

MAINE STATE LEGISLATURE

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Am. Stat. prescribing the Maine insurance code.

Sec. 1. The Revised Statutes are amended by adding thereto a new Title to be numbered 24-A:

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CHAPTER 1

GENERAL DEFINITIONS AND PROVISIONS

§ 1. Short title

This Title shall be known and be cited as the Maine Insurance Code.

§ 2. "Person" defined

"Person" includes an individual, firm, partnership, corporation, association, syndicate, organization, society, business trust, attorney-in-fact and every natural or artificial legal entity.

§ 3. "Insurance" defined

"Insurance" is a contract whereby one undertakes to pay or indemnify another as to loss from certain specified contingencies or perils, or to pay or grant a specified amount or determinable benefit or annuity in connection with ascertainable risk contingencies, or to act as surety.

§ 4. "Insurer" defined

"Insurer" includes every person engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

§ 5. "Commissioner," "department" defined

1. "Commissioner" means the Insurance Commissioner of this State.

2. "Department" means the Insurance Department of this State.

§ 6. "Domestic," "foreign," "alien" insurer defined

1. A "domestic" insurer is one formed under the laws of

1 this State;

2 2. A "foreign" insurer is one formed under the laws of
3 any jurisdiction other than this State;

4 3. An "alien" insurer is a foreign insurer formed under
5 the laws of any country other than the United States of
6 America, its states, districts, commonwealths and possessions.

7

8 § 7. "State" defined

9 When in context signifying other than this State, "state"
10 means any state, district, territory, commonwealth or
11 possession of the United States of America, and the Panama
12 Canal Zone.

13

14 § 8. "Authorized," "unauthorized" insurer defined

15 1. An "authorized" insurer is one duly authorized to
16 transact insurance in this State by a subsisting certificate
17 of authority issued by the commissioner.

18 2. An "unauthorized" insurer is one not so authorized.

19

20 § 9. "Transacting insurance" defined

21 In addition to other aspects of insurance operations to
22 which provisions of this Title by their terms apply, "trans-
23 act" with respect to a business of insurance includes any of
24 the following, whether by mail or any other means:

25 1. Solicitation or inducement.

26 2. Negotiations.

27 3. Effectuation of a contract of insurance.

28 4. Transaction of matters subsequent to effectuation
29 and arising out of such a contract.

30

31 § 10. Application of code as to particular types of
32 insurers

No provision of this Title shall apply with respect to:

Chap. 1
GEN. DEFINITIONS

1 1. Domestic mutual ~~assess~~ cat insurers, as identified in
2 chapter 51 of ~~this Title~~, except as stated in such chapter.

3 2. Fraternal benefit societies, except as stated in
4 chapter 55 of ~~this Title~~.

5 ~~3. Hospital and medical service corporations, identified~~
6 ~~in chapter 57 of this Title, except as stated in such chapter.~~

7 ~~4. Road or tourist service companies, except as stated~~
8 ~~in chapter 63 of this Title.~~

9 *4. A domestic insurance policy form under a special act of the Legislature,
where inconsistent with such special act as heretofore amended.*

10 § 11. Particular provisions prevail

11 Provisions of this Title as to a particular kind of
12 insurance, type of insurer, or matter shall prevail over pro-
13 visions relating to insurance, insurers, or matters in general.

14
15 § 12. General penalty enforcement

16 *1.* Each violation of this Title for which a different
17 penalty consisting of fine, ^{or} ~~and/or~~ imprisonment, ^{or both} is not provi-
18 ded by a provision of this Title or other applicable laws of
19 this State, ~~in addition to or in lieu of any applicable pre-~~
20 ~~scribed denial, suspension, or revocation of certificate of~~
21 ~~authority or license~~, shall subject the violator to a fine
22 of not more than \$1,000 or imprisonment for less than one
23 year, or both such fine and imprisonment, ^{¶ 2.} except, that if the
24 violator is a corporation or entity other than an individual,
25 the fine shall be not more than \$3,000 for each violation.
26 Any director, officer, manager, employee or representative
27 of a violator corporation or other violator entity shall be
28 subject to fine and imprisonment as ^{in subsection 1} above provided, ^{for}
29 authorizing or knowingly participating in any such violation.

30 2. Any penalty for violation of this Title may be
31 recovered in a civil action in the name and to the use of the
32 State or enforced by indictment.

1 CHAPTER 3

2 THE INSURANCE COMMISSIONER

3 § 200. Department continued

4 There is continued a department of state government
5 known as the Insurance Department.

6
7 § 201. Insurance Commissioner; appointment, term

8 1. The Insurance Commissioner is the head of the
9 Insurance Department.

10 2. The commissioner shall be appointed by the Governor
11 with the advice and consent of the Council.

12 3. The commissioner shall hold office for 4 years and
13 until his successor has been appointed and has qualified.

14
15 § 202. Seal

16 The commissioner shall have a seal of office of a suit-
17 able design, bearing the words "Insurance Commissioner of the
18 State of Maine." The commissioner shall file an impression
19 of the seal, duly certified by him under oath, with the
20 Secretary of State.

21
22 § 203. Compensation

23 The State shall pay the commissioner an annual salary
24 in amount as provided by law as full compensation for all
25 duties required of him as commissioner.

26
27 § 204. Principal office

28 The commissioner's principal office shall be at the
29 State Capitol.

30
31 § 205. Departmental organization

32 Within the department there shall be such divisions,

1 not expressly provided for or prohibited by law, as the com-
2 missioner deems advisable for the discharge of his duties.

3

4 § 206. Deputy commissioners

5 1. Subject to the Personnel Law, the commissioner may
6 appoint a first deputy commissioner, and may appoint one or
7 more additional deputies.

8 2. The deputies shall perform such duties and exercise
9 such powers of the commissioner as the commissioner may from
10 time to time authorize. The first deputy shall be acting
11 commissioner during a vacancy in the office of Insurance
12 Commissioner *or during the incapacity of the Commissioner.*

13

14 § 207. Staff

15 *2* (1) Subject to the Personnel Law, the commissioner may
16 appoint and dismiss for cause *such personnel* ~~a chief examiner and such~~
17 ~~other examiners, clerks, and other assistants~~ as conduct of
18 his office may require.

19 2. ~~All such personnel, together with the deputy commis-~~
20 ~~sioners, shall be in the classified service of the State, and~~
21 ~~shall receive such compensation as is provided for under the~~
22 ~~rules and regulations of the Personnel Board for state~~
23 ~~employees in similar capacities.~~

24

25 § 208. Independent technical, professional services

26 *2* (1) The commissioner may from time to time contract for
27 ~~and procure, on a fee or independently contracting basis,~~
28 such additional actuarial, examination, rating, and other
29 technical and professional services as he may require for
30 discharge of his duties.

31 2. ~~None of the individuals rendering such services~~
32 ~~shall be in the classified services of the State.~~

1 § 209. Prohibited interests, rewards

2 1. The commissioner, or his deputy, or any examiner,
3 ~~assistant,~~ or employee of the department shall not be connec-
4 ted with the management or be holder of a material number of
5 shares of any insurer, insurance holding company, insurance
6 agency or broker, or be pecuniarily interested in any insur-
7 ance transaction except as a policyholder or claimant under
8 a policy; except, that as to matters wherein a conflict of
9 interests does not exist on the part of any such individual,
10 the commissioner may employ and retain from time to time
11 insurance actuaries, examiners, accountants, and other
12 technicians who are independently practicing their professions
13 even though from time to time similarly employed or retained
14 by insurers or others.

15 2. Subsection 1 above shall not be deemed to prohibit:

16 A. Receipt by any such individual of fully vested com-
17 missions or fully vested retirement benefits to which ^{he is} entitled
18 by reason of services performed prior to becoming commissioner
19 or prior to employment in the department;

20 B. Investment in shares of regulated diversified invest-
21 ment companies; or

22 C. Mortgage loans made under customary terms and in
23 ordinary course of business.

24 3. The commissioner, or his deputy, or any examiner,
25 ~~assistant,~~ employee, or technician employed or retained by
26 the department, shall not be given or receive, directly or
27 indirectly, any fee, compensation, loan, gift or other
28 thing of value in addition to the compensation and expense
29 allowance provided by or pursuant to the law of this State,
30 or by contract with the commissioner, for any service ren-
31 dered or to be rendered as such commissioner, deputy,
32 ~~examiner,~~ assistant, employee, or technician, or in connection

1 therewith.

2

3 § 210. Delegation of powers

4 1. The commissioner may delegate to his deputy, exam-
5 iner, or an employee of the department the exercise or dis-
6 charge in the commissioner's name of any power, duty, or
7 function, whether ministerial, discretionary or of whatever
8 character, vested in or imposed upon the commissioner.

9 2. The official act of any such person acting in the
10 commissioner's name and by his authority shall be deemed an
11 official act of the commissioner.

12

13 § 211. General powers, duties

14 1. The commissioner shall enforce the provisions of,
15 and execute the duties imposed upon him by, this Title.

16 2. The commissioner shall have the powers and authority
17 expressly vested in him by or reasonably implied from the pro-
18 visions of this Title.

19 3. The commissioner shall have such additional rights,
20 powers and duties as may be provided by other laws.

21

22 § 212. Rules and regulations

23 Subject to the applicable requirements and procedures
24 of ~~5~~ MRSA §§ 2301 ^{to} through 2354, the commissioner may make,
25 promulgate, amend and rescind reasonable rules and regula-
26 tions to aid the administration or effectuation of any pro-
27 visions of this Title. No such rule or regulation shall
28 extend, modify, or conflict with any law of this State or
29 the reasonable implications thereof.

30

31 § 213. Orders, notices in general

32 1. Orders and notices of the commissioner shall be

1 effective only when in writing signed by him or by his
2 authority.

3 2. ~~Except as otherwise expressly provided by law as to~~
4 ~~particular orders,~~ Every order of the commissioner shall
5 state its effective date, and shall concisely state:

6 A. Its intent or purpose;

7 B. The grounds on which based; and

8 C. The provisions of this Title pursuant to which
9 action is taken or proposed to be taken; but failure to so
10 designate a particular provision shall not deprive the com-
11 missioner of the right to rely thereon.

12 3. ~~Except as provided as to particular procedures,~~ An
13 order or notice may be given by delivery to the person to be
14 ordered or notified, or by mailing it, postage prepaid,
15 addressed to such person at his principal place of business
16 or residence as last of record in the department. The order
17 or notice shall be deemed to have been given when deposited
18 in a mail depository of the United States post office, and of
19 which the affidavit of the individual who so mailed the order
20 or notice shall be prima facie evidence.

21

22 § 214. Enforcement

23 1. The commissioner may, through the Attorney General
24 of this State, invoke the aid of the Superior Court through
25 proceedings instituted in any county of this State to
26 enforce any lawful order made or action taken by him. In
27 such proceedings the Superior Court may make such orders,
28 either preliminary or final, as it deems proper under the
29 facts established before it.

30 2. If the commissioner has reason to believe that any
31 person has violated any provision of this Title, or of other
32 law as applicable to insurance operations, for which

1 criminal prosecution is provided and would be in order, he
2 shall give the information relative thereto to the Attorney
3 General. The Attorney General shall promptly institute such
4 action or proceedings against such person as in his opinion
5 the information may require or justify.

6 3. The Attorney General upon request of the commis-
7 sioner is authorized to proceed in the courts of any other
8 state or in any federal court or agency to enforce an order
9 or decision of any court proceeding or in any administrative
10 proceeding before the commissioner.

11

12 § 215. Violation of rules, regulations, orders -
Penalty

13 Any person who knowingly violates any rule, regulation,
14 or order of the commissioner shall, ~~except where other~~
15 ~~penalty is expressly provided,~~ be subject to such suspension
16 or revocation of certificate of authority or license, ~~or~~
17 ~~administrative fine in lieu of such suspension or revocation,~~
18 as may be applicable under this Title for violation of the
19 provision to which such rule, regulation, or order relates.

20

21 § 216. Records; inspection; destruction

22 1. The commissioner shall carefully preserve in the
23 department and in permanent form, a correct account of all
24 his transactions and of all fees and moneys received by him
25 by virtue of his office, together with all financial state-
26 ments, examination reports, correspondence, filings, and
27 documents duly received by the department. The commissioner
28 shall hand the same over to his successor in office.

29 2. All records of the department shall be subject to
30 public inspection except as otherwise expressly provided by
31 law as to particular matters; and except that records, corres-
32 pondence, and reports of investigation in connection with

1 actual or claimed violations of this Title or prosecution
2 or disciplinary action therefor shall be confidential. The
3 confidential nature of any such record, correspondence or
4 report shall not, however, limit or affect use of the same
5 by the commissioner in any such prosecution or action.

6 3. All records and documents of the department are
7 subject to subpoena by a court of competent jurisdiction.

8 4. The commissioner may destroy unneeded or obsolete
9 records and filings in the department in accordance with
10 provisions and procedures applicable to administrative
11 agencies of the State in general.

12

13 § 217. Annual report

14 1. As soon as practical after the annual financial
15 statements have been received from the authorized insurers,
16 the commissioner may make a written report to the Governor
17 and Council showing with respect to the preceding calendar
18 year:

19 A. The receipts and expenses of the department for the
20 year;

21 B. A summary of the insurance business transacted in
22 this State;

23 C. A summary of the financial condition of each
24 authorized insurer, as shown by its most recent financial
25 statement on file with the commissioner;

26 D. Such recommendations as he deems advisable relative
27 to amendment or supplementation of the insurance laws; and

28 E. Such other information and matters as he deems to
29 be in the public interest relative to the insurance business
30 in this State.

31 2. If the report is printed the commissioner shall fur-
32 nish a copy upon request thereby to the insurance supervisory

; and, if copies are available for the purpose, to other persons who so request and upon payment by such persons of such reasonable charge therefor as may be fixed by the commissioner.

1 official of other states and to authorized insurers,

2

3 § 218. Publications; price

4 The commissioner may have the directory of authorized
5 insurers, of licensed insurance representatives, license
6 examination material, insurance laws and related laws and
7 regulations under his administration published in pamphlet
8 form from time to time, and may fix a price for each copy to
9 cover cost of printing and mailing.

10

11 § 219. Interstate cooperation

12 1. The commissioner may communicate on request of the
13 insurance supervisory official of any state, province or
14 country, any information which it is his duty by law to
15 ascertain respecting authorized insurers.

16 2. The commissioner may be a member of the National
17 Association of Insurance Commissioners or any successor
18 organization, and may participate in and support other
19 cooperative activities of public officials having supervision
20 of the business of insurance.

21

22 § 220. Investigations authorized

23 In addition to examinations and investigations expressly
24 authorized, the commissioner may conduct such investigations
25 of insurance matters as he may deem proper upon reasonable
26 cause to determine whether any person has violated any pro-
27 vision of this Title or to secure information useful in the
28 lawful administration of any such provision. The cost of
29 such investigations shall be borne by the State.

30

31 § 221. Examination of insurers

32 1. For the purpose of determining its financial

1 condition, fulfillment of its contractual obligations and
2 compliance with the law, the commissioner shall examine the
3 affairs, transactions, accounts, record and assets of each
4 authorized insurer, and of any person as to any matter rele-
5 vant to the financial affairs of the insurer or to the exam-
6 ination, as often as he deems advisable. Except as otherwise
7 expressly provided, he shall so examine each domestic insurer
8 not less frequently than every $\bar{3}$ years. Examination of an
9 alien insurer shall be limited to its insurance transactions,
10 assets, trust deposits and affairs in the United States
11 except as otherwise required by the commissioner.

12 2. The commissioner shall in like manner examine each
13 insurer applying for an initial certificate of authority to
14 transact insurance in this State.

15 3. In lieu of making his own examination, the commis-
16 sioner may, in his discretion, accept a full report of the
17 last recent examination of a foreign or alien insurer, certi-
18 fied to by the insurance supervisory official of another
19 state.

20 4. As far as practical the examination of a foreign or
21 alien insurer shall be made in cooperation with the insurance
22 supervisory officials of other states in which the insurer
23 transacts business.

24

25 § 222. Examination of holding companies, subsidiaries,
agents, promoters, and others

26 For the purpose of ascertaining compliance with law, or
27 relationships and transactions between any such person and
28 any insurer or proposed insurer, the commissioner may as often
29 as he deems advisable examine the accounts, records, documents,
30 and transactions pertaining to or affecting the insurance
31 affairs or proposed insurance affairs and transactions of:

32 1. Any insurance holding company; or person holding the

1 shares of voting stock or policyholder proxies of an insurer
2 as voting trustee or otherwise, for the purpose of control-
3 ling the management thereof.

4 2. Any insurance agent, broker, general agent, surplus
5 lines broker, adjuster, consultant, insurer representative,
6 or any person holding himself out as any of the foregoing.

7 3. Any person having a contract under which he enjoys
8 by terms or in fact the exclusive or dominant right to manage
9 or control the insurer.

10 4. Any person in this State engaged in, or proposing to
11 be engaged in this State in, or holding himself out in this
12 State as so engaging or proposing, or in this State assisting
13 in, the promotion, formation, or financing of an insurer or
14 insurance holding corporation, or corporation or other group
15 to finance an insurer or the production of its business.

16

17 § 223. Conduct of examination; access to records;
correction

18 1. Whenever the commissioner determines to examine the
19 affairs of any person, he shall designate one or more exam-
20 iners and instruct them as to the scope of the examination.
21 The examiner shall, upon demand, exhibit his official cre-
22 dentials to the person under examination.

23 2. The commissioner shall conduct each examination in
24 an expeditious, fair and impartial manner.

25 3. Upon any such examination the commissioner, or the
26 examiner if specifically so authorized in writing by the com-
27 missioner, shall have power to administer oaths, and to
28 examine under oath any individual as to any matter relevant
29 to the affairs under examination or relevant to the examina-
30 tion.

31 4. Every person being examined, its officers, attorneys,
32 employees, agents and representatives shall make freely avail-

1 able to the commissioner or his examiners the accounts,
2 records, documents, files, information, assets and matters of
3 such person in his possession or control relating to the sub-
4 ject of the examination and shall facilitate the examination.

5 5. If the commissioner or examiner finds any accounts
6 or records to be inadequate, or inadequately kept or posted,
7 the commissioner may employ experts to reconstruct, rewrite,
8 post or balance them at the expense of the person being
9 examined if such person has failed to maintain, complete or
10 correct such records or accounting after the commissioner or
11 examiner has given him written notice and a reasonable oppor-
12 tunity to do so.

13 6. Neither the commissioner nor any examiner shall
14 remove any record, account, document, file or other property
15 of the person being examined from the offices or place of
16 such person except with the written consent of such person in
17 advance of such removal or pursuant to an order of court duly
18 obtained. This provision shall not be deemed to affect the
19 making and removal of copies or abstracts of any such record,
20 account, document, or file.

21 7. Any individual who refuses without just cause to be
22 examined under oath or who wilfully obstructs or interferes
23 with the examiners in the exercise of their authority pursuant
24 to this section shall, upon conviction thereof, be subject to
25 a fine of not more than \$2,500, or imprisonment for less than
26 a year, or by both such fine and imprisonment.

27

28 § 224. Appraisal of asset

29 1. If the commissioner deems it necessary to value any
30 asset involved in such an examination, he may make written
31 request of the person being examined to appoint one or more
32 appraisers who by reason of education, experience or special

1 training, and disinterest, are competent to appraise the
2 asset. Selection of any such appraiser shall be subject to
3 the written approval of the commissioner. If no such appoint-
4 ment is made within 20 days after the request therefor was
5 delivered to such person, the commissioner may appoint the
6 appraiser or appraisers.

7 2. Any such appraisal shall be expeditiously made, and
8 a copy thereof furnished to the commissioner and to the per-
9 son being examined.

10 3. The reasonable expense of the appraisal shall be
11 borne by the person being examined.

12

13 § 225. Examination report - Contents - Prima facie
evidence in certain proceedings

14 1. Upon completion of an examination, the examiner in
15 charge shall make a true report thereof which shall comprise
16 only facts appearing upon the books, records or other docu-
17 ments of the person examined, ^{or from an appraisal of assets,} or as ascertained from the
18 sworn testimony of its officers or agents or other indi-
19 viduals examined concerning its affairs, and such conclusions
20 and recommendations as may reasonably be warranted from such
21 facts. The report of examination shall be verified by the
22 oath of the examiner in charge thereof.

23 2. Such a report of examination of an insurer so veri-
24 fied shall be prima facie evidence in any delinquency proceed-
25 ing against the insurer, its officers, employees, or agents
26 upon the facts stated therein, and whether or not the report
27 has then been filed in the department as provided in section
28 226 of this chapter.

29

30 § 226. Examination reports - Distribution, hearing;
as evidence

31 1. The commissioner shall deliver a copy of the exam-
32 ination report to the person examined, together with a notice

1 affording such person 20 days or such additional reasonable
2 period as the commissioner for good cause may allow, within
3 which to review the report and recommend changes therein.

4 2. If so requested by the person examined, within the
5 period allowed under subsection 1 above, or if deemed advisable
6 by the commissioner without such request, the commissioner
7 shall hold a hearing relative to the report and shall not
8 file the report in the department until after such hearing
9 and his order thereon; except, that the commissioner may fur-
10 nish a copy of the report to the Governor, Attorney General
11 or Treasurer of State pending final decision thereon, *subject to*
12 *section 227 of the Code as to the confidential nature of the report.*

13 3. If no such hearing has been requested or held, the
14 examination report, with such modifications, if any, thereof
15 as the commissioner deems proper, shall be accepted by the
16 commissioner and filed in the department upon expiration of
17 the review period provided for in subsection 1 above. The
18 report shall in any event be so accepted and filed within 6
19 months after final hearing thereon.

20 4. The commissioner shall forward to the person
21 examined a copy of the examination report as filed, together
22 with any recommendations or statements relating thereto which
23 he deems proper.

24 5. If the report is as to examination of a domestic
25 insurer, a copy of the report, or a summary thereof approved
26 by the commissioner, when filed in the department, together
27 with the recommendations or statements of the commissioner
28 or his examiner, shall be presented by the insurer's chief
29 executive officer to the insurer's board of directors or simi-
30 lar governing body at a meeting thereof which shall be held
31 within 30 days next following receipt of the report in final
32 form by the insurer. A copy of the report shall also be fur-
nished by the secretary of the insurer, if incorporated, or

1 by the attorney-in-fact if a reciprocal insurer, to each mem-
2 ber of the insurer's board of directors or board of governors
3 (if a reciprocal insurer), and the certificate of the secretary
4 or attorney-in-fact that a copy of the examination report has
5 been so furnished shall be deemed to constitute knowledge of
6 the contents of the report by each such member.

7 6. The report when so filed in the department shall be
8 admissible in evidence in any action or proceeding brought by
9 the commissioner against the person examined, or against its
10 officers, employees or agents. In any such action or proceed-
11 ing, the commissioner or his examiners may, however, at any
12 time testify and offer proper evidence as to information
13 secured or matters discovered during the course of an examin-
14 ation, whether or not a written report of the examination has
15 been either made, furnished, or filed in the department.

16
17 § 227. Examination report - Confidential nature

18 The report of examination of a domestic insurer, although
19 filed in the department as provided in section 226 of ~~this~~
20 ~~chapter~~, shall nevertheless not be for public inspection except
21 as to those portions of the report showing the insurer's
22 ~~current and exact as provided in section 219.~~ current financial condition. The comments and recommendations
23 of the examiner(s) shall be deemed confidential information
24 and shall not be available for public inspection.

25
26 § 228. Examination expense

27 1. The expense of examination of an insurer, or of any
28 person referred to in ~~subdivision 1~~ (holding companies and
29 persons holding voting stock or policyholder proxies), or 3
30 (management or control of the insurer under contract), or 4
31 (promoters, etc.) of section 222 of this chapter, shall be
32 borne by the person examined. Such expense shall include

3. Except, that in lieu of payment of examination expense as above ~~provided~~ required, a domestic insurer shall have the right, at its option, of making an annual payment to the commissioner of an examination expense allotment in an amount equal to .00033% of its total admitted assets as of the end of the preceding calendar year, and which payment shall be made on March 1 with the filing of the insurer's annual statement with the commissioner; or, if the insurer's admitted assets exceed \$10,000,000, the insurer shall have the right, at its ^{option} ~~option~~, to pay to the commissioner with respect to any examination the lesser of:

^{A.} ~~1~~ The expense of the examination as determined pursuant to subsections 1 ~~and~~ and 2 above; or

B. An amount equal to ~~x222x~~ .001% of the first \$10,000,000 of the insurer's admitted assets plus .0001% of the remainder of such assets, as such assets are shown by the insurer's financial statement filed with the commissioner for the year-end next preceding the commencement of the examination.

1 only the reasonable and proper hotel and travel expenses of
2 the commissioner and his examiners and assistants, including
3 expert assistance, ^{and examiners furnished for the purpose by other states in which the insurer is authorized} reasonable compensation as to such exam- ^{to}
4 iners and assistants and incidental expenses as necessarily ^{transact}
5 incurred in the examination. As to expense and compensation ^{insurance,}
6 involved in any such examination the commissioner may give
7 due consideration to scales and limitations recommended by
8 the National Association of Insurance Commissioners and out-
9 lined in the examination manual sponsored by that Association.

10 2. Such person examined shall promptly pay to the com-
11 missioner the expenses of the examination upon presentation
12 by him of a reasonably detailed written statement thereof.

13
14 § 229. Administrative procedures; hearings in general

15 1. The commissioner may hold a hearing without request
16 of others for any purpose within the scope of this Title.

17 2. The commissioner shall hold a hearing:

18 A. If required by any provision of this Title, or

19 B. Upon written application for a hearing by a person
20 aggrieved by any act or impending act, or by any report, rule,
21 regulation or order of the commissioner (other than an order
22 for the holding of a hearing, or order on a hearing, or pur-
23 suant to such order, of which hearing such person had notice).

24 3. Any such application must be filed with the commis-
25 sioner within 90 days after such person knew or reasonably
26 should have known of such act, impending act, failure,
27 report, rule, regulation, or order, unless a different period
28 is provided for by other applicable law, and in which case
29 such other law shall govern. The application shall briefly
30 state the respects in which the applicant is so aggrieved,
31 together with the ground to be relied upon for the relief to
32 be demanded at the hearing. The commissioner may require that

1 the application be signed and sworn to, ~~by a person competent~~
2 ~~to be a witness in civil courts.~~

3 4. If the commissioner finds that the application is
4 timely and made in good faith, that the applicant would be
5 so aggrieved if his grounds are established and that such
6 grounds otherwise justify the hearing, he shall hold the
7 hearing within 30 days after filing of the application, or
8 within 30 days after the application has been sworn to, which-
9 ever is the later date, unless in either case the hearing is
10 postponed by mutual consent.

11 5. Failure to hold the hearing upon application there-
12 for of a person entitled thereto as hereinabove provided
13 shall constitute a denial of the relief sought, and shall be
14 the equivalent of a final order of the commissioner on hear-
15 ing for the purpose of an appeal under section 236 ~~of this~~
16 chapter.

17 6. Pending the hearing and decision thereon, the com-
18 missioner may suspend or postpone the effective date of his
19 previous action.

20

21 § 230. Notice of hearing

22 1. Except where a ^{different} longer period is expressly provided
23 in this Title, the commissioner shall give written notice of
24 the hearing not less than 14 days in advance. The notice
25 shall state the date, time and place of the hearing and
26 specify the matters to be considered thereat. If the persons
27 to be given notice are not specified in the provision pursuant
28 to which the hearing is held, the commissioner shall give
29 such notice to all persons whose pecuniary interest, to the
30 commissioner's knowledge or belief, are to be directly and
31 immediately affected by the hearing. Notice of hearing may
32 be waived, and the hearing held at a time mutually fixed by

1 the commissioner and the parties.

2 2. If any person is entitled to a hearing by any pro-
3 vision of this Title before any proposed action is taken,
4 the notice of the hearing may be in the form of a notice to
5 show cause, stating that the proposed action may be taken
6 unless such person shows cause at a hearing to be held as
7 specified in the notice why the proposed action should not
8 be taken, and stating the basis of the proposed action.

9 3. If any such hearing is to be held for consideration
10 of rules and regulations of the commissioner, or of other
11 matters which, under subsection 1 above, would otherwise
12 require separate notices to more than 30 persons, in lieu of
13 other notice the commissioner may give notice of the hearing
14 by publication thereof in a newspaper of general circulation
15 in this State, at least once each week during the 4 weeks
16 immediately preceding the week in which the hearing is to be
17 held; except, that the commissioner shall mail such notice
18 to all persons who have requested the same in writing in
19 advance and have paid to the commissioner the reasonable
20 amount fixed by him to cover the cost thereof.

21 4. All such notices, other than published notices,
22 shall be given as provided in section 213 of ~~this chapter~~.

23

24 § 231. Conduct of hearing

25 1. The commissioner may hold a hearing in Augusta or
26 any other place of convenience to parties and witnesses, as
27 the commissioner determines. The commissioner or his
28 designee shall preside at the hearing, and shall expedite
29 the hearing and all procedures involved therein.

30 2. Any party to the hearing shall have the right to
31 appear in person and by counsel, to be present during the
32 giving of all evidence, to have a reasonable opportunity to

1 inspect all documentary and other evidence and to examine
2 and cross-examine witnesses, to present evidence in support
3 of his interest and to have subpoenas issued by the commis-
4 sioner to compel attendance of witnesses and production of
5 evidence in his behalf. Testimony may be taken orally or
6 by deposition, and any party shall have such right of
7 introducing evidence by interrogatories or deposition as
8 may obtain in a Superior Court.

9 3. Upon good cause shown the commissioner shall permit
10 to become a party to the hearing by intervention, if timely,
11 only such persons, not original parties thereto, whose
12 pecuniary interests are to be directly and immediately
13 affected by the commissioner's order made upon the hearing.

14 4. Formal rules of pleading or of evidence need not be
15 observed at any hearing, except that formal rules of evidence
16 shall be followed at the election of any party who communi-
17 cates notice of such election to all other parties not less
18 than 5 days prior to the date of the hearing.

19 5. The hearing shall be public, unless the commissioner
20 or hearing officer determines that a private hearing would be
21 in the public interest, in which case and only with the con-
22 sent of all parties to the hearing, the hearing shall be
23 private.

24 6. The commissioner or his hearing officer shall cause
25 a complete record to be made of the hearing proceedings by a
26 competent reporter, and if transcribed such record shall be
27 made a part of the commissioner's record of the hearing. The
28 record shall be transcribed at the request and expense of
29 any party desiring the same, and a copy of such transcription
30 shall be furnished to any other party upon the written
31 request and at the expense of such other party. If the
32 record is not transcribed, the commissioner or his hearing

1 officer shall prepare a summary record of the proceedings and
2 evidence.

3 7. The validity of any hearing held in accordance with
4 the notice thereof, or waiver of notice, shall not be affec-
5 ted by the failure of any person to attend or remain in
6 attendance.

7

8 § 232. Witnesses and documentary evidence

9 1. As to the subject of any examination, investigation
10 or hearing being conducted by him, the commissioner may sub-
11 poena witnesses and administer oaths or affirmations and
12 examine any individual under oath, or take depositions; and
13 by subpoena duces tecum may require the production of
14 documentary and other evidence. Any delegation by the com-
15 missioner of power of subpoena shall be in writing.

16 2. Every person subpoenaed to appear at any such hear-
17 ing, examination, or investigation shall obey the subpoena,
18 testify truthfully, conduct himself with decorum, and in no
19 way obstruct the proceeding or purpose thereof.

20 3. Witnesses shall be entitled to the same fees and
21 allowances as witnesses in Superior Court; except that no
22 insurer, agent, broker or other person subject to this Title
23 who is a subject of such proceeding, and no officer, director
24 or employee of any of the foregoing, shall be entitled to
25 witness or mileage fees. No person shall be excused from
26 attending and testifying in obedience to a subpoena on the
27 ground that the proper witness fee was not tendered or paid,
28 unless the witness shall have demanded such payment as a
29 condition precedent to attending the hearing, examination,
30 or investigation and unless such demand shall not have been
31 complied with.

32 4. Any individual knowingly testifying falsely under

1 oath or making a false affirmation, as to any matter
2 material to any such examination, investigation, or hearing,
3 shall upon conviction thereof be guilty of perjury.

4

5 § 233. Witnesses - Disciplinary proceedings

6 1. If any individual without reasonable cause fails to
7 appear when summoned as a witness, or refuses to answer a
8 lawful and pertinent question, or refuses to produce documen-
9 tary evidence when directed to do so by the commissioner or
10 deports himself in a disrespectful or disorderly manner at
11 the inquiry, or obstructs the proceedings by any means,
12 whether or not in the presence of the commissioner or his
13 designee, he is guilty of contempt and may be dealt with as
14 provided in subsection 2 below.

15 2. The commissioner or his designee, as the case may be,
16 may file a complaint in the Superior Court, setting forth
17 under oath the facts constituting the contempt and requesting
18 an order returnable in not less than 2 nor more than 5 days,
19 directing the alleged contemner to show cause before the
20 court, why he should not be punished for contempt. Upon the
21 return of such order, the court shall examine the alleged
22 contemner under oath, and the alleged contemner shall have
23 an opportunity to be heard. If the court determines that the
24 respondent has committed any alleged contempt, the court shall
25 punish the offender as if the contempt had occurred in an
26 action arising in or pending in such court.

27

28 § 234. Witnesses - Immunity from prosecution

29 1. If any individual asks to be excused from attending
30 or testifying or from producing any books, papers, records,
31 contracts, correspondence or other documents in connection
32 with any examination, hearing or investigating being

1 conducted by the commissioner on the ground that the testi-
2 mony or evidence required of him may tend to incriminate
3 him or subject him to a penalty or forfeiture, and shall,
4 by the Attorney General, be directed to give such testimony
5 or produce such evidence, he must nonetheless comply with
6 such direction, but he shall not thereafter be prosecuted
7 or subjected to any penalty or forfeiture for or on account
8 of any transaction, matter or thing concerning which he may
9 have so testified or produced evidence, and no testimony so
10 given or evidence produced shall be received against him
11 upon any criminal action, investigation or proceeding;
12 except, however, that no such individual so testifying shall
13 be exempt from prosecution or punishment for any perjury com-
14 mitted by him in such testimony, and the testimony or
15 evidence so given or produced shall be admissible against
16 him upon any criminal action, investigation, or proceeding
17 concerning such perjury; nor shall such individual be
18 exempt from the refusal, suspension or revocation of any
19 license, permission or authority conferred, or to be con-
20 ferred, pursuant to this Title.

21 2. Any such individual may execute, acknowledge and
22 file in the office of the commissioner and of the Attorney
23 General a statement expressly waiving such immunity or
24 privilege in respect to any transaction, matter or thing
25 specified in such statement, and thereupon the testimony of
26 such individual or such evidence in relation to such trans-
27 action, matter or thing may be received or produced before
28 any judge or justice, court, tribunal, grand jury or other-
29 wise, and if so received or produced such individual shall
30 not be entitled to any immunity or privileges on account of
31 any testimony he may so give or evidence so produced.

1 § 235. Order on hearing

2 1. In the conduct of hearings under this Title and
3 making his order thereon, the commissioner shall act in a
4 quasi-judicial capacity.

5 2. Within ~~30~~ days after termination of a hearing, or
6 of any rehearing thereof or reargument thereon, or within
7 such other period as may be specified in this Title as to
8 *or within such further reasonable period as the commissioner for good cause may require,*
9 particular proceedings, the commissioner shall make his
10 order on hearing covering matters involved in such hearing,
11 and give a copy of the order to each party to the hearing
12 in the same manner as notice of the hearing was given to
13 such party; except, that as to hearings held with respect to
14 merger, consolidation, bulk reinsurance, conversion, affili-
15 ation or change of control of a domestic insurer as provided
16 in chapter 47 (organization and corporate procedures of
17 domestic stock and mutual insurers) of ~~this Title~~, where
18 notice of the hearing was given to all stockholders and/or
19 policyholders of an insurer involved, the commissioner is
20 required to give a copy of the order on hearing to the cor-
21 poration and insurer parties, to intervening parties, to a
22 reasonable number of such stockholders or policyholders as
23 representative of the class, and to other parties only upon
24 written request of such parties.

24 3. The order shall contain:

25 A. A concise statement of facts found by the commis-
26 sioner upon the evidence adduced at the hearing;

27 B. A concise statement of the commissioner's conclu-
28 sions from the facts so found;

29 C. His order, and the effective date thereof; and

30 D. Citation of the provisions of this Title upon which
31 the order is based; but failure to so designate a particular
32 provision shall not deprive the commissioner of the right

1 thereafter to rely thereon.

2 4. The order may affirm, modify or rescind action
3 theretofore taken or may constitute taking of new action
4 within the scope of the notice of the hearing.

5

6 § 236. Appeal from the commissioner

7 1. An appeal from the commissioner shall be taken only
8 from an order on hearing, or as to a matter on which the com-
9 missioner has refused or failed to hold a hearing after appli-
10 cation therefor under section 229 ~~of this chapter~~, or as to a
11 matter as to which the commissioner has failed to make his
12 order on hearing as required by section 235 ~~of this chapter~~.

13 2. Any person who was a party to such a hearing or whose
14 pecuniary interests are directly and immediately affected by
15 any such refusal or failure, and who is aggrieved by such
16 order, refusal, or failure, may appeal from such order or as
17 to any such matter within 30 days after:

18 A. The order on hearing has been mailed or delivered
19 to the persons entitled to receive the same, or given by
20 last publication thereof where delivery by publication is
21 permitted; or

22 B. The commissioner has refused or failed to grant or
23 hold a hearing as required under section 229 ~~of this chapter~~;
24 or

25 C. The commissioner has refused or failed to make his
26 order on hearing as required under section 235 ~~of this~~
27 ~~chapter~~ chapter.

28 3. The appeal shall be granted as a matter of right,
29 and shall be taken ^(of Kennebec County, or) to the Superior Court in any county of
30 this State, ^{in which the appellant resides or has his principal place}
^{of business.}

31 4. The appeal shall be taken by filing in the court a
32 complaint setting forth the grounds for appeal, and by

1 serving a copy of the complaint on the commissioner. If
2 the appeal is from the commissioner's order on hearing, the
3 petitioner shall also deliver to the commissioner a suffi-
4 cient number of copies of the complaint and the commissioner
5 shall mail or otherwise furnish a copy thereof to the other
6 parties to the hearing to the same extent as a copy of the
7 commissioner's order is required to be furnished to the
8 hearing parties under section 235 ~~of this chapter~~.

9 5. Upon receiving the complaint on appeal, the commis-
10 sioner shall forthwith prepare an official record certified
11 by him which shall contain a copy of all proceedings and
12 orders of the commissioner appealed from and the transcript
13 of testimony and evidence or summary record thereof made as
14 provided in section 231 ~~of this chapter~~. Within 30 days
15 after the complaint was served upon him the commissioner
16 shall file such official record with the court.

17 6. Upon filing of the complaint on appeal the court
18 shall have full jurisdiction of the proceeding. Such filing
19 shall not stay the enforcement of the commissioner's order
20 or action appealed from unless so stayed by order of the
21 court.

22 7. If the appeal is from the commissioner's order on
23 hearing the review of the court shall be limited to matters
24 shown by the commissioner's official record; otherwise, the
25 review shall be de novo. The court shall have power, by pre-
26 liminary order, to settle questions concerning the complete-
27 ness and accuracy of the commissioner's official record.

28 8. In its discretion the court may remand the case to
29 the commissioner for further proceedings in accordance with
30 the court's directions; or, in advance of judgment and upon
31 a sufficient showing, the court may remand the case to the
32 commissioner for the purpose of taking additional testimony

1 or other proceedings.

2 9. From the judgment of the Superior Court the commis-
3 sioner or other party to the appeal may appeal to the Supreme
4 Judicial Court of the State of Maine in the same manner as
5 provided in civil cases.

6

7

CHAPTER 5

8

AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS

9

SUBCHAPTER I

10

AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS

11

§ 400. "Stock" insurer defined

12

13

A "stock" insurer is an incorporated insurer with its
capital divided into shares and owned by its stockholders.

14

15

§ 401. "Mutual" insurer defined

16

17

18

19

20

21

A "mutual" insurer is an incorporated insurer without
permanent capital stock, and the governing body of which is
elected by its policyholders or those policyholders speci-
fied in its charter, or by any reasonable combination of its
policyholders, guaranty fund stockholders, or guaranty fund
certificate holders, *or by other reasonable method.*

22

23

§ 402. "Reciprocal" insurer defined

24

25

26

27

A "reciprocal" insurer is an unincorporated aggregation
of subscribers operating individually and collectively through
an attorney-in-fact common to all such persons to provide
reciprocal insurance among themselves.

28

29

§ 403. "Charter" defined

30

31

32

Except where context requires otherwise, "charter"
means certificate of organization, certificate of incorpora-
tion, articles of incorporation, articles of agreement,

1 articles of association, corporate charter granted by legis-
2 lative act, or other basic constituent document of a
3 corporation, or the power of attorney of the attorney-in-
4 fact of a reciprocal insurer.

5

6 § 404. Certificate of authority required; enforce-
ment; penalty

7 1. No person shall act as an insurer and no insurer
8 shall transact insurance in this State by mail or otherwise,
9 unless as authorized by a certificate of authority issued
10 by the commissioner pursuant to this Title and then in full
11 force and effect, except as to such transactions as are
12 expressly otherwise provided in this Title.

13 2. No insurer formed under the laws of this State, and
14 no foreign insurer from offices or by personnel or facili-
15 ties located in this State, shall solicit insurance applica-
16 tions or otherwise transact insurance in another state or
17 country unless it holds a subsisting certificate of authority
18 granted to it by the commissioner authorizing it to transact
19 the same kind or kinds of insurance in this State.

20 3. The commissioner shall enforce this section through
21 any and all available and lawful means, including, but not
22 limited to, the enjoining of any violation or threatened
23 violation.

24 4. Any insurer and any officer, director, agent, repre-
25 sentative or employee of any insurer, who wilfully authorizes,
26 negotiates, makes, or issues any insurance contract in viola-
27 tion of this section shall upon conviction thereof be subject
28 to a fine of not to exceed \$5,000, or imprisonment for not
29 over 2 years, or to both such fine and imprisonment.

30

31 § 405. Exceptions to certificate of authority
requirement

32 A certificate of authority shall not be required of an

1 insurer with respect to any of the following:

2 1. Investigation, settlement, or litigation of claims
3 under its policies lawfully written in this State, or liqui-
4 dation of assets and liabilities of the insurer (other than
5 collection of new premiums), all as resulting from its
6 former authorized operations in this State.

7 2. Except as provided in subsection 2 of section 404,
8 ~~of this chapter~~, transactions thereunder subsequent to
9 issuance of a policy covering only subjects of insurance not
10 resident, located or expressly to be performed in this State
11 at time of issuance, and lawfully solicited, written and
12 delivered outside this State.

13 3. Transactions pursuant to surplus lines coverages
14 lawfully written under chapter 19 ~~of this Title~~.

15 4. Reinsurance, except as to domestic reinsurers.

16 5. Transactions relative to its investments in this
17 State.

18 6. Any suit or action by the duly constituted receiver,
19 rehabilitator or liquidator of the insurer, or of the
20 insurer's assignee or successor, under laws similar to
21 those contained in chapter 5³ (delinquency proceedings;
22 rehabilitation and liquidation) ~~of this Title~~.

23

24 § 406. General eligibility for certificate
of authority

25 To qualify for and hold authority to transact insurance
26 in this State, an insurer must be otherwise in compliance
27 with this Title and with its charter powers, and must be an
28 incorporated stock or mutual insurer, or a reciprocal *R. Lloyd's*
29 insurer; of the same general type as may be formed as a
30 domestic insurer under this Title; except that:

31 1. No foreign insurer shall be authorized to transact
32 insurance in this State unless as to insurance written in

1 this State it maintains reserve as required by chapter 11
2 (assets and liabilities) of ~~this Title~~; or which, if other
3 than a property or casualty insurer, transacts business any-
4 where in the United States on the assessment plan, or stipu-
5 lated premium plan, or any similar plan.

6 2. No insurer shall be authorized to transact a kind
7 of insurance in this State unless duly authorized or quali-
8 fied to transact such insurance in the state or country of
9 its domicile.

10 3. No insurer shall be authorized to transact in this
11 State any kind of insurance which is not within the defini-
12 tions as set forth in chapter 9 (kinds of insurance) of ~~this~~
13 ~~Title~~.

14 4. No such authority shall be granted or continued as
15 to any insurer while in arrears to the State for fees,
16 licenses, taxes, assessments, fines or penalties accrued on
17 business previously transacted in this State.

18 *5. A Lloyd's insurer shall be treated as a stock insurer for the*
purpose of this Title, with net assets over all liabilities to be not less
than the capital funds required of a foreign stock insurer transacting the same kind of
19 § 407. Same - Ownership, management *insurance.*

20 1. No foreign insurer which is directly or indirectly
21 owned or controlled in whole or substantial part by any
22 government or governmental agency, *(other than of the government of the United States of America,*
23 transact insurance in Maine. Membership in a mutual insurer,
24 or subscribership in a reciprocal insurer, or ownership of
25 stock of an insurer by the alien property custodian or
26 similar official of the United States, or ownership of stock
27 or other security which does not have voting rights with
28 respect to the management of the insurer, or supervision of
29 an insurer by public authority, shall not be deemed to be an
30 ownership or control of the insurer for the purposes of this
31 provision.

32 2. The commissioner shall not grant or continue

1 authority to transact insurance in this State as to any
2 insurer or proposed insurer, any director, officer or other
3 individual materially part of the management of which is
4 found by him after investigation or upon reliable informa-
5 tion to be incompetent, or dishonest, or untrustworthy, or
6 of unfavorable business repute, or the managers of which are
7 so lacking in insurance company managerial experience in
8 operations of the kind proposed in this State as to make such
9 operation, currently or prospectively, hazardous to, or
10 contrary to the best interests of, the insurance-buying or
11 investing public of this State; or which he has good reason
12 to believe is affiliated directly or indirectly through
13 ownership, control, management, reinsurance transactions, or
14 other business relations, with any person or persons of
15 unfavorable business repute, or whose business operations
16 *in this State or elsewhere* are or have been marked, to the injury of insurers, stock-
17 holders, policyholders, creditors, or the public, by ille-
18 gality, or by manipulation of assets, or of accounts, or of
19 reinsurance, or by bad faith.

20

21 § 408. Name of insurer

22 1. No insurer shall be formed or authorized to trans-
23 act insurance in this State which has or uses a name which
24 is the same as or deceptively similar to that of another
25 insurer already so authorized.

26 2. No life insurer shall be so authorized which has or
27 uses a name deceptively similar to that of another insurer,
28 other than a predecessor in interest, authorized to transact
29 insurance in this State within the preceding 10 years if
30 life insurance policies originally issued by such other
31 insurer are still outstanding in this State.

32 3. No insurer shall be formed or authorized to transact

1 insurance which has or uses a name the same as or deceptively
2 similar to that of any foreign insurer not so authorized if
3 such foreign insurer has within the next preceding 12 months
4 signified its intention to secure an incorporation in this
5 State under such name, or to do business as a foreign
6 insurer in this State under such name, by filing notice of
7 such intention with the commissioner, unless the written con-
8 sent to the use of such name or deceptively similar name has
9 been given by such foreign insurer.

10 4. No insurer shall be so authorized which has or uses
11 a name which tends to deceive or mislead as to the type of
12 organization of the insurer.

13 5. In case of conflict of names between 2 insurers, or
14 a conflict otherwise prohibited under this section, the com-
15 missioner may permit, (or shall require as a condition to the
16 issuance of an original certificate of authority to an appli-
17 cant insurer), the insurer to use in this State such supple-
18 mentation or modification of its name or such business name
19 as may reasonably be necessary to avoid the conflict.

20 6. Except as provided in subsection 5 above, an
21 insurer shall conduct its business in this State in its own
22 corporate (if incorporated) or proper (if ^areciprocal) name.

23
24 § 409. Combinations of insuring powers

25 An insurer may be authorized to transact such kinds of
26 insurance as it is qualified for under this Title, except
27 that a reciprocal insurer shall not transact life insurance.

28
29 § 410. Capital funds required

30 1. To qualify for authority to transact any one kind
31 of insurance (as defined in chapter 9 of ~~this Title~~), or
32 combination of kinds of insurance as shown below, an insurer

1 shall possess and thereafter maintain unimpaired paid-in
 2 capital stock (if a stock insurer) or unimpaired basic surplus
 3 (if a foreign mutual or foreign reciprocal insurer), and when
 4 first so authorized shall possess initial free surplus, all
 5 in amounts not less than as determined from the following
 6 table:

| 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 | Kind or Kinds of Insurance | Stock Insurers | | Foreign mutual, Reciprocal Insurers | |
|---|---|---|----------------------------|---|----------------------------|
| | | Minimum Required Capital Stock | Initial Free Surplus | Minimum Required Basic Surplus | Initial Free Surplus |
| | Life | \$1,000,000 | \$1,000,000 | \$1,000,000* | \$1,000,000* |
| | Health | 250,000 | 250,000 | 250,000 | 250,000 |
| | Life & Health | 1,000,000 | 1,000,000 | 1,000,000* | 1,000,000* |
| | Casualty | 500,000 | 500,000 | 500,000 | 500,000 |
| | Marine & Trans- portation | 500,000 | 500,000 | 500,000 | 500,000 |
| | Property | 500,000 | 500,000 | 500,000 | 500,000 |
| | Surety | 500,000 | 500,000 | 500,000 | 500,000 |
| | Title | 150,000 | 150,000 | 150,000 | 150,000 |
| | Multiple line <i>(as defined in section 710 b of this title)</i> Life, and any one or more of Property, Casualty, Surety, Marine & Transporta- tion | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |
| | | 2,000,000 | 2,000,000 | 2,000,000* | 2,000,000* |

22 *Does not apply as to a reciprocal insurer.

23 Except:

24 A. An insurer holding a valid certificate of authority
 25 to transact insurance in this State ^{ON} ~~immediately prior~~ to the
 26 effective date of this Act may, if otherwise qualified
 27 therefor, continue to be so authorized while possessing paid-
 28 in capital stock (if a stock insurer) or surplus (if a
 29 mutual ^{or reciprocal} insurer) as required for such authority immediately
 30 prior to such effective date. The commissioner shall not
 31 authorize such an insurer to transact any other kinds of
 32 insurance unless it then complies with the requirements as

Except, that a domestic mutual insurer formed prior to January 1, 1968, and while possessing surplus of not less than \$200,000*, may be authorized to transact such additional kinds of insurance as were ~~then~~ authorized by its charter; subject, however, to the same minimum required ^{the minimum} basic surplus amount as is applicable as to foreign mutual insurers under subsection 1, above, if the insurer is to transact life insurance ~~and~~ together with any one or more of property, casualty, surety, or marine & transportation insurances.

(is a mutual or reciprocal insurer)

(Stock is a stock insured)

1 to capital and surplus, as applied to all kinds of insur-
2 ance it then proposes to transact, as provided by this
3 Title as to foreign insurers applying for original certifi-
4 cates of authority under this Title.

5 B. An insurer which otherwise possesses funds as
6 required under subsection 1 above, shall at all times main-
7 tain policyholders' surplus (combined paid-in capital
8 stock, if any, and surplus) reasonable in amount, as deter-
9 mined by the commissioner, in relation to the kinds and
10 amount of insurance it has in force, or being written and
11 retained by it, net of applicable reinsurance. In making
12 any such determination the commissioner shall give due con-
13 sideration to any applicable standards approved or adopted
14 by the National Association of Insurance Commissioners and
15 to the desirability of substantial uniformity as to such
16 requirements among the respective states.

17 2. Capital and surplus requirements are based upon all
18 the kinds of insurance transacted by the insurer in any and
19 all areas in which it operates or proposes to operate, whether
20 or not only a portion of such kinds are to be transacted in
21 this State.

22 3. As to surplus required for authority to transact
23 one or more kinds of insurance and thereafter to be main-
24 tained, domestic mutual legal reserve insurers hereafter
25 formed shall be governed by chapter 47 of ~~this Title.~~

26
27 § 411. Insuring combinations without additional
capital funds

28 Without additional paid-in capital stock or additional
29 surplus, an authorized insurer may also be authorized:

- 30 1. If a life insurer, to grant annuities.
31 2. If a health insurer, to insure against congenital
32 defects, as defined in section 707 of ~~this Title.~~

1 3. If a casualty insurer or multiple line insurer,
2 to transact health insurance. Except, that this provision
3 shall not apply to a domestic insurer authorized to transact
4 casualty insurance only, pursuant to paragraph A, subsection
5 1 of section 410 of ~~this chapter~~.

6

7 § 412. Deposit requirement, alien insurers

8 1. The commissioner shall not authorize an alien
9 insurer to transact insurance in this State unless it makes
10 in this State through the commissioner and thereafter con-
11 tinuously maintains a deposit, representing funds in excess
12 of all the insurer's liabilities under insurance contracts
13 in force in the United States of America, of a fair market
14 value in amount not less than the minimum paid-in capital
15 stock required under this Title of a foreign stock insurer
16 authorized to transact like kinds of insurance in this
17 State. The deposit shall be held in trust for the exclusive
18 benefit of the insurer's policyholders and creditors in the
19 United States of America.

20 2. In lieu of such a deposit made or maintained in
21 this State, the commissioner shall accept the certificate
22 in proper form of the public official having general super-
23 vision of insurers in any other state to the effect that a
24 deposit of like quality and amount, or part thereof, by such
25 insurer is being maintained for like purposes in public cus-
26 tody or control pursuant to the laws of such state.

27 3. All such deposits in this State are subject to the
28 applicable provisions of chapter 15 (administration of
29 deposits) of ~~this Title~~.

30

31 § 413. Application for certificate of authority

32 To apply for an original certificate of authority an

1 insurer shall file with the commissioner its written appli-
2 cation therefor on forms as prescribed and furnished by the
3 commissioner, accompanied by the applicable fees specified
4 in section 601 (fee schedule) ~~of this Title~~, stating under
5 the oath of the president or vice-president or other chief
6 officer and the secretary of the insurer, or of the attorney-
7 in-fact (if a reciprocal insurer), the insurer's name, loca-
8 tion of its home office or principal office in the United
9 States (if an alien insurer), the kinds of insurance to be
10 transacted, date of organization or incorporation, form of
11 organization, state or country of domicile, and such addi-
12 tional information as the commissioner may reasonably
13 require, together with the following documents, as applicable:

14 1. If a corporation, a copy of its charter, together
15 with all amendments thereto, or as restated and amended under
16 the laws of its state or country of domicile, currently
17 certified by the public official with whom the originals are
18 on file in such state or country.

19 2. If a domestic incorporated insurer or a mutual
20 insurer, a copy of its bylaws, certified by the insurer's
21 corporate secretary.

22 3. If a reciprocal insurer, a copy of the power of
23 attorney of its attorney-in-fact, certified by the attorney-
24 in-fact; and if a domestic reciprocal insurer, the declara-
25 tion provided for in section 3856 ~~of this Title~~.

26 4. A complete copy of its financial statement as of
27 not earlier than the December 31 next preceding in form as
28 customarily used in the United States by like insurers,
29 sworn to by at least two executive officers of the insurer
30 or certified by the public insurance supervisory official of
31 the insurer's state of domicile, or of entry into the
32 United States (if an alien insurer).

1 5. A copy of the report of last examination of the
2 insurer completed within the 12 months immediately prior to
3 the filing of the application, certified by the public
4 insurance supervisory official of the insurer's state of
5 domicile, or of entry into the United States (if an alien
6 insurer).

7 6. Appointment of the commissioner pursuant to section
8 421 of ~~this chapter~~ as its attorney to receive service of
9 legal process.

10 7. If a foreign or alien insurer, a certificate of the
11 public insurance supervisory official of its state or country
12 of domicile showing that it is authorized or qualified for
13 authority to transact in such state or country the kinds of
14 insurance proposed to be transacted in this State.

15 8. If an alien insurer, certificate as to deposit if
16 to be tendered pursuant to section 412 of ~~this chapter~~, and
17 a copy of the trust deed pertaining to such deposit, certi-
18 fied by the trustee.

19 9. If a life or health insurer, a copy of the insurer's
20 rate book and of each form of policy currently proposed to
21 be issued in this State, and of the form of application
22 therefor.

23 10. If an alien insurer, a copy of the appointment and
24 authority of its United States manager, certified by its offi-
25 cer having custody of its records.

26 11. Designation by the insurer of its officer or repre-
27 sentative authorized to appoint and remove its agents in this
28 State.

29 12. If to transact surety insurance, the names and
30 addresses of all its attorneys-in-fact within this State
31 together with the scope of authority of each such attorney-
32 in-fact.

1 B. Due filing by the insurer of its annual statement
2 for the next preceding calendar year as required by section
3 423 of ~~this chapter~~, and

4 C. Payment by the insurer of premium taxes with res-
5 pect to the preceding calendar year.

6 2. If not so continued by the insurer, its certificate
7 of authority shall expire as at midnight on the June 30 next
8 following such failure of the insurer to continue it in
9 force, unless earlier revoked for failure to pay taxes as
10 provided in section 416 of this chapter. The commissioner
11 shall promptly notify the insurer of the occurrence of any
12 failure resulting in impending expiration of its certificate
13 of authority.

14 3. The commissioner may, in his discretion, upon the
15 insurer's request made within 3 months after expiration,
16 reinstate a certificate of authority which the insurer has
17 inadvertently permitted to expire, after the insurer has
18 fully cured all its failures which resulted in the expira-
19 tion, and upon payment by the insurer of the fee for rein-
20 statement specified in section 601 (fee schedule) of ~~this~~
21 ~~Title~~. Otherwise the insurer shall be granted another cer-
22 tificate of authority only after filing application therefor
23 and meeting all other requirements as for an original certi-
24 ficate of authority in this State.

25

26 § 416. Suspension or revocation of certificate
 of authority - Mandatory grounds

27 1. The commissioner shall refuse to continue or shall
28 suspend or revoke an insurer's certificate of authority:

29 A. If such action is required by any provision of this
30 Title; or

31 B. If a foreign insurer and it no longer meets the
32 requirements for a certificate of authority, on account of

1 deficiency of capital or surplus or otherwise; or

2 C. If a domestic insurer and it has failed to cure an
3 impairment of capital or surplus within the time allowed
4 therefor by the commissioner under this Title or is other-
5 wise no longer qualified for the certificate of authority;
6 or

7 D. If the insurer's certificate of authority to trans-
8 act insurance therein is suspended or revoked by its state
9 of domicile, or state of entry into the United States if an
10 alien insurer; or

11 E. For failure of the insurer to pay taxes on its
12 premiums as required by law.

13 2. Except in case of insolvency or impairment of
14 required capital or surplus, or suspension or revocation by
15 another state as referred to in ^{subdivision} ~~subdivision~~ D above, the com-
16 missioner shall give the insurer at least 20 days notice in
17 advance of any such refusal, suspension, or revocation under
18 this section, and of the particulars of the reasons therefor.
19 If the insurer requests a hearing thereon within such 20
20 days, such request shall automatically stay the commissioner's
21 proposed action until his order is made on such hearing.

22
23 § 417. Suspension or revocation of certificate of
authority - Discretionary and special grounds

24 1. The commissioner may, in his discretion, refuse to
25 continue or may suspend or revoke an insurer's certificate
26 of authority if he finds after a hearing thereon, or upon
27 waiver of hearing by the insurer, that the insurer has vio-
28 lated or failed to comply with any lawful order of the com-
29 missioner, or has wilfully violated or wilfully failed to
30 comply with any lawful regulation of the commissioner, or
31 has violated any provision of this Title other than those
32 for violation of which suspension or revocation is mandatory;

1 or, in lieu of such suspension or revocation, the commis-
2 sioner may, in his discretion, levy upon the insurer, and
3 the insurer shall pay forthwith, an administrative fine of
4 not over \$2,000.

5 2. The commissioner shall suspend or revoke an
6 insurer's certificate of authority on any of the following
7 grounds, if he finds after a hearing thereon that the
8 insurer:

9 A. Is in unsound condition, or is being fraudulently
10 conducted, or is in such condition or using such methods and
11 practices in the conduct of its business as to render its
12 further transaction of insurance in this State currently or
13 prospectively hazardous or injurious to policyholders or to
14 the public; or

15 B. With such frequency as to indicate its general busi-
16 ness practice in this State, has without just cause failed to
17 pay, or delayed payment of, claims arising under its policies,
18 whether the claim is in favor of an insured or is in favor of
19 a third person; or, with like frequency, without just cause
20 compels insureds or claimants to accept less than the amount
21 due them or to employ attorneys or to bring suit against the
22 insurer or an insured to secure full payment or settle-
23 ment of such claims; or

24 C. Refuses to be examined, or if its directors,
25 officers, employees, or representatives refuse to submit to
26 examination relative to its affairs, or to produce its
27 accounts, records and files for examination by the commis-
28 sioner when required, or refuse to perform any legal obliga-
29 tion relative to the examination; or

30 D. Has failed to pay any final judgment rendered
31 against it in this State upon any policy, bond, recognizance,
32 or undertaking as issued or guaranteed by it, within 30 days

1 after the judgment became final or within 30 days after dis-
2 missal of an appeal before final determination, whichever
3 date is the later.

4 3. The commissioner may, in his discretion and without
5 advance notice or a hearing thereon, immediately suspend the
6 certificate of authority of any insurer as to which proceed-
7 ings for receivership, conservatorship, rehabilitation, or
8 other delinquency proceedings, have been commenced in any
9 state by the public insurance supervisory official of such
10 state.

11

12 § 418. Order, notice of suspension or revocation -
Publication - Effect upon agents' authority

13 1. All suspensions or revocations of, or refusal to
14 continue, an insurer's certificate of authority shall be by
15 the commissioner's order given to the insurer.

16 2. Upon issuance of the order, the commissioner shall
17 forthwith give notice thereof to the insurer's agents in
18 this State of record in the department, and shall likewise
19 suspend or revoke the authority of such agents to represent
20 the insurer.

21

22 § 419. Duration of suspension - Insurer's obligation
during suspension period - Reinstatement

23 1. Suspension of an insurer's certificate of authority
24 shall be for such period as the commissioner specifies in the
25 order of suspension, but not to exceed one year. During the
26 suspension period the commissioner may rescind or shorten
27 the suspension by his further order.

28 2. During the suspension period the insurer shall not
29 solicit or write any new business in this State, but shall
30 file its annual statement, pay fees, licenses and taxes as
31 required under this Title, and may service its business
32 already in force in this State, as if the certificate of

1 authority had continued in full force.

2 3. Upon expiration of the suspension period, if within
3 such period the certificate of authority has not terminated,
4 the insurer's certificate of authority shall automatically
5 reinstate unless the commissioner finds that the causes of
6 the suspension, being other than a past event, are continuing,
7 or that the insurer is otherwise not in compliance with the
8 requirements of this Title, and of which the commissioner
9 shall give the insurer notice not less than 30 days in
10 advance of expiration of the suspension period.

11 4. Upon reinstatement of the insurer's certificate of
12 authority, the authority of its agents in this State to
13 represent the insurer shall likewise reinstate. The commis-
14 sioner shall promptly notify the insurer and its agents in
15 this State, of record in the department, of such reinstate-
16 ment.

17
18 § 420. General corporation laws inapplicable
to foreign insurers

19 The general corporation laws of this State shall not
20 apply as to foreign insurers holding certificates of
21 authority to transact insurance in this State.

22
23 § 421. Commissioner process agent for insurers

24 1. Before the commissioner shall authorize it to
25 transact insurance in this State, each insurer shall appoint
26 the commissioner, and his successors in office, as its
27 ^{agent}~~attorney~~ to receive service of legal process issued against
28 the insurer in this State. The appointment shall be made
29 on a form as designated and furnished by the commissioner,
30 and shall be accompanied by a copy of a resolution of the
31 board of directors or like governing body of the insurer, if
32 an incorporated insurer, showing that those officers who

1 executed the appointment were duly authorized to do so on
2 behalf of the insurer.

3 2. The appointment shall be irrevocable, shall bind
4 the insurer and any successor in interest or to the assets
5 or liabilities of the insurer, and shall remain in effect
6 as long as there is in force any contract of the insurer in
7 this State or any obligation of the insurer arising out of
8 its transactions in this State.

9 3. Service of such process against a foreign or alien
10 insurer shall be made only by service thereof upon the com-
11 missioner.

12 4. Service of such process against a domestic insurer
13 may be made as provided hereunder, or in any other manner
14 provided by law.

15 5. At the time of application for a certificate of
16 authority the insurer shall file the appointment with the
17 commissioner, together with designation of the person to
18 whom process against it served upon the commissioner is to
19 be forwarded. The insurer may change such designation by
20 a new filing.

21 6. A copy of such appointment, certified by the com-
22 missioner, shall be received in evidence in all courts of
23 this State.

24

25 § 422. Serving process

26 1. Service of process against an insurer for whom the
27 commissioner is ^{agent to receive service} attorney, shall be made by delivering to and
28 leaving with the commissioner, his deputy, or a person in
29 apparent charge of his office during the commissioner's
30 absence, two copies of the process, together with fee there-
31 for as specified in section 601 (fee schedule) ~~of this Title,~~
32 taxable as costs in the action.

1 2. Upon such service the commissioner shall forthwith
2 mail by certified mail one of the copies of such process
3 with the date and time of service of same on the commis-
4 sioner noted thereon, to the person currently designated
5 by the insurer to receive the same as provided in section
6 421 of this chapter. ~~Service of process shall be complete~~
7 ~~when the same has been so mailed.~~

8 3. Process served in the manner provided by this
9 section shall for all purposes constitute valid and binding
10 personal service upon the insurer within this State.

11 4. The commissioner shall keep a record of the day of
12 service upon him of all legal process.

13
14 § 423. Annual statement

15 1. Each authorized insurer shall annually on or before
16 March 1, or within any reasonable extension of time therefor
17 which the commissioner for good cause may have granted on or
18 before such March 1, file with the commissioner a full and
19 true statement of its financial condition, transactions and
20 affairs as of December 31 preceding. The statement shall be
21 in the general form and context of, and require information
22 as called for by, the form of annual statement as currently
23 in general and customary use in the United States for the
24 type of insurer and kinds of insurance to be reported upon,
25 with any useful or necessary modification or adaptation
26 thereof and as supplemented by additional information
27 required by the commissioner. The statement shall be veri-
28 fied by the oath of the insurer's president or vice-president,
29 and secretary or actuary as applicable, or in the absence of
30 the foregoing, by two other principal officers; or if a
31 reciprocal insurer, by the oath of the attorney-in-fact or
32 its like officers if a corporation.

1 2. The statement of an alien insurer shall be verified
2 by its United States manager or other officer duly author-
3 ized, and shall relate only to the insurer's transactions
4 and affairs in the United States unless the commissioner
5 requires otherwise. If the commissioner requires a state-
6 ment as to such an insurer's affairs throughout the world,
7 the insurer shall file such statement with the commissioner
8 as soon as reasonably possible.

9 3. The commissioner may refuse to continue, or may
10 suspend or revoke, the certificate of authority of any
11 insurer failing to file its annual statement when due.

12 4. At time of filing, the insurer shall pay the fee
13 for filing its annual statement as prescribed by section 601
14 (fee schedule) of ~~this Title.~~

15
16 § 424. Same - Penalty for late or false statement

17 1. An insurer failing, without just cause beyond the
18 reasonable control of the insurer, to file its annual state-
19 ment as required in section 423 of ~~this chapter~~ shall forfeit
20 to the State \$25 for each day of delinquency, ^{to be collected, if necessary, by}
civil action against the insurer in the District Court, Southern Kentucky division.

21 2. Any director, officer, agent or employee of any
22 insurer who subscribes to, makes or concurs in making or
23 publishing, any annual or other statement required by law,
24 knowing the same to contain any material statement which is
25 false, shall be punished by a fine of not more than \$5,000,
26 or by imprisonment for not less than one year, or both such
27 fine and imprisonment.

28
29 § 425. Transactions with parent corporation,
subsidiaries, and affiliates

30 1. No insurer shall engage directly or indirectly in
31 any transaction or agreement with its parent corporation,
32 or with any subsidiary or affiliated person which shall

1 result or tend to result in:

2 A. Substitution through any method of any asset of the
3 insurer with an asset or assets of inferior quality or lower
4 fair market value; or

5 B. Deception as to the true operating results of the
6 insurer; or

7 C. Deception as to the true financial condition of the
8 insurer; or

9 D. Allocation to the insurer of a proportion of the
10 expense of combined facilities or operations which is
11 unfair and unfavorable to the insurer; or

12 E. Unfair, unnecessary or excessive charges against
13 the insurer for services, or facilities, or supplies, or
14 reinsurance; or

15 F. Unfair and inadequate charges by the insurer for
16 reinsurance, services, facilities, or supplies furnished by
17 the insurer to others; or

18 G. Payment by the insurer for services, facilities,
19 supplies, or reinsurance not reasonably needed by the
20 insurer.

21 2. In all transactions between the insurer and its
22 parent corporation, or involving the insurer and any sub-
23 sidiary or affiliated person, full recognition shall be
24 given to the paramount duty and obligation of the insurer
25 to protect the interests of policyholders, both existing and
26 future.

27 3. For the purposes of this section a "subsidiary" is
28 a person of which either the insurer ^{and/or} ~~and/or~~ (the parent
29 corporation) ^(or both) holds practical control, and an "affiliated
30 person" is a person controlled by any combination of the
31 insurer, the parent corporation, a subsidiary, or the princi-
32 pal stockholders or officers or directors of any of the

1 foregoiing.

2

3 § 426. Resident agent, countersignature law

4 1. Except as provided in section 427 of ~~this chapter~~,
5 a foreign authorized insurer shall not effect an insurance
6 contract covering a resident of this State, property situ-
7 ated in this State, a risk incident to the performance or
8 non-performance of any obligation to be performed in this
9 State, or a risk incident to any obligation which is
10 governed by the laws of this State though actually to be
11 performed elsewhere, unless it is issued or countersigned
12 by a duly licensed agent of the insurer resident in this
13 State.

14 2. The countersignature shall be in the manner provi-
15 ded by section 1611 (signature, countersignature of policies)
16 ~~of this Title.~~

17 3. A nonresident agent or nonresident broker shall
18 pay the countersigning agent countersignature fee as provi-
19 ded by section 1612 (countersignature fee) of ~~this Title.~~

20

21 § 427. Same - Exceptions

22 Section 426 of ~~this chapter~~ shall not apply as to any
23 of the following:

24 1. Life insurance or annuity contracts, or supple-
25 mental contracts against accidental death or permanent and
26 total disability made in connection therewith;

27 2. Insurance covering the rolling stock of a railroad
28 or any vessel, aircraft or motor carrier used in interstate
29 or foreign commerce, or covering any liability or other
30 risks incident to the ownership, maintenance or operation
31 of them;

32 3. Insurance covering any property in interstate or

1 foreign commerce, or any liability or risk incidental to
2 it;

3 4. Reinsurance;

4 5. Bid bonds issued in connection with any public or
5 private ~~building or construction~~ ^{contract} project;

6 6. Group insurance of a type permitted by this Title
7 issued to a nonresident policyholder, and any insurance
8 certificate applicable to it ~~or~~.

9 ~~7. Insurance issued by insurers not operating on an~~
10 ~~agency system in the solicitation of business.~~

11

12 § 423. Retaliatory provision

13 1. When by or pursuant to the laws of any other state
14 or foreign country or province any taxes, licenses and other
15 fees, in the aggregate, and any fines, penalties, deposit
16 requirements or other material requirements, obligations,
17 prohibitions or restrictions are or would be imposed upon
18 Maine insurers doing business or that might seek to do busi-
19 ness in such state, country or province, or upon the agents
20 or representatives of such insurers or upon brokers, which
21 are in excess of such taxes, licenses and other fees, in
22 the aggregate, or which are in excess of the fines, penal-
23 ties, deposit requirements or obligations, prohibitions, or
24 restrictions directly imposed upon similar insurers, or upon
25 the agents or representatives of such insurers, or upon
26 brokers, of such other state, country, or province under
27 the statutes of this State, so long as such laws of such
28 other state, country or province continue in force or are
29 so applied, the same taxes, licenses and other fees, in the
30 aggregate, or fines, penalties or deposit requirements or
31 other material requirements, obligations, prohibitions, or
32 restrictions of whatever kind shall be imposed by the com-

1 missioner upon the insurers, or upon the agents or repre-
2 sentatives of such insurers, or upon brokers, of such other
3 state, country or province doing business or seeking to do
4 business in Maine. Any tax, license or other fee or other
5 obligation imposed by any city, county, or other political
6 subdivision or agency of such other state, country or pro-
7 vince on Maine insurers or their agents or representatives
8 or upon Maine brokers shall be deemed to be imposed by such
9 state, country or province within the meaning of this section.

10 2. This section shall not apply as to personal income
11 taxes, or as to ad valorem taxes on real or personal
12 property, or as to special purpose obligations or assess-
13 ments imposed by another state in connection with particular
14 kinds of insurance other than property insurance; except that
15 deductions, from premium taxes or other taxes otherwise pay-
16 able, allowed on account of real estate or personal property
17 taxes paid shall be taken into consideration by the commis-
18 sioner in determining the propriety and extent of retalia-
19 tory action under this section.

20 3. For the purposes of this section the domicile of an
21 alien insurer, other than insurers formed under the laws of
22 Canada or a province thereof, shall be that state designated
23 by the insurer in writing filed with the commissioner at time
24 of admission to this State or within 6 months after the
25 effective date of this Act, whichever date is the later, and
26 may be any one of the following states:

27 A. That in which the insurer was first authorized to
28 transact insurance;

29 B. That in which is located the insurer's principal
30 place of business in the United States; or

31 C. That in which is held the largest deposit of trust-
32 eed assets of the insurer for the protection of its policy-

1 holders in the United States.

2 If the insurer makes no such designation, its domicile
3 shall be deemed to be that state in which is located its
4 principal place of business in the United States.

5 4. The domicile of an insurer formed under the laws of
6 Canada or a province thereof shall be that province of
7 Canada in which its head office is located.

SUBCHAPTER II

INSURANCE EMERGENCIES

1 § 471. Proclamation by Governor

2 Whenever it appears to the Governor that the welfare of
3 the State or any section thereof, or the welfare and security
4 of insurers under the supervision of the commissioner or their
5 insureds or beneficiaries require, the Governor may proclaim
6 that an insurance emergency exists and this subchapter shall
7 thereupon become effective.

8 § 472. Rules and regulations

9 During the period of any insurance emergency described
10 in section 471 ~~of this chapter~~, the commissioner shall
11 have power to make, amend or rescind such rules and regula-
12 tions governing the business of any insurers as he deems
13 expedient in order to adopt and maintain sound methods of
14 protecting the interests of insurer, insureds, beneficiar-
15 ies or the public.

16 § 473. Insurers regulated; suspended

17 During any insurance emergency period as described in
18 sections 471 and 472 ~~of this chapter~~, the commis-
19 sioner is empowered to suspend for such time or times as he
20 may determine the transaction of insurance functions of any
21 authorized insurer, whether domestic or foreign, solvent or
22 otherwise, and to limit its insurance business in volume or
23 character to such particular amounts or classifications and
24 for such time or times as he may deem advisable.

25 § 474. Payments deferred

26 During any insurance emergency period as described in
27 sections 471 and 472 ~~of this chapter~~, the commissioner
28 shall have authority to postpone or defer, by rules or orders
29 made and issued by him, for such time or times as he may deter-
30 mine, the payment of any amount payable under the terms of any
31 policy of insurance, annuity or pure endowment contract, and

1 the payment of judgments, notes, drafts, checks, bills of
2 exchange or other forms of payment of claims due from insurers
3 to any person, firm or corporation, whether such claim is
4 liquidated or unliquidated, due or to become due at a day
5 certain, and defer the payment of premiums on policies
6 affected by such postponements or suspensions and may direct
7 payment in full or in part whenever in his discretion such
8 payment may be safely consummated.

9 § 475. "Insurer" defined

10 The words "insurer" or "insurers" as used in this subchap-
11 ter shall include corporations, interinsurers, associations,
12 societies and orders as well as partnerships and individual
13 agents representing such organizations.

14 § 476. Personal responsibility of the commissioner
limited

15 The commissioner shall not be held legally responsible
16 for any act or failure to act in the premises when such act
17 or failure to act shall have been shown to be the result of
18 good faith.

19 § 477. Duration at will of Governor

20 The authority and power given the commissioner under
21 sub-
22 this/chapter shall terminate and be of no effect when the
23 Governor proclaims that any insurance emergency has ceased
24 to exist.

24 § 478. Jurisdiction of courts

25 During any emergency insurance period as described in
26 sections 471 and 472 of ~~this chapter~~, the commissioner
27 is authorized to issue such directions, rules or orders as
28 in his discretion the circumstances may warrant, and any
29 Justice of the supreme judicial or superior courts shall have
30 full jurisdiction to enforce this chapter by appropriate
31 decrees.

1 § 479. Penalties

2 Any violation of any order issued by virtue of this sub-
3 chapter or any rule or regulatory provision made by the
4 commissioner pursuant thereto shall be punishable by a
5 fine of not more than \$1,000 or by imprisonment for less
6 than one year, or by both.

1 CHAPTER 7

2 FEES AND TAXES

3 § 601. Fee schedule

4 The commissioner shall collect in advance, and persons
5 so served shall pay to the commissioner, fees, licenses and
6 miscellaneous charges as follows:

7 1. Insurer's certificate of authority

8 A. For filing application for initial
9 certificate of authority, including
10 all documents submitted as part of
11 such application

\$ 300.00

12 B. Issuance, and each annual continuation

100.00

13 C. Reinstatement (section 415 of ~~this~~

14 ~~Title~~), annual continuation fee plus
15 50% thereof

16 2. Charter documents (other than those

17 filed with application for certifi-
18 cate of authority). Filing amendments
19 to certificate of organization, articles
20 or certificate of incorporation, charter,
21 bylaws, power of attorney (as to
22 reciprocal insurers), and other con-
23 stituent documents of the insurer,
24 each document

5.00

25 3. Annual statement of insurer, filing

50.00

26 4. Service of process

27 Acceptance of service of process

5.00

28 5. Agents' licenses and appointments

29 A. Application for original resident agent
30 license and issuance, if issued

5.00

31 B. Appointment of resident agent, each
32 insurer, per year

5.00

| | | |
|----|--|-------|
| 1 | Annual continuation of appointment, <i>per year \$</i> | |
| 2 | <i>Each domestic mutual nonlife mutual insurer - 3.00</i> <i>per year</i> per year | 5.00 |
| 3 | C. Temporary license | 5.00 |
| 4 | D. Limited license (section 1531) <i>of this</i> | |
| 5 | title) | 5.00 |
| 6 | E. Nonresident agent license, application | |
| 7 | and issuance, if issued | 15.00 |
| 8 | Appointment of such agent, each insurer <i>or</i> | |
| 9 | per year | 10.00 |
| 10 | Annual continuation of appointment, <i>each insurer,</i> | |
| 11 | per year <i>per year</i> | 10.00 |
| 12 | 6. <u>Broker licenses</u> | |
| 13 | A. Resident broker, application for original | |
| 14 | license and issuance, if issued | 25.00 |
| 15 | Annual continuation | 25.00 |
| 16 | B. Nonresident broker, application for | |
| 17 | original license and issuance, if issued | 50.00 |
| 18 | Annual continuation | 50.00 |
| 19 | C. Surplus lines broker, application for | |
| 20 | original license and issuance, if issued | 25.00 |
| 21 | Annual continuation | 25.00 |
| 22 | 7. <u>Consultant license</u> | |
| 23 | Application for original license and | |
| 24 | issuance, if issued | 25.00 |
| 25 | Annual continuation | 25.00 |
| 26 | 8. <u>Adjuster license</u> | |
| 27 | Application for original license and | |
| 28 | issuance, if issued | 5.00 |
| 29 | Annual continuation | 5.00 |
| 30 | 9. <u>Examination for license</u> | |
| 31 | Filing application for each examina- | |
| 32 | tion, other than consultants | 15.00 |

| | | |
|----|--|-------|
| 1 | Consultants, filing application, each | |
| 2 | examination | 25.00 |
| 3 | 10. <u>Insurance vending machines</u> | |
| 4 | Filing application for license and | |
| 5 | issuance, if issued, each machine | 50.00 |
| 6 | Annual continuation of license, | |
| 7 | each machine | 50.00 |
| 8 | 11. <u>Rating organizations</u> | |
| 9 | License fee | 50.00 |
| 10 | Annual renewal of license | 50.00 |
| 11 | 12. <u>Hospital and medical service corporations</u> | |
| 12 | Corporation's certificate of authority, | |
| 13 | annually | 20.00 |
| 14 | Agent license, annually | 2.00 |
| 15 | 13. <u>Road or tourist service license, annually</u> | 20.00 |
| 16 | Agent license, annually | 2.00 |
| 17 | 14. <u>Certified copy of insurer certificate of</u> | |
| 18 | authority or other license issued under | |
| 19 | this Title | 2.00 |
| 20 | 15. <u>Copies of other documents on file in the</u> | |
| 21 | department: | |
| 22 | Reasonable charge as fixed by the commis- | |
| 23 | sioner; and for certifying and fixing | |
| 24 | official seal | 1.00 |

25 § 602. Tax on premiums and annuity considerations

26 As to returns and taxes on premiums and annuity con-
 27 siderations refer to 36 MRSA Ch. 357, section 2511 et seq.

28 § 603. Record, remittance of fees

29 The commissioner shall keep a correct account of all
 30 fees and moneys received by him by virtue of his office,
 31 and shall pay the same over to the Treasurer of State forth-
 32 with.

1. Payment by the insurer of the taxes as required by ~~MRS~~ 36 MRSA Ch. 357, section 2511 et seq. shall be in lieu of all taxes imposed by the State upon premiums or upon income, and of any franchise, privilege or other taxes measured by income of the insurer.

1 § 604. Insurance regulatory fund

2 1. There is created in the State Treasury a dedicated
3 account to be designated the "insurance regulatory fund,"
4 the funds of which are hereby appropriated for the partial
5 support and maintenance of the Insurance Department.

6 2. The Treasurer of State shall credit the following
7 funds to the insurance regulatory fund:

8 A. The balance, if any, remaining on the effective
9 date of this Act of funds allocated to the department pur-
10 suant to ~~28~~ MRSA § 372;

11 B. Fees, licenses and other charges collected and
12 remitted by the commissioner under section 601 (fee schedule)
13 ~~of this chapter~~, or as increased pursuant to section 428

14 (retaliatory provision) of this Title; and
C. Amounts collected for investigation reports under section 1519.

15 ~~-C. Administrative fines levied and collected by the~~
16 ~~commissioner under this Title.~~

17 3. Expenditures by the department from the insurance
18 regulatory fund shall be subject to budget control in the
19 same manner as applies to departments of State in general.

20
21 § 605. In lieu, pre-emption provision

22 ~~1. The fees, charges and premium taxes imposed by the~~
23 ~~State shall be in lieu of all county and municipal license~~
24 ~~fees and taxes upon the business of insurance in this State,~~
25 ~~excepting property taxes.~~

26 2. The State hereby preempts the field of regulating,
27 or of imposing excise, privilege, franchise, income,
28 license, permit, registration and similar taxes, licenses
29 and fees upon, insurers and their general agents, agents and
30 other representatives as such; and on the intangible property
31 of insurers or such representatives; and all political sub-
32 divisions or agencies thereof in this State are prohibited

3. The provisions of this section shall not be modified or repealed by any law of general application hereafter enacted unless expressly referred to or expressly repealed therein.

1 from regulating insurers or their general agents, agents and
2 other representatives as such, and from imposing upon them
3 any such tax, license, or fee. Except, that this provision
4 shall not prohibit the imposition by political subdivisions
5 of taxes upon real and tangible personal property.

6

7



CHAPTER 9. KINDS OF INSURANCE; LIMITS
OF RISK; REINSURANCE

SUBCHAPTER I. KINDS OF INSURANCE

1 § 701. Definitions not mutually exclusive

2 It is intended that certain insurance coverages may come
3 within the definitions of ~~two~~² or more kinds of insurance as
4 defined in this chapter, and the inclusion of such coverage
5 within one definition shall not exclude it as to any other
6 kind of insurance within the definition of which such cover-
7 age is likewise reasonably includable.

8 § 702. "Life insurance" defined

9 Life insurance is insurance on human lives. The trans-
10 action of life insurance includes also the granting of endow-
11 ment benefits, additional benefits in event of death or dis-
12 memberment by accident or accidental means, additional bene-
13 fits in event of the insured's disability, and optional modes
14 of settlement of proceeds of life insurance.

15 § 703. "Annuity" defined

16 For the purposes of this Title an "annuity" is a contract
17 under which obligations are assumed with respect to periodic
18 *(for a specific term or terms or)* payments where the making or continuance of all or of some of
19 such payments, or the amount of any such payment, is dependent
20 upon the continuance of human life, *(except payments made pursuant to special optional modes of settlement under the authority of* Such a contract which in-
21 cludes extra benefits of the kinds set forth in sections 702
22 (life insurance defined) and 704 (health
23 insurance defined *in this chapter*) shall nevertheless be deemed to be an
24 annuity if such extra benefits constitute a subsidiary or
25 incidental part of the entire contract.

26 § 704. "Health insurance" defined

27 Health insurance is insurance of human beings against
28 bodily injury, disablement, or death by accident or accidental
29 means, or the expense thereof, or against disablement or ex-
30 pense resulting from sickness, and every insurance appertaining
31 thereto.

32 § 705. "Property insurance" defined

*section
702 (life
insurance
defined)
of
Chapter.*

1 Property insurance is insurance on real or personal pro-
2. perty of every kind and of every interest therein against loss
3 or damage from any and all hazard or cause, and against loss
4 consequential upon such loss or damage, other than noncontract-
5 ual legal liability for any such loss or damage. Property in-
6 surance does not include title insurance, as defined in section
7 709 of this chapter.

8 § 706. "Surety insurance" defined

9 Surety insurance includes:

- 10 1. Fidelity insurance, which is insurance guaranteeing
11 the fidelity of persons holding positions of public or private
12 trust.
- 13 2. Insurance guaranteeing the performance of contracts,
14 other than insurance policies, and guaranteeing and executing
15 bonds, undertakings, and contracts of suretyship.
- 16 3. Insurance indemnifying banks, bankers, brokers, finan-
17 cial or moneyed corporations or associations against loss, re-
18 sulting from any cause, of bills of exchange, notes, bonds,
19 securities, evidences of debt, deeds, mortgages, warehouse
20 receipts or other valuable papers, documents, money, precious
21 metals and articles made therefrom, jewelry, watches, gems,
22 precious and semiprecious stones, including any loss while
23 the same are being transported in armored motor vehicles, or
24 by messenger, but not including any other risks of transport-
25 ation or navigation; also insurance against loss or damage to
26 such an insured's premises or to his furnishings, fixtures,
27 equipment, safes and vaults therein, caused by burglary,
28 robbery, theft, vandalism or malicious mischief, or any
29 attempt thereat.

30 § 707. "Casualty insurance" defined

31 1. Casualty insurance includes:

- 32 A. Vehicle insurance. Insurance against loss of

1 or damage to any land vehicle or aircraft or any draft or
2 riding animal or to property while contained therein or
3 thereon or being loaded or unloaded therein or therefrom,
4 from any hazard or cause, and against any loss, liability or
5 expense resulting from or incidental to ownership, mainten-
6 ance or use of any such vehicle, aircraft or animal; together
7 with insurance against accidental injury to individuals,
8 irrespective of legal liability of the insured, including
9 the named insured, while in, entering, alighting from, adjust-
10 ing, repairing, cranking, or caused by being struck by a
11 vehicle, aircraft or draft or riding animal, if such insur-
12 ance is issued as an incidental part of insurance on the
13 vehicle, aircraft or draft or riding animal.

14 B. Liability insurance. Insurance against legal
15 liability for the death, injury, or disability of any human
16 being, or for damage to property; and provision of medical,
17 hospital, surgical, disability benefits to injured persons
18 and funeral and death benefits to dependents, beneficiaries
19 or personal representatives of persons killed, irrespective
20 of legal liability of the insured, when issued as an inciden-
21 tal coverage with or supplemental to liability insurance.

22 C. Workmen's compensation and employer's liability.
23 Insurance of the obligations accepted by, imposed upon, or
24 assumed by employers under law for death, disablement, or
25 injury of employees.

26 D. Burglary and theft. Insurance against loss
27 or damage by burglary, theft, larceny, robbery, forgery,
28 fraud, vandalism, malicious mischief, confiscation, or
29 wrongful conversion, disposal, or concealment, or from any
30 attempt at any of the foregoing; including supplemental
31 coverage for medical, hospital, surgical, and funeral expense
32 incurred by the named insured or any other person as a result

1 of bodily injury during the commission of a burglary, robbery,
2 or theft by another; also insurance against loss of or damage
3 to moneys, coins, bullion, securities, notes, drafts, accept-
4 ances, or any other valuable papers and documents, resulting
5 from any cause.

6 E. Personal property floater. Insurance upon
7 personal effects against loss or damage from any cause.

8 F. Glass. Insurance against loss or damage to
9 glass, including its lettering, ornamentation, and fittings.

10 G. Boiler and machinery. Insurance against any
11 liability and loss or damage to property or interest result-
12 ing from accidents to or explosions of boilers, pipes, pres-
13 sure containers, machinery, or apparatus, and to make
14 inspection of and issue certificates of inspection upon
15 boilers, machinery, and apparatus of any kind, whether or
16 not insured.

17 H. Leakage and fire extinguishing equipment.
18 Insurance against loss or damage to any property or interest
19 caused by the breakage or leakage of sprinklers, hoses, pumps,
20 and other fire extinguishing equipment or apparatus, water
21 pipes or containers, or by water entering through leaks or
22 openings in buildings, and insurance against loss or damage
23 to such sprinklers, hoses, pumps, and other fire extinguishing
24 equipment or apparatus.

25 I. Credit. Insurance against loss or damage
26 resulting from failure of debtors to pay their obligations
27 to the insured.

28 J. Malpractice. Insurance against legal liability
29 of the insured, and against loss, damage, or expense inciden-
30 tal to a claim of such liability, and including medical
31 hospital, surgical, and funeral benefits to injured persons,
32 irrespective of legal liability of the insured, arising out

1 of the death, injury, or disablement of any person, or arising
2 out of damage to the economic interest of any person, as the
3 result of negligence in rendering expert, fiduciary, or profes-
4 sional service.

5 K. Elevator. Insurance against loss of or damage to any
6 property of the insured, resulting from the ownership, mainten-
7 ance or use of elevators, except loss or damage by fire, and to
8 make inspection of and issue certificates of inspection upon,
9 elevators.

10 L. Congenital defects. Insurance against congenital
11 defects in human beings.

12 M. Livestock. Insurance against loss or damage to live-
13 stock, and services of a veterinary for such animals.

14 N. Entertainments. Insurance indemnifying the producer
15 of any motion picture, television, radio, theatrical, sport,
16 spectacle, entertainment, or similar production, event, or
17 exhibition against loss from interruption, postponement, or
18 cancellation thereof due to death, accidental injury, or sick-
19 ness of performers, participants, directors, or other principals.

20 O. Miscellaneous. Insurance against any other kind of
21 loss, damage, or liability properly a subject of insurance and
22 not within any other kind of insurance as defined in this sub-
23 chapter, if such insurance is not disapproved by the commissioner
24 as being contrary to law or public policy.

25 2. Provision of medical, hospital, surgical, and funeral
26 benefits, and of coverage against accidental death or injury,
27 as incidental to and part of other insurance as stated under
28 ^{paragraphs} subdivisions A₂ (vehicle), B₂ (liability), D₂ (burglary), G₂
29 (boiler and machinery), J₂ (malpractice), and K₂ (elevator) of
30 subsection 1 shall for all purposes be deemed to be the same
31 kind of insurance to which it is so incidental, and shall not
32 be subject to provisions of this Title applicable to life and
33 health insurances.

1 § 708 Marine and transportation, "wet marine" insurance defined

2 1. "Marine and transportation insurance" includes:

3 A. Insurance against any kinds of loss or damage
4 to:

5 (1) Vessels, craft, aircraft, cars, automobiles and
6 vehicles of every kind, as well as all goods, freights, cargoes,
7 merchandise, effects, disbursements, profits, moneys, bullion,
8 precious stones, securities, choses in action, evidences of
9 debt, valuable papers, bottomry and respondentia interests
10 and all other kinds of property and interests therein, in
11 respect to, appertaining to, or in connection with any and all
12 risks or perils of navigation, transit, or transportation,
13 including war risks, on or under any seas or other waters, on
14 land or in the air, or while being assembled, packed, crated,
15 baled, compressed or similarly prepared for shipment or while
16 awaiting the same or during any delays, storage, transshipment,
17 or reshipment incident thereto, including marine builder's
18 risks and all personal property floater risks, and

19 (2) Person or to property in connection with or
20 appertaining to a marine, inland marine, transit or transpor-
21 tation insurance, including liability for loss of or damage
22 to either, arising out of or in connection with the construc-
23 tion, repair, operation, maintenance or use of the subject
24 matter of such insurance (but not including life insurance
25 or surety bonds nor insurance against loss by reason of bodily
26 injury to the person arising out of the ownership, maintenance
27 or use of automobiles), and

28 (3) Precious stones, jewels, jewelry, gold,
29 silver and other precious metals, whether used in business
30 or trade or otherwise and whether the same be in course of
31 transportation or otherwise, and

32 (4) Bridges, tunnels and other instrumentalities

1 of transportation and communication (excluding buildings,
2 their furniture and furnishings, fixed contents and supplies
3 held in storage) unless fire, tornado, sprinkler leakage,
4 hail, explosion, earthquake, riot and/or civil commotion are
5 the only hazards to be covered; piers, wharves, docks and
6 slips, excluding the risks of fire, tornado, sprinkler leak-
7 age, hail, explosion, earthquake, riot and/or civil commotion;
8 other aids to navigation and transportation, including dry
9 docks and marine railways, against all risks.

10 B. "Marine protection and indemnity insurance,"
11 meaning insurance against, or against legal liability of the
12 insured for, loss, damage or expense arising out of, or
13 incident to, the ownership, operation, chartering, maintenance,
14 use, repair or construction of any vessel, craft or instrument-
15 ality in use in ocean or inland waterways, including liability
16 of the insured for personal injury, illness or death or for
17 loss of or damage to the property of another person.

18 2. For the purposes of this Title, "wet marine and
19 transportation" insurance is that part of "marine and trans-
20 portation" insurance which includes only:

21 A. Insurance upon vessels, crafts, hulls and of
22 interests therein or with relation thereto:

23 B. Insurance of marine builders' risks, marine
24 war risks and contracts of marine protection and indemnity
25 insurance;

26 C. Insurance of freights and disbursements per-
27 taining to a subject of insurance coming within this defini-
28 tion; and

29 D. Insurance of personal property and interests
30 therein, in course of exportation from or importation into
31 any country, or in course of transportation coastwise or on
32 inland waters, including transportation by land, water or

1 air from point of origin to final destination, in respect to,
2 appertaining to or in connection with, any and all risks or
3 perils of navigation, transit or transportation, and while
4 being prepared for and while awaiting shipment, and during
5 any delays, storage, transshipment or reshipment incident
6 thereto.

7 § 709. "Title insurance" defined

8 Title insurance is insurance of owners of property or
9 others having an interest therein, or liens or encumbrances
10 thereon, against loss by encumbrance, or defective titles,
11 or invalidity, or adverse claim to title.

12 § 710. "Multiple line" insurers

13 A multiple line insurer may transact any two or more
14 kinds of insurance, as defined in sections 704 ^{to} through 709
15 ~~of this chapter~~ (health, property, surety, casualty, marine
16 and transportation and title insurance). This provision
17 shall not be deemed to prohibit such an insurer from trans-
18 acting also life insurance and annuity business if otherwise
19 qualified therefor under this Title.

20 SUBCHAPTER II. LIMITS OF RISK

21 § 721. Limits of risk

22 1. No insurer shall retain any risk on any one subject
23 of insurance, whether located or to be performed in this State
24 or elsewhere, in an amount exceeding 10% of its surplus to
25 policyholders.

26 2. A "subject of insurance" for the purposes of this sec-
27 tion, as to insurance against fire and hazards other than wind-
28 storm, earthquake and other catastrophic hazards, includes all
29 properties insured by the same insurer which are customarily
30 considered by underwriters to be subject to loss or damage from
31 the same fire or the same occurrence of any other hazard insured
32 against.

1 3. Reinsurance ceded as authorized by section 731
2 of this Title shall be deducted in determining risk retained.
3 As to surety risks, deduction shall be made of the amount
4 assumed by any authorized co-surety and the value of any
5 security deposited, pledged, or held subject to the surety's
6 consent and for the surety's protection.

7 4. As to alien insurers, this section shall relate
8 only to risks and surplus to policyholders of the insurer's
9 United States branch.

10 5. "Surplus to policyholders" for the purposes of this
11 section, in addition to the insurer's capital and
12 surplus, shall be deemed to include any voluntary reserves
13 which are not required pursuant to law, and shall be deter-
14 mined from the last sworn statement of the insurer on file
15 with the commissioner, or by the last report of examination
16 of the insurer, whichever is the more recent at time of
17 assumption of risk.

18 6. This section shall not apply to life or health
19 insurance, annuities, title insurance, insurance of wet
20 marine and transportation risks, workmen's compensation
21 insurance, employers' liability coverages, nor to any policy
22 or type of coverage as to which the maximum possible loss
23 to the insurer is not readily ascertainable on issuance of
24 the policy.

25 7. Limits of risk as to newly formed domestic mutual
26 insurers shall be as provided in section 3352 ~~of this Title.~~

27 SUBCHAPTER III. REINSURANCE

28 § 731. Reinsurance

29 1. An insurer may accept reinsurance only of such
30 kinds of risks, and retain risk thereon within such limits,
31 as it is otherwise authorized to insure.

1 2. An insurer may reinsure all or part of any particu-
2 lar risk with any solvent insurer authorized to transact
3 insurance in one or more states and having surplus to policy-
4 holders in amount not less than the paid-in capital stock
5 required of an authorized foreign stock insurer transacting
6 like kinds of insurance. Cession of bulk reinsurance by a
7 domestic insurer is subject to section 3483 (bulk rein-
8 surance), ~~of this Title.~~

9 3. No credit shall be allowed to an insurer, as an
10 asset or as a deduction from liability, for reinsurance
11 ceded to an alien insurer unless such alien insurer has sur-
12 plus to policyholders in amount not less than the paid-in
13 capital stock required of an authorized foreign stock insurer
14 transacting like kinds of insurance and is authorized to
15 transact insurance in at least one state of the United States;
16 or, in the case of a group of individual, unincorporated alien
17 insurers, has assets held in trust for the benefit of its
18 United States policyholders in a sum not less than \$50,000,000,
19 and is authorized to transact insurance in at least one state.

20 4. Credit shall be allowed as an asset or as a deduction
21 from liability, to any ceding insurer for reinsurance ceded
22 to an assuming insurer qualified therefor under subsection 3,
23 above; except that no such credit shall be allowed unless the
24 reinsurance is payable by the assuming insurer on the basis
25 of the liability of the ceding insurer under the contracts
26 reinsured without diminution because of the insolvency of the
27 ceding insurer.

