or rules:*

(1) *Eligibility standards for each and every class of membership. If benefits are provided on the lives of children, the minimum age for adult membership shall be 15 years and the maximum age shall be 21 years.*

(2) The process for admission to membership for each membership class.

(3) The rights and privileges of each membership class. Only benefit members shall have the right to vote on the management of the insurance affairs of the society.

(b) Social members.—A society may also admit social members who shall have no voice or vote in the management of the insurance affairs of the society.

(c) Membership is personal.—Membership rights in the society are personal to the member and are not assignable.

Section 2412. Office, meetings, publications and grievance procedures.

(a) Office and meetings.—The principal office of any domestic society shall be located in this Commonwealth. The meetings of the supreme governing body of the society may be held in any state or country on the North American continent or in any other location determined by the supreme governing body. All business transacted at such meetings shall be as valid in all respects as if the meetings were held in this Commonwealth. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in the English language.

(b) Publications.—

(1) A society may provide in its laws for an official publication in which any notice, report or statement required by law to be given to members, including notice of election, may be published. Any required reports, notices and statements shall be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy. This paragraph shall not apply to certificate requirements, reports or notices in connection with the issuance of certificates.

(2) Not later than June 1 of each year, a synopsis of the society's 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 or, in lieu thereof, the synopsis may be published in the society's official publication.

(c) Grievance procedures.—A society may provide in its laws or rules for grievance or complaint procedures for members.

Section 2413. Personal liability.

(a) General rule.—The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

(b) Indemnification and reimbursement.—

(1) Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by and liabilities imposed upon that

person in connection with or arising out of any action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat thereof, in which that person may be involved by reason of the fact that that person is or was a director, officer, employee or agent of the society or of any firm, corporation or organization which the person served in any capacity at the request of the society.

(2) A person shall not be so indemnified or reimbursed:

(i) in relation to any matter in an action, suit or proceeding as to which the person shall finally be adjudged to be or have been guilty of a breach of a duty as a director, officer, employee or agent of the society; or

(ii) in relation to any matter in an action, suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement;

unless, in either case, the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that his conduct was unlawful.

(3) The determination whether the conduct of such person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in paragraph (2) may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to such action, suit or proceeding or by a court of competent jurisdiction. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of no contest as to that person shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which that person may be entitled as a matter of law and shall inure to the benefit of that person's heirs, executors and administrators.

(c) Insurance.—A society shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the society or who is or was serving at the request of the society as a director, officer, employee or agent of any other firm, corporation or organization against any liability asserted against that person and incurred in any such capacity or arising out of that person's status as such, whether or not the society would have the power to indemnify the person against such liability under this section.

Section 2414. Waiver.

The laws of the society may 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 of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

SUBARTICLE C GOVERNANCE

Section 2421. Organization.

(a) General rule.—A domestic society organized after February 11, 1993, shall be formed as provided in this section.

(b) Articles of incorporation.—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 some 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 subarticle.

(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 the officers shall be elected by the supreme governing body, which election shall be held not later than one year from the date of issuance of the permanent certificate of authority.

(c) Filing.—Such articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates and applications therefor 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 the commissioner deems necessary. The bond with sureties approved by the commissioner shall be in an amount, not less than \$300,000 nor more than \$1,500,000, as required by the commissioner. All documents filed shall be in the English language. If the purposes of the society conform to the requirements of this subarticle 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 of authority authorizing the society to solicit members as provided in this section.

(d) Duration of preliminary certificate.—No preliminary certificate of authority granted under the provisions of this section shall be valid after one year from its date of issuance or after a further period, not exceeding

one year, as may be authorized by the commissioner upon cause shown, unless the 500 applicants required under subsection (e) have been secured and the organization has been completed as provided in this section. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate of authority 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 provided in this section.

(e) Solicitation of members.—Upon receipt of a preliminary certificate of authority 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 rates and shall issue to each applicant a receipt for the amount collected. No society shall incur any liability other than for the return of the advance premium nor issue any certificate nor pay or allow or offer or promise to pay or allow any benefit to any person until the following conditions are met:

(1) Actual bona fide applications for benefits aggregating at least \$500,000 have been secured on not less than 500 applicants, and any necessary evidence of insurability has been furnished to and approved by the society.

