

MAINE STATE LEGISLATURE

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Seventieth Legislature.

SENATE.

No. 78

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ONE.

AN ACT relating to Fraternal Beneficiary Organizations.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. A fraternal beneficiary association is hereby
2 declared to be a corporation, society or voluntary association,
3 formed or organized and carried on for the sole benefit of
4 its members and their beneficiaries, and not for profit. Each
5 association shall have a lodge system, with ritualistic form
6 of work and representative form of government, and shall
7 make provision for the payment of benefits in case of death,
8 and may make provision for the payment of benefits in the
9 case of sickness, temporary or permanent physical disability,
10 either as the result of disease, accident or old age, provided
11 the period in life at which payment of physical disability ben-
12 efits on account of old age commences, shall not be under

13 seventy years, subject to their compliance with its constitu-
14 tion and laws. The fund from which the payment of such
15 benefits shall be made, and the fund from which the expenses
16 of such association shall be defrayed shall be derived from
17 assessments or dues collected from its members, but every
18 call for payment by the policy or certificate holders shall dis-
19 tinctly state the purpose of the same and no part of the
20 money collected for mortuary or indemnity purposes or for
21 the reserve or emergency fund shall be used for expenses.
22 Payments of death benefits shall be to the families, heirs,
23 blood relatives, affianced husband or affianced wife of, or to per-
24 sons dependent upon the member. Such associations shall be
25 governed by this act and shall be exempt from the provisions
26 of insurance laws of this state, except as herein provided and
27 no law hereafter passed shall apply to them unless they be
28 expressly designated therein. Any such fraternal beneficiary
29 association may create, maintain, disburse and apply a reserve
30 or emergency fund in accordance with its constitution or by-
31 laws.

Sect. 2. Seven or more persons, resident of the state, desir-
2 ing to form a fraternal beneficiary corporation for the pur-
3 poses above provided, and having signed an agreement there-
4 for, declaring therein the purposes of such corporation, may
5 organize as such in the manner provided in sections one, two
6 and three of chapter fifty-five of the Revised Statutes, and
7 such corporation shall have all the powers, privileges and im-
8 munities, and be subject to all the liabilities named in said
9 section three.

Sect. 3. The president, secretary, and a majority of the
2 directors, or other officers corresponding thereto, shall forth-
3 with make, sign and swear to a certificate setting forth a true
4 copy of the agreement and declaration of the purposes of the
5 association, with the names of the subscribers thereto, the

6 date of the first meeting, and the successive adjournments, if
7 any, and shall submit such certificate and the records of the
8 corporation to the insurance commissioner, who, upon pay-
9 ment of a fee of five dollars, shall make such examination and
10 require such evidence as he deems necessary; and if it appears
11 that the purposes of the corporation conform to law, he shall
12 certify his approval thereof, and the certificate shall then be
13 filed by said officer in the office of the secretary of state, who,
14 upon payment of a fee of five dollars, shall cause the same
15 with the endorsements, to be recorded, and shall thereupon
16 issue a certificate in the following form:

STATE OF MAINE.

Be it known that whereas (here the names of the subscrib-
19 ers to the agreement of the association shall be inserted),
20 have associated themselves with the intention of forming a
21 corporation under the name of (here the name of the corpor-
22 ation shall be inserted), for the purpose (here the purpose
23 declared in the agreement of association shall be inserted),
24 and have complied with the provisions of the statutes of this
25 state in such case made and provided, as appears from the
26 certificate of the officers of the corporation, duly approved
27 by the insurance commissioner and recorded in this office;
28 now, therefore, I (here the name of the secretary shall be
29 inserted), secretary of the state of Maine, do hereby certify
30 that said (here the names of the subscribers to the agree-
31 ment of association shall be inserted), their associates and
32 successors, are legally organized and established as and are
33 hereby made an existing corporation under the name of (here
34 the name of the corporation shall be inserted), with the
35 powers, rights and privileges, and subject to the limitations,
36 duties and restrictions which by law appertain thereto. Wit-
37 ness my official signature hereunto subscribed, and the seal

38 of the state of Maine hereunto affixed, this.....
 39 day..... of..... in the year..... (in these blanks
 40 the day, month and the year of execution of the certificate
 41 shall be inserted. The secretary shall sign the same and
 42 cause the seal of the state to be thereto affixed, and such
 43 certificate shall be conclusive evidence of the existence of such
 44 corporation at the date of such certificate. He shall cause
 45 a record of such certificate to be made, and a certified copy
 46 of such record may be given in evidence, with like effect as
 47 the original certificate.