28 5. Upon request of the commissioner an insurer shall
29 promptly inform the commissioner in writing of the cancella-
30 tion or any other material change of any of its reinsurance
31 treaties or arrangements.

1 6. This section shall not apply to wet marine and
2 transportation insurance.

3

4

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CHAPTER 11. ASSETS AND LIABILITIES

6

SUBCHAPTER I. ASSETS

7

§ 901. "Assets" defined

8 In any determination of the financial condition of an
9 insurer, there shall be allowed as assets only such assets
10 as are owned by the insurer and which consist of:

11 1. Cash in the possession of the insurer, or in transit
12 under its control, and including the true balance of any de-
13 posit in a solvent bank or trust company.

14 2. Investments, securities, properties and loans
15 acquired or held in accordance with this Title, and in connec-
16 tion therewith the following items:

17 A. Interest due or accrued on any bond or evidence of
18 indebtedness which is not in default and which is not valued
19 on a basis including accrued interest.

20 B. Declared and unpaid dividends on stock and shares,
21 unless such amount has otherwise been allowed as an asset.

22 C. Interest due or accrued upon a collateral loan
23 in an amount not to exceed one year's interest thereon.

24 D. Interest due or accrued on deposits in solvent
25 banks and trust companies, and interest due or accrued on
26 other assets, if such interest is in the judgment of the
27 commissioner a collectible asset.

28 E. Interest due or accrued on a mortgage loan, in an
29 amount not exceeding in any event the amount, if any, of
30 the excess of the value of the property less delinquent
31 taxes thereon over the unpaid principal; but in no event

1 shall interest accrued for a period in excess of 18 months
2 be allowed as an asset.

3 F. Rent due or accrued on real property if such
4 rent is not in arrears for more than 3 months, and rent more
5 than 3 months in arrears if the payment of such rent be ade-
6 quately secured by property held in the name of the tenant
7 and conveyed to the insurer as collateral.

8 G. The unaccrued portion of taxes paid prior
9 to the due date on real property.

10 3. Premium notes, policy loans, and other policy
11 assets and liens on policies and certificates of life insur-
12 ance and annuity contracts and accrued interest thereon, in
13 an amount not exceeding the legal reserve and other policy
14 liabilities carried on each individual policy.

15 4. The net amount of uncollected and deferred
16 premiums and annuity considerations in the case of a life
17 insurer.

18 5. Premiums in the course of collection, other
19 than for life insurance, not more than 3 months past due,
20 less commissions payable thereon. The foregoing limitation
21 shall not apply to premiums payable directly or indirectly
22 by the United States government or by any of its instrument-
23 alities.

24 6. Installment premiums other than life insurance
25 premiums to the extent of the unearned premium reserve carried
26 on the policy to which premiums apply.

27 7. Notes and like written obligations not past
28 due, taken for premiums other than life insurance premiums,
29 on policies permitted to be issued on such basis, to the
30 extent of the unearned premium reserves carried thereon.

31 8. The full amount of reinsurance recoverable by
32 a ceding insurer from a solvent reinsurer and which reinsurance

1 is authorized under section 731 of ~~this Title~~.

2 9. Amounts receivable by an assuming insurer repre-
3 senting funds withheld by a solvent ceding insurer under
4 a reinsurance treaty.

5 10. Deposits or equities recoverable from under-
6 writing associations, syndicates and reinsurance funds,
7 or from any suspended banking institution, to the extent
8 deemed by the commissioner available for the payment of
9 losses and claims and at values to be determined by him.

10 11. All assets, whether or not consistent with the
11 provisions of this section, as may be allowed pursuant to
12 the annual statement form approved by the commissioner for
13 the kinds of insurance to be reported upon therein.

14 12. As to a title insurer, its title plant and equip-
15 ment reasonably necessary for conduct of its abstract or
16 title insurance business, at not to exceed the cost thereof.

17 13. Electronic and mechanical machines and related
18 equipment constituting a data processing, recordkeeping,
19 or accounting system or systems if the cost of each such
20 system is at least \$25,000, which cost shall be amortized
21 in full over a period not to exceed 10 years. The aggre-
22 gate amount invested in all such systems shall not exceed
23 5% of the insurer's assets.

24 14. Other assets, not inconsistent with the provi-
25 sions of this section, deemed by the commissioner to be
26 available for the payment of losses and claims, at values
27 to be determined by him.

28 § 902. Assets not allowed

29 In addition to assets impliedly excluded by the pro-
30 visions of section 901 of ~~this chapter~~, the following
31 expressly shall not be allowed as assets in any determina-
32 tion of the financial condition of an insurer:

1. Good will, trade names and other like intangible

1 assets.

2 2. Advances to officers (other than policy loans)
3 whether secured or not, and advances to employees, agents
4 and other persons on personal security only.

5 3. Stock of such insurer, owned by it, or any equity
6 therein or loans secured thereby, or any proportionate
7 interest in such stock acquired or held through the owner-
8 ship by such insurer of an interest in another firm, corpora-
9 tion or business unit.

10 4. Furniture, fixtures, furnishings, safes, vehicles,
11 libraries, stationery, literature and supplies (other than
12 data processing, recordkeeping and accounting systems author-
13 ized under section 901, subsection 13 of ~~this chapter~~, except in
14 the case of title insurers such materials and plants as the
15 insurer is expressly authorized to invest in under section
16 1129 of ~~this Title~~ and except, in the case of any insurer,
17 such personal property as the insurer is permitted to hold
18 pursuant to chapter 13, of ~~this Title~~, or which is reasonably
19 necessary for the maintenance and operation of real estate
20 lawfully acquired and held by the insurer other than real
21 estate used by it for home office, branch office and similar
22 purposes.

23 5. The amount, if any, by which the aggregate book
24 value of investments as carried in the ledger assets of the
25 insurer exceeds the aggregate value thereof as determined
26 under this Title.

27 SUBCHAPTER II. LIABILITIES

28 § 921. Liabilities, in general

29 In any determination of the financial condition of an
30 insurer, capital stock and liabilities to be charged against
31 its assets shall include:

32 1. The amount of its capital stock outstanding, if any.

1 2. The amount, estimated consistent with the provi-
2 sions of this Title, necessary to pay all of its unpaid
3 losses and claims incurred on or prior to the date of state-
4 ment, whether reported or unreported, together with the
5 expenses of adjustment or settlement thereof.

6 3. With reference to life insurance policies and
7 annuity contracts, and disability and accidental death bene-
8 fits in or supplemental thereto:

9 A. The amount of reserves on life insurance policies
10 and annuity contracts in force, valued according to the
11 tables of mortality, rates of interest, and methods adopted
12 pursuant to this Title which are applicable thereto.

13 B. Reserves for disability benefits, for both active
14 and disabled lives.

15 C. Reserves for accidental death benefits.

16 D. Any additional reserves which may be required by
17 the commissioner consistent with applicable customary and
18 general practice in insurance accounting.

19 4. As to health insurance policies, the reserve
20 required under section 925 of ~~this chapter~~.

21 5. With reference to insurance other than specified
22 in ^{subdivisions} ~~subdivisions~~ 3 and 4 above, and other than title insur-
23 ance, the amount of the unearned premium reserves computed
24 in accordance with this subchapter.

25 § 922. Disallowance of "wash" transactions

26 1. The commissioner shall disallow as an asset or as
27 a credit against liabilities any reinsurance found by him
28 after a hearing thereon to have been arranged for the purpose
29 principally of deception as to the ceding insurer's financial
30 condition as at the date of any financial statement of the
31 insurer. Without limiting the general purport of the fore-
32 going provision, reinsurance of any substantial part of the

1 insurer's outstanding risks contracted for in fact within
2 4 months prior to the date of any such financial statement
3 and cancelled in fact within 4 months after the date of such
4 statement, or reinsurance under which the reinsurer bears
5 no substantial insurance risk or chance of net loss to
6 itself, shall prima facie be deemed to have been arranged
7 principally for the purpose of deception.

8 2. The commissioner shall disallow as an asset any
9 deposit, funds or other assets of the insurer found by him
10 after a hearing thereon:

11 A. Not to be in good faith the property of the insurer,
12 and

13 B. Not freely subject to withdrawal or liquidation by
14 the insurer at any time for the payment or discharge of
15 claims or other obligations arising under its policies, and
(except as to statutory deposits of the insurer)

16 C. To be resulting from arrangements made principally
17 for the purpose of deception as to the insurer's financial
18 condition as at the date of any financial statement of the
19 insurer.

20 3. The commissioner may suspend or revoke the certifi-
21 cate of authority of any insurer which has knowingly been a
22 party to any such deception or attempt thereat.

23 § 923. Unearned premium reserve

24 1. As to property, casualty and surety insurance the
25 insurer shall maintain an unearned premium reserve on all
26 policies in force.

27 2. Except as provided in section 924 of ~~this chapter~~
28 as to marine and transportation risks, the unearned premium
29 reserve shall be ~~equal to not less than 50% of~~
30 ~~premiums in force after deduction of applicable reinsurance~~
31 ~~in solvent insurers.~~

1 § 924. Unearned premium reserve for marine and
2 transportation insurance

3 As to marine and transportation insurance, the entire
4 amount of premiums on trip risks not terminated shall be
5 deemed unearned; and the commissioner may require the
6 insurer to carry a reserve equal to 100% of premiums on
7 trip risks written during the month ended as of the date of
8 statement.

9 § 925. Health insurance policy reserves

10 For all health insurance policies the insurer shall
11 maintain an active life reserve which shall place a sound
12 value on its liabilities under such policies and be not less
13 than the reserve according to appropriate standards set
14 forth in regulations issued by the commissioner and, in no
15 event, less in the aggregate than the pro rata gross
16 unearned premiums for such policies.

17 § 926. Title insurance reserves

18 In addition to an adequate reserve as to outstanding
19 losses as required under section 921 ~~of this chapter~~, a
20 title insurer shall maintain a guaranty fund or unearned
21 premium reserve of not less than an amount computed as
22 follows:

23 1. Ten percent of the total amount of the risk portion
24 of premiums written in the calendar year for title insurance
25 contracts shall be assigned originally to the reserve.

26 2. During each of the 20 years next following the
27 year in which the title insurance contract was issued, the
28 reserve applicable to the contract may be reduced by 5% of
29 the original amount of such reserve.

30 § 927. Mortgage guaranty contingency reserve

31 1. Casualty or surety insurers insuring real property
32 mortgage lenders against loss by reason of nonpayment of the
 mortgage indebtedness by the borrower, shall maintain a con-

1 tingency reserve for the protection of policyholders against
2 the effects of adverse economic cycles.

3 2. The insurer shall contribute to such contingency
4 reserve 50% of the net premiums (gross premiums less pre-
5 miums returned to policyholders) written on such insurance
6 remaining after establishment of the unearned premium
7 reserve.

8 3. Subject to the commissioner's approval, the contin-
9 gency reserve shall be available for payment of losses only
10 when the insurer's incurred losses in any one calendar year
11 exceed the rate formula expected losses by 10% of the related
12 earned premiums.

13 SUBCHAPTER III. LIFE INSURANCE RESERVES

14 § 951. Short title

15 Sections 951 ^{to} ~~through~~ 957 shall be known as the "standard
16 valuation law."

17 § 952. Calculation of reserve liabilities

18 1. The commissioner shall annually value, or cause to
19 be valued, the reserve liabilities, hereinafter called
20 reserves, for all outstanding life insurance policies and
21 annuity and pure endowment contracts of every life insurer
22 transacting business in this State, except that in the case
23 of an alien insurer, such valuation shall be limited to its
24 United States business; and may certify the amount of any
25 such reserves, specifying the mortality table or tables,
26 rate or rates of interest and methods, net level premium
27 method or other, used in the calculation of such reserves.
28 In calculating such reserves, he may use group methods and
29 approximate averages for fractions of a year or otherwise.
30 In lieu of the valuation of the reserves required of any
31 foreign or alien insurer, he may accept any valuation made,
32 or caused to be made, by the insurance supervisory official

1 of any state or other jurisdiction when such valuation
2 complies with the minimum standard herein provided and if
3 the official of such state or jurisdiction accepts as
4 sufficient and valid for all legal purposes the certificate
5 of valuation of the commissioner when such certificate
6 states the valuation to have been made in a specified
7 manner according to which the aggregate reserves would be
8 at least as large as if they had been computed in the manner
9 prescribed by law of that state or jurisdiction.

10 2. Any such insurer which at any time shall have
11 adopted any standard of valuation producing greater aggregate
12 reserves than those calculated according to the minimum
13 standard herein provided may, with the approval of the
14 commissioner, adopt any lower standard of valuation, but
15 not lower than the minimum herein provided.

16 § 953. Minimum standards

17 1. This subsection applies only to policies and contracts
18 issued prior to January 1, 1943, or such earlier
19 date after July 21, 1945, as shall have been elected by an
20 insurer as the date on and after which it would comply with
21 the standard nonforfeiture law.

22 The legal minimum standard of value for such life
23 insurance policies issued on or after the first day of
24 September, 1931, by any life insurer chartered by this State,
25 shall be the American Experience Table of Mortality with
26 interest at $3\frac{1}{2}\%$ per year. Any such life insurer may, at
27 its option, value its insurance policies issued on and
28 after such day, in accordance with their terms on the
29 basis of the American Men Ultimate Table of Mortality with
30 interest not higher than $3\frac{1}{2}\%$ per year by the level net-pre-
31 mium method. Reserves for all such policies and contracts
32 may be calculated, at the option of the insurer, according

1 to any standards which produce greater aggregate reserves
2 for all such policies and contracts than the minimum
3 reserves required by this subsection.

4 2. This subsection applies only to policies and con-
5 tracts issued on and after January 1, 1948, or such earlier
6 date after July 21, 1945, as shall have been elected by an
7 insurer as the date on and after which it would comply with
8 the standard nonforfeiture law.

9 The minimum standard for the valuation of all such poli-
10 cies and contracts shall be the commissioners reserve valua-
11 tion method defined in section 954, 3 $\frac{1}{2}$ % interest, and the
12 following tables:

13 A. Standard Ordinary Mortality Table. For all ordin-
14 ary policies of life insurance issued on the standard basis,
15 excluding any disability and accidental death benefits in
16 such policies, - the Commissioners 1941 Standard Ordinary
17 Mortality Table; provided, however, that the Commissioners
18 1958 Standard Ordinary Mortality Table shall be the table
19 for such minimum ^(for such policies issued) standard on and after January 1, 1966, or
20 such earlier date after September 12, 1959, as shall have
21 been elected by an insurer as the date on and after which
22 it would use such table as the basis for minimum cash
23 surrender values and nonforfeiture benefits under the
24 standard nonforfeiture law; provided that for any category
25 of such policies issued on female risks all modified net
26 premiums and present values referred to in sections 951 to
27 957 may be calculated according to an age not more than
28 3 years younger than the actual age of the insured.

29 B. Standard Industrial Mortality Table. For all
30 industrial life insurance policies issued on the standard
31 basis, excluding any disability and accidental death bene-
32 fits in such policies, - the 1941 Standard Industrial

1 Mortality Table; provided, however, that the Commissioners
2 1961 Standard Industrial Mortality Table shall be the table
3 for such minimum standard ^{on such policies issued} on and after January 1, 1968, or
4 such earlier date after September 1, 1962, as shall have
5 been elected by the insurer as the date on and after which
6 it would use such table as the basis for minimum cash
7 surrender values and nonforfeiture benefits under the
8 standard nonforfeiture law.

9 C. Standard Annuity Mortality Table or Annuity
10 Mortality Table. For individual annuity and pure endowment
11 contracts, excluding any disability and accidental death
12 benefits in such policies - the 1937 Standard Annuity
13 Mortality Table or, at the option of the insurer, the Annuity
14 Mortality Table for 1949, Ultimate, or any modification of
15 either of these tables approved by the commissioner.

16 D. Group Annuity Mortality Table. For group annuity
17 and pure endowment contracts, excluding any disability and
18 accidental death benefits in such policies - the Group
19 Annuity Mortality Table for 1951, any modification of such
20 table approved by the commissioner, or, at the option of the
21 insurer, any of the tables or modifications of tables speci-
22 fied for individual annuity and pure endowment contracts.

23 E. Class (3) Disability Table. For total and perman-
24 ent disability benefits in or supplementary to ordinary
25 policies or contracts - for policies or contracts issued on
26 or after January 1, 1966, the tables of Period 2 disable-
27 ment rates and the 1930 to 1950 termination rates of the
28 1952 Disability Study of the Society of Actuaries, with due
29 regard to the type of benefit; for policies or contracts
30 issued on or after January 1, 1961 and prior to January 1,
31 1966, either such tables or, at the option of the insurer,
32 the Class (3) Disability Table (1926); and for policies

1 issued prior to January 1, 1961, the Class (3) Disability
2 Table (1926). Any such table shall, for active lives, be
3 combined with a mortality table permitted for calculating
4 the reserves for life insurance policies.

5 F. Inter-Company Double Indemnity Mortality Table.

6 For accidental death benefits in or supplementary to poli-
7 cies - for policies issued on or after January 1, 1966, the
8 1959 Accidental Death Benefits Table; for policies issued
9 on or after January 1, 1961 and prior to January 1, 1966,
10 either such table or, at the option of the insurer, the
11 Inter-Company Double Indemnity Mortality Table; and for
12 policies issued prior to January 1, 1961, the Inter-Company
13 Double Indemnity Mortality Table. Either table shall be
14 combined with a mortality table permitted for calculating
15 the reserves for life insurance policies.

16 G. Group Life Insurance Tables. For group life insur-
17 ance, life insurance issued on the substandard basis and
18 other special benefits - such table as may be approved by
19 the commissioner.

20 § 954. Commissioners reserve valuation method defined

21 Reserves according to the commissioners reserve valua-
22 tion method, for the life insurance and endowment benefits
23 of policies providing for a uniform amount of insurance and
24 requiring the payment of uniform premiums shall be the
25 excess, if any, of the present value, at the date of valua-
26 tion, of such future guaranteed benefits provided for by
27 such policies, over the then present value of any future
28 modified net premiums therefor. The modified net premiums
29 for any such policy shall be such uniform percentage of the
30 respective contract premiums for such benefits that the
31 present value, at the date of issue of the policy, of all
32 such modified net premiums shall be equal to the sum of the

1 then present value of such benefits provided for by the
2 policy and the excess of 1 over 2, as follows:

3 1. Net level annual premium. A net level annual pre-
4 mium equal to the present value, at the date of issue, of
5 such benefits provided for after the first policy year,
6 divided by the present value, at the date of issue, of an
7 annuity of one per annum payable on the first and each sub-
8 sequent anniversary of such policy on which a premium falls
9 due. Such net level annual premium shall not exceed the
10 net level annual premium on the 19-year premium whole life
11 plan for insurance of the same amount at an age one year
12 higher than the age at issue of such policy.

13 2. Net one-year term premium. A net one-year term
14 premium for such benefits provided for in the first policy
15 year.

16 Reserves according to the commissioners reserve valua-
17 tion method for:

18 A. Life insurance policies providing for a varying
19 amount of insurance or requiring the payment of varying pre-
20 miums,

21 B. Annuity and pure endowment contracts,

22 C. Disability and accidental death benefits in all
23 policies and contracts, and

24 D. All other benefits, except life insurance and endow-
25 ment benefits in life insurance policies,

26 shall be calculated by a method consistent with the princi-
27 ples of the preceding ~~paragraph~~ ^{provisions}, except that any extra pre-
28 miums charged because of impairments or special hazards
29 shall be disregarded in the determination of modified net
30 premiums.

31 § 955. Amount of aggregate reserves

32 In no event shall an insurer's aggregate reserves for

1 all life insurance policies, excluding disability and acci-
2 dental death benefits, which are subject to section 953,
3 subsection 2, ~~of this chapter~~, be less than the aggregate
4 reserves calculated in accordance with the method set forth
5 in section 954 ~~of this chapter~~ and the mortality table or
6 tables and rate or rates of interest used in calculating
7 nonforfeiture benefits for such policies.

8 § 956. Calculation of reserves

9 Reserves for any category of policies, contracts or
10 benefits as established by the commissioner, which are sub-
11 ject to section 953, subsection 2, ~~of this chapter~~, may be
12 calculated, at the option of the insurer, according to any
13 standards which produce greater aggregate reserves for such
14 category than those calculated according to the minimum
15 standard herein provided, but the rate or rates of interest
16 used shall not be higher than the corresponding rate or
17 rates of interest used in calculating any nonforfeiture
18 benefits provided for therein. Reserves for participating
19 life insurance policies, which are subject to section 953,
20 subsection 2, ~~of this chapter~~ may, with the consent of the
21 commissioner, be calculated according to a rate of interest
22 lower than the rate of interest used in calculating the non-
23 forfeiture benefits in such policies, with the further pro-
24 viso that if such lower rate differs from the rate used in
25 the calculation of the nonforfeiture benefits by more than
26 1/2% the insurer issuing such policies shall file with the
27 commissioner a plan providing for such equitable increases,
28 if any, in the cash surrender values and nonforfeiture bene-
29 fits in such policies as the commissioner shall approve.

30 § 957. Deficiency reserve

31 If the gross premium charged by any life insurer on
32 any policy or contract which is subject to section 953,

1 subsection 2, ~~of this chapter~~, is less than the net premium
2 for the policy or contract according to the mortality table,
3 rate of interest and method used in calculating the reserve
4 thereon, there shall be maintained on such policy or con-
5 tract a deficiency reserve in addition to all other
6 reserves required by law. For each such policy or contract
7 the deficiency reserve shall be the present value, accord-
8 ing to such standard, of an annuity of the difference
9 between such net premium and the premium charged for such
10 policy or contract, running for the remainder of the pre-
11 mium-paying period.

12 SUBCHAPTER IV. VALUATION OF ASSETS

13 § 981. Valuation of bonds

14 1. All bonds or other evidences of debt having
15 a fixed term and rate of interest held by an insurer may, if
16 amply secured and not in default as to principal or interest,
17 be valued as follows:

18 A. If purchased at par, at the par value.

19 B. If purchased above or below par, on the basis of
20 the purchase price adjusted so as to bring the value to par
21 at maturity and so as to yield in the meantime the effective
22 rate of interest at which the purchase was made, or in lieu
23 of such method, according to such accepted method of valua-
24 tion as is approved by the commissioner.

25 C. Purchase price shall in no case be taken at a higher
26 figure than the actual market value at the time of purchase,
27 plus actual brokerage, transfer, postage or express charges
28 paid in the acquisition of such securities.

29 D. Unless otherwise provided by valuation established
30 or approved by the commissioner, no such security shall be
31 carried at above the call price for the entire issue during
32 any period within which the security may be so called.

1 2. The commissioner shall have full discretion in
2 determining the method of calculating values according to
3 the rules set forth in this section.

4 § 982. Valuation of other securities

5 1. Securities, other than those referred to in section
6 ~~981~~ of this chapter, held by an insurer shall be valued, in
7 the discretion of the commissioner, at their market value, or
8 at their appraised value, or at prices determined by him as
9 representing their fair market value.

10 2. Preferred or guaranteed stocks or shares while pay-
11 ing full dividends may be carried at a fixed value in lieu
12 of market value, at the discretion of the commissioner and in
13 accordance with such method of computation as he may approve.

14 3. The stock of a subsidiary of an insurer shall ^{not} be
15 valued on ^a ~~the~~ ^{in excess of} basis of the value of only such of the assets
16 of such subsidiary as would constitute lawful investments
17 of the insurer if acquired or held directly by the insurer.

18 § 983. Valuation of property

19 1. Real property acquired pursuant to a mortgage loan
20 or contract for sale, in the absence of a recent appraisal
21 deemed by the commissioner to be reliable, shall not be
22 valued at an amount greater than the unpaid principal of the
23 defaulted loan or contract at the date of such acquisition,
24 together with any taxes and expenses paid or incurred in con-
25 nection with such acquisition, and the cost of improvements
26 thereafter made by the insurer and any amounts thereafter
27 paid by the insurer on assessments levied for improvements
28 in connection with the property.

29 2. Other real property held by an insurer shall not be
30 valued at an amount in excess of fair value as determined by
31 recent appraisal. If valuation is based on an appraisal
32 more than 3 years old, the commissioner may at his discretion

1 call for and require a new appraisal in order to determine
2 fair value.

3 § 984. Valuation of purchase money mortgages

4 Purchase money mortgages on real property referred to
5 in section 983, subsection 1, of ~~this subchapter~~ shall be
6 valued in an amount not exceeding the acquisition cost of
7 the real property covered thereby or 90% of the fair value
8 of such real property, whichever is less.

5. Nothing in this chapter shall be deemed to prohibit an insurer from advancing funds to another insurer upon the type of agreement ~~provided~~ provided for in section 3415 (borrowed capital funds) of this Title, and subject to the terms of such ~~Section~~ Section 3416.

1 CHAPTER 13

2 INVESTMENTS

3 § 1101. Scope of chapter

4 Except as provided in section 1137 ~~of this chapter,~~
5 this chapter applies to domestic insurers only.

6
7 § 1102. Eligible investments

8 1. Insurers shall hereafter invest in or lend their
9 funds on the security of, and shall hold as ~~invested assets,~~
10 ~~only~~ ^{only those} eligible investments ~~as~~ prescribed in this chapter.

11 2. Any particular investment held by an insurer on
12 the effective date of this Act, which was a legal invest-
13 ment at the time it was made, and which the insurer was
14 legally entitled to possess immediately prior to such effec-
15 tive date, shall be deemed to be an eligible investment.

16 3. Eligibility of an investment shall be determined
17 as of the date of its making or acquisition, except as stated
18 in subsection 2 above.

19 4. Any investment limitation or diversification require-
20 ment based upon the amount of the insurer's assets or
21 particular funds shall relate to such assets or funds as
22 shown by the insurer's annual statement as of the December
23 31 next preceding date of acquisition of the investment by
24 the insurer, or as shown by a current applicable financial
25 statement resulting from merger of another insurer, bulk
26 reinsurance, or change in capitalization.

27
28 § 1103. General qualifications

29 1. No security or investment (other than real and
30 personal property acquired under section 1125 (real estate))
31 ~~of this chapter~~, shall be eligible for acquisition unless
32 it is interest bearing or interest accruing or entitled to

if declared,
1 dividends, or is otherwise income-entitled, is not then in
2 default in any respect, and the insurer is entitled to
3 receive for its exclusive account and benefit the interest
4 or income accruing thereon.

5 2. No security or investment shall be eligible for
6 purchase at a price above its fair value or market value.

7 3. No provision of this chapter shall prohibit the
8 acquisition by an insurer of other or additional securities
9 or property if received as a dividend or as a lawful distri-
10 bution of assets, or upon a debt or judgment, or under a
11 lawful and bona fide agreement of bulk reinsurance, merger,
12 or consolidation. Any security or property so acquired
13 which is not otherwise an eligible investment under this
14 chapter shall be disposed of pursuant to section 1133 of ~~this~~
15 ~~chapter~~ if real estate, or pursuant to section 1134 of ~~this~~
16 ~~chapter~~ if personal property or securities.

17

18 § 1104. Authorization, record of investments

19 1. An insurer shall not make any investment or loan,
20 *o* (other than policy loans or annuity contract loans of a life
21 insurer), unless the same is authorized or approved by the
22 insurer's board of directors or by a committee thereof
23 charged with supervision of investments and loans.

24 2. The insurer shall maintain a full record of each
25 investment, showing, among other pertinent information, the
26 name of any officer, director or principal stockholder of
27 the insurer having any direct, indirect, or contingent
28 interest in the securities, loan, or property constituting
29 the investment, or in the person in whose behalf the invest-
30 ment is made, and the nature of such interest.

1 § 1105. Diversification - Life, life/health insurers

2 Investments of an insurer transacting life or health
3 insurances or both shall as to such insurances be subject
4 to the following diversification requirements and limita-
5 tions:

6 1. Not less than 60% of the insurer's assets in aggre-
7 gate amount shall consist of cash funds and investments
8 eligible under the following sections of ~~this chapter~~:

9 A. 1107 (public obligations);

10 B. 1108 (obligations, stock of certain federal and
11 international agencies);

12 C. 1109 (corporate obligations);

13 D. 1116 (trustees' or receivers' obligations);

14 F.E. 1117 (equipment trust certificates);

15 E. 1118 (acceptances, bills of exchange);

16 H.G. 1119 (savings institutions);

17 I.H. 1120¹ (bank's common trust fund);

18 J. 1121 (hydrocarbon production payments);

19 K. 1122 (policy loans);

20 L. 1124 (mortgage loans);

21 M. 1126 (housing developments); and

22 N. 1130 (investments in foreign countries).

23 2. The insurer shall not invest in aggregate amount
24 over 20% of its assets in all investments eligible under the
25 following sections of this chapter:

26 D. 1112 (preferred or guaranteed stocks);

27 B. 1113 (common stocks);

28 E. 1114 (insurance stocks);

29 C. 1115 (stocks of subsidiaries) as to subsidiary
30 insurance corporations; and

31 E. 1120² (mutual funds).

32 3. The insurer shall not invest ^{in aggregate amount} over 15% of its assets

1 ~~in aggregate amount~~ in all investments ^(in real estate) eligible under
2 section 1125 (real estate) ^{and 1127 (leased property)} of ~~this~~ chapter.

3 4. The insurer shall not invest over 10% of its assets
4 in investments eligible under section 1127 (leased property) ~~of this chapter.~~

5
6 5. Notwithstanding any other provision an insurer
7 shall ~~not~~ ^{may} invest in the aggregate an amount ^{not} in excess of
8 35% of its surplus as to policyholders in all investments
9 eligible under the section 1115 (stocks of subsidiaries) of
10 ~~this~~ chapter.

11 6. Except as otherwise expressly provided an insurer
12 shall not invest more than 10% of its assets in the securi-
13 ties of any one person, other than investments eligible under
14 the following sections of ~~this~~ chapter:

- 15 A. 1107 (public obligations);
16 B. 1108 (obligations, stock of certain federal and
17 international agencies); and
18 C. 1122 (policy loans).

19 7. Other investment limitations shall be as provided
20 in particular sections of this chapter.

21
22 § 1106. Diversification - Property, casualty
and other nonlife insurers

23 Investments of an insurer transacting property, casualty,
24 surety and other such insurances other than life insurance
25 and annuity business, and including health insurance when
26 transacted by an insurer also transacting casualty insurance,
27 shall as to such insurances be subject to the following
28 diversification requirements and limitations:

- 29 1. Not less than 50% of the insurer's assets in aggre-
30 gate amount shall consist of cash funds, agents' balances
31 less than 90 days past due, and investments eligible under
32 the following sections of ~~this~~ chapter:

in real estate

3. The insurer shall not invest in aggregate amount over 20% of its assets in all investments eligible under sections 1125 (real estate) and 1127 (leased property) of this chapter.

- 1 A. 1107 (public obligations);
- 2 B. 1108 (obligations, stock of certain federal and
- 3 international agencies);
- 4 C. 1109 (corporate obligations);
- 5 D. 1112 (preferred or guaranteed stocks);
- 6 E. 1116 (trustees' or receivers' obligations);
- 7 F. 1117 (equipment trust certificates);
- 8 G. 1118 (acceptances, bills of exchange);
- 9 H. 1119 (savings institutions);
- 10 I. 1120 (common trust funds, mutual funds);
- 11 J. 1124 (mortgage loans); and
- 12 K. 1126 (housing developments).

13 2. The insurer shall not invest in aggregate amount
14 ^{in excess} over ~~85%~~₁ of its surplus as to policyholders in all invest-
15 ments eligible under the following sections of this chapter:

- 16 A. 1113 (common stocks);
- 17 B. 1114 (insurance stocks);
- 18 C. 1115 (stocks of subsidiaries); and
- 19 D. 1120^{, subsection 2}₂ (mutual funds).

20 ~~4~~¹. Except as otherwise expressly provided an insurer
21 shall not invest more than 10% of its assets in the securi-
22 ties of any one person, other than investments eligible
23 under the following sections of this chapter:

- 24 A. 1107 (public obligations); and
- 25 B. 1108 (obligations, stock of certain federal and
- 26 international agencies).

27

28 § 1107. Public obligations

29 An insurer may invest in bonds or other evidences of
30 indebtedness, not in default as to principal or interest,
31 which are valid and legally authorized obligations issued,
32 assumed, or guaranteed by the United States or by any state

1 thereof, or by Canada or any of the provinces thereof, or by
2 any county, city, town, village, municipality or district
3 therein or by any political subdivision thereof or by a
4 public instrumentality of one or more of the foregoing, if,
5 by statutory or other legal requirements applicable thereto,
6 such obligations are payable, as to both principal and
7 interest, from ^{A.}~~(2)~~ taxes levied or by law required to be
8 levied upon all taxable property or all taxable income with-
9 in the jurisdiction of such governmental unit, or from ^{B.}~~(2)~~
10 adequate special revenues pledged or otherwise appropriated
11 or by law required to be provided for the purpose of such
12 payment; but not including any obligation payable solely out
13 of special assessments on properties benefited by local
14 improvements unless adequate security is evidenced by the
15 ratio of assessment to the value of the property or the obli-
16 gation is additionally secured by an adequate guaranty fund
17 required by law.

18
19 § 1108. Obligations, stock of certain federal
and international agencies

20 An insurer may invest in the obligations, and/or stock
21 where stated, issued, assumed or guaranteed by the following
22 agencies of the government of the United States of America,
23 or in which such government is a participant, whether or not
24 such obligations are guaranteed by such government:

- 25 1. Farm Loan Bank.
- 26 2. Commodity Credit Corporation.
- 27 3. Federal Intermediate Credit Banks.
- 28 4. Federal Land Banks.
- 29 5. Central Bank for Cooperatives.
- 30 6. Federal Home Loan Banks, and stock thereof.
- 31 7. Federal National Mortgage Association, and stock
32 thereof when acquired in connection with sale of mortgage

1 loans to such Association.

2 8. International Bank for Reconstruction and Develop-
3 ment.

4 9. Inter-American Development Bank.

5 10. Asian Development Bank.

6 11. Any other similar agency of, or participated in by,
7 the government of the United States of America and of similar
8 financial quality.

9

10 § 1109. Corporate obligations

11 An insurer may invest in obligations, other than those
12 eligible for investment under section 1124 (mortgage loans)
13 ~~of this chapter~~, issued, assumed or guaranteed by any solvent
14 institution created or existing under the laws of the United
15 States or of Canada, or of any state, province, district or
16 territory thereof, which are not in default as to principal
17 or interest and which are qualified under any of the follow-
18 ing:

19 1. Obligations (including also bonds, notes or other
20 obligations of corporations engaged primarily in the business
21 of owning or holding or leasing real property, secured by one
22 or more mortgages on real estate and/or by assignment of one
23 ~~or more leases on real estate~~) secured by adequate collateral
24 security and bearing fixed interest and if during each of
25 any 3, including either of the last 2, fiscal years of a
26 period of not less than 3 nor more than 5 fiscal years next
27 preceding the date of acquisition by the insurer, the net
28 earnings of the issuing, assuming or guaranteeing institu-
29 tion available for its fixed charges, as defined in section
30 1110 ~~of this chapter~~, shall have been not less than one and
31 one-quarter times the total of its fixed charges for such
32 year, or obligations which, at the date of acquisition by

9
9
9

2. Obligations secured by one or more leases, whether or not additionally secured by one or more mortgages, provided the following conditions are met:

A. (a) The leases are assigned directly to the insurer and are noncancellable by either party except under provisions specified in the leases and designed to give adequate protection to the insurer's investment.

B. (b) The aggregate rentals due under all such leases are sufficient to provide (i) for all expenses (including taxes other than the borrower's income tax) of operation of the leased property during the initial term of such leases and (ii) for amortization during the initial term of such leases of not less than 90% of the investment (or 100% thereof if the investment is not also secured by a mortgage) with interest thereon.

C. (c) The leases make suitable provisions for continuation of adequate payments throughout the life of the investment.

D. (d) The lessees under such leases, or any corporation or instrumentality of government which has assumed or guaranteed the lessees' performance thereunder is such that its obligations would be eligible for investment by an insurer in accordance with the provisions of Section 1107 of this chapter or the aggregate net earnings of such lessees available for fixed charges, as defined in Section 1110 of this chapter, is at least equal to that required by Section 1109-1 of this chapter."

Handwritten note: Section 1109-1 of this chapter

1 the insurer, are adequately secured and have investment
2 qualities and characteristics wherein the speculative ele-
3 ments are not predominant. In determining the adequacy of
4 collateral security, not more than one-third of the total
5 value of such required collateral shall consist of stock
6 other than stock meeting the requirements of section 1112
7 (preferred or guaranteed stock) of this chapter.

8 ~~2.~~ Fixed interest bearing obligations, other than
9 those described in paragraph 1 above, if the net earnings
10 of the issuing, assuming or guaranteeing institution avail-
11 able for its fixed charges for a period of 5 fiscal years
12 next preceding the date of acquisition by the insurer have
13 averaged per year not less than one and one-half times its
14 annual fixed charges applicable to such period and if during
15 either of the last 2 years of such period such net earnings
16 have been not less than one and one-half times its fixed
17 charges for such year.

18 ~~3.~~ Adjustment, income or other contingent interest
19 obligations if the net earnings of the issuing, assuming or
20 guaranteeing institution available for its fixed charges for
21 a period of 5 fiscal years next preceding the date of acqui-
22 sition by the insurer have averaged per year not less than
23 one and one-half times the sum of its average annual fixed
24 charges and its average annual maximum contingent interest
25 applicable to such period and if during either of the last
26 2 years of such period such net earnings have been not less
27 than one and one-half times the sum of its fixed charges and
28 maximum contingent interest for such year.

29 ~~4.~~ Fixed interest bearing obligations, other than
30 those described in ~~paragraphs~~ ^{Subsections} 1 and ~~2~~ above, if A. net earn-
31 ings of the issuing, assuming or guaranteeing institution
32 available for its fixed charges for a period of 5 fiscal

1 years next preceding the date of acquisition by the insurer
2 have averaged per year not less than one and one-quarter
3 times its average annual fixed charges applicable to such
4 period and if during each of any 4 fiscal years of such
5 period such net earnings have been not less than one and
6 one-quarter times its fixed charges for such year, B. the
7 net earnings of such institution available for its fixed
8 charges during a period of not less than 7 nor more than 10
9 fiscal years next preceding the date of acquisition by the
10 insurer have been such that for each of any 7 fiscal years
11 of such period such net earnings have been not less than
12 one and one-quarter times its fixed charges for such year,
13 and C. the liquid assets of such institution have been not
14 less than 105% of its liabilities, (other than capital stock
15 and surplus). For the purposes of this ^{subsection} paragraph 4, "liquid
16 assets" and "liabilities" shall be determined in reliance
17 upon the latest regular financial statement of the issuing,
18 assuming or guaranteeing institution prepared as of a date
19 not more than 15 months prior to the date of acquisition by
20 the insurer; if net earnings are determined in reliance upon
21 consolidated earnings statements of parent and subsidiary
22 institutions, "liquid assets" and "liabilities" shall be
23 determined in reliance upon a consolidated financial state-
24 ment of parent and subsidiary institutions after treating
25 any minority stock interest in such subsidiary institutions
26 as a liability; and the term "liquid assets" shall mean the
27 sum of cash, receivables or portions thereof, as the case
28 may be, payable on demand or not more than 10 years after
29 the date as of which the determination thereof is made for
30 the purposes of this ^{subsection} paragraph 4, and readily marketable
31 securities, in each case less applicable reserves and
32 unearned income.)

1 § 1110. Same - Certain terms defined - Net earnings

2 1. Certain terms used are defined for the purposes of
3 this chapter as follows:

4 A. "Obligations" includes bonds, debenture, notes or
5 other evidences of indebtedness.

6 B. "Institution" includes a corporation, a joint-
7 stock association and a business trust.

8 C. "Net earnings available for fixed charges" means
9 net income after deducting operating and maintenance
10 expenses, taxes other than federal, state and other income
11 taxes, depreciation and depletion, but excluding extra-
12 ordinary nonrecurring items of income or expense appearing
13 in the regular financial statements of the issuing, assuming
14 or guaranteeing institutions.

15 D. "Fixed charges" includes interest on funded and
16 unfunded debt, ~~amortization of debt discount, and rentals~~
17 ~~for leased properties.~~

18 2. If net earnings are determined in reliance upon
19 consolidated earnings statements of parent and subsidiary
20 institutions, such net earnings shall be determined after
21 provisions for income taxes of only those subsidiaries in
22 which the parent institution owns directly or indirectly
23 less than 90% of all classes of voting stock, and after
24 proper allowance for minority stock interest, if any; and
25 the required coverage of fixed charges shall be computed
26 on a basis including fixed charges and preferred dividends
27 of subsidiaries other than those payable by such subsidiaries
28 to the parent corporation or to any other of such subsid-
29 iaries, except that if the minority common stock interest in
30 the subsidiary corporation is substantial, the fixed charges
31 and preferred dividends may be apportioned in accordance
32 with regulations prescribed by the commissioner.

1 § 1111. Same - Application of earnings test

2 In applying the earnings tests under this chapter to
3 any institution for any period, whether or not in legal
4 existence at the beginning of such period:

5 1. Earnings from the beginning of such period may
6 include, as determined in accordance with adjusted or pro
7 forma consolidated earnings statements, earnings of any
8 other institution the assets of which have been acquired
9 substantially as an entirety by purchase, merger, consoli-
10 dation or otherwise after the beginning of such period. If
11 less than substantially all the assets of another institu-
12 tion have been so acquired, and such assets constitute
13 either substantially all the assets of the acquiring insti-
14 tution immediately after such acquisition or substantially
15 all the assets theretofore employed by such other institu-
16 tion in a divisional, branch or other unit operation, the
17 earnings determined to be properly attributable to the
18 assets so acquired may be so included, if certified by an
19 independent accountant approved by the insurer to be earn-
20 ings so attributable. If any such acquisition of assets has
21 been made from a business enterprise other than an institu-
22 tion, the earnings determined to be attributable to the assets
23 so acquired may likewise be so included if so certified. In
24 the case of any such inclusion of earnings of assets so
25 acquired, fixed charges, contingent interest or dividends
25 for the period of such inclusion shall be either A. the
26 fixed charges, contingent interest or dividends for such
27 period determined in accordance with adjusted or pro forma
28 consolidated statements for such period giving effect to any
29 additional fixed charges or contingent interest existing or
30 dividends on stock or shares outstanding, immediately after
31 such acquisition, properly attributable to such acquisition,
32 as certified by an independent accountant approved by the .

1 insurer to be such fixed charges, contingent interest or
2 dividends so determined, or B. the fixed charges or contin-
3 gent interest existing or dividends on stock or shares out-
4 standing immediately after such acquisition.

5 2. If any institution has been reorganized pursuant
6 to the bankruptcy law after the beginning of such period,
7 earnings prior to such reorganization of the institution so
8 reorganized may be so included. In the case of the inclu-
9 sion of earnings prior to such a reorganization, fixed
10 charges, contingent interest or dividends for the period of
11 such inclusion shall be fixed charges or contingent interest
12 existing or dividends on stock or shares outstanding imme-
13 diately after such reorganization.

14 3. If earnings are determined in reliance on consoli-
15 dated earnings statements of parent and subsidiary institu-
16 tions, A. the provisions of this ^{Section} ~~paragraph~~ may also be
17 applied in determining earnings of any subsidiary institu-
18 tion and B. any institution which has become a subsidiary
19 institution after the beginning of such period may be inclu-
20 ded as a subsidiary institution from the beginning of such
21 period. In the case of any such inclusion of a subsidiary
22 institution, fixed charges, contingent interest or dividends
23 for the period of such inclusion shall be either A. the
24 fixed charges, contingent interest or dividends for such
25 period determined in accordance with adjusted or pro forma
26 consolidated statements for such period which give effect to
27 any additional fixed charges or contingent interest existing
28 or dividends on stock or shares outstanding, immediately
29 after such subsidiary institution shall have become a sub-
30 sidiary, properly attributable to the acquisition of stock
31 or shares of such subsidiary institution, during such period
32 and before it became a subsidiary, as certified by an inde-

1 pendent accountant approved by the insurer to be such fixed
2 charges, contingent interest or dividends so determined, or
3 B. the fixed charges or contingent interest existing or divi-
4 dends on stock or shares outstanding immediately after such
5 subsidiary institution became a subsidiary.

6

7 § 1112. Preferred or guaranteed stocks

8 An insurer may invest in the preferred or guaranteed
9 stocks or shares of any solvent institution created or exist-
10 ing under the laws of the United States or of Canada, or of
11 any state, province, district or territory thereof, if all
12 of the prior obligations and prior preferred stocks, if any,
13 of such institution at the date of acquisition by the insurer
14 are eligible as investments under this chapter; and if quali-
15 fied under ^{subsection} paragraph 1 or ^{subsection} paragraph 2 following:

16 1. Preferred stocks or shares shall be deemed quali-
17 fied if both of the following requirements are met:

18 A. The earnings of such institution available for its
19 fixed charges for a period of 5 fiscal years next preceding
20 the date of acquisition by the insurer shall have averaged
21 per year not less than one and one-half times the sum of its
22 average annual fixed charges, if any, its average annual
23 maximum contingent interest, if any, and its average annual
24 preferred dividend requirements applicable to such period;
25 and

26 B. During either of the last 2 years of such period
27 such net earnings shall have been not less than one and
28 one-half times the sum of its fixed charges, contingent
29 interest and preferred dividend requirements for such year.
30 The term "preferred dividend requirements" shall be deemed
31 to mean cumulative or non-cumulative dividends whether paid
32 or not.

1 2. Guaranteed stocks or shares shall be deemed quali-
2 fied if the assuming or guaranteeing institution meets the
3 requirements of ^{sub-section} paragraph 2 of section 1109 (corporate obli-
4 gations) ~~of this chapter~~, construed so as to include as a
5 fixed charge the amount of guaranteed dividends of such issue
6 or the rental covering the guarantee of such dividends.

7
8 § 1113. Common stocks

9 An insurer may invest in nonassessable (except as to
10 bank or trust company stocks, and except for taxes) common
11 stocks, other than insurance stocks, of any solvent corpora-
12 tion organized and existing under the laws of the United
13 States or Canada, or of any state or province thereof, if
14 such corporation has had net earnings available for divi-
15 dends on such stock in at least 5 of the 7 fiscal years next
16 preceding acquisition by the insurer. If the issuing corpora-
17 tion has not been in legal existence for the whole of such 7
18 fiscal years but was formed as a consolidation or merger of
19 2 or more businesses of which at least one was in operation
20 on a date 7 years prior to the investment, eligibility of its
21 common stock under this section shall be based upon consoli-
22 dated pro-forma statements of the predecessor or constituent
23 institutions.

24
25 § 1114. Insurance stocks

26 1. An insurer may invest in the stocks of other solvent
27 insurers formed under the laws of this or another state,
28 which stocks meet the applicable requirements of sections
29 1112 (preferred or guaranteed stocks) or 1113 (common
30 stocks) ~~of this chapter.~~

31 2. With the commissioner's advance written consent an
32 insurer may acquire and hold the controlling interest in the

1 outstanding voting stock of a stock insurer formed under the
2 laws of this or another state. The commissioner shall not
3 give his consent if he finds that such acquisition would not
4 be in the best interests of the insurers involved, or of
5 their respective policyholders or stockholders, or that it
6 would materially tend to lessen competition or to result in
7 any monopoly in the insurance business.

8

9 § 1115. Stocks of subsidiaries

10 1. An insurer may invest in the stock of its subsidiary
11 insurance corporation formed or acquired by it; or in the
12 stock of its subsidiary business corporation or corporations
13 formed and engaged solely in any one or more of the follow-
14 ing businesses:

15 A. In any business necessary and incidental to the con-
16 venient operation of the insurer's insurance business, or to
17 *or to the service or benefit of its policyholders*
the administration of any of its lawful affairs;

18 B. Providing any of actuarial, computer, data process-
19 ing, accounting, claims, appraisal, collection, loss prevention,
20 or safety engineering and similar services;

21 C. Real estate management and development;

22 D. Premium financing;

23 E. Financing of agents of the insurer;

24 F. Acting as investment adviser and/or principal
25 underwriter of *an investment company or*
~~a management company or management companies,~~
26 (mutual funds), registered as such under the Investment
27 Companies Act of 1940;

28 G. Financial and investment counseling services;

29 H. Administration of self-insurance plans;

30 I. Administration of self-insured pension and similar
31 plans, or the self-insured portions of such plans;

32 J. Acting as administrative agent for a government

1 instrumentality which is performing an insurance function;

2 K. Securities broker-dealer;

3 L. Escrow services;

4 M. Trust services with respect to funds payable or
5 paid by it under its insurance contracts.

6 2. For the purposes of this section a "subsidiary" is
7 a corporation of which the insurer owns ~~100% of its outstand-~~
8 ~~ing stock or of which the insurer owns~~ sufficient stock to
9 give it effective control.

10

11 § 1116. Trustees' or receivers' obligations

12 An insurer may invest in certificates, notes or other
13 obligations issued by trustees or receivers of any institu-
14 tion created or existing under the laws of the United States
15 or of any state, district or territory thereof, which, or
16 the assets of which, are being administered under the
17 direction of any court having jurisdiction, if such obliga-
18 tion is adequately secured as to principal and interest.

19

20 § 1117. Equipment trust certificates

21 An insurer may invest in equipment trust obligations or
22 certificates which are adequately secured, or in other ade-
23 quately secured instruments evidencing an interest in trans-
24 portation equipment wholly or in part within the United
25 States of America and a right to receive determined portions
26 of rental, purchase or other fixed obligatory payments for
27 the use or purchase of such transportation equipment.

28

29 § 1118. Acceptances, bills of exchange

30 An insurer may invest in bank and bankers' acceptances
31 and other bills of exchange of the kind and maturities made
32 eligible, pursuant to law, for purchase in the open market

1 by federal reserve banks.

2

3 § 1119. Savings institutions

4 An insurer may invest in the shares of savings and loan
5 or buildings and loan associations or in the savings accounts
6 of federal savings and loan associations, to the extent that
7 the investment or account is insured by the Federal Savings
8 and Loan Insurance Corporation pursuant to the National
9 Housing Act of 1934, as amended.

10

11 § 1120. Common trust funds, mutual funds

12 An insurer may invest in:

13 1. A bank's common trust fund as defined in section
14 584 of the United States Internal Revenue Code of 1954; and

15 2. The securities of any open-end management type
16 investment company or investment trust registered with the
17 federal Securities and Exchange Commission under the Invest-
18 ment Company Act of 1940 as from time to time amended, if
19 such investment company or trust, (other than one of which
20 a subsidiary of the insurer is investment adviser or prin-
21 cipal underwriter), has a net asset value of not less than
22 \$25,000,000 as at the date of investment by the insurer.

23

24 § 1121. Hydrocarbon production payments

25 An insurer may invest in production payments, or
26 interests therein evidenced by trust certificates or other
27 instruments, payable from oil, gas or other hydrocarbons in
28 producing properties located in the United States or the
29 adjacent continental shelf if an obligation secured by and
30 payable from such production payment or interest therein
31 would qualify for investment under section 1109^{subsection 1,} (corporate
32 obligations) ~~of this chapter~~ as an obligation which is

1 adequately secured and has investment qualities and charac-
2 teristics wherein the speculative elements are not predom-
3 ant. "Production payments" means rights to oil, gas or other
4 hydrocarbons in place or as produced which entitle the owner
5 thereof to a specified fraction or percentage of production
6 until a specified sum of money has been received.

7

8 § 1122. Policy loans

9 A life insurer may lend to its policyholder upon pledge
10 of the policy as collateral security, any sum not exceeding
11 the cash surrender value of the policy; or may lend against
12 pledge or assignment of any of its supplementary contracts
13 or other contracts or obligations, so long as the loan is
14 adequately secured by such pledge or assignment. Loans so
15 made are eligible investments of the insurer.

16

17 § 1123. Collateral loans

18 An insurer may lend and thereby invest its funds upon
19 the pledge of securities eligible for investment under this
20 chapter. As at date made, no such loan shall exceed in
21 amount 90% of the market value of such collateral pledged.
22 The amount so loaned shall be included pro rata in deter-
23 mining the maximum percentage of funds permitted under this
24 chapter to be invested in the respective categories of
25 securities so pledged.

26

27 § 1124. Mortgage loans

28 1. An insurer may invest in bonds, notes or evidences
29 of indebtedness other than those described in section 1109
30 (corporate obligations) of this chapter, which are secured
31 by first mortgages or deeds of trust upon improved real
32 property located in the United States or Canada, (including

1 leasehold estates having an unexpired term of not less than
2 21 years, inclusive of the term or terms which may be provi-
3 ded by enforceable options of renewal, if the underlying real
4 property is not subject to any prior lien), and subject to the
5 following requirements:

6 A. The security for the loan must be a first lien upon
7 such real property; and

8 B. In the case of leaseholds, there must not be any
9 condition or right of re-entry or forfeiture not insured
10 against under which the insurer is unable to continue the
11 lease in force for the duration of the loan.

12 2. Nothing herein shall prohibit any investment by
13 reason of the existence of any prior lien for ground rents,
14 taxes, assessments or other similar charges not yet
15 delinquent.

16 3. A mortgage shall nevertheless be deemed to be a
17 first lien for the purposes of this section if, although
18 junior in lien to a prior existing mortgage covering the
19 same real property, the net amount actually advanced by the
20 insurer under its mortgage plus the balance of principal
21 and accrued interest then remaining unpaid under such prior
22 mortgage does not exceed the amount which the insurer other-
23 wise could have invested in such mortgage loan, and if the
24 investing insurer administers the payments and other per-
25 formance required under such prior mortgage.

26 4. Such a mortgage loan or loans made or acquired by
27 an insurer on any one property shall not at time of invest-
28 ment by the insurer, be in amount in excess of 80% of the
29 fair market value of the property or permit amortization
30 over a period in excess of 40 years, or, in the case of
31 leasehold interest, be in excess of 75% of the fair market
32 value of such interest or permit amortization over a period

1 exceeding four-fifths of the lease term remaining at the
2 time of the loan. Prior to the investment the value of the
3 property or of the leasehold interest shall be determined,
4 for the purposes of the investment, by a competent appraiser.

5 5. In applying the limitations under subsection 4
6 above, there may be excluded from the amount invested that
7 portion guaranteed by the Administrator of Veterans'
8 Affairs pursuant to the Servicemen's Readjustment Act of
9 1944, as amended, or insured by the Federal Housing Adminis-
10 tration under the National Housing Act, as amended, or by
11 other United States or Canadian government agency.

12 6. An insurer may invest in purchase money mortgages
13 or like securities received by it upon the sale or exchange
14 of real property acquired pursuant to section 1125 ~~of this~~
15 ~~chapter~~. Subsection 4 ~~of this section~~ shall not apply as to
16 such investments.

17

18 § 1125. Real estate

19 *These provisions in section 1127 lease property*
20 1. A domestic insurer may invest in real estate only
21 if used for the purposes or acquired in the manners, and
22 within the limits, as follows:

23 A. The building in which it has its principal office,
24 the land upon which the building stands, and such other real
25 estate as may be requisite for the insurer's convenient
26 accommodation in the transaction of its business. The
27 amount so invested shall not aggregate more than 10% of the
28 insurer's assets, if a life insurer, or more than 15% of
29 the insurer's assets if a property or casualty or surety or
30 other such nonlife insurer.

31 B. Real estate acquired in satisfaction of loans, mort-
32 gages, liens, judgments, decrees or debts previously owing
to the insurer in the due course of its business.

1 C. Real estate acquired in part payment of the consider-
2 ation on the sale of other real estate owned by it, if such
3 transaction shall have effected a net reduction in the
4 insurer's investments in real estate.

5 D. Real estate acquired by gift or devise, or through
6 merger, consolidation, or bulk reinsurance of another insurer
7 under this Title.

8 E. The seller's interest in real estate subject to an
9 agreement of purchase or sale, but the sum invested in any
10 such interest shall not exceed two-thirds of the fair value
11 of such parcel.

12 F. Additional real estate and equipment incident
13 thereto, if necessary or convenient for the purpose of
14 enhancing the sale or other value of real estate previously
15 acquired or held under this section. Such real estate and
16 equipment, together with the real estate for the enhancement
17 of which it was acquired, shall be included, for the purpose
18 of applicable investment limits, and shall be subject to
19 disposal under section 1133 of ~~this chapter~~ at the same time
20 and under the same conditions as apply to such enhanced real
21 estate.

22 G. Improved real estate, or any interest therein,
23 acquired or held by purchase, lease, or otherwise, other
24 ~~than real estate to be used primarily for agricultural,~~
25 ~~ranch, mining, development of oil or mineral resources,~~
26 ~~recreational, amusement, hotel, motel, or club purposes,~~
27 acquired as an investment for production of income, or
28 acquired to be improved or developed for such investment
29 purposes pursuant to an existing program therefor. The
30 insurer may hold, mortgage, improve, develop, maintain,
31 manage, lease, sell, convey, and otherwise dispose of real
32 estate acquired by it under this provision.

1 2. For the purposes of section 1124 (mortgage loans)
2 ~~of this chapter~~ and this section 1125, "improved" real
3 property means:

4 A. Farmland used for tillage, crop or pasture;

5 B. Real estate on which permanent improvements, or
6 improvements under construction or in process of construction,
7 suitable for residence, ^(residential, recreational) institutional, commercial or
8 industrial use, are situated; and

9 C. Real estate to be developed for the use or uses set
10 forth in paragraph B, above, on which improvements, or
11 improvements under construction or in process of construction,
12 such as streets, sidewalks, sewers and utilities which will
13 become an integral part of such development, are situated or
14 abut.

15

16 § 1126. Housing developments

17 To the extent and upon such conditions as may be author-
18 ized by the commissioner, an insurer may invest in stock and
19 evidences of indebtedness of any housing company or redevelop-
20 ment company organized under the private housing finance law
21 of this or any other state, or of any corporation organized
22 for the purpose of owning and operating any housing project
23 under laws expressly designed to promote the provision of
24 housing for persons of low and moderate income, or in the
25 securities of any corporation organized under the laws of
26 this or any other state for the purpose of owning, acquir-
27 ing or holding real property or any interest therein as an
28 investment for the production of income or to be developed
29 or improved for such investment purpose, if all of the stock
30 ^{is} (other than directors' qualifying shares) of such housing
31 company, redevelopment company, or corporation has been or is
32 to be originally issued to one or more insurers, whether

1 domestic or foreign.

2

3 § 1127. Leased property

4 An insurer may invest in personal or real property
5 owned either by the insurer or by a trustee, while under
6 lease to a lessee able to meet any one of the earnings tests
7 provided by section 1109 (corporate obligations) of ~~this~~
8 ~~chapter.~~

9

10 § 1128. Special investments of pension, profit
sharing or annuity funds

11 The amounts allocated to each separate account established
12 by the insurer ~~in connection with a pension, retirement or~~
13 ~~profit sharing plan or annuity~~ pursuant to section 2537
14 (~~pension, profit sharing, annuity agreements~~ *separate*
15 *accounts*) of ~~this Title~~, together with accumulations thereon
16 may be invested and reinvested in any class of investments
17 which may be authorized in the written contract or agreement
18 without regard to any requirements or limitations prescribed
19 by this chapter; except, that to the extent that the insurer's
20 reserve liability with regard to ^{A.} ~~(1)~~ benefits guaranteed as
21 to ^{principal} ~~(2)~~ amount and duration, and ^{B.} ~~(2)~~ funds guaranteed as to
22 principal amount or stated rate of interest, is maintained
23 in any separate account, a portion of the assets of such
24 separate account at least equal to such reserve liability
25 shall be invested in accordance with the applicable provi-
26 sions of this chapter. The investments in such separate
27 account or accounts shall not be taken into account in apply-
28 ing the investment limitations applicable to other investments
29 of the insurer.

30

31 § 1129. Special investments of title insurers

32 1. A title insurer may also have invested funds in an

1 amount not exceeding 50% of its paid-in capital stock and
2 its surplus, in its abstract plant and equipment and in
3 stocks of abstract companies.

4 2. Investments authorized under subsection 1 shall not
5 be credited against required reserves.

6

7 § 1130. Investments in foreign countries

8 1. An insurer authorized to transact insurance in a
9 foreign country, or which has outstanding insurance, annuity
10 or reinsurance contracts on lives or risks resident or loca-
11 ted in a foreign country may invest in or otherwise acquire
12 or loan upon securities and investments in such foreign
13 country which are substantially of the same kinds, classes
14 and investment grades as those eligible for investment under
15 other sections of this chapter; but the aggregate amount of
16 such investments in a foreign country and of cash in the
17 currency of such country shall not, except as to Canadian
18 investments otherwise authorized under this chapter, exceed
19 one and one-half times the amount of its reserves and other
20 obligations under such contracts or the amount which the
21 insurer is required by law to invest in such country, which-
22 ever is the greater.

23 2. In addition to the foreign investments otherwise
24 permitted under this chapter, an insurer may invest in or
25 otherwise acquire or loan upon securities and investments
26 in foreign countries which are substantially of the same
27 kinds, classes and investment grades as those otherwise
28 eligible for investment under this chapter; but the aggre-
29 gate amount of such investments under this subsection shall
30 not exceed 1% of the insurer's assets.

1 § 1131. Miscellaneous investments

2 1. An insurer may make loans or investments not other-
3 wise expressly permitted under this chapter, in aggregate
4 amount not over 5% of the insurer's assets if a life insurer,
5 and in aggregate amount not over 10% of the insurer's assets
6 if a property or casualty or surety or other such nonlife
7 insurer, and not over 1% of such assets as to any one such
8 loan or investment, if such loan or investment fulfills the
9 requirements of section 1103 (general qualifications) of ~~this~~²
10 ~~chapter~~ and otherwise qualifies as a sound investment. No
11 such loan or investment shall be represented by:

12 A. Any item described in section 902 (assets not
13 allowed) ~~of this Title~~, or any loan or investment otherwise
14 expressly prohibited.

15 B. Agent's balances, or amounts advanced to or owing
16 by agents; except as to policy loans, mortgage loans, and
17 collateral loans otherwise authorized under this chapter.

18 C. Any category of loans or investments expressly
19 eligible under any other provision of this chapter.

20 D. Any asset theretofore acquired or held by the
21 insurer under any other category of loans or investments
22 eligible under this chapter.

23 2. The insurer shall keep a separate record of all
24 loans and investments made under this section.

25

26 § 1132. Conversion and incidental rights

27 Nothing in this chapter shall be deemed to prohibit an
28 insurer from making an investment otherwise authorized under
29 this chapter, because the investment is convertible into
30 other securities in which the insurer is not permitted to
31 invest under this chapter, or because the insurer receives
32 in connection with such investment stock warrants, whether.

1 or not detachable, stock options, stock, property interests
2 or other assets of any kind. Anything so received by the
3 insurer and in which the insurer is otherwise not authorized
4 to invest, shall be carried on its books at no value, and
5 ~~shall be disposed of by the insurer under the applicable pro-~~
6 ~~visions of sections 1133 (time limit for disposal of real~~
7 ~~estate) or 1134 (time limit for disposal of other ineligible~~
8 ~~property and securities) of this chapter.~~

9

10 § 1133. Time limit for disposal of real estate

11 1. Except as stated in subsection 2 of this section,
12 or unless the insurer elects to hold the real estate as an
13 investment under paragraph G, subsection 1, of section 1125
14 ~~of this chapter:~~

15 A. An insurer shall dispose of real estate acquired
16 under paragraph A, subsection 1, of section 1125 ~~of this~~
17 ~~chapter~~ within 5 years after it has ceased to be necessary
18 for the convenient accommodation of the insurer in the trans-
19 action of its business.

20 B. An insurer shall dispose of real estate acquired
21 under paragraphs B, C or E, subsection 1, of section 1125 ~~of~~
22 ~~this chapter~~ within 5 years after the date of acquisition,
23 unless used or to be used for the insurer's accommodation
24 under paragraph A, subsection 1, of section 1125 ~~of this~~
25 ~~chapter.~~

26 2. Upon proof satisfactory to him that the interests
27 of the insurer will suffer materially by the forced sale
28 thereof, the commissioner may by order grant a reasonable
29 extension of the period, as specified in such order, within
30 which the insurer shall dispose of any particular parcel of
31 such real estate.

1 § 1134. Time limit for disposal of other
 ineligible property and securities

2 Any personal property or securities lawfully acquired
3 by an insurer which it could not otherwise have invested in
4 or loaned its funds upon at the time of such acquisition,
5 shall be disposed of within 3 years from date of acquisition
6 unless within such period the security has attained to the
7 standard of eligibility; except, that any security or per-
8 sonal property acquired under any agreement of bulk
9 reinsurance, merger, or consolidation, may be retained for a
10 longer period if so provided in the plan for such reinsurance,
11 merger, or consolidation as approved by the commissioner under
12 chapter 47 ~~of this Title~~. Upon application by the insurer
13 and proof that forced sale of any such property or security
14 would materially injure the interests of the insurer, the
15 commissioner may extend the disposal period for an addition-
16 al reasonable time.

17

18 § 1135. Failure to dispose of real estate
 or securities - Effect, penalty

19 1. Any real estate, personal property, or securities
20 lawfully acquired, and held by an insurer after expiration
21 of the period for disposal thereof or any extension of such
22 period granted by the commissioner as provided in sections
23 1133 and 1134 ~~of this chapter~~, shall not be allowed as an
24 asset of the insurer.

25 2. The insurer shall forthwith dispose of any ineligible
26 investment unlawfully acquired by it, and the commissioner
27 shall suspend or revoke the insurer's certificate of
28 authority if the insurer fails to dispose of the investment
29 within such reasonable time as the commissioner may, by his
30 order, specify.

1 § 1136. Prohibited investments and investment
 underwriting

2 1. In addition to investments excluded pursuant to
3 other provisions of this Title, an insurer shall not
4 invest in or lend its funds upon the security of:

5 A. Issued shares of its own capital stock, except (1)
6 for the purpose of mutualization under chapter 47 of ~~this~~
7 ~~Title~~, or (2) for retirement, or (3) pursuant to a plan for
8 such investment or loan submitted in writing by the insurer
9 to the commissioner in advance, and which the commissioner
10 has not, within 20 days after such submission or within such
11 additional reasonable period as the commissioner may request,
12 disapproved as being unfair or inequitable to the insurer's
13 policyholders or stockholders.

14 B. Securities issued by any corporation or enterprise
15 the controlling interest of which is, or will after such
16 acquisition by the insurer be, held directly or indirectly
17 by the insurer or any combination of the insurer and the
18 insurer's directors, officers, subsidiaries, or controlling
19 stockholders, and the spouses and children of any of the
20 foregoing individuals. Investments in controlled insurance
21 corporations or subsidiaries under sections 1114 and 1115
22 of ~~this chapter~~ are not subject to this provision.

23 C. Any note or other evidence of indebtedness of any
24 director, officer, ~~employee~~ or controlling stockholder of
25 the insurer or of the spouse or child of any of the foregoing
26 except as to policy loans authorized under section 1122 of
27 ~~this chapter~~.

28 2. No insurer shall underwrite or participate in the
29 underwriting of an offering of securities or property of
30 any other person. This provision shall not be deemed to
31 prohibit ^{7(a)} the acquisition and ownership by the insurer of its
32 subsidiary corporation acting as investment adviser ^{OR} ~~and~~

(b) The registration by the insurer, under the Securities Act of 1933 or other applicable law, of restricted or other securities ~~owned~~ ~~by it and~~ acquired in regular course of business.

and owned by it

1 principal underwriter of a management company or investment
2 company registered with the Securities and Exchange Commis-
3 sion under the Investment Company Act of 1940, as amended.

4 3. No insurer shall enter into any agreement to with-
5 hold from sale any of its securities or property, and the
6 disposition of its assets shall at all times be within the
7 control of the insurer. *This provision shall not be deemed to affect*
8 *any right or obligation of the insurer under a contract or agreement*
referred to in Section 2537 (separate accounts) of this Title.

9 § 1137. Investments of foreign insurers

10 The investment portfolio of a foreign or alien insurer
11 shall be as permitted by the laws of its domicile if of a
12 quality substantially equal to that required under this chap-
13 ter for similar funds of like domestic insurers.

14

15

1 CHAPTER 15. ADMINISTRATION OF DEPOSITS

2 § 1251. Authorized deposits of insurers

3 The following deposits of insurers when made through
4 the commissioner shall be accepted and held in trust,
5 subject to the provisions of this chapter:

6 1. Deposits required under this Title for authority
7 to transact insurance in this State.

8 2. Deposits of domestic insurers when made pursuant *to its charter;*
9 *or pursuant* to the laws of other states, provinces, and countries as
10 requirement for authority to transact insurance in such state,
11 province, or country.

12 3. Deposits in such additional amounts as are permitted
13 to be made under section 1259 of ~~this chapter.~~

14 § 1252. Purpose of deposit

15 1. Deposits made in this State under section 412
16 (deposit requirement) of ~~this Title~~ shall be held in trust
17 for the respective purposes stated in that section.

18 2. A deposit made in this State by a domestic insurer
19 transacting insurance in another state, province, or country,
20 and as required by the laws of such other state, province, or
21 country, shall be held for the protection of all the insurer's
22 policyholders or all its policyholders and creditors or for
23 such other purpose or purposes as may be specified pursuant
24 to such laws.

25 3. Deposits required under the retaliatory law, section
26 428 of ~~this Title~~, shall be held for such purposes as is re-
27 quired by such law, and as specified by the commissioner's
28 order requiring such deposit to be made.

29 § 1253. Securities eligible for deposit

30 1. All such deposits required under section 412 of ~~this~~
31 ~~Title~~ for authority to transact insurance in this State and
32 hereafter made shall consist of securities in negotiable

1 form of kinds eligible for investment of funds of domestic
2 insurers under chapter 13 of ~~this Title~~, other than real estate
3 mortgages, and approved by the commissioner for deposit.
4 Deposits heretofore made shall consist of such assets as were
5 then eligible for deposit.

6 2. All other deposits of a domestic insurer held in this
7 State pursuant to the laws of another state, province, or
8 country shall be comprised of securities of the kinds des-
9 cribed in subsection 1, above, and of such additional kind
10 or kinds of securities required or permitted by the laws of
11 such state, province, or country.

12 3. Deposits of foreign insurers made in this State under
13 the retaliatory law, section 428 of ~~this Title~~, shall consist
14 of such assets as are required by the commissioner pursuant
15 to such law.

16 § 1254. Depositary; records

17 1. Deposits made in this State under this ~~Title~~ shall be
18 made through the commissioner with the Treasurer of State.

19 2. The Treasurer of State shall furnish the commissioner,
20 for delivery to the depositing insurer, his official certificate
21 identifying the securities deposited, the amount and par value
22 of each, and his opinion of their value.

23 3. The commissioner shall keep a record of the securities
24 comprising the deposit of each insurer, showing as far as prac-
25 tical the amount and market value of each item, and all his
26 transactions relative thereto.

27 § 1255. Responsibility for safekeeping

28 The State shall be responsible for the safekeeping of all
29 securities and receipts delivered to the commissioner under
30 authority of this chapter.

31 § 1256. Custodial arrangements

32 1. In lieu of deposit with the Treasurer of State as

1 provided in section 1254 ~~of this chapter~~, upon the insurer's
2 written request and for its greater convenience, the commis-
3 sioner may in his discretion permit the insurer to make and
4 maintain the deposit under custodial arrangements with the
5 trust department of an established bank located in Maine.

6 2. Where of convenience to the insurer in the buying,
7 selling and exchange of securities comprising its deposit,
8 and in the collection of accruals thereon, the insurer may,
9 with the commissioner's advance written approval, deposit
10 certain of its securities under custodial arrangements with
11 an established bank or trust company located outside this
12 State.

13 3. The insurer shall deposit with the Treasurer of State
14 through the commissioner the original receipts issued by the
15 custodian institution for all securities held under such cus-
16 todial arrangements.

17 4. The form and terms of all such custodial arrangements
18 shall be as prescribed or approved by the commissioner consist-
19 ent with the applicable provisions of this Title.

20 5. The insurer shall bear the costs of custodial arrange-
21 ments, and the State of Maine shall not be responsible for the
22 safekeeping of securities so held.

23 § 1257. Assignment, transfer of securities or assets

24 All assets deposited by an insurer and not negotiable by
25 delivery shall be duly assigned or transferred to the commis-
26 sioner and his successors in office. Upon release of any such
27 security to the insurer, the commissioner shall reassign or
28 transfer the same to the insurer.

29 § 1258. Appraisal

30 The commissioner may, in his discretion, prior to acceptance
31 for deposit of any particular security, or at any time thereafter
32 while so deposited, have the same appraised or valued by compet-

1 ent appraisers. The reasonable cost of any such appraisal
2 or valuation shall be borne by the insurer.

3 § 1259. Excess deposits

4 1. If securities deposited by an insurer under this
5 chapter are subject to material fluctuations in market value,
6 the commissioner may, in his discretion, require the insurer
7 to deposit and maintain on deposit additional securities in
8 amount reasonably necessary to assure that the deposit at all
9 times has a market value of not less than the amount specified
10 under the law by which the deposit is required.

11 2. An insurer may otherwise at its option deposit
12 securities in amount exceeding its deposit required or otherwise
13 permitted under this Title by not more than 20% of such required
14 or permitted deposit, or \$20,000, whichever is the larger amount,
15 for the purpose of absorbing fluctuations in the value of secur-
16 ities deposited and to facilitate exchange and substitution of
17 such securities. During the solvency of the insurer any such
18 excess shall be released to the insurer upon its request. Dur-
19 ing the insolvency of the insurer, such excess deposit shall
20 be released only as provided in section 1263^{, subsection} 5 of ~~this chapter~~.

21 § 1260. Rights of insurer during solvency

22 So long as the insurer remains solvent and is in compliance
23 with this Title it may:

24 1. Demand, receive, sue for and recover the income from
25 the securities deposited;

26 2. Exchange and substitute for the deposited securities,
27 eligible securities of equivalent or greater fair market value; and

28 3. At any reasonable time inspect any such deposit.

29 § 1261. Levy upon deposit

30 ~~1. Except as provided in subsection 2 below~~ No judgment
31 creditor or other claimant of an insurer shall have the right to
32 levy upon any of the assets held in this State as a deposit for

1 the protection of the insurer's policyholders or policyholders
2 and creditors. As to deposits made pursuant to the retaliatory
3 provision, section 428 ~~of this Title~~, levy thereupon shall be
4 permitted if so provided in the commissioner's order under
5 which the deposit is required.

6 § 1262. Deficiency of deposit

7 If for any reason the market value of securities of an
8 insurer held on deposit in this State as required under this
9 ~~Title~~ falls below the required amount, the insurer shall promptly
10 deposit other or additional assets eligible for deposit suffi-
11 cient to cure the deficiency. If the insurer has failed to cure
12 the deficiency within 20 days after receipt of notice thereof
13 by registered mail from the commissioner, the commissioner shall
14 forthwith revoke the insurer's certificate of authority.

15 § 1263. Duration and release of deposit, in general

16 1. Every deposit made in this State by an insurer pursuant
17 to this ~~Title~~ shall be held as long as there is outstanding any
18 liability of the insurer as to which the deposit was so required;
19 or, if a deposit required under the retaliatory ^{provision} law, section 428,
20 ~~of this Title~~, the deposit shall be held for so long as the basis
21 of such retaliation exists.

22 2. Upon the request of a domestic insurer, the commissioner
23 shall return to the insurer the whole or any portion of the
24 assets and securities of the insurer held on deposit when the
25 commissioner is satisfied that the securities so to be returned
26 are subject to no liability and are not required to be longer
27 held by any provision of law or the purposes of the original
28 deposit. If the insurer has reinsured all its outstanding risks
29 in another insurer or insurers authorized to transact insurance
30 in this State, ^{and if so provided in the reinsurance agreement} the commissioner shall deliver such securities
31 to such insurer or insurers so assuming such risks, upon proof
32 to his satisfaction A. that the assuming insurer has assumed

1 and agreed to discharge all liabilities of every kind due and
2 to become due which the deposit was to secure, B. that the
3 assuming insurer has on deposit in this State or with a State
4 official in the United States, securities in an amount and
5 value not less than the deposit required of the reinsured
6 insurer and which will subsist for the security of the obliga-
7 tions of the reinsured insurer so assumed, and C. that such
8 assets and securities have been duly assigned, transferred
9 and set over to such assuming insurer or insurers.

10 3. The commissioner shall return to a foreign insurer
11 any deposit made in this State by the insurer, when the insurer
12 has ceased transacting insurance in this State, or in the
13 United States, and the insurer is not subject to any liability
14 in this State on account of which the deposit was held.

15 4. If the insurer is subject to delinquency proceedings
16 as defined in section 4353 ~~of this title~~ upon the order of
17 a court of competent jurisdiction the commissioner shall yield
18 the insurer's assets held on deposit to the receiver, conser-
19 vator, rehabilitator, or liquidator of the insurer, or to any
20 other properly designated official or officials who succeed
21 to the management and control of the insurer's assets.

22 5. No release of deposited assets shall be made except
23 upon application to and the written order of the commissioner.
24 The commissioner shall have no personal liability for any re-
25 lease of any such deposit or part thereof so made by him in
26 good faith.

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CHAPTER 17
AGENTS, BROKERS, CONSULTANTS, AND ADJUSTERS
SUBCHAPTER I
LICENSING PROCEDURES & GENERAL REQUIREMENTS

§ 1501. Scope of chapter

This chapter governs the qualifications, licensing, and general requirements as to insurance agents, brokers, consultants and adjusters, as to any and all kinds of insurance and types of insurers; except that:

1. This chapter does not apply as to reinsurance; and
2. The application of this chapter as to domestic

mutual assessment insurers is as provided in section 3628 of ~~this Title.~~

§ 1502. "Agent" defined, in general

As used in this Title, insurance "agent" means a general lines agent, or life agent, or health agent, as defined in this subchapter, or all such agents, as indicated by context.

§ 1503. "General lines agent" defined

A general lines agent is any person authorized or appointed by an insurer to solicit applications for insurance contracts or to negotiate for such contracts in its behalf and, if authorized to do so by the insurer, to effectuate and countersign insurance contracts for one or more kinds of insurance as follows:

1. Casualty insurance;
2. Property insurance;
3. Marine and transportation insurance;
4. Surety insurance;
5. Health insurance, when transacted by an insurer

1 also represented by the same agent as to property or
2 casualty or surety insurance; and

3 6. Title insurance.

4

5 § 1504. "Life agent" defined

6 A life agent is a person authorized or appointed by an
7 insurer to solicit applications for, or negotiate the pro-
8 curement of, life insurance contracts or annuity contracts
9 on behalf of the insurer, including also the solicitation
10 and negotiation of health insurance contracts where so
11 authorized and transacted by the same insurer.

12

13 § 1505. "Health agent" defined

14 A "health" agent is any person authorized or appointed
15 by an insurer to solicit applications for, or negotiate the
16 procurement of health insurance contracts on behalf of the
17 insurer, other than an agent licensed as to health insurance
18 under sections 1503 ("general lines agent" defined) or 1504
19 ("life agent" defined) ~~of this chapter.~~

20

21 § 1506. "Broker" defined

22 1. A "broker" is any person who, not being an agent of
23 the insurer, as an independent contractor ~~and on behalf of~~
24 ~~the insured~~ ^{or prospective insured} solicits, negotiates, or procures insurance or
25 annuity contracts or the renewal or continuation thereof
26 ~~for insureds~~ ^{on behalf of} or prospective insureds other than himself.

27 2. A "general lines broker" is a broker so transacting
28 one or more kinds of insurance as follows:

- 29 A. Casualty insurance;
30 B. Property insurance;
31 C. Marine and transportation insurance;
32 D. Surety insurance; and

1 E. Title insurance.

2 3. A "life broker" is a broker licensed as to life
3 insurance and annuity contracts, and as to health insurance
4 contracts if so requested by the broker.

5

6 § 1507. "Service representative" defined

7 1. A "service representative" is an individual
8 regularly employed on salary by an insurer, group of insurers,
9 or managing general agent to work in the field with licensed
10 agents in soliciting, negotiating and effectuating insurance
11 in such insurer, group, or insurers represented by the
12 managing general agent.

13 2. Service representatives are not required to be
14 licensed as such, but shall qualify for and be licensed as
15 an agent, resident or nonresident, as the case may be, as to
16 the kinds of insurance to be transacted as a service repre-
17 sentative.

18 3. This section does not apply as to life and health
19 insurances and annuity contracts.

20

21 § 1508. "Consultant" defined

22 1. A "consultant" is any individual who as an inde-
23 pendent contractor in relation to his client for fee or
24 compensation other than from the insurer in any manner
25 advises, or offers or purports to advise, any person actually
26 or prospectively insured, or named or to be named as bene-
27 ficiary, or having or to have any interest in or insured
28 under, any insurance contract or annuity contract, existing
29 or proposed, relative to coverage, advisability, rights, or
30 interests under such contract, or relative to the retention,
31 exchange, surrender, exercise of rights, or other disposi-
32 tion of such a contract or of rights thereunder. This

1 subsection shall not apply as to:

2 A. An attorney while licensed to practice and actively
3 practicing law in this State; or

4 B. An insurance actuary, and as such a member or
5 associate of the Society of Actuaries or Academy of
6 Actuaries.

7 2. A "general lines consultant" is one licensed as a
8 consultant as to any one or more of the following kinds of
9 insurance:

10 A. Casualty insurance;

11 B. Property insurance;

12 C. Surety insurance;

13 D. Marine and transportation insurance;

14 E. Title insurance.

15 3. A "life consultant" is one licensed as a consultant
16 as to life insurance contracts, annuity contracts and health
17 insurance contracts.

18

19 § 1509. "Adjuster" defined; ~~"independent," "public"~~
adjusters

20 ~~1.~~ An adjuster is any person who for compensation as
21 an independent contractor or ^{on behalf of the insured} for fee, investigates and settles,
22 and reports to his principal relative to, claims arising
23 under insurance contracts or annuity contracts, ~~on behalf~~
24 ~~solely of either the insurer or the insured.~~ The definition
25 of adjuster shall not be deemed to include and license as
26 adjuster shall not be required of:

27 1. ~~A.~~ Attorneys at law admitted to practice in this State;

28 2. ~~B.~~ The salaried employee of the insurer, or of the
29 managing general agent representing the insurer, as to whom
30 the employer has filed with the commissibner in advance
31 written notice of the employee's name and address and
32 authority to adjust.

1 C. A licensed resident agent of the insurer as to whom
2 the insurer has filed with the commissioner in advance
3 written notice of the agent's name and address and authority
4 to adjust.

5 2. "Independent adjuster" means an adjuster represent-
6 ing only the insurer.

7 3. "Public adjuster" means an adjuster employed by and
8 representing solely the interests of the insured named in
9 the policy as to losses under fire insurance coverages.

10
11 § 1510. "Organization" defined

12 For the purposes of this chapter an "organization" is
13 a partnership or a corporation.

14
15 § 1511. "Resident," "nonresident" defined

16 1. For the purposes of this chapter a "resident" is an
17 individual whose domicile or principal place of business is
18 located in this State, or an organization with an established
19 place of business in this State.

20 2. A "nonresident" is other than a resident.

21
22 § 1512. License required; liability; validity
of contract; penalty

23 1. No person shall in this State be, act as, or hold
24 himself out to be, with respect to subjects of insurance
25 resident, located, or to be performed in this State or else-
26 where, an agent or broker or consultant unless then licensed
27 as such under this Title. No person shall in this State be,
28 act as, or hold himself out to be an adjuster unless then
29 licensed as an adjuster under this Title, except as provided
30 in section 1858 (nonresident adjusters of special, catas-
31 trophe losses) of this chapter.

32 2. No agent or broker shall take application for,

1 procure, or place for others, any kind of insurance as to
2 which he is not then licensed under this Title. No con-
3 sultant shall act as such with respect to any kind of
4 insurance as to which he is not then licensed as consultant
5 under this Title.

6 3. Except as provided in section 1677 (excess or
7 rejected risks), no agent shall place any insurance with
8 any insurer as to which he does not then hold a license and
9 appointment as agent under this Title.

10 4. An agent is personally liable under any insurance
11 contract made by or through him outside the scope of his
12 licensed authority. An insurance contract issued on an appli-
13 cation solicited, received or forwarded by an unlicensed
14 person and otherwise valid, is not thereby rendered invalid.

15 5. In addition to or in lieu of any applicable denial,
16 suspension, or revocation of license or ~~administrative fine~~,
17 any person violating this section shall, upon conviction, be
18 punished by a fine of not less than \$100 or more than \$1,000,
19 or by imprisonment for less than 1 year, or by both such fine
20 and imprisonment.

21

22 § 1513. Exceptions to license requirement

23 In addition to persons otherwise excluded therefrom, the
24 definitions of agent, broker, consultant, or adjuster shall
25 not be deemed to include, and no license shall be required
26 as to:

27 1. Individuals performing only clerical or administra-
28 tive services in the office of the employer; and including,
29 if a salaried employee of a general lines agent or general
30 lines broker, incidental taking of insurance applications in
31 the office of the employer if the employee does not receive
32 commission on such applications and his compensation is not

1 varied thereby.

2 2. Salaried employees of insurers or of life agents
3 or life brokers who do not solicit or accept from the public
4 applications for life insurance.

5 3. Any regular salaried officer or employee, ~~other than~~
6 ~~a service representative~~, of an authorized insurer rendering
7 assistance to or on behalf of a licensed agent or broker, if
8 such officer or employee devotes substantially all of his
9 time to activities other than the solicitation of applications
10 for insurance or annuity contracts, and receives no commis-
11 sion or other compensation directly dependent upon the amount
12 of business obtained. *except that a service representative shall*
13 *be licensed as an agent as required by Section 1507.*

14 § 1514. Purpose of license; "controlled business"

15 1. The purpose of a license issued under this chapter
16 to an agent or broker is to authorize and enable the licensee
17 actively and in good faith to engage in the insurance business
18 with respect to the general public, and to facilitate the
19 public supervision of such activities in the public interest;
20 and not for the purpose of enabling the licensee to receive
21 a rebate of premium in the form of "commission" or other com-
22 pensation upon insurance solicited or procured by or through
23 him upon his own interests or upon those of other persons
24 with whom he is closely associated in capacities other than
25 as an insurance agent or broker.

26 2. The commissioner shall not grant, renew, continue,
27 or permit to exist any license as agent or broker as to any
28 applicant therefor or licensee thereunder if he finds that
29 the license is being or will probably be used by the appli-
30 cant or licensee materially for the purpose of writing
31 "controlled business," that is:

32 A. Insurance of his own interests or those of his

1 family or of his employer; or

2 B. Insurance or annuity contracts covering himself or
3 members of his family, or a corporation, association or
4 partnership, or the officers, directors, stockholders,
5 partners, employees or debtors of such a corporation,
6 association or partnership, of which he or a member of his
7 family is an officer, director, stockholder, partner,
8 associate, or employee.

9 3. Such a license shall be deemed to have been, or
10 intended to be, used materially for the purpose of writing
11 controlled business if the commissioner finds that during
12 any 12 months' period the aggregate commissions earned from
13 such controlled business have exceeded or probably will
14 exceed ~~40%~~ of the aggregate commissions earned or to be
15 earned on all business written or probably to be written
16 by such applicant or licensee during the same period.

17 4. This section shall not apply as to:

18 A. Insurance of the interest of a sales or financing
19 agency in a motor vehicle sold or financed by it.

20 B. Insurance of the interest of a real property mort-
21 gagee in the mortgaged property.

22 C. Credit life and credit health insurance.

23 *D. Any 12-month period during which the licensee was totally
disabled for 6 months or more.*

24 § 1515. Licensing forms

25 The commissioner shall prescribe, consistent with the
26 applicable requirements of this chapter, and furnish all
27 printed forms required under this chapter in connection
28 with application for and issuance of licenses, examinations
29 for licenses, and for appointment and termination of appoint-
30 ments of agents.

1 § 1516. License to be issued only on compliance

2 1. For the protection of the people of this State the
3 commissioner shall not issue or continue or renew or permit
4 to exist any license as agent, broker, consultant, or
5 adjuster except in compliance with the applicable provisions
6 of this chapter.

7 2. The commissioner shall not issue, or continue, or
8 renew, or permit to exist any such license as to any indi-
9 vidual who has not established to the commissioner's satis-
10 faction that he is qualified therefor in accordance with the
11 applicable provisions of this chapter.

12

13 § 1517. Licensing of organizations

14 1. A firm or corporation shall be licensed only as an
15 agent or broker or adjuster. Each general partner of a firm,
16 and each other individual to act for the firm or corporation
17 under the license, shall be named in or registered with the
18 commissioner as to the license, and shall qualify as though
19 an individual licensee. Such an individual shall exercise
20 the license powers only for and in the name of the organi-
21 zation, but this shall not prevent such individual from at
22 the same time being separately licensed and acting in his
23 own behalf and name. A full additional license fee shall be
24 paid as to each respective individual in excess of one named
25 in or registered as to the organization license.

26 2. The commissioner shall not license a firm or
27 corporation unless the license is within purposes stated in
28 the partnership agreement or certificate of organization.

29 3. The organization must establish and maintain a
30 place of business in this State if to be licensed as a resi-
31 dent agent or broker.

32 4. All such licensees shall be subject to the applicable

1 standards of subsection 2 of section 407 (ownership, manage-
2 ment) of ~~this Title~~.

3 5. The licensee shall promptly notify the commissioner
4 of every change among its members, directors and officers, and
5 of other individuals designated in or registered as to the
6 license.

7

8 § 1518. Application for license

9 1. Written application for an agent, broker, consult-
10 ant, or adjuster license shall be made to the commissioner
11 by the applicant, accompanied by the applicable license appli-
12 cation and examination application fees shown in section 601
13 (fee schedule) of ~~this Title~~, and the investigation cost, if
14 applicable, referred to in section 1519 of ~~this chapter~~. The
15 application shall be signed and duly sworn to be the appli-
16 cant.

17 2. The application form shall require full answers to
18 questions reasonably necessary to determine the applicant's
19 identity, age, residence, present occupation and occupations
20 and business record over not less than the 5 years next pre-
21 ceding the date of the application, financial responsibility,
22 insurance experience, special education or instruction in
23 insurance and insurance laws of this State he has had or
24 expects to receive, purpose for which the license is to be
25 used, whether he will devote all or part of his efforts to
26 transactions under the license and, if part only, how much
27 time he will devote to such transactions and in what other
28 business or businesses he is or will be engaged or employed,
29 and such other facts as the commissioner may require relative
30 to the applicant's qualifications for the license as such
31 qualifications are stated in this chapter. The application
32 shall be accompanied by an imprint of the applicant's

1 fingerprints and applicant's recent photograph.

2 3. If for an agent, broker, or consultant license the
3 application shall state the kinds of insurance proposed to
4 be transacted.

5 4. If for an agent license, the application shall be
6 accompanied by written appointment by an authorized insurer
7 of the applicant as agent for such kinds of insurance, sub-
8 ject to issuance of the license.

9 5. If the applicant is a firm or corporation, as pro-
10 vided in section 1517 of ~~this chapter~~, the application shall
11 show, in addition, the names and residence addresses of all
12 members, officers and directors, and shall designate the name
13 and residence address of each individual who is to exercise
14 the license powers; and each such individual shall furnish
15 information with respect to himself as though for an indi-
16 vidual license.

17 6. The application shall show whether the applicant
18 was ever previously licensed anywhere as to insurance;
19 whether any such license was ever refused, suspended,
20 revoked or renewal or continuance refused; whether any
21 insurer, general agent, agent or broker claims applicant
22 to be indebted to it, and if so, the details thereof and
23 applicant's defense thereto; whether applicant has ever had
24 an agency contract cancelled, and the facts thereof; and, if
25 applicant is a married woman, like information with respect
26 to her husband.

27 7. If the application is for license as an agent, it
28 shall be accompanied by the insurer's certificate, on form
29 furnished by the commissioner and signed by the insurer's
30 duly authorized representative, that the insurer has inves-
31 tigated the applicant's character and background and is
32 satisfied that he is trustworthy and qualified to act as its

; except, that in lieu of obtaining a special such report, the commissioner may, in his discretion, accept a similar report furnished by or on behalf of an insurer which proposes to appoint the applicant as its agent.

1 agent and will hold himself out in good faith to the general
2 public as an agent.

3 8. No applicant for license under this chapter shall
4 wilfully misrepresent or withhold any fact or information
5 called for in the application form or in connection there-
6 with.

7 9. The commissioner shall withhold from public inspec-
8 tion information of a personal nature concerning applicants
9 for license.

10

11 § 1519. Investigation

12 1. Upon completion of any application for license under
13 this chapter the commissioner shall make such investigation
14 as he deems advisable of the applicant's character, financial
15 responsibility, experience, background, and fitness for the
16 license applied for.

17 2. As to applicants not theretofore licensed under this
18 Title or licensed as insurance agent, broker, or adjuster in
19 this State under laws heretofore in force, the commissioner
20 shall secure, as soon as is reasonably possible after filing
21 of the application, a credit and investigation report rela-
22 tive to the applicant from a recognized and established
23 independent investigation and reporting agency. The cost, of
24 such report, in a reasonable uniform flat amount as from time
25 to time fixed by the commissioner, shall be paid by or on
26 behalf of the applicant, and shall be deposited with the
27 commissioner at the time of filing the application. The
28 commissioner shall promptly deposit the payment with the
29 Treasurer of State to the credit of the insurance regulatory
30 fund. The commissioner shall keep confidential the contents
31 of any such report.

1 § 1520. Examination for license; application
 for examination

2 1. After completion and filing of application with the
3 commissioner as required by section 1518 ~~of this chapter~~ the
4 commissioner shall subject each applicant for license as
5 agent, broker, consultant, or adjuster, unless exempted
6 therefrom under section 1521 ~~of this chapter~~, to a written
7 examination as to his competence to act as such agent, broker,
8 consultant, or adjuster.

9 2. If the applicant is an organization, the examina-
10 tion shall be so taken by each individual who is to be
11 named in or registered as to the license, as provided in
12 section 1517 ~~of this chapter~~.

13 3. As to life insurers authorized to issue variable
14 annuities, applicants appointed by such insurers to solicit
15 such annuity contracts in this State, in addition to com-
16 pleting examinations required for a life agent's license,
17 shall take and pass successfully a separate examination
18 *in accordance with such reasonable rules and regulations as may be adopted by the* covering the subject of variable annuities and pay a separate *Commissioner*
19 examination application fee therefor.

20 4. An applicant for license as both a life agent or
21 broker and a general lines agent or broker shall be separately
22 examined as to life insurance and as to such general lines,
23 and shall pay a separate examination application fee as to
24 each of such two examinations.

25 5. Nothing in subsections 3 or 4 above shall be deemed
26 to prohibit the giving of all required examinations as to a
27 particular applicant on the same day.

28 6. Written application for the examination shall be
29 filed with the commissioner by or on behalf of the applicant
30 not less than 10 days prior to the date fixed for the exam-
31 ination, as provided in section 1523 ~~of this chapter~~, and
32 shall be accompanied by the fee for such application as

For the purposes of this subsection an agent's license covering fire insurance and existing on the effective date of this Act shall be deemed to be the equivalent of a license covering "property" insurance as defined in this Title.

1 specified in section 601 (fee schedule) of ~~this Title~~. This
2 application fee is earned when paid, and is not subject to
3 refund.

4

5 § 1521. Exemption from examination

6 Section 1520 ~~of this chapter~~ shall not apply and no such
7 examination shall be required of:

8 1. An applicant for license covering the same kind or
9 kinds of insurance as to which the applicant was licensed
10 under a similar license in this State, other than a temporary
11 license or initial license as a life agent, within 2 years
12 next preceding date of application for the license, unless
13 such previous license was revoked or continuation thereof
14 refused by the commissioner, and if the commissioner deems
15 the applicant to be fully qualified for the license. ←

16 2. An applicant for an agent's license who is currently
17 licensed as a broker or as a consultant as to the same kind
18 or kinds of insurance, or has been so licensed within 12
19 months next preceding date of application for the license,
20 unless such previous license was revoked or suspended or
21 continuation thereof refused by the commissioner.

22 3. Applicants for limited license under section 1531
23 ~~of this chapter~~, who represent public carriers and in the
24 course of such representation solicit or sell insurance
25 incidental to the transportation of persons or to the storage
26 or transportation of property, and as to insurance so trans-
27 acted.

28 4. Applicants for license as title insurance agent,
29 who are attorneys at law duly licensed to practice law in
30 this State.

1 § 1522. Scope of examination; reference material

2 1. Each examination for license as agent, broker, con-
3 sultant, or adjuster shall reasonably test the applicant's
4 competence and knowledge of the kinds of insurance, policies
5 and transactions to be handled under the license applied
6 for, of the duties and responsibilities of such a licensee,
7 and of the pertinent laws of this State with which the
8 applicant reasonably should be familiar.

9 2. The examination for a broker license shall be more
10 difficult than that for an agent license; the examination
11 for a consultant license shall be substantially more diffi-
12 cult than that for a broker license and shall be a thorough
13 testing of the applicant's competence to provide expert
14 advice within the field covered by the license applied for;
15 and the examination for a life agent permanent license shall
16 be substantially more difficult than the examination for
17 initial license as a life agent as provided for in section
18 1674 of ~~this chapter~~.

19 3. The commissioner shall prepare and make available
20 to applicants printed information as to the general scope
21 of, and particular subjects to be covered by, the examina-
22 tion for a particular license, together with information
23 as to published books and other reference sources which may
24 be studied by the applicant in preparation for the examina-
25 tion.

26
27 § 1523. Conduct of examination

28 1. All examinations of license applicants shall be
29 conducted by the commissioner, or his designee using
30 examinations prepared by him.

31 2. The commissioner shall make examinations available
32 to applicants at least biweekly at the commissioner's

1 principal office; and at such other times and places in this
2 State as the commissioner may deem advisable.

3 3. All the kinds of insurance and annuity business the
4 applicant proposes to transact under the license applied for
5 shall be included in the same examination, except as provi-
6 ded in subsections 3 and 4 of section 1520 ~~of this chapter~~
7 as to applicants for license as to both life insurance and
8 general lines, and as to variable annuities.

9 4. The commissioner shall give, conduct, and grade all
10 examinations in a fair and impartial manner and without
11 unfair discrimination as between individuals examined.

12 5. The applicant must pass the examination with a
13 grade indicating his ability to perform his duties in a
14 satisfactory manner under the license for which he applies.

15 6. Within 30 days after the examination the commis-
16 sioner shall inform the applicant ^{and his appointing insurer} as to whether or not he
17 has passed.

18 7. The commissioner shall keep each examination paper
19 on file for at least 6 months.

20
21 § 1524. Failure to take examination; re-examination

22 1. An applicant who fails to take an examination within
23 90 days after filing application therefor shall forfeit both
24 his application and the fee paid in connection therewith.

25 2. An applicant who has failed to pass the first
26 examination for the license applied for may take a second
27 examination after a one-week waiting period, and without
28 paying a new examination application fee if the second
29 examination is taken within 6 months after the first exami-
30 nation.