(2) At least ten subordinate lodges have been established into which the 500 applicants have been admitted.

(3) There has been submitted to the commissioner under oath of the president or secretary or corresponding officer of the society a list of the applicants, giving the name and address of each, the date each was admitted, the name and number of the subordinate lodge of which each applicant is a member and the amount of benefits to be granted and premiums for each applicant.

(4) It shall have been shown to the commissioner by sworn statement of the treasurer or corresponding officer of the society that at least 500 applicants have each paid in cash at least one regular monthly premium as provided in this subsection, which premiums in the aggregate shall amount to at least \$150,000. These 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 provided in this section, the premiums shall be returned to the applicants.

(5) The commissioner may make such examination and require such further information as the commissioner deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the commissioner shall issue to the society a certificate of authority to that effect and to the effect that the society is authorized to transact business pursuant to the provisions of this subarticle. The certificate of authority shall be prima facie evidence of

the existence of the society at the date of the certificate. The commissioner shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

(f) Limitations.—The provisions of subsection (e) 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 that date. After February 12, 1993, any such society may exercise all the rights conferred by this article 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 rights to exercise any corporate rights vested in it by virtue of its past incorporation shall be affected by anything contained in this article.

(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), the act of July 17, 1935 (P.L.1092, No.357), or the act of July 29, 1977 (P.L.105, No.38), relating to fraternal benefit societies. For the purposes of this article, a corporation which is exempt from the requirements of this section by reason of paragraph (1) shall be deemed to be a holder of a certificate of authority issued under this article.

(g) Reincorporation not required.—Any incorporated society authorized to transact business in this Commonwealth on February 12, 1993, shall not be required to reincorporate.

Section 2422. Amendments to laws.

(a) General rule.—A domestic society may amend its laws in accordance with the provisions thereof by action of its supreme governing body at any regular or special meeting thereof or, if its laws so provide, by referendum. The referendum may be held in accordance with the provisions of its 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. A society may provide for voting by mail. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission thereof, a majority of the members voting shall have signified their consent to the amendment by one of the methods specified in this section. A society having a direct election form of organization as described in section 2405(1)(ii) may amend its constitution or articles of incorporation only by referendum.

(b) Approval of amendment.—No amendment to the laws of any domestic society shall take effect unless approved by the commissioner, who shall approve the amendment if the commissioner 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 the amendment

within 60 days after the filing, the amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and shall be mailed to the secretary or corresponding officer of the society at its principal office. If the commissioner disapproves the amendment, the reasons for the disapproval shall be stated in the written notice.

(c) Copies to members.—Within 90 days from the approval thereof by the commissioner, the 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 publication 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 the amendments or synopsis thereof have been furnished the addressee.

(d) Filings of foreign societies.—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 laws within 90 days after their enactment.

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

Section 2423. Institutions.

A society may create, maintain and operate or may establish organizations to operate not-for-profit institutions to further the purposes permitted by section 2406(a)(2). These institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held or leased by the society for this purpose shall be reported in every annual statement but shall not be allowed as an admitted asset of the society except as provided in section 2441(b).

Section 2424. Reinsurance.

(a) General rule.—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 society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on the 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 February 12, 1993, 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.

(b) Reinsurance by another society.—Notwithstanding the limitation in subsection (a), a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 2425.

Section 2425. Consolidations and mergers.

(a) General rule.—A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the commissioner:

(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 of the society on a date fixed by the commissioner but not earlier than December 31 next preceding the date of the contract.

(3) A certificate of the officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme governing body of each society, which vote had been conducted at a regular or special meeting of each body or, if the society's laws permit, by mail.

(4) Evidence that at least 60 days prior to the action of the supreme governing body of each society, the text of the contract was furnished to all members of each society either by mail or by publication in full in the official publication of each society.

(b) Approval by commissioner.—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, the commissioner shall approve the contract and issue a certificate to that effect. Upon this 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 that state or territory and a certificate of the approval filed with the commissioner of this Commonwealth or, if the laws of that 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 that state or territory and a certificate of the approval filed with the commissioner of this Commonwealth.