Sect. 4. No charter granted under the provisions of this act
 2 shall be valid after one year from its date unless the organ-
 3 ization has been completed and business begun thereunder,
 4 And when any domestic corporation has discontinued busi-
 5 ness for the period of one year its charter shall become null
 6 and void.

Sect.5. Any fraternal beneficiary corporation existing
 2 under the laws of this state, and now engaged in transacting
 3 business herein, may re-incorporate under the provisions
 4 of this act; provided, that nothing in this act contained shall
 5 be construed as requiring any such corporation to re-incor-
 6 porate; and any such corporation may continue to exercise
 7 all the rights, powers and privileges conferred by this act,
 8 and its articles of incorporation not inconsistent herewith.
 9 and shall be subject to the requirements and penalties of this
 10 act the same as if re-incorporated hereunder.

Sect. 6. No corporation hereafter organized under the pro-
 2 visions of this act shall incur any liability or issue any benefit
 3 certificate until it has received from the insurance commis-
 4 sioner a certificate to the effect that it has complied with the
 5 requirements of law and is duly authorized to transact busi-
 6 ness in this state. Before such certificate is granted the cor-
 7 poration must present satisfactory evidence to the insurance

8 commissioner that it has established mortuary assessment
9 rates which are not lower than those now indicated as neces-
10 sary by the National Fraternal Congress mortality tables and
11 that at least five hundred persons have each paid one advance
12 mortuary assessment on the rates so established and become
13 a bona-fide member of a local branch of the corporation, and
14 that it has deposited with the state treasurer at least one
15 thousand dollars as a part of its emergency or reserve fund
16 for the benefit and protection of certificate holders in said cor-
17 poration, which fund shall be held and used as hereinafter
18 provided.

Sect. 7. Each such association shall, on or before the
2 thirty-first day of December in each year deposit with the
3 state treasurer to the credit of its emergency or reserve fund
4 not less than fifteen per cent of its total mortuary receipts for
5 the year then ending, until the amount so deposited amounts
6 to not less than fifty thousand dollars. These amounts shall
7 be deposited in such interest bearing securities as any insur-
8 ance company or savings bank may from time to time by law
9 invest its funds and the securities shall be held in trust by
10 the state treasurer, but the corporation shall have at all times
11 the right to exchange any part of said securities for others
12 of like amount and character, and the income from said fund
13 shall be paid by said treasurer to the corporation. When
14 deemed advisable by the majority of the directors, or other
15 officers corresponding thereto, such part of the fund as may
16 be considered necessary, may with the approval of the insur-
17 ance commissioner be applied from time to time to the pay-
18 ment of death benefits but for no other purpose; provided,
19 however, that such fund shall not at any time be reduced
20 below an amount equal to one assessment or periodical call
21 upon all of its members, nor to less than one thousand dollars.
22 The insurance commissioner shall annually, in February, cer-

23 tify to the treasurer of state, the minimum amount of reserve
24 fund required to be kept on deposit in the state treasury by
25 each corporation doing business under this act. If said cor-
26 poration shall neglect for sixty days to satisfy any judgment
27 against it, in any court in this state, then the said treasurer
28 shall convert into money any of said securities, and forth-
29 with satisfy such judgment, and said corporation shall not
30 transact any further business until said deposit is restored.
31 When any such corporation shall discontinue business, any
32 justice of the supreme judicial court may appoint a receiver
33 or agent to administer any unexhausted portion of such fund
34 which shall be used, less compensation not to exceed five per
35 cent, as such court or justice may allow the receiver or agent;
36 first, in the payment of accrued, mortuary or indemnity
37 claims upon certificates or policies, or if insufficient to pay
38 such claims in full, they shall be paid, pro rata; second, if
39 a balance remains after the payment of such claims, such bal-
40 ance to be distributed to the holders of certificates then in
41 force, pro rata, in accordance with the total mortuary pay-
42 ments of said members, after first paying all expenses inci-
43 dent to such distribution. If, upon the thirty-first day of
44 December of any year, the emergency or reserve fund of any
45 such corporation is found to be less than the amount of one
46 assessment or periodical call upon all the members thereof,
47 said corporation shall, within six months thereafter, collect
48 from its members a sum sufficient to bring said emergency
49 or reserve fund up to one assessment or periodical call upon
50 all its members, and deposit the amount with the state treas-
51 urer to the credit of said fund.