31 3. An applicant who has failed to pass the first two
32 examinations for the license applied for shall not be

1 permitted by the commissioner to take a third or subsequent
2 examination until expiration of 6 months after the last pre-
3 vious examination. Except as provided in subsection 2,
4 above, the applicant shall pay a new examination application
5 fee with respect to each examination after the first examina-
6 tion for the license applied for.

7 4. A different set of examination questions than any
8 theretofore used as to the same applicant shall be used on
9 each re-examination.

10

11 § 1525. Examination advisory boards -
Designation, appointment

12 1. The commissioner shall continue to appoint two
13 advisory boards to make recommendations to him with respect
14 to the scope, type and conduct of written examinations for
15 license, the times and places within the State where examina-
16 tions shall be held, and with respect to the other matters
17 referred to in this section. He shall appoint one such
18 board with respect to general lines agent licensing, to be
19 referred to as the "general lines agent examination advisory
20 board;" he shall appoint the other such board with respect
21 to life agent licensing, to be referred to as the "life agent
22 examination advisory board."

23 2. Each such board shall consist of 5 members, to be
24 appointed by the commissioner for terms of 3 years each, on
25 a staggered term system so as to prevent the terms of more
26 than 2 members from expiring in any one year. No person
27 shall be eligible for appointment to such a board unless
28 he or she is active on a full-time basis in the general
29 lines insurance business (as to the general lines advisory
30 board) or in the life insurance business (as to the life
31 advisory board), and is a resident of this State. No
32 person may be reappointed to a board for more than one

1 3-year term.

2 3. In appointing members to the general lines
3 advisory board, the commissioner so far as practicable
4 shall appoint persons with prior experience in the education
5 and training of fire, casualty or surety insurance agents or
6 prospective agents; and so far as practicable the commis-
7 sioner shall so constitute such board that it shall at all
8 times include members who are experienced in the fire,
9 casualty or surety insurance business, 2 of whom shall be
10 representatives of general lines agents, one of whom shall
11 be a representative of the domestic mutual insurers (other
12 than life insurers), one of whom shall be the representative
13 of other insurers authorized to do a property, casualty or
14 surety insurance business in this State, and one of whom
15 shall represent the public.

16 4. In appointing members to the life advisory board
17 the commissioner so far as practicable shall appoint persons
18 with prior experience in the education and training of life
19 insurance agents or prospective agents; and so far as
20 practicable the commissioner shall so constitute the board
21 that it shall at all times include one general agent or
22 manager of a life insurance agency within this State, and
23 one salaried home office officer or employee of a domestic
24 life insurer.

25

26 § 1526. Same - Functions, reports, expenses

27 1. Each respective such advisory board shall meet with
28 the commissioner twice during each calendar year at times and
29 places to be designated by the commissioner, and on such
30 other occasions as its members deem appropriate. The commis-
31 sioner shall furnish to the board such information, not
32 otherwise designated by law as confidential, as its members

1 may reasonably require with respect to the conduct, scope
2 and results of examinations of general lines agents (as to
3 the general lines advisory board) or of life agents (as to
4 the life advisory board).

5 2. Each such board shall make at least one written
6 annual report to the commissioner with respect to the
7 matters within its province. In the report, or in addition
8 thereto, the board shall provide the commissioner with its
9 specific recommendations from time to time as to changes in
10 the scope, format and nature of examinations with which it
11 is concerned, as appear to its members desirable and in the
12 best interest of the people of this State, and of the
13 property, casualty or surety insurance business (as to the
14 general lines advisory board) or the life insurance business
15 (as to the life advisory board) as conducted in this State.

16 3. The commissioner shall avail himself and his depart-
17 ment of all such recommendations and material so furnished
18 by the respective such boards, and shall adopt or implement
19 such portions thereof as appear to him appropriate and
20 advisable.

21 4. Each board may, in addition, consult with the com-
22 missioner with respect to possible legislation or regulatory
23 measures designed or intended to improve the quality and
24 nature of the solicitation and servicing of property,
25 casualty or surety insurance by licensed general lines
26 agents (as to the general lines advisory board), or of life
27 insurance by licensed life agents (as to the life advisory
28 board), within this State; but nothing in this section shall
29 be deemed to vest any authority in such a board other than
30 on an advisory basis as stated.

31 5. The written reports of a board shall be matters of
32 public record, and available from the commissioner upon

1 request.

2 6. The members of such a board shall serve without
3 compensation, but with the commissioner's approval may be
4 reimbursed for their reasonable travel expenses in attend-
5 ing any meeting called ^{or approved} by the commissioner.

6

7 § 1527. Issuance, refusal of license;
refundability of fees

8 1. If the commissioner finds that the application is
9 complete, that the applicant has passed any required examina-
10 tion and is otherwise qualified for the license applied for,
11 he shall promptly issue the license; otherwise, the commis-
12 sioner shall refuse to issue the license and promptly notify
13 the applicant and the appointing insurer (if application is
14 for an agent's license) of such refusal, stating the grounds
15 thereof.

16 2. If the license is refused, the commissioner shall
17 promptly refund to the appointing insurer, in the case of
18 applications for agent's license, the appointment fee
19 tendered with the license application. All other fees for
20 application for agent, broker, consultant, or adjuster
21 license shall be deemed earned when paid and shall not be
22 refundable.

23

24 § 1528. License categories

25 The commissioner shall issue under this chapter the
26 following categories of license only:

27 1. Agent license:

28 A. Resident agent, individual or organization.

29 B. Nonresident agent, individual or organization.

30 C. Life agent initial license.

31 D. Life agent permanent license.

32 E. Except as provided in section 1531, ~~of this chapter,~~

1 an agent license must cover one or more complete kinds of
2 insurance as defined in chapter 9 ~~of this Title.~~

3 2. Broker license:

- 4 A. Resident broker, individual or organization.
5 B. Nonresident broker, individual or organization.
6 C. A broker license must cover one or more complete
7 kinds of insurance as defined in chapter 9 ~~of this Title.~~

8 3. Consultant license:

- 9 A. Consultant, individual only.
10 B. A consultant license must cover either or both of
11 the following categories, as selected by the licensee:

12 (1) General lines, that is, property, casualty and
13 surety insurances.

14 (2) Life insurance, annuities, and health insurance.

15 4. Adjuster license:

- 16 A. ~~Independent adjuster~~, individual or organization.
17 B. ~~Public adjuster, individual or organization.~~

18

19 § 1529. License contents; number of licenses required

20 1. The license shall state the name and address of
21 the licensee, date of issue, general conditions relative
22 to expiration or termination, the kind or kinds of insur-
23 ance covered by the license, if applicable, and such other
24 conditions as the commissioner deems proper for inclusion
25 in the license certificate. No license shall be issued in
26 a trade name unless the name has been duly registered or
27 filed as required by law.

28 2. The license of an agent shall not specify the
29 name of any particular insurer by which the licensee is
30 appointed as agent, except as provided in subsection 4,
31 below, as to limited licenses; and the licensee may,
32 subject to section 1530 ~~of this chapter~~ as to life or health

1 agents, represent as such agent under the one license as
2 many insurers as may appoint him therefor, with respect to
3 the kind or kinds of insurance covered by the license, in
4 accordance with this chapter.

5 3. A license issued to an organization shall list the
6 location of each place of business of the organization.

7 4. Each limited license issued pursuant to section
8 1531 ~~of this chapter~~ shall show also the name of the insurer
9 so represented, and a separate license shall be required as
10 to each such insurer.

11 ~~5. The license of an adjuster shall specify whether~~
12 ~~licensed as an independent adjuster or as a public adjuster.~~

13

14 § 1530. Multiple licensing, life or health insurance
agents

15 1. A life or health insurance agent may concurrently
16 be licensed as to as many life or health insurers as duly
17 file appointments of the licensee with the commissioner and
18 pay the appointment fee, except as provided hereinbelow.

19 2. Upon the filing of each appointment of the
20 licensee or proposed licensee by a life or health insurer
21 the commissioner shall promptly give written notice of the
22 pending appointment to all other life or health insurers,
23 as the case may be, as to whom the licensee has been licensed
24 in this State within the 24 months next preceding, and shall
25 allow such other insurers a reasonable period as specified
26 in the notice within which to respond. If the commissioner
27 finds that the applicant or licensee has a debit balance
28 with any such other insurer ^{or with a general agent} which is not adequately secured
29 or otherwise provided for to the obligee insurer's satis-
30 faction, and that such indebtedness is either acknowledged
31 by the applicant or licensee or the insurer ^{or general agent} has secured a
32 judgment therefor, the commissioner shall not effectuate

1 the new appointment until after such debit balance has been
2 adequately secured, or otherwise so provided for.

3

4 § 1531. Limited licenses

5 1. The commissioner may issue to an applicant quali-
6 fied therefor under this chapter a limited agent's license
7 as follows:

8 A. Covering motor vehicle insurance only; or

9 B. To persons representing public carriers, as provi-
10 ded in ~~paragraph~~ ^{subsection} 3 of section 1521 of ~~this chapter~~;

11 C. Covering only credit life and credit health
12 insurance.

13 2. No person so licensed shall concurrently hold
14 license as an agent or broker as to any other or additional
15 kind of insurance.

16 3. The fee for limited licenses is as specified in
17 section 601 (fee schedule) of ~~this Title~~.

18

19 § 1532. Continuation, expiration of licenses

20 1. Each broker (resident or nonresident), consultant,
21 and adjuster license issued under this Title shall continue
22 in force until expired, suspended, revoked or otherwise
23 terminated, but subject to payment to the commissioner at
24 his office in Augusta annually on or before December 31 of
25 the applicable continuation fee as stated in section 601
26 (fee schedule) of ~~this Title~~, accompanied by written request
27 of the licensee for such continuation. Any such license not
28 so continued on or before December 31 shall be deemed to
29 have expired as at midnight on such December 31; except
30 that the commissioner may effectuate a request for continu-
31 ation received by him within 30 days after such December 31
32 if accompanied by an annual continuation fee of 150% of the

1 continuation fee otherwise required.

2 2. An initial license as life agent shall be for a
3 term of 1 year and shall not be subject to renewal, contin-
4 uance or re-issuance.

5 3. An agent license, other than initial license as
6 life agent, shall continue in force while there is in
7 effect as to the licensee, as shown by the commissioner's
8 records, an appointment or appointments as agent of author-
9 ized insurers covering collectively all the kinds of insur-
10 ance included in the agent's license. Upon termination of
11 all the licensee's agency appointments as to a particular
12 kind of insurance and failure to replace such appointment
13 within 60 days thereafter, the license shall thereupon
14 expire and terminate as to such kind of insurance, and the
15 licensee shall promptly deliver his license to the commis-
16 sioner for reissuance, without fee or charge, as to such
17 kinds of insurance, if any, covered by the licensee's remain-
18 ing agency appointments. Upon termination of all the
19 licensee's agency appointments the license shall forthwith
20 terminate.

21 4. As a condition to or in connection with the con-
22 tinuation of any agent or broker license the commissioner
23 may require the licensee to file with him information as
24 for application for the license, or as to the use made of
25 the license during the current or next preceding calendar
26 year.

27 5. This section does not apply to temporary licenses
28 issued under section 1536 of ~~this chapter.~~

29

30 § 1533. Appointment of agents

31 1. Each insurer appointing an agent in this State shall
32 file with the commissioner the appointment in writing,

1 specifying the kinds of insurance or annuity business to be
2 transacted by the agent for the insurer, and pay the appoint-
3 ment fee, or license fee in the case of limited licenses, at
4 the rate specified in section 601 (fee schedule) of this
5 ~~Title~~. An agent shall be separately appointed as to variable
6 annuities and the insurer shall pay a separate appointment
7 fee therefor.

8 2. Where an initial limited license is issued or an
9 initial agent appointment is filed as to an insurer after
10 the insurer's anniversary (as defined in section 1534 of this
11 ~~chapter~~) the commissioner shall reduce, to the nearest fifty
12 cents, the license or appointment fee in proportion to the
13 then expired portion of the insurer's appointment year,
14 except that in no case shall the fee as reduced be less than
15 \$1.

16 3. Subject to annual continuation by the insurer as
17 provided in section 1534 of this ~~chapter~~, each appointment
18 shall remain in effect until the agent's license is revoked
19 or otherwise terminated, unless the insurer earlier termin-
20 ates the appointment as provided in section 1535 of this
21 ~~chapter~~.

22

23 § 1534. Annual continuation of appointment

24 1. In order to spread the renewal of limited licenses
25 and continuation of agent appointments with reasonable
26 uniformity throughout the calendar year, the commissioner
27 shall fix a date ("insurer's anniversary") upon which all
28 such licenses and appointments shall be subject to renewal
29 or continuation as to a particular insurer, and shall give
30 the insurer at least 90 days advance written notice of such
31 date.

32 2. Annually on or before the insurer's anniversary the

1 insurer shall file with the commissioner an alphabetical list
2 of the names and addresses of all its agents in this State
3 whose appointments, or licenses in the case of limited
4 licenses, are to remain in effect as to the kinds of insur-
5 ance or annuity business for which the respective agents are
6 so appointed or licensed, accompanied by payment of the
7 annual continuation of appointment fee, or license fee in
8 the case of limited licenses, as specified in section 601
9 (fee schedule) of ~~this Title~~. At the same time, the insurer
10 shall also file with the commissioner an alphabetical list of
11 the names and addresses of all its agents whose appointments
12 or limited licenses in this State are not to remain in effect,
13 or whose appointment as to certain kinds of insurance or
14 annuity business are not to remain in effect and as desig-
15 nated in such list. Any appointment or limited license not
16 so continued and not otherwise expressly terminated shall be
17 deemed to have expired at midnight on the insurer's
18 anniversary.

19

20 § 1535. Termination of agent appointment

21 1. Subject to the agent's contract obligations and
22 rights, if any, an insurer or agent may terminate an agency
23 appointment at any time. If termination is by the insurer,
24 the insurer shall promptly give written notice of termina-
25 tion and the effective date thereof to the commissioner, and
26 to the agent where reasonably possible. The list of appoint-
27 ments not being continued referred to in section 1534 of
28 ~~this chapter~~ shall constitute such notice to the commis-
29 sioner as to the terminations so listed. The commissioner
30 may require of the insurer reasonable proof that the insurer
31 has given such notice to the agent where reasonable possible.

32 2. Accompanying the notice of termination given the

1 commissioner the insurer shall file with him a statement of
2 the cause, if any, for termination. Any information, docu-
3 ment, record or statement so disclosed or furnished to the
4 commissioner shall be deemed an absolutely privileged communi-
5 cation and shall not be admissible as evidence in any action
6 or proceeding ~~unless so consented in writing by the insurer.~~

7

8 § 1536. Temporary license as agent or broker

9 1. The commissioner, in his discretion, may issue a
10 temporary license as agent or broker, as the case may be, to
11 or with respect to an individual otherwise qualified therefor
12 but without requiring such individual to take an examination,
13 in the following cases:

14 A. To the surviving spouse or next of kin, or to the
15 administrator or executor or employee thereof, of a licensed
16 agent or broker becoming deceased, or to the spouse, next of
17 kin, employee or legal guardian or employee thereof, of a
18 licensed agent or broker disabled because of sickness,
19 insanity or injury, if in either case the commissioner deems
20 that such temporary license is necessary for the winding up
21 or continuation of the agent's or broker's business.

22 B. To a member or employee of a firm, or officer or
23 employee of a corporation, licensed as agent or broker, upon
24 the death or disablement of an individual designated in or
25 registered as to the license to exercise the powers thereof.

26 C. To the designee of a licensed agent or broker
27 entering upon active service in the armed forces of the
28 United States of America.

29 2. A temporary license issued under this section shall
30 be for a term of not over 6 months, and shall not be renewed.

31 3. The fee paid for a temporary license may be applied
32 upon the fee required for any permanent similar license.

1 issued to the licensee, prior to expiration of the temporary
2 license and covering the same kinds of insurance.

3 § 1537. Same - Rights, limitations

4 1. The temporary license may cover the same kinds of
5 insurance for which the agent or broker thereby being
6 replaced was licensed.

7 2. The temporary licensee may represent under the
8 license all insurers last represented by the replaced agent,
9 and without the necessity of new appointments of the licensee;
10 but the licensee shall not be appointed as to any additional
11 insurer or additional kind of insurance under such a
12 temporary license. This provision shall not be deemed to
13 prohibit termination of its appointment by any insurer.

14 3. A temporary licensee shall have the same license
15 powers and duties as under a permanent license.

16
17 § 1538. Insurance vending machines

18 1. A licensed resident agent may solicit and issue
19 personal travel accident insurance policies by means of
20 mechanical vending machines supervised by the agent and
21 placed at airports and similar places of convenience to the
22 traveling public, if the commissioner finds:

23 A. That the policy to be so sold provides reasonable
24 coverage and benefits, is reasonably suited for sale and
25 issuance through vending machines, and that use of such a
26 machine in a proposed location would be of material conven-
27 ience to the public;

28 B. That the type of vending machine proposed to be
29 used is reasonably suitable for the purpose;

30 C. That reasonable means are provided for informing
31 prospective purchasers of policy coverages and restrictions;
32 and

1 D. That reasonable means are provided for refund of
2 money inserted in defective machines and for which no
3 insurance, or a less amount than that paid for, is actually
4 received.

5 2. As to each such machine to be used, the commis-
6 sioner shall issue to the agent a special vending machine
7 license. The license shall specify the name and address of
8 the insurer and agent, the name of the policy to be sold,
9 the serial number of the machine, and the place where the
10 machine is to be in operation. The license shall be subject
11 to annual continuation, to expiration, suspension, or revo-
12 cation coincidentally with that of the agent. The commis-
13 sioner shall also revoke the license as to any machine as
14 to which he finds that the license qualifications no longer
15 exist. The license fee shall be as stated in section 601
16 (fee schedule) of ~~this Title~~ for each license year or part
17 thereof for each respective vending machine. Proof of the
18 existence of a subsisting license shall be displayed on or
19 about each such machine in use in such manner as the commis-
20 sioner reasonably requires.

21

22 § 1539. Suspension, revocation, refusal of license

23 1. The commissioner may suspend for not more than 12
24 months, or may revoke or refuse to continue any license
25 issued under this chapter or any surplus lines broker
26 license if, after notice to the licensee and to the insurer
27 represented (as to an agent) and hearing, he finds that as
28 to the licensee any one or more of the following causes
29 exist:

30 A. For any cause for which issuance of the license
31 could have been refused had it then existed and been known
32 to the commissioner.

1 B. For violation of or noncompliance with any appli-
2 cable provision of this Title, or for wilful violation of
3 any lawful rule, regulation, or order of the commissioner.

4 C. For obtaining or attempting to obtain any such
5 license through misrepresentation, or for failure to dis-
6 close a material fact required to be disclosed in the appli-
7 cation, or for fraud.

8 D. For misappropriation or conversion to his own use,
9 or illegal withholding, or illegal failure to remit, moneys
10 belonging to policyholders, or insurers, or beneficiaries,
11 or others and received in conduct of business under the
12 license.

13 E. For material misrepresentation of the terms of any
14 existing or proposed insurance contract.

15 F. For wilful overinsurance of property located in
16 this State.

17 G. For holding at the same time licenses as a resident
18 agent or broker in this and any other State.

19 H. If in conduct of his affairs under the license the
20 licensee has used fraudulent, or coercive, or dishonest
21 practices, or has shown himself to be incompetent, or untrust-
22 worthy, or financially irresponsible, or a source of injury
23 and loss to the public.

24 2. The license of a firm or corporation may be sus-
25 pended, revoked or refused also for any of such causes as
26 relate to any individual designated in or registered as to
27 the license to exercise its powers.

28 3. In lieu of such suspension, revocation, or refusal
29 to continue, the commissioner may levy an administrative fine
30 upon the licensee of not less than \$25 and not more than \$500.
31 The order levying the fine shall specify the date before
32 which the fine shall be paid. Upon failure to pay the fine

1 when due, the commissioner shall revoke the licenses of the
2 licensee and the fine may be recovered in a civil action
3 brought on behalf of the commissioner by the Attorney
4 General. Fines so collected shall be paid by the commis-
5 sioner forthwith to the Treasurer of State for the account
6 of the insurance regulatory fund.

7

8 § 1540. Notice, effective date of suspension,
revocation or refusal to continue

9 1. Upon suspension or revocation of or refusal to
10 continue any such license the commissioner shall forthwith
11 notify the licensee thereof in writing either delivered to
12 the licensee in person or sent by registered or certified
13 mail addressed to the licensee at his address last of
14 record with the commissioner. Notice by mail shall be
15 deemed effective when so mailed. The commissioner shall
16 give like notice to the insurers represented by an agent.

17 2. The suspension or revocation or refusal to continue
18 shall become effective upon the date specified in the notice,
19 but not less than 20 days after the notice was given or
20 mailed as provided in subsection 1 above.

21

22 § 1541. Return of license to commissioner

23 1. All licenses issued under this Title, although
24 issued and delivered to the licensee, shall at all times be
25 the property of the State of Maine. Upon any expiration,
26 termination, suspension, or revocation of the license, the
27 licensee or other person having possession or custody of
28 the license shall forthwith deliver it to the commissioner
29 by personal delivery or by mail.

30 2. As to any license lost, stolen, or destroyed while
31 in the possession of any such licensee or person, the com-
32 missioner may accept in lieu of return of the license, the

1 affidavit of the licensee or other person responsible for
2 or involved in the safekeeping of such license, concerning
3 the facts of such loss, theft, or destruction.

4

5 § 1542. Re-licensing after revocation,
refusal of license

6 1. The commissioner shall not again issue license
7 under this Title as to any person whose license has been
8 revoked or continuance refused, until after expiration of
9 one year from the effective date of such revocation or
10 refusal, or, if judicial review of such revocation or
11 refusal is sought, until after one year from the date of
12 final court order or decree affirming such revocation or
13 refusal, and until such person again qualifies for the
14 license in accordance with the applicable provisions of this
15 Title. The commissioner may refuse any such new license
16 applied for unless the applicant shows good cause why the
17 prior revocation or refusal shall not be deemed a bar to
18 the issuance of a new license.

19 2. A person whose license has been revoked or contin-
20 uance refused twice shall not again be eligible for any
21 license under this Title.

22 3. If the license of a firm or corporation is so sus-
23 pended or revoked or continuance refused, no member of such
24 firm, or officer or director of such corporation, shall be
25 licensed or be designated in or as to any license to exer-
26 cise the powers thereof during the period of such suspension,
27 revocation or refusal, unless the commissioner determines
28 upon substantial evidence that such member, officer, or
29 director was not personally at fault and did not acquiesce
30 in the matter on account of which the license was suspended,
31 revoked, or continuance refused.

1 SUBCHAPTER II

2 GENERAL LINES AGENTS AND BROKERS -
3 QUALIFICATIONS AND REQUIREMENTS

4 § 1601. Short title

5 Subchapter II ~~of this chapter~~ may be referred to as the
6 "general lines agent and broker law."

7 § 1602. Scope of subchapter

8 1. Subchapter II ~~of this chapter~~ applies only as to:

9 A. General lines agents, as defined in section 1503 of
10 ~~this chapter.~~

11 B. General lines brokers, as defined in section 1506
12 ~~of this chapter.~~

13 2. As used in this subchapter II "agent" means general
14 lines agent, and "broker" means general lines broker.

15
16 § 1603. Qualifications for agent, broker licenses

17 For the protection of the people of this State, the
18 commissioner shall not issue, continue, or permit to exist
19 any agent or broker license except in compliance with this
20 chapter, or as to any individual unless qualified therefor
21 as follows:

22 1. Age. Must be at least 21 years of age.

23 2. Residence. Must be a resident of this State if to
24 be licensed as a resident agent or resident broker, and (if
25 to be licensed as a resident agent or broker) must not be
26 licensed as a resident agent or resident broker of another
27 state.

28 3. Competence, etc. Must be competent, trustworthy,
29 financially responsible, and of good personal and business
30 reputation.

31 4. Education. Must have fulfilled applicable educa-
32 tion requirements as provided for in section 1604, ~~of this~~

1 ~~chapter.~~

2 5. Examination. Must have passed any written examina-
3 tion required for the license under this chapter.

4 6. Purpose. Must not seek or use the license for the
5 purpose of writing controlled business, as referred to in
6 section 1514 of this chapter.

7 7. Appointment. If for agent's license, must have
8 been appointed agent by an authorized insurer or insurers as
9 to the kinds of insurance to be covered by the license, sub-
10 ject to issuance of the license.

11 8. Experience. If for broker's license, must have had
12 experience either as an agent, consultant, service repre-
13 sentative, adjuster, managing general agent, or broker, or
14 other special experience, education or training, all of
15 sufficient content and duration as deemed by the commissioner
16 to be reasonably necessary for competence in fulfilling the
17 responsibilities of a broker.

18

19 § 1604. Educational requirement

20 1. An applicant for license as agent or broker who is
21 required, under sections 1520 and 1521 of ~~this chapter~~, to
22 take a written examination must have completed the educa-
23 tional requirement prescribed by either paragraph A or B
24 below within the 2 years next prior to the date his appli-
25 cation for license is filed with the commissioner:

26 A. He must have completed successfully such courses
27 of instruction in insurance as the commissioner may reason-
28 able require and approve. Such courses may be either in
29 attendance at or under the supervision and direction of or
30 by correspondence with an educational institution or
31 insurer, as approved by the commissioner; or

32 B. He must have had not less than 6 months of

1 responsible duties and experience as a substantially full-
2 time employee of an insurance agent or broker, or of an
3 insurer, its manager, general agent, or representative, in
4 the property, casualty and surety insurance business. As
5 to applicants for license as broker, this provision shall
6 not be deemed to restrict the requirements of ^{subsection} ~~paragraph~~ 8
7 of section 1603.

8 2. If qualification is based upon fulfillment of the
9 requirements of paragraph B, above, the applicant shall file
10 with the commissioner an affidavit by his employer stating
11 the period of employment, that it was substantially full-
12 time, and the nature of the duties performed by the appli-
13 cant.

14 3. An applicant for re-licensing as agent or broker
15 and who has once fulfilled the above educational require-
16 ment, need not again fulfill them.

17

18 § 1605. Authority of agent; limitation as to
surety bonds

19 1. A licensed agent resident in this State of an
20 authorized insurer may:

21 A. Sale of insurance. Solicit, sell and make binding
22 insurance contracts through^{out}/this State within the authority
23 granted him by the insurer and the scope of his license.

24 B. Adjustment of losses. Adjust the losses of the
25 insurer within the authority granted him by the insurer.

26 2. An agent who is also a judge of probate, register
27 of probate or an employee in the office of either, shall
28 not write surety bonds or share in the commissions thereon.

29

30 § 1606. Broker's bond

31 1. Every applicant for a broker's license shall file
32 with the commissioner with the application and shall

1 thereafter maintain in force while so licensed, a bond in
2 favor of the State of Maine executed by an authorized surety
3 insurer. The bond shall be conditioned upon full accounting
4 and due payment to the person entitled thereto, of funds
5 coming into the broker's possession through insurance trans-
6 actions under the license. The bond may be continuous in
7 form and aggregate liability on the bond shall be limited
8 to payment of not less than \$2,500.

9 2. The bond shall remain in force until released by
10 the commissioner, or until cancelled by the surety. Without
11 prejudice to liability previously incurred thereunder, the
12 surety may cancel the bond upon 30 days' advance written
13 notice to both the broker and the commissioner.

14

15 § 1607. Broker's authority, commissions

16 1. A person licensed as a resident or nonresident
17 broker may negotiate with any authorized insurer insurance
18 contracts within the scope of his license and covering risks
19 in this State, subject, as to a nonresident broker, to
20 section 1618 (must place business through resident agent) ~~of~~
21 ~~this chapter.~~

22 2. A broker as such is not an agent or other repre-
23 sentative of an insurer and does not have power by his own
24 acts to obligate the insurer upon any risk or with reference
25 to any insurance transaction.

26 3. An insurer or agent shall have the right to pay to
27 a broker licensed under this chapter the customary commis-
28 sions upon insurance placed through the broker.

29

30 § 1608. Broker, agent license combinations

31 A licensed agent may be licensed also as a broker and
32 be a broker as to insurers for which he is not then licensed

1 as agent. The sole relationship between a broker and an
2 insurer as to which he is then licensed as an agent, as to
3 transactions arising during the existence of such agency
4 appointment, shall be that of insurer and agent, and not
5 that of insurer and broker.

6

7 § 1609. Place of business

8 Every resident agent and broker shall have and main-
9 tain in this State a place of business accessible to the
10 public, and wherein the licensee principally conducts trans-
11 actions under his license. The licensee shall promptly
12 notify the commissioner in writing of any change of address.
13 Nothing in this section shall prohibit maintenance of such
14 a place in the licensee's residence in this State.

15

16 § 1610. Records

17 1. The agent or broker shall keep at his place of
18 business complete records of transactions under his license.
19 Such records shall show, as to each insurance policy or
20 contract placed through or countersigned by the licensee,
21 not less than:

22 A. The names of the insurer and insured;

23 B. The number and expiration date of the policy or
24 contract;

25 C. The premium payable as to the policy or contract;

26 D. The date, time, insurer, insured, and coverage of
27 every binder made by the agent; and

28 E. Such other information as the commissioner may
29 reasonably require.

30 2. The record shall be kept available for inspection
31 by the commissioner for a period of at least 3 years after
32 completion of the respective transactions.

1 § 1611. Signature, countersignature of policies

2 1. When by law the signature or countersignature of
3 an agent is required on an insurance contract, or rider or
4 endorsement thereto, the agent shall affix his signature
5 thereon, either by original written signature or by a true
6. facsimile signature.

7 2. The agent may grant a power of attorney to an
8 individual who is 21 years or more of age to sign and
9 countersign policies and endorsements in his name and behalf
10 after first obtaining the commissioner's written consent and
11 that of the proper official of the insurer involved.

12 3. A facsimile signature may be used as to personal
13 accident insurance policies covering air travel on a common
14 carrier and issued through a vending machine licensed as
15 provided in section 1538 of ~~this chapter.~~

16

17 § 1612. Countersignature fee

18 1. A nonresident agent or nonresident broker shall
19 pay as a countersigning fee to a resident agent who counter-
20 signs an insurance contract pursuant to section 426 of ~~this~~
21 ~~Title~~, subject to exceptions stated in section 427 of ~~this~~
22 ~~Title~~, 50% of the commission on the first \$50 of commis-
23 sions, and a negotiated amount of commission on the balance
24 of the commission based on the services rendered or to be
25 rendered by the countersigning resident agent.

26 2. If the laws of a state or a province of Canada,
27 in which the nonresident agent or nonresident broker is
28 licensed as a resident thereof, imposes upon a Maine agent
29 or broker a requirement to pay a greater countersignature
30 fee of a specific amount of percentage of the commission,
31 the countersigning fee payable to the Maine agent shall be
32 the same as would be imposed on the Maine agent or broker

1 by or under the laws of such state or province.

2

3 § 1613. Reporting and accounting for premiums

4 All premiums and return premiums received by an agent
5 or broker are trust funds so received by the licensee in a
6 fiduciary capacity; and the licensee shall in the applicable
7 regular course of business account for and pay the same to
8 the insured, insurer, or person entitled thereto.

9

*Otherwise required to be licensed as an agent
or broker under this chapter*

10 § 1614. Commissions - Payment, acceptance

11 1. No insurer shall pay or allow to any person, either
12 directly or indirectly, any commission or compensation for
13 soliciting, negotiating or effecting a contract of insur-
14 ance within this State unless at the time of such solicita-
15 tion, negotiation or effectuation such person was duly
16 licensed by this State as an agent or broker as to the kind
17 or kinds of insurance involved, and, if an agent, was duly
18 appointed as an agent of the insurer as provided in section
19 1533 ~~of this chapter~~. This provision shall not apply as to
20 business placed pursuant to section 1615 ~~of this chapter~~ or
21 pursuant to any assigned risk plan.

22 2. No person other than one entitled to the same as
23 provided in subsection 1 above, shall receive or accept any
24 such commission or compensation.

25

26 § 1615. Sharing commissions

27 An agent may place with an insurer as to which he is
28 not then appointed as agent, through a duly licensed and
29 appointed agent of such insurer, an insurance coverage
30 necessary for the adequate protection of a subject of
31 insurance and share in the commission thereon, if each such
32 agents is licensed as to the kinds of insurance involved.

1 § 1616. Nonresident agents, brokers

2 1. The commissioner may license as agent or broker
3 a resident of another state or province of Canada otherwise
4 qualified therefor, if a similar privilege is extended by
5 such other state or province to residents of Maine.

6 2. The commissioner may waive the taking of a written
7 examination by the nonresident applicant for such a license,
8 if a similar privilege is extended by the other state or
9 province to Maine residents and if he finds that the appli-
10 cant has already met qualification requirements and
11 standards in the applicant's domiciliary state or province
12 substantially as high as those applicable under this chapter
13 to Maine residents applying for a similar license.

14 3. Such a nonresident licensee shall have the same
15 general duties and obligations as apply under this chapter
16 to a Maine resident holding similar license.

17

18 § 1617. Same - Service of process

19 1. Every nonresident licensed in this State as an
20 agent or broker under section 1616 ~~of this chapter~~ shall
21 appoint the commissioner in writing as his attorney upon
22 whom may be served all legal process issued in connection
23 with any action or proceeding brought or pending in this
24 State against or involving the licensee and relating to
25 transactions under his Maine license. The appointment
26 shall be irrevocable and shall continue in force for so
27 long as any such action or proceeding could arise or exist.
28 The commissioner shall prescribe and furnish the form for
29 such appointment.

30 2. Duplicate copies of process shall be served upon
31 the commissioner or other person in apparent charge of his
32 office during his absence, accompanied by payment of the

1 process fee specified in section 601 (fee schedule) of ~~this~~
2 ~~Title~~. Upon receiving such service the commissioner shall
3 promptly mail a copy thereof by registered or certified
4 mail (with return receipt requested) ^{addressed} to the nonresident
5 licensee at his business address last of record with the
6 commissioner.

7 3. Process served ~~and copy thereof forwarded~~ as in
8 this section provided shall for all purposes constitute
9 personal service thereof upon the licensee.

10

11 § 1618. Same - Nonresident must place business
through resident agent

12 A nonresident agent or broker must place through an
13 agent resident in this State of the insurer, all insurance
14 covering a resident of this State, property situated in
15 this State, a risk incidental to the performance or non-
16 performance of any obligation to be performed in this State,
17 or a risk incidental to any obligation which is governed by
18 the laws of this State though actually to be performed else-
19 where, except as provided in section 427 (exceptions to
20 countersignature law) ~~of this Title~~.

21

22 SUBCHAPTER III

23 LIFE AGENTS AND BROKERS
QUALIFICATIONS AND REQUIREMENTS

24 § 1671. Short title

25 ~~This~~ Subchapter III of this chapter may be referred to as
26 the "life agent and broker law."

27

28 § 1672. Scope of Subchapter III

29 1. ~~This~~ Subchapter III of this chapter applies only as to:

30 A. Life agents as defined in section 1504, ~~of this~~
31 ~~chapter~~.

32 B. Life brokers as defined in section 1506, ~~of this~~

1 chapter.

2 2. As used in this subchapter ~~III~~ "agent" means life
3 agent, and "broker" means life broker.

4

5 § 1673. Qualifications for life agent, broker
6 licenses

7 For the protection of the people of this State, the
8 commissioner shall not issue, continue, or permit to exist
9 any agent or broker license except in compliance with this
10 chapter, or as to any individual unless qualified therefor
11 as follows:

12 1. Age. Must be 21 years or more of age.

13 2. Residence. If to be licensed as a resident agent
14 *(or have his principal place of business located in this State)*
15 or resident broker, must be a resident of this State and not
16 be licensed as a resident agent or resident broker of another
17 state.

18 3. Competence, etc. Must be competent, trustworthy,
19 financially responsible, and of good personal and business
20 reputation.

21 4. Examination. Must have passed any written examina-
22 tion required for the license under this chapter.

23 5. Purpose. Must not seek or use the license for the
24 purpose of writing controlled business, as referred to in
25 section 1514 ~~of this chapter~~.

26 6. Appointment. If for agent's license, must have
27 been appointed agent by an authorized insurer as to the
28 kinds of insurance to be covered by the license, subject
29 to issuance of the license.

30 7. Experience. If for broker's license, must have had
31 experience as a life agent or broker, or managing general
32 agent, or other special experience, education or training
in the life insurance business, all of sufficient content
and duration as deemed by the commissioner reasonably

1 necessary for competence in fulfilling the responsibilities
2 of a broker.

3

4 § 1674. Initial license - Life agents, brokers

5 1. An individual who has not theretofore been licensed
6 under other than a temporary license as a life agent or life
7 broker in this State or elsewhere, ~~shall~~ ^{may} in this State first
8 qualify for and be licensed as a life agent under an initial
9 license. The initial license shall be valid for a period of
10 one year from date of issue, and shall not be subject to
11 continuance, renewal or reissuance. Not more than one
12 initial license shall ever be issued as to the same individual.

13 2. Prior to expiration of his initial license, the
14 licensee shall qualify for and obtain issuance to or as to
15 him of a permanent license as a life agent or as a life
16 broker. If the licensee does not so qualify for and secure
17 his permanent license within such year, upon expiration of
18 the initial license the licensee shall discontinue his
19 activities as a life insurance agent and shall not thereafter
20 be or act as a life agent or life broker in this State
21 unless he applies and qualifies, and takes and passes the
22 required examination, for a permanent license as life agent
23 or life broker.

24

25 § 1675. Brokers - Bond, authority, commissions,
combinations

26 The following sections of ~~subchapter II of this chapter~~
27 shall also apply as to life brokers:

- 28 1. Section 1606 (broker's bond);
29 2. Section 1607 (broker's authority, commissions),
30 except that the requirement that a nonresident broker must
31 place insurance covering a subject of insurance in this
32 State through a resident agent shall not apply as to life

1 brokers; and

2 3. Section 1608 (broker, agent license combinations).

3

4 § 1676. Commissions - Payment, acceptance

5 1. No insurer, life agent, or broker shall pay directly
6 or indirectly any commission, brokerage, or other valuable
7 consideration to any person for services as a life agent or
8 life broker within this State, unless such person held at
9 the time such services were performed a valid license to
10 act as a life agent or life broker as required by the laws
11 of this State; nor shall any person, other than a person
12 duly licensed as a life agent or life broker by this State
13 at the time such services were performed, accept any such
14 commission, brokerage, or other valuable consideration.

15 2. This section shall not prevent payment or receipt
16 of renewal or other deferred commissions to or by any person
17 entitled thereto under subsection 1 above, even though at
18 the time of such payment or receipt such person had ceased
19 to hold a license as life agent or life broker.

20

21 § 1677. Excess or rejected risks

22 A life or health agent may place with another insurer
23 as to which he is not licensed as agent, and receive commis-
24 sion from the insurer as to, a particular risk or portion
25 thereof which has been rejected by the insurers as to which
26 the agent is licensed or is known to the agent to be
27 unacceptable to such insurers, and without then being
28 licensed as to such other insurer.

29

30 § 1678. Reporting and accounting for premiums

31 ~~Section 1613 of subchapter II of this chapter shall~~
32 likewise apply as to life agents and life brokers.

1 § 1679. Countersignature of health policies

2 Sections 1611 (signature, countersignature of policies)
3 and 1612 (countersignature fee) of ~~subchapter II of this~~
4 ~~chapter~~ shall also apply as to countersignature of health
5 policies by a life agent licensed as to health insurance.

7 § 1680. Nonresident agents, brokers

8 1. An individual not resident in this State may be
9 licensed as a life agent or life broker if the state or
10 Canadian province of his domicile will accord the same
11 privilege to a resident of this State.

12 2. The commissioner is authorized to enter into recip-
13 rocal agreements with the appropriate official of any other
14 state or Canadian province waiving the written examination
15 of an applicant resident in such other state or province, if:

16 A. A written examination is required of applicants for
17 a life agent's or life broker's license in such other state
18 or province;

19 B. The appropriate official of such other state or
20 province certifies that the applicant holds a currently
21 valid license as a life agent or life broker, as the case
22 may be, in such other state or province and either passed
23 such written examination or was the holder of such a license
24 prior to the time such written examination was required;

25 C. The applicant has no place of business within this
26 State, and is not an officer, director, stockholder or part-
27 ner in any corporation or firm doing business in this State
28 as a life insurance agency or broker; and

29 D. In such other state or province, a resident of this
30 State is privileged to procure a life agent's or life broker's
31 license, as the case may be, upon the foregoing conditions
32 and without discrimination as to fees or otherwise in favor

1 of the residents of such other state or province.

2 3. Section 1617 (service of process) ~~of subchapter II~~
3 ~~of this chapter~~ shall also apply as to nonresidents licensed
4 under this section.

5

6 § 1681. Change of address, notice to commissioner

7 Every agent and broker shall promptly notify the com-
8 missioner in writing of every change of his principal busi-
9 ness or residence address.

1 SUBCHAPTER IV

2 INSURANCE CONSULTANTS

3 QUALIFICATIONS AND REQUIREMENTS

4 § 1801. Short title

5 *This* Subchapter IV of ~~this chapter~~ may be referred to as the
6 "insurance consultant law."

7
8 § 1802. Scope of subchapter IV

9 1. *This* Subchapter ~~IV~~ of ~~this chapter~~ applies only as to gen-
10 eral lines consultants and life consultants, as defined in
11 section 1508 of ~~this chapter~~.

12 2. Unless context otherwise requires, "consultant" as
13 used in this subchapter means both general lines consultants
14 and life consultants.

15
16 § 1803. Qualifications for license as consultant

17 For the protection of the people of this State the com-
18 missioner shall not issue, continue, or permit to exist any
19 license as consultant except in compliance with this chapter,
20 or as to any person not qualified therefor as follows:

21 1. Must be an individual of 25 or more years of age;

22 2. Must have had not less than 5 years of actual exper-
23 ience as a licensed agent or broker with respect to the kinds
24 of insurance and contracts to be covered by the license, and
25 other special experience, education or training, all of suffi-
26 cient content and duration reasonably necessary for competence
27 in fulfilling the responsibilities of a consultant;

28 3. Must have a thorough knowledge of insurance and
29 annuity contracts of the kinds proposed to be covered under
30 the license;

31 4. Must pass all written examinations required for the
32 license under this chapter;

1 5. Must be competent, trustworthy under highest fiduciary
2 standards, financially responsible, and of good personal and
3 business reputation; and

4 6. Must have filed the bond required by section 1804 ~~of~~
5 ~~this chapter.~~

6

7 § 1804. Consultant's bond

8 1. Every applicant for license as a consultant shall
9 file with the commissioner with his application for license,
10 and shall maintain in effect while so licensed, a bond issued
11 by an authorized surety insurer in favor of the State of Maine,
12 continuous in form and providing for aggregate liability of
13 \$5,000.

14 2. The bond shall indemnify any person damaged by any
15 fraudulent ~~or unlawful~~ act or conduct of the licensee in
16 transactions under the license, and shall likewise be conditioned
17 upon faithful accounting and application of all moneys coming
18 into the licensee's possession in connection with his activi-
19 ties as such a licensee.

20 3. The bond shall remain in force until released by
21 the commissioner, or until cancelled by the surety. Without
22 prejudice to any liability previously incurred thereunder,
23 the surety may cancel the bond upon 30 days advance written
24 notice to the licensee and the commissioner.

25

26 § 1805. Place of business, records

27 1. Every consultant shall have and maintain in this
28 State a place of business accessible to the public. The
29 address of such place shall appear upon the license, and
30 the licensee shall promptly notify the commissioner in writ-
31 ing of any change thereof. Nothing in this section shall
32 prohibit maintenance of such a place in the licensee's

1 residence in this State.

2 2. The license of the licensee shall be conspicuous-
3 ly displayed in such place of business in a part thereof
4 customarily open to the public.

5 3. The licensee shall keep at his place of business
6 as a complete record of transactions under his license.
7 The record shall be kept available for inspection by the
8 commissioner for a period of at least 3 years after comple-
9 tion of the respective transactions.

10

11 § 1806. Combined licensing prohibited

12 A licensed consultant shall not at the same time be
13 licensed as an agent or broker and shall not have a pecun-
14 iary interest in any insurance agency or broker.

15

16 § 1807. Sharing in commissions prohibited; penalty

17 1. A consultant shall not, directly or indirectly,
18 receive or share in any commission or compensation paid,
19 directly or indirectly, by any insurer with respect to any
20 insurance or annuity contract procured, renewed, continued,
21 modified, terminated, or otherwise disposed of pursuant to
22 any recommendation given or transaction engaged in by the
23 licensee under his license.

24 2. If the licensee has received or is to receive any
25 fee, commission, or compensation from the insured or proposed
26 insured, or from any other person other than the insurer,
27 directly or indirectly, with respect to any insurance trans-
28 action or proposed insurance transaction, or with respect
29 to any insurance or annuity contract existing or proposed,
30 it shall conclusively be presumed that the licensee was act-
31 ing as a consultant with respect to such transaction or con-
32 tract.

1 license as ~~either an independent adjuster or as a public~~
2 ~~adjuster~~ except in compliance with this chapter, or as to
3 any individual not qualified therefor as follows:

4 1. Must be at least 21 years of age.

5 2. Must be competent, trustworthy, financially respon-
6 sible, and of good personal and business reputation.

7 3. Must pass any written examination required for the
8 license under this chapter.

9 4. Must have had at least 2 years' experience, or spec-
10 ial training with respect to handling of loss claims under
11 insurance contracts, of sufficient duration and scope reason-
12 ably to make him competent to fulfill the responsibilities of
13 an adjuster; or, in lieu of such experience of training, is
14 to be employed by and subject to the immediate personal super-
15 vision of a licensed adjuster in this State who has been so
16 established in business for not less than 3 years next preced-
17 ing date of application for the license. This ^{substantive} paragraph 4
18 shall not apply as to persons holding subsisting licenses as
19 adjuster in this State immediately prior to the effective
20 date of this Act.

21 5. Must post the bond required under section 1856, ~~of~~
22 ~~this chapter.~~

23

24 § 1854. Combination license prohibited

25 A person shall be licensed as either an independent
26 adjuster or as a public adjuster; and the same person shall
27 not concurrently be licensed or act as both an independent
28 adjuster and public adjuster.

29

30 § 1855. Public adjuster restricted to fire
insurance losses

31 The license of a public adjuster shall cover, and the
32 operations of the licensee under the license shall be limited

1 to, the adjustment on behalf of the named insured of claims
2 for destruction, loss, or damage as to the insured property
3 and arising solely under fire insurance coverages.

4

5 § 1856. Adjuster's bond

6 1. Before issuance of an adjuster license the applicant
7 shall file with the commissioner and thereafter maintain in
8 force while so licensed, a surety bond in favor of the State
9 of Maine executed by an authorized surety insurer, and condi-
10 tioned on the due accounting and payment by the licensee of
11 funds of others received by him in connection with transac-
12 tions under the license.

13 2. The bond shall be continuous in form, and aggregate
14 liability thereon may be limited to \$10,000.

15 3. The bond shall remain in force until the surety is
16 released from liability by the commissioner, or until can-
17 celled by the surety. Without prejudice to any prior liabil-
18 ity accrued, the surety may cancel the bond upon 30 days'
19 advance written notice to the licensee and the commissioner.

20 4. The commissioner may waive the requirement of a
21 separate bond as to a licensee employed or to be employed
22 by a licensed firm or corporation adjuster which has posted
23 with the commissioner a general bond covering all such lic-
24 enees in such aggregate liability amount in excess of
25 \$10,000 as the commissioner deems reasonable.

26

27 § 1857. Records

28 1. Each adjuster shall keep at his business address
29 shown on his license a record of all transactions
30 under the license.

31 2. The record shall include:

32 A. A copy of all investigations or adjustments under-

1 taken or consummated.

2 B. A statement of any fee, commission or other compen-
3 sation received or to be received by the adjuster on account
4 of such investigation or adjustment.

5 3. The adjuster shall make such records available for
6 examination by the commissioner at all times, and shall
7 retain the records for at least 3 years.

8

9 § 1858. Nonresident adjusters; process; special
catastrophe losses

10 1. Section 1617 (service of process) ~~of this chapter~~
11 shall also apply as to nonresidents of this State licensed
12 as adjuster by this State.

13 2. No adjuster license is required as to any adjuster
14 sent into this State on behalf of an authorized insurer for
15 the investigation or adjustment of a particular unusual or
16 extraordinary loss, or of a series of losses resulting from
17 a catastrophe common to all such losses.

CHAPTER 19

SURPLUS LINES

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§ 2001. Short title

This chapter constitutes and may be cited as the "surplus lines" law.

§ 2002. Exemptions

This surplus line law shall not apply to life insurance, health insurance, or reinsurance; or to the following insurance when ~~se-~~^{written} placed by licensed general lines agents or brokers or surplus line brokers of this State:

1. Wet marine and transportation insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside of this State, or on vehicles or aircraft owned and principally garaged outside this State.
3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in commercial interstate flight, or cargo of such aircraft, or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

§ 2003. Definitions--"Broker," "export"

1. "Broker" as used in this chapter and unless context otherwise requires, means a surplus linesbroker duly licensed as such under this chapter.
2. To "export" means to place in an unauthorized insurer under this surplus lines law insurance covering a subject of insurance resident, located, or to be performed in

1 Maine.

2

3 § 2004. Conditions for export

4 If certain insurance coverages cannot be procured from
5 authorized insurers, such coverages, hereinafter designated
6 "surplus lines," may be procured from unauthorized insurers,
7 subject to the following conditions:

8 1. The insurance must be procured through a licensed
9 surplus linesbroker.

10 2. The desired coverage is necessary for the adequate
11 protection of a risk in the State.

12 3. It may be written under the laws of this State by an
13 authorized insurer.

14 4. ^{The insurance} It is not available in any authorized insurer after diligent
15 effort has been made to place the coverage with authorized insurers. ^{Subsequent}

16 § 2005. Application to commissioner

17 Prior to effecting any such surplus lines insurance the
18 broker shall make written application to the commissioner
19 stating his reasons for desiring to insure a particular risk
20 with an unauthorized insurer. The commissioner shall grant
21 him permission if he finds that the conditions for export
22 referred to in section 2004 ~~of this chapter~~ exist as to the
23 desired coverage.

24

25 § 2006. Open lines for export

26 1. The commissioner may by order declare eligible for
27 export generally and without compliance with the provisions
28 of sections 2004, subsections 2 and 3, and ^{section} 2005 ~~of this chap-~~
29 ~~ter~~, any class or classes of insurance coverage or risk for
30 which he finds, after a hearing of which notice was given to
31 each insurer authorized to transact such class or classes in
32 this State, that there is not a reasonable or adequate market

1 among authorized insurers either as to acceptance of the
2 risk, contract terms, or premium or premium rate. Any such
3 order shall continue in effect during the existence of the
4 conditions upon which predicated, but subject to earlier ter-
5 mination by the commissioner.

6 2. The broker shall file with or as directed by the
7 commissioner a memorandum as to each such coverage placed by
8 him in an unauthorized insurer, in such form and context as
9 the commissioner may reasonably require for the identifica-
10 tion of the coverage and determination of the tax payable to
11 the State relative thereto.

12 3. The broker, or a licensed Maine agent of the author-
13 ized insurer or a general lines broker, may also place with
14 authorized insurers any insurance coverage made eligible for
15 export generally under subsection 1 above, and without regard
16 to rate or form filings which may otherwise be applicable as
17 to the authorized insurer. As to coverages so placed in an
18 authorized insurer the premium tax thereon shall be reported
19 and paid by the insurer as required generally under the law
20 of this State.

21

22 § 2007. Eligible surplus lines insurers

23 1. A broker shall not knowingly place surplus lines
24 insurance with an insurer that is unsound financially, or
25 that is ineligible under this section.

26 2. The commissioner shall from time to time publish a
27 list of all surplus lines insurers deemed by him to be eli-
28 gible currently, and shall mail a copy of such list to each
29 broker at his office last of record with the commissioner.
30 This subsection shall not be deemed to cast upon the commis-
31 sioner the duty of determining the actual financial condition
32 or claims practices of any unauthorized insurer; and the status

1 of eligibility, if granted by the commissioner, shall indicate
2 only that the insurer appears to be sound financially and to
3 have satisfactory claims practices, and that the commissioner
4 has no credible evidence to the contrary. While any such
5 list is in effect the broker shall restrict to the insurers
6 so listed all surplus lines business placed by him.

7

8 § 2008. Evidence of the insurance; changes; penalty

9 1. Upon placing a surplus lines coverage, the broker
10 shall promptly issue and deliver to the insured evidence of
11 the insurance consisting either of the policy as issued by
12 the insurer, or, if such policy is not then available, the
13 surplus lines broker's certificate. Such a certificate shall
14 be executed by the broker and shall show the description and
15 location of the subject of the insurance, coverage, conditions
16 and term of the insurance, the premium and rate charged and
17 taxes collected from the insured, and the name and address of
18 the insured and insurer. If the direct risk is assumed by
19 more than one insurer, the certificate shall state the name
20 and address and proportion of the entire direct risk assumed
21 by each such insurer.

22 2. No broker shall issue any such certificate or any
23 cover note, or purport to insure or represent that insurance
24 will be or has been granted by any unauthorized insurer,
25 unless he has prior written authority from the insurer for
26 the insurance, or has received information from the insurer
27 in the regular course of business that such insurance has
28 been granted, or an insurance policy providing the insurance
29 actually has been issued by the insurer and delivered to the
30 insured.

31 3. If after the issuance and delivery of any such
32 certificate there is any change as to the identity of the

1 insurers, or the proportion of the direct risk assumed by an
2 insurer as stated in the broker's original certificate, or in
3 any other material respect as to the insurance evidenced by
4 the certificate, the broker shall promptly issue and deliver
5 to the insured a substitute certificate accurately showing
6 the current status of the coverage and the insurers responsible
7 thereunder.

8 4. If a policy issued by the insurer is not available
9 upon placement of the insurance and the broker has issued and
10 delivered his certificate as hereinabove provided, upon
11 request therefor by the insured the broker shall as soon as
12 reasonably possible procure from the insurer its policy evi-
13 dencing such insurance and deliver such policy to the insured
14 in replacement of the broker's certificate theretofore issued.

15 5. Any surplus linesbroker who knowingly or negligently
16 issues a false certificate of insurance or who fails promptly
17 to notify the insured of any material change with respect to
18 such insurance by delivery to the insured of a substitute
19 certificate as provided in subsection 3, shall upon convic-
20 tion, be subject to the penalty provided by section 12
21 ~~of this Title~~ or to any greater applicable penalty otherwise
22 provided by law.

23

24 § 2009. Endorsement of contract

25 Every insurance contract procured and delivered as a
26 surplus linescoverage pursuant to this ^{chapter} ~~law~~ shall have
27 stamped upon it, and bearing the name of the
28 surplus line broker who procured it, the following:

29 "This insurance contract is issued pursuant to the
30 Maine Insurance Laws by an insurer neither licensed by nor
31 under the jurisdiction of the Maine Insurance Department."

1 § 2010. Surplus lines insurance valid

2 Insurance contracts procured as surplus line coverage
3 from unauthorized insurers in accordance with this ~~law~~ ^{chapter} shall
4 be fully valid and enforceable as to all parties, and shall
5 be given recognition in all matters and respects to the same
6 effect as like contracts issued by authorized insurers.

7
8 § 2011. Liability of insurer

9 1. As to a surplus lines risk which has been assumed by
10 an unauthorized insurer pursuant to this ~~surplus lines insurance law~~ ^{chapter},
11 and if the premium thereon has been received by the
12 surplus lines broker who placed such insurance, in all questions
13 thereafter arising under the coverage as between the insurer
14 and the insured the insurer shall be deemed to have received
15 the premium due to it for such coverage; and the insurer shall
16 be liable to the insured as to losses covered by such insur-
17 ance, and for unearned premiums which may become payable to
18 the insured upon cancellation of such insurance, whether or
19 not in fact the broker is indebted to the insurer with respect
20 to such insurance or for any other cause.

21 2. Each unauthorized insurer assuming a surplus lines
22 risk under this ~~surplus lines insurance law~~ ^{chapter} shall be deemed
23 thereby to have subjected itself to the terms of this section.

24

25 § 2012. Surplus lines brokers - Licensing

26 1. Any person while licensed in this State as a resi-
27 dent general lines agent or as a general lines broker, who
28 is deemed by the commissioner to be competent and trustworthy
29 with respect to the handling of surplus lines, and while main-
30 taining an office at a designated location in this State, may
31 be licensed as a surplus lines broker.

32 2. Application for the license shall be made to the

1 commissioner on forms as designated and furnished by the com-
2 missioner.

3 3. The license fee shall be as specified in section
4 601 (fee schedule) of ~~this Title.~~

5 4. The license and licensee shall be subject to the
6 applicable provisions of chapter 17 (agents, brokers, consult-
7 ants and adjusters) of ~~this Title.~~

8

9 § 2013. Suspension, revocation of broker's license

10 1. The commissioner may suspend or revoke any surplus
11 linesbroker's license:

12 A. If the broker fails to file the annual statement or
13 to remit the tax as required by sections ~~2016 and 2017~~; of ~~this~~
14 ~~chapter~~; or

15 B. If the broker fails to maintain an office in this
16 State, or to keep the records, or to allow the commissioner
17 to examine his records as required by this law, or if he
18 removes his records from the State; or

19 C. If the broker places a surplus linescoverage in an
20 insurer other than as authorized under section 2007; of ~~this~~
21 ~~chapter~~; or

22 D. For any other applicable cause for which a general
23 lines agent's license may be suspended or revoked.

24 2. The procedures provided by chapter 17 of ~~this Title~~
25 for suspension or revocation of licenses shall apply to sus-
26 pension or revocation of a surplus linesbroker's license.

27 3. Upon suspending or revoking the broker's surplus
28 lineslicense the commissioner shall also suspend or revoke
29 all other licenses of or as to the same individual under this
30 Title.

1 § 2014. Broker may compensate agents and brokers

2 A licensed surplus linesbroker may accept and place
3 surplus line business for any insurance agent or broker
4 licensed in this State for the kind of insurance involved,
5 and may compensate the agent or broker therefor.

6
7 § 2015. Records of broker

8 1. Each broker shall keep in his office in this State
9 a full and true record of each surplus linescoverage procured
10 by him, including a copy of each daily report, if any, a copy
11 of each certificate of insurance issued by him, and such of
12 the following items as may be applicable:

13 A. Amount of the insurance;

14 B. Gross premium charged;

15 C. Return premium paid, if any;

16 D. Rate of premium charged upon the several items of
17 property;

18 E. Effective date of the contract, and the terms thereof;

19 F. Name and address of each insurer on the direct risk
20 and the proportion of the entire risk assumed by such insurer
21 if less than the entire risk;

22 G. Name and address of the insured;

23 H. Brief general description of the property or risk
24 insured and where located or to be performed; and

25 I. Other information as may be required by the commis-
26 sioner.

27 2. The record shall not be removed from this State and
28 shall be open to examination by the commissioner at all times
29 within 5 years after issuance of the coverage to which it
30 relates.

1 § 2016. Monthly report of broker

2 Each broker shall file a monthly report with the commis-
3 sioner showing the amount of insurance placed for any person
4 or organization, the location of each risk, the gross premium
5 charged, the names of each insurer in which the insurance was
6 placed, the date and term of each insurance contract issued
7 and any other pertinent information required by the commis-
8 sioner. The report shall show in the same detail each con-
9 tract cancelled during the month covered by the report and the
10 return premium on it.

11

12 § 2017. Annual report and tax

13 1. Each broker shall file an annual report in January
14 with the commissioner and the Treasurer of State containing
15 a sworn statement of the gross premium charged for insurance
16 placed, and the gross return premiums on the insurance cancelled,
17 during the year ending on the 31st of the preceding December.
18 At the time of filing the report, he shall pay to the Treasurer
19 of State ~~2~~3% of the difference between the gross premiums and
20 the return premiums reported for the business transacted
21 during the year.

22 2. If a surplus lines policy covers risks or exposures
23 only partially in this State the tax so payable shall be com-
24 puted upon the proportion of the premium which is properly
25 allocable to the risks or exposures located in this State.

26

27 § 2018. Failure to file statement or remit tax - Penalty

28 If any broker fails to file his annual statement, or
29 fails to remit the tax provided by section 2017, ~~of this chap-~~
30 ~~ter~~, prior to the first day of March after the tax is due,
31 and if in the commissioner's opinion such failure is without
32 just cause, he shall be liable for a fine of \$25 for each day

1 of delinquency commencing with the first day of March. The
2 tax may be collected by distraint, or the tax and fine may be
3 recovered by an action instituted by the commissioner in any
4 court of competent jurisdiction. Any fine collected by the
5 commissioner shall be paid to the Treasurer of State and cre-
6 dited to the insurance regulatory fund.

7

8 § 2019. Legal process against surplus line insurer

9 1. An unauthorized insurer shall be sued, upon any
10 cause of action arising in the State under any contract issued
11 by it as a surplus lines contract pursuant to this law, in the
12 Superior Court.

13 2. Service of legal process against the insurer may be
14 made in any such action by service of ²two copies thereof upon
15 the commissioner, and payment of the service of process fee
16 specified in section 601 (fee schedule) of ~~this Title~~. The
17 commissioner shall forthwith mail a copy of the process
18 served to the person designated by the insurer in the policy
19 for the purpose, by prepaid registered or certified mail with
20 return receipt requested. If no such person is so designated
21 in the policy, the commissioner shall in like manner mail a
22 copy of the process to the broker through whom such insurance
23 was procured, or to the insurer at its principal place of busi-
24 ness, addressed to the address of the broker or insurer, as the
25 case may be, last of record with the commissioner. Upon service
26 of process upon the commissioner ~~and mailing of the same in~~
27 accordance with this provision, the court shall be deemed to
28 have jurisdiction in personam of the insurer.

29 3. An unauthorized insurer issuing such policy shall be
30 deemed thereby to have authorized service of process against
31 it in the manner and to the effect as provided in this
32 section. Any such policy shall contain a provision stating

1 the substance of this section, and designating the person to
2 whom the commissioner shall mail process as provided in sub-
3 section 2 of this section.

BOOK #2 Contains:

| <u>Chapter</u> | <u>Subject</u> | <u>Beginning Page</u> |
|----------------|--|-----------------------|
| 21 | Unauthorized Insurers - Prohibitions, Process and Advertising | 187 |
| 23 | Trade Practices and Frauds | 196 |
| 25 | Rates and Rating Organizations | 213 |
| 27 | The Insurance Contract | 235 |
| 29 | Life Insurance and Annuity Contracts | 256 |
| 31 | Group Life Insurance | 284 |
| 33 | Health Insurance Contracts | 307 |
| 35 | Group and Blanket Health Insurance | 330 |
| 37 | Credit Life and Credit Health Insurance | 346 |
| 39 | Casualty Insurance Contracts | 357 |
| 41 | Property Insurance Contracts | 361 |
| 43 | Surety Insurance Contracts | 371 |
| 45 | Title Insurance Contracts | 374 |

CHAPTER 21. UNAUTHORIZED INSURERS - PROHIBITIONS,
PROCESS AND ADVERTISING

1 § 2101. Representing or aiding unauthorized insurer
 prohibited

2 1. No person shall in this State directly or indirectly
3 act as agent for, or otherwise represent or aid on behalf of
4 another, any insurer not then authorized to transact such
5 business in this State, in the solicitation, negotiation,
6 procurement or effectuation of insurance or annuity contracts,
7 or renewal thereof, or forwarding of applications for insur-
8 ance or annuities, or the dissemination of information as to
9 coverage or rates, or inspection of risks, or fixing of rates,
10 or investigation or adjustment of claims or losses, or collec-
11 tion or forwarding of premiums, or in any other manner repres-
12 ent or assist such an insurer in the transaction of insurance
13 with respect to subjects of insurance resident, located or to
14 be performed in this State.

15 2. This section does not apply to:

16 A. Matters authorized to be done by the commissioner
17 under the unauthorized insurers process act, sections 2104
18 through 2108 ~~of this chapter.~~

19 B. Transactions as to which the insurer is not required
20 to have a certificate of authority pursuant to section 405
21 (exceptions to certificate of authority requirement), ~~of~~
22 this Title.

23 C. A licensed adjuster or attorney at law representing
24 such an insurer from time to time in his professional capacity.

25 D. Persons in this State who secure and furnish informa-
26 tion for the purposes of group life insurance, group or blanket
27 health insurance or annuity coverages, or for enrolling
28 individuals under such plans or issuing certificates there-
29 under or otherwise assisting in administering such plans

D. ~~Not marine and transportation insurance.~~
*D. Transactions in this State relating to a policy of ⁻¹⁸⁷⁻ ~~not~~
marine and transportation insurance delivered or issued
for delivery outside this State.*

1 where no commission is paid for such services and the master
2 policy or contract was lawfully solicited, issued and delivered
3 in and pursuant to the laws of a state in which the insurer
4 was then authorized to transact insurance.

5 E.S. The employee, compensated on salary only, of a
6 Maine employer who on behalf of the employer assists in the
7 procurement or administration of insurance coverages on the
8 property, risks and insurable interests of the employer.

9 § 2102. Purpose of unauthorized insurers process act
and unauthorized insurers false advertising
act

10 The purpose of sections 2103 ^{to} through 2108 (unauthorized
11 insurers process act) and sections 2109 ^{to} through 2111 (unauth-
12 orized insurers false advertising process act) ~~of this chapter~~
13 is to subject certain insurers to the jurisdiction of the com-
14 missioner and the courts of this State in suits and disciplin-
15 ary proceedings as provided therein, by or on behalf of in-
16 sureds or beneficiaries under insurance contracts or the com-
17 missioner. The Legislature declares its concern that many
18 Maine residents hold insurance policies delivered in this
19 State by unauthorized insurers, other than as to surplus lines
20 coverages written pursuant to chapter 19 ~~of this Title~~, thus
21 presenting to such residents the often insuperable obstacle
22 of resort to distant courts for the assertion of legal rights
23 under their policies; and that such insurers may induce resi-
24 dents to purchase insurance through false advertising sent
25 into this State. In furtherance of such state interest, the
26 Legislature herein provides a method of substituted service
27 of process upon such insurers, declares that in so doing it
28 exercises its power to protect Maine residents, to define,
29 for the purposes of this chapter, what constitutes doing busi-
30 ness in this State, and also exercises powers and privileges
31 available to the State under Public Law 15, 79th Congress of
32 the United States, chapter 20, 1st Session, S. 340, as amended,

1 which declares that the business of insurance and every person
2 engaged therein shall be subject to the laws of the several
3 states.

4 § 2103. Unauthorized insurers process act; title;
interpretation

5 1. Sections 2104 ~~through~~ 2108 ~~of this chapter~~ con-
6 stitute and may be cited as the unauthorized insurers process
7 act.

8 2. The act shall be so interpreted as to effectuate
9 its general purpose to make uniform the laws of those states
10 which enact it.

11 § 2104. Commissioner process agent

12 Solicitation, effectuation, or delivery of any insurance
13 contract, by mail or otherwise, within this State by an
14 unauthorized insurer, or the performance within this State
15 of any other service or transaction connected with such
16 insurance by or on behalf of such insurer, shall be deemed
17 to constitute an appointment by such insurer of the commis-
18 sioner and his successors in office as its attorney, upon
19 whom may be served all lawful process issued within this
20 State in any action or proceeding against such insurer aris-
21 ing out of any such contract or transaction; and shall be
22 deemed to signify the insurer's agreement that any such ser-
23 vice of process shall have the same legal effect and validity
24 as personal service of process upon it in this State.

25 § 2105. Service of process

26 1. Service of process upon any such insurer pursuant
27 to section 2104 ~~of this chapter~~ shall be made by delivering
28 to and leaving with the commissioner or some person in
29 apparent charge of his office 2 copies thereof and the pay-
30 ment to him of the fees as prescribed by section 601 ~~of this~~
31 ~~title~~. The commissioner shall forthwith mail by registered
32 or certified mail one of the copies of such process to the

1 defendant at its principal place of business last known to
2 the commissioner, and shall keep a record of all process so
3 served upon him. Such service of process is sufficient, pro-
4 vided notice of such service and a copy of the process are
5 sent within 10 days thereafter by registered or certified
6 mail by plaintiff's attorney to the defendant at its last
7 known principal place of business, and the defendant's receipt
8 or receipt issued by the post office with which the letter is
9 registered or certified, showing the name of the sender of
10 the letter and the name and address of the person to whom the
11 letter is addressed, and the affidavit of the plaintiff's
12 attorney showing a compliance herewith are filed with the clerk
13 of the court in which such action is pending on or before the
14 date the defendant is required to appear, or within such
15 further time as the court may allow.

16 2. Service of process in any such action, suit
17 or proceeding shall in addition to the manner provided in sub-
18 section 1 above be valid if served upon any person within
19 this State, who in this State on behalf of such insurer, is:

20 A. Soliciting insurance, or

21 B. Making any contract of insurance or issuing
22 or delivering any policies or written contracts of insurance,
23 or

24 C. Collecting or receiving any premium for insur-
25 ance; and a copy of such process is sent within 10 days
26 thereafter by registered or certified mail by the plaintiff's
27 attorney to the defendant at the last known principal place
28 of business of the defendant, and the defendant's receipt, or
29 the receipt issued by the post office with which the letter
30 is registered or certified, showing the name of the sender of
31 the letter and the name and address of the person to whom the
32 letter is addressed, and the affidavit of the plaintiff's

1 attorney showing a compliance herewith are filed with the
2 clerk of the court in which such action is pending on or
3 before the date the defendant is required to appear, or within
4 such further time as the court may allow.

5 3. No plaintiff or complainant shall be entitled to a
6 judgment or to have his complaint taken pro confesso under
7 this section until the expiration of 30 days from the date
8 of the filing of the affidavit of compliance.

9 4. Nothing in this section shall limit or abridge
10 the right to serve any process, notice or demand upon any
11 insurer in any other manner now or hereafter permitted by law.

12 § 2106. Exemptions from service or process provisions

13 Sections 2104 and 2105 ~~of this chapter~~ shall not apply
14 to surplus lines insurance lawfully effectuated under chapter
15 19 ~~of this Title~~, or to reinsurance, or to any action or
16 proceeding against an unauthorized insurer arising out of
17 any of the following where the policy or contract contains a
18 provision designating the commissioner as its attorney for the
19 acceptance of service of lawful process in any action or pro-
20 ceeding instituted by or on behalf of an insured or benefi-
21 ciary arising out of any such policy, or where the insurer
22 enters a general appearance in any such action:

23 1. Wet marine and transportation insurance;

24 2. Insurance on or with respect to subjects located,
25 resident, or to be performed wholly outside this State, or
26 on vehicles or aircraft owned and principally garaged out-
27 side this State;

28 3. Insurance on property or operations of railroads
29 engaged in interstate commerce; or

30 4. Insurance on aircraft or cargo of such aircraft,
31 or against liability, other than employer's liability, arising
32 out of the ownership, maintenance, or use of such aircraft.

1 § 2107. Defense of action by unauthorized insurer

2 1. Before an unauthorized insurer files or causes
3 to be filed any pleading in any action or proceeding insti-
4 tuted against it under sections 2104 and 2105 ~~of this chapter,~~
5 such insurer shall:

6 A. Procure a certificate of authority to transact
7 insurance in this State, or

8 B. Deposit with the clerk of the court in which
9 such action or proceeding is pending cash or securities, or
10 file with such clerk a bond with good and sufficient sureties,
11 to be approved by the court, in an amount to be fixed by the
12 court sufficient to secure the payment of any final judgment
13 which may be rendered in such action. The court may in its
14 discretion make an order dispensing with such deposit or bond
15 where the insurer makes a showing satisfactory to the court
16 that it maintains in a state of the United States funds or
17 securities, in trust or otherwise, sufficient and available
18 to satisfy any final judgment which may be entered in such
19 action or proceeding, and that the insurer will pay any final
20 judgment entered therein without requiring suit to be brought
21 on such judgment in the state where such funds or securities
22 are located.

23 2. The court in any action or proceeding in which
24 service is made in the manner provided in section 2105 ~~of this~~
25 ~~chapter~~ may, in its discretion, order such postponement as
26 may be necessary to afford the defendant reasonable opportunity
27 to comply with the provisions of subsection 1 above, and to
28 defend such action.

29 3. Nothing in subsection 1 ² above, is to be
30 construed to prevent an unauthorized insurer from filing a
31 motion to quash or to set aside the service of any process
32 made in the manner provided in section 2105 ~~of this chapter~~

1 on the ground either:

2 A. That such unauthorized insurer has not done
3 any of the acts enumerated in section 2104 ~~of this chapter,~~
4 or

5 B. That the person on whom service was made pur-
6 suant to subsection 2 of section 2105 ~~of this chapter~~ was
7 not doing any of the acts therein enumerated.

8 § 2108. Attorney fees

9 In any such action against an unauthorized insurer,
10 if the insurer has failed for 30 days after demand prior to
11 the commencement of the action to make payment in accordance
12 with the terms of the contract, and it appears to the court
13 that such refusal was vexatious and without reasonable cause,
14 the court shall allow to the plaintiff a reasonable attorney
15 fee and include such fee in any judgment that may be rendered
16 in such action, and in no event shall such fee be less than
17 \$100. Failure of an insurer to defend any such action shall
18 be deemed prima facie evidence that its failure to make pay-
19 ment was vexatious and without reasonable cause.

20 § 2109. Unauthorized insurers false advertising process
act; title

21 Sections 2102 and 2109 ^{to} ~~through 2111 of this chapter~~
22 constitute and may be referred to as the "unauthorized insurers
23 false advertising process act."

24 § 2110. Notice to domiciliary supervisory official

25 No unauthorized insurer through any estimate, illus-
26 tration, circular, pamphlet, letter, announcement, statement,
27 or any other means or medium, shall misrepresent to any person
28 in this State as to its financial condition or the terms of
29 any contract issued or to be issued by it or the advantages
30 thereof, or the dividends or share to be received thereon.
31 Whenever the commissioner has reason to believe that any such
32 insurer is so misrepresenting, he shall so notify the insurer

1 and the insurance supervisory official of the insurer's domi-
2 ciliary state or province by registered or certified mail.

3 § 2111. Action by commissioner

4 1. If within 30 days following the giving of the
5 notice provided for in section 2110 ~~of this chapter~~ the
6 insurer has not ceased such dissemination, and if the com-
7 missioner has reason to believe that such insurer is solicit-
8 ing, issuing or delivering contracts of insurance to resid-
9 ents of this State or collecting premiums on such contracts
10 or performing any other transaction in connection with such
11 insurance, and that a proceeding by him in respect to such
12 matters would be to the interest of the public, he shall
13 take action against such insurer under provisions of section
14 2167 ~~of this Title~~ (trade practices act, service of process
15 on unauthorized insurers).

16 2. If upon such hearing the commissioner finds that the
17 insurer has misrepresented as referred to in section 2110 of
18 this chapter, he shall by order on such hearing require the
19 insurer to cease and desist from such violation, and shall
20 mail a copy of the order by registered or certified mail to
21 the insurer at its principal place of business last of record
22 with the commissioner and to the insurance supervisory offi-
23 cial of the insurer's domiciliary state or province. Each
24 violation thereafter of such desist order shall subject the
25 insurer to a penalty of \$2,000, to be recovered by a civil
26 action brought against the insurer by the commissioner. Ser-
27 vice of process upon the insurer in such action may be made
28 upon the commissioner pursuant to sections 2105 or 2167
29 ~~of this Title~~ or in any other lawful manner.

§ 2112. Reciprocal judgment

The Attorney General upon request of the commissioner may proceed in the courts of this State or any reciprocal state or in any federal court or agency to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner.

1. Definitions. In this section:

A. "Reciprocal state" means any state the laws of which contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders in equity issued by courts located in other states, against insurers incorporated or authorized to do business in such state.

B. "Foreign decree" means any decree or order in equity of a court located in a "reciprocal state", including a court of the United States located therein, against a "domestic insurer" obtained by a "qualified party".

C. "Domestic insurer" means any insurer incorporated or authorized to do business in this State.

D. "Qualified party" means a state regulatory agency acting in its capacity to enforce the insurance laws of its state.

2. List of reciprocal states. The commissioner shall determine which states qualify as reciprocal states and shall maintain at all times an up-to-date list of such states.

3. Filing and status of foreign decrees. A copy of any foreign decree authenticated in accordance with the act of Congress or the statutes of this State may be filed in the office of the clerk of any Superior Court of this State. The clerk, upon verifying with the commissioner that the decree or order qualifies as a "foreign decree" shall treat the foreign decree in the same manner as a decree of a Superior Court of this State. A foreign decree so filed has the same effect and shall be deemed as a decree of a Superior Court of this State, and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a decree of a Superior Court of this State and may be enforced or satisfied in like manner.

4. Notice of filing.

A. At the time of the filing of the foreign decree, the Attorney General shall make ^{up} file with the clerk of the court an affidavit setting forth the name and last known post office address of the defendant.

B. Promptly upon the filing of the foreign decree and the affidavit, the clerk shall mail notice of the filing of the foreign decree to the defendant at the address given, and to the commissioner, and shall make a note of the mailing in the docket. In addition, the Attorney General may mail a notice of the filing of the foreign decree to the defendant and to the commissioner and may file proof of mailing with the clerk. Lack of mailing notice or filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the Attorney General has been filed.

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C. No execution or other process for enforcement of a foreign decree filed hereunder shall issue until 30 days after the date the decree is filed.

5. Stay.

A. If the defendant shows the Superior Court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.

B. If the defendant shows the Superior Court any ground upon which enforcement of a decree of any Superior Court of this State would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which is required in this State.

6. Fees. Any person filing a foreign decree shall pay to the clerk of court the applicable fee. Fees for docketing, transcription or other enforcement proceedings shall be as provided for decrees of the Superior Court.

(946)

41-1233. Report and tax of independently procured coverages. (1) 1.

Every insured who in this state procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this State, other than insurance procured through a surplus line broker pursuant to the surplus line law of this state or exempted from tax pursuant to section 41-1212, shall within thirty (30) days after the date such insurance was so procured, continued or renewed file a written report of the same with the commissioner on forms designated by the commissioner and furnished to the insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as the commissioner reasonably requests. If the insurance covers also a subject of insurance resident, located or to be performed outside this state a proper pro rata portion of the entire premium payable for all such insurance shall be allocated to this state for the purposes of this section.

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2002

2. (2) Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this State, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection (1) above.

3. (3) For the general support of the government of this State there is levied upon the insured with respect to the obligation, chose in action, or right represented by such insurance, a tax at the rate of ~~three percent (3%)~~ of the gross amount of the premium charged for the insurance. Within ~~thirty (30)~~ days after the insurance was so procured, continued or renewed, and coincidentally with the filing with the commissioner of the report provided for in subsection (1) above, the insured shall pay the amount of the tax to the commissioner.

30

3%

1

4. (4) The tax imposed hereunder if delinquent shall bear interest at the rate of ~~six percent (6%)~~ per annum, compounded annually.

6%

5. (5) The tax shall be collectible from the insured by civil action brought by the commissioner, or by distraint.

6. (6) The commissioner shall promptly deposit all taxes and interest collected under this section with the state treasurer to the credit of the state's general fund.

7. (7) This section does not abrogate or modify any provision of sections ~~41-1201 (representing or aiding unauthorized insurer prohibited), 41-1202 (representing or aiding unauthorized insurer prohibited - penalty), or 41-1203 (suits by unauthorized insurer prohibited).~~

State

2101

8. (8) This section does not apply as to life or disability insurances. [1961, ch. 330, § 277, p. 645.]

representing

194(c)

1 § 211~~2~~³. Penalty

2 Any person who in this State represents an unauthorized
3 insurer in the transaction of business in this State in vio-
4 lation of law, shall, in addition to any other applicable
5 penalty, be liable for the full amount of any loss sustained
6 on any insurance contract made by or through him, directly
7 or indirectly, and for any premium taxes which may become
8 due under any law of this State by reason of such contract.

1 CHAPTER 23

2 TRADE PRACTICES AND FRAUDS

3 § 2151. Purpose

4 The purpose of sections 2151 ^{to} through 2167 ~~of this chapter~~
5 is to regulate trade practices in the business of insurance
6 in accordance with the intent of Congress as expressed in the
7 Act of Congress of March 9, 1945 (Public Law 15, 79th
8 Congress), by defining or providing for the determination of
9 all such practices in this State which constitute unfair
10 methods of competition or unfair or deceptive acts or prac-
11 tices, by defining or providing for the determination of all
12 such practices in other states by residents of this State
13 which constitute unfair methods of competition or unfair
14 or deceptive acts or practices, and by prohibiting the trade
15 practices so defined or determined.

16
17 § 2152. Unfair methods, deceptive acts prohibited

18 No person shall engage in this State in any trade
19 practice which is defined in this chapter, as, or determined
20 pursuant to this chapter, to be an unfair method of competi-
21 tion or an unfair or deceptive act or practice in the business
22 of insurance. No resident of this State shall engage in any
23 other state in any trade practice which is defined in this
24 chapter as, or determined pursuant to this chapter to be, an
25 unfair method of competition or an unfair or deceptive act
26 or practice in the business of insurance.

27
28 § 2153. Misrepresentation, false advertising of
policies

29 No person shall make, issue, circulate, or cause to be
30 made, issued, or circulated, any estimate, illustration, cir-
31 cular, or statement misrepresenting the terms of any policy
32 issued or to be issued or the benefits or advantages promised

1 thereby or the dividends or share of the surplus to be
2 received thereon, or make any false or misleading statement
3 as to the dividends or share of surplus previously paid on
4 similar policies, or make any misleading representation or
5 any misrepresentation as to the financial condition of any
6 insurer, or as to the legal reserve system upon which any
7 life insurer operates, or use any name or title on any policy
8 or class of policies misrepresenting the true nature thereof.

9

10 § 2154. False information, advertising

11 No person shall make, publish, disseminate, circulate,
12 or place before the public, or cause, directly or indirectly,
13 to be made, published, disseminated, circulated, or placed
14 before the public, in a newspaper, magazine or other publi-
15 cation, or in the form of a notice, circular, pamphlet,
16 letter or poster, or over any radio or television station,
17 or in any other way, an advertisement, announcement or state-
18 ment containing any assertion, representation or statement
19 with respect to the business of insurance or with respect to
20 any person in the conduct of his insurance business, which
21 is untrue, deceptive or misleading.

22

23 § 2155. "Twisting" prohibited

24 No person shall make or issue, or cause to be made or
25 issued, any written or oral statement misrepresenting or
26 making incomplete comparisons as to the terms, conditions,
27 or benefits contained in any policy for the purpose of
28 inducing or attempting or tending to induce the policyholder
29 to lapse, forfeit, borrow against, surrender, retain,
30 exchange, modify, convert, or otherwise affect or dispose
31 of any insurance policy.

1 § 2156. False or misleading financial statements

2 1. No person shall file with any supervisory or other
3 public official, or make, publish, disseminate, circulate or
4 deliver to any person, or place before the public, or cause
5 directly or indirectly, to be made, published, disseminated,
6 circulated, delivered to any person, or placed before the
7 public, any false statement of financial condition of an
8 insurer with intent to deceive.

9 2. No person shall make any false entry in any book,
10 report or statement of any insurer with intent to deceive
11 any agent or examiner lawfully appointed to examine into its
12 condition or into any of its affairs, or any public official
13 to whom such insurer is required by law to report, or who
14 has authority by law to examine into its condition or into
15 any of its affairs, or, with like intent, wilfully omit to
16 make a true entry of any material fact pertaining to the
17 business of such insurer in any book, report or statement of
18 such insurer.

19 3. No person shall advertise the capital or assets of
20 an insurer without in the same advertisement setting forth
21 the amount of the insurer's liabilities.

22

23 § 2157. Defamation

24 No person shall make, publish, disseminate, or circu-
25 late, directly or indirectly, or aid, abet or encourage the
26 making, publishing, disseminating or circulating of any oral
27 or written statement or any pamphlet, circular, article or
28 literature which is false, or maliciously critical of or
29 derogatory to the financial condition of an insurer, or of
30 an organization proposing to become an insurer, and which is
31 calculated to injure any person engaged or proposing to
32 engage in the business of insurance.

1 offer to pay, allow, or give, directly or indirectly, as
2 inducement to such insurance, or annuity, any rebate of
3 premiums payable on the contract, or any special favor or
4 advantage in the dividends or other benefits thereon, or
5 any paid employment or contract for services of any kind,
6 or any valuable consideration or inducement whatever not
7 specified in the contract; or directly or indirectly give,
8 or sell, or purchase or offer or agree to give, sell,
9 purchase, or allow as inducement to such insurance or annuity
10 or in connection therewith, and whether or not to be speci-
11 fied in the policy or contract, any agreement of any form
12 or nature promising returns and profits, or any stocks,
13 bonds, or other securities, or interest present or contin-
14 gent therein or as measured thereby, of any insurer or other
15 corporation, association, or partnership, or any dividends
16 or profits accrued or to accrue thereon.

17

18 § 2161. Exceptions to discrimination, rebates, stock
inducements provision - Life, health, and
annuity contracts

19 1. Nothing in sections 2159 and 2160 of this chapter
20 shall be construed as including within the definition of
21 discrimination or rebates any of the following practices:

22 A. In the case of any contract of life insurance or
23 life annuity, paying bonuses to policyholders or otherwise
24 abating their premiums in whole or in part out of surplus
25 accumulated from nonparticipating insurance, provided that
26 any such bonuses, or abatement of premiums shall be fair
27 and equitable to policyholders and for the best interests of
28 the insurer and its policyholders.

29 B. In the case of life insurance policies issued on
30 the ~~industrial~~ debit plan, making allowance to policyholders
31 who have continuously for a specified period made premium
32 payments directly to an office of the insurer in an amount

1 which fairly represents the saving in collection expense.

2 C. Readjustment of the rate of premium for a group
3 insurance policy based on the loss or expense experience
4 thereunder, at the end of the first or any subsequent policy
5 year of insurance thereunder, which may be made retroactive
6 only for such policy year.

7 D. Reduction of premium rate for policies of large
8 amount, but not exceeding savings in issuance and administra-
9 tion expenses reasonably attributable to such policies as
10 compared with policies of similar plan issued in smaller
11 amounts.

12 E. Reduction in premium rates for life or health
13 insurance policies or annuity contracts on salary savings,
14 payroll deduction, pre-authorized check, bank draft or
15 similar plans in amounts reasonably commensurate with the
16 savings made by the use of such plans.

17 F. The issuance of policies of group insurance with or
18 without annuities at rates less than the usual rate of pre-
19 miums for individual policies or contracts as otherwise pro-
20 vided for by law.

21 G. Allowance to an agent or broker, and receipt by the
22 agent or broker, of commissions with respect to insurance
23 written on himself.

24 2. Nothing in this chapter shall be construed as inclu-
25 ding within the definition of securities as inducements to
26 purchase insurance the selling or offering for sale, contem-
27 poraneously with life insurance or annuities, of mutual fund
28 shares or face amount certificates of regulated investment
29 companies under offerings registered with the Securities and
30 Exchange Commission where such shares or such face amount
31 certificates or such insurance or annuities may be purchased
32 independently of and not contingent upon purchase of the

1 other, at the same price and upon the same terms and condi-
2 tions as where purchased independently.

3

4 § 2162. Unfair discrimination, rebates prohibited -
Property, casualty, surety insurance

5 1. No property, casualty or surety insurer or any
6 employee or representative thereof, and no broker, agent, or
7 solicitor, *as to such insurance* shall pay, allow, or give, or offer to pay, allow
8 or give, directly or indirectly, as an inducement to insur-
9 ance, or after insurance has been effected, any rebate,
10 discount, abatement, credit or reduction of the premium named
11 in a policy of insurance, or any special favor or advantage
12 in the dividends or other benefits to accrue thereon, or any
13 valuable consideration or inducement whatever, not specified
14 or provided for in the policy, except to the extent provided
15 for in an applicable filing with the commissioner as provided
16 by law.

17 2. No such insurer shall make or permit any unfair
18 discrimination between insureds or property having like insur-
19 ing or risk characteristics, in the premium or rates charged
20 for insurance, or in the dividends or other benefits payable
21 thereon, or in any other of the terms and conditions of the
22 insurance.

23 3. Nothing in this section shall be construed as pro-
24 hibiting the payment of commissions or other compensation to
25 duly licensed agents, brokers, or solicitors, or as prohibi-
26 ting any insurer from allowing or returning to its partici-
27 pating policyholders, members or subscribers, dividends,
28 savings or unabsorbed premium deposits. As used in this
29 section the word "insurance" includes suretyship and the
30 word "policy" includes bond. This section does not apply
31 as to wet marine and transportation insurance.

1 of the time allowed for appeals from the commissioner's
2 orders, if no such appeal is taken, or, in the event of such
3 an appeal, upon final decision of the court if the court
4 affirms the commissioner's order or dismisses the appeal. An
5 intervenor in such hearing shall have the right to appeal as
6 provided in section 236 ~~of this Title.~~

7 3. In event of such an appeal, to the extent that the
8 commissioner's order is affirmed the court shall issue its
9 own order commanding obedience to the terms of the commis-
10 sioner's order.

11 4. No order of the commissioner pursuant to this section
12 or order of court to enforce it shall in any way relieve or
13 absolve any person affected by such order from any other
14 liability, penalty, or forfeiture under law.

15 5. Violation of any such desist order shall be deemed
16 to be and shall be punishable as a violation of this Title.

17 6. This section shall not be deemed to affect or pre-
18 vent the imposition of any penalty provided by this Title or
19 by other law for violation of any other provision of this
20 chapter, whether or not any such hearing is called or held
21 or such desist order issued.

22

23 § 2166. Procedures as to undefined practices

24 1. If the commissioner believes that any person engaged
25 in the insurance business is engaging in this State, or that
26 any resident of this State engaged in the insurance business
27 is engaging in another state, in any method of competition
28 or in any act or practice not defined in this chapter, in
29 the conduct of such business, which is unfair or deceptive
30 and that a proceeding by him in respect thereto would be in
31 the public interest, he shall, after a hearing of which
32 notice of the hearing and of the charges against him are

The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs or orders as are ancillary to its jurisdiction or necessary in its judgment to prevent injury to the public pendente lite;

3. If the court finds that:

A. The method of competition complained of is unfair, or that the act or practice complained of is unfair or deceptive; and

B. The proceedings by the commissioner with respect thereto is to the interest of the public; and

C. The findings of the commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

4. Either party may appeal from such final judgment or order or decree of court in a like manner as provided for appeals in civil cases.

1 given such person, make a written report of his findings of
2 fact relative to such charges and serve a copy thereof upon
3 such person and any intervenor at the hearing.

4 2. If such report charges a violation of this chapter
5 and if such method of competition, act or practice has not
6 been discontinued, the commissioner may at ^{20 days after} any time after

7 the service of such report cause an action to be instituted
8 ^{in the Superior Court of the County wherein the person resides or has his principal place} to enjoin and restrain such person from engaging in such ^{of business}

9 method, act, or practice. ~~In such action the court may grant~~
10 ~~a restraining order or injunction upon such terms as may be~~
11 ~~just;~~ but the people of this State shall not be required to
12 give security before the issuance of any such order or
13 ^{under this section} injunction. If a stenographic record of the proceedings in
14 the hearing before the commissioner was made, a certified
15 transcript thereof including all evidence taken and the
16 report and findings shall be received in evidence in such
17 action.

18 5. If the commissioner's report made under subsection
19 1 above, or order on hearing made under section 235 of this
20 Title does not charge a violation of this chapter, then any
21 intervenor in the proceedings may appeal therefrom within
22 the time and in the manner provided in this Title for appeals
23 from the commissioner generally.

24
25 § 2167. Service upon unauthorized insurers

26 1. Service of all process, statements of charges, and
27 notices under this chapter upon unauthorized insurers shall
28 be made by any deputy or employee of the department deliver-
29 ing to and leaving with the commissioner or some person in
30 apparent charge of his office, 2 copies thereof, or in the
31 manner provided for by section 2105 (service of process,
32 unauthorized insurers process act) ~~of this Title.~~

1 2. The commissioner shall forward all such process,
2 statements of charges, and notices to the insurer in the
3 manner provided in section 2105 ~~of this Title.~~

4 3. No default shall be taken against any such unauthor-
5 ized insurer until expiration of 30 days after date of
6 forwarding by the commissioner under subsection 1 above, or
7 date of service of process if under section 2105 ~~of this~~
8 ~~Title.~~

9 4. Section 2105 ~~of this Title~~ shall apply as to all
10 process, statements of charges, and notices under this
11 section.

12

13 § 2168. Coercion in requiring insurance

14 1. No person engaged in the business of financing the
15 purchase of real or personal property or of lending money
16 on the security of real or personal property shall require,
17 as a condition to such financing or lending, or as a condi-
18 tion to the renewal or extension of any such loan or to the
19 performance of any other act in connection with such finan-
20 cing or lending, that the purchaser or borrower, or his
21 successors, shall negotiate through a particular insurer or
22 insurers, insurance agent or agents, broker or brokers, type
23 of insurer or types of insurers, any policy of insurance or
24 renewal thereof insuring such property.

25 2. This section shall not prevent the exercise by any
26 mortgagee of his right to approve the insurer selected by
27 the borrower on a reasonable nondiscriminatory basis related
28 to the solvency and assessment policies of the insurer and
29 its ability to service the policy.

30 3. Any person violating this section shall be punished
31 by a fine of not more than \$100 or by imprisonment of not
32 more than 60 days, or by both; and if he holds a license

1 from the commissioner, he shall forfeit the same. The
2 Superior Court, on complaint by any person that this section
3 is being violated, may issue an injunction against such vio-
4 lation and may hold in contempt and punish therefor in case
5 of disregard of such injunction.

6

7 § 2169. Notice of free choice of agent or insurer

8 Every debtor, borrower or purchaser of property with
9 respect to which insurance of any kind on the property is
10 required in connection with a debt or loan secured by such
11 property or in connection with the sale of such property
12 shall be informed by the creditor or lender of his right of
13 free choice in the selection of the agent and insurer through
14 or by which such insurance is to be placed. There shall be
15 no interference either directly or indirectly with such
16 borrower's, debtor's or purchaser's free choice of an agent
17 and of an insurer which complies with the requirements set
18 out in section 2168 ~~of this chapter~~, and the creditor or
19 lender shall not refuse an adequate policy so tendered by
20 the borrower, debtor or purchaser. Upon notice of any
21 refusal of such tendered policy, the commissioner shall
22 order the creditor or lender to accept the tendered policy,
23 if he determines that such refusal is not in accordance with
24 the requirements set out in section 2168 ~~of this chapter~~.
25 Failure to comply with such an order of the commissioner
26 shall be deemed a violation of this section.

27

28 § 2170. Certain fees for handling insurance
transactions in connection with
loans prohibited

29 1. No person who makes a loan on real or personal
30 property shall in connection with such a transaction make
31 any separate charge to or require any fee from or require

1 the payment of any money for handling insurance papers for
2 an insurer, insurance agency, borrower, mortgagor or pur-
3 chaser, other than the insurance premium on insurance
4 written as additional security for the loan. This prohibi-
5 tion includes any separate charge or fee or payment of any
6 money for the substitution by a borrower or a mortgagor or
7 a purchaser of one insurance policy on the property for an
8 existing policy on the property when the existing or substi-
9 tuted policy is provided through an insurer or insurance
10 agent or broker licensed to do business in the State.

11 2. This section shall not prohibit fees paid to a
12 lender for handling or processing credit accident and health
13 or credit life insurance not exceeding 10% of premiums.

14 3. Nothing in this section prevents the payment of the
15 interest which may be charged on premium loans or premium
16 advancements in accordance with the security agreement, or
17 dividends to group policyholders.

18

19 § 2171. Using insurance information to detriment
of another

20 Whenever the instrument requires that the purchaser,
21 mortgagor or borrower furnish insurance of any kind on real
22 or personal property being conveyed or as collateral secur-
23 ity to a loan, the mortgagee or lender shall refrain from
24 disclosing or using any and all such insurance information
25 to his or its own advantage and to the detriment of either
26 the borrower, purchaser, mortgagor, insurer or company or
27 agency complying with the requirements relating to insurance.

28

29 § 2172. Fictitious groups prohibited

30 1. No insurer or person on behalf of any insurer shall
31 offer, make, or permit any preference or distinction for
32 purposes of any property, casualty, or surety insurance

1 coverage, as to form of policy, certificate, premium,
2 rates, benefits or conditions of insurance, based upon mem-
3 bership, nonmembership, or employment of any person or
4 persons in or by any particular group, association, corpora-
5 tion or organization; and shall not make any such preference
6 or distinction available in any event based upon any ficti-
7 tious grouping of persons. For the purposes of this section
8 a fictitious grouping is defined as any grouping by other
9 than ^{a insurable interest as to the subject of the insurance and} common majority ownership of the risk to be insured.

10 2. This section shall not apply as to any grouping
11 organized prior to January 1, 1968.

12
13 § 2173. Interlocking ownership, management

14 1. Any insurer may retain, invest in or acquire the
15 whole or any part of the capital stock of any other insurer
16 or insurers, or have a common management with any other
17 insurer or insurers, unless such retention, investment,
18 acquisition or common management is inconsistent with any
19 other provision of this Title, or unless by reason thereof
20 the business of such insurers with the public is conducted
21 in a manner which substantially lessens competition generally
22 in the insurance business or tends to create any monopoly
23 therein.

24 2. Any person otherwise qualified may be a director
25 of 2 or more insurers which are competitors, unless the
26 effect thereof is to lessen substantially competition between
27 insurers generally or tends materially to create any monopoly.

28
29 § 2174. Political contributions prohibited; penalty

30 1. No insurer shall directly or indirectly pay or use,
31 or offer, consent, or agree to pay or use, any money or
32 property for or in aid of any political party, committee, or

1 organization, or for or in aid of any corporation or other
2 body organized or maintained for political purposes, or for
3 or in aid of any candidate for political office, or for
4 nomination for such office, or for any political purpose
5 whatsoever, or for the reimbursement or indemnification of
6 any person for money or property so used.

7 2. Any officer, director, stockholder, attorney, or
8 agent of any insurer which violates any of the provisions of
9 this section, who participates in, aids, abets, or advises,
10 or consents to any such violation, and any person who solicits
11 or knowingly receives any money or property in violation of
12 this section, shall be guilty of a misdemeanor, and be
13 punished by imprisonment for less than one year and a fine
14 of not more than \$1,000; and any officer or director abetting
15 in any contribution made in violation of this section shall
16 be liable to the insurer for the amount so contributed.

17 3. This section shall not prohibit expenditures by an
18 insurer otherwise lawful, for presentation of information to
19 legislators relative to proposed legislation affecting the
20 insurer.

21

22 § 2175. Illegal dealing in premiums; excess charges
for insurance

23 1. No person shall knowingly collect any sum as pre-
24 mium or charge for insurance, which insurance is not then
25 provided or is not in due course to be provided, (subject to
26 acceptance of the risk by the insurer) by an insurance
27 policy issued by an insurer as authorized by this Title.