(c) Vesting of rights and liabilities.—When the consolidation or merger becomes effective as provided in this section, 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 thereunto 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 the consolidation or merger.

(d) Effect of affidavit.—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 the notice or document has been furnished the addressees.

Section 2426. 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 requirements of this act if the plan of conversion has been approved by the commissioner. A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting shall be necessary for the approval of such plan. No conversion shall take effect unless and until approved by the commissioner, who may give approval if the commissioner finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

Section 2427. Domestication.

(a) Filing requirements.—A foreign or alien society authorized to do business in this Commonwealth may become a domestic society by filing with the commissioner in the English language:

(1) Articles of domestication which shall set forth the name of the society, the address, including street and number, of its principal office in this Commonwealth and any other provisions of its current articles of incorporation that the society desires to retain.

(2) A statement that upon domestication the society will be subject to all the laws of this Commonwealth applicable to domestic fraternal benefit societies.

(3) A brief statement of the purpose or purposes for which it is to be domesticated, which shall be a purpose or purposes for which a domestic society may be incorporated under this subarticle.

(4) A certificate of the president and secretary of the society duly verified by their respective oaths that the domestication has been approved in accordance with the constitution and bylaws of the society as required by applicable laws and regulations of the domiciliary jurisdiction.

(b) Approval by commissioner.—If the commissioner finds that the filing by the society is in proper order, that the society complies with the

requirements for issuing a certificate of authority to a domestic society, that the society will maintain its principal office in Pennsylvania and that the domestication is in the best interest of the members of the society, the commissioner shall approve the articles of domestication and issue a certificate to that effect.

(c) Effect of domestication.—Upon approval of the articles of domestication by the commissioner, the society shall thereafter become a domestic society and shall be subject to all the laws of this Commonwealth applicable to domestic societies.

SUBARTICLE D CONTRACTUAL BENEFITS

Section 2431. Benefits.

(a) General rule.—A society authorized to do business in this Commonwealth may provide the following contractual benefits in any form:

- (1) Death benefits.*
- (2) Endowment benefits.*
- (3) Annuity benefits.*
- (4) Temporary or permanent disability benefits.*
- (5) Hospital, medical or nursing benefits.*
- (6) Other benefits which are authorized for insurers licensed to write life, accident and health insurance and which are not inconsistent with this subarticle.*

(b) Eligible members.—A society shall specify in its rules those persons who may be issued or covered by the contractual benefits in subsection (a), consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

Section 2432. Beneficiaries.

(a) Designation.—The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.

(b) Payment of funeral benefits.—A society may make provision for the payment of funeral benefits to the extent of that 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 \$2,000.

(c) Absence of beneficiary.—If at the death of any person insured under a benefit contract there is no lawful beneficiary to whom the proceeds shall be payable, the amount of the benefit, except to the extent that funeral benefits may be paid as provided in this section, shall be payable to the personal representative of the deceased insured or, if none, then payment may be made in accordance with 20 Pa.C.S. § 3101(d) (relating to payments to family and funeral directors). If the owner of the certificate is other than the insured, the proceeds shall be payable to the owner.

Section 2433. 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 2434. Benefit contract.

(a) General rule.—Every society authorized to do business in this Commonwealth shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided by the contract. The certificate, together with any riders or endorsements attached to it, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant and all amendments to each thereof, shall constitute the benefit contract as of the date of issuance between the society and the owner, and the certificate shall so state. The society shall maintain a copy of its laws at each lodge for inspection by the benefit member and shall furnish a copy to each benefit member upon request. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. All statements on the application shall be representations and not warranties. Any waiver of this provision shall be void.

(b) Effect of subsequent changes.—Any changes, additions or amendments to the laws of the society duly made or enacted subsequent to the issuance of the certificate shall bind the owner and the beneficiaries and shall govern and control the benefit contract in all respects the same as if the changes, additions or amendments had been made prior to and were in force at the time of the application for insurance, except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the owner as of the date of issuance.

(c) Effect on minority.—Any person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the laws and rules

of the society to the same extent as though the age of majority had been attained at the time of application.