Sect. 8. No such corporation shall re-insure with or trans-
2 fer its membership certificates or funds to any organization,
3 unless the said contract of transfer or re-insurance is first
4 submitted to and approved by a two-thirds vote of the mem-

5 bers of each association or society present at meetings called
6 to consider the same, of which meetings written or printed
7 notice shall be mailed to each certificate holder at least thirty
8 days before the date fixed for said meeting, nor unless the
9 said contract of transfer or re-insurance is first submitted
10 to and approved by the insurance commissioner. The mem-
11 bers of such corporation shall not vote by proxy.

Sect. 9. Fraternal beneficiary corporations, associations or
2 societies organized under the laws of another state or coun-
3 try which were transacting business in this state as herein
4 defined, on the twenty-eighth day of February, 1889 and
5 which now report or which shall report when requested to
6 the insurance commissioner may continue such business upon
7 complying with the provisions of this act. Fraternal benefi-
8 ciary corporations, associations or societies which were not
9 transacting business in this state on the 28th day of Feb., 1899,
10 which may hereafter desire to do so, shall first obtain a license
11 therefor from the insurance commissioner. Before receiving
12 such license it shall file with the commissioner a duly certified
13 copy of its charter or articles of association and a copy of its
14 constitution or laws, certified by its secretary or corresponding
15 officer, a power of attorney to the commissioner, as hereinafter
16 provided; a statement under oath of the president and secretary,
17 or corresponding officers, in the form required by the commis-
18 sioner, of its business for the preceding year; a certificate from
19 the proper official in its home state or country, that the com-
20 pany is legally organized and that similar corporations, associa-
21 tions or societies of this state may be admitted to transact busi-
22 ness in said state or country; a copy of its application and policy
23 or certificate, which must show that benefits are provided for by
24 assessments upon persons holding similar contracts, and shall
25 furnish the commissioner with such other information as he
26 may deem necessary to a proper exhibit of its business and

27 standing and plan of working and if he deems it expedient
28 he may license such corporation, association or society to do
29 business in this state in accordance with the provisions of
30 this act ; provided, however, that no license shall be issued to
31 any such company unless it shall have adopted and in force
32 mortuary assessment rates which are not lower than those
33 now indicated as necessary by the National Fraternal Con-
34 gress mortality tables. Any such corporation, association
35 or society upon filing the papers herein required shall pay the
36 commissioner twenty dollars.

Sect. 10. Each such association now doing or hereafter
2 admitted to do business within this state, and not having its
3 principal office within this state, and not being organized under
4 the laws of this state, shall appoint in writing the insurance
5 commissioner and his successors in office to be its true and
6 lawful attorney, upon whom all lawful process in any action
7 or proceeding against it may be served, and in such writing
8 shall agree that any lawful process against it which is served
9 on said attorney shall be of the same legal force and validity
10 as if served upon the association, and that the authority shall
11 continue in force so long as any liability remains outstanding
12 in this state. Copies of such certificate, certified by said
13 insurance commissioner, shall be deemed sufficient evidence
14 thereof, and shall be admitted in evidence with the same force
15 and effect as the original thereof might be admitted. Service
16 upon such attorney shall be deemed sufficient service upon
17 such association. When legal process against any such
18 association is served upon said insurance commissioner, he
19 shall immediately notify the association of such service by
20 letter, prepaid and directed to its secretary or corresponding
21 officer, and shall within two days after such service forward
22 in the same manner a copy of the process served on him to
23 such officer. The plaintiff in such process so served shall

24 pay to the insurance commissioner at the time of such ser-
25 vice a fee of two dollars, which shall be recovered by him as
26 part of the taxable costs, if he prevails in the suit.

Sect. 11. No certificate issued by any association transact-
2 ing business under this act shall be valid or legal which shall
3 be conditional upon an agreement or understanding that the
4 beneficiary shall pay the dues and assessments, or either of
5 them for said member.

Sect. 12. No company organized or transacting business
2 under this act shall employ paid agents in soliciting or pro-
3 curing business except that such companies may employ paid
4 agents in the preliminary organization of local branches, and
5 members as officers or deputies to assist members of weak
6 and inactive local branches to increase their membership,
7 providing the compensation of said agents, officers or depu-
8 ties does not in any manner or degree depend upon the num-
9 ber of new members obtained.