28 2. No person shall wilfully collect as premium or
29 charge for insurance any sum in excess of the premium or
30 charge applicable to such insurance, and as specified in the
31 policy, in accordance with the applicable classifications
32 and rates as filed with and approved by the commissioner; or,

1 in cases where classifications, premiums, or rates are not
2 required by this Title to be so filed and approved, such pre-
3 miums and charges shall not be in excess of those specified
4 in the policy and as fixed by the insurer. This provision
5 shall not be deemed to prohibit the charging and collection,
6 by surplus lines brokers licensed under chapter 19 ~~of this~~
7 ~~Title,~~ of the amount of applicable state and federal taxes
8 and nominal service charge to cover communication expenses,
9 in addition to the premium required by the insurer. This
10 provision shall not be deemed to prohibit the charging and
11 collection, by a life insurer, of amounts actually to be
12 expended for medical examination of an applicant for life
13 insurance or for reinstatement of a life insurance policy.

14

15 § 2176. Insurer's ownership of funeral establish-
ment prohibited

16 No insurer shall own or manage or supervise or operate
17 or maintain a mortuary establishment or funeral establish-
18 ment.

19

20 § 2177. Funeral contracts prohibited

21 No insurer shall contract or agree with any funeral
22 director, funeral establishment or mortuary establishment
23 to the effect that such director or establishment shall con-
24 duct the funeral of any individual insured by the insurer.

25 Nothing in this section shall prevent compliance with Title
26 39, section 59, or the use of an insurance policy to provide
27 security for the payment for a funeral.

28

29 § 2178. Insurer name - Deceptive use prohibited

30 No person who is not an insurer shall assume or use any
31 name which deceptively infers or suggests that it is an
32 insurer.

1 CHAPTER 25

2 RATES AND RATING ORGANIZATIONS

3 § 2301. Purpose of chapter; interpretation

4 The purpose of this chapter is to promote the public
5 welfare by regulating insurance rates (in accordance with
6 the intent of Congress as expressed in Public Law 15 - 79th
7 Congress) to the end that they shall not be excessive,
8 inadequate or unfairly discriminatory, and to authorize and
9 regulate cooperative action among insurers in rate making
10 and in other matters within the scope of this chapter.
11 Nothing in this chapter is intended (1) to prohibit or dis-
12 courage reasonable competition, or (2) to prohibit, or en-
13 courage except to the extent necessary to accomplish the
14 aforementioned purpose, uniformity in insurance rates, rat-
15 ing systems, rating plans or practices. This chapter shall
16 be liberally interpreted to carry into effect the provisions
17 of this section.

18
19 § 2302. Scope of chapter

20 1. This chapter applies to:

21 A. Casualty insurance and all forms of motor vehicle
22 insurance, on risks or operations in this State;

23 B. Surety insurance;

24 C. ~~Fire and allied lines~~^{Property}, marine and inland marine
25 insurance, on risks located in this State. Inland marine
26 insurance shall be deemed to include insurance now or here-
27 after defined by statute, or by interpretation thereof, or
28 if not so defined or interpreted, by ruling of the commis-
29 sioner, or as established by general custom of the business,
30 as inland marine insurance.

31 2. This chapter shall not apply to:

32 A. Reinsurance, except joint reinsurance as provided

1 in section 2322 of this chapter;

2 B. Health insurance;

3 C. Insurance of vessels or craft, their cargoes,
4 marine builders' risks, marine protection and indemnity,
5 or other risks commonly insured under marine, as distin-
6 guished from inland marine, insurance policies;

7 D. Insurance of hulls of aircraft, including their
8 accessories and equipment, or against liability, other than
9 workmen's compensation and employers' liability, arising
10 out of the ownership, maintenance or use of aircraft;

11 E. Life insurance;

12 F. Title insurance;

13 G. Insurance written on an assessment
14 plan by domestic mutual insurers.

15 3. Workmen's compensation shall first be subject to
16 Title 39, but any parts of this chapter not inconsistent
17 with such Title shall also apply. The filings required by
18 Title 39, section 22, may be made on behalf of any workmen's
19 compensation insurer by a rating organization licensed in
20 accordance with section 2310, ~~of this chapter.~~

21 4. Nothing in this chapter shall abridge or restrict
22 the freedom of contract between insurers and agents or
23 brokers with respect to commissions or between insurers and
24 their employees with respect to compensation.

25

26 § 2303. Making of rates

27 1. Rates shall be made in accordance with the follow-
28 ing provisions:

29 A. Manual, minimum, class rates, rating schedules or
30 rating plans, shall be made and adopted, except in the
31 case of specific inland marine rates on risks specially
32 rated;

1 B. Rates shall not be excessive, inadequate or unfair-
2 ly discriminatory;

3 C. Due consideration shall be given:

4 (1) To past and prospective loss experience within
5 and outside this State;

6 (2) To the conflagration and catastrophe hazards;

7 (3) To a reasonable ^{margin} ~~margin~~ for underwriting profit
8 and contingencies;

9 (4) To dividends, savings or unabsorbed premium
10 deposits allowed or returned by insurers to their policy-
11 holders, members or subscribers;

12 (5) To past and prospective expenses both country-
13 wide and those specially applicable to this State;

14 (6) To all other relevant factors within and outside
15 this State; and

16 (7) In the case of fire insurance rates, consideration
17 shall be given to the experience of the fire insurance busi-
18 ness during a period of not less than the most recent 5 year
19 period for which such experience is available;

20 D. The systems of expense provisions included in the
21 rates for use by any insurer or group of insurers may differ
22 from those of other insurers or groups of insurers to reflect
23 the requirements of the operating methods of any such insurer
24 or group with respect to any kind of insurance, or with res-
25 spect to any subdivision or combination thereof for which
26 subdivision or combination separate expense provisions are
27 applicable;

29 E. Risks may be grouped by classifications for the
30 establishment of rates and minimum premiums. Classification
31 rates may be modified to produce rates for individual risks
32 in accordance with rating plans which establish standards for
33 measuring variations in hazards or expense provisions, or both.

1 Such standards may measure any differences among risks which
2 may have a probable effect upon losses or expenses.

3 2. Nothing in this section shall be taken to prohibit
4 as unreasonable or unfairly discriminatory the establish-
5 ment of classifications or modifications of classifications or
6 risks based upon size , expense, management, individual exper-
7 ience, purpose of insurance, location or dispersion of hazard,
8 or any other reasonable considerations, provided such classi-
9 fications and modifications apply to all risks under the same
10 or substantially similar circumstances or conditions.

11 3. Except to the extent necessary to meet the provi-
12 sions of paragraph B of subsection 1 of this section, uni-
13 formity among insurers in any matters within the scope of
14 this section is neither required nor prohibited.

15 4. Rates made in accordance with this section may be
16 used subject to this chapter.

17
18 § 2304. Rate filings

19 1. Every insurer shall file with the commissioner,
20 except as to inland marine risks which by general custom of
21 the business are not written according to manual rates or
22 rating plans, every manual, minimum, class rate, rating sched-
23 ule or rating plan and every other rating rule, and every mod-
24 ification of any of the foregoing which it proposes to use.
25 Every such filing shall state the effective date thereof,
26 and shall indicate the character and extent of the coverage
27 contemplated.

28 2. When a filing is not accompanied by the informa-
29 tion upon which the insurer supports such filing, and the
30 commissioner does not have sufficient information to deter-
31 mine whether such filing meets the requirements of this chap-
32 ter , he shall require the insurer to furnish the information

1 upon which it supports the filing. Any filing may be sup-
2 ported by the experience, or judgment if experience is not
3 available, of the insurer or rating organization making
4 the filing, the experience of other insurers or rating organ-
5 izations or any other factors which the insurer or rating
6 organization deems relevant. A filing and any supporting
7 information shall be open to public inspection after the
8 filing becomes effective.

9 3. Specific inland marine rates on risks specially
10 rated, made by a rating organization, shall be filed with
11 the commissioner, and shall become effective when filed
12 and shall be deemed approved and in compliance with the
13 requirements of this chapter until such time as the commis-
14 sioner rejects the filing.

15 4. A rate filing and its supporting data are confiden-
16 tial until the filing becomes effective.

17

18 § 2305. Exemption from filing

19 Under such rules and regulations as he adopts the com-
20 missioner may, by written order, suspend or modify the re-
21 quirement of filing as to any kind of insurance, subdivision
22 or combination thereof, or as to classes of risks, the rates
23 for which cannot practicably be filed before they are used.
24 Such orders, rules and regulations shall be made known to
25 insurers and rating organizations affected thereby. The com-
26 missioner may make such examination as he deems advisable to
27 ascertain whether any rates affected by such order meet the
28 standards set forth in section 2303, subsection 1, paragraph B,
29 ~~of this chapter.~~

30

31 § 2306. Disapproval of filing

32 1. If at any time the commissioner has reason to believe

1 that a filing does not meet the requirements of this chap-
2 ter, he shall, after a hearing held upon not less than 10
3 days' written notice, specifying the matters to be consid-
4 ered at such hearing, to every insurer and rating organiza-
5 tion which made such filing, issue an order specifying in
6 what respects he finds that such filing fails to meet the
7 requirements of this chapter, and stating when, within a
8 reasonable period thereafter, such filing shall be deemed
9 no longer effective. Copies of the order shall be sent to
10 every such insurer and rating organization. The order shall
11 not affect any contract or policy made or issued prior to
12 the expiration of the period set forth in the order.

13 2. No such order shall be issued by the commissioner
14 with respect to the rate of an insurer if such rate is one
15 used by any other insurer unless such order applies equally
16 to all insurers using such rate. Such order may be issued
17 to an insurer without being applicable to all other insurers
18 using the same rate if the basis for such order is that the
19 insurer affected thereby could not otherwise, with safety
20 to the public and to its policyholders, be permitted to
21 continue to transact business.

22
23 § 2307. Limitation of disapproval power

24 No manual of classifications, rules, rating plans, or
25 any modification of any of the foregoing which establishes
26 standards for measuring variations in hazards or expense
27 provisions, or both, and which has been filed pursuant to
28 section 2303 ~~of this chapter~~, shall be disapproved if the
29 rates produced meet the requirements of this chapter.

30
31 § 2308. Excess rates

32 Upon the written application of the insured, stating

1 his reasons therefor, filed with and approved by the com-
2 missioner, a rate in excess of that provided by a filing
3 otherwise applicable may be used on any specific risk.

4

5 § 2309. Rating organizations - Filings for members
and subscribers authorized

6 An insurer may satisfy its obligation to make filings
7 required by section 2303 ~~of this chapter~~ by becoming a mem-
8 ber of, or a subscriber to, a licensed rating organization
9 which makes such filings, and by authorizing the commissioner
10 to accept such filings on its behalf. Nothing contained in
11 this chapter shall be construed as requiring any insurer to
12 become a member of or a subscriber to any rating organization.

13

14 § 2310. Rating organizations - Licensing

15 1. No rating organization shall make or file rates for
16 risks located in this State without first being licensed
17 therefor under this chapter.

18 2. A corporation, an unincorporated association, a part-
19 nership or an individual, whether located within or outside
20 this State, may make application to the commissioner for lic-
21 ense as a rating organization for such kinds of insurance,
22 or subdivision or class of risk or a part or combination
23 thereof as are specified in its application, and shall file
24 therewith *as applicable*:

25 A. A certified copy of its constitution, its articles
26 of agreement or association, or its certificate of incorpora-
27 tion, and of its bylaws, rules and regulations governing the
28 conduct of its business;

29 B. A certified list of its members and subscribers;

30 C. The name and address of a resident of this State
31 upon whom notices or orders of the commissioner or process
32 affecting such rating organization may be served;

1 D. A statement of its qualifications as a rating organ-
2 ization; and

3 E. A power of attorney appointing the commissioner to
4 be the true and lawful attorney of such organization in and
5 for this State, upon whom all lawful process in any action
6 or proceeding against the organization, other than an action
7 or proceeding instituted by the commissioner, may be served
8 in the same manner as service of process on insurers under
9 section 422 ~~of this Title.~~

10 3. If the commissioner finds that the applicant is
11 competent, trustworthy and otherwise qualified to act as
12 a rating organization and that its constitution, articles
13 of agreement or association or certificate of incorporation,
14 and its bylaws, rules and regulations governing the conduct
15 of its business conform to the requirements of law, he shall
16 issue a license specifying the kinds of insurance, or subdi-
17 vision or class of risk or part or combination thereof for
18 which the applicant is authorized to act as a rating organ-
19 ization. Every such application shall be granted or denied
20 in whole or in part by the commissioner within 60 days after
21 the same has been filed with him.

22 4. Licenses issued pursuant to this section shall re-
23 main in effect until the first day of the next July and
24 annually thereafter may be renewed, expiring on the first
25 day of the succeeding July unless sooner suspended or revok-
26 ed by the commissioner. The fee for the license and for
27 each annual renewal thereof shall be as specified in section
28 601 (fee schedule) ~~of this Title.~~

29 5. Licenses issued pursuant to this section may be sus-
30 pended or revoked by the commissioner, after hearing upon
31 notice, in the event the rating organization ceases to meet
32 the requirements of this section.

1 § 2311. Subscribers to rating organizations

2 1. Subject to rules and regulations which have been
3 approved by the commissioner as reasonable, each rating organ-
4 ization shall permit any insurer to be a subscriber to its
5 rating services for any kind of insurance, subdivision, or
6 class of risk or a part or combination thereof for which
7 it is authorized to act as a rating organization. Notice
8 of proposed changes in such rules and regulations shall be
9 given to subscribers. Each rating organization shall furnish
10 its rating services without discrimination to its subscribers.

11 2. The reasonableness of any rule or regulation in
12 its application to subscribers, or the refusal of any rat-
13 ing organization to admit an insurer as a subscriber, shall,
14 at the request of any subscriber or any such insurer, be
15 reviewed by the commissioner at a hearing held upon at least
16 10 days' written notice to such rating organization and to
17 such subscriber or insurer. If the commissioner finds that
18 such rule or regulation is unreasonable in its application
19 to subscribers, he shall order that such rule or regulation
20 shall not be applicable to subscribers. If the rating organ-
21 ization fails to grant or reject an insurer's application
22 for subscribership within 30 days after it was made, the
23 insurer may request a review by the commissioner as if the
24 application had been rejected. If the commissioner finds
25 that the insurer has been refused admittance to the rating
26 organization as a subscriber without justification, he shall
27 order the rating organization to admit the insurer as a sub-
28 scriber. If he finds that the action of the rating organiza-
29 tion was justified, he shall make an order affirming its action.

30
31 § 2312. Notice of changes

32 Every rating organization shall notify the commissioner

1 promptly of every change in its constitution, its articles
2 of agreement or association, or its certificate of incorpor-
3 ation, and its bylaws, rules and regulations governing the
4 conduct of its business, its list of members and subscribers,
5 and the name and address of the resident of this State desig-
6 nated by it upon whom notices or orders of the commissioner
7 or process affecting such rating organization may be served.

8

9 § 2313. Rules not to affect dividends

10 No rating organization shall adopt any rule the effect
11 of which would be to prohibit or regulate the payment of
12 dividends, savings or unabsorbed premium deposits allowed
13 or returned by insurers to their policyholders, members or
14 subscribers.

15

16 § 2314. Technical services

17 Any rating organization may subscribe for or purchase
18 actuarial, technical or other services, and such services
19 shall be available to all subscribers without discrimination.

20

21 § 2315. Stamping Bureau

22 ^{STATE INSURANCE}
Any rating organization may provide for the examination
23 of its ^{members and} subscriber's policies, daily reports, binders, renewal
24 certificates, endorsements or other evidences of insurance,
25 or the cancellation thereof, and may make reasonable rules
26 governing their submission. Such rules shall contain a pro-
27 vision that in the event any insurer does not within 60 days
28 furnish satisfactory evidence to the rating organization of
29 the correction of any error or omission previously called to
30 its attention by the rating organization, the rating organ-
31 ization shall notify the commissioner thereof. All informa-
32 tion so submitted for examination shall be confidential.

1 § 2316. Adherence to filings

2 No insurer shall make or issue a contract or policy
3 except in accordance with the filings which are in effect
4 for the insurer as provided in this chapter or in accordance
5 with sections 2305 (exemption from filing) or 2308 (excess
6 rates) ~~of this chapter~~. This section shall not apply to
7 contracts or policies for inland marine risks as to which
8 filings are not required.

9
10 § 2317. Deviations

11 1. Every member of or subscriber to a rating organiza-
12 tion shall adhere to the filings made on its behalf by such
13 organization except that any such insurer may make written
14 application to the commissioner for permission to file a
15 deviation from the class rates, schedules, rating plans or
16 rules respecting any kind of insurance, or class of risk
17 within a kind of insurance, or combination thereof. Such
18 application shall specify the basis for the modification
19 and a copy thereof shall also be sent simultaneously to such
20 rating organization.

21 2. The commissioner shall set a time and place for a
22 hearing at which the insurer and the rating organization
23 may be heard and shall give them not less than 10 days'
24 written notice thereof. If the commissioner is advised by
25 the rating organization that it does not desire a hearing
26 he may, upon the consent of the applicant, waive such hearing.

27 3. In considering the application for permission to
28 file such deviation the commissioner shall give considera-
29 tion to the available statistics and the principles for rate
30 making as provided in section 2303 ~~of this chapter~~. The com-
31 missioner shall issue an order permitting the deviation for
32 the insurer to be filed if he finds it to be justified and

1 it shall thereupon become effective. He shall issue an order
2 denying the application if he finds that the resulting prem-
3 iums would be excessive, inadequate or unfairly discriminatory.

4 4. Each deviation permitted to be filed shall be effect-
5 ive for a period of one year from the date of such permission
6 unless terminated sooner with the approval of the commission-
7 er.

8
9 § 2318. Appeal from rating organization

10 1. Any member of or subscriber to a rating organization
11 may appeal to the commissioner from the action or decision of
12 the rating organization in approving or rejecting any pro-
13 posed change in or addition to the filings of such rating
14 organization.

15 2. The commissioner shall, after a hearing held upon
16 not less than 10 days' written notice to the appellant and
17 to the rating organization, issue an order approving the
18 action or decision of the rating organization or directing
19 it to give further consideration to such proposal; or if the
20 appeal is from the action or decision of the rating organization
21 in rejecting a proposed addition to its filings, he may, in the
22 event he finds that such action or decision was unreasonable,
23 issue an order directing the rating organization to make an
24 addition to its filings on behalf of its members and subscrib-
25 ers, in a manner consistent with his findings, within a reason-
26 able time after the issuance of such order.

27
28 § 2319. Appeal by insurers and others as to filings

29 1. Any person or organization in interest aggrieved
30 with respect to any filing which is in effect may make written
31 application to the commissioner for a hearing thereon, except
32 that the insurer or rating organization that made the filing

1 shall not be authorized to proceed under this section. Such
2 application shall specify the grounds to be relied upon by
3 the applicant.

4 2. If the commissioner finds that the application is
5 made in good faith, that the applicant would be so aggrieved
6 if his grounds are established, and that such grounds other-
7 wise justify holding such a hearing, he shall, within 30 days
8 after receipt of such application, hold a hearing upon not
9 less than 10 days' written notice to the applicant and to
10 every insurer and rating organization which made such filing.

11 3. If, after such hearing, the commissioner finds that
12 the filing does not meet the requirements of this chapter,
13 he shall issue an order specifying in what respects he finds
14 that such filing fails to meet the requirements of this chap-
15 ter, and stating when, within a reasonable period thereafter,
16 such filing shall be deemed no longer effective. Copies of
17 the order shall be sent to the applicant and to every such
18 insurer and rating organization. The order shall not affect
19 any contract or policy made or issued prior to the expiration
20 of the period set forth in the order.

21

22 § 2320. Information furnished insureds; hearings and
appeals of insureds

23 1. Every rating organization and every insurer which
24 makes its own rates shall, within a reasonable time after
25 receiving written request therefor and upon payment of such
26 reasonable charge as it may make, furnish to any insured
27 affected by a rate made by it, or to the authorized repres-
28 entative of such insured, all pertinent information as to such
29 rate.

30 2. Every rating organization and every insurer which
31 makes its own rates shall provide within this State reason-
32 able means whereby any person aggrieved by the application

1 of its rating system may be heard, in person or by his auth-
2 orized representative, on his written request to review the
3 manner in which such rating system has been applied in connec-
4 tion with the insurance afforded him. If the rating organiza-
5 tion or insurer fails to grant or reject such request within
6 30 days after it is made, the applicant may proceed in the
7 same manner as if his application had been rejected. Any
8 party affected by the action of such rating organization
9 or such insurer on such request may, within 30 days after
10 written notice of such action, appeal to the commissioner,
11 who, after a hearing held upon not less than 10 days' written
12 notice to the appellant and to such rating organization or
13 insurer, may affirm or reverse such action.

14

15 § 2321. Advisory organizations

16 1. Every group, association or other organization of
17 insurers, whether located within or outside this State,
18 which assists insurers which make their own filings or rat-
19 ing organizations in rate making, by the collection and fur-
20 nishing of loss or expense statistics, or by the submission
21 of recommendations, but which does not make filings under
22 this chapter, shall be known as an advisory organization.

23 2. Every advisory organization shall file with the
24 commissioner:

25 A. A copy of its constitution, its articles of agree-
26 ment or association or its certificate of incorporation and
27 of its bylaws, rules, and regulations governing its activities;

28 B. A list of its members;

29 C. The name and address of a resident of this State upon
30 whom notice or orders of the commissioner or process issued
31 at his direction may be served; and

32 D. An agreement that the commissioner may examine such

1 advisory organization in accordance with section 2328 (exam-
2 ination) ~~of this chapter.~~

3 3. If, after a hearing, the commissioner finds that the
4 furnishing of such information or assistance involves any
5 act or practice which is unfair or unreasonable or otherwise
6 inconsistent with this chapter, he may issue a written order
7 specifying in what respects such act or practice is unfair
8 or unreasonable or otherwise inconsistent with this chapter,
9 and requiring the discontinuance of such act or practice.

10 4. No insurer which makes its own filings nor any rat-
11 ing organization shall support its filings by statistics or
12 adopt rate making recommendations, furnished to it by an
13 advisory organization which has not complied with this section
14 or with an order of the commissioner involving such statistics
15 or recommendations issued under subsection 3 of this section.
16 If the commissioner finds such insurer or rating organization
17 to be in violation of this subsection he may issue an order
18 requiring the discontinuance of such violation.

19

20 § 2322. Joint underwriters; joint reinsurers

21 1. Every group, association or other organization of
22 insurers which engages in joint underwriting or joint reinsur-
23 ance, shall be subject to regulation with respect thereto as
24 herein provided, subject, however, with respect to joint
25 underwriting, to all other provisions of this chapter and
26 with respect to joint reinsurance, to sections 2328 (examina-
27 tions), 2329 (penalties), and 2330 (appeals from commissioner)
28 ~~of this chapter.~~

29 2. If, after a hearing, the commissioner finds that any
30 activity or practice of any such group, association or other
31 organization is unfair or unreasonable or otherwise inconsistent
32 with the provisions of this chapter, he may issue a written

1 order specifying in what respects such activity or practice
2 is unfair or unreasonable or otherwise inconsistent with the
3 provisions of this chapter, and requiring the discontinuance
4 of such activity or practice.

5
6 § 2323. Recording and reporting of loss and expense
experience

7 1. The commissioner shall promulgate reasonable rules
8 and statistical plans, reasonably adapted to each of the
9 rating systems on file with him, which may be modified from
10 time to time and which shall be used thereafter by each
11 insurer in the recording and reporting of its loss and
12 countrywide expense experience, in order that the exper-
13 ience of all insurers may be made available at least annually
14 in such form and detail as may be necessary to aid him in
15 determining whether rating systems comply with the standards
16 set forth in section 2303 of this chapter. Such rules and
17 plans may also provide for the recording and reporting of
18 expense experience items which are specially applicable to
19 this State and are not susceptible of determination by a pro-
20 rating of countrywide expense experience.

21 2. In promulgating such rules and plans, the commissioner
22 shall give due consideration to the rating systems on file
23 with him, and in order that such rules and plans may be as
24 uniform as is practicable among the several states, to the
25 rules and to the form of the plans used for such rating sys-
26 tems in other states. No insurer shall be required to record
27 or report its loss experience on a classification basis that
28 is inconsistent with the rating system filed by it.

29 3. The commissioner may designate one or more rating
30 organizations or other agencies to assist him in gathering
31 such experience and making compilations thereof, and such
32 compilations shall be made available, subject to reasonable

1 rules promulgated by the commissioner, to insurers and rat-
2 ing organizations.

3 4. Each insurer shall report its loss or expense exper-
4 ience to the lawful rating organization or agency of which
5 it is a member or subscriber, but shall not be required to
6 report its loss or expense experience to any rating organ-
7 ization or agency of which it is not a member or subscriber.
8 Any insurer not reporting such experience to a rating organ-
9 ization or other agency may be required to report such exper-
10 ience to the commissioner. Any report of such experience of
11 any insurer filed with the commissioner shall be deemed con-
12 fidential and shall not be revealed by the commissioner to
13 any other insurer or other person, but the commissioner may
14 make compilations including such experience.

15
16 § 2324. Interchange of rating plan data; consultation;
cooperative action in rate-making

17 1. Reasonable rules and plans may be promulgated by the
18 commissioner for the interchange of data necessary for the
19 application of rating plans.

20 2. In order to further uniform administration of rate
21 regulatory laws, the commissioner and every insurer and rat-
22 ing organization may exchange information and experience
23 data with insurance supervisory officials, insurers and rat-
24 ing organizations in other states and may consult with them
25 with respect to rate making and the application of rating
26 systems.

27 3. Cooperation among rating organizations or among
28 rating organizations and insurers in rate making or in other
29 matters within the scope of this chapter is authorized, but
30 the filings resulting from such cooperation are subject to
31 all provisions of this chapter which are applicable to filings
32 generally. The commissioner may review such cooperative act-

1 ivities and practices and if, after a hearing, he finds that
2 any such activity or practice is unfair or unreasonable or
3 otherwise inconsistent with the provisions of this chapter,
4 he may issue a written order specifying in what respects such
5 activity or practice is unfair or unreasonable or otherwise
6 inconsistent with the provisions of this chapter, and requir-
7 ing the discontinuance of such activity or practice.

8
9 § 2325. Assigned risks

10 1. Agreements may be made among ^{insurers} insurers with respect
11 to the equitable apportionment among them of insurance which
12 may be afforded applicants who are in good faith entitled to
13 but who are unable to procure such insurance through ordinary
14 methods and such insurers may agree among themselves on the
15 use of reasonable rate modifications for such insurance, such
16 agreements and rate modifications to be subject to the approval
17 of the commissioner.

18 2. Every insurer undertaking to transact in this State
19 the business of automobile and motor vehicle bodily injury,
20 property damage liability, physical damage, and medical pay-
21 ments insurance and every rating organization which files
22 rates for such insurance shall cooperate in the preparation
23 and submission of a plan for the equitable apportionment among
24 insurers of applicants for insurance who are in good faith
25 entitled to, but who are unable to procure through ordinary
26 methods, such insurance. The plan shall provide:

27 A. Distribution of risks. Reasonable rules governing
28 the equitable distribution of risks by direct insurance, rein-
29 surance or otherwise and their assignment to insurers;

30 B. Rates. Rates and rate modifications applicable to
31 such risks which shall not be excessive, inadequate or unfair-
32 ly discriminatory;

1 C. Liability. The limits of liability which the insurer
2 shall be required to assume; and

3 D. Hearings; appeal. A method whereby applicants for
4 insurance, insureds and insurers may have a hearing on griev-
5 ances and the right of appeal to the commissioner.

6 3. The plan, ^(referred to in subsection 2. above) shall be filed in writing with the commis-
7 sioner. The commissioner shall review the plan as soon as
8 reasonably possible after filing in order to determine wheth-
9 er it meets the requirements set forth in paragraphs A, B, C,
10 and D. The plan, unless sooner approved in writing, shall
11 be on file for a waiting period of 30 days before it becomes
12 effective. The plan shall be deemed approved unless disap-
13 proved by the commissioner within the waiting period.

14 Subsequent to the waiting period, the commissioner may
15 disapprove the plan on the ground that it does not meet the
16 requirements set forth in paragraphs A, B, C, and D, but only
17 after a hearing held upon not less than 10 days' written
18 notice to every insurer and rating organization affected,
19 specifying the matters to be considered at such hearing, and
20 only by an order specifying in what respect he finds that the
21 plan fails to meet such requirements, and stating when within
22 a reasonable period thereafter the plan shall be deemed no
23 longer effective. Such order shall not affect any assign-
24 ment made or policy issued or made prior to the expiration
25 of the period set forth in the order. Amendments to the
26 plan shall be prepared, filed and reviewed in the same manner
27 as herein provided with respect to the original plan.

28 4. When the plan or amendments thereto ^(referred to in subsection 2. above) have been ap-
29 proved or promulgated, no insurer shall thereafter issue a
30 policy of automobile and motor vehicle bodily injury, property
31 damage liability, physical damage and medical payments insur-
32 ance or undertake to transact such business in this State

1 unless such insurer shall participate in such an approved
2 or promulgated plan.

3 5. If, after hearing, the commissioner finds that
4 any activity or practice of any insurer or rating organiza-
5 tion in connection with the operation of the plan ^(referred to in subsection 2 above) is unfair
6 or unreasonable or otherwise inconsistent with this section,
7 he may issue a written order specifying in what respects
8 such activity or practice is unfair or unreasonable or other-
9 wise inconsistent with this section and requiring the discon-
10 tinuance of such activity or practice.

11

12 § 2326. False or misleading information

13 1. No person or organization shall wilfully withhold
14 information from, or knowingly give false or misleading
15 information to:

16 A. The commissioner;

17 B. Any statistical agency designated by the commissioner; or

18 C. Any rating organization, or any insurer which will
19 affect the rates or premiums chargeable under this chapter.

20 2. A violation of this section shall subject the one
21 guilty of such violation to the penalties provided in section
22 2329 ~~of this chapter.~~

23

24 § 2327. Fleet rates

25 1. Two or more insurers, who, by virtue of their business
26 associations in the United States, represent themselves to
27 be or are customarily known as a "group" or similar insur-
28 ance trade designation, may make the same filings or use the
29 same rates for each such insurer, subject to the provisions
30 of section 2303; and nothing contained in this chapter shall
31 be construed to prohibit an agreement to make the same filings
32 or use the same rates and concerted action in connection with

a)

~~Xii~~

2. This section shall not be deemed to prohibit or restrict any agreement or action otherwise lawful under section 2322 (joint underwriters; joint reinsurers).

1 such filings or rates by such insurers. This section shall
2 not apply to 2 or more insurers who are not under the same
3 common executive or general management or control and who
4 act in concert in underwriting groups or pools.

*This section shall not apply to any licensed to produce policies
or agreements for other than these purposes. This section shall not apply to joint underwriting
groups.*

6 § 2328. Examinations

7 The commissioner shall examine the affairs, transactions,
8 accounts, and records of each rating organization licensed
9 in this State as provided in section 2310 ~~of this chapter,~~
10 of each advisory organization in this State as defined in
11 section 2321 ~~of this chapter,~~ and of joint underwriters and
12 joint reinsurers as defined in section 2322 ~~of this chapter,~~
13 as often as he deems advisable, but not less frequently than
14 once every 5 years. The examination shall be conducted in
15 the same manner and is subject to the same applicable provi-
16 sions as apply to examination of insurers in chapter 3 ~~of~~
17 ~~this Title.~~ The reasonable costs of any such examination shall
18 be paid by the organization or association so examined. In
19 lieu of any such examination the commissioner may accept the
20 report of an examination made by the insurance supervisory
21 official of another state, pursuant to the laws of such state.

23 § 2329. Penalties

24 1. Any person or organization ~~willfully~~ violating any
25 provision of this chapter shall be subject to a penalty of not
26 *or, if the violation is willful, the penalty shall be not more than \$1,000.*
more than \$500 for each such violation. Such penalty may be
27 in addition to any other penalty provided by law.

28 2. The commissioner may suspend the license of any rat-
29 ing organization or insurer which fails to comply with an
30 order of the commissioner within the time limited by such order
31 or any extension thereof which the commissioner may grant.
32 The commissioner shall not suspend the license of any rating

1 organization or insurer for failure to comply with an order
2 until the time prescribed for an appeal therefrom has expired
3 or if an appeal has been taken, until such order has been
4 affirmed. The commissioner may determine when a suspension
5 of license shall become effective and it shall remain in
6 effect for the period fixed by him unless he modifies or
7 rescinds such suspension, or until the order upon which such
8 suspension is based is modified, rescinded or reversed.

9 3. No penalty shall be imposed and no license shall
10 be suspended or revoked except upon a written order of the
11 commissioner, stating his findings, made after a hearing
12 held upon not less than 10 days' written notice to such per-
13 son or organization specifying the alleged violation.

14

15 § 2330. Appeals from commissioner

16 Any insurer or rating organization aggrieved by any
17 order or decision of the commissioner may appeal there-
18 from as provided in section 236 (appeal from the commissioner).
19 ~~of this Title.~~

1 CHAPTER 27

2 THE INSURANCE CONTRACT

3 § 2401. Scope of chapter

4 This chapter applies as to all insurance contracts and
5 annuity contracts, other than:

- 6 1. Reinsurance.
7 2. Policies or contracts not issued for delivery in
8 this State nor delivered in this State.
9 3. Wet marine and transportation insurance.

10
11 § 2402. "Policy" defined

12 "Policy" means the written contract of or written agree-
13 ment for or effecting insurance, by whatever name called,
14 and includes all clauses, riders, endorsements and papers
15 which are a part thereof.

16
17 § 2403. "Premium" defined

18 "Premium" is the consideration for insurance, by what-
19 ever name called. Any "assessment", or any "membership",
20 "policy", "survey", "inspection", "service" or similar fee or
21 other charge in consideration for an insurance contract is
22 deemed part of the premium.

23
24 § 2404. Insurable interest - Personal insurance

25 1. Any individual of competent legal capacity may pro-
26 cure or effect an insurance contract upon his own life or
27 body for the benefit of any person. But no person shall
28 procure or cause to be procured any insurance contract upon
29 the life or body of another individual unless the benefits
30 under such contract are payable to the individual insured or
31 his personal representatives, or to a person having, at the
32 time when such contract was made, an insurable interest in

1 the individual insured.

2 2. If the beneficiary, assignee, or other payee under
3 any contract made in violation of this section receives from
4 the insurer any benefits thereunder accruing upon the death,
5 disablement, or injury of the individual insured, the indi-
6 vidual insured or his executor or administrator, as the case
7 may be, may maintain an action to recover such benefits from
8 the person so receiving them.

9 3. "Insurable interest" as to such personal insurance
10 means that every individual has an insurable interest in the
11 life, body, and health of himself, and of other persons as
12 follows:

13 A. In the case of individuals related closely by blood
14 or by law, a substantial interest engendered by love and
15 affection;

16 B. In the case of other persons, a lawful and substan-
17 tial economic interest in having the life, health, or bodily
18 safety of the individual insured continue, as distinguished
19 from an interest which would arise only by, or would be
20 enhanced in value by, the death, disablement or injury of the
21 individual insured; and

22 C. An individual heretofore or hereafter party to a
23 contract or option for the purchase or sale of an interest
24 in a business ^{proprietorship} partnership or firm, or of shares of stock of
25 a closed corporation or of an interest in such shares, has
26 an insurable interest in the life ^{body and health} of each individual party
27 to such contract and for the purposes of such contract only,
28 in addition to any insurable interest which may otherwise
29 exist as to ~~the life of~~ such individual.

30 4. An insurer shall be entitled to rely upon all state-
31 ments, declarations and representations made by an applicant
32 for insurance relative to the insurable interest of the

1 applicant in the insured; and no insurer shall incur legal
2 liability except as set forth in the policy, by virtue of
3 any untrue statements, declarations or representations so
4 relied upon in good faith by the insurer.

5

6 § 2405. Insurable interest - Exception when certain
institutions designated beneficiary

7 1. Life insurance contracts may be entered into in
8 which the person paying the consideration for the insurance
9 has no insurable interest in the life of the individual
10 insured, where charitable, benevolent, educational, or
11 religious institutions, or their agencies, are designated
12 irrevocably as the beneficiaries thereof.

13 2. In making such contracts the person paying the pre-
14 mium shall make and sign the application therefor as owner,
15 and shall designate a charitable, benevolent, educational or
16 religious institution, or an agency thereof, irrevocably as
17 the beneficiary or beneficiaries of such contract. The appli-
18 cation shall be signed also by the individual whose life is
19 to be insured.

20 3. Nothing in this section shall be deemed to prohibit
21 any combination of the applicant, premium payer, owner, and
22 beneficiary from being the same person.

23 4. Such a contract shall be valid and binding among
24 the parties thereto, notwithstanding the absence otherwise
25 of an insurable interest in the life of the individual insured.

26

27 § 2406. Insurable interest, property

28 1. No contract of insurance of property or of any
29 interest in property or arising from property shall be
30 enforceable as to the insurance except for the benefit of
31 persons having an insurable interest in the things insured
32 as at the time of the loss.

1 2. "Insurable interest" as used in this section means
2 any actual, lawful, and substantial economic interest in the
3 safety or preservation of the subject of the insurance free
4 from loss, destruction, or pecuniary damage or impairment.

5 3. The measure of an insurable interest in property is
6 the extent to which the insured might be directly or indirectly
7 damnified by loss, injury, or impairment thereof.

8

9 § 2407. Power to contract - Purchase of insurance
 and annuities by minors

10 1. Any person of competent legal capacity may contract
11 for insurance.

12 2. Any minor not less than 15 years of age, nearest
13 birthday, may, notwithstanding his minority, contract for or
14 own annuities, or insurance, or affirm by novation or other-
15 wise pre-existing contracts for annuities or insurance upon
16 his own life, body, health, property, liabilities or other
17 interests, or on the persons of another in whom the minor
18 has an insurable interest. Such a minor shall, notwithstand-
19 ing such minority, be deemed competent to exercise all rights
20 and powers with respect to or under any contract for annuity
21 or for insurance upon his own life, body or health, or any
22 contract such minor effected upon his own property, lia-
23 bilities or other interests, or any contract effected or
24 owned by the minor on the person of another, as might be
25 exercised by a person of full legal age, and may at any time
26 surrender his interest in any such contracts and give valid
27 discharge for any benefit accruing or money payable thereunder.
28 Such a minor shall not, by reason of his minority, be entitled
29 to rescind, avoid or repudiate the contract, nor to rescind,
30 avoid or repudiate any exercise of a right or privilege there-
31 under, except that such a minor not otherwise emancipated,
32 shall not be bound by any unperformed agreement to pay by

1 promissory note or otherwise, any premium on any such annuity
2 or insurance contract.

3 3. Any annuity contract or policy of life or health
4 insurance procured by or for a minor under subsection 2 above,
5 shall be made payable either to the minor or his estate or to
6 a person having an insurable interest in the life of the
7 minor.

8

9 § 2408. Consent of insured - Life, health insurance

10 No life or health insurance contract upon an indivi-
11 dual, except a contract of group life insurance^{or annuity} or of group
12 or blanket health insurance, shall be made or effectuated
13 unless at the time of the making of the contract the indivi-
14 dual insured, being of competent legal capacity to contract,
15 applies therefor or has consented thereto in writing, except
16 in the following cases:

17 1. A spouse may effectuate such insurance upon the other
18 spouse.

19 2. Any person having an insurable interest in the life
20 of a minor, or any person upon whom a minor is dependent for
21 support and maintenance, may effectuate insurance upon the
22 life of or pertaining to such minor.

23 3. Family policies may be issued insuring any 2 or more
24 members of a family on an application signed by either parent,
25 a step-parent, or by a husband or wife.

26

27 § 2409. Alteration of application, life and
health insurance

28 No alteration of any written application for any life
29 or health insurance policy^{or annuity contract} shall be made by any person other
30 than the applicant without his written consent, except that
31 insertions may be made by the insurer, for administrative
32 purposes only, in such manner as to indicate clearly that

1 such insertions are not to be ascribed to the applicant.

2

3 § 2410. Application; statements; as evidence

4 1. The insured shall not be bound by any statement made
5 in an application for a life or health insurance policy or
6 annuity contract, and the application shall not be admissible
7 in evidence in any action relative to such policy or contract,
8 unless a true copy of the application was attached to or
9 endorsed on the policy or contract when issued as a part
10 thereof. This provision shall not apply to industrial life
11 insurance policies. *or to group life or group health insurance policies.*

12 2. If any policy of life or health insurance delivered
13 in this State is reinstated or renewed, and the insured or
14 the beneficiary or assignee of the policy makes written
15 request to the insurer for a copy of the application, if any,
16 for such reinstatement or renewal, the insurer shall within
17 30 days after receipt of such request at its home office, or
18 branch office, deliver or mail to the person making such
19 request a copy of such application reproduced by any legible
20 means. If such copy is not so delivered or mailed after
21 having been so requested, the insurer shall be precluded
22 from introducing the application in evidence in any action
23 or proceeding based upon or involving the policy or its rein-
24 statement or renewal. In the case of such a request from a
25 beneficiary, *or assignee*, the time within which the insurer is required
26 to furnish a copy of such application shall not begin to run
27 until after receipt of evidence satisfactory to the insurer
28 of the beneficiary's *or assignee's* vested interest in the policy or contract.

29 3. As to kinds of insurance other than *individual*
30 insurance, no application for insurance signed by or on
31 behalf of the insured shall be admissible in evidence in any
32 action between the insured and the insurer arising out of the

1 policy so applied for, if the insurer has failed, at the
2 expiration of 30 days after receipt by the insurer of
3 written demand therefor by or on behalf of the insured, to
4 furnish to the insured a copy of such application reproduced
5 by any legible means.

6

7 § 2411. Representations in applications

8 All statements and descriptions in any application for
9 ~~an insurance policy~~ ^{for an} annuity contract, by or in behalf of
10 the insured or annuitant, shall be deemed to be representa-
11 tions and not warranties. Misrepresentations, omissions,
12 concealment of facts, and incorrect statements shall not
13 prevent a recovery under the policy or contract unless either:

14 1. Fraudulent; or

15 2. Material either to the acceptance of the risk, or to
16 the hazard assumed by the insurer; or

17 3. The insurer in good faith would either not have
18 issued the ~~policy or contract~~ ^{insurance or contract}, or would not have issued it at
19 the same premium rate, or would not have ^{insurance, annuity, or bond} issued a policy or
20 contract in as large an amount, or would not have provided
21 coverage with respect to the hazard resulting in the loss,
22 if the true facts had been made known to the insurer as
23 required either by the application for the policy or contract
24 or otherwise.

25

26 § 2412. Filing, approval of forms

27 1. No basic insurance policy or annuity contract form,
28 or application form where written application is required
29 and is to be made a part of the policy or contract, or
30 printed rider or endorsement form or form of renewal certi-
31 ficate, shall be delivered, or issued for delivery in this
32 State, unless the form has been filed with and approved by

1 the commissioner. This provision shall not apply to surety
2 bonds, or to specially rated inland marine risks, or to
3 policies, riders, endorsements or forms of unique character
4 designed for and used with relation to insurance upon a par-
5 ticular subject, or which relate to the manner of distribu-
6 tion of benefits or to the reservation of rights and benefits
7 under life or health insurance policies and are used at the
8 request of the individual policyholder, contract holder, or
9 certificate holder. As to group insurance policies effectuated
10 ated and delivered outside this State but covering persons
11 resident in this State, the group certificates to be delivered
12 or issued for delivery in this State shall be filed, for the
13 commissioner's information only, with the commissioner at his
14 request. As to forms for use in property, marine (other than
15 wet marine and transportation insurance), casualty and surety
16 insurance coverages the filing required by this subsection
17 may be made by rating organizations on behalf of its members
18 and subscribers; but this provision shall not be deemed to
19 prohibit any such member or subscriber from filing any such
20 forms on its own behalf.

21 2. Every such filing shall be made not less than 30 days
22 in advance of any such delivery. At the expiration of such
23 30 days the form so filed shall be deemed approved unless
24 prior thereto it has been affirmatively approved or disapproved
25 by order of the commissioner. Approval of any such form by
26 the commissioner shall constitute a waiver of any unexpired
27 portion of such waiting period. The commissioner may extend
28 by not more than an additional 30 days the period within which
29 he may so affirmatively approve or disapprove any such form,
30 by giving notice to the insurer of such extension before
31 expiration of the initial 30 days period. At the expiration
32 of any such period as so extended, and in the absence of such

1 prior affirmative approval or disapproval, any such form
2 shall be deemed approved. The commissioner may at any time,
3 after hearing and for cause shown, withdraw any such approval.

4 3. Any order of the commissioner disapproving any such
5 form or withdrawing a previous approval shall state the
6 grounds therefor and the particulars thereof in such detail
7 as reasonably to inform the insurer thereof. Any such with-
8 drawal of a previously approved form shall be effective at
9 expiration of such period, not less than 30 days after the
10 giving of the ~~notice~~^{order} of withdrawal, as the commissioner shall
11 in such ~~notice~~^{order} prescribe.

12 4. The commissioner may, by order, exempt from the
13 requirements of this section for so long as he deems proper
14 any insurance document or form or type thereof as specified
15 in such order, to which, in his opinion, this section may not
16 practicably be applied, or the filing and approval of which
17 are, in his opinion, not desirable or necessary for the pro-
18 tection of the public.

19 5. Appeals from orders of the commissioner disapproving
20 any such form or withdrawing a previous approval may be taken
21 as provided in sections 229 ~~through~~^{to} 236 of ~~this Title.~~[—]

22

23 § 2413. Grounds for disapproval

24 1. The commissioner shall disapprove any form filed
25 under section 2412 of ~~this chapter,~~[—] or withdraw any previous
26 approval thereof, only on one or more of the following
27 grounds:

28 A. If it is in any respect in violation of or does not
29 comply with this Title.

30 B. If it contains or incorporates by reference, where
31 such incorporation is otherwise permissible, any inconsistent,
32 ambiguous, or misleading clauses, or exceptions and conditions

1 which deceptively affect the risk purported to be assumed in
2 the general coverage of the contract.

3 C. If it has any title, heading, or other indication
4 of its provisions which is misleading.

5 D. As to an individual health insurance policy, if the
6 benefits provided therein are unreasonable in relation to
7 the premium charged; or, as to any health insurance contract,
8 if it contains any unjust, unfair or inequitable provision
9 or provisions.

10 E. As to a life insurance or health insurance policy,
11 if it contains a provision or provisions such as to encourage
12 misrepresentation.

13 2. The insurer shall not use in this State any such
14 form after disapproval or withdrawal of approval.

15

16 § 2414. Standard provisions, in general

17 1. Insurance contracts shall contain such standard or
18 uniform provisions as are required by the applicable provi-
19 sions of this Title pertaining to contracts of particular
20 kinds of insurance. The commissioner may waive the required
21 use of a particular provision in a particular insurance
22 policy form if:

23 A. He finds such provision unnecessary for or unrelated
24 to the protection of the insured and inconsistent with the
25 purposes of the policy, and

26 B. The policy is otherwise approved by him.

27 2. No policy shall contain any provision inconsistent
28 with or contradictory to any standard or uniform provision
29 used or required to be used, but the commissioner may approve
30 any substitute provision which is, in his opinion, not less
31 favorable in any particular to the insured or beneficiary
32 than the provisions otherwise required.

1 3. In lieu of the provisions required by this Title
2 for contracts for particular kinds of insurance, substantially
3 similar provisions required by the law of the domicile of a
4 foreign or alien insurer may be used when approved by the
5 commissioner.

6 4. A policy issued by a domestic insurer for delivery
7 in another jurisdiction may contain ^(or omit) any provision ^{as} required
8 or permitted by the laws of such jurisdiction.

9 *5. This section does not apply as to the standard fire policy.*

10 § 2415. Charter, bylaw provisions

11 No policy shall contain any provision purporting to make
12 any portion of the charter, bylaws or other constituent
13 document of the insurer (other than the subscriber's agreement
14 or power of attorney of a reciprocal insurer) a part of the
15 contract unless such portion is set forth in full in the
16 policy. Any policy provision in violation of this section
17 shall be invalid.

18

19 § 2416. Execution of policies

20 1. Every insurance policy shall be executed in the name
21 of and on behalf of the insurer by its officer, attorney in
22 fact, employee, or representative duly authorized by the
23 insurer.

24 2. A facsimile signature of any such executing indivi-
25 dual may be used in lieu of an original signature.

26 3. No insurance contract heretofore or hereafter issued
27 and which is otherwise valid shall be rendered invalid by
28 reason of the apparent execution thereof on behalf of the
29 insurer by the imprinted facsimile signature of an individual
30 not authorized so to execute as of the date of the policy.

1 § 2417. Underwriters' and combination policies

2 1. Two or more authorized insurers may jointly issue,
3 and shall be jointly and severally liable on, an underwriters'
4 policy bearing their names. Any one insurer may issue
5 policies in the name of an underwriter's department and such
6 policy shall plainly show the true name of the insurer.

7 2. Two or more insurers may, with the approval of the
8 commissioner, issue a combination policy which shall contain
9 provisions substantially as follows:

10 A. That the insurers executing the policy shall be
11 severally liable for the full amount of any loss or damage,
12 according to the terms of the policy, or for specified per-
13 centages or amounts thereof, aggregating the full amount of
14 insurance under the policy, and

15 B. That service of process, or of any notice or proof
16 of loss required by such policy, upon any of the insurers
17 executing the policy, shall constitute service upon all such
18 insurers.

19 3. This section shall not apply to co-surety obliga-
20 tions.

21

22 § 2418. Validity and construction of non-complying
 forms

23 1. A policy hereafter delivered or issued for delivery
24 to any person in this State in violation of this Title but
25 otherwise binding on the insurer, shall be held valid, but
26 shall be construed as provided in this Title.

27 2. Any condition, omission or provision not in compliance
28 with the requirements of this Title and contained in any
29 policy, rider, or endorsement hereafter issued and otherwise
30 valid, shall not thereby be rendered invalid but shall be
31 construed and applied in accordance with such condition,
32 omission or provision as would have applied had the same been

1 in full compliance with this Title.

2

3 § 2419. Delivery of policy as to motor vehicle insurance

4 In event the original policy is delivered or is so
5 required to be delivered to or for deposit with any vendor,
6 mortgagee, or pledgee of any motor vehicle, and in which
7 policy any interest of the vendee, mortgagor, or pledgor in
8 or with reference to such vehicle is insured, a duplicate of
9 such policy setting forth the name and address of the
10 insurer, insurance classification of vehicle, type of cover-
11 age, limits of liability, premiums for the respective
12 coverages, and duration of the policy, or memorandum thereof
13 containing the same such information, shall be delivered by
14 the vendor, mortgagee, or pledgee to each such vendee, mort-
15 gator, or pledgor named in the policy or coming within the
16 group of persons designated in the policy to be so included.
17 If the policy does not provide coverage of legal liability
18 for injury to persons or damage to the property of third
19 parties, a statement of such fact shall be printed, written,
20 or stamped conspicuously on the face of such duplicate
21 policy or memorandum. This section does not apply to
22 inland marine floater policies.

23

24 § 2420. Assignability; rights of insurer, assignee

25 1. A policy may be assignable or not assignable, as
26 provided ^{or permitted} by its terms.

27 2. Subject to its terms relating to assignability, a
28 life or health insurance policy, whether heretofore or here-
29 after issued, under the terms of which the beneficiary may
30 be changed upon the sole request of the insured or owner,
31 may be assigned either by pledge or transfer of title, by
32 an assignment executed by the insured or owner alone and

4. Any individual insured under a group insurance policy or group annuity contract shall have the right, unless expressly prohibited under the terms of the policy or contract, to assign to any other person his rights and benefits under the policy or contract, including, but not limited to, the right to designate the beneficiary or beneficiaries and the rights as to conversion provided for in sections 2621 through 2625 of ~~this Title~~. While the assignment is in effect the insurer shall be entitled to deal with the assignee as the owner of such rights and benefits in accordance with the terms of the assignment; but without prejudice to the insurer on account of any lawful action taken or payment made by it prior to receipt by it at its home office of written notice of the assignment or of the termination thereof.

and whether heretofore or hereafter made,

1 delivered to the insurer, whether or not the pledgee or
2 assignee is the insurer.

3 3. Any assignment of a policy which is otherwise lawful
4 and of which the insurer has received notice, shall entitle
5 the insurer to deal with the assignee as the owner or pledgee
6 of the policy in accordance with the terms of the assignment,
7 until the insurer has received at its home office written
8 notice of termination of the assignment or pledge, or written
9 notice by or on behalf of some other person claiming some
10 interest in the policy in conflict with the assignment.

11
12 § 2421. Renewal of policy

13 Any policy terminating by its terms at a specified ex-
14 piration date and not otherwise renewable, may be renewed
15 or extended at the option of the insurer and upon a currently
16 authorized policy form and at the premium rate then required
17 therefor for a specified additional period or periods by a
18 certificate or other endorsement of the policy, and without
19 requiring issuance of a new policy.

20
21 § 2422. Notice to, knowledge of agent binding on
insurer

22 1. An agent authorized by an insurer, if the name of
23 such agent is borne on the policy, is the insurer's agent
24 in all matters of insurance. Any notice required to be
25 given by the insured to the insurer or any of its officers
26 may be given ^{in writing} to such agent.

27 2. The authorized agent of an insurer shall be regarded
28 as in the place of the insurer in all respects regarding
29 any insurance effected by him. The insurer is bound by his
30 knowledge of the risk and all matters connected therewith.
31 Omissions and misdescriptions known to the agent shall be re-
32 garded as known to the insurer and waived by it as if noted
33 in the policy.

1 § 2423. Forms for proof of loss to be furnished

2 An insurer shall furnish, upon written request of any
3 person claiming to have a loss under an insurance contract
4 issued by such insurer, forms of proof of loss for comple-
5 tion by such person, but such insurer shall not, by reason
6 of the requirement so to furnish forms, have any responsi-
7 bility for or with reference to the completion of such proof
8 or the manner of any such completion or attempted completion.

9
10 § 2424. Claims administration not waiver

11 Without limitation of any right or defense of an insurer
12 otherwise, none of the following acts by or on behalf of an
13 insurer shall be deemed to constitute a waiver of any provi-
14 sion of a policy or of any defense of the insurer thereunder:

- 15 1. Acknowledgment of the receipt of notice of loss or
16 claim under the policy.
- 17 2. Furnishing forms for reporting a loss or claim,
18 for giving information relative thereto, or for making proof
19 of loss, or receiving or acknowledging receipt of any such
20 forms or proofs completed or uncompleted.
- 21 3. Investigating any loss or claim under any policy
22 or engaging in negotiations looking toward a possible settle-
23 ment of any such loss or claim.

24 ~~4. Making advance or partial payments under automobile~~
25 ~~liability insurance policies as an accommodation to or on~~
26 ~~behalf of any person suffering injury, loss or damage.~~
27

28 § 2425. Payment discharges insurer

29 Whenever the proceeds of or payments under ^{an} a life or
30 health insurance policy or annuity contract heretofore or
31 hereafter issued become payable in accordance with the terms
32 of such policy or contract, or the exercise of any right or

§ 2426. Advance payments

1. No payment or payments made by any person, or by his insurer by virtue of an insurance policy, on account of bodily injury or death or damage to or loss of property of another, shall constitute an admission of liability or waiver of defense as to such injury, death, loss or damage, or be admissible in evidence in any action brought against the insured person or his insurer for damages, indemnity or benefits arising out of such injury, death, loss or damage unless pleaded as a defense to the action.

2. All such payments shall be credited upon any settlement with respect to the same damage, expense, or loss made by, or ~~judgment~~^{settlement} rendered therefor in such an action against, the payor or ~~ix~~ his insurer, and in favor of any person to whom or on whose account payment was made.

1 privilege thereunder, and the insurer makes payment thereof
2 in accordance therewith or in accordance with any written
3 assignment thereof, the person then designated as being entitled
4 thereto shall be entitled to receive such proceeds or payments
5 and to give full acquittance therefor, and such payments shall
6 fully discharge the insurer from all claims under the policy
7 or contract unless, before payment is made, the insurer has
8 received at its home office written notice by or on behalf
9 of some other person that such other person claims to be en-
10 titled to such payment or some interest in the policy or con-
11 tract.

12
13 § 2424. Minor may give acquittance

14 1. Any minor domiciled in this State who has attained
15 the age of 18 years shall be deemed competent to receive and
16 to give full acquittance and discharge for a payment or pay-
17 ments in aggregate amount not exceeding \$3,000 in any one year
18 made by a life insurer under the maturity, death, or settle-
19 ment agreement provisions in effect or elected by such minor
20 under a life insurance policy or annuity contract, if such
21 policy, contract or agreement provides for payment to such
22 minor. No such minor shall be deemed competent to alienate
23 the right to or to anticipate or commute such payments. This
24 section shall not be deemed to restrict the rights of minors
25 set forth in section 2407 ~~of this chapter.~~

26 2. If a guardian of the property of any such minor is
27 duly appointed and written notice thereof is given to the in-
28 surer at its home office, any such payment thereafter falling
29 due shall be paid to the guardian for the account of the
30 minor, unless the policy or contract under which the payment
31 is made expressly provides otherwise.

32 3. This section shall not be deemed to require any

and such proceeds and avails shall be exempt from all liability for any debt of the beneficiary existing at the time the proceeds and avails is made available for his use

1 insurer making any such payment to determine whether any
2 other insurer may be effecting a similar payment to the same
3 minor.

4

5 § 2428. Exemption of proceeds - Life, endowment,
annuity, accident contracts

6 1. Certain policies of insurance shall be exempt from
7 claims of creditors, and the rights of beneficiaries and
8 assignees thereof shall be protected, as set forth.

9 2. Except in cases of transfers with intent to defraud
10 creditors, if a contract of life, endowment, annuity or
11 accident insurance, whether heretofore or hereafter issued,
12 is effected by any person on his own life or on another life,
13 in favor of a person other than himself or is assigned or
14 in any way made payable to any other person, the lawful bene-
15 ficiary or assignee thereof, other than the insured or the
16 person so effecting such contract of insurance or executors
17 or administrators of such insured or of the person so effect-
18 ing such contract of insurance, shall be entitled to its pro-
19 ceeds and avails against the creditors and representatives of
20 the insured and of the person effecting the same, whether or
21 not the right to change the beneficiary is reserved or per-
22 mitted and whether or not the contract of insurance is made
23 or to the executor or administrator of such person
payable to the person whose life is insured if the beneficiary
24 or assignee shall predecease such person; Subject to the
25 statute of limitations, the amount of any premiums for such
26 contract of insurance paid with intent to defraud creditors,
27 with interest thereon, shall inure to the benefit of the
28 creditors from the proceeds of the contract of insurance;
29 but the insurer issuing the contract shall be discharged of
30 all liability thereon by payment of its proceeds in accord-
31 ance with its terms, unless before such payment the insurer
32 shall have ^{received} been given written notice, by or in behalf of a

with specifications of the amount claimed along with such facts as will assist the insurer to ascertain the particular policy.

3. For the purpose of subsection 2 above, a contract of insurance shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the contract permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

1 creditor, of a claim to recover for transfer made or premiums
2 paid with intent to defraud creditors, and unless such insurer
3 shall have been served with trustee process for the cash sur-
4 render value of any such contract of insurance as required
5 by law prior to making payment of the proceeds in accordance
6 with the terms of the contract of insurance.

7
8 § 242~~9~~⁷. Exemption of proceeds, health insurance

9 Except as may otherwise be expressly provided by the
10 policy or contract, the proceeds or avails of all contracts
11 of health insurance and of provisions providing benefits on
12 account of the insured's disability which are supplemental
13 to life insurance or annuity contracts heretofore or here-
14 after effected shall be exempt from all liability for any
15 debt of the insured, and from any debt of the beneficiary
16 existing at the time the proceeds are made available for
17 his use.

18
19 § 242~~9~~⁷. Exemption of proceeds, group insurance

20 1. A policy of group life insurance or group health
21 insurance or the proceeds thereof payable to the individual
22 insured or to the beneficiary thereunder, shall not be liable,
23 either before or after payment, to be applied by any legal
24 or equitable process to pay any debt or liability of such
25 insured individual or his beneficiary or of any other person
26 having a right under the policy.

27 2. This section shall not apply to group insurance
28 issued pursuant to this Title to a creditor covering his
29 debtors, to the extent that such proceeds are applied to
30 payment of the obligation for the purpose of which the insur-
31 ance was so issued.

1 § 243Q. Exemption of proceeds, individual annuity
 contracts; assignability of rights

2 1. The benefits, rights, privileges and options which
3 under any individual annuity contract heretofore or hereafter
4 issued are due or prospectively due the annuitant, shall not
5 be subject to execution nor shall the annuitant be compelled
6 to exercise any such rights, powers, or options, nor shall
7 creditors be allowed to interfere with or terminate the con-
8 tract, except:

9 A. As to amounts paid for or as premium on any such
10 annuity with intent to defraud creditors, with interest
11 thereon, and of which the creditor has given the insurer
12 written notice ^{received} at its home office prior to the making of
13 the payment to the annuitant out of which the creditor seeks
14 to recover. Any such notice shall specify the amount claimed
15 or such facts as will enable the insurer to ascertain such
16 amount, and shall set forth such facts as will enable the
17 insurer to ascertain the annuity contract, the annuitant
18 and the payment sought to be avoided on the ground of fraud.

19 B. The total exemption of benefits presently due and
20 payable to any annuitant periodically or at stated times
21 under all annuity contracts under which he is an annuitant,
22 shall not at any time exceed \$450 per month for the length
23 of time represented by such installments, and that such
24 periodic payments in excess of \$450 per month shall be sub-
25 ject to garnishee execution to the same extent as are wages
26 and salaries.

27 C. If the total benefits presently due and payable to
28 any annuitant under all annuity contracts under which he is
29 an annuitant, shall at any time exceed payment at the rate
30 of \$450 per month, then the court may order such annuitant
31 to pay to a judgment creditor or apply on the judgment, in
32 installments, such portion of such excess benefits as to the

1 court may appear just and proper, after due regard for the
2 reasonable requirements of the judgment debtor and his
3 family, if dependent upon him, as well as any payments
4 required to be made by the annuitant to other creditors
5 under prior court orders.

6 2. If the contract so provides, the benefits, rights,
7 privileges or options accruing under such contract to a
8 beneficiary or assignee shall not be transferable nor sub-
9 ject to commutation, and if the benefits are payable period-
10 ically or at stated times, the same exemptions and exceptions
11 contained herein for the annuitant, shall apply with respect
12 to such beneficiary or assignee.

13
14 § 243~~1~~². Exemption of employee's interest - Group
annuities, pension trusts

15 If any group annuity contract or pension trust, whether
16 heretofore or hereafter issued, is effected by an employer
17 for the benefit of his employees, whether or not requiring
18 any contribution toward the cost thereof by such employees,
19 the interest of any employee, beneficiary or joint or contin-
20 gent annuitant in any policy, certificate or fund in connec-
21 tion therewith and his interest in any payments or proceeds
22 thereof and in any optional or death benefits shall not in
23 any way be subject to execution, levy, attachment, garnish-
24 ment, trustee process or any other legal or equitable process.

25
26 § 243~~2~~³. Jurisdiction of courts, limitation of actions

27 No conditions, stipulations or agreements in a contract
28 of insurance shall deprive the courts of this State of juris-
29 diction of actions against foreign insurers, or limit the
30 time for commencing actions against such insurers to a period
31 of less than 2 years from the time when the cause of action
32 accrues.

1 § 243~~8~~. Suits against foreign insurers

2 Any person having a claim against any foreign insurer
3 may bring a trustee action or any other appropriate action
4 therefor in the courts of this State. Service of process
5 upon such an insurer shall be made as provided in sections
6 421 and 422 ~~of this title.~~

1 CHAPTER 29

2 LIFE INSURANCE AND ANNUITY CONTRACTS

3 § 2501. Scope of chapter

4 This chapter applies only to contracts of life insur-
5 ance and annuities, other than reinsurance, group life
6 insurance and group annuities, *except that section 2507*
7 *(separate accounts) shall also apply as to group annuity contracts.*

8 § 2501. "Industrial life insurance" defined

9 For the purposes of this Title "industrial life insur-
10 ance" is that form of life insurance written under policies
11 of face amount of ^{\$2,500} \$1,000 or less bearing the words "indus-
12 trial policy" ^{or "weekly premium policy" or words of similar import} imprinted on the face thereof as part of
13 the descriptive matter, and under which premiums are pay-
14 able monthly or more often.

15
16 § 2503. Standard provisions required

17 1. No policy of life insurance other than pure
18 endowments with or without return of premiums or of
19 premiums and interest, shall be delivered or issued
20 for delivery in this State unless it contains in sub-
21 stance all of the applicable provisions required by
22 sections 2504 to 2515, ~~inclusive, of this chapter.~~

23 This section shall not apply to annuity contracts nor
24 to any provision of a life insurance policy, or contract
25 supplemental thereto, relating to disability benefits

1 or to additional benefits in the event of death by accident
2 or accidental means.

3 2. Any of such provisions or portions thereof not
4 applicable to single premium or nonparticipating or term
5 policies or insurance granted in exchange for lapsed or
6 surrendered policies, shall to that extent not be incorporated
7 therein.

8 § 2504. Payment of premiums

9 There shall be a provision relating to the time and
10 place of payment of premiums.

11 § 2505. Grace period

12 There shall be a provision that a grace period of
13 30 days, or, at the option of the insurer, of one month of not
14 less than 30 days, or of 4 weeks in the case of industrial
15 life insurance policies the premiums for which are payable
16 more frequently than monthly, shall be allowed within which
17 the payment of any premium after the first may be made, during
18 which period of grace the policy shall continue in full force.
19 The insurer may impose an interest charge not in excess of
20 6% per annum for the number of days of grace elapsing before
21 the payment of the premium, and, whether or not such interest
22 charge is imposed, if a claim arises under the policy during
23 such period of grace the amount of any premium due or overdue,
24 together with interest and any deferred installment of the
25 annual premium, may be deducted from the policy proceeds.
26 Grace shall date from the premium due date specified in the
27 policy.

28 § 2506. Entire contract

29 There shall be a provision that except as otherwise
30 expressly provided by law, the policy and the application
31 therefor, if a copy of such application is endorsed upon or
32 attached to the policy when issued, shall constitute the

1 entire contract between the parties, and that all statements
2 contained in the application shall, in the absence of fraud,
3 be deemed representations and not warranties.

8 § 2507. Incontestability

9 There shall be a provision that the policy shall be
10 incontestable after it has been in force during the lifetime
11 of the insured for a period of not more than 2 years after its
12 date of issue, except for nonpayment of premiums, ~~vio-~~
13 ~~lation of conditions of the policy relating to naval or~~
14 ~~military service in time of war~~ and, at the insurer's op-
15 tion, provisions relating to benefits in the event of total
16 and permanent disability and provisions granting additional
17 benefits specifically against death by accident or accidental
18 means.

19 § 2508. Misstatement of age

20 There shall be a provision that if the age of the
21 insured or of any other person whose age is considered in
22 determining the premium or benefit has been misstated, any
23 amount payable or benefit accruing under the policy shall be
24 such as the premium would have purchased at the correct age
25 or ages.

26 § 2509. Dividends

27 1. There shall be a provision in participating
28 policies that, beginning not later than the end of the third
29 policy year, the insurer shall annually ascertain and appor-
30 tion the divisible surplus, if any, that will accrue on the
31 policy anniversary or other dividend date specified in the
32 policy provided the policy is in force and all premiums to

1 that date are paid. Except as hereinafter provided, any divi-
2 dend becoming payable shall at the option of the party
3 entitled to elect such option be either:

4 A. Payable in cash, or

5 B. Applied to any one of such other dividend op-
6 tions as may be provided by the policy. If any such other
7 dividend options are provided, the policy shall further state
8 which option shall be automatically effective if such party
9 shall not have elected some other option. If the policy speci-
10 fies a period within which such other dividend option may be
11 elected, such period shall be not less than 30 days following
12 the date on which such dividend is due and payable. The
13 annually apportioned dividend shall be deemed to be payable
14 in cash within the meaning of A above even though the
15 policy provides that payment of such dividend is to be deferred
16 for a specified period, provided such period does not exceed
17 6 years from the date of apportionment and that interest will
18 be added to such dividend at a specified rate.

19 2. Renewable term policies of 10 years or less may
20 provide that the surplus accrued to such policies shall be
21 determined and apportioned each year after the second policy
22 year, and accumulated during each renewal period, and that at
23 the end of the renewal period, on renewal of the policy by the
24 insured, the insurer shall apply the accumulated surplus as an
25 annuity for the next succeeding renewal term in the reduction
26 of premiums.

27 3. In participating industrial life insurance
28 policies, in lieu of the provision required in subsection 1
29 above, there shall be a provision that, beginning not later
30 than the end of the fifth policy year, the policy shall par-
31 ticipate annually in the divisible surplus, if any, in the
32 manner set forth in the policy

1 4. This section does not apply as to insurance
2 issued in consideration of lapsed or surrendered policies.

3 § 2510. Policy loan

4 1. There shall be a provision that after 3 full
5 years' premiums have been paid and after the policy has a cash
6 surrender value and while no premium is in default beyond the
7 grace period for payment, the insurer will advance, on proper
8 assignment or pledge of the policy and on the sole security
9 thereof, at a specified rate of interest,

10
11 an amount equal to or, at the option
12 of the party entitled thereto, less than the loan value of the
13 policy. The loan value of the policy shall be at least equal
14 to the cash surrender value at the end of the then current
15 policy year, and the insurer may deduct, either from such loan
16 value or from the proceeds of the loan, any existing indebted-
17 ness not already deducted in determining such cash surrender
18 value including any interest then accrued but not due, any
19 unpaid balance of the premium for the current policy year,
20 and interest on the loan to the end of the current policy year.
21 The policy may also provide that if interest on any indebted-
22 ness is not paid when due it shall then be added to the exist-
23 ing indebtedness and shall bear interest at the same rate, and
24 that if and when the total indebtedness on the policy, inclu-
25 ding interest due or accrued, equals or exceeds the amount of
26 the loan value thereof, then the policy shall terminate and
27 become void, but not until at least 30 days' notice has been
28 mailed by the insurer to the last address, of record with the
29 insurer, of the insured or other policy owner and of any
30 assignee of record at the insurer's home office. The policy
31 shall reserve to the insurer the right to defer the granting
32 of a loan, other than for the payment of any premium to the

1 insurer, for 6 months after application therefor. Such pro-
2 vision shall also contain a table showing in figures the loan
3 values each year during the first 20 years of the policy, or
4 during the term of the policy, whichever is shorter. The
5 policy, at the insurer's option, may provide for automatic
6 premium loan.

7 2. This section shall not apply to term poli-
8 cies, or to term insurance benefits provided by rider or
9 supplemental policy provisions or to industrial life insurance
10 policies.

11 § 2511. Table of installments

12 In case the policy provides that the proceeds may
13 be payable in installments which are determinable at issue of
14 the policy, there shall be a table showing the amounts of the
15 guaranteed installments.

16 § 2512. Reinstatement

17 There shall be a provision that unless:

18 1. The policy has been surrendered for its cash
19 surrender value, or

20 2. Its cash surrender value has been exhausted,
21 or

22 3. The paid-up term insurance, if any, has
23 expired. 5

24 ← The policy will be reinstated at any time within
25 3 years, (or 2 years in the case of industrial life insurance
26 policies), from the date of premium default upon written appli-
27 cation therefor, the production of evidence of insurability
28 satisfactory to the insurer, the payment of all premiums in
29 arrears and the payment or reinstatement of any other indebt-
30 edness to the insurer upon the policy, all with interest at a
31 rate not exceeding 6% per annum compounded annually.

32 § 2513. Payment of claims

1 There shall be a provision that when the benefits
2 under the policy shall become payable by reason of the death
3 of the insured, settlement shall be made upon receipt of due
4 proof of death and, at the insurer's option, surrender of the
5 policy ^{and} ~~and~~ proof of the interest of the claimant. If an
6 insurer shall specify a particular period prior to the expira-
7 tion of which settlement shall be made, such period shall not
8 exceed 2 months from the receipt of such proofs.

9 § 2514. Beneficiary, industrial policies

10 An industrial life insurance policy shall have the
11 name of the beneficiary designated thereon or in the applica-
12 tion or other form if attached to the policy, with a reserva-
13 tion of the right to designate or change the beneficiary after
14 the issuance of the policy, unless such beneficiary be irrevoc-
15 ably designated. The policy may also provide that no designa-
16 tion or change of beneficiary shall be binding on the insurer
17 until endorsed on the policy by the insurer, and that the
18 insurer may refuse to endorse the name of any proposed bene-
19 ficiary who does not appear to the insurer to have an
20 insurable interest in the life of the insured. The policy
21 may also provide that if the beneficiary designated in the
22 policy does not make a claim under the policy or does not
23 surrender the policy with due proof of death within the period
24 stated in the policy, which shall not be less than 30 days
25 after the death of the insured, or if the beneficiary is the
26 estate of the insured, or is a minor, or dies before the
27 insured, or is not legally competent to give a valid release,
28 then the insurer may make any payment thereunder to the execu-
29 tor or administrator of the insured, or to any relative of the
30 insured by blood or legal adoption or connection by marriage,
31 or to any person appearing to the insurer to be equitably
32 entitled thereto by reason of having been named beneficiary,

1 or by reason of having incurred expense for the maintenance,
2 medical attention or burial of the insured. The policy may
3 also include a similar provision applicable to any other pay-
4 ment due under the policy.

5 § 2515. Title

6 There shall be a title on the policy, briefly
7 describing the same.

8 § 2516. Excluded or restricted coverage

9 A clause in any policy of life insurance, ^{policy or annuity contract} providing
10 that such policy, ^{or contract} shall be incontestable after a specified
11 period shall preclude only a contest of the validity of the
12 policy, ^{or contract} and shall not preclude the assertion at any time of
13 defenses based upon provisions in the policy, ^{or contract} which exclude
14 or restrict coverage, whether or not such restrictions or ex-
15 clusions are excepted in such clause.

16 § 2517. Standard provisions - annuity and pure
endowment contracts

17 1. No annuity or pure endowment contract, other
18 than reversionary annuities (also called survivorship annui-
19 ties) or group annuities and except as stated herein, shall
20 be delivered or issued for delivery in this State unless it
21 contains in substance each of the provisions specified in
22 sections 2513 to 2523, ~~inclusive, of this chapter.~~ Any of
23 such provisions not applicable to single premium annuities
24 or single premium pure endowment contracts shall not, to that
25 extent, be incorporated therein.

26 2. This section shall not apply to contracts for
27 deferred annuities included in, or upon the lives of benefi-
28 ciaries under, life insurance policies, ^{nor to variable annuity contracts.}

29 § 2518. Grace period - annuities

30 In an annuity or pure endowment contract, other than
31 a reversionary, survivorship or group annuity, there shall be
32 a provision that there shall be a period of grace of one month,

1 but not less than 30 days, within which any stipulated payment
2 to the insurer falling due after the first may be made, subject
3 at the option of the insurer to an interest charge thereon at
4 a rate to be specified in the contract but not exceeding 6%
5 per annum for the number of days of grace elapsing before such
6 payment, during which period of grace the contract shall con-
7 tinue in full force; but in case a claim arises under the con-
8 tract on account of death prior to expiration of the period
9 of grace before the overdue payment to the insurer or the
10 deferred payments of the current contract year, if any, are
11 made, the amount of such payments, with interest on any over-
12 due payments, may be deducted from any amount payable under
13 the contract in settlement.

14 § 2519. Incontestability - annuities

15 If any statements, other than those relating to age,
16 sex and identity are required as a condition to issuing an
17 annuity or pure endowment contract, other than a reversion-
18 ary, survivorship, or group annuity, and subject to section
19 2521 ~~of this chapter~~, there shall be a provision that the
20 contract shall be incontestable after it has been in force
21 during the lifetime of the person or of each of the persons
22 as to whom such statements are required, for a period of 2
23 years from its date of issue, except for nonpayment of stipu-
24 lated payments to the insurer; and at the option of the insurer
25 such contract may also except any provisions relative to bene-
26 fits in the event of disability and any provisions which grant
27 insurance specifically against death by accident or accidental
28 means.

29 § 2520. Entire contract - annuities

30 In an annuity or pure endowment contract, other than
31 a reversionary, survivorship, or group annuity, there shall be
32 a provision that the contract shall constitute the entire contract

1 between the parties or, if a copy of the application is
2 endorsed upon or attached to the contract when issued, a pro-
3 vision that the contract and the application therefor shall
4 constitute the entire contract between the parties.

5 § 2521. Misstatement of age or sex - annuities

6 In an annuity or pure endowment contract, other
7 than a reversionary, survivorship, or group annuity, there
8 shall be a provision that if the age or sex of the person or
9 persons upon whose life or lives the contract is made, or of
10 any of them has been misstated, the amount payable or benefits
11 accruing under the contract shall be such as the stipulated
12 payment or payments to the insurer would have purchased
13 according to the correct age or sex and that if the insurer
14 shall make or has made any overpayment or overpayments on
15 account of any such misstatement, the amount thereof with
16 interest at the rate to be specified in the contract but not
17 exceeding 6% per annum, may be charged against the current or
18 next succeeding payment or payments to be made by the insurer
19 under the contract.

20 § 2522. Dividends - annuities

21 If an annuity or pure endowment contract, other
22 than a reversionary, survivorship, or group annuity, is par-
23 ticipating, there shall be a provision that the insurer shall
24 annually ascertain and apportion any divisible surplus
25 accruing on the contract.

26 § 2523. Reinstatement - annuities

27 In an annuity or pure endowment contract, other than
28 a reversionary or group annuity, there shall be a provision
29 that the contract may be reinstated at any time within one
30 year from the default in making stipulated payments to the
31 insurer, unless the cash surrender value has been paid, but
32 all overdue stipulated payments and any indebtedness to the

1 insurer on the contract shall be paid or reinstated with
2 interest thereon at a rate to be specified in the contract but
3 not exceeding 6% per annum payable annually, and in cases
4 where applicable the insurer may also include a requirement
5 of evidence of insurability satisfactory to the insurer.

6 § 2524. Standard provisions - reversionary annuities

7 1. Except as stated herein, no contract for a
8 reversionary annuity shall be delivered or issued for delivery
9 in this State unless it contains in substance each of the
10 following provisions:

11 A. Any such reversionary annuity contract shall
12 contain the provisions specified in sections 2518 ^{to} through 2522,
13 ~~of this Title~~ except that under section 2518 the insurer may
14 at its option provide for an equitable reduction of the amount
15 of the annuity payments in settlement of an overdue payment in
16 lieu of providing for deduction of such payments from an amount
17 payable upon settlement under the contract.

18 B. In such reversionary annuity contracts there
19 shall be a provision that the contract may be reinstated at
20 any time within 3 years from the date of default in making
21 stipulated payments to the insurer, upon production of evidence
22 of insurability satisfactory to the insurer, and upon condition
23 that all overdue payments and any indebtedness to the insurer
24 on account of the contract be paid, or, within the limits per-
25 mitted by the then cash values of the contract, reinstated,
26 with interest as to both payments and indebtedness at a rate
27 to be specified in the contract but not exceeding 6% per annum
28 compounded annually.

29 ^{group annuities,} 2. This section shall not apply to group annuities,
30 or to annuities included in life insurance policies, and any of
31 such provisions not applicable to single premium annuities
32 shall not to that extent be incorporated therein.

1 § ~~2525~~. Limitation of liability .

2 L. No policy of life insurance shall be delivered
3 or issued for delivery in this State if it contains any of the
4 following provisions:

5 A. A provision limiting the time within which an
6 action at law or in equity may be commenced on such a policy
7 to less than 3 years after the cause of action has accrued.

8 B. A provision which excludes or restricts lia-
9 bility for death caused in a certain specified manner or
10 occurring while the insured has a specified status, except
11 that a policy may contain provisions excluding or restricting
12 coverage as specified therein in the event of death under any
13 one or more of the following circumstances:

14 (1) Death as a result, directly or indirectly, of
15 war, declared or undeclared, or of action by military forces,
16 or of any act or hazard of such war or action, or of service
17 in the military, naval, or air forces or in civilian forces
18 auxiliary thereto, or from any cause while a member of such
19 military, naval, or air forces of any country at war, declared
20 or undeclared, or of any country engaged in such military
21 action;

22 (2) Death as a result of aviation or any air
23 travel or flight;

24 (3) Death as a result of a specified hazardous
25 occupation or occupations; *or avocation*

26 (4) Death while the insured is a resident outside
27 continental United States and Canada; or

28 (5) Death within 2 years from the date of issue of
29 the policy as a result of suicide, while sane or insane.

30 2. A policy which contains any exclusion or res-
31 triction pursuant to *paragraph* ~~subdivision~~ B above, shall also provide
32 that in the event of death under the circumstances to which any

1 such exclusion or restriction is applicable, the insurer will
2 pay an amount not less than ^{the attributable benefits} a reserve, determined according to
3 the Commissioners reserve valuation method upon the basis of
4 the mortality table and interest rate specified in the policy
5 for the calculation of nonforfeiture benefits, (or if the
6 policy provides for no such benefits, computed according to a
7 mortality table and interest rate determined by the insurer
8 and specified in the policy), with adjustment for indebtedness
9 or dividend credit.

10 3. This section shall not apply to group life
11 insurance, health insurance, reinsurance, or annuities,
12 or to any provision in a life insurance policy or contract
13 supplemental thereto relating to disability benefits or to
14 additional benefits in the event of death by accident or acci-
15 dental means.

16 4. Nothing contained in this section shall prohibit
17 any provision which in the opinion of the commissioner is more
18 favorable to the policyholder than a provision permitted by
19 this section.

20 § 2526. Prohibited provisions

21 1. No life insurance policy, other than industrial
22 insurance, shall be ^{delivered or} issued or delivered in this State, ~~or be~~
23 ~~issued by any domestic insurer~~, if it contains any of the
24 following provisions:

25 A. A provision by which the policy purports to be
26 issued or to take effect more than 1 year before the origi-
27 nal application for the insurance was made.

28 B. A provision for any mode of settlement at
29 maturity of the policy of less value than the amount insured
30 under the policy, plus dividend additions, if any, less any
31 indebtedness to the insurer on or secured by the policy and
32 less any premium that may by the terms of the policy be deducted.

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C. A provision to the effect that the agent soliciting the insurance is the agent of the person insured under the policy, or making the acts or representations of such agent binding upon the person so insured under the policy.

2. No policy of industrial life insurance shall *be delivered or issued for delivery in this state if it* contain any of the following provisions:

A. A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

B. A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within 2 years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

C. A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

1 3. No insurer shall provide in any policy, certificate,
2 contract or agreement of life insurance for the payment of
3 any insurance, indemnity or benefit in services, goods,
4 wares or merchandise of any kind.

5
6 § 2527. Provisions required by law of other jurisdiction

7 The policies of a foreign life insurer may contain any
8 provision which the law of the state, territory, district,
9 or country under which the insurer is organized prescribes
10 shall be in such policies when issued in this State, and
11 the policies of a domestic life insurer may, when issued or
12 delivered in any other state, territory, district, or coun-
13 try, contain any provisions required by ^{the laws} thereof, anything
14 in this chapter to the contrary notwithstanding.

15
16 § 2528. Short title

17 Sections 2528 to 2534, ~~inclusive~~, shall be known as
18 the "Standard nonforfeiture law."

19
20 § 2529. Nonforfeiture provisions

21 1. In the case of policies issued on or after the
22 effective date of this Title no policy of life insurance,
23 except as stated in section 2534 of ~~this chapter~~ shall be
24 issued or delivered in this State unless it shall contain
25 in substance the following provisions, or corresponding
26 provisions which in the opinion of the commissioner are
27 at least as favorable to the defaulting or surrendering
28 policyholder:

29 A. Paid-up nonforfeiture benefit. That, in the event
30 of default in any premium payment, the ~~company~~ will grant,
31 upon proper request not later than 60 days after the due
32 date of the premium in default, a paid-up nonforfeiture

1 benefit on a plan stipulated in the policy, effective as of
2 such due date, of such value as may be hereinafter specified.

3 B. Cash surrender value. That, upon surrender of the
4 policy within 60 days after the due date of any premium pay-
5 ment in default after premiums have been paid for at least
6 3 full years in the case of ordinary insurance or 5 full
7 years in the case of industrial insurance, the ~~company~~ will
8 pay, in lieu of any paid-up nonforfeiture benefit, a cash
9 surrender value of such amount as may be hereinafter specified.

10 C. Effective date of benefit. That a specified paid-up
11 non forfeiture benefit shall become effective as specified
12 in the policy unless the person entitled to make such elec-
13 tion elects another available option not later than 60 days
14 after the due date of the premium in default.

15 D. Cash surrender value if policy paid up. That, if
16 the policy shall have become paid up by completion of all
17 premium payments or if it is continued under any paid-up
18 nonforfeiture benefit which became effective on or after the
19 3rd policy anniversary in the case of ordinary insurance or
20 the 5th policy anniversary in the case of industrial insur-
21 ance, the ~~company~~ will pay, upon surrender of the policy
22 within 30 days after any policy anniversary, a cash surren-
23 der value of such amount as may be hereinafter specified.

24 E. Mortality table and interest rate used. A statement
25 of the mortality table and interest rate used in calculating
26 the cash surrender values and the paid-up nonforfeiture
27 benefits available under the policy, together with a table
28 showing the cash surrender value, if any, and paid-up non-
29 forfeiture benefit, if any, available under the policy on
30 each policy anniversary either during the first 20 policy
31 years or during the term of the policy, whichever is shorter,
32 such values and benefits to be calculated upon the assumption

1 that there are no dividends or paid-up additions credited
2 to the policy and that there is no indebtedness to the
3 ~~company~~ on the policy.

4 F. Method used in computing value and benefit. A
5 statement that the cash surrender values and the paid-up non-
6 forfeiture benefits available under the policy are not less
7 than the minimum values and benefits required by or pursuant
8 to the insurance law of the state in which the policy is
9 delivered; an explanation of the manner in which the cash
10 surrender values and the paid-up nonforfeiture benefits
11 are altered by the existence of any paid-up additions
12 credited to the policy or any indebtedness to the ~~company~~
13 on the policy; if a detailed statement of the method of
14 computation of the values and benefits shown in the policy
15 is not stated therein, a statement that such method of com-
16 putation has been filed with the insurance supervisory
17 official of the state in which the policy is delivered;
18 and a statement of the method to be used in calculating
19 the cash surrender value and paid-up nonforfeiture benefit
20 available under the policy on any policy anniversary beyond
21 the last anniversary for which such values and benefits are
22 consecutively shown in the policy.

23 2. Any of the foregoing provisions or portions thereof
24 not applicable by reason of the plan of insurance may, to
25 the extent inapplicable, be omitted from the policy.

26 3. The ~~company~~ shall reserve the right to defer the
27 payment of any cash surrender value for a period of 6 months
28 after demand therefor with surrender of the policy.

29
30 § 2530. Cash surrender value

31 Any cash surrender value available under the policy in
32 the event of default in a premium payment due on any policy

1 anniversary, whether or not required by section 2529 of
2 this chapter, shall be an amount not less than the excess,
3 if any, of the present value, on such anniversary, of the
4 future guaranteed benefits which would have been provided
5 for by the policy, including any existing paid-up additions,
6 if there had been no default, over the sum of:

7 1. Present value of adjusted premiums. The then pres-
8 ent value of the adjusted premiums as defined in section
9 2532 ~~of this chapter~~, corresponding to premiums which would
10 have fallen due on and after such anniversary, and

11 2. Amount of indebtedness. The amount of any indebted-
12 ness to the ~~company~~ on the policy. Any cash surrender value
13 available within 30 days after any policy anniversary under
14 any policy paid up by completion of all premium payments or
15 any policy continued under any paid-up nonforfeiture benefit,
16 whether or not required by section 2529, ~~of this chapter~~,
17 shall be an amount not less than the present value, on such
18 anniversary, of the future guaranteed benefits provided for
19 by the policy, including any existing paid-up additions,
20 decreased by any indebtedness to the ~~company~~ on the policy.

21
22 § 2531. Paid-up nonforfeiture benefits

23 Any paid-up nonforfeiture benefit available under the
24 policy in the event of default in a premium payment due on
25 any policy anniversary shall be such that its present value
26 as of such anniversary shall be at least equal to the cash
27 surrender value then provided for by the policy or, if none
28 is provided for, that cash surrender value which would have
29 been required by sections 2529 to 2534 ~~of this chapter~~ in
30 the absence of the condition that premiums shall have been
31 paid for at least a specified period.

32

1 § 2532. Adjusted premiums

2 1. How calculated. Except as provided in subsection 3
3 ~~of this section~~, the adjusted premiums for any policy shall
4 be calculated on an annual basis and shall be such uniform
5 percentage of the respective premiums specified in the policy
6 for each policy year, excluding any extra premiums charged
7 because of impairments or special hazards, that the present
8 value, at the date of issue of the policy, of all such ad-
9 justed premiums shall be equal to the sum of:

10 A. The then present value of the future guaranteed
11 benefits provided for by the policy;

12 B. 2% of the amount of insurance, if the insurance be
13 uniform in amount, or the equivalent uniform amount, as here-
14 inafter defined, if the amount of insurance varies with dura-
15 tion of the policy;

16 C. 40% of the adjusted premium for the first policy
17 year;

18 D. 25% of either the adjusted premium for the first
19 policy year or the adjusted premium for a whole life policy
20 of the same uniform or equivalent uniform amount with uniform
21 premiums for the whole of life issued at the same age for
22 the same amount of insurance, whichever is less.

23 In applying the percentages specified in paragraphs C
24 and D, no adjusted premium shall be deemed to exceed 4% of
25 the amount of insurance or uniform amount equivalent thereto.
26 The date of issue of a policy for the purpose of this section
27 shall be the date as of which the rated age of the insured
28 is determined.

29 2. In the case of a policy providing an amount of in-
30 surance varying with duration of the policy, the equivalent
31 uniform amount thereof for the purpose of this section shall
32 be deemed to be the uniform amount of insurance provided by

1 an otherwise similar policy, containing the same endowment
2 benefit or benefits, if any, issued at the same age and for
3 the same term, the amount of which does not vary with duration
4 and the benefits under which have the same present value at
5 the date of issue as the benefits under the policy, provided
6 that in the case of a policy providing a varying amount of
7 insurance issued on the life of a child under age 10, the
8 equivalent uniform amount may be computed as though the
9 amount of insurance provided by the policy prior to the
10 attainment of age 10 were the amount provided by such policy
11 at age 10.

12 3. The adjusted premiums for any policy providing term
13 insurance benefits by rider or supplemental policy provision
14 shall be equal to:

15 A. The adjusted premiums for an otherwise similar
16 policy issued at the same age without such term insurance
17 benefits, increased, during the period for which premiums
18 for such term insurance benefits are payable, by

19 B. The adjusted premiums for such term insurance, the
20 foregoing items A and B being calculated separately and as
21 specified in subsections 1 and 2 of this section except that,
22 for the purposes of paragraphs B, C and D of subsection 1
23 the amount of insurance or equivalent uniform amount of
24 insurance used in the calculation of the adjusted premiums
25 referred to ^{paragraph} in B of this subsection shall be equal to the
26 excess of the corresponding amount determined for the entire
27 policy over the amount used in the calculation of the adjust-
28 ed premiums ^{paragraph} in A of this subsection.

29 4. All adjusted premiums and present values referred
30 to in sections 2529 to 2534 of ~~this chapter~~ shall for all
31 policies of ordinary insurance be calculated on the basis
32 of the Commissioners 1958 Standard Ordinary Mortality Table,

1 provided that for any category of ordinary insurance issued
2 on female risks, adjusted premiums and present values may
3 be calculated according to an age not more than 3 years
4 younger than the actual age of the insured, and such calcu-
5 lations for all policies of industrial insurance shall be
6 made on the basis of the Commissioners 1961 Standard Indus-
7 trial Mortality Table. All calculations shall be made on
8 the basis of the rate of interest, not exceeding $3\frac{1}{2}\%$ per
9 year, specified in the policy for calculating cash surren-
10 der values and paid-up nonforfeiture benefits. In calculat-
11 ing the present value of any paid-up term insurance with
12 accompanying pure endowment, if any, offered as a nonforfeit-
13 ure benefit for ordinary insurance, the rates of mortality
14 assumed may not be more than those shown in the Commissioners
15 1958 Extended Term Insurance Table and for industrial insur-
16 ance the rates of mortality may not be more than those shown
17 in the Commissioners 1961 Industrial Extended Term Insurance
18 Table. For insurance issued on a substandard basis, the cal-
19 culation of any such adjusted premiums and present values
20 may be based on such other table of mortality as may be spe-
21 cified by the insurer and approved by the commissioner.

22 § 2533. Calculation of cash surrender value of certain
policies on default

23 Any cash surrender value and any paid-up nonforfeiture
24 benefit, available under the policy in the event of default
25 in a premium payment due at any time other than on the policy
26 anniversary, shall be calculated with allowance for the lapse
27 of time and the payment of fractional premiums beyond the last
28 preceding policy anniversary. All values referred to in sec-
29 tions 2530 to 2532 ~~of this chapter~~ may be calculated upon
30 the assumption that any death benefit is payable at the end
31 of the policy year of death. The net value of any paid-up
32 additions, other than paid-up term additions, shall be not

1 less than the dividends used to provide such additions.
2 Notwithstanding section 2530 ~~of this chapter~~, additional
3 benefits payable:

4 1. Death or accident. In the event of death or dis-
5 memberment by accident or accidental means;

6 2. Total disability. In the event of total and perm-
7 anent disability;

8 3. Reversionary annuity. As reversionary annuity or
9 deferred reversionary annuity benefits;

10 4. Term insurance benefits. As term insurance bene-
11 fits provided by a rider or supplemental policy provision
12 to which, if issued as a separate policy, sections 2529 to
13 2534 ~~of this chapter~~ would not apply;

14 5. Child term insurance benefits. As term insurance
15 on the life of a child or on the lives of children provided
16 in a policy on the life of a parent of the child, if such
17 term insurance expires before the child's age is 26, is
18 uniform in amount after the child's age is one, and has
19 not become paid up by reason of the death of a parent of
20 the child; and

21 6. Other policy benefits. As other policy benefits
22 additional to life insurance and endowment benefits,
23 and premiums for all such additional benefits, shall be
24 disregarded in ascertaining cash surrender values and non-
25 forfeiture benefits required by sections 2529 to 2534, ~~of~~
26 ~~this chapter~~, and no such additional benefits shall be
27 required to be included in any paid-up nonforfeiture
28 benefits.

29
30 § 2534. Exceptions

31 Sections 2529 to 2534 ~~of this chapter~~ shall not apply
32 to any reinsurance, group insurance, pure endowment, annuity

1 or reversionary annuity contract, nor to any term policy
2 of uniform amount, or renewal thereof, of 15 years or less
3 expiring before age 66, for which uniform premiums are
4 payable during the entire term of the policy, nor to any
5 term policy of decreasing amount on which each adjusted
6 premium, calculated as specified in section 2532 ~~of this~~
7 ~~chapter~~, is less than the adjusted premium so calculated,
8 on such 15-year term policy issued at the same age and
9 for the same initial amount of insurance, nor to any
10 policy which shall be delivered outside this State through
11 an agent or other representative of the insurer issuing
12 the policy.

13

14 § 2535. Incontestability, limitation of liability
after reinstatement

15 1. A reinstated policy of life insurance or annuity
16 contract may be contested on account of fraud or misrep-
17 resentation of facts material to the reinstatement only
18 for the same period following reinstatement and with the
19 same conditions and exceptions as the policy provides with
20 respect to contestability after original issuance.

21 2. When any life insurance policy or annuity contract
22 is reinstated, such reinstated policy or contract may
23 exclude or restrict liability to the same extent that
24 such liability could have been or was excluded or res-
25 tricted when the policy or contract was originally issued,
26 and such exclusion or restriction shall be effective from
27 the date of reinstatement.

1 § 2536. Participating, nonparticipating policies -
 right to issue

2 A life insurer may issue policies on either the parti-
3 cipating basis or the nonparticipating basis, or on both
4 bases, if the right or absence of right of participation
5 is reasonably related to the premium charged and the
6 insurer is otherwise not in violation of sections 2159
7 (unfair discrimination - life insurance, annuities, and
8 health insurance) or 2160 (rebates - life, health and
9 annuity contracts), ~~of this Title.~~

10

11 ~~§ 2537. Pension, profit sharing, annuity agreements -~~
 ~~separate accounts~~

12 1. A domestic life insurer may establish one or more
13 separate accounts, and may allocate thereto, in accord-
14 ance with the terms of a written contract or agreement,
15 any amounts paid to the insurer in connection with a pen-
16 sion, retirement or profit sharing plan or an annuity
17 which are to be applied to provide benefits payable in
18 fixed or in variable dollar amounts or in both.

19 2. The amounts allocated to each such account and
20 accumulations thereon may be invested and reinvested as
21 provided in section 1128 (special investments of pension,
22 profit sharing or annuity funds) of this Title.

23 3. The income, if any, and gains and losses, realized
24 or unrealized, on each such account shall be credited to
25 or charged against the amounts allocated to the account in
26 accordance with the agreement, without regard to other
27 income, gains or losses of the insurer.

28 4. Assets allocated to a separate account shall be

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Separate Accounts

1. Any Insurer may establish one or more separate accounts, including that type known as a unit investment trust, as defined by the Investment Company Act of 1940, 54 Stat. 789, 15 U.S.C. §80A, et seq., as amended, and may allocate to such separate accounts, in accordance with the terms of a written contract or agreement or annuity or pension, profitsharing or retirement plan, whether or not qualified under the applicable provisions of the Internal Revenue Code, 68A Stat. 1, 26 U.S.C. §1, et seq., as amended, with any individual or any group, any amounts paid or remitted to or held by the ^{insurer} company which are to be applied to provide for annuities or other benefits payable in fixed and guaranteed or variable dollar amounts, or both.
2. The amounts allocated to each such account and accumulations thereon may be invested and reinvested as provided in Section 1128 (special investments: separate accounts) of this Title.
3. The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the separate account, without regard to other income, gains or losses of the ^{insurer} company. That portion of the assets of

any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the ^{insurer} ~~company~~ may conduct.

4. Assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then in accordance with the terms of the contract or the rules or other written agreement applicable to such separate account; except, that the portion of the assets of such separate account at least equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in section 1128, if any, shall be valued in accordance with rules otherwise applicable to the insurer's assets.

5. If the contract or agreement provides for payment of benefits in variable amounts, it shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract or agreement including a group agreement and any certificate issued thereunder shall state that such dollar amount may decrease or increase and shall contain on its first page a statement that the benefits thereunder are on a variable basis.

6. No Insurer shall deliver or issue for delivery within this State any contract or agreement providing benefits in variable amounts under this Act unless it is ^{duly authorized} ~~licensed or organized~~ to conduct a life insurance or annuity business within this State and has satisfied the Commissioner that its condition or methods of operation in connection with the issuance of such contracts or agreements will not render its operation hazardous to the public or its policyholders in this State. In determining the qualification of an insurer requesting such authority, the Commissioner shall consider, among other things,

- A. The history and financial condition of the insurer;
- B. The character, responsibility and general fitness of the officers and directors of the insurer; and
- C. In the case of an insurer other than a domestic insurer, whether the statutes or regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders and the public which is substantially equal to that provided by this section and the rules and regulations issued thereunder.