(d) *Payment of deficiencies.*—A society shall provide in its laws that, if its reserves as to all or any class of certificates become impaired, its board of directors or corresponding body may require that there shall be paid by the owner to the society the amount of the owner's equitable proportion of such deficiency as ascertained by its board, and if the payment is not made:

(1) it shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates; or

(2) in lieu of or in combination with paragraph (1), the owner may accept a proportionate reduction in benefits under the certificate.

The society may specify the manner of the election and which alternative is to be presumed if no election is made.

(e) *Certified copies as evidence.*—Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

(f) *Content.*—No certificate, application, rider or endorsement used in connection therewith shall be delivered or issued for delivery in this Commonwealth unless the form contains provisions required for like forms issued by life, accident and health insurers in this Commonwealth and a copy of the form has been filed with and approved by the commissioner in the manner provided for like policies issued by life, accident and health insurers in this Commonwealth. Every life, accident, health or disability insurance certificate, every annuity certificate and every application, rider or endorsement used in connection therewith approved prior to February 12, 1993, shall be brought into compliance with this subarticle by February 12, 1994.

(g) *Premium grace period.*—The certificate may contain a provision for a grace period for payment of premiums of one full month in its certificates.

(h) *Additional provisions.*—The certificate shall also contain the following:

(1) A provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which if violated will result in the termination or reduction of benefits payable under the certificate.

(2) A provision that any member expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium.

(3) *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.*

(i) *Transfer of control or ownership.—Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer and may provide in all other respects for the regulation, government and control of the certificates and all rights, obligations and liabilities incident thereto and connected therewith. Ownership rights prior to the transfer shall be specified in the certificate.*

(j) *Assignment.—A society may specify the terms and conditions on which benefit contracts may be assigned.*

Section 2435. Nonforfeiture benefits, cash surrender values, certificate loans and other options.

(a) *Existing certificates.—For certificates issued prior to February 12, 1994, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall comply with the provisions of law applicable immediately prior to February 12, 1993.*

(b) *New certificates.—For life certificates issued after February 11, 1994, for which reserves are computed on the Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Table or the Commissioner's 1958 Standard Ordinary Mortality Table or the Commissioner's 1980 Standard Mortality Table or any more recent table made applicable to life insurers, 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 laws of this Commonwealth applicable to life insurers issuing policies containing like benefits based upon such tables. For annuity certificates issued after February 11, 1994, every paid-up annuity benefit, cash surrender value or death benefit shall not be less than the corresponding amount in accordance with the laws of this Commonwealth applicable to life insurers issuing policies containing like benefits.*

SUBARTICLE E
FINANCIAL

Section 2441. Investments.

(a) General rule.—A society shall invest its funds only in investments authorized by the laws of this Commonwealth for the investment of assets of life insurers 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.

(b) Real estate.—In addition to the investment of assets as prescribed in this section or any other laws of this Commonwealth, a fraternal benefit society may purchase, receive, hold and convey real estate or any interest therein for the purpose of maintenance or construction of camps or recreational areas with necessary facilities for all its members. These assets shall be shown on the annual statement at cost in the year acquired and may not exceed 5% of other admitted assets of the society.

Section 2442. Funds.

(a) General rule.—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 on the surrender of any part thereof except as provided in the benefit contract.

(b) Special 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 the society.

(c) Separate accounts.—A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the insurance laws regulating life insurers establishing those accounts and issuing those contracts. To the extent the society deems it necessary in order to comply with any applicable Federal or State laws or any rules issued thereunder, the society may:

(1) Adopt special procedures for the conduct of the business and affairs of a separate account.

(2) For persons having beneficial interests therein, provide special voting and other rights, including, without limitation, special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants and selection of a committee to manage the business and affairs of the account.

(3) Issue contracts on a variable basis to which section 2434(b) and (d) shall not apply.

**SUBARTICLE F
REGULATION**

Section 2451. Valuation.

(a) *Existing certificates.*—The minimum reserves for certificates issued prior to February 12, 1994, shall be those provided by the laws applicable immediately prior to February 12, 1993.

(b) *New certificates.*—The minimum reserves for certificates issued after February 11, 1994, shall be based on the following tables:

(1) For certificates of life insurance - the Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980 Standard Ordinary Mortality Table or any more recent table made applicable to life insurers.

(2) For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for accident and health benefits - such tables as are authorized for use by life insurers in this Commonwealth.