No person shall act as such agent, officer or deputy until the
11 company or its authorized manager has filed with the insur-
12 ance commissioner a certificate certifying that such person
13 has been appointed as the agent of the company for the pur-
14 poses mentioned in this section. Upon receiving such certifi-
15 cate the commissioner may, if he deems it advisable, upon
16 the payment of the fee of two dollars, issue a license to such
17 person, authorizing him to transact business in this state in
18 accordance with the provisions of this act and such license
19 shall expire on the first day of the next July, but no license
20 shall be issued under the provisions of this act to firms or
21 corporations. If any person solicits, receives or forwards
22 any risk or application for insurance to any such company
23 without first receiving such license or fraudulently assumes
24 to be an agent and procures risks or receives money for pre-
25 miums or assessments he forfeits not less than fifty dollars

26 nor more than one hundred dollars for each offence but any
27 policy or certificate issued on such application binds the
28 company, if otherwise valid.

Sect. 13. Any person who shall solicit membership for, or
2 in any manner assist in procuring membership in any such
3 corporation or organization doing a business not authorized
4 by this act, or who shall solicit membership for, or in any
5 manner assist in procuring membership in any such corpora-
6 tion or organization not authorized, as herein provided, to
7 do business as herein defined, in this state, shall be guilty
8 of a misdemeanor, and upon conviction thereof, shall be pun-
9 ished by a fine of not less than fifty nor more than two
10 hundred dollars.

Sect. 14. Every corporation, association or society doing
2 business as herein defined shall annually, on or before the
3 thirty-first day of January, report to the insurance commis-
4 sioner the names and addresses of its president, secretary and
5 treasurer, or other officers corresponding thereto, and shall
6 make under oath such further statements of its membership
7 and financial transactions for the year ending on the preced-
8 ing thirty-first day of December, with other information
9 relating thereto, as said commissioner may deem necessary to
10 a proper exhibit of its business and standing; and the com-
11 missioner may at any other times require any further state-
12 ment he may deem necessary to be made relating to such
13 corporation. For good cause shown, the commissioner may
14 extend the time within which any annual statement may be
15 filed but not to a date later than the first day of March.

Any such company which neglects or refuses to make the
17 returns required by this section shall forfeit five dollars a day
18 for each days neglect and for wilfully making a false state-
19 ment, the corporation and the persons making oath thereto,
20 or subscribing the same, shall severally be punished by a fine

21 of not less than one hundred nor more than five hundred
22 dollars.

Sect. 15. The money or other benefit, charity, relief, or aid
2 to be paid, provided or rendered by any corporation, associa-
3 tion or society authorized to do business under this act, and
4 as herein provided, shall not be liable to attachment by
5 trustee, or other process, and shall not be seized, taken or
6 appropriated, or applied by any legal or equitable process,
7 nor by operation of law, to pay any debt or liability of a
8 certificate holder, or any beneficiary thereof.

Sect. 16. Any solicitor, agent or examining physician, who
2 shall knowingly or wilfully make any false or fraudulent
3 statement or representation in or with reference to any appli-
4 cation for membership, or for the purpose of obtaining any
5 money or benefit, in any corporation, association or society
6 transacting business under this act, shall be guilty of a mis-
7 demeanor, and, upon conviction, shall be punished by a fine
8 of not less than one hundred nor more than five hundred
9 dollars, or by imprisonment not less than thirty days nor
10 more than one year, or both; and any person who shall wil-
11 fully make a false statement of any material fact or thing in
12 a sworn statement as to the death or disability of a certificate
13 holder in any such corporation, for the purpose of procuring
14 the payment of the benefit named in the certificate of such
15 holder, shall be guilty of perjury, and upon conviction, shall
16 be punished accordingly.

Sect. 17. Nothing herein contained shall be construed to
2 affect or apply to grand or subordinate lodges of Masons,
3 Odd Fellows, Knights of Pythias or similar orders, organized
4 or incorporated under the laws of this state, and which do
5 not have as their principal object the issuance of insurance
6 certificates. Nor shall anything herein contained apply to
7 domestic corporations or voluntary associations which limit

8 their membership to the employes of a particular city or
9 town, designated firm, business house or corporation; nor to
10 domestic lodges, orders or associations of a purely religious,
11 charitable and benevolent description which do not operate
12 with a view to profit and which do not provide for a funeral
13 benefit of more than one hundred dollars, or sick or disability
14 benefits of more than one hundred and fifty dollars, to any
15 person in any one year. Provided always, that any associa-
16 tion which has more than three hundred members or which
17 issues to any person a certificate providing for the payment
18 of benefits shall not be exempt by the provisions of this sec-
19 tion, and such associations shall comply with all requirements
20 of this act. The insurance commissioner may require of any
21 association such information relating to its membership and
22 certificates as will enable him to determine whether it is
23 exempt from the provisions of this act. And no order or
24 association which is exempt by the provisions of this section
25 from the requirements of this act, shall employ paid agents
26 or give or allow to any person any compensation for procur-
27 ing new members.