^{AN INSURER}
~~A company~~ which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurer authorized to ~~do~~ ^{transact} business in this State shall be deemed to have met the provisions of this subsection if either it or the parent or affiliated ^{insurer} ~~company~~ meets the requirements hereof.

7. Any Insurer which establishes one or more separate accounts pursuant to subsection ¹(1) above, to the extent it deems necessary to comply with the Investment Company Act of 1940, 54 Stat. 789, 15 U.S.C. §80a, et seq., as amended, may amend its charter to provide, with respect to any separate account or any portion thereof, for the benefit of persons having beneficial interests therein, special voting and other rights and special procedures for the conduct of the business and affairs of such separate account or portion thereof, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and selection of a committee, the members of which need not be otherwise affiliated with the ~~company~~ ^{insurer}, to manage the business and affairs of such separate account or portion thereof. In addition, the ~~insurance company~~ ^{insurer} may make such other provisions in respect to the separate account, as the ~~company~~ ^{insurer} may deem appropriate to facilitate compliance with any requirements of, or pursuant to, any federal or state law, now or hereafter in effect. However, this subsection shall not in any manner affect existing laws pertaining to the voting rights of the policyholders of the ~~company~~ ^{insurer}.

8. No sale, exchange or other transfer of assets may be made by ~~a company~~ ^{an insurer} between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish

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the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account to which the transfer is made, ^{A.} (a) by a transfer of cash, or ^{B.} (b) by a transfer of securities having a readily determinable market value, is approved by the Commissioner. The Commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

9. The ~~insurance company~~ ^{insurer} shall not, in connection with the allocation of investments or expenses, or in any other respect, discriminate unfairly between separate accounts or between separate and other accounts, but this subsection shall not require the ~~insurance company~~ ^{insurer} to follow uniform investment policies for its accounts.

10. Variable annuity contracts delivered or issued for delivery in this State may include as an incidental benefit provisions for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at the time of death. Any such contract providing such a benefit shall not be deemed to be life insurance and therefore shall not be subject to the provisions of ^{this title} ~~the Insurance Code~~ governing life insurance contracts. A provision for any other benefit on death during the deferred period shall be subject to such insurance provisions.

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11. The Commissioner shall have sole authority to regulate the issuance and sale of the contracts or agreements authorized by subsection ¹(~~2~~) above, and to promulgate such rules and regulations as may be necessary for the effectuation of this section.

12. Except as otherwise provided in this ^{section} Act, all pertinent provisions of ^{this Title} ~~the Insurance Code~~ shall apply to separate accounts and contracts relating thereto. The reserve liability for variable annuities shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

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1 of its incorporation provide a degree of protection to policy-
2 holders and the public which is substantially equal to that
3 provided by this section and the rules and regulations issued
4 thereunder.

5 7. Any domestic life insurer which establishes
6 one or more separate accounts pursuant to subsection 1
7 above, may amend its charter to provide for special voting
8 rights and procedures for such separate account contract owners
9 giving them jurisdiction over matters relating to investment
10 policy, investment advisory services and selection of certified
11 public accountants, in relation to the administration of the
12 assets in any such separate account. This provision shall not
13 in any way affect existing laws pertaining to the voting
14 rights of the insurer's policyholders.

15 8. The commissioner shall have sole authority to
16 regulate the issuance and sale of such agreements, and to make
17 ~~rules and regulations for the effectuation of this section.~~

18 § 2538. Prohibited policy plans

19 1. No life insurer shall hereafter deliver or issue
20 *for delivery*
(in this State:

21 A. As part of or in combination with any life insur-
22 ance, endowment or annuity contract, any agreement or plan,
23 additional to the rights, dividends, and benefits arising out
24 of any such contract, which provides for the accumulation of
25 profits over a period of years and for payment of all or any
26 part of such accumulated profits only to members or policy-
27 holders of a designated group or class who continue as members
28 or policyholders until the end of a specified or ascertainable
29 period of years.

30 B. Any "registered" policy; that is, any policy
31 *(other than one registered as a security under applicable state law)*
purporting to be "registered" or otherwise specially recorded,
32 with any agency of the State of Maine, or of any other

This provision shall not prohibit family policies insuring unspecified members of a family, nor prohibit payment to unspecified beneficiaries of a class designated by the insured or policy owner.

1 state, or with any bank, trust company, escrow company, or
2 other institution other than the insurer; or purporting that any
3 reserves, assets or deposits are held, or will be so held, for
4 the special benefit or protection of the holder of such policy,
5 by or through any such agency or institution.

6 C. Any policy or contract under which any part of
7 the premium or of funds or values arising from the policy or
8 contract or from investment of reserves, or from mortality
9 savings, lapses or surrenders, in excess of the normal reserves
10 or amounts required to pay death, endowment, and nonforfeiture
11 benefits in respective amounts as specified in or pursuant to
12 the policy or contract, are on a basis not involving insurance
13 or life contingency features, (1) to be placed in special funds
14 or segregated accounts or specially designated places or (2)
15 to be invested in specially designated investments or types
16 thereof, and the funds or earnings thereon to be divided among
17 the holders of such policies or contracts, or their beneficiar-
18 ies or assignees. This provision does not apply as to any con-
19 tract authorized under section 2537 of this chapter.

20 D. Any policy which provides that on the death
21 of anyone not specifically named therein the owner or
22 beneficiary shall receive the payment or granting of any-
23 thing of value.

24 E. Any policy providing benefits or values for
25 surviving or continuing policyholders contingent upon the
26 lapse or termination of the policies of other policyholders,
27 whether by death or otherwise.

28 *other than as authorized under section 2537 special account*
29 F. Any policy containing or referring to one or
30 more of the following provisions or statements:

31 (1) Investment returns or profit-sharing, other
32 than as a participation in the divisible surplus of the insurer
under a regular participation provision as provided for in

1 section 2509 ~~of this chapter.~~

2 (2) Special treatment in the determination of any
3 dividend that may be paid as to such policy.

4 (3) Reference to premiums as "deposits".

5 (4) Relating policyholder interest or returns to
6 those of stockholders.

7 (5) That the policyholder as a member of a select
8 group will be entitled to extra benefits or extra dividends
9 not available to policyholders generally.

10 2. This section shall not be deemed to prohibit the
11 provision, payment, allowance or apportionment of regular
12 ~~annual~~ dividends or "savings" under regular participating
13 forms of policies or contracts.

14

15 § 2539. Holding proceeds of policies in trust

16 1. Any domestic life insurer shall have power to hold
17 the proceeds of any policy issued by it under a trust or
18 other agreement upon such terms and restrictions as to revo-
19 cation by the policyholder and control by the beneficiaries
20 and with such exemptions from the claims of creditors of
21 beneficiaries other than the policyholder as shall have
22 been agreed to in writing by the insurer and the policy-
23 holder.

24 2. The insurer shall not be required to segregate
25 funds so held but may hold them as a part of its general
26 corporate assets.

27 3. A foreign or alien insurer, when authorized by its
28 charter or the laws of its domicile, may exercise any such
29 ~~with respect to policies issued to or held by residents of~~
powers in this State.

30 4. Nothing in this section shall be construed to sub-
31 ject any such insurer to any other laws or requirements of
32 this State which would not be deemed applicable in the
33 absence of this section.

§ 2540. "Wholesale life insurance" defined

"Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where such policies are issued on the lives of not less than 4 employees at date of issue. Premiums for such policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees.

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2. This chapter does not apply to any contracts or policies entered into or issued prior to August 6, 1949 nor to any extensions, renewals or modifications thereof or amendments thereto whenever made.

1 CHAPTER 31

2 GROUP LIFE INSURANCE

3
4 § 2601. Scope of chapter - short title

5 1. This chapter applies only to group life insurance.
6 ~~and "employee life insurance."~~

7 2. This chapter may be known and cited as the "group
8 life insurance law."

9
10 § 2602. Group contracts must meet group requirements

11 1. No life insurance policy shall be delivered or
12 issued for delivery in this State insuring the lives of more
13 than one individual unless to one of the groups as provided
14 for in sections 2603 ^{to} through 261D ~~of this chapter~~, and unless
15 in compliance with the other applicable provisions of this
16 chapter.

17 2. Subsection 1 above, shall not apply to life insur-
18 ance policies:

19 A. Insuring only individuals related by blood, marriage
20 or legal adoption; or

21 B. Insuring only individuals having a common interest
22 through ownership of a business enterprise, or a substantial
23 legal interest or equity therein, and who are actively en-
24 gaged in the ^{operation} ~~management~~ thereof; or

25 C. Insuring only individuals otherwise having an insur-
26 able interest in each other's lives.

27
28 § 2603. Employee groups

29 The lives of a group of individuals may be insured
30 under a policy issued to an employer, or to the ^{trustees} ~~trustees~~
31 of a fund established by an employer, which employer ^{or} ~~or~~
32 trustees shall be deemed the policyholder, to insure employ-

1 ees of the employer for the benefit of persons other than
2 the employer, subject to the following requirements:

3 1. The employees eligible for insurance under the
4 policy shall be all of the employees of the employer, or
5 all of any class or classes thereof determined by conditions
6 pertaining to their employment. The policy may provide that
7 the term "employees" shall include the employees of one or
8 more subsidiary corporations, and the employees, individual
9 proprietors, and partners of one or more affiliated corpora-
10 tions, proprietors or partnerships if the business of the
11 employer and of such affiliated corporations, proprietors or
12 partnerships is under common control through stock ownership,
13 or contract or otherwise. The policy may provide that the
14 term "employees" shall include the individual proprietor or
15 partners if the employer is an individual proprietor or a
16 partnership. The policy may provide that the term "employees"
17 shall include retired employees. No director of a corporate
18 employer shall be eligible for insurance under the policy
19 unless such person is otherwise eligible as a bona fide emp-
20 loyee of the corporation by performing services other than
21 the usual duties of a director. No individual proprietor
22 or partner shall be eligible for insurance under the policy
23 unless he is actively engaged in and devotes a substantial
24 part of his time to the conduct of the business of the pro-
25 prietor or partnership. A policy issued to insure the emp-
26 loyees of a public body may provide that the term "employees"
27 shall include elected or appointed officials.

28 2. The premium for the policy shall be paid by the
29 policyholder, either wholly from the employer's funds or
30 funds contributed by him, or partly from such funds and
31 partly from funds contributed by the insured employees.
32 No policy may be issued on which the entire premium is to

1 be derived from funds contributed by the insured employees.
2 A policy on which part of the premium is to be derived from
3 funds contributed by the insured employees may be placed
4 in force only if at least 75% of the then eligible employees,
5 excluding any as to whom evidence of individual insurability
6 is not satisfactory to the insurer, elect to make the required
7 contributions. A policy on which no part of the premium is
8 to be derived from funds contributed by the insured employees
9 must insure all eligible employees, or all except any as to
10 whom evidence of individual insurability is not satisfactory
11 to the insurer.

12 3. The policy must cover at least ¹⁰ 3 employees at date
13 of issue.

14 4. The amounts of insurance under the policy must be
15 based upon some plan precluding individual selection either
16 by the employees or by the employer or trustees.

17
18 § 2604. Debtor groups

19 The lives of a group of individuals may be insured under
20 a policy issued to a creditor, or to a trustee or trustees or
21 agent designated by 2 or more creditors, which creditor,
22 trustee, trustees or agent shall be deemed the policyholder,
23 to insure debtors of the single creditor or debtors of 2 or
24 more creditors, as the case may be, subject to the following
25 requirements:

26 1. The debtors eligible for insurance under the policy
27 shall be all of the debtors of the single creditor or all
28 the debtors of the 2 or more creditors whose indebtedness
29 is repayable either

30 A. In installments, or

31 B. In one sum at the end of a period not in excess of
32 18 months from the initial date of debt, or all of any class
33 or classes thereof determined by conditions pertaining to the

1 indebtedness or to the purchase giving rise to the indebted-
2 ness. The policy may provide that the term "debtors" shall
3 include the debtors of one or more subsidiary corporations,
4 and the debtors of one or more affiliated corporations, pro-
5 prietors or partnerships if the business of the policyholder
6 and of such affiliated corporations, proprietors or partner-
7 ships is under common control through stock ownership, contract
8 or otherwise. No debtor shall be eligible unless the indebted-
9 ness constitutes an ~~irreversible~~ obligation to repay which is
10 binding upon him during his lifetime, at and from the date
11 the insurance becomes effective upon his life.

12 2. The premium for the policy shall be paid by the pol-
13 icyholder, either from the creditor's or creditors' funds, or
14 from charges collected from the insured debtors, or from both.
15 A policy on which part or all of the premium is to be derived
16 from the collection from the insured debtors of identifiable
17 charges not required of uninsured debtors shall not include,
18 in the class or classes of debtors eligible for insurance,
19 debtors under obligations outstanding at its date of issue
20 without evidence of insurability unless at least 75% of the
21 then eligible debtors elect to pay the required charges. A
22 policy on which no part of the premium is to be derived from
23 the collection of such identifiable charges must insure all
24 eligible debtors, or all except any as to whom evidence of
25 individual insurability is not satisfactory to the insurer.

26 3. The policy may be issued only if the group of eli-
27 gible debtors is then receiving new entrants at the rate of
28 at least 100 persons yearly, or may reasonably be expected
29 to receive at least 100 new entrants during the first policy
30 year, and only if the policy reserves to the insurer the right
31 to require evidence of individual insurability if less than
32 75% of the new entrants become insured. The policy may
33 exclude from the classes eligible for insurance classes of

or less than 24 months

1 debtors determined by age.

2 4. The amount of the insurance on the life of any debtor
3 shall at no time exceed the ^{accrued interest} amount of the unpaid indebtedness.

4 Where the indebtedness is repayable in one sum to the creditor,
5 the insurance on the life of any debtor shall in no instance
6 be in effect for a period in excess of 18 months except that
7 such insurance may be continued for an additional period not
8 exceeding 6 months in the case of default, extension or re-
9 casting of the loan.

10 5. The insurance shall be payable to the policyholder.
11 Such payment shall reduce or extinguish the unpaid indebted-
12 ness of the debtor to the extent of such payment.

13 6. Notwithstanding the provisions of the above subsec-
14 tions, insurance on agricultural credit transaction commit-
15 ments not exceeding 2 years in duration may be written up to
16 the amount of the loan commitment on a nondecreasing or level
17 term plan, and insurance on educational credit transaction
18 commitments may be written up ^{portion} to the amount of the loan com-
19 mitment ~~less the amount of any repayments made on the loan.~~ *for the amount of the portion of such commitment that has not been advanced by the lender.*

21 § 2605. Labor union groups

22 The lives of a group of individuals may be insured under
23 a policy issued to a labor union, which shall be deemed the
24 policyholder, to insure members of such union for the benefit
25 of persons other than the union or any of its officials, rep-
26 resentatives or agents, subject to the following requirements:

27 1. The members eligible for insurance under the policy
28 shall be all of the members of the union, or all of any class
29 or classes thereof determined by conditions pertaining to
30 their employment, or to membership in the union, or both.
~~The policy may provide that the term "members" shall include retired members.~~

31 2. The premium for the policy shall be paid by the
32 policyholder, either wholly from the union's funds, or partly
33 from such funds and partly from funds contributed by the

1 insured members specifically for their insurance. No policy
2 may be issued on which the entire premium is to be derived from
3 funds contributed by the insured members specifically for their
4 insurance. A policy on which part of the premium is to be
5 derived from funds contributed by the insured members specifi-
6 cally for their insurance may be placed in force only if at
7 least 75% of the then eligible members, excluding any as to
8 whom evidence of individual insurability is not satisfactory
9 to the insurer, elect to make the required contributions. A
10 policy on which no part of the premium is to be derived from
11 funds contributed by the insured members specifically for
12 their insurance must insure all eligible members, or all except
13 any as to whom evidence of individual insurability is not satis-
14 factory to the insurer.

15 3. The policy must cover at least 25 members at
16 date of issue.

17 4. The amounts of insurance under the policy must
18 be based upon some plan precluding individual selection either
19 by the members or by the union.

20 § 2606. Trustee groups

21 The lives of a group of individuals may be insured
22 under a policy issued to the trustees of a fund established
23 by 2 or more employers in the same industry or in related
24 industries or by one or more labor unions, or by one or more
25 employers and one or more labor unions, which trustees shall
26 be deemed the policyholder, to insure employees of the employers
27 or members of the unions for the benefit of persons other than
28 the employers or the unions, subject to the following require-
29 ments:

30 1. No policy may be issued to insure employees of
31 any employer whose eligibility to participate in the fund as
32 an employer arises out of considerations directly related to

1 the employer being a commercial correspondent or business
2 client or patron of another employer, except where such other
3 employer exercises substantial control over the business opera-
4 tions of the participating employers.

5 2. The persons eligible for insurance shall be all
6 of the employees of the employers or all of the members of the
7 unions, or all of any class or classes thereof determined by
8 conditions pertaining to their employment, or to membership in
9 the unions, or to both. The policy may provide that the term
10 "employees" shall include retired employees, ^{union members} and the individual
11 proprietor or partners if an employer is an individual proprie-
12 tor or a partnership. No director of a corporate employer shall
13 be eligible for insurance under the policy unless such person
14 is otherwise eligible as a bona fide employee of the corpora-
15 tion by performing services other than the usual duties of a
16 director. No individual proprietor or partner shall be eligible
17 for insurance under the policy unless he is actively engaged
18 in and devotes a substantial part of his time to the conduct
19 of the business of the proprietor or partnership. The policy
20 may provide that the term "employees" shall include trustees
21 or their employees, or both, if their duties are principally
22 connected with such trusteeship.

23 3. The premium for the policy shall be paid by
24 the trustees wholly from funds contributed by the employer
25 or employers of the insured persons, or by the union or unions,
26 or by both or partly from such funds and partly from funds
27 contributed by the insured persons. A policy on which part
28 of the premium is to be derived from funds contributed by
29 the insured persons specifically for their insurance may be
30 placed in force only if at least 75% of the then eligible
31 persons, excluding any as to whom evidence of insurability
32 is not satisfactory to the insurer, elect to make the required

5. The amount of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholders, employers or unions.

1 contributions. A policy on which no part of the premium is
2 to be derived from funds contributed by the insured persons
3 specifically for their insurance must insure all eligible
4 persons, or all except any as to whom evidence of individual
5 insurability is not satisfactory to the insurer.

6 4. The policy must cover at date of issue at least
7 100 persons; and it must cover an average of not less than
8 3 persons per employer unit unless the policy is issued to
9 the trustees of a fund established by employers which have
10 assumed obligations through a collective bargaining agreement
11 and are participating in the fund either pursuant to those
12 obligations with regard to one or more classes of their
13 employees which are encompassed in the collective bargaining
14 agreement or as a method of providing insurance benefits for
15 other classes of their employees, or unless the policy is
16 issued to the trustees of a fund established by one or more
17 labor unions. ~~If the fund is established by the members of~~
18 ~~an association of employers the policy may be issued only if~~
19 ~~either the participating employers constitute at date of~~
20 ~~issue at least 60% of those employer members whose employees~~
21 ~~are not already covered for group life insurance or the total~~
22 ~~number of persons covered at date of issue exceeds 600; and~~
23 ~~the policy shall not require that, if a participating employer~~
24 ~~discontinues membership in the association, the insurance of~~
25 ~~his employees shall cease solely by reason of such discontin-~~
26 ~~uance.~~

27

28 § 2607. Trade association groups

29 The lives of a group of individuals may be insured under
30 a policy issued to trustees of a fund established by the
31 employer members of a trade association, which trustees
32 shall be deemed the policyholder, to insure employees

1 of such employers for the benefit of persons other than the
2 association or the employers, subject to the following require-
3 ments:

4 1. The policy may be issued only if

5 A. The association has been in existence for at least
6 5 years and was formed for purposes other than obtaining
7 insurance, and

8 B. The participating employers, meaning such employer
9 members whose employees are to be insured, constitute at date
10 of issue at least 50% of the total employers eligible to
11 participate, unless the total number of persons covered at
12 date of issue exceeds 600, in which event such participating
13 employers must constitute at least 25% of such total employers,
14 in either case omitting from consideration any employer whose
15 employees are already covered for group life insurance.

16 2. The persons eligible for insurance under the policy
17 shall be all of the employees of the participating employers,
18 or all of any class or classes thereof determined by condi-
19 tions pertaining to their employment. The policy may provide
20 that the term "employees" shall include the individual proprie-
21 tor or partners whenever a participating employer is an individ-
22 ual proprietor or a partnership. The policy may provide that
23 the term "employees" shall include retired employees. The
24 policy may provide that the term "employees" shall include
25 *the employees of the association and*
the trustees or their employees, or both, if their duties are
26 principally connected with such trusteeship.

27 3. The premium for the policy shall be paid by the trus-
28 tees either wholly from funds contributed by the employers
29 or funds contributed jointly by the employers and the employ-
30 ees. A policy on which part of the premium so payable is to
31 be derived from funds contributed by the insured employees
32 may be placed in force only if at least 75% of the then eli-

1 gible employees of each participating employer, excluding
2 any as to whom evidence of individual insurability is not
3 satisfactory to the insurer, elect to make the required
4 contributions. A policy on which no part of the premium
5 so payable is to be derived from funds contributed by the
6 insured employees must insure all eligible employees, or
7 all except any as to whom evidence of individual insurability
8 is not satisfactory to the insurer.

9 4. The policy must cover at least 100 employees at
10 date of issue.

11 5. The amounts of insurance under the policy must be
12 based upon some plan precluding individual selection either
13 by the employees or by the policyholder or the employer.

14

15 § 2608. Municipal employees association groups

16 The lives of a group of individuals may be insured under
17 a policy issued to an incorporated or unincorporated associa-
18 tion of municipal employees, which association is organized and
19 maintained in good faith for purposes other than that of ob-
20 taining insurance and has been so organized and maintained
21 for a period of 2 years prior to the issuance of such policy
22 or contract, which shall be deemed the policyholder to insure
23 members of such association for the benefit of persons other
24 than the association or any of its officials, representatives
25 or agents, subject to the following requirements:

26 1. The members eligible for insurance shall be all of
27 the members of the association, or all of any class or classes
28 thereof determined by conditions pertaining to membership in
29 the association, or both.

30 2. The premium for the policy shall be paid by the
31 policyholder wholly from the association's funds. No policy
32 may be issued which does not insure all of the eligible mem-

1 bers, or all except any as to whom evidence of individual
2 insurability is not satisfactory to the insurer.

3 3. The policy must cover at least 10 members at date
4 of issue.

5 4. The amounts of insurance under the policy must be
6 based upon some plan precluding individual selection either
7 by the members or the association.

8 5. The policy must provide for a reduction of coverage
9 of a member after his retirement from active service with a
10 municipality.

11

12 § 2609. Professional association groups

13 The lives of a group of individuals may be insured under
14 a policy issued to the trustees of a fund established by an
15 association of individuals licensed by the State of Maine or
16 authorized by law to engage in a recognized profession, which
17 trustees shall be deemed the policyholder, to insure members
18 of such association, or all of any class or classes thereof
19 determined by conditions pertaining to their employment or
20 to membership in the association, subject to the following
21 requirements:

22 1. The individuals eligible for insurance shall be all
23 the members of the association or all of any class or classes
24 thereof, determined by conditions pertaining to their employ-
25 ment or to membership in the association, or to both.

26 2. The premium for the policy shall be paid by the
27 trustees wholly from funds contributed by the association,
28 or partly from such funds and partly from funds contributed
29 specifically for their insurance by the insured individuals. ~~The premium may be paid by funds~~

30 contributed by the insured individuals specifically for their
31 insurance if the number of individuals covered by the policy
32 ~~exceeds~~ ^{must} exceeds 75% of the eligible individuals, ~~excluding any as to~~
 ^{unless the policy} reserves to the insurer the right to require evidence of individual
 insurability if less than 75% of the entrants become insured.

1 whom evidence of insurability is not satisfactory to the
2 insurer, and all of whom elect to make the required contri-
3 bution. A policy on which no part of the premium is to be
4 derived from funds contributed by the insured individuals
5 specifically for their insurance must insure all eligible
6 persons, or all except any as to whom evidence of individual
7 insurability is not satisfactory to the insurer.

8 3. The policy must cover at date of issue at least
9 100 individuals, and thereafter cover not less than 75% of
10 those eligible therefor under subdivision 1 above, exclud-
11 ing any as to whom evidence of insurability is not satis-
12 factory to the insurer, subject to further requirements, if
13 any, relating to payment of premium as stated in subdivision
14 2 above.

15 4. The amounts of insurance under the policy must be
16 based upon some plan precluding individual selection either
17 by the insured persons or by the policyholder. *and as to any one*
18 ~~insured person the amount of term insurance together with term insurance of such person under all other group life insurance policies shall not exceed \$100,000.~~
19 ~~if such person is insured under the policy.~~

19 § 2610. Credit union groups

20 The lives of a group of individuals may be insured
21 under a policy issued to a single credit union, or to a
22 trustee or trustees or agent designated by 2 or more credit
23 unions, which credit union, trustee, trustees or agent shall
24 be deemed the policyholder, to insure members of the credit
25 union or credit unions to the extent of each insured mem-
26 ber's share in any such union, for the benefit of persons
27 other than the credit union or credit unions or its officials,
28 representatives or agents, subject to the following requirements:

29 1. The members eligible for insurance under the policy
30 shall be all of the members of the single credit union or
31 all of the members of the 2 or more credit unions, or all
32 of any class or classes thereof determined by conditions per-

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; and as to any one insured person the amount of term insurance together with term insurance of such person under all other group life insurance policies shall not exceed \$100,000.

1 taining to their membership in the credit union or credit
2 unions, or both.

3 2. The premium for the policy shall be paid by the
4 policyholder, either wholly from the credit union's funds,
5 or the credit unions' funds, or partly from such funds and
6 partly from funds contributed by the insured members
7 specifically for their insurance. No policy may be issued
8 on which the entire premium is to be derived from funds
9 contributed by the insured members specifically for their
10 insurance. A policy on which part of the premium is to be
11 derived from funds contributed by the insured members speci-
12 cally for their insurance may be placed in force only if at
13 least 75% of the then eligible members, excluding any as to
14 whom evidence of individual insurability is not satisfactory
15 to the insurer, elect to make the required contributions. A
16 policy on which no part of the premium is to be derived from
17 funds contributed by the insured members specifically for
18 their insurance must insure all eligible members, or all
19 except any as to whom evidence of individual insurability is
20 not satisfactory to the insurer.

21 3. The policy must cover at least 25 members at date
22 of issue.

23 4. The amounts of insurance under the policy must be
24 based upon some plan precluding individual selection either
25 by the insured members or by the policyholder.

26
27 ~~§ 2611. Savings account groups~~

28 The lives of a group of individuals may be insured
29 under a policy issued to a bank, savings and loan associa-
30 tion or similar financial institution as the policyholder,
31 to insure savings account depositors or share account mem-
32 bers, as the case may be, or all of any class or classes,

2611.
1 § 2612. Dependents' coverage

2 1. Insurance under any group life insurance policy
3 issued pursuant to sections 2603 (employee groups), 2605
4 (labor union groups), 2606 (trustee groups), 2607 (trade
5 association groups), and 2608 (municipal employees associa-
6 tion groups) ~~of this chapter~~, may if 60% of the then insured
7 employees or members who then have eligible dependents elect,
8 be extended to insure the dependents, or any class or classes
9 thereof, of each insured employee or member who so elects
10 in amounts in accordance with a plan which precludes indiv-
11 idual selection and shall not be in excess of 50% of the
12 insurance on the life of such employee or members nor in any
13 event in excess of \$2,000.00 upon the life of a spouse or in
14 excess of \$1,000.00 upon the life of a child, or, as to a
15 child whose age at death is under 6 months, the amount shall
16 not be in excess of \$100.00. A "dependent" is the spouse of
17 the insured employee or member and an insured employee's or
18 member's child under 21 years of age or his child 21 years
19 or older who is attending an educational institution and
20 relying upon the insured employee or member for financial
21 support.

22 2. Premiums for the insurance on such dependents may
23 be paid by the group policyholder, or by the employee or
24 member or by the group policyholder and the employee or mem-
25 ber jointly.

26 3. A ^{but not a child insured} spouse pursuant to this section shall have the
27 same conversion right as to the insurance on his or her
28 life as is vested in the employee or member.

29 4. Notwithstanding the provision of section 262D only
30 one certificate need be issued for each family unit if a
31 statement concerning any dependent's coverage is included
32 in such certificate.

1 § 2613. Limit as to amount of insurance

2 No such policy of group life insurance may be issued
3 to an employer, or labor union or to the trustees of a fund
4 established in whole or in part by an employer or a labor
5 union, which provides term insurance on any person which, to-
6 gether with any other term insurance under any group life
7 insurance policy or policies issued to the employer or emp-
8 loyers of such person or to a labor union or labor unions
9 of which such person is a member or to the trustees of a
10 fund or funds established in whole or in part by such ^{employer or} emp-
11 loyers or such labor union or labor unions, exceeds \$25,000,
12 unless ^{150%} 250% of the annual compensation of such person from
13 his employer or employers exceeds \$25,000, in which event all
14 such term insurance shall not exceed ^{\$100,000} \$50,000, or ^{150%} 250% of
15 such annual compensation, whichever is the lesser.

16
17 § 2614. Provisions required in group contracts

18 No policy of group life insurance shall be delivered
19 in this State unless it contains in substance the provisions
20 set forth in sections 2614 ^{to} through 2625 ~~of this chapter~~ or
21 provisions which in the opinion of the commissioner are
22 more favorable to the persons insured, or at least as favor-
23 able to the persons insured and more favorable to the policy-
24 holder; except , however, that:

25 1. Sections 2619 to 2623 ~~of this chapter, inclusive,~~
26 ^{and section 2627} shall not apply to policies issued to a creditor to insure
27 debtors of such creditor;

28 2. The standard provisions required for individual
29 life insurance policies shall not apply to group life insur-
30 ance policies; and

31 3. If the group life insurance policy is on a plan of
32 insurance other than the term plan, it shall contain a non-

2. Any such provision shall preclude only a contest of the validity of the policy or of the insurance, and shall not preclude the assertion at any time of defenses based upon ~~provisions in~~ ^{terms of} the policy which exclude or restrict coverage, whether or not such ~~restrictions or exclusions~~ are excepted in such provision.

1 forfeiture provision or provisions which in the opinion of
2 the commissioner is or are equitable to the insured persons
3 and to the policyholder, but nothing herein shall be con-
4 strued to require that group life insurance policies contain
5 the same nonforfeiture provisions as are required for individ-
6 ual life insurance policies.

7
8 § 261⁵. Grace period

9 The group life insurance policy shall contain a provi-
10 sion that the policyholder is entitled to a grace period
11 of 31 days for the payment of any premium due except the
12 first, during which grace period the death benefit coverage
13 shall continue in force, unless the policyholder shall have
14 given the insurer written notice of discontinuance in advance
15 of the date of discontinuance and in accordance with the
16 terms of the policy. The policy may provide that the policy-
17 holder shall be liable to the insurer for the payment of a
18 pro rata premium for the time the policy was in force during
19 such grace period.

20
21 § 261⁶. Incontestability

22 / The group life insurance policy shall contain a provision
23 that the validity of the policy shall not be contested, except
24 for nonpayment of premium, after it has been in force for
25 2 years from its date of issue; and that no statement made
26 by any person insured under the policy relating to his insur-
27 ability shall be used in contesting the validity of the insur-
28 ance with respect to which such statement was made after such
29 insurance has been in force prior to the contest for a period
30 of 2 years during such person's lifetime nor unless it is
31 contained in a written instrument signed by him.

1 § 2617. Application; statements deemed representations

2 The group life insurance policy shall contain a provi-
3 sion that a copy of the application, if any, of the policy-
4 holder shall be attached to the policy when issued and become
5 a part of the contract; that all statements made by the
6 policyholder or by the persons insured shall be deemed
7 representations and not warranties, and that no statement
8 made by any person insured shall be used in any contest
9 unless a copy of the instrument containing the statement
10 is or has been furnished to such person or to his beneficiary *prior*
11 *to the insured's death.*

12 § 2618. Insurability

13 The group life insurance policy shall contain a provision
14 setting forth the conditions, if any, under which the insurer
15 reserves the right to require a person eligible for insurance
16 to furnish evidence of individual insurability satisfactory
17 to the insurer as a condition to part or all of his coverage.

18
19 § 2619. Misstatement of age

20 The group life insurance policy shall contain a provision
21 specifying an equitable adjustment of premiums or of benefits
22 or both to be made in the event the age of a person insured
23 has been misstated, such provision to contain a clear state-
24 ment of the method of adjustment to be used.

25
26 ²⁶¹⁹ § 2620. Payment of benefits

27 The group life insurance policy shall contain a provi-
28 sion that any sum becoming due by reason of the death of the
29 person insured shall be payable to the beneficiary designated
30 by the person insured, subject to the provisions of the policy
31 in the event there is no designated beneficiary, as to all
32 or any part of such sum, living at the death of the person

1 insured, and subject to any right reserved by the insurer
2 in the policy and set forth in the certificate to pay at
3 its option a part of such sum not exceeding \$500 to any
4 person appearing to the insurer to be equitably entitled
5 thereto by reason of having incurred funeral or other expen-
6 ses incident to the last illness or death of the person
7 insured.

8

9 § 262D. Information as to insurance

10 The group life insurance policy shall contain a provi-
11 sion that the insurer will issue to the policyholder for
12 delivery to each person insured printed information as to
13 the insurance protection to which he is entitled, to whom
14 the insurance benefits are payable, and the rights and con-
15 ditions set forth in sections 2622, 2623 and 2624 of this
16 chapter.

17

18 § 262E. Conversion on termination of eligibility

19 There shall be a provision that if the insurance, or
20 any portion of it, on a person covered under the policy
21 ceases because of termination of employment or of member-
22 ship in the class or classes eligible for coverage under
23 the policy, such person shall be entitled to have issued
24 to him by the insurer, without evidence of insurability,
25 an individual policy of life insurance without disability
26 or other supplementary benefits, provided application for
27 the individual policy shall be made, and the first premium
28 paid to the insurer, within 31 days after such termination,
29 and provided further that:

30 1. The individual policy shall, at the option of
31 such person, be on any one of the forms, except term insur-
32 ance, then customarily issued by the insurer at the age and
33 for the amount applied for;

1 2. The individual policy shall be in an amount not in
2 excess of the amount of life insurance which ceases because
3 of such termination less the amount of any life insurance
4 for which such person is or becomes eligible under the same
5 or any other group policy within 31 days after such term-
6 ination; provided, that any amount of insurance which shall
7 have matured on or before the date of such termination as
8 an endowment payable to the person insured, whether in one
9 sum or in installments or in the form of an annuity, shall
10 not, for the purposes of this provision, be included in the
11 amount which is considered to cease because of such termin-
12 ation; and

13 3. The premium on the individual policy shall be at
14 the insurer's then customary rate applicable to the form
15 and amount of the individual policy, to the class of risk
16 to which such person then belongs, and to his age attained
17 on the effective date of the individual policy.

18

19 § 2623. Conversion on termination of policy

20 The group life insurance policy shall contain a provi-
21 sion that if the group policy terminates or is amended so
22 as to terminate the insurance of any class of insured per-
23 sons, every person insured thereunder at the date of such
24 termination whose insurance terminates and who has been so
25 insured for at least 5 years prior to such termination date
26 shall be entitled to have issued to him by the insurer an
27 individual policy of life insurance, subject to the same
28 conditions and limitations as are provided by section 2622,
29 ~~of this chapter,~~ except that the group policy may provide
30 that the amount of such individual policy shall not exceed
31 the smaller of:

32 1. The amount of the person's life insurance protection

1 ceasing because of the termination or amendment of the
2 group policy, less the amount of any life insurance for
3 which he is or becomes eligible under any group policy
4 issued or reinstated by the same or another insurer within
5 31 days after such termination, and

6 2. \$2,000.00.

7
8 § 262⁴. Death pending conversion

9 The group life insurance policy shall contain a pro-
10 vision that if a person insured under the policy dies dur-
11 ing the period within which he would have been entitled to
12 have an individual policy issued to him in accordance with
13 sections 262² or 262³ ~~of this chapter~~ and before such an
14 individual policy shall have become effective, the amount
15 of life insurance which he would have been entitled to have
16 issued to him under such individual policy shall be payable
17 as a claim under the group policy, whether or not applica-
18 tion for the individual policy or the payment of the first
19 premium therefor has been made.

20
21 § 262⁵. Information to debtor

22 A policy issued to a creditor to insure debtors of
23 such creditor shall contain a provision that the insurer
24 will furnish to the policyholder for delivery to each debtor
25 insured under the policy a form which will contain a state-
26 ment that the life of the debtor is insured under the policy
27 and that any death benefit paid thereunder by reason of his
28 death shall be applied to reduce or extinguish the indebted-
29 ness.

30
31 § 262⁶. Notice as to conversion right

32 If any individual insured under a group life insurance

an applicable mortality table and interest assumption factor found by the commissioner to be reasonably suitable for current use for the purpose, and resulting in net premium not less than if based on the Commissioners' 1960 Group Mortality Table with interest at 3% per annum, plus in any case a loading computed in accordance with a formula which shall be determined by the commissioner.

1 policy hereafter delivered in this State becomes entitled
2 under the terms of such policy to have an individual policy
3 of life insurance issued to him without evidence of insura-
4 bility, subject to making of application and payment of the
5 first premium within the period specified in such policy, and
6 if such individual is not given notice of the existence of
7 such right at least 15 days prior to the expiration date of
8 such period, then, in such event the individual shall have an
9 additional period within which to exercise such right, but
10 nothing herein contained shall be construed to continue any
11 insurance beyond the period provided in such policy. This
12 additional period shall expire 15 days next after the indiv-
13 idual is given such notice but in no event shall such addi-
14 tional period extend beyond 60 days next after the expiration
15 date of the period provided in such policy. Written notice
16 presented to the individual or mailed by the policyholder to
17 the last known address of the individual or mailed by the
18 insurer to the last known address of the individual as furn-
19 ished by the policyholder shall constitute notice for the
20 purpose of this section.

21

22 § 262⁷. Rate of premiums

23 1. No insurer shall be permitted to do business in this
24 State if it delivers or issues for delivery, within this
25 State, any policy of group life insurance on which the prem-
26 ium shall be less than the net premium based on ~~the Commis-~~
27 ~~sioners 1960 Group Mortality Table with interest at 3% per~~
28 ~~annum, plus a loading computed in accordance with a formula~~
29 ~~which shall be determined by the commissioner.~~

30 2. Anything in this Title to the contrary notwithstanding,
31 any group life insurance policy issued or delivered in this
32 State may provide for readjustment of the rate of premium

1 based on the experience thereunder, at the end of the first
2 year or of any subsequent year of insurance thereunder, and
3 such readjustment may be made retroactive only for such
4 policy year.

5
6 § 2628. Application of dividends, rate reductions

7 ~~§ 2628.~~ If a policy dividend is hereafter declared or a reduc-
8 tion in rate is hereafter made or continued for the first
9 or any subsequent year of insurance under any policy of
10 group life insurance heretofore ^{issued,} or hereafter ^{under this Chapter} issued, to any
11 policyholder, the excess, if any, of the aggregate divid-
12 ends or rate reductions under such policy and all other
13 group insurance policies of the policyholder over the aggre-
14 gate expenditure for insurance under such policies made from
15 funds contributed by the policyholder, or by an employer of
16 insured persons, or by a union or association to which the
17 insured persons belong, including ^{reasonable} expenditures made in con-
18 nection with administration of such policies, shall be
19 applied by the policyholder for the sole benefit of insured
20 employees, ~~or members,~~ ^{or debtors.}

21
22 § 2629. "Employee life insurance" defined

23 "Employee life insurance" is that plan of life insur-
24 ance, other than salary savings life insurance or pension
25 trust insurance and annuities, under which individual pol-
26 icies are issued to the employees of any employer and where
27 such policies are issued on the lives of not less than 4
28 employees at date of issue. Premiums for such policies
29 shall be paid either wholly from the employer's funds, or
30 funds contributed by him, or partly from such funds and
31 partly from funds contributed by the insured employees.

1 CHAPTER 33. HEALTH INSURANCE CONTRACTS

2 § 2701. Scope of chapter

3 Nothing in this chapter shall apply to or affect:

4 1. Any policy of liability or workmen's compensa-
5 tion insurance with or without supplementary expense coverage
6 therein.

7 2. Any group or blanket policy.

8 3. Life insurance, endowment or annuity contracts,
9 or contracts supplemental thereto which contain only such pro-
10 visions relating to health insurance as:

11 A. Provide additional benefits in case of death
12 or dismemberment or loss of sight by accident or accidental
13 means, or as

14 B. Operate to safeguard such contracts against
15 lapse, or to give a special surrender value or special benefit
16 or an annuity in the event that the insured or annuitant be-
17 comes totally and permanently disabled, as defined by the
18 contract or supplemental contract.

19 4. Reinsurance.

20 § 2702. Short title

21 This chapter may be cited as the "uniform health
22 policy provision law".

23 § 2703. Scope, format of policy

24 No policy of health insurance shall be delivered or
25 issued for delivery to any person in this State unless it
26 otherwise complies with this Title, and complies with the
27 following:

28 1. The entire money and other considerations
29 therefor shall be expressed therein;

30 2. The time when the insurance takes effect and

1 terminates shall be expressed therein;

2 3. It shall purport to insure only one person,
3 except that a policy may insure, originally or by subsequent
4 amendment, upon the application of an adult member of a
5 family, who shall be deemed the policyholder, any 2 or more
6 eligible members of that family, including husband, wife,
7 dependent children or any children under a specified age
8 which shall not exceed ²⁵15 years and any other person depend-
9 ent upon the policyholder;

10 4. The style, arrangement and overall appearance
11 of the policy shall give no undue prominence to any portion
12 of the text, and every printed portion of the text of the
13 policy and of any endorsements or attached papers shall be
14 plainly printed in light-faced type of a style in general use,
15 the size of which shall be uniform and not less than ten-
16 point with a lower case unspaced alphabet length not less than
17 one hundred and twenty-point (the "text" shall include all
18 printed matter except the name and address of the insurer,
19 name of title of the policy, the brief description, if any,
20 and captions and subcaptions);

21 5. The exceptions and reductions of indemnity
22 shall be set forth in the policy and, other than those con-
23 tained in sections 2705 to 2725, ~~inclusive, of this chapter,~~
24 shall be printed, at the insurer's option, either included
25 with the benefit provision to which they apply, or under an
26 appropriate caption such as "Exceptions", or "Exceptions and
27 Reductions", except that if an exception or reduction specifi-
28 cally applies only to a particular benefit of the policy,
29 a statement of such exception or reduction shall be included
30 with the benefit provision to which it applies;

31 6. Each such form, including riders and endorse-
32 ments, shall be indentified by a form number in the lower

1 left-hand corner of the first page thereof; and

2 7. The policy shall contain no provision purport-
3 ing to make any portion of the charter, rules, constitution
4 or bylaws of the insurer a part of the policy unless such
5 portion is set forth in full in the policy, except in the
6 case of the incorporation of, or reference to, a statement of
7 rates or classification of risks, or short-rate table filed
8 with the commissioner.

9 § 2704. Required provisions; captions - omissions -
10 substitutions

11 1. Except as provided in subsection 2 below,
12 each such policy delivered or issued for delivery to any per-
13 son in this State shall contain the provisions specified in
14 sections 2705 to 2716, ~~inclusive, of this chapter,~~ in the
15 words in which the same appear; except, that the insurer may,
16 at its option, substitute for one or more of such provisions
17 corresponding provisions of different wording approved by the
18 commissioner which are in each instance not less favorable in
19 any respect to the insured or the beneficiary. Each such pro-
20 vision shall be preceded individually by the applicable
21 caption shown, or, at the option of the insurer, by such appro-
22 priate individual or group captions or sub-captions as the
23 commissioner may approve.

24 2. If any such provision is in whole or in part
25 inapplicable to or inconsistent with the coverage provided by
26 a particular form of policy, the insurer, with the approval
27 of the commissioner, shall omit from such policy any inappli-
28 cable provision or part of a provision, and shall modify any
29 inconsistent provision or part of a provision in such manner
30 as to make the provision as contained in the policy consistent
31 with the coverage provided by the policy.

32 § 2705. Entire contract - changes

There shall be a provision as follows:

1 "Entire Contract; Changes: This policy, including
2 the endorsements and the attached papers, if any, constitutes
3 the entire contract of insurance. No change in this policy
4 shall be valid until approved by an executive officer of the
5 ~~company~~ and unless such approval be endorsed hereon or attached
6 hereto. No agent has authority to change this policy or to
7 waive any of its provisions."

8 § 2703. Time limit on certain defenses

9 There shall be a provision as follows:

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

17 1. (The foregoing policy provision shall not be
18 so construed as to affect any legal requirement for avoidance
19 of a policy or denial of a claim during such initial three-
20 year period, nor to limit the application of sections 2718
21 through 2722 ~~of this chapter~~ in the event of misstatement
22 with respect to age or occupation or other insurance.)

23 2. (A policy which the insured has the right to
24 continue in force subject to its terms by the timely payment
25 of premium 1 until at least age 50 or, 2 in the case of
26 a policy issued after age 44, for at least 5 years from its
27 date of issue, may contain in lieu of the foregoing the
28 following provision (from which the clause in parentheses may
29 be omitted at the insurer's option) under the caption "Incon-
30 testable:"

31 "After this policy has been in force for a period
32 of three years during the lifetime of the insured (excluding

1 any period during which the insured is disabled), it shall
2 become incontestable as to the statements contained in the
3 application.)")

4 "(b) No claim for loss incurred or disability (as
5 defined in the policy) commencing after three years from the
6 date of issue of this policy shall be reduced or denied on
7 the ground that a disease or physical condition not excluded
8 from coverage by name or specific description effective on
9 the date of loss had existed prior to the effective date of
10 coverage of this policy."

11 § 2707. Grace period

12 There shall be a provision as follows:

13 "A grace period of (insert a number not less
14 than "7" for weekly premium policies, "10" for monthly premium
15 policies and "31" for all other policies) days will be granted
16 for the payment of each premium falling due after the first
17 premium, during which grace period the policy shall continue
18 in force."

19 A policy in which the insurer reserves the right
20 to refuse any renewal shall have, at the beginning of the
21 above provision:

22 "Unless not less than ^{thirty} ~~five~~ days prior to the pre-
23 mium due date the company has delivered to the insured or has
24 mailed to his last address as shown by the records of the
25 company written notice of its intention not to renew this
26 policy beyond the period for which the premium has been accepted."

27 § 2708. Reinstatement

28 1. There shall be a provision as follows:

29 "Reinstatement: If any renewal premium be not paid
30 within the time granted the insured for payment, a subsequent
31 acceptance of premium by the insurer or by any agent duly
32 authorized by the ^{insurer} ~~company~~ to accept such premium, without

1 requiring in connection therewith an application for rein-
2 statement, shall reinstate the policy; provided, however,
3 that if the ~~company~~^{insurer} or such agent requires an application for
4 reinstatement and issues a conditional receipt for the premium
5 tendered, the policy will be reinstated upon approval of such
6 application by the ~~company~~^{insurer} or, lacking such approval, upon the
7 forty-fifth day following the date of such conditional receipt
8 unless the ~~company~~^{insurer} has previously notified the insured in writing
9 of its disapproval of such application. The reinstated policy
10 shall cover only loss resulting from such accidental injury as
11 may be sustained after the date of reinstatement and loss due
12 to such sickness as may begin more than ten days after such
13 date. In all other respects the insured and ~~company~~^{insurer} shall
14 have the same rights thereunder as they had under the policy
15 immediately before the due date of the defaulted premium, sub-
16 ject to any provisions endorsed herein or attached hereto in
17 connection with the reinstatement. Any premium accepted in
18 connection with a reinstatement shall be applied to a period
19 for which premium has not been previously paid, but not to any
20 period more than sixty days prior to the date of reinstatement."

21 2. The last sentence of the above provision may be
22 omitted from any policy which the insured has the right to con-
23 tinue in force subject to its terms by the timely payment of
24 premiums

25 A. Until at least age 50, or

26 B. In the case of a policy issued after age 44,
27 for at least 5 years from its date of issue.

28 § 2709. Notice of claim

29 1. There shall be a provision as follows:

30 "Notice of Claim: Written notice of claim must be
31 given to the ~~company~~^{insurer} within twenty days after the occurrence
32 or commencement of any loss covered by the policy, or as soon

1 thereafter as is reasonably possible. Notice given by or on
2 behalf of the insured or the beneficiary to the ~~company~~ at
3 _____ (insert the location of such office as
4 the ~~company~~ may designate for the purpose), or to any author-
5 ized agent of the ~~company~~, with information sufficient to
6 identify the insured, shall be deemed notice to the ~~company~~."

7 2. In a policy providing a loss-of-time benefit
8 which may be payable for at least 2 years, an insurer may at
9 its option insert the following between the first and second
10 sentence of the above provision:

11 "Subject to the qualifications set forth below, if
12 the insured suffers loss of time on account of disability for
13 which indemnity may be payable for at least two years, he
14 shall, at least once in every six months after having given
15 notice of the claim, give to the ~~company~~ notice of continuance
16 of ~~the~~ ^{and} disability, except in the event of legal incapacity.
17 The period of six months following any filing of proof by the
18 insured or any payment by the ~~company~~ on account of such claim
19 or any denial of liability in whole or in part by the ~~company~~
20 shall be excluded in applying this provision. Delay in the
21 giving of such notice shall not impair the insured's right to
22 any indemnity which would otherwise have accrued during the
23 period of six months preceding the date on which such notice
24 is actually given."

25 § 2710. Claim forms

26 There shall be a provision as follows:

27 "Claim Forms: The ~~company~~, upon receipt of a notice
28 of claim, will furnish to the claimant such forms as are
29 usually furnished by it for filing proofs of loss. If such
30 forms are not furnished within fifteen days after the giving
31 of such notice the claimant shall be deemed to have complied
32 with the requirements of this policy as to proof of loss upon

1 submitting, within the time fixed in the policy for filing
2 proofs of loss, written proof covering the occurrence, the
3 character and the extent of the loss for which claim is made."

4 § 2711. Proofs of loss

5 There shall be a provision as follows:

6 "Proofs of Loss: Written proof of loss must be
7 furnished to the ~~company~~ at its said office in case of claim
8 for loss for which this policy provides any periodic payment
9 contingent upon continuing loss within ninety days after the
10 termination of the period for which the ~~company~~ is liable and
11 in case of claim for any other loss within ninety days after
12 the date of such loss. Failure to furnish such proof within
13 the time required shall not invalidate nor reduce any claim
14 if it was not reasonably possible to give proof within such
15 time, provided such proof is furnished as soon as reasonably
16 possible and in no event, except in the absence of legal
17 capacity, later than one year from the time proof is otherwise
18 required."

19 § 2712. Time of payment of claims

20 There shall be a provision as follows:

21 "Time of Payment of Claims: Indemnities payable
22 under this policy for any loss other than loss for which this
23 policy provides any periodic payment, will be paid immediately
24 upon receipt of due written proof of such loss. Subject to
25 due written proof of loss, all accrued indemnities for loss
26 for which this policy provides periodic payment will be paid
27 _____ (insert period for payment which must not
28 be less frequently than monthly) and any balance remaining un-
29 paid upon the termination of liability will be paid immediately
30 upon receipt of due written proof."

31 § 2713. Payment of claims

32 1. There shall be a provision as follows:

1 "Payment of Claims: Indemnity for loss of life will
2 be payable in accordance with the beneficiary designation and
3 the provisions respecting such payment which may be prescribed
4 herein and effective at the time of payment. If no such desig-
5 nation or provision is then effective, such indemnity shall be
6 payable to the estate of the insured. Any other accrued
7 indemnities unpaid at the insured's death may, at the option
8 of the company, be paid either to such beneficiary or to such
9 estate. All other indemnities will be payable to the insured."

10 2. The following provisions, or either of them,
11 may be included with the foregoing provision at the option of
12 the insurer:

13 A. "If any indemnity of this policy shall be pay-
14 able to the estate of the insured, or to an insured or bene-
15 ficiary who is a minor or otherwise not competent to give a
16 valid release, the ^{insurer} ~~company~~ may pay such indemnity, up to an
17 amount not exceeding \$ _____ (insert an amount
18 which shall not exceed \$1,000), to any relative by blood or
19 connection by marriage of the insured or beneficiary who is
20 deemed by the ^{insurer} ~~company~~ to be equitably entitled thereto. Any
21 payment made by the ^{insurer} ~~company~~ in good faith pursuant to this
22 provision shall fully discharge the ^{insurer} ~~company~~ to the extent of
23 such payment."

24 B. "Subject to any written direction of the insured
25 in the application or otherwise all or a portion of any indem-
26 nities provided by this policy on account of hospital, nursing,
27 medical or surgical services may, at the ^{insurer's} ~~company's~~ option and
28 unless the insured requests otherwise in writing not later
29 than the time of filing proofs of such loss, be paid directly
30 to the hospital or person rendering such services; but it is
31 not required that the service be rendered by a particular hos-
32 pital or person."

§ 2717. Right to examine and return policy

1. Except as to nonrenewable accident policies and individual credit health insurance policies, every individual health insurance policy shall contain a provision therein or in a separate rider attached thereto when delivered, stating in substance that the person to whom the policy is issued shall be permitted to return the policy within 10 days of its delivery to such person and to have a refund of the premium paid if after examination of the policy the purchaser is not satisfied with it for any reason. The provision shall be set forth in the policy under an appropriate caption, and if not so printed on the face page of the policy adequate notice of the provision shall be printed or stamped conspicuously on the face page.

2. The policy may be so returned to the insurer at its home or branch office to to the agent through whom it was applied for, and thereupon shall be void as from the beginning and as if the policy had not been issued.

1 § 2714. Physical examination, autopsy

2 There shall be a provision as follows:

3 "Physical Examinations and Autopsy: The ~~company~~^{insurer} at its
4 own expense shall have the right and opportunity to examine
5 the person of the insured when and as often as it may reason-
6 ably require during the pendency of a claim hereunder and to
7 make an autopsy in case of death where it is not forbidden
8 by law."

9 § 2715. Legal actions

10 There shall be a provision as follows:

11 "Legal Actions: No action at law or in equity shall be
12 brought to recover on this policy prior to the expiration of
13 sixty days after written proof of loss has been furnished in
14 accordance with the requirements of this policy. No such
15 action shall be brought after the expiration of three years
16 after the time written proof of loss is required to be fur-
17 nished."

18 § 2716. Change of beneficiary

19 1. There shall be a provision as follows:

20 "Change of Beneficiary: Unless the insured makes an
21 irrevocable designation of beneficiary, the right to change
22 the beneficiary is reserved to the insured and the consent
23 of the beneficiary or beneficiaries shall not be requisite to
24 surrender or assignment of this policy or to any change of
25 beneficiary or beneficiaries, or to any other changes in this
26 policy."

27 2. The first clause of ^{the above} this provision, relating to the
28 irrevocable designation of beneficiary, may be omitted at the
29 insurer's option.

30 § 2717. Optional policy provisions

31 Except as provided in section 2704, subsection 2, of this
32 chapter, no such policy delivered or issued for delivery to

1 any person in this State shall contain provisions respecting
2 the matters set forth in sections 271~~8~~ to 272~~3~~, ~~inclusive, of~~
3 ~~this chapter~~ unless such provisions are in the words in which
4 the same appear in the applicable section, except that the
5 insurer may, at its option, use in lieu of any such provision
6 a corresponding provision of different wording approved by
7 the commissioner which is not less favorable in any respect
8 to the insured or the beneficiary. Any such provision con-
9 tained in the policy shall be preceded individually by the
10 appropriate caption or, at the option of the insurer, by such
11 appropriate individual or group captions or subcaptions as
12 the commissioner may approve.

13 § 271~~8~~. Change of occupation

14 There may be a provision as follows:

15 "Change of Occupation: If the insured be injured or
16 contract sickness after having changed his occupation to one
17 classified by the company as more hazardous than that stated
18 in this policy or while doing for compensation anything per-
19 taining to an occupation so classified, the ~~company~~ ^{insurer} will pay
20 only such portion of the indemnities provided in this policy
21 as the premium paid would have purchased at the rates and
22 within the limits fixed by the ~~company~~ ^{insurer} for such more hazard-
23 ous occupation. If the insured changes his occupation to one
24 classified by the ~~company~~ ^{insurer} as less hazardous than that stated
25 in this policy, the ~~company~~ ^{insurer}, upon receipt of proof of such
26 change of occupation, will reduce the premium rate accordingly,
27 and will return the excess pro rata unearned premium from the
28 date of change of occupation or from the policy anniversary
29 date immediately preceding receipt of such proof, whichever
30 is the more recent. In applying this provision, the classi-
31 fication of occupational risk and the premium rates shall be
32 such as have been last filed by the ~~company~~ ^{insurer} prior to the

1 occurrence of the loss for which the ~~company~~^{insurer} is liable or
2 prior to date of proof of change in occupation with the state
3 official having supervision of insurance in the state where
4 the insured resided at the time this policy was issued; but
5 if such filing was not required, then the classification of
6 occupational risk and the premium rates shall be those last
7 made effective by the ~~company~~^{insurer} in such state prior to the
8 occurrence of the loss or prior to the date of proof of change
9 in occupation."

10 § 271~~0~~. Misstatement of age

11 There may be a provision as follows:

12 "Misstatement of Age: If the age of the insured
13 has been misstated, all amounts payable under this policy shall
14 be such as the premium paid would have purchased at the correct
15 age."

16 § 272~~0~~. Overinsurance--same insurer

17 There may be a provision as follows:

18 "If an accident or sickness or accident and sickness
19 policy or policies previously issued by the ~~company~~^{insurer} to the
20 insured be in force concurrently herewith, making the aggregate
21 indemnity for (insert type of coverage or
22 coverages) in excess of \$.... (insert maximum limit of indem-
23 nity or indemnities) the excess shall be void and all premiums
24 paid for such excess shall be returned to the insured or to his
25 estate."

26 or, in lieu thereof:

27 "Insurance effective at any one time on the insured under this
28 policy and a like policy or policies in this ~~company~~^{insurer} is limited
29 to the one policy elected by the insured, his beneficiary or
30 his estate, as the case may be, and the ~~company~~^{insurer} will return
31 all premiums paid for all other such policies."

1 inclusion of which may be approved by the commissioner. In
2 the absence of such definition such term shall not include
3 group insurance, automobile medical payments insurance, or
4 coverage provided by hospital or medical service organization
5 or by union welfare plans or employer or employee benefit
6 organizations. For the purpose of applying the foregoing
7 policy provision with respect to any insured, any amount of
8 benefit provided for such insured pursuant to any compulsory
9 benefit statute, (including any workmen's compensation or
10 employer's liability statute), whether provided by a govern-
11 mental agency or otherwise shall in all cases be deemed to
12 be "other valid coverage" of which the insurer has had notice.
13 In applying the foregoing policy provision no third party
14 liability coverage shall be included as "other valid coverage."

15
16 § 272². Insurance with other insurers--Other benefits

17 1. There may be a provision as follows:

18 "Insurance With Other Insurers: If there be other valid
19 coverage, not with this ^{insurer,} company, providing benefits for the
20 same loss on other than an expense incurred basis and of
21 which this ^{insurer} company has not been given written notice prior
22 to the occurrence or commencement of loss, the only liability
23 for such benefits under this policy shall be for such pro-
24 portion of the indemnities otherwise provided hereunder for
25 such loss as the like indemnities of which the ^{insurer} ~~company~~ had
26 notice (including the indemnities under this policy) bear to
27 the total amount of all like indemnities for such loss, and
28 for the return of such portion of the premium paid as shall
29 exceed the pro rata portion for the indemnities thus deter-
30 mined."

31 2. If the foregoing policy provision is included in a
32 policy which also contains the policy provision set out in

1 section 272~~2~~ of ~~this chapter~~, there shall be added to the
2 caption of the foregoing provision the phrase "--Other
3 Benefits." The insurer may, at its option, include in this
4 provision a definition of "other valid coverage," approved
5 as to form by the commissioner, which definition shall be
6 limited in subject matter to coverage provided by organiza-
7 tions subject to regulation by insurance law or by insurance
8 authorities of this or any other state of the United States
9 or any province of Canada, and to any other coverage the
10 inclusion of which may be approved by the commissioner. In
11 the absence of such definition such term shall not include
12 group insurance, or benefits provided by union welfare plans
13 or by employer or employee benefit organizations. For the
14 purpose of applying the foregoing policy provision with res-
15 pect to any insured, any amount of benefit provided for such
16 insured pursuant to any compulsory benefit statute (including
17 any workmen's compensation or employer's liability statute)
18 whether provided by a governmental agency or otherwise shall
19 in all cases be deemed to be "other valid coverage" of which
20 the insurer has had notice. In applying the foregoing policy
21 provision no third party liability coverage shall be included
22 as "other valid coverage."

23

24 § 272~~3~~. Relation of earnings to insurance

25 There may be a provision as follows:

26 "If the total monthly amount of loss of time benefits
27 promised for the same loss under all valid loss of time
28 coverage upon the insured, whether payable on a weekly or
29 monthly basis, shall exceed the monthly earnings of the
30 insured at the time disability commenced or his average
31 monthly earnings for the period of 2 years immediately pre-
32 ceding a disability for which claim is made, whichever is

1 the greater, the ~~company~~ will be liable only for such pro-
2 portionate amount of such benefits under this policy as the
3 amount of such monthly earnings or such average monthly
4 earnings of the insured bears to the total amount of monthly
5 benefits for the same loss under all such coverage upon the
6 insured at the time such disability commences and for the
7 return of such part of the premiums paid during such 2 years
8 as shall exceed the pro rata amount of the premiums for the
9 benefits actually paid hereunder; but this shall not operate
10 to reduce the total monthly amount of benefits payable under
11 all such coverage upon the insured below the sum of \$200 or
12 the sum of the monthly benefits specified in such coverages,
13 whichever is the lesser, nor shall it operate to reduce bene-
14 fits other than those payable for loss of time." (The fore-
15 going policy provision may be inserted only in a policy which
16 the insured has the right to continue in force subject to
17 its terms by the timely payment of premiums ^{A.} (1) until at
18 least age 50 or, ^{B.} (2) in the case of a policy issued after
19 age 44, for at least 5 years from its date of issue. The
20 insurer may, at its option, include in this provision a
21 definition of "valid loss of time coverage", approved as to
22 form by the commissioner, which definition shall be limited
23 in subject matter to coverage provided by governmental
24 agencies or by organizations subject to regulation by
25 insurance law or by insurance authorities of this or any
26 other state of the United States or any province of Canada,
27 or to any other coverage the inclusion of which may be
28 approved by the commissioner or any combination of such
29 coverages. In the absence of such definition such term shall
30 not include any coverage provided for such insured pursuant
31 to any compulsory benefit statute, (including any workmen's
32 compensation or employer's liability statute), or benefits
33 provided by union welfare plans or by employer or employee

1 benefit organizations.)

2 § 2725. Unpaid premiums

3 There may be a provision as follows:

4 "Unpaid Premium: Upon the payment of a claim under
5 this policy, any premium then due and unpaid or covered by any
6 note or written order may be deducted therefrom."

7 § 2725. Conformity with state statutes

8 There may be a provision as follows:

9 "Conformity with State Statutes: Any provision of
10 this policy which, on its effective date is in conflict with
11 the statutes of the state in which the insured resides on such
12 date is hereby amended to conform to the minimum requirements
13 of such statutes."

14 § 2726. Illegal occupation

15 There may be a provision as follows:

16 "Illegal Occupation: The ^{insured} ~~company~~ shall not be liable
17 for any loss to which a contributing cause was the insured's
18 commission of or attempt to commit a felony or to which a
19 contributing cause was the insured's being engaged in an
20 illegal occupation."

21 § 2727. Intoxicants and narcotics

22 There may be a provision as follows:

23 "Intoxicants and Narcotics: The ^{insured} ~~company~~ shall not
24 be liable for any loss sustained or contracted in consequence
25 of the insured's being intoxicated or under the influence of
26 any narcotic ^{or any hallucinogenic drugs} unless administered on the advice of a physician."

27 § 2728. Renewability

28 Health insurance policies, other than accident
29 insurance only policies, in which the insurer reserves the
30 right to refuse renewal on an individual basis, shall provide
31 in substance in a provision thereof or in an endorsement
32 thereon or rider attached thereto that subject to the right

1 to terminate the policy upon nonpayment of premium when due,
2 such right to refuse renewal may not be exercised so as to
3 take effect before the renewal date occurring on, or after
4 and nearest, each policy anniversary (or in the case of lapse
5 and reinstatement, at the renewal date occurring on, or after
6 and nearest, each anniversary of the last reinstatement), and
7 that any refusal of renewal shall be without prejudice to any
8 claim originating while the policy is in force. (The paren-
9 thetic reference to lapse and reinstatement may be omitted at
10 the insurer's option.)

11 § 2720. Order of certain provisions

12 The provisions which are the subject of sections
13 2705 to ^{2716, and 2718(c)} 2727, ~~inclusive~~, of this chapter, or any correspond-
14 ing provisions which are used in lieu thereof in accordance
15 with such sections shall be printed in the consecutive order
16 of the provisions in such sections or, at the option of the
17 insurer, any such provision may appear as a unit in any part
18 of the policy, with other provisions to which it may be logi-
19 cally related, provided that the resulting policy shall not
20 be in whole or in part unintelligible, uncertain, ambiguous,
21 abstruse, or likely to mislead a person to whom the policy is
22 offered, delivered or issued.

23 § 2730. Third party ownership

24 The word "insured", as used in this chapter, shall
25 not be construed as preventing a person other than the insured
26 with a proper insurable interest from making application for
27 and owning a policy covering the insured or from being enti-
28 tled under such a policy to any indemnities, benefits, and
29 rights provided therein.

30 § 2731. Requirements of other jurisdictions

31 1. Any policy of a foreign or alien insurer, when
32 delivered or issued for delivery to any person in this State,

1 may contain any provision which is not less favorable to the
2 insured or the beneficiary than the provisions of this chap-
3 ter and which is prescribed or required by the law of the state
4 or country under which the insurer is organized.

5 2. Any policy of a domestic insurer may, when
6 issued for delivery in any other state or country, contain
7 any provision permitted or required by the laws of such other
8 state or country.

9 § 2732. Policies issued for delivery in another state

10 If any policy is issued by a domestic insurer for
11 delivery to a person residing in another state, and if the
12 insurance commissioner or corresponding public official of
13 such other state has informed the commissioner that any such
14 policy is not subject to approval or disapproval by such offi-
15 cial, the commissioner may by ruling require that the policy
16 meet the standards set forth in sections 2703 to 2731, inclu-
17 sive, ~~of this chapter.~~

18 § 2733. Conforming to statute

19 1. No policy provision which is not subject to
20 this chapter shall make a policy, or any portion thereof, less
21 favorable in any respect to the insured or the beneficiary
22 than the provisions thereof which are subject to this chapter.

23 2. A policy delivered or issued for delivery to
24 any person in this State in violation of this chapter shall
25 be held valid but shall be construed as provided in this
26 chapter. When any provision in a policy subject to this chap-
27 ter is in conflict with any provision of this chapter, the
28 rights, duties, and obligations of the insurer, the insured
29 and the beneficiary shall be governed by the provisions of
30 this chapter.

31 § 2734. Age limit

32 If any such policy contains a provision establishing,

1 as an age limit or otherwise, a date after which the cover-
2 age provided by the policy will not be effective, and if
3 such date falls within a period for which premium is accep-
4 ted by the insurer or if the insurer accepts a premium after
5 such date, the coverage provided by the policy will continue
6 in force, ^{subject to any terms of reinsurance,} until the end of the period for which premium has
7 been accepted. In the event the age of the insured has been
8 misstated and if, according to the correct age of the insured,
9 the coverage provided by the policy would not have become
10 effective, or would have ceased prior to the acceptance of
11 such premium or premiums, then the liability of the insurer
12 shall be limited to the refund, upon request, of all premiums
13 paid for the period not covered by the policy.

14 § 2735. Filing of rates

15 Each insurer issuing ^{individual} health insurance policies for
16 delivery in this State shall, before use thereof, file with
17 the commissioner its premium rates and classification of
18 risks pertaining to such policies. The insurer shall adhere
19 to its rates and classifications as filed with the commis-
20 sioner. The insurer may change such filings from time to
21 time as it deems proper.

22 § 2736. "Noncancellable disability insurance"
defined

23 "Noncancellable disability insurance" means insurance
24 against disability resulting from sickness, ailment or
25 bodily injury, but not including insurance solely against
26 accidental injury, under any contract which does not give
27 the insurer the option to cancel or otherwise terminate
28 the contract at or after one year from its effective date
29 or renewal date.

30 § 2737. Notice as to renewability

31 The commissioner shall have the right to make the
32 following requirements:

1 1. When a policy, ~~other than a noncancellable policy,~~
2 has neither a brief description nor a separate statement
3 printed on the first page and on the filing back, referring
4 to the renewal conditions of the policy, a separately cap-
5 tioned provision, setting forth the conditions under which
6 the policy may be renewed, must appear on the first page of
7 the policy. The caption shall be clear and definite and
8 shall be approved by the commissioner; but any one of the
9 following captions is acceptable:

10 "RENEWAL SUBJECT TO CONSENT OF COMPANY.

11 RENEWAL SUBJECT TO COMPANY CONSENT.

12 RENEWABLE AT OPTION OF COMPANY."

13 2. If the policy is not renewable, a separate,
14 appropriately captioned provision on the first page of the
15 policy shall so state.

16 3. The term "noncancellable," as used herein, means a
17 policy which the insured may rightfully continue in force
18 subject to its terms by the timely payment of premiums until
19 at least age 50 or, in the case of a policy issued after age
20 44, for at least 5 years from its date of issue.

21 § 273§. Lapse of policy, advance notice; limitation
 of action

22 No individual policy of health insurance issued or
23 delivered in this State, except a policy which by its terms
24 is renewable or continuable with the insurer's consent, or
25 except a policy the premiums for which are payable monthly
26 or at shorter intervals, shall terminate or lapse for non-
27 payment of any premium until the expiration of 3 months from
28 the due date of such premium, unless the insurer, within not
29 less than 10 nor more than 45 days prior to said due date,
30 shall have mailed, postage prepaid, duly addressed to the
31 insured at his last address shown by the insurer's records,
32 a notice showing the amount of such premium and its due date.

1 If such a notice is not so sent, the insured may pay the
2 premium in default at any time within such period of 3
3 months. The affidavit of any officer, clerk or agent of the
4 insurer, or of any other person authorized to mail such
5 notice, that the notice required by this section has been
6 duly mailed by the insurer in the manner required shall be
7 prima facie evidence that such notice was duly given. No
8 action shall be maintained on any policy to which this
9 section applies and which has lapsed for nonpayment of any
10 premium unless such action is commenced within 2 years from
11 the due date of such premium.

12 § 2739. Franchise health insurance law

13 1. Health insurance on a franchise plan is hereby de-
14 clared to be that form of health insurance issued to:

15 A. ~~Three~~ ^{Down} or more employees of any corporation, co-
16 partnership, or individual employer or any governmental cor-
17 poration, agency or department thereof; or

18 B. Ten or more members, employees or employees of mem-
19 bers of any trade or professional association or of a labor
20 union or of any other association having had an active exis-
21 tence for at least 2 years where such association or union
22 has a constitution or bylaws and is formed in good faith for
23 purposes other than that of obtaining insurance;
24 where such persons with or without their dependents, are
25 issued the same form of an individual policy varying only as
26 to amounts and kinds of coverage applied for by such persons,
27 under an arrangement whereby the premiums on such policies
28 may be paid to the insurer periodically by the employer, with
29 or without payroll deductions, or by the association or union
30 for its members, or by some designated person acting on behalf
31 of such employer or association or union, or by the insured
32 directly to the insurer if permitted by the insurer. The

1 term "employees" as used herein may be deemed to include
2 the officers, managers and employees and retired employees
3 of the employer and the individual proprietor or partners
4 if the employer is an individual proprietor or partnership.

5 2. No provision of this Title shall be deemed to pro-
6 hibit different rates charged, or benefits payable, or dif-
7 ferent underwriting procedure for individuals insured under
8 a franchise plan, if rates charged, benefits payable or
9 underwriting procedure used do not discriminate between
10 franchise plans.

4. Any reference hereinafter to group health insurance shall mean group accident, group sickness and group accident and sickness insurance as herein defined.

1 CHAPTER 35

2 GROUP AND BLANKET HEALTH INSURANCE

3 § 2801. Scope of chapter - Short title

4 1. This chapter applies only to group health insurance
5 contracts and to blanket health insurance contracts as here-
6 in provided for.

7 2. This chapter may be cited as the "group or blanket
8 health insurance law."

9
10 § 2802. Group insurance defined

11 1. Any policy or contract of insurance against death
12 or injury resulting from accident or from accidental means
13 which covers more than one person, except blanket accident
14 policies as defined in section 2812 ~~of this chapter~~ and
15 family accident and sickness policies conforming to section
16 2703 ~~of this Title~~, shall be deemed a group accident insur-
17 ance policy.

18 2. Any policy or contract which insures against dis-
19 ablement, disease or sickness of the insured, excluding
20 disablement which results from accident or from accidental
21 means, and which covers more than one person, except
22 blanket sickness insurance policies as defined in section
23 2812 ~~of this chapter~~ and family accident and sickness poli-
24 cies conforming to section 2703 ~~of this Title~~, shall be
25 deemed a group sickness insurance policy or contract.

26 3. Any policy or contract of insurance which combines
27 the coverage of group accident insurance and of group sick-
28 ness insurance shall be deemed a group accident and sickness
29 insurance policy.

30
31 § 2803. Must meet requirements

32 No policy or contract of group health insurance, and no

1 ~~certificate thereunder~~, shall be delivered or issued for
2 delivery in this State unless to a group as provided for in
3 this chapter and otherwise in conformity with the require-
4 ments of this chapter.

5

6 § 2804. Employee groups

7 A group of individuals may be insured under a policy
8 issued to an employer or to the trustees of a fund estab-
9 lished by an employer, which employer or trustee shall be
10 deemed the policyholder, to insure employees of the employer
11 for the benefit of persons other than the employer, subject
12 to the following requirements:

13 1. The employees eligible for insurance under the
14 policy shall be all of the employees of the employer, or
15 all of any class or classes thereof determined by conditions
16 pertaining to their employment. The policy may provide that
17 the term "employees" shall include the employees of one or
18 more subsidiary corporations and the employees, individual
19 proprietors and partners of one or more affiliated corpora-
20 tions, proprietors or partnerships, if the business of the
21 employer and of such affiliated corporations, proprietors or
22 partnerships is under common control through stock ownership
23 or contract.^{or otherwise.} The policy may provide that the term "employees"
24 shall include the individual proprietor or partners, if the
25 *(The policy may provide that the term "employees" shall include retired employees; and that it may also include elected or appointed officials of a union.)* No
26 director of a corporate employer shall be eligible for
27 insurance under the policy unless such person is otherwise
28 eligible as a bona fide employee of the corporation by per-
29 forming services other than the usual duties of a director.
30 No individual proprietor or partner shall be eligible for
31 insurance under the policy unless he is actively engaged in
32 and devotes a substantial part of his time to the conduct of

1 the business of the proprietor or partnership.

2 2. The premium for the policy shall be paid by the
3 policyholder, either wholly from the employer's funds or
4 funds contributed by him, or partly from such funds and
5 partly from funds contributed by the insured employees, or
6 wholly from funds contributed by the insured employees. A
7 policy on which any part of the premium is to be derived
8 from funds contributed by the insured employees may be
9 placed in force only if at least 75% of the then eligible
10 employees, excluding any as to whom evidence of individual
11 insurability is not satisfactory to the insurer, elect to
12 make the required contributions.

13 A policy on which no part of the premium is to be
14 derived from funds contributed by the insured employees must
15 insure all eligible employees, or all except any as to whom
16 evidence of individual insurability is not satisfactory to
17 the insurer.

18 3. The policy must cover at least 3 employees at date
19 of issue.

20 4. The amounts of insurance under the policy must be
21 based upon some plan precluding individual selection either
22 by the employees or by the employer or trustees.

23
24 § 2805. Union groups *and employee association*

25 A group of individuals may be insured under a policy
26 issued to a labor union or to an incorporated or unincorpora-
27 ted association of employees, which association has a consti-
28 tution and bylaws and has 50 or more members and is organized
29 and maintained in good faith for purposes other than that of
30 obtaining insurance and has been so organized and maintained
31 for a period of not less than 2 years prior to the issuance
32 of such policy or contract, which shall be deemed the policy-

1 holder to insure members of such union or association for
2 the benefit of persons other than the union or association
3 or any of its officials, representatives or agents, subject
4 to the following requirements:

5 1. The members eligible for insurance under the policy
6 shall be all of the members of the union or association or
7 all of any class or classes thereof determined by conditions
8 pertaining to their employment, or to membership in the union
9 or association, or both. *The policy may provide that the term "member"*
10 *shall also include retired members.*

11 2. The premium for the policy shall be paid by the
12 policyholder, either wholly from the union's or association's
13 funds or partly from such funds and partly from funds contrib-
14 uted by the insured members specifically for their insurance, *or*
15 *wholly from funds contributed by the insured members.*
~~No policy may be issued on which the entire premium is to be~~
~~derived from funds contributed by the insured members specific-~~
16 ~~ally for their insurance.~~ A policy on which part of the pre-
17 mium is to be derived from funds contributed by the insured
18 members specifically for their insurance may be placed in
19 force only if at least 75% of the then eligible members,
20 excluding any as to whom evidence of individual insurability
21 is not satisfactory to the insurer, elect to make the
22 required contributions. A policy on which no part of the
23 premium is to be derived from funds contributed by the
24 insured members specifically for their insurance must insure
25 all eligible members, or all except any as to whom evidence
26 of individual insurability is not satisfactory to the insurer.

27 3. The policy must cover at least 25 members at date
28 of issue.

29 4. The amounts of insurance under the policy must be
30 based upon some plan precluding individual selection either
31 by the members or by the union or association.

1 § 2806. Trustee groups

2 A group of individuals may be insured under a policy
3 issued to the ^{trustee or} trustees of a fund established by 2 or more
4 employers in the same industry, ^{or related industries} or by one or more labor
5 unions, or by one or more employers and one or more labor
6 unions which trustees shall be deemed the policyholder, to
7 insure employees of the employers or members of the unions
8 for the benefit of persons other than the employers or the
9 unions, subject to the following requirements:

10 1. The persons eligible for insurance shall be all of
11 the employees of the employers or all of the members of the
12 unions, or all of any class or classes thereof determined
13 by conditions pertaining to their employment, or to member-
14 ship in the unions, or to both. The policy may provide that
15 the term "employees" shall include the individual proprietor
16 or partners if an employer is an individual proprietor or a
17 ~~The policy may provide that the term "employee" shall include retired employees.~~
18 partnership. No director of a corporate employer shall be
19 eligible for insurance under the policy unless such person
20 is otherwise eligible as a bona fide employee of the corpor-
21 ation by performing services other than the usual duties of
22 a director. No individual proprietor or partner shall be
23 eligible for insurance under the policy unless he is
24 actively engaged in and devotes a substantial part of his
25 time to the conduct of the business of the proprietor or
26 partnership. The policy may provide that the term "employ-
27 ees" shall include the ^{trustee or} trustees or their employees, or both,
28 if their duties are principally connected with such trustee-
29 ship.

29 2. The premium for the policy shall be paid by the ^{trustee or}
30 trustees wholly from funds contributed by the employer or
31 employers of the insured persons, or by the union or unions,
32 ~~or by both. No policy may be issued on which any part of the~~
~~contributed by the insured persons.~~

1 premium is to be derived from funds contributed by the
2 insured persons specifically for their insurance, except
3 that any coverages provided under the policy with respect
4 to the insured person's dependents may be paid entirely or
5 in part by funds contributed by such insured person. The
6 policy must insure all eligible persons, or all except any
7 as to whom evidence of individual insurability is not satis-
8 factory to the insurer.

9 3. The policy must cover at date of issue at least
10 100 persons and not less than an average of 5 persons per
11 employer unit, except that, in the case of credit union
12 employees or associations of insurance agents the policy
13 must cover at least 25 persons but shall not be subject to
14 any required average number of employees covered per
15 employer unit; and if the fund is established by the members
16 of an association of employers the policy may be issued only
17 if either:

18 A. The participating employers constitute at date of
19 issue at least 60% of those employer members whose employees
20 are not already covered for the same or similar benefits
21 under a plan maintained by their employer, or

22 B. The total number of persons covered at date of
23 issue exceeds 600.

24 4. The amounts of insurance under the policy must be
25 based upon some plan precluding individual selection either
26 by the insured persons or by the policyholder, employers
27 or unions.

28
29 § 2807. Debtor groups

30 A group of individuals may be insured under a policy
31 issued to a creditor, or to a trustee or trustees or agent
32 designated by 2 or more creditors, which creditor, trustee,

§ 2809. ^{Families} Coverage of dependents; continuation of coverage of family, dependents

1. Any policy of group health insurance issued pursuant to sections 2804 (employee groups), 2805 (union and employee association groups), 2806 (trustee groups) or 2808 (other groups) ^{or other chapters} may include coverage for members of the family or dependents of ~~individuals~~ individuals otherwise insured in such groups.

2. Any group health insurance policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical or surgical services for members of the family or dependents of an individual in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of ^{each} ~~the~~ individual ~~in the insured group~~.

1 trustees or agent shall be deemed the policyholder,
2 insuring a group of debtors of the creditor or a group of
3 debtors of the 2 or more creditors, as the case may be,
4 all as defined and set forth under section 2604 ~~of this~~
5 ~~Title~~, and under the same conditions and limitations as
6 specified in such section, provided that the amount of
7 indemnity payable with respect to any person insured there-
8 under shall not at any time exceed the aggregate of the
9 periodic scheduled unpaid installments, nor the sum of
10 ~~\$15,000,~~ ^{\$40,000,} whichever is less, and provided that nothing in
11 this paragraph shall be construed or deemed to apply to or
12 affect disability benefit provisions in group credit life
13 insurance policies as authorized under section 2604, ~~of~~
14 ~~this Title.~~

15

16 § 2808. Other groups

17 A group of individuals may be insured under a policy
18 issued to any person or organization to which a policy of
19 group life insurance may be issued or delivered in this
20 State under chapter 31 of this Title, to insure any class

21 or classes of individuals that could be insured under such
22 group life policy. *A group health insurance policy may also be issued to*
23 *covered any other group which in the commissioner's*
opinion is substantially similar.

24 § 2809. Payments; beneficiaries

25 The benefits payable under any policy or contract of
26 group health insurance shall be payable to the employee or
27 other insured member of the group or to some beneficiary or
28 beneficiaries designated by him, other than the employer or
29 the association or any officer thereof as such; but if there
30 is no designated beneficiary as to all or any part of the
31 insurance at the death of the employee or member, then the
32 amount of insurance payable for which there is no designated

35

f If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued for the first or any subsequent year of insurance under any policy of group health insurance heretofore issued, or hereafter issued under this chapter, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under the policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which the insured persons belong, including reasonable expenditures made in connection with administration of such policies, shall be applied by the policyholder for the ~~said~~ sole benefit of insured employees, members, or debtors.

1 beneficiary shall be payable to the estate of the employee
2 or member, except that the insurer may in such case, at its
3 option, pay such insurance to any one or more of the follow-
4 ing surviving relatives of the employee or member: Wife,
5 husband, mother, father, child or children, brothers or
6 sisters; and except that payment of benefits for expenses
7 incurred on account of hospitalization or medical or surgi-
8 cal aid, as provided in section 2810 ~~of this chapter~~, may
9 be made by the insurer to the hospital or other person or
10 persons furnishing such aid. Payment so made shall discharge
11 the insurer's obligation with respect to the amount of
12 insurance so paid.

13

14 § 2810. Payment of expenses

15 Any policy or contract of group health insurance may
16 include provisions for the payment by the insurer of benefits
17 for expenses incurred, by the employee or other member of the
18 insured group, on account of hospitalization or medical or
19 surgical aid for himself, his spouse, his child or children,
20 or other persons chiefly dependent upon him for support and
21 maintenance.

22

23 § 2811. Readjustment of premium rate

24 ~~Anything in this chapter to the contrary notwithstanding,~~
25 ~~any policy or contract of group health insurance may provide~~
26 ~~for readjustment of the rate of premium based on the exper-~~
27 ~~ience thereunder at the end of the first year or of any~~
28 ~~subsequent year of insurance thereunder, and such readjust-~~
29 ~~ment may be made retroactive only for such policy year. Any~~
30 ~~refund under any plan for readjustment of the rate of premium~~
31 ~~based on the experience under group policies and any dividend~~
32 ~~paid under such policies may be used to reduce the employer's~~

1 contribution to group insurance for the employees of the
2 employer, and the excess over such contribution by the
3 employer shall be applied by the employer for the sole bene-
4 fit of the employees.

5
6 § 2812. "Blanket health insurance" defined

7 Blanket health insurance is hereby declared to be that
8 form of health insurance covering groups of persons as
9 enumerated in one of the following paragraphs:

10 1. Under a policy or contract issued to any common
11 carrier or to any operator, owner or lessee of a means of
12 transportation, who or which shall be deemed the policy-
13 holder, covering a group of persons who may become passengers
14 defined by reference to their travel status on such common
15 carrier or such means of transportation.

16 2. Under a policy or contract issued to an employer,
17 who shall be deemed the policyholder, covering any group of
18 employees, dependents or guests, defined by reference to
19 specified hazards incident to an activity or activities or
20 operations of ~~the~~ policyholder.

21 3. Under a policy or contract issued to a college,
22 school or other institution of learning, a school district
23 or districts, or school jurisdictional unit, or to the head,
24 principal or governing board of any such educational unit,
25 who or which shall be deemed the policyholder, covering
26 students, teachers, or employees.

27 4. Under a policy or contract issued to any religious,
28 charitable, recreational, educational, or civic organization,
29 or branch thereof, which shall be deemed the policyholder,
30 covering any group of members or participants defined by
31 reference to specified hazards incident to an activity or
32 activities or operations sponsored or supervised by such

1 policyholder.

2 5. Under a policy or contract issued to a sports
3 team, camp or sponsor thereof, which shall be deemed the
4 policyholder, covering members, campers, employees, offi-
5 cials or supervisors.

6 6. Under a policy or contract issued to any volunteer
7 fire department, first aid, civil defense, or other such
8 volunteer organization, which shall be deemed the policy-
9 holder, covering any group of members or participants
10 defined by reference to specified hazards incident to an
11 activity or activities or operations sponsored or supervised
12 by such policyholder.

13 7. Under a policy or contract issued to a newspaper
14 or other publisher, which shall be deemed the policyholder,
15 covering its carriers.

16 8. Under a policy or contract issued to an association,
17 including a labor union, which has a constitution and bylaws
18 and which has been organized and is maintained in good faith
19 for purposes other than that of obtaining insurance, which
20 shall be deemed the policyholder, covering any group of
21 members or participants defined by reference to specified
22 hazards incident to an activity or activities or operations
23 sponsored or supervised by such policyholder.

24 9. Under a policy or contract issued to cover any
25 other risk or class of risks which, in the discretion of
26 the commissioner, may be properly eligible for blanket
27 health insurance. The discretion of the commissioner may be
28 exercised on an individual risk basis or class of risks, or
29 both.

30

31 § 2813^{1/2}. *health* Blanket insurance - Payments; beneficiaries

32 All benefits under any blanket health insurance policy

1 shall be payable to the person insured, or to his designated
2 beneficiary or beneficiaries, or to his estate, as shall be
3 specified in the policy, except that if the person insured
4 be a minor, such benefits may be made payable to his parent,
5 guardian or other person actually supporting him, or to a
6 person or persons chiefly dependent upon him for support and
7 maintenance.

8

9 § 2814. Legal liability of policyholders

10 Nothing contained in this chapter shall be deemed to
11 affect the legal liability of policyholders for the death
12 of or injury to any member of any such group.

13

14 § 2815. Requirements

15 No policy of group or blanket health insurance and no
16 ~~certificate thereunder~~ shall, except as provided in section
17 2829 ~~of this chapter~~, be delivered or issued for delivery in
18 this State, unless the policy contains in substance each and
19 all of the provisions set forth in sections 2816 ^{to} ~~through~~ 2827
20 ~~of this chapter~~ or provisions which in the opinion of the
21 commissioner are more favorable to the holders of such cer-
22 tificates or not less favorable to the holders of such cer-
23 tificates and more favorable to policyholders.

24

25 § 2816. Applicant's statements; waivers, amendments

26 There shall be a provision that no statement made by
27 the applicant for insurance shall avoid the insurance or
28 reduce benefits thereunder unless contained in the written
29 application signed by the applicant; and a provision that
30 no agent has authority to change the policy or to waive any
31 of its provisions; and that no change in the policy shall
32 be valid unless approved by an officer of the insurer and

1 evidenced by indorsement on the policy, or by amendment to
2 the policy signed by the policyholder and the insurer.

3

4 § 2817. Statements in application

5 There shall be a provision that all statements contained
6 in any such application for insurance shall be deemed repre-
7 sentations and not warranties.

8

9 § 2818. New employees, members

10 There shall be a provision that all new employees or
11 new members, as the case may be, in the groups or classes
12 eligible for such insurance must be added to such groups or
13 classes for which they are respectively eligible.

14

15 § 2819. Renewal of policy

16 There shall be a provision stating the conditions under
17 which the insurer may decline to renew the policy.

18

19 § 2820. Individual certificates

20 Except in the case of blanket health
21 insurance, a provision that
22 the insurer shall issue to the policyholder, for delivery to
23 each member of the insured group, an individual certificate
24 setting forth in summary form a statement of the essential
25 features of the insurance coverage of such employee or such
26 member, to whom the benefits thereunder are payable, and
27 in substance the provisions of sections 2821 ~~through~~ 2827, of

28 ~~this chapter.~~ *If dependents are included in the coverage only one
29 certificate or printed summary need be issued for each
30 family unit.*

30 § 2821. Age limits

31 There shall be a provision specifying the ages, if any
32 there be, to which the insurance provided therein shall be

1 limited; and the ages, if any there be, for which additional
2 restrictions are placed on benefits and the additional restric-
3 tions placed on the benefits at such ages.

4

5 § 282². Notice of claim

6 There shall be a provision that written notice of sick-
7 ness or of injury must be given to the insurer within 30 days
8 after the date when such sickness or injury occurred. Failure
9 to give notice within such time shall not invalidate nor
10 reduce any claim if it shall be shown not to have been reason-
11 ably possible to give such notice and that notice was given
12 as soon as was reasonably possible.

13

14 § 282³. Proof of loss

15 There shall be a provision that in the case of claim
16 for loss of time for disability, written proof of such loss
17 must be furnished to the insurer within 30 days after the
18 commencement of the period for which the insurer is liable,
19 and that subsequent written proofs of the continuance of
20 such disability must be furnished to the insurer at such
21 intervals as the insurer may reasonably require, and that
22 in the case of claim for any other loss, written proof of
23 such loss must be furnished to the insurer within 90 days
24 after the date of such loss. Failure to furnish such proof
25 within such time shall not invalidate nor reduce any claim
26 if it shall be shown not to have been reasonably possible
27 to furnish such proof and that such proof was furnished as
28 soon as was reasonably possible.

29

30 § 282⁴. Forms for proof of loss

31 There shall be a provision that the insurer will fur-
32 nish to the policyholder such forms as are usually furnished

1 by it for filing proof of loss. If such forms are not fur-
2 nished before the expiration of 15 days after the insurer
3 received notice of any claim under the policy, the person
4 making such claim shall be deemed to have complied with
5 the requirements of the policy as to proof of loss upon
6 submitting within the time fixed in the policy for filing
7 proof of loss, written proof covering the occurrence,
8 character and extent of the loss for which claim is made.

9

10 § 2825. Examination, autopsy

11 There shall be a provision that the insurer shall have
12 the right and opportunity to examine the person of the
13 insured when and so often as it may reasonably require
14 during the pendency of claim under the policy and also the
15 right and opportunity to make an autopsy in case of death
16 where it is not prohibited by law.

17

18 § 2826. Time for payment of benefits

19 There shall be a provision that all benefits payable
20 under the policy, other than benefits for loss of time,
21 will be payable not more than 60 days after receipt of
22 proof, and that, subject to due proof of loss, all accrued
23 benefits payable under the policy for loss of time will be
24 paid not later than at the expiration of each period of 30
25 days during the continuance of the period for which the
26 insurer is liable, and that any balance remaining unpaid at
27 the termination of such period will be paid immediately
28 upon receipt of such proof.

29

30 § 2827. Time for suits

31 There shall be a provision that no action at law or in
32 equity shall be brought to recover on the policy prior to

1 the expiration of 60 days after proof of loss has been filed
2 in accordance with the requirements of the policy and that
3 no such action shall be brought at all unless brought within
4 2 years from the expiration of the time within which proof
5 of loss is required by the policy.

6

7 § 282~~8~~⁹. Exceptions

8 1. Any portion of any such policy, delivered or issued
9 for delivery in this State, which purports, by reason of
10 the circumstances under which a loss is incurred, to reduce
11 any benefits promised thereunder to an amount less than that
12 provided for the same loss occurring under ordinary circum-
13 stances, shall be printed in such policy and in each certifi-
14 cate issued thereunder, in bold face type and with greater
15 prominence than any other portion of the rest of such policy
16 or certificate, respectively; and all other exceptions of
17 the policy shall be printed in the policy and certificate
18 with the same prominence as the benefits to which they apply.

19 2. If any such policy contains any provision which
20 affects the liability of the insurer because of any viola-
21 tion of law by the insured during the term of the policy,
22 it shall be in the following form: The insurer shall not
23 be liable for death, injury incurred or disease contracted,
24 to which a contributing cause was the insured's commission
25 of or attempt to commit a felony, or which occurs while the
26 insured is engaged in an illegal occupation.

27 3. If any such policy contains any provision which
28 affects the liability of the insurer because of the insured's
29 use of intoxicating liquor or narcotics *or hallucinogenic drugs* during the term of
30 the policy, it shall be in the following form: The insurer
31 shall not be liable for death, injury incurred or disease
32 contracted while the insured is intoxicated or under the

1 influence of narcotics, ^{or habitually inorganic drugs} unless administered on the advice of
2 a physician.

3
4 § 2829. Omissions, modifications: commissioner
may approve

5 The commissioner may approve any form of ^{group, or} blanket health
6 insurance policy, or any form of certificate ^{or printed instruction} to be issued
7 under such policy, which omits or modifies any of the provi-
8 sions hereinbefore required, if he deems such omission or
9 modification suitable for the character of such insurance
10 and not unjust to the persons insured thereunder.

11
12 § 2830. Hospital, medical benefits - Direct payment

13 Any such group or blanket policy may include benefits
14 payable on account of hospital or medical or surgical aid
15 for an employee or other member of the group insured by
16 such policy, his or her spouse, child or children or other
17 dependents, and may provide that any such benefits be paid
18 by the insurer directly to the hospital, physician, surgeon
19 doctor, nurse or other person furnishing services covered
20 by such provisions of the policy.

CHAPTER 37

CREDIT LIFE AND CREDIT HEALTH INSURANCE

§ 2851. Scope

All life insurance and all health insurance in connection with loans or other credit transactions shall be subject to this chapter, except such insurance in connection with a loan or other credit transaction of more than 5 years duration issued in an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

§ 2852. Purpose; construction

The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit health insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. This chapter shall be liberally construed.

§ 2853. Definitions

For the purpose of this chapter:

1. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

2. "Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

3. "Creditor" means the lender of money or vendor or lessor of goods, services or property, rights or privileges for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor or lessor, and an affiliate, associate

1 or subsidiary of any of them, or any director, officer or
2 employee of any of them, or any other person in any way
3 associated with any of them.

4 4. "Debtor" means a borrower of money or a purchaser
5 or lessee of goods, services, property, rights or privileges
6 for which payment is arranged through a credit transaction.


7 5. "Indebtedness" means the total amount payable by a
8 debtor to a creditor in connection with a loan or other credit
9 transaction.

10

11 § 2854. Forms available

12 Credit life insurance and credit health insurance shall
13 be issued only in the following forms:

14 1. Individual life. Individual policies of life insur-
15 ance issued to debtors on the term plan.

16 2. Individual accident and health. Individual policies
17 of  health insurance issued to debtors on a term
18 plan, or disability benefit provisions in individual policies
19 of credit life insurance.

20 3. Group life. Group policies of life insurance
21 issued to creditors providing insurance upon the lives of
22 debtors on the term plan.

23 4. Group accident and health. Group policies of health
24 insurance issued to creditors on a term plan insuring debtors,
25 or disability benefit provisions in group credit life insur-
26 ance policies to provide such coverage.

27 5. Combination. A combination under subsections 1 and
28 2, or under 3 and 4.

29

30 § 2855. Amounts of insurance

31 1. Credit life insurance.

32 A. Amount of coverage limited. The initial amount of

1 credit life insurance shall not exceed the total amount repay-
2 able under the contract of indebtedness and, where an indebt-
3 edness is repayable in substantially equal installments, the
4 amount of insurance shall at no time exceed the scheduled
5 or actual amount of unpaid indebtedness, whichever is greater.

6 2. Agricultural credit commitments. Notwithstanding
7 subsection 1, paragraph A, insurance on agricultural credit
8 transaction commitments not exceeding ~~one~~^{two} year, in duration
9 may be written up to the amount of the loan commitment, on
10 a nondecreasing or level term plan.

11 3. Educational credit commitments. Notwithstanding
12 subsection 1, paragraph A, insurance on educational credit
13 transaction commitments may be written for the amount of
14 the portion of such commitment that has not been advanced
15 by the creditor.

16 4. Credit health insurance.

17 A. Coverage limited. The total amount of indemnity
18 payable by credit health insurance in the event of dis-
19 ability, as defined in the policy, shall not exceed the
20 aggregate of the periodic scheduled unpaid installments
21 of the indebtedness; and the amount of each periodic indem-
22 nity payment shall not exceed the original indebtedness
23 divided by the number of periodic installments.

24
25 § 2856. Term of insurance

26 1. The term of any credit life insurance or credit
27 health insurance shall, subject to acceptance by the insurer,
28 commence on the date when the debtor becomes obligated to
29 the creditor; except, that where a group policy provides
30 coverage with respect to existing obligations, the insur-
31 ance on a debtor with respect to such indebtedness shall
32 commence on the effective date of the policy.

b)

Failure to ~~com~~ comply with the foregoing requirement shall preclude the use of such application as evidence in any action brought against the insured.