(c) *Valuation methods and standards.*—All of the valuations under subsection (b) shall be under valuation methods and interest standards in accordance with the laws of this Commonwealth applicable to life insurers issuing policies containing like benefits.

(d) *Other valuation standards.*—The commissioner may, in his discretion, accept other standards for valuation if the commissioner finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed in this section. The commissioner may, in his discretion, vary the standards of mortality applicable to all benefit contracts on substandard lives or other extrahazardous lives by any society authorized to do business in this Commonwealth.

(e) *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 the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any benefit member shall not be affected thereby.

Section 2452. Reports.

(a) *General rule.*—Reports shall be filed in accordance with the provisions of this section.

(b) *Annual statement.*—Every society transacting business in this Commonwealth shall annually on or before March 1, unless for cause shown the 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 shall pay the fee prescribed in section 2161 for the filing. The statement shall be in general form and

context as approved by a national association of insurance commissioners, approved by the Insurance Department, for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(c) Valuation of certificates.—As part of the annual statement required in this section, each society shall on or before March 1 file with the commissioner a valuation of its certificates in force on December 31 last preceding. The commissioner may, in his discretion for cause shown, extend the time for filing the valuation for not more than two calendar months. The valuation shall be done in accordance with the standards specified in section 2451. The valuation and underlying data shall be certified by a qualified actuary.

(d) 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 that neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this Commonwealth shall cease while the default continues.

Section 2453. Annual license.

Societies which are now¹ authorized to transact business in this Commonwealth may continue such business until April 1, 1993. The authority of such societies and all societies hereafter licensed may thereafter be renewed annually but in all cases to terminate on the succeeding April 1. However, a license so issued shall continue in full force and effect until the new license is issued or specifically refused. For each license or renewal, the society shall pay the commissioner the prescribed fee. 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 article.

Section 2454. Examination of societies.

(a) General rule.—The commissioner or any person he may appoint may examine any domestic, foreign or alien society transacting or applying for admission to transact business in this Commonwealth in the same manner as authorized for examination of domestic, foreign or alien insurers. Requirements of notice and an opportunity to respond before findings are made public as provided in the insurance laws regulating insurers shall also be applicable to the examination of societies.

(b) Payment of expenses.—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 2455. Foreign or alien society; admission.

No foreign or alien society shall transact business in this Commonwealth without a license issued by the commissioner. Any such

¹"now" is intended to refer to February 16, 1993.

society desiring admission to this Commonwealth shall comply substantially with the requirements and limitations of this article applicable to domestic societies. Any such society may be licensed to transact business in this Commonwealth upon filing the following with the commissioner and upon a showing that its assets are invested in accordance with the provisions of this article:

- (1) A duly certified copy of its articles of incorporation.*
- (2) A copy of its bylaws, certified by its secretary or corresponding officer.*
- (3) A power of attorney to the commissioner as prescribed in this article.*
- (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.*
- (5) Certification 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 the commissioner may deem necessary.*

Section 2456. Injunction, liquidation and receivership of domestic society.

(a) Notice of deficiencies and sanctions.—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 article;*
- (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;*
- (5) is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business; or*
- (6) has become impaired;*

the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for his dissatisfaction. The commissioner shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After this 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 the 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) Action by Attorney General.—*If on that 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) Hearing and order.—*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. No society so enjoined shall have the authority to do business until all of the following occur:*

(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.*

(d) 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.*

(e) Validity of action and appointment of receiver.—*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 the receiver.*

(f) Applicability to voluntary dissolution.—*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 2457. Suspension, revocation or refusal of license of foreign or alien society.

(a) Notice of deficiencies and sanctions.—*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 article;*

(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,*

the commissioner shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. The

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

(b) Existing contracts unaffected.—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 the society was legally authorized to transact business in this Commonwealth.

Section 2458. Injunction.

No application or petition for injunction against any domestic, foreign or alien society, or lodge thereof, respecting any matter pertaining to a regulatory law administered by the commissioner shall be recognized in any court of this Commonwealth unless made by the Attorney General upon request of the commissioner.

Section 2459. Licensing of agents.