1 case of a certificate under a group policy, the identity
2 by name or otherwise of the debtor; the premium or amount
3 of payment if a separate identifiable charge is ^{paid} ~~made~~ by
4 the debtor separately for credit life insurance and credit
5 health insurance; a description of the coverage including
6 the amount and term thereof, and any exceptions, limitations
7 and restrictions; and shall state that the benefits shall be
8 paid to the creditor to reduce or extinguish the unpaid in-
9 debtedness and, wherever the amount of insurance may exceed
10 the unpaid indebtedness, that any such excess shall be pay-
11 able to a beneficiary, other than the creditor, named by
12 the debtor or to his estate.

13 3. When delivered. The individual policy or group
14 certificate of insurance shall be delivered to the insured
15 debtor at the time the indebtedness is incurred except as
16 otherwise provided.

17 4. Application or notice if proposed insurance/delivered. ^{Notice of proposed insurance.} not

18 If the individual policy or group certificate of insurance is
19 not delivered to the debtor at the time indebtedness is in-
20 curred, a copy of the application for such policy or a notice
21 of proposed insurance, signed by the debtor and setting forth
22 the name and home office address of the insurer, the name or
23 names of the debtor, the premium or amount of payment by the
24 debtor, if a separate identifiable charge is made separately
25 for credit life insurance and credit health insurance, the
26 amount, term and a brief description of the coverage provided,
27 shall be delivered to the debtor at the time such indebtedness
28 is incurred. The copy of the application for, or notice of
29 proposed insurance, shall refer exclusively to insurance cov-
30 erage, and shall be separate and apart from the loan, sale
31 or other credit statement of account, instrument or agreement,
32 unless the information required by this subsection is promin-

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Failure to comply with the foregoing requirements shall preclude the insured from making such application as evidence in any action brought by the creditor against the insurance company of the indebtedness.

1 ently set forth therein. Upon acceptance of the insurance
2 by the insurer and within 30 days of the date upon which
3 the indebtedness is incurred, the insurer shall cause the
4 individual policy or group certificate of insurance to be
5 delivered to the debtor. The application or notice of
6 proposed insurance shall state that upon acceptance by the
7 insurer, the insurance shall become effective as provided
8 in section 2856 ~~of this chapter.~~

9 5. Risk not accepted. If the named insurer does not
10 accept the risk, the debtor shall receive a policy or certi-
11 ficate of insurance setting forth the name and home office
12 address of the substituted insurer and the amount of the
13 premium to be charged, and if the amount of premium is less
14 than that set forth in the notice of proposed insurance,
15 an appropriate refund shall be made.

16
17 § 2858. Filing, approval and withdrawal of forms;
appeals

18 1. Forms filed. All policies, certificates of insur-
19 ance, notices of proposed insurance, applications for insur-
20 ance, endorsements and riders delivered or issued for delivery
21 in this State and the schedules of premium rates pertaining
22 thereto shall be filed with the commissioner.

23 2. Approval of forms, ^{and rates} The commissioner shall within
24 30 days after the filing of any such policies, certificates
25 of insurance, notices of proposed insurance, applications for
26 insurance, endorsements and riders, disapprove any such form
27 if the benefits provided therein are not reasonable in rela-
28 tion to the premium charge, or if it contains provisions
29 which are unjust, unfair, inequitable, misleading, deceptive
30 or encourage misrepresentation of the coverage, or are con-
31 trary to any provision of the insurance laws or of any regu-
32 lation promulgated thereunder. In determining whether to

1 disapprove any such form or premium rates, the commissioner
2 shall give due consideration to past and prospective loss
3 experience and mortality or morbidity rates, based on an
4 appropriate mortality or morbidity table, and claim adjust-
5 ment expenses, general administrative expenses, including
6 handling cost for return premiums, commissions to agents,
7 cost and compensation to the creditor, branch and field
8 expenses and other acquisition costs, federal, state and
9 local taxes, profit to the insurer, reasonable underwriting
10 judgment, and any and all other factors and trends demon-
11 strated to be relevant. The insurer may support these
12 factors by statistical information, experience, actuarial
13 computations and estimates certified by an executive officer
14 of the insurer, and the commissioner shall give due considera-
15 tion to such supporting data.

16 3. Notice of disapproval; waiting period. If the com-
17 missioner notifies the insurer that the form ^{or rates are} is disapproved,
18 it is unlawful thereafter for such insurer to issue or use
19 such form ^{or rates}. In such notice, the commissioner shall specify
20 the reason for his disapproval and state that a hearing will
21 be granted within 20 days after request in writing by the in-
22 surer. No such policy, certificate of insurance, notice of
23 proposed insurance, or any application, endorsement or rider
24 ^{or rate} shall be issued or used until the expiration of 30 days after
25 it has been so filed, unless the commissioner shall give his
26 prior written approval thereto.

27 4. Approval withdrawn. The commissioner may, at any
28 time after a hearing held not less than 20 days after written
29 notice to the insurer, withdraw his approval of any such form
30 ^{or rate} on any ground set forth in subsection 2. The written notice
31 of such hearing shall state the reason for the proposed
32 withdrawal. The insurer shall not use a form ^{or rate} after withdraw-
33 al of approval thereof.


1 creditor requires a debtor to make any payment for credit
2 life insurance or credit health insurance and an individual
3 policy or group certificate of insurance is not issued, the
4 creditor shall immediately give written notice to such debtor
5 and shall promptly make an appropriate credit to the account.
6

7 § 2860. Authorized insurer, agent required

8 All policies of credit life insurance and credit health
9 insurance shall be delivered or issued for delivery in this
10 State only by an insurer authorized to transact such insur-
11 ance therein, and shall be issued only through holders of
12 licenses or authorizations issued by the commissioner.
13

14 § 2861. Premium not deemed interest; amount, collection

15 1. The premium or cost of such insurance when issued
16 through any creditor shall not be deemed interest, or charges,
17 or consideration, or an amount in excess of permitted charges
18 in connection with the loan or other credit transaction, and
19 any benefit or return or other gain or advantage to the cred-
20 itor arising out of the sale or provision of such insurance
21 shall not be deemed a violation of any other law, general or
22 special, of the State of Maine.

23 2. The amount charged to a debtor for any credit life
24 or credit health  insurance shall not exceed
25 the premiums charged by the insurer, as computed at the time
26 the charge to the debtor is determined.

27 3. The insurance premium or other identifiable charge
28 for such insurance may be collected from the insured or in-
29 cluded in the finance charge or principal of any loan or other
29 credit transaction at the time such transaction is completed.
30

31 § 2862. Claims

32 1. Claims reported. All claims shall be promptly

1 reported to the insurer or its designated claim representa-
2 tive, and the insurer shall maintain adequate claim files.
3 All claims shall be settled as soon as possible and in
4 accordance with the terms of the insurance contract.

5 2. Claims paid. All claims shall be paid either by
6 draft drawn upon the insurer or by check of the insurer to
7 the order of the claimant to whom payment of the claim is
8 due pursuant to the policy provisions, or upon direction of
9 such claimant to one specified.

10 3. Creditor may not adjust claims. No plan or arrange-
11 ment shall be used whereby any person other than the insurer
12 or its designated claim representative shall be authorized
13 to settle or adjust claims. The creditor shall not be de-
14 signated as claim representative for the insurer in adjust-
15 ing claims; except, that a group policyholder may, by arrange-
16 ment with the group insurer, draw drafts or checks in payment
17 of claims due to the group policyholder subject to audit and
18 review by the insurer.

19

20 § 2863. Existing insurance; choice of insurer

21 When credit life insurance or credit health insurance
22 is required as additional security for any indebtedness,
23 the debtor shall, upon request to the creditor, have the
24 option of furnishing the required amount of insurance
25 through existing policies of insurance owned or controlled
26 by him or of procuring and furnishing the required coverage
27 through any insurer authorized to transact such insurance
28 within this State.

29

30 § 2864. Enforcement

31 Whenever the commissioner finds that there has been a
32 violation of this chapter or any regulations issued pursuant

1 thereto, and after written notice thereof and hearing given
2 to the insurer or other person authorized or licensed by
3 the commissioner, he shall set forth the details of his
4 findings together with an order for compliance by a
5 specified date. Such order shall be binding on the insurer
6 and other person authorized or licensed by the commissioner
7 on the date specified unless sooner withdrawn by the commis-
8 sioner.

1 CHAPTER 39

2 CASUALTY INSURANCE CONTRACTS

3 § 2901. Contracts subject to general provisions

4 All contracts of casualty insurance delivered or issued
5 for delivery in this State and covering subjects resident,
6 located, or to be performed in this State are also subject
7 to the applicable provisions of chapter 27 (the insurance
8 contract) of ~~this Title~~ and to other applicable provisions
9 of this Title.

10
11 § 2902. Uninsured vehicle coverage; insolvency of insurer

12 1. No policy insuring against liability arising out of
13 the ownership, maintenance, or use of any motor vehicle shall
14 be delivered or issued for delivery in this State with respect
15 to any such vehicle registered or principally garaged in this
16 State unless coverage is provided therein or supplemental thereto
17 for the protection of persons insured thereunder who are legally
18 entitled to recover damages, from owners or operators of uninsured
19 or hit-and-run motor vehicles, for bodily injury, sickness or
20 disease, including death, resulting from the ownership, mainten-
21 ance, or use of such uninsured or hit-and-run motor vehicle,
22 ~~except, that no such coverage shall be required in or supple-~~
23 ~~mental to a policy where rejected by an insured named therein,~~
24 ~~or upon any renewal of such policy unless the coverage is then~~
25 ~~requested in writing by the named insured.~~ The coverage herein
26 required may be referred to as "uninsured vehicle coverage."

27 2. The amount of coverage to be so provided shall be not
28 less than the minimum limits for bodily injury liability insur-
29 ance provided for under the motorists financial responsibility
30 laws of this State.

31 3. For the purposes of this section the term "uninsured
32 motor vehicle" shall be deemed also to include, subject to the

1 terms and conditions of such coverage, an insured other motor
2 vehicle where:

3 A. The liability insurer of such other motor vehicle is
4 unable because of its insolvency to make payment with respect
5 to the legal liability of its insured within the limits speci-
6 fied in its policy; and

7 B. The occurrence out of which such legal liability arose
8 took place while the uninsured vehicle coverage required under
9 subsection 1, above, was in effect; and

10 C. *Written notice of such occurrence shall have*
~~The insolvency of the liability insurer of such other~~
11 *been given to the insurer within 60 days thereof.*
~~motor vehicle existed at the time of, or within one year after,~~
12 ~~such occurrence.~~

13 Nothing contained in this subsection 3 shall be deemed to
14 prevent any insurer from providing insolvency protection to its
15 insureds under more favorable terms.

16 4. In the event of payment to any person under uninsured
17 vehicle coverage, and subject to the terms of such coverage,
18 to the extent of such payment the insurer shall be entitled to
19 the proceeds of any settlement or recovery from any person
20 legally responsible for the bodily injury as to which such
21 payment was made, and to amounts recoverable from the assets
22 of the insolvent insurer of the other motor vehicle.

23
24 § 2903. Liability absolute when loss occurs

25 The liability of every insurer which insures any person
26 against accidental loss or damage on account of personal injury
27 or death or on account of accidental damage to property shall
28 become absolute whenever such loss or damage, for which the
29 insured is responsible, occurs. The rendition of a final
30 judgment against the insured for such loss or damage shall not
31 be a condition precedent to the right or obligation of the
32 insurer to make payment on account of such loss or damage.

1 § 2904. Judgment creditor may have insurance; exceptions

2 Whenever any person, administrator, executor, guardian,
3 recovers a final judgment against any other person for any loss
4 or damage specified in section 2903 of this chapter, the judg-
5 ment creditor shall be entitled to have the insurance money
6 applied to the satisfaction of the judgment by bringing a civil
7 action, in his own name, against the insurer to reach and apply
8 the insurance money, ^{if} when the right of action accrued, the
9 judgment debtor was insured against such liability and if
10 before the recovery of the judgment the insurer had had notice
11 of such accident, injury or damage. The insurer shall have
12 the right to invoke the defenses described in this section in
13 the proceedings. None of the provisions of this paragraph
14 and section 2903 ~~of this chapter~~ shall apply:

15 1. Motor vehicle operated illegally or by one under age.

16 When the insured automobile, motor vehicle or truck is being
17 operated by any person contrary to law as to age or by any
18 person under the age of 16 years where no statute restricts the
19 age; or

20 2. Motor vehicle used in race contest. When such automo-

21 bile, motor vehicle or truck is being used in any race or speed
22 contest; or

23 3. Motor vehicle used for towing a trailer. When such

24 automobile, motor vehicle or truck is being used for towing
25 or propelling a trailer unless such privilege is indorsed on
26 the policy or such trailer is also insured by the insurer; or

27 4. Liability assumed. In the case of any liability assumed

28 by the insured for others; or

29 5. Liability under workmen's compensation. In the case

30 of any liability under any workmen's compensation agreement,
31 plan or law; or

32 6. Fraud or collusion. When there is fraud or collusion

1 between the judgment creditor and the insured.

2 No civil action shall be brought against an insurer to
3 reach and apply such insurance money until 20 days shall have
4 elapsed from the time of the rendition of the final judgment
5 against the judgment debtors.

6

7 § 2905. Cancellation, release of interest insured under,
automobile physical damage insurance

8 The
9 1. /insurer may cancel an automobile physical damage insur-
10 ance policy only on 10 days' written notice to the insured and
11 any other person mentioned in the loss payable clause of the
12 policy.

13 2. When the policy is cancelled by the insured he shall
14 notify forthwith any other person mentioned in the loss payable
15 clause; and in the event the interest of any person mentioned in
16 the loss payable clause is released, such person shall forthwith
notify the insurer.

1 CHAPTER 41

2 PROPERTY INSURANCE CONTRACTS

3 § 3001. Contracts subject to general provisions

4 All contracts of property insurance covering subjects
5 located in this State are subject to this chapter, to the
6 applicable provisions of chapter 27 (the insurance contract)
7 ~~of this Title~~ and to other applicable provisions of this
8 Title.

9
10 SUBCHAPTER I

11 STANDARD FIRE POLICY

12 § 3002. Standard fire policy required; exceptions

13 1. No insurer shall issue fire insurance policies on pro-
14 perty in this State, other than those of the Maine standard

15 fire insurance policy, ~~as identified in laws in force imme-~~
16 ~~diately prior to the effective date of this Act, a copy of~~
17 ~~which policy the commissioner shall keep on file in the~~
18 ~~department, all except as follows:~~

19 1. What may be printed. The insurer may print on or
20 in its policies its name, location and date of incorporation,
21 the amount of its paid-up capital stock, the names of its
22 officers and agents, the number and date of the policy and,
23 if it is issued through an agent, the words, "This policy
24 shall not be valid unless countersigned by the duly author-
25 ized agent of the company at ."

26 2. Description of property insured. The insurer may
27 print or use in its policies, printed forms of description
28 and specification of the property insured.

29 3. Authorized by law, charter; deductible policies.
30 A domestic insurer may print in its policies any provision
31 which it is authorized or required by law to insert therein.
32 A foreign insurer, with the approval of the commissioner,

which shall contain the following general conditions and stipulations:

" Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically, named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly by:
(a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order

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of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other Insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring

- (a) while the hazard is increased by any means within the control or knowledge of the insured; or
- (b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or
- (c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a ten days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

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Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices

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and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as maybe designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

~~IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at the agency hereinbefore mentioned.~~

2. The insurer may use an endorsement or rider attached to its printed policy forms used in other states in order, where necessary, to bring the terms of such form into compliance with the above provisions.

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1 United States resident officers whose positions correspond
2 to those of secretary and president.

3

4 § 3003. Combination coverages

5 Any policy or contract otherwise subject to the provi-
6 sions of section 3002 (standard fire policy required;
7 exceptions) of this chapter, which includes either on an un-
8 specified basis as to the coverage or for a single premium
9 coverage against the peril of fire and substantial coverage
10 against other perils need not comply with such provisions,
11 provided:

12 1. Such policy or contract shall afford coverage, with
13 respect to the peril of fire, not less than the coverage
14 afforded by such Maine standard fire policy;

15 2. That such coverage as to the peril of fire shall be
16 made subject without change to the same general provisions
17 and stipulations as those of such standard fire policy.

18 3. The provisions in relation to mortgagee interests
19 and obligations in such standard fire policy shall be
20 incorporated therein without change;

21 4. Such policy or contract is complete as to all of
22 its terms without reference to the standard form of fire
23 insurance policy or any other policy; and

24 5. The commissioner is satisfied that such policy or
25 contract complies with the provisions hereof.

1 § 3004. Lines numbered consecutively

2 The lines of the conditions of the standard fire insur-
3 ance policy shall be numbered consecutively at the option of
4 the commissioner.

6 § 3005. Protection from nuclear loss allowed

7 1. The standard fire policy as required in section 3002
8 ~~of this chapter~~ is not intended to cover loss or damage caused
9 by nuclear reaction or nuclear radiation or radioactive contam-
10 ination, all whether or not directly or indirectly resulting
11 from an insured peril under the policy.

12 2. Insurers issuing the standard policy pursuant to
13 section 3002 of this chapter are authorized to affix thereto
14 or include therein a written statement that the policy does
15 not cover loss or damage caused by nuclear reaction or nuclear
16 radioactive contamination, all whether or not directly or in-
17 directly resulting from an insured peril under the policy.

18 3. Nothing in this section shall be construed to prohibit
19 the attachment to any such policy of an endorsement or endorse-
20 ments specifically assuming coverage for loss or damage caused
21 by nuclear reaction or nuclear radiation or radioactive contam-
22 ination.

24 § 3006. Cancellation of standard fire policy for nonpayment
 of premium

25 An insurer issuing fire insurance policies on property in
26 this State, under the standard form required by section 3002
27 ~~of this chapter~~, may cancel any such policy in the
28 manner provided by law without tendering to the assured a ratable
29 proportion of the premium, if the premium has not been paid to
30 the insurer or its agent, or to a duly licensed insurance broker
31 through whom the contract of insurance was negotiated.

32

1 § 3007. Arbitration as to amount of loss under standard
 fire policy

2 In case of loss under any fire insurance policy, issued on
3 property in this State, in the standard form required in sec-
4 tion 3002 of this chapter, and the failure of the parties to
5 agree as to the amount of loss, if the insurer shall not, within
6 10 days after a written request to appoint referees under the
7 provision for arbitration in such policy, name 3 men under such
8 provision, each of whom shall be a resident of this State and
9 willing to act as one of such referees; or if such insurer shall
10 not, within 10 days after receiving the names of 3 men named by
11 the insured under such provision, make known to the insured its
12 choice of one of them to act as one of such referees, it shall
13 be deemed to have waived the right to an arbitration under such
14 policy and be liable to suit thereunder, as though the same
15 contained no provision for arbitration as to the amount of loss
16 or damage. In case of the failure of 2 referees, chosen respect-
17 tively by the insurer and the insured, to agree upon and select
18 within 10 days from their appointment a 3rd referee willing to
19 act in such capacity, either of the parties may within 20 days
20 from the expiration of said 10 days make written application
21 setting forth the facts to the commissioner to appoint such 3rd
22 referee. The commissioner shall thereupon make such appointment
23 and shall send written notification thereof to the parties.

24
25 § 3006. Wilful violations

26 Any insurer or agent who shall make, issue or deliver a
27 policy of fire insurance in wilful violation of sections 3002
28 or 3003 ~~of this chapter~~ shall forfeit for each offense not less
29 than \$50 nor more than \$200, but the policy shall nevertheless
30 be binding upon the insurer issuing the same.

1 SUBCHAPTER II

2 DEPOSIT NOTES

3 § 30 20. Policy and deposit note one contract; insolvency;
4 liability of insured; note surrendered

5 1. A policy of insurance issued by a fire or marine
6 insurer, domestic or foreign, and a deposit note given there-
7 for are one contract. A loss under such policy or other
8 equitable claims may be proved in defense to the note, though
9 it was indorsed or assigned before it was due.

10 2. When an insurer becomes insolvent, the maker of the
11 note is only liable for the equitable proportion thereof which
12 accrued during the solvency. If the insolvency occurs within
13 60 days of the date of the note, it is void except for the
14 amount of the maker's claim, if any, on the insurer. No insured
15 shall be held to contribute to any losses or expenses beyond
16 the amount of his deposit note. At the expiration of his term
17 of insurance, his note, on payment of all assessments for which
18 it is liable, shall be relinquished to him, except as provided
19 in section 3021 of this chapter.

20 § 3021. Lien on insured real estate

21 Any fire insurer shall have a lien against the insured,
22 on the buildings insured and the land appurtenant thereto,
23 for the amount at any time due on the note referred to in
24 section 3020 of this chapter, to commence from the time of
25 the recording of the same, and to continue 60 days after the
26 expiration of the policy on which such note is given, if the
27 insurer causes a certificate of its claim to such lien, signed
28 by the secretary, to be recorded by the register of deeds for
29 the county or district. During the pendency of such lien, an
30 attachment of such property, in a civil action on the note in
31 favor of the insurer, has priority of all other attachments
32 or claims. Execution, when recovered, may be levied on it
33 accordingly.

1 § 3022. Lien continues on deceased's property; policy
 descends to estate

2 Upon the death of a member, the lien of the insurer remains
3 good on the property insured to the amount due on the deposit
4 note, and the policy descends to the executor or administrator
5 of the deceased for the benefit of the estate during its contin-
6 uance, unless voluntarily surrendered or forfeited by the charter
7 of the insurer.

8

9

SUBCHAPTER III

10

LIEN OF MORTGAGEES ON POLICIES

11

§ 3030. Lien established; application of payments

12

 The mortgagee of any real estate or the mortgagee of any
13 personal property shall have a lien upon any policy of insurance
14 against loss by fire procured thereon by the mortgagor, to take
15 effect from the time he files with the insurer, at its home
16 office, a written notice, briefly describing his mortgage, the
17 estate conveyed thereby and the sum remaining unpaid thereon.
18 If the mortgagor, by a writing by him signed and filed with the
19 secretary, consents that the whole of the sum secured by the
20 policy, or so much as is required to discharge the amount due
21 on the mortgage at the time when a loss occurs, shall be applied
22 to the payment of the mortgage, it shall be so paid by the insurer
23 and the mortgagee's receipt therefor shall be a sufficient dis-
24 charge of the insurer.

25

26

§ 3031. Enforcement of lien

27

28

29

30

31

32

 If the mortgagor does not consent as provided for in
 section 3030 of this chapter, the mortgagee of any real estate
 may, at any time within 60 days after a loss, and the mortgagee
 of any personal property may at any time within 30 days after a
 loss, enforce his lien by a civil action against the mortgagor,
 and the insurer as his trustee, in which judgment may be rendered

1 for what is found due from the insurer upon the policy, notwith-
2 standing the time of payment of the whole sum secured by the
3 mortgage has not arrived, and which action shall be commenced
4 and service made on the trustee within such 60 or 30 days.

5

6 § 3032. Application of amount recovered

7 The amount recovered under section 3031 ~~of this chapter~~
8 shall be applied first to the payment of the costs of the civil
9 action and officer's fees on the execution and next to the pay-
10 ment of the amount due on the mortgage. The balance, if any,
11 shall be retained by the insurer and paid to the mortgagor. If
12 the insurer assumes the defense, it shall be liable to the plain-
13 tiff for costs in the same manner as the principal defendant,
14 defending the action, would be.

15

16 § 3033. Priority of mortgagees

17 When 2 or more mortgagees claim the benefit of sections
18 3030 ^{to} ~~through~~ 3032 ~~of this chapter~~, their rights shall be deter-
19 mined according to the priority of their claims and mortgages
20 by the principles of law.

21

22 § 3034. Mortgagee's policy void, unless consented to

23 When any mortgagee claims the benefit of sections 3030
24 ^{to} ~~through~~ 3033 ~~of this chapter~~, any policy of insurance which he
25 had procured or subsequently procures on his interest in the
26 same property by virtue of his mortgage is void, unless con-
27 sented to by the insurer insuring the mortgagor's interest.

28

29

SUBCHAPTER IV

30

GENERAL PROVISIONS

31 § 3040. Insurance on furniture, owned jointly by husband
and wife

32

Insurance effected by a husband or wife on a dwelling house

1 owned by the insured and on the furniture therein, is valid for
2 all the furniture, although part is owned by the husband and
3 part by the wife.

4
5 § 3041. Time limit for adjusting, paying fire loss; penalty

6 1. In case of physical loss by fire to property insured
7 by any insurer, the insurer or its representative shall begin
8 adjustment of such loss within 20 days after the receipt of the
9 notice/^{of loss}provided for by the policy* but no fire

10 insurer shall pay any loss or damage in excess of \$1,000 until
11 after the expiration of 45 days from the date of loss.

12 2. Nothing contained in this section shall prevent the
13 payment of a loss to any property owner when the aggregate loss
14 under all policies covering the risk does not exceed \$1,000.

15 3. Upon application from an insurer or its authorized
16 representative, written permission to make earlier payment on
17 any loss may be given the insurer or its authorized representa-
18 time by the commissioner, and immediately upon issuance of such
19 permit, the commissioner shall notify and grant permits to any
20 other insurers known to be interested in the risk.

21 4. For any violation of this section the commissioner may
22 suspend the authority of the insurer to transact business in
23 this State for such length of time, not exceeding one year, as
24 he may deem advisable.

25 a. In any statute relating to fire insurance or in any
26 policy of fire insurance reference to the date of loss or the
27 time when a loss occurs shall mean the day of the fire against
28 which the policy insures.

29

30 § 3042. Dividends

31 Any dividend due from a foreign mutual fire insurer under
32 a policy of insurance issued by it shall be payable at the place

1 CHAPTER 43

2 SURETY INSURANCE CONTRACTS

3 § 3101. Contracts subject to general provisions

4 All contracts of surety insurance delivered or issued
5 for delivery in this State and covering subjects resident,
6 located, or to be performed in this State are also subject
7 to the applicable provisions of chapter 27 (the insurance
8 contract) ~~of this Title~~ and to other applicable provisions
9 of this Title.

10
11 § 3102. Acceptance as surety on bonds

12 Any insurer duly authorized to transact surety insurance
13 in this State may be accepted as surety upon the bond of any
14 person required by the laws of the State to execute a bond.
15 If such insurer shall furnish satisfactory evidence of its
16 ability to provide all the security required by law, no
17 additional surety may be exacted, but other surety or sureties
18 may, in the discretion of the official authorized to approve
19 such bond, be required. Such insurer may be released from
20 its liability on the same terms and conditions as are by law
21 prescribed for the release of individuals. It is the true
22 intent and meaning of this section to enable corporations
23 created for that purpose to become surety on bonds required
24 by law, subject to all the rights and liabilities of private
25 individuals.

26
27 § 3103. Premiums on bonds

28 Any court or officer whose duty it is to pass upon the
29 account of any person required by law to give a bond may,
30 whenever such person has given any such surety insurer as
31 surety upon the bond, allow in the settlement of such
32 account a reasonable sum for the expense of procuring such

1 surety. The premiums on account of all official bonds
2 required by law to be given by county officials shall be
3 paid from the treasuries of their several counties.

4
5 § 3104. Notice of authorization to registers of
probate

6 Whenever any surety insurer is authorized to transact
7 business in this State, the commissioner shall forthwith
8 transmit to each register of probate the name of such insurer
9 and the names of all agents of such insurer who have been
10 licensed by him, their places of residence and the dates
11 when their licenses will expire, and the names and addresses
12 of all attorneys in fact registered with him whose addresses
13 are in the county of such register. He shall on the first
14 days of March and October of each year forward to each
15 register of probate a list containing the names of all
16 surety insurers, foreign and domestic, which are then
17 authorized to transact business in the State, the names of
18 all agents of such insurers who have been licensed by him,
19 and their places of residence and the dates when their res-
20 pective licenses will expire. He shall from time to time
21 communicate to the registers of probate the names of all
22 surety insurers which ^{become authorized} cease to be authorized to transact
23 business in this State. The registers shall preserve such
24 lists on the files of the courts.

25
26 § 3105. Estoppel to deny corporate power

27 Any insurer which shall execute any bond as surety
28 under section 3102 ~~of this chapter~~ shall be estopped in any
29 proceedings to enforce the liability which it shall have
30 assumed to incur, to deny its corporate power or the author-
31 ity of its attorney in fact within the scope of his power of
32 attorney filed in accordance with section 413 ~~of this Title,~~

1 to execute such instrument or assume such liability or the
2 authority of any licensed agent to countersign such instru-
3 ment.

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CHAPTER 45

TITLE INSURANCE CONTRACTS

§ 3201. Contracts subject to general provisions

All contracts of title insurance delivered or issued for delivery in this State and covering subjects located in this State are subject to the applicable provisions of chapter 27 (the insurance contract) ~~of this Title~~ and to other applicable provisions of this Title.

BOOK #3 Contains:

| <u>Chapter</u> | <u>Subject</u> | <u>Beginning Page</u> |
|----------------|--|-----------------------|
| 47 | Organization, Corporate Powers, Procedures of Domestic Legal Reserve Stock and Mutual Insurers | 375 |
| 49 | Continuity of Management | 432 |
| 51 | Domestic Mutual Assessment Insurers | 443 |
| 53 | Reciprocal Insurers | 457 |
| 55 | Fraternal Benefit Societies | 470 |
| 57 | Delinquent Insurers | 515 |
| 59 | Insurance of Public Employees and Property | 550 |
| 61 | Unclaimed Funds of Life Insurers | 552 |
| 63 | Road or Trade Service Amendments | 560 |

1 CHAPTER 47

2 ORGANIZATION, CORPORATE POWERS, PROCEDURES OF
3 DOMESTIC LEGAL RESERVE STOCK AND MUTUAL INSURERS

4 SUBCHAPTER I

5 ORGANIZATION AND GENERAL POWERS

6 § 3301. Scope of chapter

7 This chapter applies only as to domestic stock and
8 mutual insurers transacting insurance on the cash premium
9 or legal reserve plan, and applies as to such insurers in
10 particular as follows:

11 1. To each such insurer hereafter organized.

12 2. To each such insurer heretofore organized under
13 general laws.

14 ~~3. To each such insurer heretofore organized by special
15 Act of the Legislature, except where inconsistent with such
16 special Act as heretofore amended.~~

17 § 3302. Insurers to be organized under this Title

18 All domestic stock and mutual legal reserve insurers
19 hereafter organized shall be organized under the provisions
20 of this Title, and not otherwise.

21
22 § 3303. Reservation of power

23 The Legislature shall have power to amend, repeal or
24 modify this Title at pleasure.

25
26 § 3304. Applicability of general corporation
27 statutes

28 Domestic stock and mutual insurers shall be governed
29 by the applicable provisions of the general statutes of this
30 State relating to private corporations organized for profit,
as such statutes are now or hereafter may be constituted,

1 except where such general statutes are in conflict with the
2 express provisions of this Title and the reasonable implica-
3 tions thereof, and in which case the provisions of this Title
4 shall govern.

5

6 § 3305. "Stock," "mutual" insurers defined

7 1. A "stock" insurer is as defined in section 400, ~~of~~
8 ~~this Title.~~

9 2. A "mutual" insurer is as defined in section 401, ~~of~~
10 ~~this Title.~~

11

12 § 3306. Incorporation of domestic stock,
mutual insurers

13 1. This section applies to stock and mutual insurers
14 hereafter incorporated in this State. Such an insurer may
15 be formed for the purpose of transacting any kind or kinds
16 of insurance, as well as annuity business.

17 2. Incorporators. Three or more individuals, none of
18 whom is less than 21 years of age, may incorporate a stock
19 insurer; 10 or more such individuals may incorporate a mutual
20 insurer. At least a majority of the incorporators must be
21 citizens of the United States of America.

22 3. Certificate of organization. The incorporators
23 shall execute a certificate of organization in quadruplicate,
24 and at least a majority of the incorporators shall acknowledge
25 their execution thereof under oath. The certificate of
26 organization shall state and show:

27 A. The name of the corporation, which must be generally
28 indicative of the business to be transacted and be subject
29 to section 408 (name of insurer) ~~of this Title~~; if a mutual,
30 the word "mutual" must be a part of the name. An alterna-
31 tive name or names may be specified for use in foreign
32 countries, or in jurisdictions wherein conflict of name with

1 that of another insurer or organization might otherwise
2 prevent the corporation from being authorized to transact
3 insurance therein.

4 B. The duration of its existence, which may be per-
5 petual.

6 C. The kinds of insurance, as defined in this Title,
7 which the corporation is formed to transact.

8 D. If a stock corporation, its authorized capital and
9 the number of shares of stock into which divided. The capi-
10 tal stock shall consist entirely of common stock of one uni-
11 form class, par value not less than \$1.00 per share, each
12 outstanding share of which shall have equal rights in every
13 respect with every other such share, except that treasury
14 stock shall not have dividend or voting rights. Shares with-
15 out par value shall not be authorized.

16 E. If a stock corporation the extent, if any, to which
17 shares of its stock shall be subject to assessment.

18 F. If a mutual corporation, the maximum contingent
19 liability of its members, other than as to nonassessable
20 policies, for payment of losses and expenses incurred. Such
21 liability shall be as stated in the certificate of organiza-
22 tion, but shall not be less than 1 or more than 6 times the
23 premium for the member's policy at the annual premium rate
24 for a term of 1 year.

25 G. If a mutual corporation, the amount, if any, of its
26 guaranty capital^{shares}, the number and par value of shares into
27 which divided, the voting and other rights of such shares,
28 and the conditions under which such shares shall or may be
29 retired by the corporation, all consistent with the provi-
30 sions of section 3358 (guaranty capital^{shares}) ~~of this chapter.~~

31 H. The number of directors, not less than 3, who shall
32 constitute the board of directors and conduct the affairs of

1 the corporation; and the names, addresses and terms of the
2 members of the initial board of directors, who shall conduct
3 the corporation's affairs for the term specified in the cer-
4 tificate, but for not more than 1 year after date of
5 incorporation.

6 I. The city or town, and county in this State in which
7 the corporation's principal place of business is to be loca-
8 ted.

9 J. The name, residence address and national citizen-
10 ship of each incorporator.

11 K. Other provisions, not inconsistent with law,
12 deemed appropriate by the incorporators, and including, in
13 the case of life insurers, the power to act as trustee with
14 respect to proceeds of maturity or death benefits payable
15 under life insurance or annuity contracts issued or assumed
16 by it.

17

18 § 3307. Certificate of organization, approval
and filing

19 1. The incorporators of a proposed insurer shall
20 deliver the quadruplicate originals of the certificate of
21 organization to the commissioner. The commissioner shall
22 deliver one set of such originals to the Attorney General
23 of this State, and the Attorney General shall examine the
24 same. If the Attorney General finds that the certificate
25 of organization complies with law, he shall so certify in
26 writing and return the original of the certificate of
27 organization, so certified, to the commissioner.

28 2. When the certificate of organization has been so
29 approved and returned by the Attorney General, the commis-
30 sioner shall also endorse his approval upon each set
31 thereof and return the quadruplicate originals of the cer-
32 tificate of organization to the incorporators. The

1 incorporators shall then file one of such sets with the Secretary
2 of State of this State, one set with the commissioner bearing
3 the certification of the Secretary of State, one set for
4 recording in the registry of deeds of the county in this
5 State in which the corporation's principal place of business
6 is to be located, and shall retain the remaining set in the
7 corporate records.

8 3. For filing the certificate of organization of a
9 mutual insurer the Secretary of State shall charge and
10 collect a filing fee of \$25; except, that if it is a mutual
11 insurance corporation with provision for guaranty capital
12 shares, the Secretary of State shall charge and collect for
13 the filing of the certificate of organization the same
14 amount as would be payable by a stock insurance corporation
15 having a like amount of authorized capital stock.

16 4. If the Attorney General finds that the proposed
17 certificate of organization does not comply with law, he
18 shall refuse to approve the same and shall return the set
19 thereof to the commissioner, together with a written state-
20 ment of the respects in which he finds that the certificate
21 does not so comply. The commissioner shall thereupon return
22 all sets of the proposed certificate of organization to the
23 proposed incorporators together with the Attorney General's
24 written statement.

25 5. The Secretary of State shall not permit the filing
26 in that office of any such certificate unless the same bears
27 the commissioner's approval endorsed thereon as hereinabove
28 provided.

29 6. The approval of the Attorney General or commis-
30 sioner, as hereinabove provided for, shall be deemed to
31 relate only to the form and contents of the certificate, and
32 shall not constitute approval or commitment as to any other

1 aspect or operation of the proposed insurer or relative to
2 its entitlement, if any, to a certificate of authority.

3 7. The commissioner and Attorney General shall perform
4 all duties required of them under this section within a
5 reasonable time after the certificate of organization has
6 been submitted to the commissioner as provided in subsection
7 1, above.

8

9 § 3308. Certificate of Secretary of State

10 1. Upon filing with him of the certificate of
11 organization of a proposed insurer as provided in subsection
12 2 of section 3307 ~~of this chapter~~ and payment of the charges
13 and fees therefor, the Secretary of State shall issue to the
14 corporation his certificate of organization in the following
15 form:

16

"STATE OF MAINE

17 "Be it known, that whereas" (names of the incorporators)
18 "have associated themselves with the intention of forming a
19 corporation, under the name of _____,
20 for the purpose" (here the purpose declared in the certifi-
21 cate of organization shall be inserted,) "with a capital
22 stock of \$ _____, and have complied with
23 the provisions of the statutes of the State in such case
24 made and provided, as appear from the certificate of
25 organization, duly approved by the Insurance Commissioner
26 and recorded in this office: Now, therefore, I,
27 _____, Secretary of State of Maine,
28 hereby certify that" (incorporators' names) "their associates
29 and successors, are legally organized and established as, and
30 are hereby made, an existing corporation under the name of
31 the _____ company, with all the powers,
32 rights and privileges, and subject to the duties, liabilities

1 and restrictions which by law appertain thereto. Witness my
2 official signature, hereunto subscribed, and the seal of the
3 State of Maine hereunto affixed, this ____ day of _____,
4 A.D. 19__." (In case of purely mutual companies, so much as
5 relates to capital stock shall be omitted.)

6 2. The Secretary of State shall sign the same, and
7 cause the seal of the State to be thereto affixed, and such
8 certificate shall have the force and effect of a special
9 charter and be conclusive evidence of the organization and
10 establishment of such corporation. The certificate shall be
11 duly recorded in the office of the Secretary of State, and a
12 duly authenticated copy of such record may be used in evi-
13 dence, with like effect as the original certificate.

14

15 § 3309. Completion of incorporation; general
powers, duties

16 The incorporation of an insurer shall be effective as
17 of the date of issuance by the Secretary of State of his
18 certificate as provided for in section 3308 ~~of this chapter~~;
19 and thereupon the corporation shall be vested with all the
20 powers, rights and privileges, and be subject to all the
21 duties, liabilities and restrictions applicable to insurer
22 corporations; subject, however, to qualification and appli-
23 cation for, and issuance to the corporation of, a certifi-
24 cate of authority as an insurer by the commissioner under
25 the provisions of this Title.

26

27 § 3310. Amendment of certificate of organization;
change of principal place of business

28 1. A stock insurer may amend its certificate of
29 organization for any lawful purpose by authorization or vote
30 of stockholders as provided for business corporations in
31 general under the laws of this State applicable to such busi-
32 ness corporations.

1 2. A mutual insurer may amend its certificate of
2 organization for any lawful purpose by affirmative vote of
3 a majority of those of its members entitled to vote and
4 present or represented by proxy at a lawful meeting of its
5 members of which the notice given members included due
6 notice of the proposal to amend and the substance of such
7 proposal, and by affirmative vote of the holders of at least
8 2/3 of the insurer's outstanding guaranty capital shares, if
9 any.

10 3. Upon adoption of such an amendment the insurer shall
11 make in quadruplicate under its corporate seal a certificate,
12 (sometimes referred to as a "certificate of amendment"), set-
13 ting forth such amendment and the date and manner of the
14 adoption thereof. The certificate shall be executed by the
15 insurer's president or vice-president and secretary or assis-
16 tant secretary and duly sworn to by one of them. The insurer
17 shall deliver to the commissioner the quadruplicate originals
18 of the certificate for review, certification and approval or
19 disapproval by the Attorney General and the commissioner, and
20 filing and recording, all as provided for original certifi-
21 cates of organization under section 3307. ~~of this chapter.~~
22 The Secretary of State shall charge and collect for the use
23 of the State a fee of \$20 for filing and recording the certi-
24 ficate of amendment of a mutual insurer. The amendment shall
25 be effective when duly approved and filed with the Secretary
26 of State.

27 4. An insurer may change its principal place of busi-
28 ness without amendment of its certificate of organization,
29 by resolution of its board of directors. A copy of such
30 resolution, duly certified under oath by the corporate
31 secretary, shall be executed in quadruplicate and filed with
32 the commissioner, the Secretary of State, the registry of

1 deeds of the county in which the insurer's principal place
2 of business was theretofore located, and in the corporate
3 records. If the principal place of business is thereby
4 changed to another county of this State, the insurer shall
5 also file in the registry of deeds of such county a copy,
6 duly certified by the commissioner, of its certificate of
7 organization and of each amendment thereto, and a certified
8 copy of the resolution by which the principal place of busi-
9 ness was so changed.

10

11 § 3311. Insurance business exclusive; exceptions

12 1. No domestic insurer heretofore or hereafter formed
13 shall engage ~~directly or indirectly~~ in any business other
14 than the insurance business and in business activities
15 reasonably and necessarily incidental to such insurance busi-
16 ness.

17 2. Except that:

18 A. A title insurer may also engage in business as an
19 escrow agent;

20 B. Any insurer may also engage in business activities
21 reasonably related to the management, supervision, servicing
22 of, and protection of its interests as to its lawful invest-
23 ments, and to the full utilization of its facilities; and

24 C. An insurer may own ^{or subsidiaries owning other subsidiaries,} subsidiaries, which may engage
25 in such businesses all as provided for in section 1115

26 (stocks of subsidiaries) ~~of this Title.~~

27 ~~D. An insurer may utilize its facilities to perform administrative services for any governmental body, unit, or agency.~~

28

SUBCHAPTER II

29

PROVISIONS APPLYING ONLY TO MUTUAL INSURERS

30

§ 3352. Mutual insurers, initial qualifications

31

1. When hereafter newly organized, a mutual insurer

32

may be authorized to transact any one of the kinds of insurance

D. An insurer may utilize its facilities to perform administrative services for any governmental body, unit, or agency.

1 listed in the schedule contained in subsection 2, below, or
 2 any combination of such kinds as provided in subsection 3,
 3 below.

4 2. When applying for an original certificate of
 5 authority, the insurer must be otherwise qualified therefor
 6 under this Title, and must have received and accepted bona
 7 fide applications as to substantial insurable subjects for
 8 insurance coverage of a substantial character of the kind
 9 of insurance proposed to be transacted, must have collected
 10 in cash the full premium therefor at a rate not less than
 11 that usually charged by other insurers for comparable
 12 coverages, must have surplus funds on hand and deposited as
 13 of the date such insurance coverages are to become effective,
 14 or, in lieu of such applications, premiums, and surplus, may
 15 deposit and thereafter maintain surplus, all in accordance
 16 with that part of the following schedule which applies to
 17 each kind of insurance the insurer proposes to transact:

| 18 | (A) | (B) | (C) | (D) | (E) | (F) | (G) | (H) |
|----|-------------|----------|----------|-----------|--------------------|--------------------|-----------|-----------|
| 19 | | | | | | | | |
| 20 | Kind of | Min.No. | Min. No. | Minimum | Minimum | Max.Amt. | Deposit | Deposit |
| 21 | Ins. | of Apps. | subjects | Premium | Amt. Ins. | Ins. Ea. | Min.Sur- | surplus |
| | | Accepted | covered | Collected | Ea. Subj. | Subject | pls.Fund | in lieu |
| | | | | | | (5) | (6) | (7) |
| 22 | Life(1) | 500 | 500 | Annual | \$ 2,000 | \$ 5,000 | \$100,000 | \$200,000 |
| 23 | Health(2) | 500 | 500 | Quarterly | \$ 25 | \$ 50 | \$100,000 | \$200,000 |
| 24 | | | | | (weekly indem.) | (weekly indem.) | | |
| 25 | Property(3) | 100 | 250 | Annual | \$ 3,000 | \$ 7,000 | \$100,000 | \$200,000 |
| 26 | Casualty(4) | 250 | 500 | Annual | \$ 5,000 | \$25,000 | \$200,000 | \$300,000 |

27
 28 The following provisos are respectively applicable to
 29 the foregoing schedule and provisions as indicated by like
 30 numerals appearing in such schedule:

31 4. (1) No group insurance or term policies for terms of
 32 less than 10 years shall be included.

1 ~~B.~~(2) No group, blanket or family plans of insurance
2 shall be included. In lieu of weekly indemnity a life pre-
3 mium value in medical, surgical, and hospital benefits may
4 be provided. Any accidental death or dismemberment benefit
5 provided shall not exceed \$5,000.

6 C.(3) Only insurance of the owner's interest in real
7 property may be included.

8 D.(4) Must include insurance of legal liability for
9 bodily injury and property damage, to which the maximum and
10 minimum insured amounts apply.

11 E.(5) The maximums provided for in this column (F) are net
12 of applicable reinsurance.

13 F.(6) The deposit of surplus in the amount specified in
14 columns (G) and (H) must thereafter be maintained unimpaired.
15 The deposit is subject to the provisions of chapter 15
16 (administration of deposits), ~~of this Title.~~

17 Expendable surplus: In addition to surplus deposited and
18 thereafter to be maintained as shown in columns (G) or (H)
19 above, the insurer when first authorized must have on hand
20 surplus funds, which it can thereafter expend in the conduct
21 of its business, in amount not less than 50% of the appli-
22 cable deposited and maintained surplus required of it under
23 the above schedule.

24 3. An insurer may initially qualify for authority to
25 transact both life and health insurances by fulfilling the
26 foregoing requirements as to each such kind of insurance;
27 and may in like manner initially qualify for authority to
28 transact both property and casualty insurance. An insurer
29 shall not, however, so qualify to transact any other combina-
30 tion of such insurances except as provided in section 3357
31 ~~of this chapter.~~

1 § 3353. Qualifying applications for insurance;
 bond or deposit

2 1. Before soliciting any applications for insurance
3 required under section 3352 as qualification for the
4 original certificate of authority, the incorporators of the
5 proposed insurer shall file with the commissioner a corporate
6 surety bond in the penalty of \$15,000, in favor of the State
7 of Maine and for use and benefit of the State of Maine and
8 of applicant members and creditors of the corporation. The
9 bond shall be conditioned as follows:

10 A. For the prompt return to applicant members of all
11 premiums collected in advance;

12 B. For payment of all indebtedness of the corporation;
13 and

14 C. For payment of costs incurred by the State of Maine
15 in event of any legal proceedings for liquidation or dissolu-
16 tion of the corporation;
17 all in the event the corporation fails to complete its
18 organization and secure a certificate of authority within one
19 year after the date of its certificate of organization.

20 2. In lieu of such bond, the incorporators may deposit
21 with the commissioner \$15,000 in cash or United States govern-
22 ment bonds, negotiable and payable to the bearer, with a
23 market value at all times of not less than \$15,000 and to be
24 held in trust upon the same conditions as required for the
25 bond.

26 3. The commissioner shall release and discharge any
27 such bond filed or deposit or remaining portion thereof held
28 under this section upon settlement and termination of all
29 liabilities against it.

30

31 § 3354. Qualifying applications for insurance;
 solicitation

32 1. Upon receipt of the commissioner's approval of the

1 bond or deposit as provided in section 3353, the directors
2 and officers of the proposed domestic mutual insurer may
3 commence solicitation of such requisite applications for
4 insurance policies as they may accept, and may receive
5 deposits of premiums thereon.

6 2. All such applications shall be in writing signed
7 by the applicant, covering subjects of insurance resident,
8 located or to be performed in this State.

9 3. All such applications shall provide that:

10 A. Issuance of the policy is contingent upon the
11 insurer qualifying for and receiving a certificate of
12 authority;

13 B. No insurance is in effect unless and until the
14 certificate of authority has been issued; and

15 C. The prepaid premium or deposit, and membership or
16 policy fee, if any, shall be refunded in full to the appli-
17 cant if organization is not completed and the certificate
18 of authority is not issued and received by the insurer before
19 a specified reasonable date which date shall be not later
20 than one year after the date of the certificate of organiza-
21 tion.

22 4. All qualifying premiums collected shall be in cash.

23 5. Solicitation for such qualifying applications for
24 insurance shall be by licensed agents of the corporation,
25 and the commissioner shall, upon the corporation's applica-
26 tion therefor, issue temporary agent's licenses expiring on
27 the date specified pursuant to paragraph C above to indivi-
28 duals qualified as for a resident agent's license except as
29 to the taking or passing of an examination. The commissioner
30 may suspend or revoke any such license for any of the causes
31 and pursuant to the same procedures as are applicable to
32 suspension or revocation of licenses of agents

1 in general under chapter 17 ~~of this Title.~~

2

3 § 3355. Deposit of qualifying premiums; effective
4 date of insurance

5 1. All sums collected by a domestic mutual corporation
6 as premiums or fees on qualifying applications for insurance
7 therein shall be deposited in trust in a bank or trust
8 company in this State under a written trust agreement consis-
9 tent with this section and with subsection 3, paragraph C,
10 of section 3354 ~~of this chapter.~~ The corporation shall file
11 an executed copy of such trust agreement with the commissioner.

12 2. Upon issuance to the corporation of a certificate
13 of authority as an insurer for the kind or kinds of insur-
14 ance for which such applications were solicited, all funds
15 so held in trust shall become the funds of the insurer, and
16 the insurer shall thereafter in due course issue and deliver
17 its policies for which premiums had been paid and accepted.
18 The insurance provided by such policies shall be effective
19 as of the date of the certificate of authority or thereafter
20 as provided by the respective policies.

21 § 3356. Failure to complete and qualify

22 If the proposed domestic mutual insurer fails to complete
23 its organization and to secure its original certificate of
24 authority within one year from and after date of its certifi-
25 cate of organization its corporate powers shall cease, and
26 the commissioner shall return or cause to be returned to the
27 persons entitled thereto all advance deposits or payments of
28 premium held in trust under section 3355 ~~of this chapter.~~

29

30 § 3357. Authority to transact additional
31 kinds of insurance

32 After being authorized to transact one kind or combina-
tion of kinds of insurance as provided in section 3352 of

1 ~~this chapter~~, a mutual insurer may be authorized by the com-
2 missioner to transact such additional kinds of insurance as
3 are permitted under section 409 (combinations of insuring
4 powers) ~~of this title~~, while otherwise in compliance with
5 this Title and while maintaining unimpaired surplus and/or
6 guaranty capital funds in an amount not less than the amount
7 of paid-in capital stock required to be maintained by a like
8 domestic stock insurer transacting the same kinds of insur-
9 ance.

10

11 § 3358. Guaranty capital shares

12 1. A mutual insurer formed to transact or transacting
13 any kind of insurance shall have the right to ~~establish~~ ^{provide for}
14 ~~provision therefor~~ ^{guaranty capital shares} in its certificate of organization,
15 ~~guaranty capital shares in an amount at aggregate par value~~
16 ~~not exceeding the minimum amount of basic surplus required~~
17 ~~to be maintained by the insurer for authority to transact~~
18 ~~such kind or kinds of insurance as provided in section 410~~
19 ~~(capital funds required), of this Title.~~ Outstanding
20 guaranty capital shares at the par value thereof shall take
21 the place of a like amount of basic surplus otherwise
22 required for authority to transact insurance.

23 2. Shares of guaranty capital stock shall have a par
24 value of \$100 each, and shall be paid for in cash. Nothing
25 in this Title shall be deemed to prohibit the sale of such
26 shares at a price above such par value in order to provide
27 the insurer with capital surplus.

28 3. Only ¹one class of such guaranty capital shares shall
29 be provided for, and each such share outstanding shall have
30 equal voting, dividend, retirement and other rights with
31 every other such share. Each such share shall have one vote
32 on matters coming to a vote at meetings of the insurer's

1 shareholders and members. Policyholders of the insurer shall
2 have the same voting rights as would exist in the absence of
3 such guaranty capital.

4 4. Noncumulative dividends not exceeding in any one
5 year 7% of the amount paid to the insurer for the same, may
6 be declared and paid by the insurer on outstanding guaranty
7 capital shares out of that portion of the insurer's expend-
8 able surplus representing net realized earnings from its
9 operations; and may be so paid even though the amount of the
10 insurer's expendable surplus is then less in amount than any
11 prior total of expendable contributed, borrowed, or paid-in
12 surplus. Such a dividend may be paid in cash or in guaranty
13 capital shares, or part in each. An amount equal to the par
14 value of shares so distributed as dividend shall be trans-
15 ferred from the insurer's earned surplus account to its
16 guaranty capital shares account.

17 5. If the guaranty capital becomes impaired, the impair-
18 ment shall be cured as provided in section 3423 (impairment of
19 capital funds) ~~of this chapter.~~

20 6. The insurer shall retire and cancel the guaranty
21 ^{shares} capital/ in part and in whole as soon as is reasonably possible,
22 out of expendable surplus resulting from net realized earnings
23 from its operations, or out of surplus created through issuance
24 of agreements authorized by section 3415 ~~of this chapter.~~ The
25 insurer shall retire and cancel the guaranty capital shares in their
26 entirety when such retirement would, in the commissioner's
27 opinion, leave the insurer with surplus as to policyholders
28 reasonably adequate to enable it to continue to transact the
29 kinds and volume of insurance business transacted.

30 7. In any liquidation of the insurer outstanding
31 guaranty capital shares shall have the same rights and priority
32 as to the insurer's assets as are possessed by the stockholders

1 of a like stock insurer.

2

3 § 3359. Bylaws

4 1. A domestic mutual insurer shall have bylaws for
5 the government of its affairs. The insurer's initial
6 board of directors shall adopt original bylaws, subject
7 to the approval of the insurer's members at the next meet-
8 ing of members.

9 2. The bylaws shall contain provisions, consistent
10 with this Title, relating to:

11 A. The voting rights of members;

12 B. Election of directors, and the number, qualifica-
13 tions, terms of office and powers of directors;

14 C. Annual and special meetings of members;

15 D. The number, designation, election, terms and powers
16 and duties of the respective corporate officers;

17 E. Deposit, custody, disbursement and accounting for
18 corporate funds;

19 F. Fidelity bonds covering such officers and employees
20 of the insurer as handle its funds, to be issued by a
21 corporate surety and to be in such amount as may be reason-
22 able; and

23 G. Such other matters as may be customary, necessary,
24 or convenient for the management or regulation of corporate
25 affairs.

26 3. The insurer shall promptly file with the commis-
27 sioner a copy, certified by the insurer's secretary, of its
28 bylaws and of every modification thereof or addition thereto.
29 The commissioner shall disapprove any bylaw provision deemed
30 by him, after a hearing held thereon, to be unlawful,
31 unreasonable, inadequate, unfair or detrimental to the proper
32 interests or protection of the insurer's members or any

1 class thereof. The insurer shall not, after receiving
2 written notice of such disapproval and during the existence
3 thereof, effectuate any bylaw provision so disapproved.
4

5 § 3360. Members are policyholders

- 6 1. Each policyholder of a domestic mutual insurer,
7 other than of a reinsurance contract, is a member of the
8 insurer with all rights and obligations of such membership,
9 *as the charter and as* and the policy shall so specify.
- 10 2. Any person, government or governmental agency,
11 state or political subdivision thereof, public or private
12 corporation, board, association, firm, estate, trustee or
13 fiduciary may be a member of a domestic, foreign, or alien
14 mutual insurer. Any officer, stockholder, trustee or legal
15 representative of any such corporation, board, association
16 or estate may be recognized as acting for or on its behalf
17 for the purpose of such membership, and shall not be person-
18 ally liable upon any contract of insurance for acting in
19 such representative capacity.
- 20 3. Any domestic corporation may participate as a mem-
21 ber of a mutual insurer as an incidental purpose for which
22 such corporation is organized, and as much granted as the
23 rights and powers expressly conferred.
24

25 § 3361. Meetings of members, in general

- 26 1. Meetings of members of a domestic mutual insurer
27 shall be held in the city or town of its principal office in
28 this State, except as may otherwise be provided in the
29 insurer's bylaws with the commissioner's approval.
- 30 2. Each such insurer shall, during the first 6 months
31 of each calendar year, hold the annual meeting of its
32 members to fill vacancies existing or occurring in the board

1 of directors, receive and consider reports of the insurer's
2 officers as to its affairs and transact such other business
3 as may properly be brought before it.

4 3. Written notice of the time and place of the annual
5 meeting of members shall be given members not less than 30
6 days prior to the meeting. Notice may be given by imprint-
7 ing the notice plainly on the policies issued by the insurer
8 or in any other appropriate manner. Any change of the date
9 or place of the annual meeting shall be made only by an
10 annual meeting of members. Notice of such change, among
11 other appropriate methods may be given:

12 A. By imprinting such new date or place on all policies
13 which will be in effect as of the date of such changed meeting;
14 or

15 B. Unless the commissioner otherwise orders, notice of
16 the new date or place need be given only through policies
17 issued after the date of the annual meeting at which such
18 change was made and in premium notices and renewal certifi-
19 cates issued during the 24 months immediately following such
20 meeting.

21 4. If more than 6 months are allowed to elapse after
22 an annual meeting of members is due to be held and without
23 such annual meeting being held, the commissioner shall, upon
24 written request of any officer, director, or member of the
25 insurer, cause written notice of such meeting to be given
26 to the insurer's members, and the meeting shall be held as
27 soon as reasonably possible thereafter.

28

29 § 3362. Special meetings of members

30 1. A special meeting of the members of a mutual
31 insurer may be held for any lawful purpose. The meeting
32 shall be called by the corporate secretary pursuant to

1 request of the insurer's president or of its board of
2 directors, or upon request in writing signed by not less
3 than 1/10 of the insurer's members. The meeting shall be
4 held at such time as the secretary may fix, but not less
5 than 10 nor more than 30 days after receipt of the request.
6 If the secretary fails to issue such call, the president,
7 directors, or members making the request may do so.

8 2. Not less than 10 days' written notice of the meet-
9 ing shall be given. Notice addressed to the insurer's
10 members at their respective post office addresses last of
11 record with the insurer and deposited, postage prepaid, in
12 a letter depository of the United States post office, shall
13 be deemed to have been given when so mailed. In lieu of
14 mailed notice the insurer may publish the notice in such
15 publication or publications as shall afford a majority of
16 its members a reasonable opportunity to have actual advance
17 notice of the meeting. The notice shall state the purposes
18 of the meeting, and no business shall be transacted at the
19 meeting of which notice was not so given.

20

21 § 3363. Voting rights of members

21 1. Each member of a mutual insurer is entitled to one
22 vote upon each matter coming to a vote at a meeting of
23 members, or to such other vote as may be provided for on a
24 reasonable basis in the insurer's bylaws with the commis-
25 sioner's approval.

26 2. A member shall have the right to vote in person or
27 by his written proxy filed with the corporate secretary not
28 less than 20 days prior to the meeting. No such proxy shall
29 be made irrevocable, nor be valid beyond the earlier of the
30 following dates:

31 A. The date of expiration set forth in the proxy; or

32 B. The date of termination of membership; or

1 C. 5 years from the date of execution of the proxy.

2 3. No member's vote upon any proposal to divest the
3 insurer of its business or assets, or the major part thereof,
4 shall be registered or taken except in person or by proxy
5 newly executed and specific as to the matter to be voted
6 upon.

7

8 § 3364. Contingent liability of members

9 1. Except as provided otherwise in section 3367 of
10 this chapter with respect to nonassessable policies, each
11 member of a domestic mutual insurer shall have a contingent
12 liability, prorata and not one for another, for the discharge
13 of its obligations, which contingent liability shall be in
14 such maximum amount - not less than 1 or more than 6 times
15 the annual premium for the member's policy at the annual
16 premium rate - as shall be specified in the insurer's certi-
17 ficate of organization or bylaws.

18 2. Every policy issued by the insurer shall contain
19 a plain and legible statement of the contingent liability
20 upon either the face or back thereof.

21 3. Termination of the policy of any such member shall
22 not relieve the member of contingent liability for his pro-
23 portion of the obligations of the insurer which accrued
24 while the policy was in force.

25 4. Unrealized contingent liability of members does
26 not constitute an asset of the insurer in any determination
27 of its financial condition.

28

29 § 3365. Levy of contingent liability

30 1. If at any time the assets of a domestic mutual
31 insurer are less than its liabilities, (exclusive of
32 guaranty capital shares, if any, at par value), and the

1 minimum amount of surplus required to be maintained by it
2 under this Title for authority to transact the kinds of
3 insurance being transacted, and the deficiency is not cured
4 from other sources, its directors may, if the same is
5 approved by the commissioner as being reasonable and in the
6 best interests of the insurer and its members, levy an
7 assessment only on its members who held the policies pro-
8 viding for contingent liability at any time within the 12
9 months next preceding the date the levy was authorized by the
10 board of directors, and such members shall be liable to the
11 insurer for the amount so assessed.

12 2. The levy of assessment shall be for such an amount
13 as is required to cure such deficiency and to provide a
14 reasonable amount of working funds above such minimum amount
15 of surplus, but such working funds so provided shall not
16 exceed 5% of the sum of the insurer's liabilities and such
17 minimum required surplus as of the date of the levy.

18 3. As to the respective policies subject to the levy,
19 the assessment shall be computed upon the basis of premium
20 earned during the period covered by the levy.

21 4. No member shall have an offset or counterclaim
22 against any assessment for which he is liable, on account
23 of any claim for unearned premium or loss payable.

24 5. As to life insurance, any part of such an assess-
25 ment upon a member which remains unpaid following notice of
26 assessment, demand for payment, and lapse of a reasonable
27 waiting period as specified in such notice, may, if approved
28 by the commissioner as being in the best interests of the
29 insurer and its members, be secured by placing a lien upon
30 the cash surrender values and accumulated dividends held or
31 to be held by the insurer to the credit of the member's
32 policy.

1 § 3366. Enforcement of contingent liability

2 1. The insurer shall notify each member of the amount
3 of assessment to be paid, and the date - not less than 20
4 days after mailing date - by which payment is to be made, by
5 written notice mailed to the member at his address last of
6 record with the insurer. Failure of the member to receive
7 the notice so mailed, within the time specified therein for
8 the payment of the assessment or at all, shall be no
9 defense in any action to collect the assessment.

10 2. If a member fails to pay the assessment within the
11 period specified in the notice, the insurer may institute
12 suit to collect the same.

13

14 § ~~3367.~~ Nonassessable policies

15 1. A domestic mutual insurer, by depositing through
16 the commissioner and thereafter maintaining unimpaired
17 surplus or guaranty capital funds not less in amount than
18 the minimum paid-in capital stock required of a like domes-
19 tic stock insurer for authority to transact the same kind
20 or kinds of insurance, may, upon receipt of the commis-
21 sioner's order so authorizing, extinguish the contingent
22 liability to assessment of its members as to all its poli-
23 cies in force and, so long as such surplus or guaranty
24 capital and deposit are maintained, may omit provisions
25 imposing contingent liability in all policies currently
26 issued. Any deposit of the insurer made through the commis-
27 sioner as prerequisite to its certificate of authority may
28 be included as part of the deposit required under this
29 section.

30 2. The commissioner shall not authorize a domestic
31 insurer to extinguish the contingent liability of any of its
32 members or in any of its policies to be issued, unless it

§ 3367. Nonassessable policies; limits of assessability;
use of funds; combination operations

1. A domestic mutual insurer may extinguish the contingent liability to assessment of its members as to ~~all its~~ cash premium plan policies in force and may omit provisions imposing contingent liability in such policies currently issued while it has and maintains surplus, as determined by its financial statement filed with the commissioner as of the year end next preceding, of not less than \$100,000 as to an insurer formed prior to January 1, 1968, and of not less than \$200,000 as to an insurer formed after January 1, 1968.

2. If the insurer after qualifying to issue such a nonassessable policy fails to maintain the applicable above requirement, it shall cease to issue nonassessable policies until it has again met and maintained the requirement for a period of one year.

3. Any assessment levied under the contingent liability provisions of the policy shall be for the exclusive benefit of the holders of policies ~~subject~~ subject to contingent liability, and such policyholders shall not be liable to assessment in an amount greater in proportion to the total deficiency than the ratio that the deficiency attributable to the contingently liable business bears to the total deficiency. ~~xxxxxxx~~ An assessment shall apply only to the holders of the type of policy or plan under which the deficiency occurred, and funds received from the assessment shall be for the exclusive benefit of such holders.

4. Nothing in this chapter shall ~~prohibit or~~ be deemed to prohibit a domestic mutual insurer formed prior to January 1, 1968 from ~~xxxxxxx~~ at any one time transacting, in respective departments or divisions of its operations, insurance business on any two or all of the following bases:

- A. Cash premium plan, without contingent liability to assessment, and issuance of nonassessable policies ^{is} qualified therefor as above provided in this section:
- B. Cash premium plan, with contingent liability to assessment; and
- C. Assessment ~~premium~~ plan.

397(a)

1 ~~qualifies to and does extinguish~~ such liability of all its
2 members so contingently liable and in all such policies for
3 all kinds of insurance transacted by it.

4 3. The commissioner shall revoke the authority of a
5 domestic mutual insurer to issue policies without contingent
6 liability if

7 A. At any time the insurer's assets are less than the
8 sum of its liabilities and the surplus or guaranty capital
9 required for such authority, or

10 B. The insurer, by resolution of its board of directors
11 requests that the authority be revoked.

12 4. Notwithstanding the foregoing provisions, mutual
13 insurers heretofore issuing nonassessable policies under laws
14 heretofore in force shall have the right to continue such
15 issuance so long as qualified therefor under the same stand-
16 ards and requirements as pertained under such laws.

17

18

SUBCHAPTER III

19

PROVISIONS APPLYING TO STOCK AND MUTUAL INSURERS

20

§ 3408. Home office, records, assets to be in State; exceptions

21

22

23

24

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27

1. Every domestic insurer shall have and maintain its principal place of business and home office in this State, and shall keep therein accurate and complete accounts and records of its assets, transactions, and affairs in accordance with the usual and accepted principles and practices of insurance accounting and record keeping as applicable to the kinds of insurance transacted by the insurer.

28

29

2. Every domestic insurer shall have and maintain its assets in this State, except as to:

30

31

32

A. Real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this State, and

1 B. Such property of the insurer as may be customary,
2 necessary, and convenient to enable and facilitate the
3 operation of its branch offices located outside this State
4 as referred to in subsection 4 below.

5 3. No person shall remove all or a material part of
6 the records or assets of a domestic insurer from this State
7 except pursuant to a plan of merger, consolidation, or bulk
8 reinsurance approved by the commissioner under this Title,
9 or for such reasonable purposes and periods of time as may
10 be approved by the commissioner in writing in advance of
11 such removal, or conceal such records or assets or such
12 material part thereof from the commissioner. Any person who
13 removes or attempts to remove such records of assets or such
14 material part thereof from the home office or other place
15 of business or of safekeeping of the insurer in this State
16 with the intent to remove the same from this State, or who
17 conceals or attempts to conceal the same from the commis-
18 sioner, in violation of this section, shall upon conviction
19 thereof be guilty of a felony, punishable by a fine of not
20 more than \$10,000, or by imprisonment in the penitentiary
21 for not more than 5 years, or by both such fine and impris-
22 onment in the discretion of the court. Upon any removal or
23 attempted removal of such records of assets, or upon
24 retention of such records or assets or material part thereof
25 outside this State, beyond the period therefor specified in
26 the commissioner's consent under which the records were so
27 removed thereat, or upon concealment of or attempt to
28 conceal records or assets in violation of this section, the
29 commissioner may institute delinquency proceedings against
30 the insurer pursuant to the provisions of chapter 5~~7~~ of ~~this~~
31 ~~Title~~.

32 4. This section shall not be deemed to prohibit or

1 prevent an insurer from:

2 A. Establishing and maintaining regional home offices
3 or branch offices in other states or countries where neces-
4 sary or convenient to the transaction of its business, and
5 keeping therein the detailed records and assets customary
6 and necessary for the servicing of its insurance in force
7 and affairs in the territory served by such an office, as
8 long as such records and assets are made readily available
9 at such office for examination by the commissioner at his
10 request.

11 B. Having, depositing or transmitting funds and assets
12 of the insurer in or to jurisdictions outside of this State
13 required by the law of such jurisdiction or as reasonably
14 and customarily required or convenient in the regular course
15 of its business.

16

17 § 3409. Vouchers for expenditures

18 1. No insurer shall make any disbursement of \$50 or
19 more, unless evidenced by a voucher or other document
20 correctly describing the consideration for the payment and
21 supported by a check or receipt endorsed or signed by or on
22 behalf of the person receiving the money.

23 2. If the disbursement is for services and reimburse-
24 ment, the voucher or other document, or some other writing
25 referred to therein, shall describe the services and itemize
26 the expenditures.

27 3. If the disbursement is in connection with any matter
28 pending before any legislature or public body or before any
29 public official, the voucher or other document shall also
30 correctly describe the nature of the matter and of the
31 insurer's interest therein.

32 4. If in a particular instance such a voucher cannot

1 be obtained, the expenditure must be supported by an affi-
2 davit executed by an officer of the insurer stating the
3 reasons for such inability and the particulars of such
4 expenditure as otherwise hereinabove required.

5

6 § 3410. Destruction of records

7 1. An insurer may destroy its obsolete records after
8 expiration of such reasonable period after completion of the
9 transactions to which they relate as the insurer may deem
10 proper. The insurer may so destroy its closed files relating
11 to losses and claims arising under its policies after the
12 first to occur of the following events:

13 A. Completion of a regular examination of the insurer
14 by the commissioner and to which the closed file was subject;
15 or

16 B. Expiration of 6 years after the file was duly
17 closed.

18 2. Records preserved on microfilm or other similar pro-
19 cess and freely retrievable shall not be deemed to have been
20 destroyed.

21 3. This section shall not relieve the insurer of any
22 responsibility or liability otherwise arising under law with
23 respect to the existence and availability of any record.

24

25 § 3411. Directors

26 1. The affairs of every domestic insurer shall be
27 managed by a board of directors consisting of not less than
28 7 directors or more than 21 directors.

29 2. Directors, (other than initial directors named in
30 the insurer's certificate of organization), shall be elected
31 by the members or stockholders of a domestic insurer at the
32 annual meeting of stockholders or members. Directors may be

1 elected for terms of not more than 3 years each and until
2 their successors are elected and have qualified; and if to
3 be elected for terms of more than 1 year the insurer's
4 bylaws may provide for a staggered term system under which
5 the terms of a proportionate part of the members of the
6 board of directors shall expire on the date of each annual
7 meeting of stockholders or members. A directorship
8 becoming vacant before expiration of the term ~~shall~~ ^{may} be
9 ~~filled~~ ^(by the board of directors) for the remainder of the term.

10 3. A director of a stock insurer shall be a stock-
11 holder thereof, and a director of a mutual insurer shall be
12 a policyholder thereof.

13 4. As to an insurer operating as an authorized insurer
14 only in the State of Maine, a majority of the members of the
15 insurer's board of directors shall be residents of and shall
16 actually reside in this State.

17

18 § 3412. Officers; notice of change

19 1. An insurer's board of directors shall elect one of
20 their number as president, and shall elect a corporate secre-
21 tary and such other officers as may be provided for in the
22 bylaws or otherwise required by law. Any such officer shall
23 serve for such term as may be fixed in the bylaws or by the
24 board of directors, but shall be subject to removal as an
25 officer by the board of directors at any time.

26 2. Each officer shall have such powers and duties as
27 may be prescribed by or pursuant to the insurer's charter or
28 bylaws.

29

30 § 3413. Prohibited pecuniary interest of officials
and others; use of confidential information
prohibited

31 1. Any officer or director, or any member of any

1 committee or any employee of a domestic insurer, having the
2 duty or power of investing or handling the insurer's funds,
3 shall not deposit or invest such funds except in the insurer's
4 name; shall not borrow the funds of the insurer; or be
5 pecuniarily interested in any loan, pledge, deposit,
6 security, investment, sale, purchase, exchange, reinsurance,
7 or other similar transaction or property of the insurer
8 except as a stockholder, member, employee, or director,
9 unless the transaction is authorized or approved by the
10 insurer's board of directors, with knowledge and recording
11 of such pecuniary interest, by affirmative vote of not less
12 than 2/3 of the directors; and shall not take or receive to
13 his own use any fee, brokerage, commission, gift, or other
14 similar consideration for or on account of any such trans-
15 action made by or on behalf of the insurer.

16 2. No director, officer, or employee of a domestic
17 insurer shall directly or indirectly use for his own private
18 pecuniary advantage confidential information concerning the
19 insurer or its past, existing or proposed affairs or trans-
20 actions acquired by him in the course of his services as
21 such director, officer, or employee. The amount of any
22 financial gain realized directly or indirectly by any such
23 individual and accompanied by violation of this subsection
24 shall belong to the insurer, and shall be recoverable by the
25 insurer by civil suit. This subsection shall not apply as
26 to transactions in shares of a stock insurer which are sub-
27 ject to section 16 of the Securities Exchange Act of 1934,
28 as amended.

29 3. No insurer shall guarantee the financial obligation
30 of any of its officers or directors.

31 4. This section shall not prohibit such a director,
32 officer, member of a committee, or employee from becoming

1 a policyholder of the insurer and enjoying the usual rights
2 of a policyholder or from participating as beneficiary in
3 any pension trust, deferred compensation plan, profit shar-
4 ing plan, stock option plan or similar plan authorized by
5 the insurer and to which he may be eligible; or prohibit
6 any director of member of a committee from receiving a
7 reasonable fee for lawful services actually rendered to the
8 insurer.

9 5. The commissioner may, by regulation from time to
10 time define and permit additional exceptions to the prohibi-
11 tion contained in subsection 1 ~~of this section~~ solely to
12 enable payment of reasonable compensation to a director who
13 is not otherwise an officer or employee of the insurer, or
14 to a corporation or firm in which a director is interested,
15 for necessary services performed or sales or purchases made
16 to or for the insurer in the ordinary course of the insurer's
17 business and in the usual private professional or business
18 capacity of such director, corporation or firm.

19

20 § 3414. Management, commission, exclusive agency
contracts

21 1. No domestic insurer shall hereafter make any
22 contract whereby any person is granted or is to enjoy in
23 fact the management of the insurer to the material exclusion
24 of its board of directors or to have the controlling or pre-
25 emptive right to produce substantially all insurance business
26 for the insurer, or, if an officer, director, or otherwise
27 part of the insurer's management, is to receive any commis-
28 sion, bonus or compensation based upon the volume of the
29 insurer's business or transactions, unless the contract is
30 filed with and not disapproved by the commissioner. The
31 contract shall become effective in accordance with its terms
32 unless disapproved by the commissioner within 20 days after

1 date of filing, subject to such reasonable extension of time
2 as the commissioner may require by notice given within such
3 20 days. Any disapproval shall be delivered to the insurer
4 in writing stating the grounds therefor.

5 2. Any such contract shall provide that any such manager,
6 producer of its business, or contract holder shall within 90
7 days after expiration of each calendar year furnish the
8 insurer's board of directors a written statement of amounts
9 received under or on account of the contract and amounts ex-
10 pended thereunder during such calendar year, with specifica-
11 tion of the emoluments received therefrom by the respective
12 directors, officers, and other principal management personnel
13 of the manager or producer, and with such classification of
14 items and further detail as the insurer's board of directors
15 may reasonably require.

16 3. The commissioner shall disapprove any such contract
17 if he finds that it:

18 A. Subjects the insurer to excessive charges; or

19 B. Is to extend for an unreasonable length of time; or

20 C. Does not contain fair and adequate standards of
21 performance; or

22 D. Contains other inequitable provision or provisions
23 which impair the proper interests of stockholders or members
24 of the insurer.

25 4. The commissioner may, after a hearing held thereon,
26 disapprove any such contract theretofore permitted to become
27 effective, if he finds that the contract should be disapproved
28 on any of the grounds referred to in subsection 3 above.

29 5. This section does not apply as to contracts entered
30 into prior to the effective date of this Act, or to amend-
31 ment of such contracts other than extensions thereof.

32 6. This section shall not be deemed to prohibit receipt

1 of commissions on insurance written personally by a director
2 or officer who is duly licensed and regularly engaged in busi-
3 ness as an insurance agent or broker; or to prohibit receipt
4 of vested commissions by a director or officer based upon
5 insurance business theretofore written by him.

6

7 § 3415.. Borrowed capital funds

8 1. A domestic stock or mutual insurer may borrow money
9 to defray the expenses of its organization, provide it with
10 surplus funds, or for any purpose of its business, upon a
11 written agreement that such money is required to be repaid
12 only out of the insurer's surplus in excess of that stipula-
13 ted in such agreement. The agreement may provide for
14 interest not exceeding per annum a rate 2 percentage points
15 in excess of the then current discount rate of the Federal
16 Reserve Bank, Boston, which interest shall or shall not con-
17 stitute a liability of the insurer as to its funds other than
18 such excess of surplus, as stipulated in the agreement. No
19 commission or promotion expense shall be paid in connection
20 with any such loan, except that if sale
21 is made of the loan securities through established securi-
22 ties brokers or by public offering the insurer may pay the
23 reasonable costs thereof approved by the commissioner.

24 2. Money so borrowed, together with the interest
25 thereon if so stipulated in the agreement, shall not form
26 a part of the insurer's legal liabilities except as to its
27 surplus in excess of the amount thereof stipulated in the
28 agreement, or be the basis of any set-off or counterclaim;
29 but until repaid, financial statements filed or published
30 by the insurer shall show as a footnote thereto the amount
31 thereof then unpaid together with any interest thereon
32 accrued but unpaid.

35 6. Loans authorized under this section may be made by domestic insurers as well as by other persons: but such a loan shall not constitute an asset in any determination of the financial condition of the lending insurer.

1 3. Any such loan shall be subject to the commissioner's
2 approval. The insurer shall, in advance of the loan, file
3 with the commissioner a statement of the purpose of the loan
4 and a copy of the proposed loan agreement. The loan and
5 agreement shall be deemed approved unless within 15 days
6 after date of such filing the insurer is notified of the
7 commissioner's disapproval and the reasons therefor. The
8 commissioner shall disapprove any proposed loan or agree-
9 ment if he finds the loan is unnecessary or excessive for
10 the purpose intended, or that the terms of the loan agree-
11 ment are not fair and equitable to the parties and to other
12 similar lenders, if any, to the insurer, or that the infor-
13 mation so filed by the insurer is inadequate.

14 4. Any such loan to ^{AN} ~~a mutual~~ insurer or substantial
15 portion thereof may be repaid by the insurer when no longer
16 reasonably necessary for the purpose originally intended.
17 ~~No repayment of such a loan shall be made, by a mutual insurer~~
18 ~~unless approved in advance by the commissioner.~~
whether heretofore, or hereafter outstanding,
other than as provided in the loan agreement,

19 5. This section shall not apply to other kinds of loans
20 obtained by the insurer in ordinary course of business, or
21 to loans secured by pledge or mortgage of assets.

22
23 § 3416. Dividends to stockholders

24 1. A domestic stock insurer shall not pay any cash
25 dividend to stockholders except out of that part of its
26 available and accumulated surplus funds which is derived
27 from realized net operating profits on its business and net
28 realized capital gains.

29 2. A cash dividend otherwise lawful may be payable
30 out of the insurer's earned surplus even though its total
31 surplus is then less than the aggregate of its past contri-
32 buted or paid-in surplus.

1 3. A stock dividend may be paid out of any available
2 surplus funds, other than "surplus" resulting from borrowed
3 capital funds such as provided for under section 3415. of
4 this chapter.

5

6 § 3417. Participating policies

7 1. If provided for in its certificate of organization
8 or charter, a stock insurer or mutual insurer may issue any
9 or all of its policies or contracts with or without partici-
10 pation in profits, savings, unabsorbed portions of premiums,
11 or surplus; may classify policies issued and perils insured
12 on a participating and nonparticipating basis, and may
13 determine the right to participate and the extent of parti-
14 cipation of any class or classes of policies. Any such
15 classification or determination shall be reasonable, and
16 shall not unfairly discriminate as between policies so
17 classified.

18 2. A life insurer may issue both participating and
19 nonparticipating policies or contracts if the right or
20 absence of right to participate is reasonably related to the
21 premium charged.

22 3. After the first policy year, no dividend, otherwise
23 earned under a life or health insurance policy or annuity
24 contract, shall be made contingent upon the payment of
25 renewal premium on any such policy or contract; except, that
26 a participating life or health insurance policy providing
27 for participation at the end of the first ^{or} and/or second
28 policy year may provide that the dividend or dividends will
29 be paid subject to payment of premium for the next ensuing
30 year.

1 § 3418. Dividends to policyholders

2 1. The directors of a domestic mutual insurer may from
3 time to time apportion and pay or credit to its members divi-
4 dends only out of that part of its accumulated surplus funds
5 which represents net realized savings, net realized earnings,
6 and net realized capital gains, all in excess of the surplus
7 required by law to be maintained by the insurer.

8 2. A dividend otherwise proper may be payable out of
9 such savings, earnings, and gains even though the insurer's
10 total surplus is then less than the aggregate of contribu-
11 ted surplus remaining unpaid by the insurer.

12 3. A domestic stock insurer may pay dividends to
13 holders of its participating policies out of any available
14 surplus funds.

15 4. No dividend shall be paid which is inequitable, or
16 which unfairly discriminates as between classifications of
17 policies or policies within the same classifications.

18

19 § 3419. Pension and other plans for employees
 and others

20 1. Pursuant to the terms of a pension plan or plans or
21 any modification thereof, heretofore or hereafter adopted by
22 the insurer's board of directors and approved by the commis-
23 sioner, any domestic stock or mutual insurer may pay the
24 whole or any part of the cost of retirement or disability
25 pensions for such of its officers, employees or full-time
26 insurance agents as are specified in such plan or plans or
27 modifications thereof. If so specified in the plan or
28 plans, in lieu of such pensions actuarially equivalent bene-
29 fits may be paid to such officers, employees or full-time
30 agents or to their designated beneficiaries.

31 2. The commissioner shall approve any such plan unless
32 he finds the same not to be within the reasonable financial

1 resources of the insurer or not fair and equitable as between
2 the respective classifications of participants therein.

3 3. Nothing contained in this section or in section 3420
4 ~~of this chapter~~ shall be deemed to prohibit profit-sharing,
5 stock option or similar plans for an insurer's officers,
6 employees, or agents.

7

8 § 3420. Insurance benefits for employees and others

9 Pursuant to vote of its board of directors heretofore
10 or hereafter made, any domestic stock or mutual insurer may
11 provide for its officers, employees or full-time insurance
12 agents, a plan or plans of ~~life insurance, sickness, accident,~~
13 ~~hospitalization, medical, surgical and related insurance bene-~~
14 ~~fits,~~ to be issued under group or individual policies. The
15 insurer may pay the cost, in whole or in part, of such
16 insurance; or, if duly authorized by its charter and bylaws,
17 may itself provide such benefits directly as the insurer
18 thereof, without requirement of placement through a licensed
19 insurance agent, and in such case may adjust the premium rate
20 for the insurance to reflect such savings in expense as the
21 insurer may deem applicable.

22

23 § 3421. Solicitation, insuring in other states

24 1. No domestic insurer shall knowingly solicit insur-
25 ance business in any reciprocating state in which not then
26 licensed as an authorized insurer. This subsection shall
27 not prohibit advertising through publications and radio,
28 television and other media originating outside such recipro-
29 cating state, if the insurer is licensed in the state in
30 which the advertising originates and the advertising is not
31 specifically directed to residents of such reciprocating
32 state. This subsection shall not apply as to surplus lines

1 commissioner shall not approve a plan unless found by him
2 to be reasonable, fair and equitable as to remaining stock-
3 holders of the insurer, and not materially adverse to the
4 protection of the insurer's policyholders.

5

6 § 3423. Impairment of capital funds

7 1. If a domestic stock insurer's paid-in capital
8 stock (as represented by the aggregate par value of its
9 outstanding capital stock) becomes impaired, or the assets
10 of a domestic mutual insurer are less than its liabilities
11 and the minimum amount of ^{basic} surplus required to be maintained
12 by it under this Title for authority to transact the kinds
13 of insurance being transacted, the commissioner shall at
14 once determine the amount of deficiency and serve notice
15 upon the insurer to cure the deficiency and file proof
16 thereof with him within the period specified in the notice,
17 which period shall be not less than 30 nor more than 90
18 days from the date of the notice. Such notice may be so
19 served by delivery to the insurer, or by mailing to the
20 insurer addressed to its registered office in this State.

21 2. The deficiency may be made good in cash or in
22 assets eligible under chapter 13 (investments) ~~of this~~
23 ~~Title~~ for the investment of the insurer's funds or by amend-
24 ment of the insurer's certificate of authority to cover only
25 such kind or kinds of insurance thereafter for which the
26 insurer has sufficient paid-in capital stock (if a stock
27 insurer) or surplus (if a mutual insurer) under this Title;
28 or, if a stock insurer, by reduction of the number of shares
29 of the insurer's authorized capital stock or the par value
30 thereof through amendment of its certificate of organization,
31 to an amount of authorized and unimpaired paid-in capital
32 stock not below the minimum required for the kinds of

1 insurance thereafter to be transacted.

2 3. If the deficiency is not made good and proof there-
3 of filed with the commissioner within the period required by
4 the notice as specified in subsection 1 above, the insurer
5 shall be deemed insolvent and the commissioner shall insti-
6 tute delinquency proceedings against it under chapter 59 of
7 ~~this Title.~~

8

9 § 3424. Restrictions during impairment; penalty

10 1. During the existence of impairment of the capital
11 stock or surplus of an insurer, as referred to in section
12 3423 ~~of this chapter~~, the commissioner shall require such
13 restriction of, or arrangements as to, operations of the
14 insurer while the impairment exists as he deems advisable
15 for protection of policyholders, the insurer, or the public.

16 2. Any officer, director, representative, or employee
17 of the insurer who knowingly violates or fails to comply with
18 any such restriction or requirement shall upon conviction
19 thereof be subject to fine of not less than \$500 or more
20 than \$5,000, or imprisonment for less than 1 year, or to
21 both such fine and imprisonment.

22

23 SUBCHAPTER IV

24 CONVERSION, AMALGAMATION, DISSOLUTION

25 § 3471. Scope of subchapter

26 The applicable provisions of this subchapter IV apply
27 as to domestic stock and mutual insurers whether heretofore
28 or hereafter formed, and to such domestic insurers chartered
29 under special legislative Acts where feasible and not in
30 conflict with specific provisions of the Act, as heretofore
31 amended, under which the insurer was so organized.

1 § 3472. Mutualization of stock insurer

2 1. A stock insurer other than a title insurer may
3 *via combination stock and mutual insurers,*
4 become a mutual insurer, under such plan and procedure as may
5 be approved by the commissioner after a hearing thereon.

6 2. The commissioner shall not approve any such plan,
7 procedure or mutualization unless:

8 A. It is equitable to stockholders and policyholders;

9 B. It is subject to approval by the holders of not
10 less than two-thirds of the insurer's outstanding capital
11 stock having voting rights, and by not less than two-thirds
12 of the insurer's policyholders who vote on such plan in
13 person, by proxy or by mail pursuant to such notice and pro-
14 cedure as may be approved by the commissioner;

15 C. If a life insurer, the right to vote thereon is
16 limited to holders of policies other than term or group
17 policies, and whose policies have been in force for more
18 than one year;

19 D. Mutualization will result in retirement of shares
20 of the insurer's capital stock at a price not in excess of
21 the fair market value thereof as determined by competent
22 disinterested appraisers;

23 E. The plan provides for the purchase of the shares
24 of any nonconsenting stockholder in the same manner and
25 subject to the same applicable conditions as provided by the
26 general corporation law of the State as to rights of non-
27 consenting stockholders, with respect to consolidation or
28 merger of private corporations;

29 F. The plan provides for definite conditions to be
30 fulfilled by a designated early date upon which such mutuali-
31 zation will be deemed effective; and

32 G. The mutualization leaves the insurer with surplus
33 funds reasonably adequate for the security of its policy-

3. Any such combination stock and mutual insurer referred to in subsection 1 above must have and maintain separate paid-in capital stock and basic ~~and~~ surplus ~~fund~~, ~~xxxxxx~~ in respective amounts as would be required under this Title of separate domestic stock and mutual insurers transacting the same kind or kinds of insurance.

1 holders and to enable it to continue successfully in busi-
2 ness in the states in which it is then authorized to trans-
3 act insurance, and for the kinds of insurance included in
4 its certificates of authority in such states.

5 ~~4.~~ No director, officer, agent or employee of the
6 insurer, or any other person, shall receive any fee, commis-
7 sion or other valuable consideration whatsoever, other than
8 their customary salaries or other regular compensation, for
9 in any manner aiding, promoting, or assisting in the mutuali-
10 zation, except as set forth in the plan of mutualization as
11 approved by the commissioner.

12 ~~4.~~ This section shall not apply to mutualization under
13 order of court pursuant to rehabilitation or reorganization
14 of an insurer under chapter 5~~3~~ ~~of this Title.~~

15
16 § 3473. Conversion of stock insurer to ordinary
business corporation

17 1. A domestic stock insurer may convert to a Maine
18 ordinary business corporation through the following proce-
19 dures:

20 A. The insurer must give the commissioner written
21 notice of its intent to convert to an ordinary business
22 corporation;

23 B. The insurer must bulk reinsure all of its insurance,
24 if any, in force, with another authorized insurer under a
25 bulk reinsurance agreement approved by the commissioner as
26 provided in section 3483 ~~of this chapter.~~ The agreement
27 of bulk reinsurance may be made contingent upon approval
28 of stockholders as provided in paragraph D below;

29 C. The insurer must set aside funds in a special
30 reserve in such amount and subject to such administra-
31 tion as may be found by the commissioner to be reasonable
32 and adequate for the purpose, for payment of all obligations,

1 if any, of the insurer incurred by it and remaining unpaid
2 under its insurance contracts prior to the effective date of
3 such bulk reinsurance, or make other reasonable disposition
4 satisfactory to the commissioner for such payment;

5 D. The proposed conversion must be approved by affirm-
6 ative vote of not less than 2/3 of each class of outstanding
7 securities of the insurer having voting rights, at a special
8 meeting of holders of such securities called for the purpose;
9 and at such meeting and by a like vote the certificate of
10 organization of the corporation must be amended to remove
11 therefrom the power to transact an insurance business as an
12 insurer, to provide for such new powers and purposes author-
13 ized by the general corporation laws of this State as may be
14 consistent with the purposes for which the corporation is
15 thereafter to exist, and to make such further alterations in
16 the certificate of organization as may be required under
17 such general corporation laws of an ordinary business
18 corporation;

19 E. Security holders of the corporation who dissent
20 from such proposed conversion shall have the same applicable
21 rights as exist under such general corporation laws with
22 respect to dissent from a proposed merger of the corporation;
23 and

24 F. Upon compliance with paragraphs A through D above,
25 and upon filing of the amendment of the certificate of
26 organization with the commissioner and otherwise as required
27 by laws applicable to ordinary business corporations, the
28 conversion shall thereupon become effective.

29 2. An insurer which has once converted to an ordinary
30 business corporation shall not have power thereafter to con-
31 vert to an insurer; and no ordinary business corporation
32 shall have power to convert to an insurer.

1 § 3474. Merger, consolidation of stock insurers

2 1. A domestic stock insurer may merge or consolidate
3 with one or more domestic or foreign stock insurers, by
4 complying with the applicable provisions of the statutes of
5 this State governing the merger or consolidation of stock
6 corporations formed for profit, but subject to subsections
7 2 and 3 below. A domestic stock insurer shall not merge or
8 consolidate with any corporation not formed for the purpose
9 of transacting insurance as an insurer.

10 2. No such merger or consolidation shall be effectuated
11 unless in advance thereof the plan and agreement therefor
12 have been filed with the commissioner and approved in writing
13 by him after a hearing thereon after notice to the stock-
14 holders of each insurer involved. The commissioner shall
15 give such approval within a reasonable time after such
16 filing unless he finds that the plan or agreement:

17 A. Is contrary to law; or

18 B. Is unfair or inequitable to the stockholders of any
19 insurer involved; or

20 C. Would substantially reduce the security of and
21 service to be rendered to policyholders of the domestic
22 insurer in this State or elsewhere; or

23 D. Would materially tend to lessen competition in the
24 insurance business in this State or elsewhere as to the kinds
25 of insurance involved, or would materially tend to create a
26 monopoly as to such business; or

27 E. Is subject to other material and reasonable objec-
28 tions.

29 3. No director, officer, agent or employee of any
30 insurer party to the merger or consolidation shall receive
31 any fee, commission, compensation or other valuable consider-
32 ation whatsoever for in any manner aiding, promoting or

1 assisting therein except as set forth in the plan or agree-
2 ment.

3 4. If the commissioner does not approve the plan or
4 agreement, he shall so notify the insurer in writing speci-
5 fying his reasons therefor.

6

7 § 3475. Exchange of securities between insurers

8 1. Upon application of any domestic insurer, the com-
9 missioner is authorized to approve the fairness of the terms
10 and conditions of the issuance by the insurer of any shares
11 of its capital stock or of guaranty capital or bonds or its
12 other securities or obligations in exchange for one or more
13 bona fide outstanding securities, claims or property
14 interest of any other insurer or corporation, domestic or
15 foreign, or partly in such exchange and partly for cash;
16 but only after a hearing has been held by the commissioner
17 upon the fairness of such terms and conditions at which all
18 persons to whom it is proposed to issue securities in such
19 exchange shall have the right to appear and be heard.

20 2. Notice of such hearing and conduct thereof shall be
21 as provided in chapter 3 (the insurance commissioner) ~~of this~~
22 ~~title.~~

23

24 § 3476. Acquisition of controlling stock

25 1. Any person proposing to acquire the controlling
26 capital stock or guaranty capital shares of any domestic
27 stock insurer and thereby to change the control of the
28 insurer, other than through merger or consolidation or
29 affiliation as provided for in this
30 chapter, shall first apply to the commissioner in writing for
31 approval of such proposed change of control. The application
32 shall state the names and addresses of the proposed new owners

1 of the controlling stock or shares and contain such addi-
2 tional information as the commissioner may reasonably require.

3 2. The commissioner shall not approve the proposed
4 change of control if he finds:

5 A. That the proposed new owners are not qualified by
6 character, experience and financial responsibility to control
7 and operate the insurer, or cause the insurer to be operated,
8 in a lawful and proper manner; or

9 B. That as a result of the proposed change of control
10 the insurer may not be qualified for a certificate of author-
11 ity under the provisions of section 407 (ownership, management)
12 ~~of this Title~~; or

13 C. That the interests of the insurer or other stock-
14 holders of the insurer or policyholder would be impaired
15 through the proposed change of control; or

16 D. That the proposed change of control would tend
17 materially to lessen competition, or to create any monopoly,
18 in a business of insurance in this State or elsewhere.

19 3. If the commissioner does not by affirmative action
20 approve or disapprove the proposed change of control within
21 30 days after the date such application was so filed with
22 him, the proposed change may be made without such approval.
23 Except, that if the commissioner gives notice to the parties
24 of a hearing to be held by him with respect to the proposed
25 change of control, and the hearing is held within such 30
26 days or on a date mutually acceptable to the commissioner
27 and the parties, the commissioner shall have 10 days after
28 the conclusion of the hearing within which to so approve or
29 disapprove the proposed change; and if not so approved or
30 disapproved, the change may thereafter be made without the
31 commissioner's approval.

32 4. If the commissioner disapproves the proposed change

1 he shall give written notice thereof to the parties, setting
2 forth in detail the reasons for disapproval.

3 5. The commissioner shall suspend or revoke the certi-
4 ficate of authority of any insurer the control of which has
5 been changed in violation of this section.

6

7 § 3477. Conversion of mutual to stock insurer

8 1. A mutual insurer ^{or a combination stock and mutual insurer} may become a stock insurer under
9 such reasonable plan and procedure as may be approved by the
10 commissioner after a hearing thereon of which notice was
11 given to the insurer, its directors or trustees, its officers,
12 employees and its members, all of whom shall have the right
13 to appear and be heard at the hearing.

14 2. The commissioner shall not approve any such plan or
15 procedure unless:

16 A. Its terms and conditions are fair and equitable;

17 B. It is subject to approval by vote of not less than
18 ~~three-fourths~~ ^{7/8} of the insurer's current members entitled to
19 vote and voting thereon in person, by proxy, or by mail at
20 a meeting of members entitled to vote and called for the
21 purpose pursuant to such reasonable notice and procedure as
22 may be approved by the commissioner; if a life insurer,
23 right to vote shall be limited to members who hold policies
24 other than group policies or term policies for terms of less
25 than 20 years, and whose policies have been in force for not
26 less than one year;

27 C. The equity of each member in the insurer is deter-
28 minable under a fair and reasonable formula approved by the
29 commissioner, which such equity shall be based upon the
30 insurer's entire surplus as shown by the insurer's financial
31 statement filed with the commissioner, including all volun-
32 tary reserves but excluding contingently repayable funds

1 and outstanding guaranty capital shares at the redemption
2 value thereof, and without taking into account the value of
3 nonadmitted assets or of insurance business in force;

4 D. The plan gives to each member of the insurer as
5 specified in ^{paragraph} ~~subdivision~~ E below, a pre-emptive right to
6 acquire his proportionate part of all of the proposed capital
7 ~~stock of the insurer, within a designated reasonable period,~~
or all of the stock of a proposed parent corporation of the insurer,
8 as such part is determinable under the plan of conversion,
9 and to apply upon the purchase thereof the amount of his
10 equity in the insurer as determined under paragraph C above;

11 E. The members entitled to participate in the purchase
12 of stock or distribution of assets shall include not less
13 than all current policyholders of the insurer and each exist-
14 ing person who had been a policyholder of the insurer within
15 3 years prior to the date such plan was submitted to the com-
16 missioner;

17 F. Shares are to be offered to members at a price not
18 greater than to be thereafter offered under the plan to
19 others;

20 G. The plan provides for payment to each member not
21 electing to apply his equity in the insurer for or upon the
22 purchase price of stock to which pre-emptively entitled, of
23 cash in an amount found to be reasonable by the commissioner
24 but not in excess of 50% of the amount of his equity not so
25 used for the purchase of stock, and which cash payment
26 together with stock so purchased, if any, shall constitute
27 full payment and discharge of the member's equity or property
28 interest in such mutual insurer;

29 H. The plan, when completed, would provide for the con-
30 verted insurer paid-in capital stock in an amount not less
31 than the minimum paid-in capital stock required of a new
32 domestic stock insurer upon initial authorization to transact

3. Any such combination stock and mutual insurer referred to in sub-section 1 above must have and maintain separate paid-in capital stock and basic ^{and surplus} ~~and other surplus funds~~, as would be required under this Title of separate domestic stock and mutual insurers transacting the same kind or kinds of insurance.

in respective amounts

1 like kinds of insurance, together with expendable surplus
2 funds in amount not less than one-half of such required
3 capital stock; and

4 I. The commissioner finds that the insurer's manage-
5 ment has not, through reduction in volume of new business
6 written, or cancellation or through any other means sought
7 to reduce, limit, or affect the number or identity of the
8 insurer's members to be entitled to participate in such
9 plan, or to secure for the individuals comprising manage-
10 ment any unfair advantage through such plan.

11 ~~13.~~ Subsection 2 shall not be deemed to prohibit the
12 inclusion in the conversion plan of provisions under
13 which the individuals comprising the insurer's management
14 and employee group shall be entitled to purchase for cash
15 at the same price as offered to the insurer's members,
16 shares of stock not taken by members on the pre-emptive
17 offering to members, in accordance with such reasonable
18 classification of such individuals as may be included in
19 the plan and approved by the commissioner.

20 ~~15.~~ No director, officer, agent or employee of the
21 insurer, or any other person, shall receive any fee, commis-
22 sion or other valuable consideration whatsoever, other than
23 their usual regular salaries and compensation, for in any
24 manner aiding, promoting, or assisting in such conversion
25 except as set forth in the plan approved by the commissioner.
26 This provision shall not be deemed to prohibit the payment
27 of reasonable fees and compensation to attorneys at law,
28 accountants, and actuaries for services performed in the
29 independent practice of their professions, even though also
30 directors of the insurer.

1 § 3478. Merger, consolidation of mutual insurers
 authorized

2 1. Any one or more mutual insurers existing under any
3 of the laws of this State, may absorb by merger or consoli-
4 dation, or be merged into or consolidate with, any one or
5 more domestic or foreign mutual insurers either authorized
6 to transact insurance in this State or qualified for such
7 authority. The procedure for effectuation of such merger
8 or consolidation shall be as set forth in sections 3479
9 ~~through 3482 of this chapter.~~
 ^{to 3482.}

10 2. Nothing in this section shall authorize the merger
11 or consolidation of a mutual insurer with a stock insurer.
12

13 § 3479. Same - Plan, agreement of merger,
 consolidation; approval by corporations

14 1. The plan and agreement for a merger or consolida-
15 tion referred to in section 3478 ~~of this chapter~~ shall be in
16 writing signed by the duly authorized officers and under the
17 corporate seals of the respective insurers; and shall be
18 acknowledged to be the act, deed and agreement of the insurer
19 by one of the executing officers of the respective insurers
20 before an officer authorized by law to take acknowledgments
21 of deeds. The plan and agreement shall be approved and
22 authorized by vote of the majority of the directors of the
23 respective insurers, and approved by vote of at least 2/3
24 of such policyholders of the respective insurers who are
25 entitled to vote and do vote thereon in person or by proxy
26 at a special meeting of such members called for the purpose.

27 2. Notice of such special meeting of members shall be
28 given by publishing the same once weekly for 3 consecutive
29 weeks in a newspaper circulated in each county of this State,
30 the last such publication to be at least 7 days prior to such
31 meeting. Notice to its members by a foreign insurer shall
32 be in accordance with the laws of its domiciliary jurisdiction.

1 3. All of the members of the insurer shall be bound
2 by the vote of policyholders as above provided for, and shall
3 not have thereafter any right as to dissent or appraisal.
4

5 § 3480. Same - Approval by commissioner

6 1. The plan and agreement referred to in section 3479
7 ~~of this chapter~~ shall not be effectuated until filed with
8 and approved by the commissioner in writing. The insurers
9 shall furnish the commissioner such additional information
10 in relation to the proposed merger or consolidation as the
11 commissioner may reasonably require.

12 2. The commissioner shall approve the plan and agree-
13 ment unless he finds that it:

14 A. Is contrary to law; or

15 B. Is inequitable to the policyholders of any domestic
16 insurer involved; or

17 C. Would substantially reduce the security of and ser-
18 vice to be rendered to policyholders of the domestic insurer;
19 or

20 D. Would materially tend to lessen competition in the
21 insurance business in this State or elsewhere as to the kinds
22 of insurance involved, or would materially tend to create a
23 monopoly as to such business; or

24 E. Is subject to other material and reasonable objec-
25 tions.

26 3. If the commissioner does not approve the plan and
27 agreement he shall so notify the insurers parties thereto
28 in writing, specifying his reasons therefor.
29

30 § 3481. Same - Review by Attorney General;
 filing with Secretary of State

31 1. Upon approval by the commissioner as provided in
32 section 3480 ~~of this chapter~~, the plan and agreement of

1 merger or consolidation shall be submitted to the Attorney
2 General and be examined by him. If the Attorney General
3 finds the plan and agreement to be properly drawn and signed
4 and otherwise in conformity with the Constitution and laws
5 of this State, he shall so certify thereon in writing.

6 2. Within 60 days from date of approval by the commis-
7 sioner, both an original and a copy of the plan and agree-
8 ment showing thereon the certificate of the Attorney General,
9 shall be delivered to the office of the Secretary of State.
10 The Secretary of State shall file such copy and enter the
11 date of filing on both the copy and the original, shall
12 record the copy and return the original to the surviving
13 merged or consolidated corporation.

14 3. From time of filing the copy of the plan and agree-
15 ment in the office of the Secretary of State, the agreement
16 shall be deemed to be the agreement and act of merger or
17 consolidation of the insurers, and the original of such
18 agreement or a certified copy thereof shall be evidence of
19 the existence of such merged or consolidated corporation
20 and of the performance of all acts and conditions necessary
21 for the effectuation of such merger or consolidation.

22 4. If a domestic insurer is merged into or consolida-
23 ted with a foreign insurer, the foreign insurer shall not
24 transact insurance in this State until it has procured a
25 certificate of authority from the commissioner therefor
26 under this Title.

27

28 § 3482. Same - Effective date of merger, consoli-
ation; effect as to assets, liabilities,
rights and powers

29 1. When the plan and agreement for merger or consoli-
30 dation has been so signed, acknowledged, approved, author-
31 ized, certified, filed and recorded as provided in sections

1 3478 ^{to} through 3481 of ~~this chapter~~, then the separate exist-
2 tence of all of the constituent corporations other than the
3 surviving corporation into which the other corporation or
4 corporations parties have merged or consolidated, shall
5 cease.

6 2. The surviving corporation shall be the merged or
7 consolidated corporation by the name provided for in the
8 agreement; and shall thereby possess all the rights, privi-
9 leges, powers, franchises and immunities as well of a public
10 as of a private nature, and shall thereby be subject to all
11 the liabilities, restrictions and duties, of each of the
12 merged or consolidated corporations, and have all and singular
13 the rights, privileges, powers, franchises and immunities of
14 each of such corporations, together with all property, real,
15 personal and mixed, wheresoever located, and all debts due
16 to any of such constituent corporations on whatever account;
17 and all other things in action of each of such corporations,
18 are by virtue of such merger or consolidation automatically
19 vested in such surviving corporation.

20 3. All such property, rights, privileges, powers,
21 franchises and immunities and all and every other such interest
22 shall be thereafter as effectually the property of the survi-
23 ving corporation as they were of the respective constituent
24 corporations; and title to any real estate, whether by deed
25 or otherwise, under the laws of this State, vested in any of
26 such constituent corporations shall not revert or be in any
27 way impaired by reason of such merger or consolidation. All
28 rights of creditors and all liens upon the property of any of
29 such constituent corporations shall be preserved unimpaired,
30 limited to the property affected by such liens at the time
31 of the merger or consolidation; and all debts, liabilities
32 and duties of the respective constituent corporations shall

1 thenceforth attach to the surviving corporation and may be
2 enforced against it to the same extent as if such debts,
3 liabilities and duties had been incurred or contracted by it.

4 *, and thereby transfer its direct liability
as the insurer with respect to,*
5 § 3483. Bulk reinsurance

6 1. A domestic insurer may reinsure all or substantially
7 all of its business in force, or all or substantially all of
8 a major class thereof, with another insurer, stock or mutual,
9 by an agreement of bulk reinsurance after compliance with
10 this section. No such agreement shall become effective
11 unless filed with the commissioner, or if disapproved by him.

12 2. The commissioner shall disapprove such agreement
13 within a reasonable time after filing if he finds:

14 A. That the plan and agreement are unfair and inequit-
15 able to any insurer or to policyholders involved; or

16 B. That the reinsurance, if effectuated, would sub-
17 stantially reduce the protection or service to the policy-
18 holders of any domestic insurer involved; or

19 C. That the agreement does not embody adequate provi-
20 sions by which the reinsuring insurer becomes liable to the
21 original insureds for any loss or damage occurring under
22 the policies reinsured in accordance with the original
23 terms of such policies, ~~or does not require the reinsuring~~
24 ~~insurer to furnish each such insured with a certificate~~
25 ~~evidencing such assumption of liability;~~ or

26 D. That the assuming reinsurer is not authorized to
27 transact such insurance in this State, or is not qualified
28 as for such authorization or will not appoint the commis-
29 sioner and his successors as its irrevocable attorney for
30 service of process, so long as any policy so reinsured or
31 claim thereunder remains in force or outstanding; or

32 E. That such reinsurance would materially tend to

1 lessen competition in the insurance business in this State
2 or elsewhere as to the kinds of insurance involved, or would
3 materially tend to create a monopoly as to such business; or

4 F. That the proposed bulk reinsurance is not free of
5 other reasonable objections.

6 3. If the commissioner disapproves the agreement he
7 shall forthwith notify in writing each insurer involved,
8 specifying his reasons therefor.

9 4. If for reinsurance of all or substantially all of
10 the business in force of an insurer at a time when the
11 insurer's capital (if a stock insurer) or surplus (if a
12 mutual insurer) is not impaired, the plan and agreement of
13 such reinsurance must be approved by a vote of not less than
14 2/3 of the insurer's outstanding stock having voting rights
15 (if a stock insurer), or of members (if a mutual insurer)
16 voting thereon, at a meeting of stockholders or members
17 called for the purpose pursuant to such reasonable notice
18 and procedure as is provided for in the agreement. If a
19 mutual life insurer, right to vote may be limited to members
20 otherwise entitled to vote and whose policies are other than
21 term policies for terms of less than 20 years, or group
22 policies, and have been in effect for more than 1 year.

23 5. No director, officer, agent or employee of any
24 insurer party to such reinsurance, or any other person,
25 shall receive any special compensation for arranging or with
26 respect to, any such reinsurance except as is set forth in
27 the reinsurance agreement filed with the commissioner.

28

29 § 3484. Voluntary dissolution

30 1. A solvent domestic stock or mutual insurer, which
31 then is not the subject of a delinquency proceeding under
32 chapter ~~59~~ of this Title, may voluntarily dissolve under a

57

1 plan therefor in writing authorized by its board of directors,
2 approved or adopted by stockholders or members as hereinafter
3 provided, and filed with and approved by the commissioner. The
4 plan shall provide for the disposition, by bulk reinsurance or
5 other lawful procedure, of all insurance in force in the
6 insurer, for full discharge of all obligations of the insurer,
7 and designate or provide for trustees to conduct and adminis-
8 ter the settlement of the insurer's affairs.

9 2. The commissioner shall approve the plan unless
10 found by him to be unlawful or unfair or inequitable or
11 prejudicial to the interests of any stockholder, policy-
12 holder or creditor.

13 3. If a mutual insurer, the plan must have been
14 approved by vote of not less than 2/3 of the policyholders
15 voting thereon at a special meeting of such policyholders
16 called and held for the purpose pursuant to such reasonable
17 notice and information as the commissioner may have approved.

18 4. If a stock insurer, the plan must have been
19 adopted by vote of not less than 2/3 of all outstanding
20 voting securities of the insurer at a special meeting of
21 such security holders called and held for the purpose.

22 5. Following approval of the dissolution and plan
23 therefor by members or adopted thereof by stockholders as
24 above provided, and approval by the commissioner, the trus-
25 tees designated or provided for in the plan shall proceed to
26 execute the plan. When all liabilities of the corporation
27 have been discharged or otherwise adequately provided for,
28 and all assets of the corporation have been liquidated and
29 distributed in accordance with the plan, the trustees shall
30 so certify in quadruplicate under oath in writing. The
31 trustees shall deliver the original and the 3 copies of
32 such certificate to the commissioner. The commissioner
33 shall make such examination of the affairs of the corporation,

1 and of the liquidation and distribution of its assets and
2 discharge of or provision for its liabilities as he deems
3 advisable. If upon such examination he finds that the
4 facts set forth in the certificate of the trustees are true,
5 he shall inscribe his approval on the certificate, file the
6 original thereof so inscribed in the office of the Secretary
7 of State, file a copy thereof in the department, and return
8 the remaining two copies to the trustees. The trustees
9 shall file one of such copies for recording in the registry
10 of deeds of the county in this State in which the corpora-
11 tion's principal place of business is located, and retain
12 the fourth copy for the corporate files.

13 6. Upon filing the certificate of the trustees with
14 the Secretary of State as provided in subsection 5 above, the
15 Secretary of State shall issue to the trustees his certificate
16 of dissolution, and the corporate existence of the corporation
17 shall thereupon forever terminate. The Secretary of State
18 shall charge and collect a fee of \$25 for the filing of the
19 trustee's certificate, and shall deposit the same with the
20 Treasurer of State for credit to the general fund.

21

22 § 3485. Mutual member's share of assets on liquidation

23 1. Upon any liquidation of a domestic mutual insurer,
24 its assets remaining after discharge of its indebtedness,
25 policy obligations, repayment of contributed or borrowed
26 surplus, if any, retirement of guaranty fund capital shares
27 and payment of expenses of administration and of the disso-
28 lution and liquidation procedure, shall be distributed to
29 currently existing persons who had been members of the
30 insurer for at least a year and who were its members at any
31 time within 36 months next preceding the date such liquida-
32 tion was authorized or ordered, or date of last termination

1 of the insurer's certificate of authority, whichever date
2 is the earlier; except, that if the commissioner has reason
3 to believe that those in charge of the insurer's management
4 have caused or encouraged the reduction of the number of
5 members of the insurer, or changed the identity thereof, in
6 anticipation of liquidation and for the purpose of reducing
7 or controlling thereby the number or identity of persons
8 who may be entitled to share in distribution of the insurer's
9 assets, he may enlarge the qualification period in such
10 manner as he deems to be reasonable.

11 2. The insurer shall make a reasonable classification
12 of its policies so held by such members, and a formula based
13 upon such classification for determination of the equitable
14 distributive share of each such member. Such classification
15 and formula shall be subject to the approval of the commis-
16 sioner, who shall approve the same except for reasonable
17 cause.

CHAPTER 49

CONTINUITY OF MANAGEMENT

³⁵⁵¹
§ ~~3601~~. Purpose

1
2 Enemy attack could seriously disrupt the management
3 functions of an insurance organization. Prompt resumption
4 of insurance operations following attack is in the public
5 interest and requires provision for the continuity of man-
6 agement. It is essential that advance corporate action be
7 taken to provide for the reconstitution of the board of
8 directors or substitute governing body, for the succession
9 of key personnel and for the designation of alternate head-
10 quarters.

³⁵⁵²
§ 3602. Definitions; interpretation of chapter

11
12 When used in this chapter, the following terms shall
13 mean and include the following:

14 1. Acting director. Acting director means an acting
15 director elected or appointed in accordance with this chapter.

16 2. Acting officer. Acting officer means an acting offi-
17 cer appointed in accordance with this chapter.

18 3. Acute emergency. Acute emergency means a period,
19 as formally declared and proclaimed by the Governor of this
20 State, in which, by reason of loss of life, epidemic disease,
21 destruction or damage of property, contamination of property
22 by radiological, chemical or bacteriological means, or disrup-
23 tion of the means of transportation or communication, resulting
24 from an attack, it is impossible or impractical for the business
25 of insurance in this State to be conducted in strict accord with
26 the provision of law or charters applicable thereto.

27 4. Attack. Attack means any attack, actual or imminent,
28 or series of attacks by an enemy or a foreign nation upon the
29 United States causing, or which may cause, substantial damage
30 or injury to civilian property or persons in the United States
31 in any manner by sabotage or by the use of bombs, shell fire,
32 or atomic, radiological, chemical, bacteriological or biological

1 means or other weapons or processes.

2 5. Board. Board means the board of directors, board
3 of trustees, committee or similar body having control of the
4 affairs of an insurance organization.

5 6. Charter. Charter means the certificate of organiza-
6 tion or incorporation or special law incorporating a corpora-
7 tion together with its bylaws, or the agreement establishing
8 a fund or association together with its constitution and bylaws.

9 7. Commissioner. Commissioner means the State Insurance
10 Commissioner or person duly designated to exercise the powers
11 of that office during an attack or acute emergency.

12 8. Director. Director means the director, trustee or
13 member of a board.

14 9. Domestic organization. Domestic organization means
15 any insurance organization which is domiciled in this State.

16 10. Insurance organization. Insurance organization means
17 any insurer, rating organization, service or advisory organiza-
18 tion, joint underwriting association, welfare or pension fund,
19 which is subject, in whole or in part, to the insurance laws
20 of this State.

21 11. Officer. Officer means an officer of a domestic insur-
22 ance organization.

23 12. Quorum. Quorum means the minimum number of directors
24 required by charter and bylaw, exclusive of the provisions of
25 this chapter, to be present for valid action to be taken at a
26 meeting of a board with respect to each particular item of
27 business which may come before such meeting.

28 This chapter does not and shall not be construed to limit
29 the powers of, or permit or require, any insurance organization
30 which is not domiciled in this State or of any branch office,
31 or agents of such insurance organization, or the directors,

1 officers, members, policyholders, or stockholders of any such
2 organization to act, or fail to act, in such fashion as would
3 violate the laws or the jurisdiction wherein such organization
4 has its domicile.

5 ³⁵⁵³
§ ~~3603~~. Emergency bylaws

6 1. With the approval of the commissioner, any domestic
7 organization may, at any time, adopt, in the same manner as
8 in the case of ordinary bylaws, emergency bylaws to become
9 operative during a period of acute emergency. Emergency
10 bylaws may contain provisions with respect to the number
11 of directors capable of acting which shall constitute its
12 board, the number of such directors which shall constitute
13 a quorum at a meeting of the board, the number of votes
14 necessary for action by such board, the manner in which
15 vacancies on the board shall be filled, the line of succes-
16 sion of its officers, and the interim management of the
17 affairs of the insurance organization; such provisions, if
18 approved by the commissioner, need not comply with the re-
19 quirement of the charter of such domestic organization or of
20 the insurance or incorporation laws of this State.

21 2. Section ³⁵⁵⁴~~3604~~ and section ³⁵⁵⁵~~3605~~, subsections 2 to 6,
22 shall not be applicable during a period of acute emergency to
23 any domestic organization operating in accordance with and
24 under emergency bylaws theretofore approved by the commissioner.

25 ³⁵⁵⁴
§ ~~3604~~. Change of location; emergency boards of directors

26 Notwithstanding any provision of its charter, any domestic
27 insurance organization, without complying with any provision
28 of law requiring approval, or application for approval, of a
29 change of location of its principal office may, from time to
30 time, change the location thereof during an acute emergency
31 to a suitable location within the United States, and may carry
32 on its business at such new location during such acute emergency,

1 and for a reasonable time thereafter. Any insurance organiza-
2 tion which changes the location of its principal office during
3 an acute emergency shall notify the commissioner thereof
4 in writing as soon as practical, stating the address of the
5 new location, the address of the former location, and the
6 dates when business is ceasing at the former location and
7 commencing at the latter location.

8 Notwithstanding any contrary provision of law or with
9 its charter, if at any time during an acute emergency affect-
10 ing any domestic insurance organization, no person otherwise
11 empowered to call meetings of the board is capable of acting,
12 a meeting thereof may be called by any director or acting
13 director or if no director or acting director is capable of
14 acting, by any officer or acting officer. If it shall be
15 impracticable or impossible to give notice of a meeting of
16 the board in the manner prescribed by charter and law, other
17 than this chapter, the person calling such a meeting may give
18 notice thereof by making such reasonable efforts as circum-
19 stances may permit to notify each director and acting director
20 of the time and place of the meeting, but need not specify
21 the purposes thereof. Failure of any director or acting director
22 to receive actual notice of a meeting of directors and acting
23 directors shall not affect the power of the directors and act-
24 ing directors present at such meeting to exercise the powers
25 of an emergency board of directors as prescribed in this sec-
26 tion. Nothing in this chapter shall be construed as requiring
27 a meeting of the board of such an organization to be convened
28 in any manner different from that prescribed by its charter
29 and by the provisions of law other than this chapter.

30 If 3 or more directors and acting directors of any domes-
31 tic insurance organization are present at any meeting of its
32 board duly convened during an acute emergency affecting such

1 domestic insurance organization, they shall constitute its
2 emergency board of directors which, notwithstanding any con-
3 trary provision of law or of its charter, shall have the power,
4 subject to the limitations prescribed by this chapter, by a
5 majority of those present, to take any and every action which
6 may be necessary to enable such domestic insurance organiza-
7 tion to meet the exigencies of the acute emergency and conduct
8 its business during such period, but no other powers. The
9 powers of an emergency board of directors shall include, but
10 shall not be limited to, the following powers:

11 1. Fill vacancies and absentees. At any meeting, to
12 elect such acting directors as it may deem necessary, without
13 regard to the number of directors which would otherwise be
14 required, to serve in any positions on such board which are
15 vacant or in place of any directors or acting directors who
16 are absent from such meeting, but not to elect any director
17 on a permanent basis.

18 2. Acting officers and duties. To elect such acting
19 officers as it may deem necessary, without regard to the
20 number of officers which would otherwise be required, to
21 serve in any offices which are vacant or in place of any
22 officers or acting officers who fail to appear and assume
23 their duties, to fix the compensation and determine the pow-
24 ers and duties of acting officers and to remove acting offi-
25 cers but not to remove any officer or to fill any vacancy on
26 a permanent basis or to cause the insurance organization to
27 enter into any contract of employment for a term in excess of
28 one year.

29 3. Change of location. To cause the insurance organiza-
30 tion to change the location of its principal office, pursuant
31 to this section, or any of its places of business, and to
32 authorize such action as it may deem appropriate to acquire

1 space and facilities at new locations, but not to acquire
2 for use as its principal office property in fee or for a term
3 in excess of one year.

4 4. Postpone meetings. To postpone any meeting of the
5 stockholders, policyholders or members or directors of such
6 organization if, in the judgment of majority of the members
7 of such emergency board of directors, it would be impractic-
8 able to hold such meeting at the time it would otherwise have
9 been held or conducted.

10 5. Call meetings. If it shall appear to an emergency
11 board of directors that a quorum of the board cannot be
12 assembled within a reasonable time, to call a meeting of the
13 stockholders, policyholders or members of the insurance organ-
14 ization to be held as soon as the circumstances may reasonably
15 permit, at a place to be designated by the emergency board of
16 directors within this State or a contiguous state, for the
17 purpose of electing directors to fill vacancies on the board,
18 but for no other purpose, and to propose nominees for such
19 election, Any such meetings of stockholders, policyholders
20 or members shall be held upon notice given in accordance with
21 the charter of the organization and applicable law other than
22 this section.

23 As soon as practicable after each meeting of an emergency
24 board of directors, the person who presided thereat shall
25 notify the commissioner in writing of the time and place of
26 such meeting, of the manner in which notice thereof was given,
27 of the persons present and of all actions taken at such meeting.

28 No person prohibited by law or by the charter of a domestic
29 insurance organization from serving as a member of its board
30 shall be eligible to serve as an acting director except that
31 no person shall be disqualified to serve as an acting director
32 by reason of his not being a stockholder, policyholder or member

1 of such insurance organization, by reason of his not being a
2 resident of this State or of a contiguous state, or by reason
3 of the number of directors or acting directors who are offi-
4 cers, acting officers or employees of the insurance organiza-
5 tion. Any person may serve as an acting director of a fund
6 who is a director, acting director, officer or acting officer
7 of an organization which is a party to the agreement creating
8 the fund. No oath of acting directors shall be required.

9 Acting directors elected under this section or appointed
10 under section ~~2606~~²⁵⁵⁶ shall be entitled to vote at all meetings
11 of emergency board of directors equally with directors. Act-
12 ing directors shall not be entitled to take part in the delib-
13 erations or to vote at any meeting of the board which is duly
14 convened in accordance with the applicable provisions of its
15 charter and of law other than this chapter and at which a
16 quorum is present. Each acting director shall serve until
17 the director or acting director in whose place he was elected
18 or appointed shall attend the meeting of the board or until
19 the director is duly elected to fill the vacancy in which
20 such acting director has been serving, whichever event occurs
21 earlier. An acting director shall be entitled to the compen-
22 sation, if any, payable to a director.

23 Acting officers elected pursuant to this section shall
24 have powers and duties and receive such compensation as may
25 from time to time be determined by the emergency board of
26 directors. Each acting officer shall serve until the officer
27 in whose place he was elected shall appear and assume his
28 duties or until his successor officer or acting officer shall
29 be elected, whichever event occurs earlier.

30 This section shall not be deemed applicable during a per-
31 iod of acute emergency to any domestic organization operating
32 in accordance with and under emergency bylaws theretofore
33 approved by the commissioner.

³⁵⁵⁵
§ 3605. Powers of the commissioner

1
2 1. Designate additional acting directors. If at any
3 time during an acute emergency, the number of directors or
4 acting directors of a domestic insurance organization who
5 are capable of acting shall be less than 3, as determined by
6 the commissioner after a reasonable investigation, the com-
7 missioner shall have the power to designate additional acting
8 directors in such number as will bring to 3 the number of dir-
9 ectors and acting directors who are capable of acting.

10 2. Resolve controversies. To resolve controversy as
11 to the power of any group of persons purporting to act as
12 an emergency board of directors so to act, the commissioner
13 shall, upon a determination that such action will tend to
14 promote the safe and sound and orderly conduct of the business
15 of any domestic insurance organization, have power to issue
16 orders declaring that any such group shall or shall not have
17 the powers of an emergency board of directors, or confirming,
18 modifying or vacating in whole or in part any action taken or
19 purportedly taken by any such group or by removing any acting
20 director.

21 3. Declare provisions of law operative or inoperative. At
22 any time after an attack, upon his determination that such
23 action will tend to promote certainty as to the powers of
24 insurance organizations or individuals pursuant to this chap-
25 ter or that such action is desirable to enable insurance organ-
26 izations to take preparatory precautions prior to the occurrence
27 of an acute emergency, the commissioner shall have power to
28 declare that any provision of this chapter which he may specify
29 shall be operative with respect to any domestic insurance organ-
30 ization or to the Maine business of any other insurance organiza-
31 tion which he may designate. Upon such declaration such organiza-
32 tion and its directors, officers, acting directors and acting
officers shall have all powers conferred by this chapter. The
failure of the commissioner so to declare shall not be deemed

1 to limit the powers of any organization or its directors,
2 officers, acting directors or acting officers where an acute
3 emergency exists in fact.

4 At any time after the commencement of an acute emer-
5 gency or after the commissioner shall have declared any provi-
6 sion of this chapter operative under this subsection upon his
7 determination that an insurance organization is able, in whole
8 or in part, to carry on its business in compliance with its
9 charter and the laws, other than this chapter, the commissioner
10 shall have power to declare that any provision of this chapter
11 which he may specify shall be inoperative with respect to any
12 domestic insurance organization or in the Maine business of any
13 other insurance organization which he may designate. Upon such
14 declaration, such organization shall be governed by its charter
15 and the provisions of law other than this chapter, except insofar
16 as they remain inoperative.

17 4. Possession of business and property. Upon the determin-
18 ation that, as a result of an acute emergency, the business and af-
19 fairs of an insurance organization cannot otherwise be conducted
20 in a safe and sound manner, the commissioner may forthwith take
21 possession of the business and property of the insurance organ-
22 ization within this State or, if a domestic insurance organiza-
23 tion, its business and property wherever situated. This chapter
24 shall be applicable in any case in which the commissioner takes
25 possession of an insurance organization under this subsection
26 as though the insurance organization were an insurer of which
27 the commissioner had taken possession under this chapter, except
28 that no such provision shall be applicable which the commissioner
29 shall have declared inapplicable under this subsection. The com-
30 missioner shall have power to declare inapplicable any such pro-
31 vision upon his determination that the same is inappropriate or
32 unnecessary to protect the interest of the public or the stock-

1 holders or creditors of the insurance organization, in view
2 of the acute emergency and the nature of the organization.

3 5. When powers exercised. The powers given the commis-
4 sioner by subsections 2 and 4 shall be exercised by him only
5 in the event that there is no court of competent jurisdiction
6 available to which an application can be made for an order
7 permitting him to exercise such powers with respect to a
8 particular insurance organization. The powers conferred by
9 subsection 4 shall not be exercised in a case of an insurance
10 organization which is not insolvent within the meaning of
11 this chapter, unless the commissioner finds that such insur-
12 ance organization lacks personnel able to manage its business
13 in the interest of the public stockholders and policyholders.

14 6. Regulations. The commissioner shall have power to
15 issue general and specific regulations, directives and orders
16 consistent with and in furtherance of the purposes of this
17 chapter.

18 § ^{356.} 3006. General provisions

19 1. Presumption. In any action or proceeding it shall be
20 presumed that an acute emergency existing within any city or
21 county within this State constitutes an acute emergency affect-
22 ing every insurance organization doing business within such
23 city or county.

24 2. Powers of board. During an acute emergency the board
25 of a domestic insurance organization which has adopted emergency
26 bylaws approved by the commissioner shall have all of the
27 powers conferred by such bylaws, and no other or different
28 powers with respect to the subject matter of this chapter,
29 and the board of a domestic insurance organization which has
30 not adopted emergency bylaws approved by the commissioner shall
31 have all of the powers of an emergency board of directors as
32 the same are provided for under this chapter.

3557

1 § 3697. Governor's authority; effect of other laws

2 The Governor of this State, or his successor in office,
3 alone shall have the power to proclaim and declare the fact
4 that a period of "acute emergency" exists at any time or
5 times, ^(or has terminated) as such term is defined in this chapter. Nothing
6 in this chapter shall be deemed or construed to affect
7 sections 471 to 479 of ~~this Title~~, to the extent
8 that the latter sections may be inconsistent herewith.

1 CHAPTER 51

2 DOMESTIC MUTUAL ASSESSMENT INSURERS

3 § 3601. Scope of chapter

4 1. This chapter applies only as to domestic mutual
5 insurers heretofore or hereafter organized and authorized
6 to transact and transacting fire and related insurances
7 in this State on the assessment plan, as defined in sec-
8 tion 3603 ~~of this chapter~~, and to the assessment of insurers
9 also transacting insurance on the cash premium plan.

10 2. Insurers to the extent to which subject to this
11 chapter may in this chapter be referred to as "mutual assess-
12 ment insurers."

13
14 § 3602. Chapter exclusive

15 Nothing in this Title shall either directly or indirect-
16 ly apply to such mutual assessment insurers except as con-
17 tained or referred to in this chapter.

18
19 § 3603. Mutual assessment plans; definitions

20 1. For the purposes of this Title a mutual assessment
21 insurer is a mutual insurer which is doing business on A. a
22 post-loss assessment plan, or B. on an advance assessment or
23 contingent liability plan.

24 2. A post-loss assessment plan insurer is one which
25 depends in whole or substantial part on regular or special
26 assessments levied upon its members after a loss or series
27 of losses for payment of losses and expenses. ^A /post-loss
28 assessment plan insurer may collect from each member such
29 initial amount as it may deem proper prior to or at the time
30 of the effectuation of the member's insurance. Future regular
31 or special assessments may be secured by use of a premium note
32 signed by the policyholder.

33 3. An advance assessment plan insurer shall by its

1 bylaws and policies fix the contingent mutual liability of
2 its members for the payment of losses and expenses not pro-
3 vided for by its cash funds; but such contingent liability
4 of a member shall not be less than 1 or more than 6 times
5 the advance assessment for the member's policy at the annual
6 advance assessment rate for a term of one year. Such an
7 advance assessment plan insurer may issue both assessable
8 and non-assessable advance cash premium policies. Any assess-
9 ment, special or regular, levied under the contingent liability
10 provisions of this chapter shall be for the exclusive benefit
11 of the holders of policies subject to assessment, and such
12 policyholders shall not be liable to an assessment in an
13 amount greater in proportion to the total deficiency than
14 the ratio that the deficiency attributable to the assessable
15 business bears to the total deficiency.

16 4. Nothing in this chapter shall be deemed to prohibit
17 the acquisition, accumulation and maintenance of surplus and
18 unallocated funds.

19

20 § 3604. Insuring powers; reinsurance

21 1. An assessment plan insurer shall have authority to
22 transact, and shall transact only such insurance as is permit-
23 ted by its charter and by its certificate of authority.

24 2. Any such insurer shall have power to cede reinsurance
25 of any risk or part thereof which it is authorized to insure
26 direct; and shall have power to accept reinsurance from other
27 domestic assessment plan insurers of any risk which it has
28 authority to insure direct.

29

30 § 3605. Formation of new assessment plan insurers

31 Assessment plan insurers shall hereafter be formed under
32 the applicable provisions of sections 3306 (incorporation of

1 domestic stock, mutual insurers) ^{to} ~~through~~ 3309 (completion of
2 incorporation; general powers, duties) ~~of this Title~~; except,
3 that the certificate of organization of the corporation shall
4 stipulate that the corporation is formed to transact insurance
5 on the assessment plan, and other provisions contained in the
6 certificate shall be consistent with the applicable provisions
7 of this chapter.

8
9 § 3606. Certificate of authority required

10 No such insurer shall transact insurance in this State
11 except as authorized by a subsisting certificate of authority
12 issued to the insurer by the commissioner.

13
14 § 3607. Capital funds required - Existing insurers

15 1. A mutual assessment insurer heretofore organized to
16 transact and transacting only fire, marine and glass insurance
17 shall not have a net retention of liability on any one risk
18 in excess of \$200 until its gross assets exceed \$2,000, after
19 which its net retention of liability ^{shall be as provided in section 3623.} ~~on every risk shall not~~
20 ~~exceed 10% of its gross assets, including the amount at any~~
21 ~~time due on its premium notes.~~

22 2. Mutual insurers organized prior to January 1968
23 to transact and transacting kinds of insurance other than
24 fire, marine and glass shall have a guaranty capital fund
25 in amount not less than as required under laws in force
26 immediately prior to the effective date of this Act, and
27 if organized on or after January 1, 1968, shall have guaranty
28 capital funds of not less than \$500,000. Such an insurer
29 shall not be authorized to transact insurance until at least
30 one-fourth of its guaranty capital funds have been paid in,
31 in cash, and invested in such manner as is provided in chapter
32 13 ~~of this Title.~~

1 3. If an insurer operating under this section fails to
2 comply with the commissioner's request to increase its paid-in
3 guaranty capital funds within the amount otherwise required
4 by law, it shall cease to write any class or kind of insurance
5 other than fire, marine or glass until such time as the com-
6 missioner's request has been complied with.

7 4. Except as hereinabove provided, all such insurers
8 holding subsisting certificates of authority immediately prior
9 to the effective date of this Act may continue to be so author-
10 ized as long as qualified for such authority as under laws in
11 force immediately prior to such effective date.

12
13 § 3608. Capital funds required - New mutual assessment
 insurers

14 A mutual insurer hereafter organized to transact property
15 insurance on the assessment plan shall not be authorized to
16 transact insurance unless it:

17 1. Establishes and maintains guaranty capital funds
18 of at least ^{\$50,000,} \$25,000, all of which shall have been paid in,
19 in cash, and

20 2. Receives not less than 25 bona fide written applications
21 from not less than 25 persons for insurance of the kind proposed
22 to be transacted, of not less than \$100,000 in amount at risk
23 as to principal hazards to be insured, and

24 3. Receives or collects the initial payment on the prem-
25 ium for the insurance applied for, together with such premium
26 notes as it is contemplated to use in connection with applica-
27 tions for insurance in general, and

28 4. Is otherwise qualified for such authority under this
29 chapter.

30
31 § 3609. New assessment plan insurers - Conversion

32 Mutual insurers hereafter organized to transact insurance

1 on the assessment plan shall not be authorized to transact
2 any kind of insurance other than property insurance, or to
3 transact insurance of any kind on the cash premium plan,
4 unless the insurer qualifies for such authority in accord-
5 ance with the requirements of domestic mutual insurers here-
6 after organized under chapter 47 (organization, corporate
7 powers, procedures of domestic legal reserve stock and mutual
8 insurers) ~~of this Title~~, and by appropriate amendment to its
9 certificate of organization converts to such a legal reserve
10 insurer.

11
12 § 3610. Guaranty capital shares; dividends, investment,
deposit, voting rights

13 1. Where the insurer is permitted or required to have
14 guaranty capital shares such capital shall be divided into
15 shares of \$100 each and certificates shall be issued therefor.

16 2. The holders of guaranty capital shares may receive
17 *of the amount received by the insurer for issuance of such shares*
dividends not exceeding 7% in any one calendar year from the
18 net earnings of the insurer after providing for all expenses,
19 losses, reserves and liabilities then incurred.

20 3. Guaranty capital resulting from shares shall be
21 invested in such manner as is provided in chapter 13 ~~of this~~
22 ~~Title.~~

23 4. Guaranty capital shareholders and members of the
24 insurer shall be subject to the same provisions of law rela-
25 tive to their right to vote as apply respectively to stock-
26 holders in stock insurers and policyholders in purely mutual
27 insurers.

28
29 § 3611. Guaranty capital shares - Increase of paid-in
capital

30 If an insurer heretofore or hereafter has been authorized
31 to transact insurance upon the basis of guaranty capital
32 shares not 100% paid-in, the unpaid portion of such guaranty

1 or so much thereof as the commissioner deems necessary, shall
2 be paid in at such times as in the opinion of the commissioner
3 is necessary for the adequate protection of the policyholders.
4

5 § 3612. Guaranty capital shares - Deficiency and
assessment

6 When the cash and other available assets of an insurer
7 with guaranty capital shares are exhausted, such part of the
8 guaranty capital fund as may be required shall, with the
9 approval of the commissioner, be drawn and used to pay losses
10 then due. When such fund is so drawn upon, the directors of
11 the insurer shall make good the amount so drawn by assess-
12 *ments upon the contingent funds or notes of the insurer; and*
ments upon the contingent funds or notes of the insurer; and
13 unless such fund is restored within 6 months from the date
14 of withdrawal, the holders of guaranty fund shares shall be
15 assessed in proportion to the amount of such shares owned by
16 them for the purpose of restoring such capital.
17

18 § 3613. Guaranty capital shares - Retirement

19 Guaranty capital shares may be retired by vote of the
20 policyholders of the insurer when the insurer's surplus, over
21 and above all liabilities including guaranty capital, equals
22 or exceeds the amount of the guaranty capital shares. The
23 guaranty capital shares may be retired in part when the
24 insurer's remaining net surplus and guaranty fund will not
25 thereby be reduced below the amount of original guaranty
26 capital. ~~The guaranty capital shares shall be retired when~~
27 ~~the insurer's net cash assets are equal to 3 times the amount~~
28 ~~of guaranty capital.~~
29

30 § 3614. Notice of contingent liability; reduction

31 Where contingent liability of policyholders is provided
32 for, notice of the existence of such liability shall be plainly
33 and legibly given in each policy. Whenever any reduction is

1 made in the contingent liability of members, the reduction
2 shall apply proportionally to all policies in force.

3

4 § 3615. Delivery, acceptance of policy

5 The delivery of the policy to the insured and payment
6 by the insured of the initial charge, shall be deemed an
7 acceptance of the contract.

8

9 § 3616. Assessment - Remedy if not paid

10 If any lawful assessment is not paid within 30 days
11 after written demand by the insurer or its agent, the direc-
12 tors may declare the policy suspended until the assessment
13 is paid or may at their option sue for and collect the
14 amount due on such assessment. Mailing such demand addressed
15 to the insured at his address last of record with the insurer,
16 or delivering it to him in hand by an authorized agent or
17 officer of the insurer, shall be deemed conclusive proof
18 that demand has been duly made.

19

20 § 3617. Assessment - Court review; adjustment of
claims where no assessment made

21 1. Whenever the directors of a mutual assessment
22 insurer make an assessment or call on its members for money,
23 or by vote determine that there exists a necessity for such
24 assessment or call, they, or any person interested in the
25 insurer as an officer, policyholder or creditor, may file
26 in the superior court in any county, a complaint praying
27 the court to examine the assessment or call or to determine
28 the necessity therefor and all matters connected therewith,
29 and to ratify, amend or annul the assessment or call or to
30 order that the same be made as law and justice may require.

31 2. The decision on such complaint, when filed by any
32 party except the insurer, or a receiver, or the commissioner,

1 shall rest in the discretion of the court.

2 3. Whenever the directors unreasonably neglect to
3 make an assessment or call to satisfy an admitted or ascer-
4 tained claim upon the insurer, any judgment creditor, or any
5 person holding such admitted or ascertained claim, or the
6 commissioner may make the application. Upon such applica-
7 tion, if made by the directors, or upon order of court if
8 made by application of any other party, the directors shall
9 set forth the claims against the insurer, its assets and all
10 other facts and particulars appertaining to the matter.

11

12 § 3618. Same - Order of notice to parties
interested, and proceedings

13 The court before which the complaint described in
14 section 3617 of ~~this chapter~~ is filed shall order notice to
15 all parties interested, by publication or otherwise. Upon
16 the return thereof, the court shall proceed to examine the
17 assessment or call, the necessity therefor and all matters
18 connected therewith. Any parties interested may appear and
19 be heard thereon, and all questions that may arise shall be
20 heard and determined as in other civil actions in which
21 equitable relief is sought. The court may refer the appor-
22 tionment or calculation to any competent person, and upon
23 the examination may ratify, amend or annul the assessment or
24 call, or order one to be made. In case the assessment or
25 call is altered or amended, or one is ordered, the directors
26 shall forthwith proceed to vote the same in legal form and
27 the record of such vote shall be set forth in a supplemental
28 answer.

29

30 § 3619. Same - Proceedings before master or auditor

31 Whenever the court appoints a master or auditor to make
32 the apportionment or calculation for an assessment, such

1 master or auditor shall appoint a time and place to hear all
2 parties interested in the assessment or call, and shall give
3 personal notice thereof, in writing, to the commissioner,
4 and through the post office or in such other manner as the
5 court directs, so far as he is able, to all persons liable
6 upon the assessment or call. The auditor or master shall
7 hear the parties and make report to the court of all his
8 doings respecting such assessment or call and all matters
9 connected therewith, and all parties interested in such
10 report or assessment have a right to be heard by the court
11 respecting the same, in the same manner as is provided.

12

13 § 3620. Same - When assessment final; costs;
control of funds and payment of assessments

14 1. When an assessment or call has been ratified,
15 ascertained or established as provided for in sections 3617
16 to 3619 ~~of this chapter~~, a decree shall be entered which
17 shall be final and conclusive upon the insurer and all
18 parties liable to the assessment or call as to the necessity
19 of the same, the authority of the insurer to make or collect
20 it, the amount thereof and all formalities connected there-
21 with. Where an assessment or call is altered or amended by
22 vote of directors and decree of the court thereon, such
23 amended or altered assessment or call is binding upon all
24 parties who would have been liable under it as originally
25 made, and in all legal proceedings shall be held to be such
26 original assessment or call.

27 2. All proceedings shall be at the cost of the insurer,
28 unless the court for cause otherwise orders.

29 3. In all cases the court may control the disposal of
30 the funds collected under these proceedings, and may issue
31 all necessary processes to enforce the payment of such assess-
32 ments against all persons liable therefor.

1 requirements for a period of ¹one year.

2

3 § 3623. Limit of risk

4 1. Except as provided in subsection 1 of section 3607
5 ~~of this chapter~~, an insurer shall not retain liability as to
6 any one risk in an amount exceeding 10% of its gross assets,
7 including ^{80% of} the amount at any time due on its premium notes.

8 2. Valid reinsurance ceded by the insurer and then in
9 force shall be deducted from the gross risk assumed in deter-
10 mining net risk retained.

11

12 § 3624. Unearned premium reserve

13 An insurer which collects a cash premium or advance
14 assessment shall maintain an unearned premium reserve equal
15 to 50% of the cash premium or advance assessment on its
16 policies in force.

17

18 § 3625. Directors' residence, compensation

19 1. A majority of the board of directors of the insurer
20 shall be residents of and actually reside in, this State.

21 2. The salary or compensation for services of the
22 directors of the insurer shall be fixed by the policyholders
23 at their annual meeting.

24

25 § 3626. Annual statement by directors

26 The directors of every insurer shall cause a detailed
27 account of its expenses for the year preceding, the amount
28 of property actually insured at that time, the amount due
29 on its premium notes and the amount of all debts due to and
30 from the insurer to be laid before the policyholders at the
31 annual meeting.

1 § 3627. Agents; liability

2 Any person who solicits insurance on behalf of any
3 insurer or transmits for a person other than himself an appli-
4 cation for, or a policy of, insurance to or from such insurer,
5 or in any manner acts in the negotiation of such insurance,
6 or in the inspection or valuation of the property insured
7 shall be deemed the agent of the insurer, and except as other-
8 wise provided shall become liable to all the duties,
9 requirements, liabilities and penalties to which an agent of
10 any insurer is subject.

11

12 § 3628. Agents - Licensing

13 All agents of insurers subject to this chapter shall
14 be subject to the applicable requirements of chapter 17
15 (agents, brokers, consultants, adjusters) of ~~this Title,~~
16 except that:

- 17 1. No personal examination shall be required of the
18 applicant and no examination fee shall be charged, as to an
19 applicant ~~for an agent's license~~ *(as an agent of an insurer writing insurance solely*
~~only for the sale of insur-~~
20 ~~ance written on the assessment plan,~~ *if on the effective date of this*
Act the applicant is also a director or officer of such insurer.
21 *was* 2. No fee shall be required by the commissioner for
22 ~~license as resident agent issued as to any mutual assessment~~
(to any individual referred to in 1, above, as agent of such an)
23 insurer.

24

25 § 3629. Other provisions applicable

26 The following chapters and provisions of ~~this Title,~~
27 where and to the extent not inconsistent with the provisions
28 of this chapter and the reasonable implications thereof, also
29 apply as to domestic mutual assessment insurers which are
30 subject to this chapter:

- 31 1. Chapter 1 (general definitions and provisions).
32 2. Chapter 3 (the insurance commissioner), except that

1 an insurer transacting insurance only on the assessment plan
2 shall not be subject to section 228 (examination expense), ~~of~~
3 ~~this title~~, and shall not be required to pay the expense of
4 examination of the insurer.

5 3. Chapter 5 (authorization of insurers and general
6 requirements), except that the following sections or provi-
7 sions shall not apply:

8 A. Section 410 (capital funds required);

9 B. Section 411 (insuring combinations without additional
10 capital funds);

11 C. Section 413 (application for certificate of authority),
12 to the extent that payment is required of a fee for application
13 for or issuance of a certificate of authority of an insurer
14 transacting insurance on the assessment plan only.

15 D. Section 415 (continuance, expiration, reinstatement
16 of certificate of authority), to the extent that payment of
17 fee for continuance of certificate of authority is required
18 of an insurer transacting insurance on the assessment plan
19 only; *and*

20 E. Section 423 (annual statement), to the extent that
21 payment of a fee for filing the annual statement is required
22 of an insurer transacting insurance on the assessment plan
23 only.

24 4. Chapter 7 (fees and taxes), except as otherwise
25 expressly provided in this chapter, and that no fee shall
26 be charged for the certificate of authority of an insurer
27 transacting insurance on the assessment plan only.

28 5. Chapter 9 (kinds of insurance), except the follow-
29 ing sections:

30 A. Section 702 ("life insurance" defined);

31 B. Section 709 ("title insurance" defined); *and*

32 C. Section 721 (limits of risk).

- 1 6. The following sections of chapter 11 (assets and
2 liabilities):
- 3 A. Section 901 ("assets defined);
4 B. Section 902 (assets not allowed);
5 C. Section 922 (disallowance of "wash" transactions);
6 and
7 D. Sections 981 through 984 (valuation of assets).
- 8 7. Chapter 13 (investments).
9 8. Chapter 15 (administration of deposits).
10 9. Chapter 17 (agents, brokers, consultants, adjusters).
11 10. Chapter 23 (trade practices and frauds).
12 11. Chapter 25 (rates and rating organizations), except
13 as provided in such chapter 25.
- 14 12. Chapter 27 (the insurance contract); except that
15 section 2415 (charter, bylaw provisions) shall not apply as
16 to insurance written on the mutual assessment plan.
- 17 13. Chapter 39 (casualty insurance contracts).
18 14. Chapter 41 (property insurance contracts).
19 15. Chapter 43 (surety insurance contracts).
20 16. Chapter 47 (organization, corporate powers, proce-
21 dures of domestic legal reserve stock and mutual insurers),
22 except as to the following sections:
- 23 A. Sections 3352 ^{to} ~~through~~ 3358 (initial qualification,
24 qualifying applications for insurance, guaranty capital, and
25 related subjects); and
- 26 B. Sections 3364 ^{to} ~~through~~ 3367 (provisions relative to
27 contingent liability and nonassessable policies).
- 28 17. Chapter 49 (continuity of management).
29 18. Chapter 59 (delinquent insurers; rehabilitation and
30 liquidation).
31 19. ~~Chapter 67 (transitory provisions).~~

1 CHAPTER 53. RECIPROCAL INSURERS

2 § 3851. "Reciprocal" insurance defined

3 "Reciprocal" insurance is that resulting from an
4 interchange among persons, known as "subscribers," of recip-
5 rocal agreements of indemnity, the interchange being
6 effectuated through an "attorney-in-fact" common to all such
7 persons.

8 § 3852. Scope of chapter--existing insurers

9 1. All authorized reciprocal insurers shall be
10 governed by those sections of this chapter not expressly
11 made applicable to domestic reciprocals.

12 2. Existing authorized reciprocal insurers shall
13 after the effective date of this Act comply with the provi-
14 sions of this chapter, and shall make such amendments to
15 their subscribers' agreement, power of attorney, policies
16 and other documents and accounts and perform such other acts
17 as may be required for such compliance.

18 § 3853. Insuring powers of reciprocals

19 1. A reciprocal insurer may, upon qualifying
20 therefor as provided for by this title, transact any kind or
21 kinds of insurance defined by this title, other than life or
22 title insurances.

23 2. Such an insurer may purchase reinsurance upon
24 the risk of any subscriber, and may grant reinsurance as to
25 any kind of insurance it is authorized to transact direct.

26 § 3854. Name, suits

27 A reciprocal insurer shall:

28 1. Have and use a business name. The name shall
29 include the word "reciprocal," or "interinsurer," or "inter-
30 insurance," or "exchange," or "underwriters," or "underwrit-
31 ing," or "association."

1 2. Sue and be sued in its own name.

2 § 3855. Attorney

3 1. Attorney", as used in this chapter, refers
4 to the attorney-in-fact of a reciprocal insurer. The attorney
5 may be an individual, firm or corporation.

6 2. The attorney of a foreign reciprocal insurer,
7 which insurer is duly authorized to transact insurance in this
8 State, shall not, by virtue of discharge of its duties as such
9 attorney with respect to the insurer's transactions in this
10 State, be thereby deemed to be doing business in this State
11 within the meaning of any laws of this State applying to
12 foreign persons, firms or corporations.

13 3. The subscribers and the attorney-in-fact com-
14 prise a reciprocal insurer and a single entity for the
15 purposes of chapter 7 ~~of this Title~~ as to all operations under
16 the insurer's certificate of authority.

17 § 3856. Organization of reciprocal insurer

18 1. Twenty-five or more persons domiciled in this
19 State may organize a domestic reciprocal insurer and make
20 application to the commissioner for a certificate of authority
21 to transact insurance.

22 2. The proposed attorney shall fulfill the require-
23 ments of and shall execute and file with the commissioner when
24 applying for a certificate of authority, a declaration setting
25 forth:

26 A. The name of the insurer;

27 B. The location of the insurer's principal office,
28 which shall be the same as that of the attorney and shall be
29 maintained within this State;

30 C. The kinds of insurance proposed to be trans-
31 acted;

32 D. The names and addresses of the original
)

1 subscribers;

2 E. The designation and appointment of the pro-
3 posed attorney and a copy of the power of attorney;

4 F. The names and addresses of the officers and
5 directors of the attorney, if a corporation, or its members,
6 if a firm;

7 G. The powers of the subscribers' advisory com-
8 mittee; and the names and terms of office of the members
9 thereof;

10 H. That all monies paid to the reciprocal shall,
11 after deducting therefrom any sum payable to the attorney, be
12 held in the name of the insurer and for the purposes specified
13 in the subscribers' agreement;

14 I. A statement that each of the original subscrib-
15 ers has in good faith applied for insurance of a kind
16 proposed to be transacted, and that the insurer has received
17 from each such subscriber the full premium or premium deposit
18 required for the policy applied for, for a term of not less
19 than 6 months at an adequate rate theretofore filed with and
20 approved by the commissioner;

21 J. A statement of the financial condition of the
22 insurer, a schedule of its assets, and a statement that the
23 surplus as required by section 410 of this Title is on hand;
24 and

25 K. A copy of each policy, endorsement and appli-
26 cation form it then proposes to issue or use.

27 The declaration shall be acknowledged by the attor-
28 ney in the manner required for the acknowledgment of deeds.

29 § 3857. Certificate of authority

30 1. The certificate of authority of a reciprocal
31 insurer shall be issued to its attorney in the name of the
32 insurer.

1 2. The commissioner may refuse, suspend or revoke
2 the certificate of authority, in addition to other grounds
3 therefor, for failure of the attorney to comply with any ap-
4 plicable provision of this Title.

5 § 3858. Power of attorney

6 1. The rights and powers of the attorney of a
7 reciprocal insurer shall be as provided in the power of attor-
8 ney given it by the subscribers.

9 2. The power of attorney must set forth:

10 A. The powers of the attorney;

11 B. ^{By a domestic reciprocal insurer,} That the attorney is empowered to accept ser-
12 vice of process on behalf of the insurer in actions against
13 the insurer upon contracts exchanged;

14 C. The general services to be performed by the
15 attorney;

16 D. The maximum amount to be deducted from advance
17 premiums or deposits to be paid to the attorney and the general.
18 items of expense in addition to losses, to be paid by the in-
19 surer; and

20 E. Except as to nonassessable policies, a provi-
21 sion for a contingent several liability of each subscriber in
22 a specified amount which amount shall be not less than one nor
23 more than 10 times the premium or premium deposit stated in the
24 policy.

25 3. The power of attorney may:

26 A. Provide for the right of substitution of the
27 attorney and revocation of the power of attorney and rights
28 thereunder;

29 B. Impose such restrictions upon the exercise of
30 the power as are agreed upon by the subscribers;

31 C. Provide for the exercise of any right reserved
32 to the subscribers directly or through their advisory committee;

1 and

2 D. Contain other lawful provisions deemed advis-
3 able.

4 4. The terms of any power of attorney or agree-
5 ment collateral thereto shall be reasonable and equitable,
6 and no such power or agreement shall be used or be effective
7 in this State until approved by the commissioner.

8 § 3859. Modifications

9 Modifications of the terms of the subscribers'
10 agreement or of the power of attorney of a domestic reciprocal
11 insurer shall be made jointly by the attorney and the sub-
12 scribers' advisory committee. No such modification shall be
13 effective retroactively, nor as to any insurance contract
14 issued prior thereto.

15 § 3860. Attorney's bond

16 1. Concurrently with the filing of the declara-
17 tion provided for in section 3856 ~~of this Title~~, the attorney
18 of a domestic reciprocal insurer shall file with the commis-
19 sioner a bond in favor of this State for the benefit of all
20 persons damaged as a result of breach by the attorney of the
21 conditions of his bond as set forth in subsection 2 hereof.
22 The bond shall be executed by the attorney and by an author-
23 ized corporate surety, and shall be subject to the commis-
24 sioner's approval.

25 2. The bond shall be in the penal sum of \$25,000,
26 aggregate in form, conditioned that the attorney will faith-
27 fully account for all monies and other property of the insurer
28 coming into his hands, and that he will not withdraw or appro-
29 priate to his own use from the funds of the insurer, any
30 monies or property to which he is not entitled under the power
31 of attorney.

32 3. The bond shall provide that it is not subject

1 to cancellation unless 30 days' advance notice in writing of
2 cancellation is given both the attorney and the commissioner.

3 § 3861. Deposit in lieu of bond

4 In lieu of the bond required under section 3860 of
5 ~~this chapter~~, the attorney may maintain on deposit with the
6 Treasurer of State through the office of the commissioner,
7 a like amount in cash or in value of securities qualified under
8 this Title as insurers' investments, and subject to the same
9 conditions as the bond.

10 § 3862. Action on bond

11 Action on the attorney's bond or to recover against
12 any such deposit made in lieu thereof may be brought at any
13 time by one or more subscribers suffering loss through a vio-
14 lation of its conditions, or by a receiver or liquidator of
15 the insurer. Amounts recovered on the bond shall be deposited
16 in and become part of the insurer's funds. The total aggregate
17 liability of the surety shall be limited to the amount of the
18 penalty of such bond.

19 § 3863. Service of process--judgment

20 1. Legal process shall be served upon a domestic
21 reciprocal insurer by serving the insurer's attorney at his
22 principal offices or by serving the commissioner as the
23 insurer's process agent under sections 421 and 422 of this
24 ~~Title~~.

25 2. Any judgment based upon legal process so served
26 shall be binding upon each of the insurer's subscribers as
27 their respective interests may appear, but in an amount not
28 exceeding their respective contingent liabilities, if any, the
29 same as though personal service of process was had upon each
30 such subscriber.

31 § 3864. Contributions to insurer

32 The attorney or other parties may advance to a

1 domestic reciprocal insurer upon reasonable terms such funds
2 as it may require from time to time in its operations. Sums
3 so advanced shall not be treated as a liability of the insurer,
4 and, except upon liquidation of the insurer, shall not be
5 withdrawn or repaid except out of the insurer's realized
6 earned surplus in excess of its minimum required surplus. No
7 such withdrawal or repayment shall be made without the advance
8 approval of the commissioner. This section does not apply to
9 bank loans, or to other loans made upon security.

10 § 3865. Financial condition--method of determining

11 In determining the financial condition of a recip-
12 rocal insurer the Commissioner shall apply the following rules:

13 1. He shall charge as liabilities the same
14 reserves as are required of incorporated insurers issuing non-
15 assessable policies on a reserve basis.

16 2. The surplus deposits of subscribers shall be
17 allowed as assets, except that any premium deposits delin-
18 quent for 90 days shall first be charged against such surplus
19 deposit.

20 3. The surplus deposits of subscribers shall not
21 be charged as a liability.

22 4. All premium deposits delinquent less than 90
23 days shall be allowed as assets.

24 5. An assessment levied upon subscribers, and not
25 collected, shall not be allowed as an asset.

26 6. The contingent liability of subscribers shall
27 not be allowed as an asset.

28 7. The computation of reserves shall be based upon
29 premium deposits other than membership fees and without any
30 deduction for expenses and the compensation of the attorney.

31 § 3866. Who may be subscribers

32 Individuals, partnerships, and corporations of this

1 State may make application, enter into agreement for and hold
2 policies or contracts in or with and be a subscriber of any
3 domestic, foreign, or alien reciprocal insurer. Any corpor-
4 ation now or hereafter organized under the laws of this State
5 shall, in addition to the rights, powers, and franchises speci-
6 fied in its articles of incorporation, have full power and
7 authority as a subscriber to exchange insurance contracts
8 through such reciprocal insurer. The right to exchange such
9 contracts is hereby declared to be incidental to the purposes
10 for which such corporations are organized and to be as fully
11 granted as the rights and powers expressly conferred upon such
12 corporations. Government or governmental agencies, state or
13 political subdivisions thereof, boards, associations, estates,
14 trustees or fiduciaries are authorized to exchange nonassessable
15 reciprocal interinsurance contracts with each other and with
16 individuals, partnerships and corporations to the same extent
17 that individuals, partnerships and corporations are herein
18 authorized to exchange reciprocal interinsurance contracts.
19 Any officer, representative, trustee, receiver, or legal repre-
20 sentative of any such subscriber shall be recognized as acting
21 for or on its behalf for the purpose of such contract but shall
22 not be personally liable upon such contract by reason of acting
23 in such representative capacity.

24 § 3867. Subscribers' advisory committee

25 1. The advisory committee of a domestic reciprocal
26 insurer exercising the subscribers' rights shall be selected
27 under such rules as the subscribers adopt.

28 2. Not less than 2/3 of such committee shall be
29 subscribers other than the attorney, or any person employed
30 by, representing, or having a financial interest in the
31 attorney.

32 3. The committee shall:

- 1 A. Supervise the finances of the insurer;
- 2 B. Supervise the insurer's operations to such
- 3 extent as to assure conformity with the subscribers' agree-
- 4 ment and power of attorney;
- 5 C. Procure the audit of the accounts and records
- 6 of the insurer and of the attorney at the expense of the
- 7 insurer; and
- 8 D. Have such additional powers and functions as
- 9 may be conferred by the subscribers' agreement.

10 § 3868. Subscribers' liability

11 1. The liability of each subscriber, other than

12 as to a nonassessable policy, for the obligations of the

13 reciprocal insurer shall be an individual, several and pro-

14 portionate liability, and not joint.

15 2. Except as to a nonassessable policy, each sub-

16 scriber shall have a contingent assessment liability, in the

17 amount provided for in the power of attorney or in the sub-

18 scribers' agreement, for payment of actual losses and expenses

19 incurred while his policy was in force. Such contingent lia-

20 bility may be at the rate of not less than one nor more than

21 10 times the premium or premium deposit stated in the policy,

22 and the maximum aggregate thereof shall be computed in the

23 manner set forth in section 3872 ~~of this chapter.~~

24 3. Each assessable policy issued by the insurer

25 shall contain a statement of the contingent liability, set in

26 type of the same prominence as the insuring clause.

27 § 3869. Subscribers' liability on judgment

28 1. No action shall lie against any subscriber upon

29 any obligation claimed against the insurer until a final judg-

30 ment has been obtained against the insurer and remains unsatis-

31 fied for 30 days.

32 2. Any such judgment shall be binding upon each

1 subscriber only in such proportion as his interests may appear
2 and in amount not exceeding his contingent liability, if any.

3 § 3870. Assessments

4 1. Assessments may from time to time be levied
5 upon subscribers of a domestic reciprocal insurer liable
6 therefor under the terms of their policies by the attorney
7 upon approval in advance by the subscribers' advisory com-
8 mittee and the commissioner; or by the commissioner in
9 liquidation of the insurer.

10 2. Each subscriber's share of a deficiency for
11 which an assessment is made, but not exceeding in any event
12 his aggregate contingent liability as computed in accordance
13 with section 3872 of this chapter, shall be computed by apply-
14 ing to the premium earned on the subscriber's policy or
15 policies during the period to be covered by the assessment,
16 the ratio of the total deficiency to the total premiums earned
17 during such period upon all policies subject to the assessment.

18 3. In computing the earned premiums for the pur-
19 poses of this section, the gross premium received by the
20 insurer for the policy shall be used as a base, deducting
21 therefrom solely charges not recurring upon the renewal or
22 extension of the policy.

23 4. No subscriber shall have an offset against any
24 assessment for which he is liable, on account of any claim for
25 unearned premium or losses payable.

26 § 3871. Time limit for assessments

27 Every subscriber of a domestic reciprocal insurer
28 having contingent liability shall be liable for, and shall
29 pay his share of any assessment, as computed and limited in
30 accordance with this chapter, if:

31 1. While his policy is in force or within 1 year
32 after its termination, he is notified by either the attorney

1 or the commissioner of his intentions to levy such assessment,
2 or

3 2. If an order to show cause why a receiver, con-
4 servator, rehabilitator or liquidator of the insurer should
5 not be appointed is issued while his policy is in force or
6 within 1 year after its termination.

7 § 3872. Aggregate liability

8 No one policy or subscriber as to such policy, shall
9 be assessed or charged with an aggregate of contingent lia-
10 bility as to obligations incurred by a domestic reciprocal
11 insurer in any one calendar year, in excess of the amount pro-
12 vided for in the power of attorney or in the subscribers'
13 agreement, computed solely upon premium earned on such policy
14 during that year.

15 § 3873. Nonassessable policies

16 1. If a reciprocal insurer has a surplus of
17 assets over all liabilities at least equal to the minimum
18 capital stock and surplus required to be maintained by a domes-
19 tic stock insurer authorized to transact like kinds of
20 insurance, upon application of the attorney and as approved
21 by the subscribers' advisory committee the commissioner shall
22 issue his certificate authorizing the insurer to extinguish
23 the contingent liability of subscribers under its policies
24 then in force in this State, and to omit provisions imposing
25 contingent liability in all policies delivered or issued for
26 delivery in this State for so long as all such surplus remains
27 unimpaired.

28 2. Upon impairment of such surplus, the commis-
29 sioner shall forthwith revoke the certificate. Such revocation
30 shall not render subject to contingent liability any policy
31 then in force and for the remainder of the period for which
32 the premium has theretofore been paid; but after such revocation

1 no policy shall be issued or renewed without providing for
2 contingent assessment liability of the subscriber.

3 3. The commissioner shall not authorize a domes-
4 tic reciprocal insurer so to extinguish the contingent
5 liability of any of its subscribers or in any of its policies
6 to be issued, unless it qualified to and does extinguish such
7 liability of all its subscribers and in all such policies for
8 all kinds of insurance transacted by it. Except, that if
9 required by the laws of another state in which the insurer
10 is transacting insurance as an authorized insurer, the insurer
11 may issue policies providing for the contingent liability of
12 such of its subscribers as may acquire such policies in such
13 state, and need not extinguish the contingent liability appli-
14 cable to policies theretofore in force in such state.

15 § 3874. Subscribers' share in assets

16 Upon the liquidation of a domestic reciprocal
17 insurer, its assets remaining after discharge of its indebt-
18 edness and policy obligations, the return of any contributions
19 of the attorney or other persons to its surplus, and the return
20 of any unused premium, savings, or credits then standing on
21 subscribers' accounts, shall be distributed to its subscribers
22 who were such within the 12 months prior to the last termina-
23 tion of its certificate of authority, according to such reason-
24 able formula as the commissioner may approve.

25 § 3875. Merger or conversion

26 1. A domestic reciprocal insurer upon affirmative
27 vote of not less than 2/3 of its subscribers who vote on such
28 merger pursuant to due notice and the approval of the commis-
29 sioner of the terms therefor, may merge with another reciprocal
30 insurer or be converted to a stock or mutual insurer.

31 2. Such a stock or mutual insurer shall be subject
32 to the same capital or surplus requirements and shall have the

1 same rights as a like domestic insurer transacting like kinds
2 of insurance.

3 3. The commissioner shall not approve any plan
4 for such merger or conversion which is inequitable to sub-
5 scribers, or which, if for conversion to a stock insurer, does
6 not give each subscriber preferential right to acquire stock
7 of the proposed insurer proportionate to his interest in the
8 reciprocal insurer as determined in accordance with section
9 3874 ~~of this chapter~~ and a reasonable length of time within
10 which to exercise such right.

11 § 3876. Impaired reciprocals

12 1. If the assets of a domestic reciprocal insurer
13 are at any time insufficient to discharge its liabilities,
14 other than any liability on account of funds contributed by
15 the attorney or others, and to maintain the required surplus,
16 its attorney shall forthwith make up the deficiency or levy an
17 assessment upon the subscribers for the amount needed to make
18 up the deficiency; but subject to the limitation set forth in
19 the power of attorney or policy.

20 2. If the attorney fails to make up such deficiency
21 or to make the assessment within 30 days after the commissioner
22 orders him to do so, or if the deficiency is not fully made up
23 within 60 days after the date the assessment was made, the
24 insurer shall be deemed insolvent and shall be proceeded
25 against as authorized by this Title.

26 3. If liquidation of such an insurer is ordered,
27 an assessment shall be levied upon the subscribers for such
28 an amount, subject to limits as provided by this chapter, as
29 the commissioner determines to be necessary to discharge all
30 liabilities of the insurer, exclusive of any funds contributed
31 by the attorney or other persons, but including the reasonable
32 cost of the liquidation.

1 CHAPTER 55. FRATERNAL BENEFIT SOCIETIES

2 §4101. Fraternal benefit societies defined

3 1. Any incorporated society, order or supreme
4 lodge, without capital stock, including one exempted under
5 the provisions of section 4142 of this chapter, whether in-
6 corporated or not, conducted solely for the benefit of its
7 members and their beneficiaries and not for profit, operated
8 on a lodge system with ritualistic form of work, having a
9 representative form of government, and which makes provision
10 for the payment of benefits in accordance with this chapter,
11 is hereby declared to be a fraternal benefit society.

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

14 § 4102. Lodge system defined

15 A society having a supreme legislative or governing
16 body and subordinate lodges or branches by whatever name known,
17 into which members are elected, initiated or admitted in accor-
18 dance with its constitution, laws, ritual and rules, which
19 subordinate lodges or branches shall be required by the laws
20 of the society to hold regular meetings at least once in each
21 month, shall be deemed to be operating on the lodge system.

22 § 4103. Representative form of government defined

23 A society shall be deemed to have a representative
24 form of government when:

25 1. It provides in its constitution or laws for a
26 supreme legislative or governing body, composed of representa-
27 tives elected either by the members or by delegates elected
28 directly or indirectly by the members, together with such
29 other members of such body as may be prescribed by the
30 society's constitution and laws;

31 2. The representatives elected constitute a

1 majority in number and have not less than 2/3 of the votes nor
2 less than the votes required to amend its constitution and laws;

3 3. The meetings of the supreme legislative or gov-
4 erning body and the election of officers, representatives or
5 delegates are held as often as once in 4 calendar years;

6 4. The society has a board of directors charged
7 with the responsibility for managing its affairs in the interim
8 between meetings of its supreme legislative or governing body,
9 subject to control by such body and having powers and duties
10 delegated to it in the constitution or laws of the society;

11 5. Such board of directors is elected by the supreme
12 legislative or governing body, except in case of filling a
13 vacancy in the interim between meetings of such body;

14 6. The officers are elected either by the supreme
15 legislative governing body or by the board of directors; and

16 7. The members, officers, representatives or dele-
17 gates shall not vote by proxy.

18 § 4104. Organization

19 The organization of a society shall be governed as
20 follows:

21 1. Seven or more citizens of the United States, a
22 majority of whom are citizens of this State, who desire to form
23 a fraternal benefit society, may make, sign and acknowledge
24 before some officer competent to take acknowledgment of deeds,
25 articles of incorporation, in which shall be stated:

26 A. The proposed corporate name of the society, which
27 shall not so closely resemble the name of any society or insur-
28 ance company as to be misleading or confusing;

29 B. The purposes for which it is being formed and
30 the mode in which its corporate powers are to be exercised.

31 Such purposes shall not include more liberal powers than are
32 granted by this chapter, provided that any lawful, social,

1 intellectual, educational, charitable, benevolent, moral, fra-
2 ternal or religious advantages may be set forth among the
3 purposes of the society; and

4 C. The names and residences of the incorporators
5 and the names, residences and official titles of all the offi-
6 cers, trustees, directors, or other persons who are to have and
7 exercise the general control of the management of the affairs
8 and funds of the society for the first year or until the en-
9 suing election at which all such officers shall be elected by
10 the supreme legislative or governing body, which election shall
11 be held not later than 1 year from the date of the issuance of
12 the permanent certificate.

13 2. Such articles of incorporation, duly certified
14 copies of the constitution, laws and rules, copies of all pro-
15 posed forms of certificates, applications therefor, and circu-
16 lars to be issued by the society and a bond conditioned upon
17 the return to applicants of the advanced payments if the organi-
18 zation is not completed within 1 year shall be filed with the
19 commissioner, who may require such further information as he
20 deems necessary. The bond with sureties approved by the
21 commissioner shall be in such amount, not less than \$5,000
22 nor more than \$25,000, as required by the commissioner. All
23 documents filed are to be in the English language. If the
24 purposes of the society conform to the requirements of this
25 chapter and all provisions of the law have been complied with,
26 the commissioner shall so certify, retain and file the articles
27 of incorporation and furnish the incorporators a preliminary
28 certificate authorizing the society to solicit members as
29 hereinafter provided.

30 3. No preliminary certificate granted under the
31 provisions of this section shall be valid after 1 year from
32 its date or after such further period, not exceeding 1 year,

1 as may be authorized by the commissioner upon cause shown, un-
2 less the 500 applicants hereinafter required have been secured
3 and the organization has been completed as herein provided.
4 The articles of incorporation and all other proceedings there-
5 under shall become null and void in 1 year from the date of the
6 preliminary certificate, or at the expiration of the extended
7 period, unless the society shall have completed its organiza-
8 tion and received a certificate of authority to do business as
9 hereinafter provided.

10 4. Upon receipt of a preliminary certificate from
11 the commissioner, the society may solicit members for the pur-
12 pose of completing its organization, shall collect from each
13 applicant the amount of not less than 1 regular monthly pre-
14 mium in accordance with its table of rates as provided by its
15 constitution and laws, and shall issue to each such applicant
16 a receipt for the amount so collected. No society shall incur
17 any liability other than for the return of such advance pre-
18 mium, nor issue any certificate, nor pay, allow, or offer or
19 promise to pay or allow, any death or disability benefit to
20 any person until:

21 A. Actual bona fide applications for death bene-
22 fits have been secured aggregating at least \$500,000 on not
23 less than 500 lives;

24 B. All such applicants for death benefits shall
25 have furnished evidence of insurability satisfactory to the
26 society;

27 C. Certificates of examinations or acceptable
28 declarations of insurability have been duly filed and approved
29 by the chief medical examiner of the society;

30 D. Ten subordinate lodges or branches have been
31 established into which the 500 applicants have been admitted;

32 E. There has been submitted to the commissioner,

1 under oath of the president or secretary, or corresponding
2 officer of the society, a list of such applicants, giving
3 their names, addresses, date each was admitted, name and num-
4 ber of the subordinate branch of which each applicant is a
5 member, amount of benefits to be granted and premiums there-
6 for; and

7 F. It shall have been shown to the commissioner
8 by sworn statement of the treasurer, or corresponding officer
9 of such society, that at least 500 applicants have each paid
10 in cash at least 1 regular monthly premium as herein provided,
11 which premiums in the aggregate shall amount to at least
12 \$2,500, all of which shall be credited to the fund or funds
13 from which benefits are to be paid and no part of which may
14 be used for expenses. The advance premiums shall be held in
15 trust during the period of organization and if the society
16 has not qualified for a certificate of authority within 1
17 year, as herein provided, such premiums shall be returned to
18 the applicants.

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

30 6. Every society shall have the power to adopt a
31 constitution and laws for the government of the society, the
32 admission of its members, the management of its affairs and

1 the fixing and readjusting of the rates of its members from
2 time to time. It shall have the power to change, alter, add
3 to or amend such constitution and laws and shall have such
4 powers as are necessary and incidental to carrying into effect
5 the objects and purposes of the society.

6 § 4105. Corporate powers retained

7 Any incorporated society authorized to transact
8 business in this State at the time this chapter becomes effec-
9 tive may thereafter exercise all the rights, powers and
10 privileges prescribed in this chapter and in its charter or
11 articles of incorporation as far as consistent with this chap-
12 ter. A domestic society shall not be required to reincorporate.

13 § 4106. Voluntary associations

14 No unincorporated or voluntary association shall be
15 permitted to transact business in this State as a fraternal
16 benefit society.

17 § 4107. Location of office--place of meeting

18 The principal office of any domestic society shall
19 be located in this State. The meetings of its supreme legis-
20 lative or governing body may be held in any state, district,
21 province or territory wherein such society has at least 5
22 subordinate branches and all business transacted at such meet-
23 ings shall be as valid in all respects as if such meetings were
24 held in this State.

25 § 4108. Consolidations and mergers

26 A domestic society may consolidate or merge with any
27 other society by complying with the provisions of this section.

28 It shall file with the commissioner:

29 1. A certified copy of the written contract con-
30 taining in full the terms and conditions of the consolidation
31 or merger;

32 2. A sworn statement by the president and secretary

1 or corresponding officers of each society showing the finan-
2 cial condition thereof on a date fixed by the commissioner but
3 not earlier than December 31, next preceding the date of the
4 contract;

5 3. A certificate of such officers, duly verified
6 by their respective oaths, that the consolidation or merger
7 has been approved by a 2/3 vote of the supreme legislative or
8 governing body of each society; and

9 4. Evidence that at least 60 days prior to the
10 action of the supreme legislative or governing body of each
11 society, the text of the contract has been furnished to all
12 members of each society either by mail or by publication in
13 full in the official organ of each society.

14 If the commissioner finds that the contract is in
15 conformity with the provisions of this section, that the fi-
16 nancial statements are correct and that the consolidation or
17 merger is just and equitable to the members of each society,
18 he shall approve the contract and issue his certificate to
19 such effect. Upon such approval, the contract shall be in
20 full force and effect unless any society which is a party to
21 the contract is incorporated under the laws of any other state
22 or territory. In such event the consolidation or merger shall
23 not become effective unless and until it has been approved as
24 provided by the laws of such state or territory and a certi-
25 ficate of such approval filed with the commissioner or, if the
26 laws of such state or territory contain no such provision, then
27 the consolidation or merger shall not become effective unless
28 and until it has been approved by the commissioner of such
29 state or territory and a certificate of such approval filed
30 with the commissioner of this State.

31 Upon the consolidation or merger becoming effective
32 as herein provided, all the rights, franchises and interests

1 of the consolidated or merged societies in and to every species
2 of property, real, personal or mixed, and things in action
3 thereunto belonging shall be vested in the society resulting
4 from or remaining after the consolidation or merger without
5 any other instrument, except that conveyances of real property
6 may be evidenced by proper deeds, and the title to any real
7 estate or interest therein, vested under the laws of this
8 State in any of the societies consolidated or merged, shall
9 not revert or be in any way impaired by reason of the consoli-
10 dation or merger, but shall vest absolutely in the society
11 resulting from or remaining after such consolidation or merger.

12 The affidavit of any officer of the society or of
13 anyone authorized by it to mail any notice or document, stating
14 that such notice or document has been duly addressed and mailed,
15 shall be prima facie evidence that such notice or document has
16 been furnished the addressees.

17 § 4109. Conversion of fraternal benefit society into
18 mutual life insurance company

18 Any domestic fraternal benefit society may be con-
19 verted and licensed as a mutual life insurance company by com-
20 pliance with all the requirements of section 3352 of ~~this Title~~
21 if such plan of conversion has been approved by the commissioner.
22 Such plan shall be prepared in writing setting forth in full the
23 terms and conditions thereof. The board of directors shall sub-
24 mit such plan to the supreme legislative or governing body of
25 such society at any regular or special meeting thereof by
26 giving a full, true and complete copy of such plan with the
27 notice of such meeting. Such notice shall be given as provided
28 in the laws of the society for the convocation of a regular or
29 special meeting of such body, as the case may be. The affirma-
30 tive vote of 2/3 of all members of such body shall be necessary
31 for the approval of such agreement. No such conversion shall
32 take effect unless and until approved by the commissioner

1 who may give such approval if he finds that the proposed change
2 is in conformity with the requirements of law and not prejudi-
3 cial to the certificate holders of the society.

4 § 4110. Qualifications for membership

5 A society may admit to benefit membership any person
6 not less than 15 years of age, nearest birthday, who has fur-
7 nished evidence of insurability acceptable to the society. Any
8 such member who shall apply for additional benefits more than
9 6 months after becoming a benefit member shall furnish addi-
10 tional evidence of insurability acceptable to the society
11 unless such additional benefits are issued pursuant to an exis-
12 ting contract under the terms of which such member is entitled
13 to purchase such additional benefits without furnishing evidence
14 of insurability.

15 Any person admitted prior to attaining the full age
16 of 21 years shall be bound by the terms of the application and
17 certificate and by all the laws and rules of the society and
18 shall be entitled to all the rights and privileges of member-
19 ship therein to the same extent as though the age of majority
20 had been attained at the time of application. A society may
21 also admit general or social members who shall have no voice
22 or vote in the management of its insurance affairs.

23 § 4111. Articles of incorporation, constitution and
24 laws--amendments

25 A domestic society may amend its articles of incor-
26 poration, constitution or laws in accordance with the provisions
27 thereof by action of its supreme legislative or governing body
28 at any regular or special meeting thereof or, if its articles
29 of incorporation, constitution or laws so provide, by referen-
30 dum. Such referendum may be held in accordance with the
31 provisions of its articles of incorporation, constitution or
32 laws by the vote of the voting members of the society, by the
vote of delegates or representatives of voting members or by

1 the vote of local lodges or branches. No amendment submitted
2 for adoption by referendum shall be adopted unless, within 6
3 months from the date of submission thereof, a majority of all
4 the voting members of the society shall have signified their
5 consent to such amendment by one of the methods herein speci-
6 fied.

7 No amendment to the articles of incorporation, con-
8 stitution or laws of any domestic society shall take effect
9 unless approved by the commissioner, who shall approve such
10 amendment if he finds that it has been duly adopted and is not
11 inconsistent with any requirement of the laws of this State or
12 with the character, objects and purposes of the society. Un-
13 less the commissioner shall disapprove any such amendment
14 within 60 days after the filing of same, such amendment shall
15 be considered approved. The approval or disapproval of the
16 commissioner shall be in writing and mailed to the secretary
17 or corresponding officer of the society at its principal office.
18 In case he disapproves such amendment, the reasons therefor
19 shall be stated in such written notice.

20 Within 90 days from the approval thereof by the
21 commissioner, all such amendments, or a synopsis thereof, shall
22 be furnished to all members of the society either by mail or
23 by publication in full in the official organ of the society.
24 The affidavit of any officer of the society or of anyone
25 authorized by it to mail any amendments or synopsis thereof,
26 stating facts which show that same have been duly addressed
27 and mailed, shall be prima facie evidence that such amendments
28 or synopsis thereof, have been furnished the addressee.

29 Every foreign or alien society authorized to do
30 business in this State shall file with the commissioner a duly
31 certified copy of all amendments of, or additions to, its
32 articles of incorporation, constitution or laws within 90 days

1 after the enactment of same.

2 Printed copies of the constitution or laws as amended,
3 certified by the secretary or corresponding officer of the
4 society, shall be prima facie evidence of the legal adoption
5 thereof.

6 § 4112. Institutions

7 It shall be lawful for a society to create, main-
8 tain and operate charitable, benevolent or educational
9 institutions for the benefit of its members and their families
10 and dependents and for the benefit of children insured by the
11 society. For such purpose it may own, hold or lease personal
12 property or real property located within or without this State,
13 with necessary buildings thereon. Such property shall be re-
14 ported in every annual statement but shall not be allowed as
15 an admitted asset of such society.

16 Maintenance, treatment and proper attendance in any
17 such institution may be furnished free or a reasonable charge
18 may be made therefor, but no such institution shall be operated
19 for profit. The society shall maintain a separate accounting
20 of any income and disbursements under this section and report
21 them in its annual statement. No society shall own or operate
22 funeral homes or undertaking establishments.

23 § 4113. No personal liability

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

27 § 4114. Benefits

28 1. A society authorized to do business in this
29 State may provide for the payment of:

- 30 A. death benefits in any form;
31 B. endowment benefits;
32 C. annuity benefits;

1 D. temporary or permanent disability benefits as
2 a result of disease or accident;

3 E. hospital, medical or nursing benefits due to
4 sickness or bodily infirmity or accident; and

5 F. monument or tombstone benefits to the memory
6 of deceased members not exceeding in any case the sum of \$300.

7 2. Such benefits may be provided on the lives of
8 members or, upon application of a member, on the lives of the
9 member's family, including the member, the member's spouse
10 and minor children, in the same or separate certificates.

11 § 4115. Benefits on lives of children

12 A society may provide for benefits on the lives of
13 children under the minimum age for adult membership but not
14 greater than 21 years of age at time of application therefor,
15 upon the application of some adult person, as its laws or rules
16 may provide, which benefits shall be in accordance with the pro-
17 visions of section 4114, subsection 1 ~~of this chapter~~. A society may,
18 at its option, organize and operate branches for such children.
19 Membership and initiation in local lodges shall not be required
20 of such children, nor shall they have a voice in the management
21 of the society.

22 A society shall have power to provide for the desig-
23 nation and changing of designation of beneficiaries in the
24 certificates providing for such benefits and to provide in
25 all other respects for the regulation, government and control
26 of such certificates and all rights, obligations and liabili-
27 ties incident thereto and connected therewith.

28 § 4116. Nonforfeiture benefits, cash surrender
values, certificate loans and other options

29 A society may grant paid-up nonforfeiture benefits,
30 cash surrender values, certificate loans and such other options
31 as its laws may permit. As to certificates issued on and
32 after the effective date of this Act, a society shall grant at
33 least one paid-up nonforfeiture benefit, except in the case of

1 pure endowment, annuity or reversionary annuity contracts,
2 reducing term insurance contracts or contracts of term insur-
3 ance of uniform amount of 15 years or less expiring before age
4 66.

5 In the case of certificates other than those for
6 which reserves are computed on the Commissioners 1941 Standard
7 Ordinary Mortality Table, the Commissioners 1941 Standard In-
8 dustrial Table or the Commissioners 1958 Standard Ordinary
9 Mortality Table, the value of every paid-up nonforfeiture bene-
10 fit and the amount of any cash surrender value, loan or other
11 option granted shall not be less than the excess, if any, of
12 1 over 2 as follows:

13 1. The reserve under the certificate determined on
14 the basis specified in the certificate; and

15 2. The sum of any indebtedness to the society on
16 the certificate, including interest due and accrued, and a
17 surrender charge equal to $2\frac{1}{2}\%$ of the face amount of the certifi-
18 cate, which, in the case of insurance on the lives of children,
19 shall be the ultimate face amount of the certificate, if death
20 benefits provided therein are graded.

21 However, in the case of certificates issued on a sub-
22 standard basis or in the case of certificates, the reserves for
23 which are computed upon the American Men Ultimate Table of
24 Mortality, the term of any extended insurance benefit granted
25 including accompanying pure endowment, if any, may be computed
26 upon the rates of mortality not greater than 130% of those shown
27 by the mortality table specified in the certificate for the com-
28 putation of the reserve.

29 In the case of certificates for which reserves are
30 computed on the Commissioners 1941 Standard Ordinary Mortality
31 Table, the Commissioners 1941 Standard Industrial Table or the
32 Commissioners 1958 Standard Ordinary Mortality Table, every

1 paid-up nonforfeiture benefit and the amount of any cash sur-
2 render value, loan or other option granted shall not be less
3 than the corresponding amount ascertained in accordance with
4 the provisions of the laws of this State applicable to life
5 insurers issuing policies containing like insurance benefits
6 based upon such tables.

7 § 4117. Beneficiaries

8 The member shall have the right at all times to
9 change the beneficiary or beneficiaries in accordance with the
10 constitution, laws or rules of the society. Every society by
11 its constitution, laws or rules may limit the scope of bene-
12 ficiaries and shall provide that no beneficiary shall have or
13 obtain any vested interest in the proceeds of any certificate
14 until the certificate has become due and payable in conformity
15 with the provisions of the insurance contract.

16 A society may make provision for the payment of
17 funeral benefits to the extent of such portion of any payment
18 under a certificate as might reasonably appear to be due to
19 any person equitably entitled thereto by reason of having in-
20 curred expense occasioned by the burial of the member, provided
21 the portion so paid shall not exceed the sum of \$500.

22 If, at the death of any member, there is no lawful
23 beneficiary to whom the insurance benefits shall be payable,
24 the amount of such benefits, except to the extent that funeral
25 benefits may be paid as hereinbefore provided, shall be payable
26 to the personal representative of the deceased member.

27 § 4118. Benefits not attachable

28 No money or other benefit, charity, relief or aid
29 to be paid, provided or rendered by any society, shall be liable
30 to attachment, garnishment or other process, or to be seized,
31 taken, appropriated or applied by any legal or equitable process
32 or operation of law to pay any debt or liability of a member or

1 beneficiary, or any other person who may have a right there-
2 under, either before or after payment by the society.

3 § 4119. The contract

4 Every society authorized to do business in this
5 State shall issue to each benefit member a certificate specify-
6 ing the amount of benefits provided thereby. The certificate,
7 together with any riders or endorsements attached thereto, the
8 charter or articles of incorporation, the constitution and
9 laws of the society, the application for membership, and decla-
10 ration of insurability, if any, signed by the applicant, and
11 all amendments to each thereof, shall constitute the agreement,
12 as of the date of issuance, between the society and the member,
13 and the certificate shall so state. A copy of the application
14 for membership and of the declaration of insurability, if any,
15 shall be endorsed upon or attached to the certificate.

16 All statements purporting to be made by the member
17 shall be representations and not warranties. Any waiver of
18 this provision shall be void.

19 Any changes, additions or amendments to the charter
20 or articles of incorporation, constitution or laws duly made
21 or enacted subsequent to the issuance of the certificate, shall
22 bind the member and the beneficiaries, and shall govern and
23 control the agreement in all respects the same as though such
24 changes, additions or amendments had been made prior to and
25 were in force at the time of the application for membership,
26 except that no change, addition or amendment shall destroy or
27 diminish benefits which the society contracted to give the mem-
28 ber as of the date of issuance.

29 Copies of any of the documents mentioned in this
30 section, certified by the secretary or corresponding officer
31 of the society, shall be received in evidence of the terms
32 and conditions thereof.

1 A society shall provide in its constitution or laws
2 that if its reserves as to all or any class of certificates
3 become impaired its board of directors or corresponding body
4 may require that there shall be paid by the member to the
5 society the amount of the member's equitable proportion of
6 such deficiency as ascertained by its board, and that if the
7 payment be not made it shall stand as an indebtedness against
8 the certificate and draw interest not to exceed 5% per annum
9 compounded annually.

10 § 4120. Life benefit certificate provisions, standard
and prohibited

11 No life benefit certificate shall be delivered or
12 issued for delivery in this State unless a copy of the form
13 shall have been filed with the commissioner and approved by
14 him as conforming to the requirements of this section and not
15 inconsistent with any other provisions of law applicable there-
16 to. A certificate shall be deemed approved unless disapproved
17 by the commissioner within 60 days from the date of such filing.

18 1. The certificate shall contain in substance the
19 following standard provisions or, in lieu thereof, provisions
20 which are more favorable to the member:

21 A. Title on the face and filing page of the certi-
22 ficate clearly and correctly describing its form;

23 B. A provision stating the amount of rates, pre-
24 miums or other required contributions, by whatever name known,
25 which are payable by the insured under the certificate;

26 C. A provision that the member is entitled to a
27 grace period of not less than a full month (or 30 days at the
28 option of the society) in which the payment of any premium
29 after the first, may be made. During such grace period the
30 certificate shall continue in full force, but in case the cer-
31 tificate becomes a claim during the grace period before the
32 overdue payment is made, the amount of such overdue payment

1 or payments may be deducted from any settlement under the cer-
2 tificate;

3 D. A provision that the member shall be entitled
4 to have the certificate reinstated at any time within 3 years
5 from the due date of the premium in default, unless the cer-
6 tificate has been completely terminated through the applica-
7 tion of a nonforfeiture benefit, cash surrender value or
8 certificate loan, upon the production of evidence of insura-
9 bility satisfactory to the society and the payment of all
10 overdue premiums and any other indebtedness to the society
11 upon the certificate, together with interest on such premiums
12 and such indebtedness, if any, at a rate not exceeding 6% per
13 annum compounded annually;

14 E. Except in the case of pure endowment, annuity
15 or reversionary annuity contracts, reducing term insurance
16 contracts, or contracts of term insurance of uniform amount
17 of 10 years or less expiring before age 66, a provision that,
18 in the event of default in payment of any premium after 3
19 full years' premiums have been paid or after premiums for a
20 lesser period have been paid if the contract so provides, the
21 society will grant, upon proper request not later than 60 days
22 after the due date of the premium in default, a paid-up non-
23 forfeiture benefit on the plan stipulated in the certificate,
24 effective as of such due date, of such value as specified in
25 this chapter. The certificate may provide, if the society's
26 laws so specify or if the member shall so elect prior to the
27 expiration of the grace period of any overdue premium, that
28 default shall not occur so long as premiums can be paid under
29 the provisions of an arrangement for automatic premium loan
30 as may be set forth in the certificate;

31 F. A provision that one paid-up nonforfeiture
32 benefit as specified in the certificate shall become effective

1 automatically unless the member elects another available paid-
2 up nonforfeiture benefit, not later than 60 days after the due
3 date of the premium in default;

4 G. A statement of the mortality table and rate
5 of interest used in determining all paid-up nonforfeiture
6 benefits and cash surrender options available under the certi-
7 ficate, and a brief general statement of the method used in
8 calculating such benefits;

9 H. A table showing in figures the value of every
10 paid-up nonforfeiture benefit and cash surrender option avail-
11 able under the certificate for each certificate anniversary
12 either during the first 20 certificate years or during the
13 term of the certificate whichever is shorter;

14 I. A provision that the certificate shall be in-
15 contestable after it has been in force during the lifetime of
16 the member for a period of 2 years from its date of issue
17 except for nonpayment of premiums, violation of the provisions
18 of the certificate relating to military, aviation, or naval
19 service and violation of the provisions relating to suspension
20 or expulsion as substantially set forth in the certificate.
21 At the option of the society, supplemental provisions relating
22 to benefits in the event of temporary or permanent disability
23 or hospitalization and provisions which grant additional
24 insurance specifically against death by accident or accidental
25 means, may also be excepted. The certificate shall be incon-
26 testable on the ground of suicide after it has been in force
27 during the lifetime of the member for a period of 2 years from
28 date of issue. The certificate may provide, as to statements
29 made to procure reinstatement, that the society shall have the
30 right to contest a reinstated certificate within a period of
31 2 years from date of reinstatement with the same exceptions
32 as herein provided;

1 J. A provision that in case the age or sex of the
2 member or of any other person is considered in determining
3 the premium and it is found at any time before final settle-
4 ment under the certificate that the age or sex has been mis-
5 stated, and the discrepancy and premium involved have not been
6 adjusted, the amount payable shall be such as the premium
7 would have purchased at the correct age and sex; but if the
8 correct age or sex was not an insurable age or sex under the
9 society's charter or laws, only the premiums paid to the
10 society, less any payments previously made to the member,
11 shall be returned or, at the option of the society, the amount
12 payable under the certificate shall be such as the premium
13 would have purchased at the correct age and sex according to
14 the society's promulgated rates and any extension thereof
15 based on actuarial principles;

16 K. A provision or provisions which recite fully,
17 or which set forth the substance of, all sections of the
18 charter, constitution, laws, rules or regulations of the
19 society, in force at the time of issuance of the certificate,
20 the violation of which will result in the termination of, or
21 in the reduction of, the benefit or benefits payable under the
22 certificate; and

23 L. If the constitution or laws of the society
24 provide for expulsion or suspension of a member, any member
25 so expelled or suspended, except for nonpayment of a premium
26 or within the contestable period for material misrepresenta-
27 tions in such member's application for membership shall have
28 the privilege of maintaining his insurance in force by con-
29 tinuing payment of the required premium.

30 Any of the foregoing provisions or portions thereof
31 not applicable by reason of the plan of insurance or because
32 the certificate is an annuity certificate may to the extent

1 inapplicable, be omitted from the certificate.

2 2. No life benefit certificate shall be delivered
3 or issued for delivery in this State containing in substance
4 any of the following provisions:

5 A. Any provision limiting the time within which
6 any action at law or in equity may be commenced to less than
7 2 years after the cause of action shall accrue;

8 B. Any provision by which the certificate shall
9 purport to be issued or to take effect more than 6 months
10 before the original application for the certificate was made,
11 except in case of transfer from one form of certificate to
12 another in connection with which the member is to receive cre-
13 dit for any reserve accumulation under the form of certificate
14 from which the transfer is made; or

15 C. Any provision for forfeiture of the certifi-
16 cate for failure to repay any loan thereon or to pay interest
17 on such loan while the total indebtedness, including interest,
18 is less than the loan value of the certificate.

19 3. The word "premiums" as used in this chapter
20 means premiums, rates, or other required contributions by
21 whatever name known.

22 § 4121. Accident and health insurance and total and
23 permanent disability insurance certificates

24 No society shall issue or deliver in this State
25 any certificate or other evidence of any contract or accident
26 insurance or health insurance or of any total and permanent
27 disability insurance contract unless and until the form
28 thereof, together with the form of application and all riders
29 or endorsements for use in connection therewith, shall have
30 been filed with the commissioner and approved by him as con-
31 forming to reasonable rules and regulations from time to time
32 made by him and as not inconsistent with any other provisions
of law applicable thereto. The commissioner shall, within a

1 reasonable time after the filing of any such form, notify the
2 society filing the same either of his approval or of his dis-
3 approval of such form. The commissioner may approve any such
4 form which in his opinion contains provisions on any one or
5 more of the several requirements made by him which are more
6 favorable to the members than the one or ones so required.
7 The commissioner shall have power, from time to time, to make,
8 alter and supersede reasonable regulations prescribing the
9 required, optional and prohibited provisions in such contracts,
10 and such regulations shall conform, as far as practicable, to
11 the provisions of chapter 33 of this Title. Where the com-
12 missioner deems inapplicable, either in part or in their
13 entirety, the provisions of the foregoing sections, he may pre-
14 scribe the portions or summary thereof of the contract to be
15 printed on the certificate issued to the member. Any filing
16 made hereunder shall be deemed approved unless disapproved
17 within 60 days from the date of such filing.

18 § 4122. Waiver

19 The constitution and laws of the society may pro-
20 vide that no subordinate body, nor any of its subordinate
21 officers or members shall have the power or authority to waive
22 any of the provisions of the laws and constitution of the
23 society. Such provision shall be binding on the society and
24 every member and beneficiary of a member.

25 § 4123. Reinsurance

26 A domestic society may, by a reinsurance agreement,
27 cede any individual risk or risks in whole or in part to an
28 insurer, (other than another fraternal benefit society), having
29 the power to make such reinsurance and authorized to do busi-
30 ness in this State, or if not so authorized, one which is
31 approved by the commissioner, but no such society may reinsure
32 substantially all of its insurance in force without the written

1 permission of the commissioner. It may take credit for the
2 reserves on such ceded risks to the extent reinsured, but no
3 credit shall be allowed as an admitted asset or as a deduc-
4 tion from liability, to a ceding society for reinsurance made,
5 ceded, renewed, or otherwise becoming effective after the
6 effective date of this Act, unless the reinsurance is pay-
7 able by the assuming insurer on the basis of the liability of
8 the ceding society under the contract or contracts reinsured
9 without diminution because of the insolvency of the ceding
10 society.

11 § 4124. Annual license

12 Societies which are now authorized to transact busi-
13 ness in this State may continue such business until the first
14 day of July next succeeding the effective date of this Title.
15 The authority of such societies and all societies hereafter
16 licensed, may thereafter be renewed annually but in all cases
17 to terminate on the first day of the succeeding July. How-
18 ever, a license so issued shall continue in full force and
19 effect until the new license be issued or specifically refused.
20 For each such license or renewal the society shall pay the
21 commissioner \$50. A duly certified copy or duplicate of such
22 license shall be prima facie evidence that the licensee is a
23 fraternal benefit society within the meaning of this chapter.

24 § 4125. Foreign or alien society--admission

25 No foreign or alien society shall transact business
26 in this State without a license issued by the commissioner.
27 Any such society may be licensed to transact business in this
28 State upon filing with the commissioner:

29 1. ~~A~~. A duly certified copy of its charter or articles
30 of incorporation;

31 2. A copy of its constitution and laws, certified
32 by its secretary or corresponding officer;

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 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.