(a) General rule.—Agents of societies shall be licensed in accordance with the insurance laws regulating the licensing, revocation, suspension or termination of license of resident and nonresident agents.

(b) Exemptions from licensure.—No examination or license shall be required of any regular salaried officer, employee or member of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained.

(c) Examination.—

(1) Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of \$200,000 or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor shall be required to take an examination. No examination shall be required of any agent who was in the service of a society on January 28, 1978.

(2) Beginning July 1, 2007, and every five years thereafter, the commissioner shall review the monetary limit contained in this subsection and may adjust the amount. The adjustment shall not exceed the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics, for the period since the last adjustment under this subsection. Any adjustment to the amount shall be published as a notice in the Pennsylvania Bulletin.

(d) *Limitation.*—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 that society.

Section 2460. Unfair methods of competition and unfair and deceptive acts and practices.

Every society authorized to do business in this Commonwealth shall be subject to the provisions of the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act, but nothing in that act shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership by reason of common bond or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization organized to carry out the purposes set forth in section 2406(a)(2).

Section 2461. Fees.

The commissioner shall charge and collect fees from fraternal benefit societies as set forth in section 612-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. All fees collected shall be paid daily into the State Treasury.

Section 2462. Taxation.

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

Section 2463. Review.

All decisions and findings of the commissioner made under the provisions of this article shall be subject to review by proper proceedings in any court of competent jurisdiction in this Commonwealth.

Section 2464. 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 article 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 commits perjury and shall be subject to the penalties therefor prescribed by law.

(c) Solicitation by nonlicensed society.—A person who solicits membership for or in any manner assists in procuring membership in any society not licensed to do business in this Commonwealth commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$500 nor more than \$1,000.

(d) Penalty for other violation.—A person who willfully violates, neglects or refuses to comply with the provisions of this article for which a penalty is not otherwise prescribed commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$500. Upon satisfactory evidence of a violation of any provision of this article, the commissioner has the discretion, in lieu of seeking criminal prosecution, to pursue any one or more of the following courses of action:

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

(2) Impose a civil penalty of not more than \$5,000 for each act in violation of the provisions of this article.

Section 2465. Applicability of insurance laws.

Except as provided in this article, societies shall be governed by this article and shall be exempt from all other provisions of the insurance laws of this Commonwealth unless they are expressly designated therein or unless it is specifically made applicable by this article.

Section 2466. Exemption of certain societies.

(a) General rule.—Nothing contained in this article 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.

(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) Exclusions from exemption.—Any society or association described in subsection (a)(3) or (4) which provides for death or disability benefits for which benefit certificates are issued and any society or association included in subsection (a)(4) which has more than 1,000 members shall not be exempted from the provisions of this article but shall comply with all requirements thereof.

(c) Limitation or compensation payments.—No society which, by the provisions of this section, is exempt from the requirements of this article, 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) Accidental benefits.—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 subarticle except that the provisions thereof relating to medical examination, valuations of benefit certificates and incontestability shall not apply to such society.

(e) Submission of information.—The commissioner may require from any society or association, by examination or otherwise, such information as will enable the commissioner to determine whether the society or association is exempt from the provisions of this subarticle.

(f) Exemption from insurance laws.—Societies exempted under the provisions of this section shall also be exempt from all other provisions of the insurance laws of this Commonwealth.

Section 10. The act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code, is repealed.

Section 11. The addition of Article XXIV of the act is a continuation of the act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code. The following apply:

(1) Orders, regulations and policies under the Fraternal Benefit Societies Code which are in effect on the effective date of section 10 (repeal of Fraternal Benefit Societies Code) shall remain in effect until revoked, vacated, amended or modified under Article XXIV of the act.

(2) Except as provided in paragraph (3), any difference in language between Article XXIV of the act and the Fraternal Benefit Societies Code is intended only to conform to the style of the act and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Fraternal Benefit Societies Code.

(3) Paragraph (2) does not apply to the following provisions:

(i) Section 2459(c) of the act.

(ii) Section 2464(d) of the act.

Section 12. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The amendment of section 410C of the act.

(ii) This section.

(2) The remainder of this act shall take effect in 60 days.

APPROVED—The 10th day of July, A.D. 2002.

MARK S. SCHWEIKER