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.

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.

2. No society so enjoined shall have the authority to do business until:

A. The commissioner finds that the violation complained of has been corrected;

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

C. The court has dissolved its injunction; and

D. The commissioner has reinstated the certificate of authority.

1 3. If the court orders the society liquidated, it
2 shall be enjoined from carrying on any further business, where-
3 upon the receiver of the society shall proceed at once to take
4 possession of the books, papers, money and other assets of the
5 society and, under the direction of the court, proceed forth-
6 with to close the affairs of the society and to distribute its
7 funds to those entitled thereto.

8 4. No action under this section shall be recog-
9 nized in any court of this State unless brought by the Attorney
10 General upon request of the commissioner. Whenever a receiver
11 is to be appointed for a domestic society, the court shall ap-
12 point the commissioner as such receiver.

13 5. The provisions of this section relating to
14 hearing by the commissioner, action by the Attorney General
15 at the request of the commissioner, hearing by the court, in-
16 junction and receivership shall be applicable to a society
17 which shall voluntarily determine to discontinue business.

18 § 4127. Suspension, revocation or refusal of license
19 of foreign or alien society

20 1. When the commissioner upon investigation finds
21 that a foreign or alien society transacting or applying to
22 transact business in this State:

23 A. Has exceeded its powers;

24 B. Has failed to comply with any of the provisions
25 of this chapter;

26 C. Is not fulfilling its contracts in good faith;

27 or

28 D. Is conducting its business fraudulently or in
29 a manner hazardous to its members or creditors or the public;
30 he shall notify the society of such deficiency or deficiencies
31 and state in writing the reasons for his dissatisfaction. He
32 shall at once issue a written notice to the society requiring
that the deficiency or deficiencies which exist are corrected.

1 After such notice the society shall have a 30-day period in
2 which to comply with the commissioner's request for correc-
3 tion, and if the society fails to comply the commissioner
4 shall notify the society of his findings of noncompliance and
5 require the society to show cause on a date named why its
6 license should not be suspended, revoked or refused. If on
7 such date the society does not present good and sufficient
8 reason why its authority to do business in this State should
9 not be suspended, revoked or refused, he may suspend or refuse
10 the license of the society to do business in this State until
11 satisfactory evidence is furnished to him that such suspen-
12 sion or refusal should be withdrawn or he may revoke the
13 authority of the society to do business in this State.

14 2. Nothing contained in this section shall be taken
15 or construed as preventing any such society from continuing in
16 good faith all contracts made in this State during the time
17 such society was legally authorized to transact business herein.

18 § 4128. Licensing of agents

19 1. Agents of societies shall be licensed in
20 accordance with the provisions of this section.

21 2. Insurance agent defined--The term "insurance
22 agent" as used in this section means any authorized or acknow-
23 ledged agent of a society who acts as such in the solicitation,
24 negotiation or procurement or making of a life insurance, ac-
25 cident and health insurance or annuity contract, except that
26 the term "insurance agent" shall not include:

27 A. Any regular salaried officer or employee of a
28 licensed society who devotes substantially all of his services
29 to activities other than the solicitation of fraternal insur-
30 ance contracts from the public, and who receives for the
31 solicitation of such contracts no commission or other compen-
32 sation directly dependent upon the amount of business obtained;

1 or

2 B. Any agent or representative of a society who
3 devotes, or intends to devote, less than 25% of his time to
4 solicitation and procurement of insurance contracts for such
5 society. Any person who in the preceding calendar year has
6 solicited and procured life insurance contracts on behalf of
7 any society in an amount of insurance in excess of \$25,000,
8 or, in the case of any other kind or kinds of insurance which
9 the society might write, on the persons of more than 25 indi-
10 viduals and who has received or will receive a commission or
11 other compensation therefor, shall be presumed to be devoting,
12 or intending to devote, 25% of his time to the solicitation
13 or procurement of insurance contracts for such society.

14 3. License required--Any persons who in this State
15 acts as insurance agent for a society without having authority
16 so to do by virtue of a license issued and in force pursuant
17 to the provisions of this section shall, except as provided
18 in subsection 2, be guilty of a misdemeanor.

19 4. Payment of commissions forbidden--No society
20 doing business in this State shall pay any commission or other
21 compensation to any person for any services in obtaining in
22 this State any new contract of life, accident or health insur-
23 ance, or any new annuity contract, except to a licensed
24 insurance agent of such society and except an agent exempted
25 under subsection 2, paragraph B, of this section.

26 5. Prerequisites, issuance and renewal of insur-
27 ance agents' licenses--

28 A. The commissioner may issue a license to any
29 person who has paid an annual license fee as provided in section
30 601 (fee schedule) ~~of this title~~ and who has complied with the
31 requirements of this section, authorizing such licensee to act as
32 an insurance agent on behalf of any society named in such license

1 which is authorized to do business in this State.

2 B. Before any insurance agent's license shall be
3 issued there shall be on file in the office of the commissioner
4 of insurance the following documents:

5 (1) A written application by the prospective li-
6 censee in such form or forms and supplements thereto, and
7 containing such information, as the commissioner may prescribe;
8 and

9 (2) A certificate by the society which is to be
10 named in such license, stating that such society has satis-
11 fied itself that the named applicant is trustworthy and
12 competent to act as such insurance agent and that the society
13 will appoint such applicant to act as its agent if the license
14 applied for is issued by the commissioner. Such certificates
15 shall be executed and acknowledged by an officer or managing
16 agent of such society.

17 C. No written or other examination shall be
18 required of any individual seeking to be named as licensee
19 to represent a fraternal benefit society as its agent.

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

26 E. License years shall be from July 1st of each
27 calendar year to the last day of June of the next calendar
28 year. Every license issued pursuant to this section, and every
29 renewal thereof, shall expire on July 1st of the license year
30 for which issued.

31 F. If the application for a renewal license shall
32 have been filed with the commissioner on or before

1 December ~~31st~~ of the year in which the existing license was
2 issued, the applicant named in such existing license may con-
3 tinue to act as insurance agent under such existing license,
4 unless same shall be revoked or suspended, until the issuance
5 by the commissioner of the renewal license or until the expira-
6 tion of 5 days after he shall have refused to renew such
7 license and shall have served written notice of such refusal
8 on the applicant. If the applicant shall, within 30 days after
9 such notice is given, notify the commissioner in writing of his
10 request for a hearing on such refusal, the commissioner shall,
11 within a reasonable time after receipt of such notice, grant
12 such hearing, and he may, in his discretion, reinstate such
13 license.

14 G. Any such renewal license of an insurance agent
15 may be issued upon the application of the society named in the
16 existing license. Such application shall be in the form or
17 forms prescribed by the commissioner and shall contain such
18 information as he may require. Such application shall contain
19 a certificate executed by the president, or by a vice president,
20 a secretary, an assistant secretary, or corresponding officer
21 by whatever name known, or by an employee expressly designated
22 and authorized to execute such certificate of a domestic or
23 foreign society or by the United States manager of an alien
24 society, stating that the addresses therein given of the agents
25 of such society for whom renewal licenses are requested therein
26 have been verified in each instance immediately preceding the
27 preparation of the application. Notwithstanding the filing
28 of such application, the commissioner may, after reasonable
29 notice to any such society, require that any or all agents of
30 such society to be named as licensees in renewal licenses shall
31 execute and file separate applications for the renewal of such
32 licenses, as hereinbefore specified, and he may also require

1 that each such application shall be accompanied by the certificate
2 specified in subsection 5, paragraph B, subparagraph (2) of this section.

3 6. Notice of termination of appointment of agent.

4 Every society doing business in this State shall, upon the
5 termination of the appointment of any agent licensed to repre-
6 sent it in this State, forthwith file with the commissioner a
7 statement, in such form as he may prescribe, of the facts rela-
8 tive to such termination and the cause thereof. Every state-
9 ment made pursuant to this section shall be deemed a privileged
10 communication.

11 7. Revocation or suspension of agent's license--

12 A. The commissioner may revoke, or may suspend for
13 such period as he may determine, any insurance agent's license
14 if, after notice and hearing as specified in this section, he
15 determines that the licensee has:

16 (1) violated any provision of, or any obligation
17 imposed by, this section, or has violated any law in the course
18 of his dealings as agent;

19 (2) made a material misstatement in the applica-
20 tion for such license;

21 (3) been guilty of fraudulent or dishonest
22 practices;

23 (4) demonstrated his incompetency or untrust-
24 worthiness to act as an insurance agent; or

25 (5) been guilty of rebating as defined by the laws
26 of this State applicable to life insurance companies.

27 B. The revocation or suspension of any insurance
28 agent's license shall terminate forthwith the license of such
29 agent. No individual whose license has been revoked shall be
30 entitled to obtain any insurance agent's license under the pro-
31 visions of this section for a period of one year after such
32 revocation or, if such revocation by judicially reviewed, for

1 1 year after the final determination thereof affirming the
2 action of the commissioner in revoking such license.

3 § 4129. Service of process

4 Every society authorized to do business in this
5 State shall appoint in writing the commissioner and each suc-
6 cessor in office to be its true and lawful attorney upon whom
7 all lawful process in any action or proceeding against it
8 shall be served, and shall agree in such writing that any law-
9 ful process against it which is served on said attorney shall
10 be of the same legal force and validity as if served upon the
11 society, and that the authority shall continue in force so
12 long as any liability remains outstanding in this State.

13 Copies of such appointment, certified by the commissioner,
14 shall be deemed sufficient evidence thereof and shall be ad-
15 mitted in evidence with the same force and effect as the ori-
16 ginal thereof might be admitted.

17 Service shall only be made upon the commissioner, or
18 if absent, upon the person in charge of his office. It shall
19 be made in duplicate and shall constitute sufficient service
20 upon the society. When legal process against a society is
21 served upon the commissioner, he shall forthwith forward one
22 of the duplicate copies by registered mail, prepaid, directed
23 to the secretary or corresponding officer. Legal process shall
24 not be served upon a society except in the manner herein
25 provided. At the time of serving any process upon the
26 commissioner, the plaintiff or complainant in the action
27 shall pay to the commissioner a fee of \$5.

28 § 4130. Injunction

29 No application or petition for injunction against
30
31
32

1 any domestic, foreign or alien society, or branch thereof,
2 shall be recognized in any court of this State unless made by
3 the Attorney General upon request of the commissioner.

4 § 4131. Review

5 All decisions and findings of the commissioner
6 made under the provisions of this chapter shall be subject to
7 review by proper proceedings in any court of competent juris-
8 diction in this State.

9 § 4132. Funds

10 All assets shall be held, invested and disbursed
11 for the use and benefit of the society and no member or bene-
12 ficiary shall have or acquire individual rights therein or
13 become entitled to any apportionment or the surrender of any
14 part thereof, except as provided in the contract.

15 A society may create, maintain, invest, disburse
16 and apply any special fund or funds necessary to carry out any
17 purpose permitted by the laws of such society.

18 Every society, the admitted assets of which are less
19 than the sum of its accrued liabilities and reserves under all
20 of its certificates when valued according to standards required
21 for certificates issued after 1 year from the effective date
22 of this chapter, shall, in every provision of the laws of the
23 society for payments by members of such society, in whatever
24 form made, distinctly state the purpose of the same and the
25 proportion thereof which may be used for expenses, and no part
26 of the money collected for mortuary or disability purposes or
27 the net accretions thereto shall be used for expenses.

28 § 4133. Investments

29 A society shall invest its funds only in such in-
30 vestments as are authorized by the laws of this State for the
31 investment of assets of life insurers and subject to the limi-
32 tations thereon. Any foreign or alien society permitted or

1 seeking to do business in this State which invests its funds
2 in accordance with the laws of the state, district, territory,
3 country or province in which it is incorporated, shall be held
4 to meet the requirements of this section for the investment
5 of funds.

6 § 4134. Reports and valuations

7 Reports shall be filed and synopses of annual state-
8 ments shall be published in accordance with the provisions of
9 this section.

10 1. Every society transacting business in this State
11 shall annually, on or before the 1st day of March, unless for
12 cause shown such time has been extended by the commissioner,
13 file with the commissioner a true statement of its financial
14 condition, transactions and affairs for the preceding calendar
15 year and pay a fee of \$50 for filing same. The statement shall
16 be in general form and context as approved by the National
17 Association of Insurance Commissioners for fraternal benefit
18 societies and as supplemented by additional information re-
19 quired by the commissioner.

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

26 3. As a part of the annual statement herein
27 required, each society shall, on or before the 1st day of
28 March, file with the commissioner a valuation of its certifi-
29 cates in force on December 31 last preceding, provided the
30 commissioner may, in his discretion for cause shown, extend
31 the time for filing such valuation for not more than 2 calendar
32 months. Such report of valuation shall show, as reserve liabilities,

1 the difference between the present midyear value of the pro-
2 mised benefits provided in the certificates of such society
3 in force and the present midyear value of the future net pre-
4 miums as the same are in practice actually collected, not
5 including therein any value for the right to make extra assess-
6 ments and not including any amount by which the present midyear
7 value of future net premiums exceeds the present midyear value
8 of promised benefits on individual certificates. At the
9 option of any society, in lieu of the above, the valuation
10 may show the net tabular value. Such net tabular value as to
11 certificates issued prior to 1 year after the effective date
12 of this chapter shall be determined in accordance with the pro-
13 visions of law applicable prior to the effective date of this
14 chapter and as to certificates issued on or after 1 year from
15 the effective date of this chapter shall not be less than the
16 reserves determined according to the Commissioner's reserve
17 valuation method as hereinafter defined. If the premium charged
18 is less than the tabular net premium according to the basis of
19 valuation used, an additional reserve equal to the present value
20 of the deficiency in such premiums shall be set up and main-
21 tained as a liability. The reserve liabilities shall be pro-
22 perly adjusted in the event that the midyear or tabular values
23 are not appropriate.

24 4. Reserves according to the Commissioner's reserve
25 valuation method, for the life insurance and endowment benefits
26 of certificates providing for a uniform amount of insurance
27 and requiring the payment of uniform premiums shall be the
28 excess, if any, of the present value, at the date of valuation,
29 of such future guaranteed benefits provided for by such certi-
30 ficates, over the then present value of any future modified
31 net premiums therefor. The modified net premiums for any such
32 certificate shall be such uniform percentage of the respective

1 contract premiums for such benefits that the present value, at
2 the date of issue of the certificate, of all such modified net
3 premiums shall be equal to the sum of the then present value
4 of such benefits provided for by the certificate and the ex-
5 cess of A over B , as follows:

6 A. A net level premium equal to the present value,
7 at the date of issue, of such benefits provided for after the
8 first certificate year, divided by the present value, at the
9 date of issue, of an annuity of one per annum payable on the
10 first and each subsequent anniversary of such certificate on
11 which a premium falls due; provided however, that such net
12 level annual premium shall not exceed the net level annual
13 premium on the 19-year premium whole life plan for insurance
14 of the same amount at an age 1 year higher than the age at issue
15 of such certificate; and

16 B. A net 1-year term premium for such benefits
17 provided for in the first certificate year.
18 Reserves according to the Commissioner's reserve valuation
19 method for (1) life insurance benefits for varying amounts of
20 benefits or requiring the payment of varying premiums, (2)
21 annuity and pure endowment benefits, (3) disability and acci-
22 dental death benefits in all certificates and contracts, and
23 (4) all other benefits except life insurance and endowment
24 benefits, shall be calculated by a method consistent with the
25 principles of this subsection.

26 5. The present value of deferred payments due under
27 incurred claims or matured certificates shall be deemed a lia-
28 bility of the society and shall be computed upon mortality and
29 interest standards prescribed in the following subsection.

30 6. Such valuation and underlying data shall be
31 certified by a competent actuary or, at the expense of the
32 society, verified by the actuary of the department of insurance

1 of the state of domicile of the society.

2 A. The minimum standards of valuation for certificates
3 issued prior to the effective date of this chapter shall be
4 those provided by the law applicable immediately prior to the
5 effective date of this chapter but not lower than the stand-
6 ards used in the calculating of rates for such certificates.

7 E. The minimum standard of valuation for certificates
8 issued after the effective date of this chapter shall be $3\frac{1}{2}\%$
9 interest and the following tables:

10 (1) For certificates of life insurance--American
11 Men Ultimate Table of Mortality, with Bowerman's or Davis' ex-
12 tension thereof or with the consent of the commissioner, the
13 Commissioners 1941 Standard Ordinary Mortality Table, the
14 Commissioners 1941 Standard Industrial Mortality Table or the
15 Commissioners 1958 Standard Ordinary Mortality Table, using
16 actual age of the insured for male risks and an age not more
17 than 3 years younger than the actual age of the insured for
18 female risks;

19 (2) For annuity and pure endowment certificates,
20 excluding any disability and accidental death benefits in such
21 certificates--the 1937 Standard Annuity Mortality Table or the
22 Annuity Mortality Table for 1949, ultimate, or any modifica-
23 tion of either of these tables approved by the commissioner;

24 (3) For total and permanent disability benefits
25 in or supplementary to life insurance certificates--Hunter's
26 Disability Table, or the class III disability table (1926)
27 modified to conform to the contractual waiting period, or the
28 tables of period 2 disablement rates and the 1930 to 1950
29 termination rates of the 1952 disability study of the Society
30 of Actuaries with due regard to the type of benefit. Any such
31 table shall, for active lives, be combined with a mortality
32 table permitted for calculating the reserves for life insurance

1 certificates;

2 (4) For accidental death benefits in or supple-
3 mentary to life insurance certificates--the Inter-company
4 Double Indemnity Mortality Table or the 1959 Accidental Death
5 Benefits Table. Either table shall be combined with a mortal-
6 ity table permitted for calculating the reserves for life
7 insurance certificates; and

8 (5) For noncancellable accident and health benefits--
9 the class. III disability table (1926) with conference modifi-
10 cations or, with the consent of the commissioner, tables based
11 upon the society's own experience.

12 The commissioner may, in his discretion, accept
13 other standards for valuation if he finds that the reserves
14 produced thereby will not be less in the aggregate than re-
15 serves computed in accordance with the minimum valuation stand-
16 ard herein prescribed. The commissioner may, in his discretion,
17 vary the standards of mortality applicable to all certificates
18 of insurance on substandard lives or other extra hazardous
19 lives by any society authorized to do business in this State.
20 Whenever the mortality experience under all certificates
21 valued on the same mortality table is in excess of the expec-
22 ted mortality according to such table for a period of 3
23 consecutive years, the commissioner may require additional
24 reserves when deemed necessary in his judgment on account of
25 such certificates.

26 Any society, with the consent of the insurance supervisory
27 officer of the state of domicile of the society and under such condi-
28 tions, if any, which he may impose, may establish and maintain
29 reserves on its certificates in excess of the reserves required
30 thereunder, but the contractual rights of any insured member
31 shall not be affected thereby.

32 7. A society neglecting to file the annual statement

1 in the form and within the time provided by this section shall
2 forfeit \$100 for each day during which such neglect continues,
3 and, upon notice by the commissioner to that effect, its
4 authority to do business in this State shall cease while such
5 default continues.

6 § 4135. Examination of domestic societies

7 The commissioner, or any person he may appoint, shall
8 have the power of visitation and examination into the affairs
9 of any domestic society and he shall make such examination at
10 least once in every 3 years. He may employ assistants for the
11 purpose of such examination, and he, or any person he may ap-
12 point, shall have free access to all books, papers and docu-
13 ments that relate to the business of the society. The minutes
14 of the proceedings of the supreme legislative or governing body
15 and of the board of directors or corresponding body of a
16 society shall be in the English language. In making any such
17 examination the commissioner may summon and qualify as witnes-
18 ses under oath and examine its officers, agents and employees
19 or other persons in relation to the affairs, transactions and
20 condition of the society. A summary of the report of the com-
21 missioner and such recommendations or statements of the
22 commissioner as may accompany such report, shall be read at the
23 first meeting of the board of directors or corresponding body
24 of the society following the receipt thereof, and if directed
25 so to do by the commissioner, shall also be read at the first
26 meeting of the supreme legislative or governing body of the
27 society following the receipt thereof. A copy of the report,
28 recommendations and statements of the commissioner shall be
29 furnished by the society to each member of such board of direc-
30 tors or other governing body. The expense of each examination
31 and of each valuation, including compensation and actual ex-
32 pense of examiners, shall be paid by the society examined or

1 whose certificates are valued, upon statements furnished by
2 the commissioner.

3 § 4136. Examination of foreign and alien societies

4 The commissioner, or any person whom he may appoint,
5 may examine any foreign or alien society transacting or apply-
6 ing for admission to transact business in this State. He may
7 employ assistants and he, or any person he may appoint, shall
8 have free access to all books, papers and documents that re-
9 late to the business of the society. He may in his discretion
10 accept, in lieu of such examination, the examination of the
11 insurance department of the state, territory, district, pro-
12 vince or country where such society is organized. The compen-
13 sation and actual expenses of the examiners making any
14 examination or general or special valuation shall be paid by
15 the society examined or by the society whose certificate obli-
16 gations have been valued, upon statements furnished by the
17 commissioner.

18 § 4137. No adverse publications

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

29 § 4138. Misrepresentation

30 No person shall cause or permit to be made,
31 issued or circulated in any form:

- 32 1. Any misrepresentation or false or misleading

1 statement concerning the terms, benefits or advantages of any
2 fraternal insurance contract now issued or to be issued in
3 this State, or the financial condition of any society;

4 2. Any false or misleading estimate or statement
5 concerning the dividends or shares of surplus paid or to be
6 paid by any society on any insurance contract; or

7 3. Any incomplete comparison of an insurance con-
8 tract of one society with an insurance contract of another
9 society or insurer for the purpose of inducing the lapse, for-
10 feiture or surrender of any insurance contract. A comparison
11 of insurance contracts is incomplete if it does not compare
12 in detail:

13 A. The gross rates, and the gross rates less any
14 dividend or other reduction allowed at the date of the compari-
15 son; and

16 B. Any increase in cash values, and all the bene-
17 fits provided by each contract for the possible duration
18 thereof as determined by the life expectancy of the insured;
19 or if it omits from consideration:

20 C. Any benefit or value provided in the contract;

21 D. Any differences as to amount or period of
22 rates; or

23 E. Any differences in limitations or conditions
24 or provisions which directly or indirectly affect the benefits.
25 In any determination of the incompleteness or misleading char-
26 acter of any comparison or statement, it shall be presumed
27 that the insured had no knowledge of any of the contents of
28 the contract involved.

29 Any person who violates any provision of this sec-
30 tion or knowingly receives any compensation or commission by
31 or in consequence of such violation, shall upon conviction be
32 punished by a fine not less than \$100 nor more than \$500, or

1 by imprisonment in the county jail not less than 30 days nor
2 more than 11 months, or both fine and imprisonment and shall in
3 addition, be liable for a civil penalty in the amount of 3
4 times the sum received by such violator as compensation or
5 commission, which penalty may be sued for and recovered by
6 any person or society aggrieved for his or its own use and
7 benefit in accordance with the provisions of civil practice.

8 § 4139. Discrimination and rebates

9 No society doing business in this State shall make
10 or permit any unfair discrimination between insured members
11 of the same class and equal expectation of life in the pre-
12 miums charged for certificates of insurance, in the dividends
13 or other benefits payable thereon or in any other of the terms
14 and conditions of the contracts it makes.

15 No society, by itself, or any other party, and no
16 agent or solicitor, personally, or by any other party, shall
17 offer, promise, allow, give, set off, or pay, directly or in-
18 directly, any valuable consideration or inducement to, or for
19 insurance, on any risk authorized to be taken by such society,
20 which is not specified in the certificate. No member shall
21 receive or accept, directly or indirectly, any rebate of
22 premium, or part thereof, or agent's or solicitor's commission
23 thereon, payable on any certificate or receive or accept any
24 favor or advantage or share in the dividends or other benefits
25 to accrue on, or any valuable consideration or inducement not
26 specified in the contract of insurance.

27 § 4140. Taxation

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

1 § ~~4141~~. Exemptions

2 Except as herein provided, societies shall be
3 governed by this chapter and shall be exempt from all other
4 provisions of the insurance laws of this State, not only in
5 governmental relations with the state, but for every other
6 purpose. No law hereafter enacted shall apply to them, unless
7 they be expressly designated therein.

8 § 4142. Exemption of certain societies

9 Nothing contained in this chapter shall be so
10 construed as to affect or apply to:

11 1. Grand or subordinate lodges of societies,
12 orders or associations now doing business in this State which
13 provide benefits exclusively through local or subordinate
14 lodges;

15 2. Orders, societies or associations which admit
16 to membership only persons engaged in one or more crafts or
17 hazardous occupations, in the same or similar lines of busi-
18 ness, insuring only their own members and their families, and
19 the ladies' societies or ladies' auxiliaries to such orders,
20 societies or associations;

21 3. Domestic societies which limit their member-
22 ship to employees of a particular city or town, designated
23 firm, business house or corporation which provide for a death
24 benefit of not more than \$400 or disability benefits of not
25 more than \$350 to any person in any 1 year, or both; or

26 4. Domestic societies or associations of a purely
27 religious, charitable or benevolent description, which pro-
28 vide for a death benefit of not more than \$400 or for disa-
29 bility benefits of not more than \$350 to any one person in
30 any 1 year, or both.

31 Any such society or association described in paragraph
32 3 or 4 supra which provides for death or disability benefits

1 for which benefit certificates are issued, and any such society
2 or association included in ~~paragraph 4~~ ^{paragraph 4} which has more than
3 1,000 members, shall not be exempted from the provisions of
4 this chapter but shall comply with all requirements thereof.

5 No society which, by the provisions of this section,
6 is exempt from the requirements of this chapter, except any
7 society described in ~~paragraph 2~~ ^{paragraph 2} supra, shall give or allow,
8 or promise to give or allow to any person any compensation for
9 procuring new members.

10 Every society which provides for benefits in case of
11 death or disability resulting solely from accident, and which
12 does not obligate itself to pay natural death or sick benefits
13 shall have all of the privileges and be subject to all the
14 applicable provisions and regulations of this chapter except
15 that the provisions thereof relating to medical examination,
16 valuations of benefit certificates, and incontestability, shall
17 not apply to such society.

18 The commissioner may require from any society or
19 association, by examination or otherwise, such information as
20 will enable him to determine whether such society or associa-
21 tion is exempt from the provisions of this chapter.

22 Societies, exempted under the provisions of this
23 section, shall also be exempt from all other provisions of the
24 insurance laws of this State.

25 § 4143. Penalties

26 Any person who willfully makes a false or fraudulent
27 statement in or relating to an application for membership or
28 for the purpose of obtaining money from or a benefit in any
29 society, shall upon conviction be fined not less than \$100
30 nor more than \$500 or imprisonment in the county jail not less
31 than 30 days nor more than 11 months, or both.

32 Any person who willfully makes a false or fraudulent

1 statement in any verified report or declaration under oath
2 required or authorized by this chapter, or of any material
3 fact or thing contained in a sworn statement concerning the
4 death or disability of a member for the purpose of procuring
5 payment of a benefit named in the certificate, shall be guilty
6 of perjury and shall be subject to the penalties therefor
7 prescribed by law.

8 Any person who solicits membership for, or in any
9 manner assists in procuring membership in, any society not
10 licensed to do business in this State shall upon conviction
11 be fined not less than \$50 nor more than \$200.

12 Any person guilty of a willful violation of, or
13 neglect or refusal to comply with, the provisions of this
14 chapter for which a penalty is not otherwise prescribed, shall
15 upon conviction, be subject to the penalties provided by section
16 12 (general penalty) of this Title.

CHAPTER 57
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DELINQUENT INSURERS

SUBCHAPTER I - REHABILITATION AND LIQUIDATION

§ 4351. Scope of provisions

The applicable provisions of this chapter shall apply as to:

1. All insurers authorized to transact insurance in this State;

2. All insurers having policyholders resident in this State;

3. All insurers against whom a claim under an insurance contract may arise in this State;

4. All persons in process of organization, or holding themselves out as organizing, or proposing to organize in this State for the purpose of becoming an insurer; and

5. All other persons as to whom such provisions are otherwise expressly made applicable by law.

§ 4352. Short title

This chapter constitutes and may be cited as the "insurers rehabilitation and liquidation law."

§ 4353. Definitions

For the purposes of this chapter:

1. "Insurer," in addition to persons so defined under section 4 of this Title, includes also persons purporting to be insurers, or organizing or holding themselves out as organizing in this State for the purpose of becoming an insurer.

2. "Delinquency proceeding" means any proceeding commenced against an insurer pursuant to sections 4351 through 4385 of this chapter for the purpose of conserving, rehabilitating, reorganizing, or liquidating the insurer, or the proceedings authorized by sections 4401 through 4407 of this chapter.

1 3. "State" has the meaning ascribed in section 7, of
2 ~~this Title.~~

3 4. "Domiciliary state" means the state in which an
4 insurer is incorporated or organized, or as to an alien
5 insurer, the state in which, at the commencement of delin-
6 quency proceedings the larger amount of the insurer's assets
7 are held in trust or on deposit for the benefit of policy-
8 holders and creditors in the United States of America.

9 5. "Ancillary state" means any state other than a dom-
10 iciliary state.

11 6. "Reciprocal state" means any state other than this
12 State in which in substance and effect the provisions of the
13 uniform insurers liquidation act, as defined in section 4363,
14 ~~of this chapter,~~ are in force, including provisions requiring
15 that the Commissioner of Insurance or equivalent insurance
16 supervisory official be the receiver of a delinquent insurer,
17 and in which effective provisions exist for avoidance of
18 fraudulent conveyances and unlawful preferential transfers.

19 7. "Foreign country" means territory not in any state.

20 8. "Impairment" exists as to a stock insurer when the
21 insurer's assets do not at least equal the sum of its liabil-
22 ities and its paid-in capital stock; and as to a mutual in-
23 surer when the insurer's assets do not at least equal the
24 sum of the insurer's liabilities and the minimum basic sur-
25 plus required under this Title to be maintained for authority
26 to transact the kinds of insurance transacted.

27 9. "Insolvency" exists when the insurer fails to meet
28 its obligations as they mature or when a stock insurer's
29 assets are less than the sum of its liabilities and the min-
30 imum paid-in capital stock required for its authority to trans-
31 act insurance in this State; or when a mutual insurer's assets
32 are less than the sum of its liabilities and the minimum basic

1 surplus required to be maintained by the insurer under this
2 Title for authority to transact the kinds of insurance trans-
3 acted; or as otherwise expressly provided in this Title.

4 10. "General assets" means all property, real, personal
5 or otherwise, not specifically mortgaged, pledged, deposited
6 or otherwise encumbered for the security or benefit of speci-
7 fied persons or a limited class or classes of persons; and as
8 to such specifically encumbered property the term includes all
9 such property or its proceeds in excess of the amount necessary
10 to discharge the sums secured thereby. Assets held in trust
11 or on deposit for the security or benefit of all policyholders
12 or all policyholders and creditors in the United States of
13 America are deemed general assets.

14 11. "Preferred claim" means any claim accorded priority
15 of payment from the insurer's general assets under applicable
16 law.

17 12. "Special deposit claim" means any claim secured by
18 deposit made under statute for the security or benefit of a
19 limited class or classes of persons, but not including any
20 general assets.

21 13. "Secured claim" means any claim secured by mortgage,
22 trust deed, pledge, deposit as security, escrow or otherwise,
23 but not including special deposit claims or claims against
24 general assets. The term also includes claims which have be-
25 come liens upon specific assets through judicial process and
26 not invalidated.

27 14. "Receiver" means receiver, liquidator, rehabilitator,
28 or conservator, as context requires.

29 15. "Creditor" means a person having a claim, whether
30 matured or unmatured, liquidated or unliquidated, secured or
31 unsecured, or absolute, fixed or contingent.

1 § 4354. Jurisdiction of delinquency proceedings -
2 Venue - Exclusiveness of remedy - Appeal

3 1. The Superior Court shall have original jurisdiction
4 of delinquency proceedings under this chapter, and any court
5 with jurisdiction is authorized to make all necessary or pro-
6 per orders to carry out the purposes of such sections.

7 2. The venue of delinquency proceedings against a domes-
8 tic insurer shall be in the county in this State of the insurer's
9 principal place of business; or, if the principal place of busi-
10 ness is located in another state, in any county in this State
11 selected by the commissioner for the purpose. The venue of
12 proceedings against foreign insurers shall be in any county in
13 this State selected by the commissioner for the purpose.

14 3. At any time after commencement of a proceeding the
15 commissioner or any other party may apply to the court for an
16 order changing the venue of, and removing, the proceeding to
17 any other county of this State in which the proceeding may most
18 conveniently, economically and efficiently be conducted.

19 4. No court shall have jurisdiction to entertain, hear
20 or determine any petition or complaint praying for the disso-
21 lution, liquidation, rehabilitation, sequestration, conservation
22 or receivership of any insurer, or for an injunction or restrain-
23 ing order or other relief preliminary, incidental, or relating
24 to such proceedings, other than in accordance with this chapter.

25 5. An appeal shall lie to the Supreme ^{Judicial} Court from any ~~judicial~~
26 court granting or refusing rehabilitation, liquidation, con-
27 servation, or receivership, and from every order in delinquency
28 proceedings having the character of a final order as to the
29 particular portion of the proceedings embraced therein.

30 § 4355. Jurisdiction over related persons and transactions

31 1. A court of this State in which an order of rehabilita-

1 tion or liquidation has been entered in delinquency proceedings
2 against a domestic insurer or alien insurer domiciled in this
3 State, has jurisdiction also over persons, served as provided in
4 subsection 2 below, in an action brought by the insurer's rec-
5 eiver on or arising out of such obligation or relationship, as
6 follows:

7 A. Persons obligated to the insurer as a result of agency
8 or brokerage or transactions between such persons and the insur-
9 er;

10 B. Reinsurers of the insurer, and their representatives;
11 and

12 C. Past or present officers, managers, trustees, direct-
13 ors, organizers, and promoters of the insurer, and other per-
14 sons in positions of similar responsibility with the insurer.

15 2. As to those of such persons who are in this State,
16 personal service of process shall be made as in other civil
17 actions. As to those of such persons who cannot be found in
18 this State at the time process is to be served, personal ser-
19 vice of process shall be made thereon by a public officer of
20 the jurisdiction in which such person may be found, in the
21 same manner as personal service of process is required to be
22 made within this State under the laws of this State; and the
23 affidavit or certificate under oath setting forth the facts
24 of such service shall be filed in the court in this State in
25 which the action is pending.

26 § 4356. Grounds for rehabilitation of domestic insurer
or domiciled alien insurer

27 The commissioner may petition for an order directing him
28 to rehabilitate a domestic insurer or an alien insurer domicil-
29 ed in this State on any one or more of the following grounds:

30 1. On any ground for liquidation of the insurer under
31 section 4357 of this chapter, if the commissioner believes
32 rehabilitation possible without substantial increase of risk

1 to creditors, policyholders or the public;

2 2. If the insurer is in unsound condition, or is using, or
3 has been subject to, such methods and practices in conduct of
4 its business as to render its further transaction of insurance
5 presently or prospectively hazardous to its policyholders, or
6 creditors, or the public;

7 3. If the insurer's solvency is endangered by illegal
8 action;

9 4. For material falsification of the insurer's records,
10 reports, or financial condition;

11 5. If the commissioner finds after hearing that any
12 individual exercising executive power with respect to or
13 otherwise materially influencing or controlling the insurer,
14 directly or indirectly, is dishonest or untrustworthy in
15 matters affecting the insurer, and has not been or cannot
16 effectively and permanently be removed from such power, influ-
17 ence, or control;

18 6. For unlawful concealment or removal by the insurer
19 of any of its records or assets;

20 7. For failure of the insurer, or its parent corporation,
21 or subsidiary or affiliated person controlled by the insurer, to
22 submit its books, accounts, records and affairs to the reason-
23 able inspection or examination of the commissioner or his
24 examiner as authorized under this Title; or if any individual
25 exercising any executive authority in the affairs of the insurer,
26 or parent corporation, or subsidiary or affiliated person has
27 refused to be examined under oath, by the commissioner or his
28 examiner thereunto duly authorized, whether within this State
29 or otherwise, concerning the pertinent affairs of the insurer,
30 or parent corporation, or subsidiary, or affiliated person, or
31 if examined under oath refuses to divulge pertinent information
32 reasonably known to him; or for failure of officers, employees,

1 and other representatives of the insurer, or parent corporation,
2 or subsidiary, or affiliated person to comply promptly with the
3 reasonable requests of the commissioner or his examiner for the
4 purposes of and during the conduct of any such examination;

5 8. That a deadlock exists in the insurer's board of
6 directors relative to the general management of the insurer's
7 affairs, that the insurer's stockholders or members (as to a
8 mutual insurer) are unable to break the deadlock, and that the
9 same threatens irreparable injury to the insurer, or its credi-
10 tors, or its policyholders, or to the public;

11 9. If the insurer has transferred or attempted to trans-
12 fer substantially its entire property or business, or has entered
13 into any transaction the effect of which is to merge or consol-
14 idate substantially its entire property or business in that of
15 any other insurer, without first having obtained the written
16 approval of the commissioner as required under this Title;

17 10. If the controlling stock of the insurer has been
18 transferred to others without compliance with the requirements
19 of section 3476 (acquisition of controlling stock) of ~~this Title~~,
20 except where such transfer is by testamentary bequest or inheri-
21 tance;

22 11. If the insurer has wilfully violated its charter or
23 a law of this State, or has wilfully exceeded its corporate
24 powers;

25 12. If the insurer has requested or consented to rehabil-
26 itation by vote or written authorization of a majority of its
27 directors, or stockholders, or members (as to mutual insurers); or

28 13. If the insurer has failed to pay any valid judgment
29 against it within 30 days after the same became final.

30 § 4357. Grounds for liquidation of domestic insurer or
domiciled alien insurer

31 The commissioner may apply to the court for an order
32 appointing him as receiver, (if his appointment as receiver is

1 not then in effect, and directing him to liquidate the business
2 of a domestic insurer or of the United States branch of an
3 alien insurer having trusteed assets in this State, whether
4 or not there has been a prior order directing him to rehabili-
5 tate the insurer, upon any one or more of the following grounds

6 1. That the insurer has failed to cure an impairment of
7 surplus, or capital, or assets within the time allowed therefor
8 by any lawful order of the commissioner;

9 2. That the insurer is insolvent, or has commenced volun-
10 tary liquidation or dissolution, or attempts to commence or
11 prosecute or is the object, in this State or elsewhere, of any
12 action or proceeding to liquidate its business or affairs, or
13 to dissolve its corporate charter, or to procure the appoint-
14 ment of a receiver, trustee, custodian or sequestrator under
15 any law except this Title. This provision shall not apply as to
16 the conversion of a stock insurer to an ordinary business corp-
17 oration as authorized under section 3473 of this Title, or to
18 voluntary dissolution of the insurer pursuant to section 3484
19 of this Title;

20 3. That the insurer has ceased for a period of 1 year to
21 transact insurance business;

22 4. If a proposed insurer has not completed its organization
23 and obtained a certificate of authority as an insurer within
24 the time allowed therefor under any applicable law;

25 5. That efforts to rehabilitate the insurer and remove
26 the causes or adverse effects thereof for which rehabilitation
27 was instituted, have failed despite all reasonable efforts by
28 the commissioner, or cannot be continued without material in-
29 crease of risk of loss to the insurer's creditors or policy-
30 holders; or

31 6. If the insurer has requested or consented to liquidation

1 by vote or written authorization of a majority of its directors,
2 or stockholders, or members (if a mutual insurer).

3 § 4358. Ground for conservation, foreign and alien insurers

4 The commissioner may apply to the court for an order appoint-
5 ing him as receiver or ancillary receiver, and directing him to
6 conserve the assets within this State, of a foreign or alien
7 insurer upon any of the applicable ground specified in sections
8 4356 or 4357 of this chapter, or upon the ground that the
9 insurer's property has been sequestered in its domiciliary
10 sovereignty or in any other sovereignty; or, in the case of
11 an alien insurer that the insurer has failed to make good an
12 impairment of its trusted funds within the time required
13 therefor by order of the commissioner.

14 § 4359. Grounds for ancillary liquidation, foreign
and alien insurers

15 The commissioner may apply to the court for an order
16 appointing him to liquidate the business of a foreign or alien
17 insurer having assets, business or claims in this State upon
18 the appointment in the domiciliary sovereignty of such insurer
19 of a receiver, liquidator, conservator, rehabilitator or other
20 officer by whatever name called for the purpose of liquidating
21 the business of the insurer.

22 § 4360. Commencement of proceeding

23 1. The commissioner shall commence a delinquency proceed-
24 ing authorized under this chapter, the Attorney General repres-
25 enting him, by filing a petition in a court of proper jurisdic-
26 tion praying for appointment of the commissioner as receiver
27 of the insurer.

28 2. Upon the filing of the petition the court shall issue
29 an order directing the insurer to appear in court on the day
30 fixed in the order and show cause why the petition should not
31 be granted. Unless good cause is shown for a shorter period,
32 the order shall require the insurer to so show cause not less

1 than 15 or more than 30 days from date of the order.

2 3. The order to show cause and service thereof on the
3 insurer shall constitute due and legal process and shall be
4 in lieu of any other process otherwise provided by law.

5
6 § 4361. Service of process

7 A certified copy of any order to show cause issued under
8 section 4360 of this chapter, and a copy of the petition upon
9 which the same is made, shall be served upon the insurer by
10 delivering the same to its president, vice-president, secret-
11 ary, treasurer, director or to its managing agent, or attorney
12 in fact (if a reciprocal insurer); or if no such officer or
13 functionary can readily be found in this State, then such pro-
14 cess may be served upon the insurer by service thereof upon
15 the commissioner pursuant to sections 421 and 422 of this Title.

16
17 § 4362. Injunctions

18 1. Upon application by the commissioner for such an order
19 to show cause, or at any time thereafter, the court may without
20 notice issue an injunction restraining the insurer, its officers,
21 directors, stockholders, members, subscribers, agents and all
22 other persons from the transaction of its business or the
23 waste or disposition of its property until the further order
24 of the court.

25 2. The court may at any time during a proceeding under
26 this chapter issue such other injunctions or orders as may
27 be deemed necessary to prevent interference with the commis-
28 sioner or the proceeding, or waste of the assets of the insurer,
29 or the commencement or prosecution of any actions, or the
30 obtaining of preferences, judgments, attachments or other
31 liens, or the making of any levy against the insurer or against
32 its assets or any part thereof.

1 domiciled in this State, and he shall have the right to recover
2 the same and reduce the same to possession; except that ancillary
3 receivers in reciprocal states shall have, as to assets located
4 in their respective states, the rights and powers which are herein
5 prescribed for ancillary receivers appointed in this State as to
6 assets located in this State.

7 3. The filing or recording of the order directing possess-
8 ion to be taken, or a certified copy thereof, in any office where
9 instruments affecting title to property are required to be filed
10 or recorded shall impart the same notice as would be imparted
11 by a deed, bill of sale, or other evidence of title duly filed
12 or recorded.

13 4. The commissioner as domiciliary receiver shall be respon-
14 sible for the proper administration of all assets coming into his
15 possession or control. The court may at any time require a bond
16 from him or his deputies if deemed desirable for the protection
17 of such assets.

18 5. Upon taking possession of the assets of an insurer,
19 the domiciliary receiver shall immediately proceed to conduct
20 the business of the insurer or to take such steps as are author-
21 ized by this chapter for the purpose of rehabilitating, liquidat-
22 ing or conserving the affairs or assets of the insurer.

23 6. In connection with delinquency proceedings, the commis-
24 sioner may appoint one or more special deputy commissioners to
25 act for him and he may employ such counsel, clerks and assistants
26 as he deems necessary. The compensation of the special deputies,
27 counsel, clerks or assistants and all expenses of taking possess-
28 ion of the insurer and of conducting the proceedings shall be
29 fixed by the receiver and shall be paid out of the funds or
30 assets of the insurer. Within the limits of duties imposed upon
31 them, special deputies shall possess all the powers given to and,
32 in the exercise of those powers, shall be subject to all of the

1 duties imposed upon the receiver with respect to such proceedings.

2 7. During such receivership the commissioner shall file in
3 the court, at regular intervals not less frequently than quar-
4 terly, his true reports in summary form of the insurer's af-
5 fairs under the receivership, and of progress being made in
6 accomplishing the objectives of the receivership. All such
7 reports, together with such additional or special reports as
8 the court may reasonably require, shall be subject to review
9 by the court; and all actions of the receiver therein reported
10 shall be subject to the court's approval, but the court shall
11 not withhold approval or disapprove any such action unless
12 found by the court after a hearing thereon in open court to be
13 unlawful, or arbitrary, or capricious.

14

15 § 4365. Conduct of delinquency proceedings against
foreign insurers

16 1. Whenever under this chapter an ancillary receiver
17 is to be appointed in delinquency proceedings for an insurer
18 not domiciled in this State, the court shall appoint the commis-
19 sioner as ancillary receiver. The commissioner shall file a
20 petition requesting the appointment on the grounds set forth in
21 sections 4358 or 4359 of this chapter:

22 A. If he finds that there are sufficient assets of the
23 insurer located in this State to justify the appointment of an
24 ancillary receiver, or

25 B. If 10 or more persons resident in this State having
26 claims against such insurer file a petition with the commissioner
27 requesting the appointment of such ancillary receiver.

28 2. The domiciliary receiver for the purpose of liquidat-
29 ing an insurer domiciled in a reciprocal state shall be vested
30 by operation of law with the title to all of the property, con-
31 tracts and rights of action, and all of the books and records
32 of the insurer located in this State, and he shall have the

1 immediate right to recover balances due from local agents and
2 to obtain possession of any books and records of the insurer
3 found in this State. He shall also be entitled to recover the
4 other assets of the insurer located in this State, except that
5 upon the appointment of an ancillary receiver in this State, the
6 ancillary receiver shall during the ancillary receivership pro-
7 ceedings have the sole right to recover such other assets. The
8 ancillary receiver shall, as soon as practicable, liquidate from
9 their respective securities those special deposit claims and
10 secured claims which are proved and allowed in the ancillary pro-
11 ceedings in this State, and shall pay the necessary expenses of
12 the proceedings. All remaining assets he shall promptly transfer
13 to the domiciliary receiver. Subject to the foregoing provisions,
14 the ancillary receiver and his deputies shall have the same powers
15 and be subject to the same duties with respect to the administra-
16 tion of such assets as a receiver of an insurer domiciled in this
17 State.

18 3. The domiciliary receiver of an insurer domiciled in a
19 reciprocal state may sue in this State to recover any assets of
20 such insurer to which he may be entitled under the laws of this
21 State.

22
23 § 4366. Claims of nonresidents against domestic insurers

24 1. In a delinquency proceeding begun in this State against
25 a domestic insurer, claimants residing in reciprocal states may
26 file claims either with the ancillary receivers, if any, in their
27 respective states, or with the domiciliary receiver. All such
28 claims must be filed on or before the last date fixed for the
29 filing of claims in the domiciliary delinquency proceedings.

30 2. Controverted claims belonging to claimants residing in
31 reciprocal states may either:

32 A. Be proved in this State, or

1 B. If ancillary proceedings have been commenced in such
2 reciprocal states, may be proved in those proceedings. In the
3 event a claimant elects to prove his claim in ancillary proceed-
4 ings, if notice of the claim and opportunity to appear and be
5 heard is afforded the domiciliary receiver of this State, as
6 provided in section 4367 of ~~this chapter~~ with respect to ancillary
7 proceedings in this State, the final allowance of such claim by
8 the courts in the ancillary state shall be accepted in this
9 State as conclusive as to its amount and shall also be accepted
10 as conclusive as to its priority, if any, against special deposits
11 or other security located within the ancillary state.

12

13 § 4367. Claims against foreign insurers

14 1. In a delinquency proceeding in a reciprocal state against
15 an insurer domiciled in that state, claimants against such insurer
16 who reside within this State may file claims either with the
17 ancillary receiver, if any, appointed ^{in this} State, or with the domi-
18 ciliary receiver. All such claims must be filed on or before
19 the last date fixed for the filing of claims in the domiciliary
20 delinquency proceedings.

21 2. Controverted claims belonging to claimants residing in
22 this State may either:

23 A. Be proved in the domiciliary state as provided by the
24 law of that state, or

25 B. If ancillary proceedings have been commenced in this
26 State, be proved in those proceedings. In the event that any
27 such claimant elects to prove his claim in this State, he shall
28 file his claim with the ancillary receiver and shall give notice
29 in writing to the receiver in the domiciliary state, either by
30 registered or certified mail or by personal service at least
31 40 days prior to the date set for hearing. The notice shall
32 contain a concise statement of the amount of the claim, the facts

1 on which the claim is based, and the priorities asserted, if any.
2 If the domiciliary receiver within 30 days after the giving of
3 such notice shall give notice in writing to the ancillary receiver
4 and to the claimant, either by registered or certified mail or
5 by personal service, of his intention to contest such claim, he
6 shall be entitled to appear or to be represented in any proceed-
7 in this State involving adjudication of the claim. The final
8 allowance of the claim by the courts of this State shall be
9 accepted as conclusive as to its amount and shall also be accepted
10 as conclusive as to its priority, if any, against special deposits
11 or other security located within this State.

12
13 § 4368. Form of claim; notice; hearing

14 1. All claims against an insurer against which delinquency
15 proceedings have been begun shall set forth in reasonable detail
16 the amount of the claim, or the basis upon which such amount can
17 be ascertained, the facts upon which the claim is based, and the
18 priorities asserted, if any. All such claims shall be verified
19 by the affidavit of the claimant, or someone authorized to act
20 on his behalf and having knowledge of the facts, and shall be
21 supported by such documents as may be material thereto.

22 2. All claims filed in this State shall be filed with the
23 receiver, whether domiciliary or ancillary, in this State, on
24 or before the last date for filing as specified in this chapter.

25 3. Within 10 days of the receipt of any claim, or within
26 such further period as the court may fix for good cause shown,
27 the receiver shall report the claim to the court, specifying in
28 such report his recommendation with respect to the action to be
29 taken thereon. Upon receipt of such report, the court shall
30 fix a time for hearing the claim and shall direct that the
31 claimant or the receiver, as the court shall specify, shall
32 give such notice as the court shall determine to such persons as

1 shall appear to the court to be interested therein. All such
2 notices shall specify the time and place of the hearing and
3 shall concisely state the amount and nature of the claim, the
4 priorities asserted, if any, and the recommendation of the
5 receiver with reference thereto.

6 4. At the hearing, all persons interested shall be entitled
7 to appear and the court shall enter an order allowing, allowing
8 in part, or disallowing the claim. Any such order shall be
9 deemed to be an appealable order.

10
11 § 4369. Attachment and garnishment of assets

12 During the pendency of delinquency proceedings in this or
13 any reciprocal state, no action or proceeding in the nature of
14 an attachment, garnishment or execution shall be commenced or
15 maintained in the courts of this State against the delinquent
16 insurer or its assets. Any lien obtained by any such action
17 or proceeding within four months prior to the commencement of
18 any such delinquency proceeding or at any time thereafter shall
19 be void as against any rights arising in such delinquency pro-
20 ceeding.

21
22 § 4370. Limitations on appointment of receiver; action
by judgment creditor

23 No order, judgment or decree enjoining, restraining or
24 interfering with the prosecution of the business of any
25 insurer or for the appointment of a temporary or permanent
26 receiver of a domestic insurer shall be made or granted other-
27 wise than upon the petition of the commissioner represented
28 by the Attorney General as provided in this chapter.

29
30 § 4371. Deposit of monies

31 The monies collected by the commissioner in a proceeding
32 under this chapter shall be from time to time deposited in

1 one or more state or national banks, savings banks or trust
2 companies, and in the case of the insolvency or voluntary or
3 involuntary liquidation of any such depositary which is an
4 institution organized and supervised under the laws of this
5 State, such deposits shall be entitled to priority of payment
6 on an equality with any other priority given by the banking
7 laws of this State. The commissioner may in his discretion
8 deposit such monies or any part thereof in a national bank
9 or trust company as a trust fund.

10
11 § 4372. Exemption from fees

12 The commissioner shall not be required to pay any fee
13 to any public officer in this State for ~~service~~ filing, recording,
14 issuing a transcript or certificate or authenticating any
15 paper or instrument pertaining to the exercise by the commis-
16 sioner of any of the powers or duties conferred upon him under
17 this chapter, whether or not such paper or instrument be exe-
18 cuted by the commissioner or his deputies, employees or attor-
19 neys of record and whether or not it is connected with the
20 commencement of any action or proceeding by or against the
21 commissioner, or with the subsequent conduct of such action
22 or proceeding.

23
24 § 4373. Escrowing on pledge of assets

25 For the purpose of facilitating the rehabilitation,
26 liquidation, conservation or dissolution of an insurer pur-
27 suant to this chapter, the commissioner may, subject to the
28 approval of the court, borrow money and execute, acknowledge
29 and deliver notes or other evidences of indebtedness therefor
30 and secure the repayment of the same by the mortgage, pledge,
31 assignment, transfer in trust, or hypothecation of any or all
32 of the property, whether real, personal or mixed, of such

1 insurer, and the commissioner subject to the approval of the
2 court shall have power to take any and all other action nec-
3 essary and proper to consummate any such loan and to provide
4 for the repayment thereof. The commissioner shall be under
5 no obligation personally or in his official capacity to repay
6 any loan made pursuant to this section.

7
8 § 4374. Termination of rehabilitation

9 If at any time the court finds, after hearing in open
10 court, upon petition of the commissioner or of the insurer or
11 of his own motion, that the objectives of an order to rehabili-
12 tate a domestic insurer or an alien insurer domiciled in this
13 State have been accomplished, and that the insurer can be
14 returned to its own management without further jeopardy to the
15 insurer and its creditors or policyholders or stockholders or
16 to the public, the court may, upon a full report and accounting
17 by the commissioner relative to the conduct of the insurer's
18 affairs during the rehabilitation and of the insurer's current
19 financial condition, terminate the rehabilitation and by order
20 return the insurer, its assets and affairs, to the insurer's
21 management.

22
23 § 4375. Prohibited and voidable transfers, liens

24 1. No insurer shall make any transfer of or create any
25 lien upon any of its property with the intent of giving to,
26 or enabling any creditor or policyholder to obtain, a greater
27 percentage of his debt than any other creditor or policyholder
28 of the same class.

29 2. Any transfer of, or lien upon, any property of any
30 insurer made or created within 4 months prior to the filing of
31 a petition for an order to show cause under this chapter, which
32 gives to any creditor or policyholder or enables him to obtain

1 a greater percentage of his debt than any other creditor or
2 policyholder in the same class, and which is accepted by a
3 creditor or policyholder having reasonable cause to believe
4 that such a preference will occur, shall be voidable. Where
5 the preference consists in a transfer, such period of 4 months
6 shall not expire until 4 months after the date of the recording
7 or registering of the transfer if by law such recording or
8 registering is required.

9 3. Every director, officer, employee, stockholder, member
10 or any other person acting on behalf of such insurer, who, within
11 2 years prior to the filing of a petition for an order to show
12 cause against such insurer under this chapter, shall knowingly
13 participate in the making of any transfer or the creation of any
14 lien prohibited by subsection 1, and every person receiving any
15 property of, or cash surrender from, such insurer or the benefit
16 thereof as a result of a transaction voidable under subsection 2,
17 shall be jointly and severally liable therefor and shall be bound
18 to account to the commissioner as receiver, rehabilitator, liquid-
19 ator or conservator, as the case may be.

20 4. The commissioner as receiver, rehabilitator, liquidator,
21 or conservator may avoid any transfer of or lien upon the property
22 of an insurer which any creditor, stockholder or member of such
23 insurer might have avoided and may recover the property so trans-
24 ferred or its value from the person to whom it was transferred
25 unless he was a bona fide holder for value prior to the date of
26 the entry of an order to show cause under this chapter. Such
27 property may be recovered or its value collected from whoever
28 may have received it except a bona fide holder for value.

29
30 § 4376. Date rights fixed on liquidation

31 The rights and liabilities of the insurer and of its credi-
32 tors, policyholders, stockholders, members, subscribers and all

1 other persons interested in its estate shall, unless otherwise
2 directed by the court, be fixed as of the date on which the
3 order directing the liquidation of the insurer is filed in
4 the office of the clerk of the court which made the order,
5 subject to the provisions of this chapter with respect to the
6 rights of claimants holding contingent claims.

7
8 § 4377. Time to file claims

9 1. If upon the entry of an order of liquidation under
10 this chapter or at any time thereafter during liquidation pro-
11 ceedings the insurer is not clearly solvent, the court shall,
12 upon hearing after such notice it deems proper, make and enter
13 an order adjudging the insurer to be solvent.

14 2. After the entry of the order of insolvency, regardless
15 of any prior notice that may have been given to creditors, the
16 commissioner shall notify all persons who may have claims against
17 the insurer to file such claims with him, at a place and within
18 the time specified in the notice, or that such claims shall be
19 forever barred. The time specified in the notice shall be as
20 fixed by the court for filing of claims and which shall be not
21 less than 6 months after the entry of the order of insolvency.
22 The notice shall be given in such manner and for such reasonable
23 period of time as may be ordered by the court.

24
25 § 4378. Allowance of contingent and other claims

26 1. No contingent claim shall share in a distribution of
27 assets of an insurer which has been adjudicated to be insolvent
28 by an order made pursuant to section 4377 of this chapter, except
29 that such claims shall be considered, if properly presented,
30 and may be allowed to share where:

31 A. The claim becomes absolute against the insurer on or
32 before the last day fixed for filing of proofs of claim against

1 the assets of the insurer, or

2 B. There is a surplus and the liquidation is thereafter
3 conducted upon the basis that the insurer is solvent.

4 2. Where an insurer has been so adjudicated to be insolvent
5 any person who has a cause of action against an insured of the
6 insurer, shall have the right to file a claim in the liquida-
7 tion proceeding, regardless of the fact that the claim may be
8 contingent, and the claim may be allowed:

9 A. If it may be reasonably inferred from the proof pre-
10 sented upon the claim that such person would be able to obtain
11 a judgment upon such cause of action against such insured; and

12 B. If such person shall furnish suitable proof, unless
13 the court for good cause shown shall otherwise direct, that no
14 further valid claims against the insurer arising out of his cause
15 of action other than those already presented can be made; and

16 C. If the total liability of the insurer to all claimants
17 arising out of the same act of its insured shall be no greater
18 than its maximum liability would be were it not in liquidation.

19 3. No judgment against such an insurer, referred to in
20 subsection 2 above, taken after the date of the entry of the
21 liquidation order shall be considered in the liquidation proceed-
22 ings as evidence of liability, or of the amount of damages, and
23 no judgment against an insured taken by default, inquest or by
24 collusion prior to the entry of the liquidation order shall be
25 considered as conclusive evidence in the liquidation proceeding
26 either of the liability of the insured to such person upon such
27 cause of action or of the amount of damages to which such person
28 is therein entitled.

29 4. No claim of any secured claimant shall be allowed at
30 a sum greater than the difference between the value of the claim
31 without security and the value of the security itself as of the
32 date of the entry of the order of liquidation or such other

1 date set by the court for the fixation of rights and liabili-
2 ties as provided in section 4376 of ~~this chapter~~ unless the
3 claimant shall surrender his security to the liquidator and
4 in which event the claim shall be allowed in the full amount
5 for which it is valued.

6 § 4379. Priorities in distribution of assets

7 The priorities in distribution of assets from the insurer's
8 estate shall be in the order as shown in this section. The first
9 \$50 of the amount allowed on each claim in the classes under sub-
10 sections 2 to 6 shall be deducted from the claim and included in
11 the class under subsection 8. Claims shall not be cumulated by
12 assignment to avoid application of the \$50 deductible provision.
13 Subject to the \$50 deductible provision, every claim in each
14 class shall be paid in full or adequate funds retained for the
15 payment thereof before claims of the next succeeding class
16 receive any payment. No subclasses shall be established within
17 any class:

18 1. Administration costs. The costs and expenses of admin-
19 istration, including but not limited to the actual and necessary
20 costs of preserving or recovering the assets of the insurer;
21 compensation for all services rendered in the liquidation; any
22 necessary filing fees; the fees and mileage payable to witnesses;
23 and reasonable attorney's fees.

24 2. Wages. Debts due to employees of the insurer, other
25 than officers, for services performed, not to exceed \$1,000 to
26 each employee and earned within 1 year immediately prior to the
27 filing of the petition for liquidation. This priority shall be
28 in lieu of any other similar priority authorized by law as to
29 wages or compensation of such employees.

30 3. Loss claims. All claims under policies for losses
31 incurred, including third party claims, and all claims against
32 the insurer for liability for bodily injury or for injury to or

1 destruction of tangible property which are not under policies,
2 except the first \$200 of losses otherwise payable to any claim-
3 ant under this subsection. All claims under life insurance
4 policies and annuity contracts, whether for death proceeds,
5 annuity proceeds or investment values, shall be treated as
6 loss claims. Claims shall not be cumulated by assignment to
7 avoid application of the ~~\$200~~ deductible provision. That por-
8 tion of any loss for which indemnification is provided by other
9 benefits or advantages recovered or recoverable by the claimant
10 shall not be included in this class, other than benefits or ad-
11 vantages recovered or recoverable in discharge of familial
12 obligations of support or by way of succession at death or as
13 proceeds of life insurance, or as gratuities. No payment made
14 by an employer to his employee shall be treated as a gratuity.

15 4. Unearned premiums and small loss claims. Claims under
16 nonassessable policies for unearned premiums or other premium
17 refunds and the first \$200 of loss excepted by the deductible
18 provision in subsection 3, above.

19 5. Residual classification. All other claims, including
20 claims of the federal or any state or local government, not
21 falling within other classes under this section. Claims, includ-
22 ing those of any governmental body, for a penalty or forfeiture,
23 shall be allowed in this class only to the extent of the pecun-
24 iary loss sustained from the act, transaction or proceeding out
25 of which the penalty or forfeiture arose, with reasonable and
26 actual costs occasioned thereby. The remainder of such claims
27 shall be postponed to the class of claims under subsection 8,
28 below.

29 6. Judgments. Claims based solely on judgments. If a
30 claimant files a claim and bases it both on the judgment and
31 on the underlying facts, the claim shall be considered by the
32 liquidator who shall give the judgment such weight as he deems

1 appropriate. The claim as allowed shall receive the priority
2 it would have received in the absence of the judgment. If the
3 judgment is larger than the allowance on the underlying claim,
4 the remaining portion of the judgment shall be treated as if
5 it were a claim based solely on a judgment.

6 7. Interest on claims already paid. Interest at the legal
7 rate compounded annually on all claims in the classes under sub-
8 sections 1 through 6 from the date of the petition for liquida-
9 tion or the date on which the claim becomes due, whichever is
10 later, until the date on which the dividend is declared. The
11 liquidator, with the court's approval, may make reasonable classi-
12 fications of claims for purpose of computing interest, may make
13 approximate computations and may ignore certain classifications
14 and time periods as de minimis.

15 8. Miscellaneous subordinated claims. The remaining claims
16 or portions of claims not already paid, with interest as in sub-
17 section 7:

18 A. The first \$50 of each claim in the classes under sub-
19 sections 2 through 6 subordinated under this section;

20 B. Claims subordinated by section 4380 (subordination of
21 claims for noncooperation) of ~~this chapter~~;

22 C. Claims filed late;

23 D. Portions of claims subordinated under subsection 5; and

24 E. Claims or portions of claims payment of which is provided
25 by other benefits or advantages recovered or recoverable by the
26 claimant.

27 9. Preferred ownership claims. Surplus or contribution
28 notes, or similar obligations, and premium refunds on assessable
29 policies. Interest at the legal rate shall be added to each
30 claim, as in subsections 7 and 8.

31 10. Proprietary claims. The claims of stockholders or
32 other owners of the insurer.

1 § 4380. Subordination of claims for noncooperation

2 If an ancillary receiver (by whatever name called) in
3 another state or foreign country fails to transfer to the dom-
4 iciliary liquidator in this State any assets within his control
5 other than special deposits, diminished only by the expenses,
6 if any, of the ancillary receivership, the claims filed in the
7 ancillary receivership, other than special deposit claims or
8 secured claims, shall be placed in the class of claims under
9 subsection 8 of section 4379 of this chapter.

10

11 § 4381. Offsets

12 1. In all cases of mutual debts or mutual credits between
13 the insurer and another person in connection with any action
14 or proceeding under this chapter, such credits and debts shall
15 be set off and the balance only shall be allowed or paid, except
16 as provided in subsection 2 below.

17 2. No offset shall be allowed in favor of any such person
18 where:

19 A. The obligation of the insurer to such person would not
20 at the date of the entry of any liquidation order or otherwise,
21 as provided in section 4376 of this chapter, entitle him to
22 share as a claimant in the assets of the insurer, or

23 B. The obligation of the insurer to such person was pur-
24 chased by or transferred to such person with a view of its being
25 used as an offset, or

26 C. The obligation of such person is to pay an assessment
27 levied against the members of a mutual insurer, or against the
28 subscribers of a reciprocal insurer, or is to pay a balance
29 upon the subscription to the capital stock of a stock insurer.

30

31 § 4382. Report and petition for assessment

32 Within 3 years after the date of the entry of an order of

1 rehabilitation or liquidation of a domestic mutual insurer
2 or a domestic reciprocal insurer, the commissioner may make
3 and file his report and petition to the court setting forth:
4 1. The reasonable value of the assets of the insurer;
5 2. The liabilities of the insurer to the extent thus
6 far ascertained by the commissioner;
7 3. The aggregate amount of the assessment, if any,
8 which the commissioner deems reasonably necessary to pay all
9 claims, the costs and expenses of the collection of the
10 assessments and the costs and expenses of the delinquency
11 proceedings in full; and
12 4. Any other information relative to the affairs or
13 property of the insurer that the commissioner deems material.
14

15 § 4383. Order and levy of assessment

16 1. Upon the filing and reading of the report and peti-
17 tion provided for in section 4382 of this chapter, the court,
18 ex parte, may order the commissioner to assess all members or
19 subscribers of the insurer who may be subject to such an
20 assessment, in such an aggregate amount as the court finds
21 reasonably necessary to pay all valid claims as may be timely
22 filed and proved in the delinquency proceedings, together with
23 the costs and expenses of levying and collecting assessments
24 and the costs and expenses of the delinquency proceedings in
25 full. Any such order shall require the commissioner to assess
26 each such member or subscriber for his proportion of the
27 aggregate assessment, according to such reasonable classifi-
28 cation of such members or subscribers and formula as may be
29 made by the commissioner and approved by the court.

30 2. The court may order additional assessments upon the
31 filing and reading of any amendment or supplement to the
32 report and petition referred to in 1 above, if such amendment

1 or supplement is filed within 3 years after the date of the
2 entry of the order of rehabilitation or liquidation.

3 3. After the entry of the order to levy and assess
4 members or subscribers of an insurer referred to in 1 and 2
5 above, the commissioner shall levy and assess members or sub-
6 scribers in accordance with the order.

7 4. The total of all assessments against any member or
8 subscriber with respect to any policy, whether levied pursuant
9 to any other provision of this Title, shall be for no greater
10 amount than that specified in the policy or policies of the
11 member or subscriber and as limited under this Title, except
12 as to any policy which was issued at a rate of premium below
13 the minimum rate lawfully permitted for the risk insured, in
14 which event the assessment against any such policyholder
15 shall be upon the basis of the minimum rate for such risk.

16 5. No assessment shall be levied against any member or
17 subscriber with respect to any nonassessable policy issued in
18 accordance with this Title.

19

20 § 4384. Assessment prima facie correct; notice; payment;
proceedings to collect

21 1. Any assessment of a subscriber or member of an
22 insurer made by the commissioner pursuant to the order of
23 court fixing the aggregate amount of the assessment against
24 all members or subscribers and approving the classification
25 and formula made by the commissioner under section 4383
26 *Subsection* paragraph 1 of ~~this chapter~~ shall be prima facie correct.

27 2. Each member or subscriber shall be notified of the
28 amount of assessment to be paid by him by written notice
29 mailed to the address of the member or subscriber last of
30 record with the insurer. Failure of the member or subscriber
31 to receive the notice so mailed, within the time specified
32 therein or at all, shall be no defense in any proceeding to

1 collect the assessment.

2 3. If any such member or subscriber fails to pay the
3 assessment within the period specified in the notice, which
4 period shall not be less than 20 days after mailing, the
5 commissioner may obtain an order in the delinquency proceed-
6 ings requiring the member or subscriber to show cause at a
7 time and place fixed by the court why judgment should not be
8 entered against such member or subscriber for the amount of
9 the assessment together with all costs, and a copy of the
10 order and a copy of the petition therefor shall be served
11 upon the member or subscriber within the time and in the
12 manner designated in the order.

13 4. If the subscriber or member after due service of a
14 copy of the order and petition referred to ^{subsection} in 3 above is made
15 upon him:

16 A. Fails to appear at the time and place specified in
17 the order, judgment shall be entered against him as prayed
18 for in the petition; or

19 B. Appears in the manner and form required by law in
20 response to the order, the court shall hear and determine
21 the matter and enter a judgment in accordance with its deci-
22 sion.

23 5. The commissioner may collect any such assessment
24 through any other lawful means.

25

26 § 4385. Federal receivership

27 1. Whenever in the commissioner's opinion, liquidation
28 of a domestic insurer or an alien insurer domiciled in this
29 State would be facilitated by a federal receivership, and
30 when any ground exists upon which the commissioner might
31 petition the court for an order of rehabilitation or liquida-
32 tion of the insurer under this chapter, or if such an order

1 has already been entered, the commissioner may request another
2 commissioner or other resident of another state to petition
3 any appropriate federal district court for the appointment of
4 a federal receiver. The commissioner may intervene in any
5 such action to support or oppose the petition, and may accept
6 appointment as the receiver if so designated. So much of this
7 chapter shall apply to the receivership as may be applicable
8 and appropriate. Upon the commissioner's motion, the courts
9 of this State shall relinquish all jurisdiction over the
10 insurer for purposes of rehabilitation or liquidation.

11 2. If he is appointed receiver under this section, the
12 commissioner shall comply with requirements necessary to give
13 him title to and control over the assets and affairs of the
14 insurer.

15

16

SUBCHAPTER II
SUMMARY PROCEEDINGS

17

§ 4401. Summary proceedings. Commissioner's correc-
tive orders authorized

18

19 1. If the commissioner determines after a hearing that
20 any insurer has committed or engaged in, or is committing or
21 engaging in, or is about to commit or engage in any act,
22 practice or transaction that would subject it to formal
23 delinquency proceedings under sections 4351 through 4407 of
24 this chapter, he may make and serve upon the insurer and
25 other persons involved, such orders (other than seizure
26 orders under sections 4404 and 4405 of this chapter) as he
27 deems reasonably necessary to correct, eliminate or remedy
28 such conduct, condition or ground. Orders to cure impair-
29 ment of capital or surplus of a domestic insurer are subject
30 to sections 3423 and 3424 of this Title.

31

32 2. If the commissioner believes that irreparable harm
to the insurer, or its policyholders, creditors, or the pub-
lic may occur unless his order is issued with immediate effect,

1 he may make and serve his order without notice and before
2 hearing, and shall simultaneously therewith serve upon the
3 insurer and other persons involved the notice of hearing as
4 required under subsection 3 below.

5 3. The commissioner's order and notice of hearing here-
6 under shall be served by personal service in any manner pro-
7 vided by the laws of this State for service of process in
8 civil actions.

9

10 § 4402. Same; appeal from commissioner's order

11 If the commissioner has issued a summary order before
12 hearing as provided in subsection 2 of section 4401 of this
13 chapter, any person upon whom such order is served may waive
14 the commissioner's hearing and apply for any immediate judi-
15 cial relief available under law and without first exhausting
16 administrative remedies. Section 236 (appeal from commis-
17 sioner) of this Title shall apply as to appeals from the
18 commissioner's order made after hearing.

19

20 § 4403. Same; enforcement, penalty

21 1. The commissioner may apply for and any superior
22 court may grant such restraining orders, temporary and perman-
23 ent injunctions and other orders as may be deemed necessary to
24 enforce the commissioner's order.

25 2. Violation of any order of the commissioner issued
26 under section 4401 of this chapter by any person as to whom
27 the order is in effect shall subject such person to a penalty
28 of not to exceed \$10,000, to be collected in a civil action
29 brought by the Attorney General in the name of the State of
30 Maine. The Attorney General shall deposit all funds so
31 collected with the Treasurer of State to the credit of the insur-
32 ance division regulatory revolving fund.

1 § 4404. Same; seizure under court order

2 1. Upon filing by the commissioner in any superior court
3 of this State of his verified petition alleging any ground for
4 a formal delinquency proceeding against an insurer under
5 sections 4351 through 4385 of this chapter and that the
6 interests of the insurer's policyholders or creditors or the
7 public will be jeopardized by delay, and setting forth the
8 order deemed necessary by the commissioner, the court shall,
9 ex parte and without notice or hearing, issue the requested
10 order. The requested order may:

11 A. Direct the commissioner to take possession and control
12 of all or part of the property, books, accounts, and records
13 of the insurer and the premises occupied by it for transaction
14 of its business; and

15 B. Until further order of court, enjoin the insurer and
16 its officers, managers, agents, and employees from removal,
17 concealment, or other disposition of its property, and from
18 transaction of its business, except with the commissioner's
19 written consent.

20 2. The court's order shall be for such duration, speci-
21 fied in the order, as the court deems necessary to enable the
22 commissioner to ascertain the insurer's condition. On motion
23 of any party or on its own motion, the court may hold such
24 hearings as it deems desirable after such notice as it deems
25 appropriate, and extend or shorten the duration or modify
26 the terms of the order. The court shall vacate the seizure
27 order if the commissioner fails to commence a formal proceed-
28 ing under sections 4351 through 4385 of this chapter after
29 reasonable opportunity to do so; and a seizure order is
30 automatically vacated by issuance of the court's order pur-
31 suant to formal delinquency proceedings under such sections
32 of this chapter.

1 3. Entry of a seizure order under this section does not
2 constitute an anticipatory breach of any contract of the
3 insurer.

4

5 § 4405. Same; Seizure under the commissioner's order

6 1. If it appears to the commissioner that the interests
7 of policyholders, creditors or the public will be jeopardized
8 by delay incident to requesting a court seizure order, then
9 on any ground which would justify a court seizure order under
10 section 4404 of this chapter, and without notice and without
11 applying to the court, the commissioner may issue a seizure
12 order which must contain a statement verified by him of the
13 grounds of his action. As directed by the seizure order, the
14 commissioner's representatives shall forthwith take possession
15 and control of all or part of the property, books, accounts
16 and records of the insurer, and of the premises occupied by
17 the insurer for transaction of its business. The commissioner
18 shall retain possession and control until the order is vacated
19 or is replaced by an order of court pursuant to subsection 2
20 below, or pursuant to a formal proceeding under this chapter.

21 2. At any time after seizure under subsection 1 above,
22 the insurer may apply to the superior court for South Kennebec
23 county or for the county in this State in which the insurer's
24 principal office is located. The court shall thereupon order
25 the commissioner to appear forthwith and shall thereafter pro-
26 ceed as if the order were a court seizure order issued under
27 section 4404 ~~of this chapter~~.

28 3. Every law enforcement officer of this State shall
29 assist the commissioner in making and enforcing any such
30 seizure, and every sheriff's and police department shall fur-
31 nish him with such deputies, patrolmen or officers as are
32 necessary for the purpose.

1 4. Entry of a seizure order under this section does not
2 constitute an anticipatory breach of any contract of the
3 insurer.

4
5 § 4406. Same; conduct of hearings, both administrative
and by the court, in summary proceedings

6 1. The commissioner shall hold all hearings in summary
7 proceedings privately unless the insurer requests a public
8 hearing, in which case the hearing shall be public.

9 2. The court may hold all hearings in summary proceed-
10 ings and judicial reviews thereof privately in chambers, and
11 shall do so on request of the insurer proceeded against.

12 3. In all summary proceedings and judicial reviews
13 thereof, all records of the insurer, other documents, and all
14 insurance department files and court records and papers, so far
15 as they pertain to or are part of the record of the summary
16 proceedings, shall be and remain confidential except as neces-
17 sary to obtain compliance therewith, unless the court after
18 hearing arguments by the parties in chambers, shall order
19 otherwise, or unless the insurer requests that the matter be
20 made public. Until the court otherwise orders, all papers
21 filed with the clerk of court shall be held by him in a con-
22 fidential file.

23 4. If at any time it appears to the court that any per-
24 son whose interest is or will be substantially affected by an
25 order did not appear at the hearing and has not been served,
26 the court may order that notice be given and the proceedings
27 be adjourned to give such person opportunity to appear, on
28 such terms as may be reasonable and just.

29
30 § 4407. Same; Penalty for refusal to deliver
property, etc.

31 Any person having possession or custody of and refusing
32 to deliver to the commissioner or his representative upon

1 request any of the property, books, accounts, documents or
2 other records of an insurer against which a seizure order
3 or a summary order has been issued by the commissioner or
4 by the court, as provided under sections 4401 through 4406,
5 ~~of this chapter~~, shall upon conviction thereof be subject
6 to a fine of not over \$10,000 or imprisonment for less than
7 1 year, or by both such fine and imprisonment.

CHAPTER ⁵⁹ 61

INSURANCE OF PUBLIC EMPLOYEES AND PROPERTY

§ 4501. Insurance, annuities, pensions for public employees; payment of premiums and charges

1. The State, any county, city or town may make contracts of insurance with any insurer authorized to transact such business within the State insuring its employees or any class or classes thereof under a policy or policies of group insurance covering life, health or accident insurance and may contract with any such insurer granting annuities or pensions for the pensioning of such employees and for such purposes may agree to pay part or all of the premiums or charges for carrying such contract, raise money by taxation therefor and appropriate out of its treasury money necessary to pay such premiums or charges or portions thereof.

2. Like authority to make contracts of insurance and appropriate out of its treasury, money necessary to pay such premiums or charges or portions thereof, is granted to any water district or other quasi-municipal corporation chartered and organized as such under the laws of this State. Any such water district or other quasi-municipal corporation may provide for the retirement and pensioning of its employees and for such purpose may create and set aside out of its treasury funds for a reserve or reserves, or it may contract with any insurer authorized to transact such business within the State and grant annuities for the retirement and pensioning of its employees, and for such purposes may agree to pay a part or all of the premiums or annual charges for carrying out such contracts or for creating such annuity reserves.

1 § 4502. Tax sheltered annuities for school employees
2 1. In order to extend to the employees of the school ^{any}
3 administrative units ^{, school, or educational institution} of the State of Maine the benefits
4 of tax sheltered annuities available under the Internal
5 Revenue Code, it is declared to be the policy of the
6 Legislature that any ^{such school, or educational institution} school administrative unit may contract
7 with any insurer authorized to contract such business within
8 the State to grant an annuity for the pensioning of any
9 individual employee ^{of such school or institution} of such unit and for such purposes may
10 agree to pay part or all of the premiums or charges for
11 carrying such contracts, raise money by taxation therefor
12 ^{and appropriate} and appropriate out of its treasury money necessary to pay
13 such premiums or charges or portions thereof.

14 2. It is the intent of the Legislature that employees
15 of ^{such} school administrative units ^{of such school, or educational institution} of the State of Maine shall
16 be extended the opportunity to share in the benefits of
17 tax sheltered annuities and all laws and regulations of
18 the State of Maine shall be construed liberally to enable
19 such employees to come within the Internal Revenue Code,
20 section 403(b) without loss to themselves, or to the school
21 administrative unit ^{school or educational institution} to which they belong, of any benefits,
22 subsidies or opportunities therefor that they might other-
23 wise be entitled to under the laws of the State of Maine.

1 CHAPTER 6¹

2 UNCLAIMED FUNDS OF LIFE INSURERS

3 § 4551. Short title

4 This chapter shall be known as the unclaimed funds act
5 of life insurers.

6
7 § 4552. Scope

8 This chapter shall apply to unclaimed funds, as defined
9 in section 4553, of any life insurer doing business in this
10 State where the last-known address, according to the records
11 of the insurer, of the person entitled to the funds is within
12 this State; but if a person other than the insured or annuit-
13 ant is entitled to the funds and no address of such person
14 is known to the insurer, or if it is not definite and certain
15 from the records of the insurer what person is entitled to the
16 funds, then in either event it shall be presumed for the pur-
17 poses of this chapter that the last-known address of the per-
18 son entitled to the funds is the same as the last-known ad-
19 dress of the insured or annuitant according to the records of
20 the insurer.

21
22 § 4553. Definitions

23 1. As used in this chapter:

24 A. "Life insurer" means any association or corporation,
25 including a fraternal benefit society as defined by section 4101
26 of this Title, transacting within this State the business of
27 insurance on the lives of persons or insurance appertaining
28 thereto, including, but not by way of limitation, endowments
29 and annuities.

30 B. "Unclaimed funds" means all moneys held and owing by
31 any life insurer doing business in this State which shall have
32 remained unclaimed and unpaid for 7 years or more after it is

d) or Cx

or C, amounts representing claims which have been barred by the statute of limitations prior to such effective date.

1 established from the records of the insurer that such moneys
2 became due and payable under any life or endowment insurance
3 policy or annuity contract which has matured or terminated.

4 2. A life insurance policy not matured by actual proof
5 of the prior death of the insured shall be deemed to be matured
6 and the proceeds thereof shall be "due and payable" within the
7 meaning of this chapter if the policy is in force when the
8 insured shall have attained the limiting age under the mortality
9 table on which the reserve is based.

10 3. Moneys otherwise admittedly due and payable shall be
11 deemed to be "held and owing" within the meaning of this chap-
12 ter although the policy or contract shall not have been sur-
13 rendered as required.

14

15 § 4554. Reports

16 1. Every life insurer shall on or before May 1 of each
17 year make to the commissioner a written report of all unclaimed
18 funds, as defined in section 4553, held and owing by it on
19 December 31 next preceding, but the report shall not be required
20 to include ^{A.} amounts of less than \$5, which on the effective date
21 of this Act shall have been unclaimed and unpaid for more than

22 10 years, ^{D.} or amounts which have been paid to another state or
23 jurisdiction prior to the effective date of this Act.

24 2. The report shall be signed and sworn to by an officer
25 of the insurer and shall set forth:

26 A. In alphabetical order, the full name of the insured
27 or annuitant, his last-known address according to the insurer's
28 records, and the policy or contract number.

29 B. The amount appearing from the insurer's records to be
30 due on the policy or contract.

31 C. The date the unclaimed funds became payable.

32 D. The name and last-known address of each beneficiary

E. Beneficiary under this policy may be reported in the reports.

1 or other person who, according to the insurer's records, may
 2 have an interest in the unclaimed funds.

3 *F. E.* Such other identifying information as the commissioner
 4 may require.

5
 6 § 4555 . Notice of unclaimed funds; publication

7 1. On or before September 1 following the making of the
 8 reports under section 4554, the commissioner shall cause to be
 9 published notices based on the information contained in the
 10 reports and entitled "notice of certain unclaimed funds held
 11 and owing by life insurance companies." Such a notice shall
 12 be published once a week for 2 successive weeks in a newspaper
 13 published or having a general circulation in each county of
 14 this State in which is located the last-known address of a
 15 person appearing to be entitled to such funds.

16 2. Each notice shall set forth in alphabetical order
 17 the names of the insureds or annuitants under policies or
 18 contracts where the last-known address of the person appear-
 19 ing to be entitled to such funds is in the county of publica-
 20 tion or general circulation, together with:

21 A. The amount reported due and the date it became payable.

22 B. The name and last-known address of each beneficiary
 23 or other person who, according to the insurer's reports, may
 24 have an interest in the unclaimed funds.

25 C. The name and address of the insurer.

26 3. The notice shall also state that the unclaimed funds
 27 will be paid by the insurer to persons establishing to its
 28 satisfaction before the following December 1 their right to
 29 receive the same, and that not later than the following
 30 December 20 such unclaimed funds still remaining will be paid to the
 31 commissioner who shall thereafter be liable for the payment
 32 thereof.

1 pursuant to the provisions of this chapter may make payment to
2 any person appearing to such insurer to be entitled thereto,
3 and upon proof of such payment the commissioner shall forthwith
4 reimburse such insurer for such payment out of the special trust
5 fund in his custody or, if the special trust fund shall be in-
6 sufficient, out of the general fund of the State.

7
8 § 4559. Special trust fund; administration

9 Upon receipt of any unclaimed funds from life insurers by
10 the commissioner, he shall pay forthwith three-fourths of the
11 amount thereof into the State Treasury for credit to the general
12 fund of the State for the use of the State. The remaining one-
13 fourth shall be administered by him as a special trust fund for
14 the purposes of this chapter, and deposited in the manner pro-
15 vided by law for the deposit of such funds. At the end of each
16 calendar year, any unclaimed funds which shall have been a part
17 of such special trust fund for a period of 7 years or more shall
18 be paid into the general fund of the State for the use of the
19 State, but the special trust fund shall never be so reduced to
20 less than \$1,000.

21
22 § 4560. Determination and review of claims

23 Any person claiming to be entitled to unclaimed funds paid
24 to the commissioner may file a claim at any time with the com-
25 missioner. The commissioner shall possess full authority to
26 accept or reject any such claim. If he rejects a claim or
27 fails to act thereon within 90 days after receipt of the claim,
28 the claimant may make application to the Superior Court of
29 Kennebec County, upon not less than 30 days' notice to the
30 commissioner, for an order to show cause why he should not
31 accept and pay the claim.

32

1 § 4561. Payment of allowed claims

2 Any claim which is accepted by the commissioner or ordered
3 to be paid by him by a court of competent jurisdiction shall be
4 paid out of the special trust fund in his custody or, if such
5 special trust fund shall be insufficient, it shall be paid out
6 of the general fund of the State.

7

8 § 4562. Records required

9 The commissioner shall keep in his office a public record
10 of each payment of unclaimed funds received by him from any
11 life insurer. The record shall show in alphabetical order
12 the name and last-known address of each insured or annuitant,
13 and of each beneficiary or other person who, according to the
14 insurer's reports, may have an interest in such unclaimed funds,
15 and with respect to each policy or contract, its number, the
16 name of the insurer and the amount due.

17

18 § 4563. Inapplicability of other statutes

19 No other statute of this State relating to escheat or
20 unclaimed funds in force on the effective date of this Act
21 shall apply to life insurers nor shall any such statute enacted
22 after the effective date of this Act so apply unless specifically
23 made applicable by its terms.

24

1 CHAPTER 63

2 ROAD OR TOURIST SERVICE

3 § 4701. Licensed companies only

4 No person shall perform or offer to perform in this State,
5 for a stipulated fee covering a certain period, any form of
6 road or other tourist service relating to the repair, opera-
7 tion and care of automobiles or to the protection and assist-
8 ance of automobile owners or drivers, other than licensed
9 insurers; or furnish or offer to furnish tourist service by
10 selling or offering to sell to any proprietor of any so-called
11 roadside house, motel or camp furnishing or offering to furnish
12 meals or lodging to the traveling public, any form of sign or
13 other insignia indicating that said roadside house, motel or
14 camp has been approved by any person, without being licensed
15 therefor by the commissioner.

16
17 § 4702. Licenses; fee

18 1. If the commissioner is of the opinion that an applicant
19 is reliable and entitled to confidence, such applicant shall
20 be granted a license to perform such road or other service in
21 this State, and the license shall expire on December 31st suc-
22 ceeding the date of issuance, but may be renewed annually there-
23 after so long as the commissioner regards the licensee as
24 financially responsible and entitled to confidence.

25 2. The applicant shall pay a license fee to the commissioner
26 as provided in section 601 (fee schedule) ~~of this Title.~~

27
28 § 4703. Agents

29 No person, for himself or in behalf of any other person,
30 shall sell or offer to sell any such road or other service
31 without being licensed therefor by the commissioner.

1 § 4704 . Agent's license; fee

2 The commissioner shall grant a license to sell such ser-
3 vice in behalf of any person licensed therefor to any applicant
4 who shall furnish the commissioner with satisfactory evidence
5 of his integrity and authority to sell the service offered.
6 Such license, when granted, shall expire on December 31st there-
7 after, and annually thereafter may be renewed so long as the
8 commissioner shall be satisfied of the licensee's integrity,
9 authority and responsibility to provide the service stipulated.

10 The applicant shall pay a license fee to the commissioner as
11 provided in section 601 (fee schedule) ~~of this Title.~~

12

13 § 4705. Revocation

14 The commissioner may revoke a license for cause, at any
15 time, after hearing.

16

17 § 4706. Penalties

18 Any person, firm, association or corporation, or any
19 officer, agent, servant or employee thereof, who shall violate
20 any of the provisions of this chapter shall be punished by a
21 fine of not more than \$300 or by imprisonment for not more
22 than 6 months, or by both.

Sec. 2. R.S., T. 5, §86, amended. The 5th paragraph of section 86 of Title 5 of the Revised Statutes is amended to read as follows:

For receiving, filing and recording copy of certificate of organization of a corporation organized under ~~Title-13, chapters-1-to-21~~ Title 24-A, \$5 in advance.

For receiving, filing and recording certificate of organization of officers of a proposed insurance company and issuing certificates of organization, \$20; for receiving and filing certificate of increase of capital stock of an insurance company, \$10.

For receiving, filing and recording certificate of officers of a proposed fraternal benefit society and issuing certificate of organization, \$5.

For filing power of attorney of a foreign corporation under ~~Title-13, section-591~~ Title 24-A, \$10; for filing instrument revoking such power of attorney, \$5; for filing copy of charter under ~~Title-13, section-592~~ Title 24-A, \$10 additional; for filing certificate of increase or reduction of stock of a foreign corporation, \$10.

Sec. 3. R.S., T. 5, § 121, amended. The 4th paragraph of section 121 of Title 5 of the Revised Statutes is repealed, as follows:

~~The Treasurer of State shall receive for the use of the State:~~

~~For each certificate of securities deposited by a domestic insurance company under Title 24, sections 321 and 325, \$5, and for each certificate granted by him upon change of such securities, \$5.~~

~~For services required of him in case of proceedings under Title 24, section 328, 2% of the amount received and disbursed by him.~~

Sec. 4. R. S., T. 9, § 3729, sub-§ 2, amended. Subsection 2 of section 3729 of Title 9 of the Revised Statutes is amended to read as follows:

2. Prohibited charges. No home repair contractor or any other person shall charge, collect or receive from any owner, directly or indirectly, any further or other amount for costs, charges, examination, appraisal service, brokerage, commission, interest, discount, expense, fee, fine, penalty, or other thing of value in connection with a home repair contract other than the charges permitted by this chapter, except court costs, attorney's fees, the expenses of retaking and storing repossessed goods which are authorized by law, and insurance premiums as authorized by ~~Title 24, Sections 1201 to 1214.~~ Title 24-A, chapter 37, of the Revised Statutes.

Sec. 5. R. S., T. 24, § 2301, sub-§ 1, amended. The last sentence of subsection 1 of section 2301 of Title 24 of the Revised Statutes is amended to read as follows:

The State, and county, city, town or other quasi-municipal corporation shall have the same right to contract with any corporation subject to this chapter as it may have under ~~section-1701~~ Title 24-A, section 4501 with respect to insurance companies.

Sec. 6. R. S., T. 24, § 2301, sub-§ 5, additional. Section 2301 of Title 24 of the Revised Statutes is amended by adding thereto a new subsection 5 to read as follows:

5. "Commissioner" defined. As used in this chapter "commissioner" means the Insurance Commissioner of this State.

Sec. 7. R. S., T. 24, § 2305, amended. The first paragraph of section 2305 of Title 24 of the Revised Statutes is amended to read as follows:

The commissioner shall issue a license on payment of a fee as ~~provided-in-section-371, subsection-3,~~ of \$20 if the applicant meets the following requirements:

Sec. 8. R. S., T. 24, § 2313, amended. The last paragraph of section 2313 of Title 24 of the Revised Statutes is amended to read as follows:

The applicant shall pay a license fee to the commissioner ~~as-provided in-section-371,--subsection-3~~ of \$2.

Sec. 9. R. S., T. 29, § 781, sub-§ 1, H A, amended. The first sentence of paragraph A of subsection 1 of section 781 of Title 29 of the Revised Statutes is amended to read as follows:

A. Certificate. "Certificate," the certificate of an insurance company authorized to transact the business specified in Title 24, 24-A, that it has issued to or for the benefit of any person a motor vehicle liability policy covering the motor vehicle, trailer or semi-trailer involved in the accident as a result of which the action at law to recover damages referred to in section 783, subsection 2, was commenced as respects such accident; or the certificate of a surety company authorized to transact business under Title 24 24-A that it has issued to or for the benefit of any person a motor vehicle liability bond covering the motor vehicle, trailer or semi-trailer involved in the accident as a result of which the action at law to recover damages referred to in section 783, subsection 2, was commenced as respects such accident.

Sec. 10. R. S., T. 36, § 2520, amended. The first sentence of section 2520 of Title 36 of the Revised Statutes is amended to read as follows:

Every attorney, agent or other representative by or through whom are issued policies or contracts of indemnity ~~of the kind referred to in Title 24, chapter 7, subchapter 2~~ by a reciprocal insurer as identified in Title 24-A, chapter 5, in lieu of all other taxation, state, county or municipal, in this State, shall annually pay a tax at the rate of 2% on gross premiums or deposits actually received during the year after deducting amounts actually returned to policyholders as the unused part of such premium or deposit, or such part as may be credited on the renewal or extension of the indemnity.

Sec. 11. Repealing clause. The following chapters of Titles

13 and 24 of the Revised Statutes are repealed:

Title 13, chapter 89, as amended by section 11 of chapter 412 of the public laws of 1967; Title 24, chapter 1, as amended by section 5 of chapter 412 and section 18 of chapter 476, both of the public laws of 1967; chapter 3, as amended by chapter 467 of the public laws of 1965 and by chapter 92, section 1 of chapter 93; chapters 118, 196 and 381, all of the public laws of 1967; chapter 5, as amended by ~~xxxxxx~~ chapter 163 of the public laws of 1965; chapter 7, as amended by section 6 of chapter 412 of the public laws of 1967; chapter 9, as amended by chapter 73 of the public laws of 1967; chapter 11; chapter 13, as amended section 5 of chapter 186 of the public laws of 1965; chapters 15 and 17; chapter 21, as amended by chapter 358 of the public laws of 1965 and by chapters 183, 185 and 379, all of the public laws of 1967; chapter 23; chapter 25, as amended by chapter 296 of the public laws of 1965 and by section 1 of chapter 131 and by chapter 350, both of the public laws of 1967; chapter 26, as enacted by chapter 111 of the public laws of 1965; chapter 27; and chapter 28, as enacted by chapter 124 of the public laws of 1965.

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Sec. 12 ~~TRANSITORY PROVISIONS~~

~~Sec. 5 1991~~ Existing certificates of authority, continuation

Every certificate of authority of an insurer in force immediately prior to the effective date of this Act and existing under any law herein repealed shall be valid until midnight of the last day of June next following such effective date, unless earlier terminated in accordance with this Act. Such certificate of authority upon first renewal under this Act shall be replaced by a certificate of authority in form as consistent with this Act, and shall thereafter be subject to continuance, suspension, revocation, or termination as though originally issued under this Act.

Sec. 13 Existing licenses, continuation

1. Every license of an agent, broker, surplus lines broker, or adjuster in force immediately prior to the effective date of this Act and existing under any law herein repealed shall be valid until midnight of the date next following the effective date of this Act as shown below, unless earlier suspended, revoked, or terminated in accordance with this Act:

- A. Agent licenses, at midnight on June 30th.
- B. Broker and surplus lines broker licenses, at midnight on December 31; unless any particular such license would otherwise by its term expire earlier, and in which case the old license shall be extended until such midnight on December 31 upon payment by the licensee to the commissioner of an applicable proportion of the license fee of a full license year at the rate provided for in section 601 (fee schedule) ~~of this Title.~~
- C. Adjuster licenses, at midnight on December 31st.

~~Sec. 400~~ ^{Sec. 40.} Advisory boards; continuation

Continuation by this Act of the advisory boards with respect to the licensing of agents and existing under any law repealed herein, preserves such boards and the tenures of the individuals serving as members thereof at the effective date of this Act.

1 2. The respective such licenses upon first renewal
2 under this Act shall be replaced by a license in form con-
3 sistent with this Act, and shall thereafter be subject to
4 continuation, suspension, revocation, or termination as
5 though originally issued under this Act.

6
7 Sec. 14.
 ~~§ 4003.~~ Existing forms and filings

8 Every form of insurance document and every rate
9 or other filing lawfully in use immediately prior to the
10 effective date of this Act may continue to be so used or
11 be effective until the commissioner otherwise prescribes
12 pursuant to this Act; except, that before expiration of
13 one year from and after such effective date neither this
14 Act nor the commissioner shall prohibit the use of any
15 such document, rate, or filing because of any power, pro-
16 hibition, or requirement contained in this Act which did
17 not exist under laws in force immediately prior to such
18 effective date.

19
20 Sec. 15.
 ~~§ 4004.~~ Department, commissioner's tenure
 preserved

21 Continuation by this Act of the Insurance Department
22 and the office of Insurance Commissioner, existing under
23 any law repealed herein, preserves such department and
24 tenure of the individual holding such office at the effect-
25 ive date of this Act.

26
27 Sec. 17. ~~§ 4906.~~ Continuation of deposits

28 Any deposit made in this State under any law repealed
29 herein, with or through the department, or the commissioner,
30 or the Treasurer of State, or by any insurer in compliance
31 with a condition precedent to or in connection with its
32 certificate of authority to transact insurance in this State,

1 or any other state or country, and so on deposit immediately
2 prior to the effective date of this Act, shall be given full
3 recognition as fulfillment, to the extent of such deposit,
4 of any deposit so required for similar purposes under this
5 Act. The deposit shall hereafter be held for the purpose
6 applicable thereto as specified in this Act, and shall be
7 subject in all respects to the provisions of this Act appli-
8 cable to similar deposits newly made under this Act.

9
10 ~~Sec. 8. § 4906.~~ Sec. 13. "Chapter" defined

11 As used in this Act and except as otherwise required
12 by context, "chapter" means a particular numbered chapter
13 of this Act as indicated by context.

14
15 ~~Sec. 9. § 4907.~~ Sec. 9. § 4907. Applicability of Title under unrepealed laws

16 Any laws of Maine, other than this Act, remaining in
17 force after the effective date of this Act which refer to
18 certain provisions of law repealed under section 4911 of
19 this Act, shall be deemed to refer to those provisions of
20 this Act which are in substance the same or substantially
21 the same as such repealed provisions.

22
23 ~~Sec. 10. § 4908.~~ Sec. 19. Saving clause

24 This Act shall not impair or affect any act done,
25 offense committed or right accruing, accrued, or acquired,
26 or liability, penalty, forfeiture or punishment incurred,
27 prior to the time this Act takes effect, but the same may
28 be enjoyed, asserted, enforced, prosecuted or inflicted,
29 as fully and to the same extent as if this Act had not
30 been passed.

Sec. 20.

~~§ 4909.~~ Constitutionality and severability

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Sec. 21.

~~§ 4910.~~ Effective date

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~~§ 4911.~~ Repeals