Sect. 18. The insurance commissioner, in person or by
2 deputy, shall have the power of visitation and examination
3 into the affairs of any domestic corporation subject to the
4 provisions of this act, that are conferred upon him by the
5 provisions of chapter forty-nine, provided that he shall not
6 be required to make periodical examinations of domestic
7 companies. Whenever after examination the commissioner
8 is satisfied that any domestic corporation is not paying the
9 maximum amount named in its policies or certificates in full
10 or is in such condition as to render further proceedings
11 hazardous to the public or its policy holders or is transacting
12 its business fraudulently; or whenever such domestic corpo-
13 ration shall, after the existence of one year or more, have a

14 membership of less than three hundred, the insurance com-
15 missioner may present the facts in relation to the same to
16 any justice of the supreme judicial court; and said justice
17 shall thereupon notify the officers of such corporation of a
18 hearing and unless it shall then appear that some special and
19 good reason exists why the corporation should not be closed,
20 some person shall be appointed receiver of such corporation,
21 and shall proceed at once to take possession of the books,
22 papers, moneys, and other assets of the corporation, and shall
23 forthwith, under the direction of the court proceed to close
24 the affairs of such corporation and to distribute to those
25 entitled thereto its funds in the manner provided in section
26 seven of this act. For this service the receiver may be
27 allowed out of any funds in possession of the corporation or
28 which may come therefrom into his hands, such sum as the
29 court may determine to be reasonable and just. When the
30 affairs of the corporation shall be finally closed, the court
31 shall decree a dissolution of the same.

Sect. 19. Fraternal beneficiary organizations, organized or
2 incorporated under the laws of this state, which are transact-
3 ing business herein upon the passage of this act, and which
4 limit their membership to the members of some particular
5 order, class or fraternity may continue such business by com-
6 plying with the provisions of this act, provided however, that
7 nothing herein contained shall require such organizations to
8 operate on the lodge system, but no such company shall
9 employ paid agents in soliciting or procuring new members
10 nor give or allow to any person any compensation for pro-
11 curing the same.

Sect. 20. Whenever the commissioner deems it prudent
2 for the protection of the policy or certificate holders in this
3 state he may examine, in person or by deputy, any foreign
4 fraternal beneficiary organization or society applying for

5 admission or transacting business in this state and such
6 foreign corporation shall pay the expenses of the examina-
7 tion. For the purposes aforesaid the commissioner or deputy
8 shall have free access to all the books and papers that relate
9 to the business of such corporation and to the books and
10 papers kept by any of its organizers and may summon and
11 qualify as witnesses under oath, and examine the directors,
12 officers, agents, organizers and trustees of such corporation
13 and any other persons in relation to its affairs, transactions
14 and condition. He may, in his discretion, accept in lieu of
15 such examination the examination of the insurance depart-
16 ment of the state or country where such foreign corporation
17 is organized.

Sect. 21. No corporation, association or society organized
2 or doing business under this act shall issue any policy or
3 certificate upon the life of any person more than sixty years
4 of age; nor on the life of any person who has not been exam-
5 ined by a reputable, practicing physician and passed a satis-
6 factory medical examination. No person shall be admitted
7 to membership in any such organization unless he has first
8 filed an application with and been initiated in and becomes a
9 member of a local branch. The by-laws of such corporation
10 shall provide that meetings of such branches shall be held at
11 least once each month.

Sect. 22. When the laws of any state or country impose on
2 fraternal organizations in this state any additional or greater
3 fees, fines, penalties, prohibitions or obligations than are
4 imposed by this act upon similar companies of other states
5 or countries the same fees, fines, penalties, prohibitions or
6 obligations shall be imposed upon the companies of such
7 state or country applying for admission to or transacting
8 business in this state.

Sect. 23. No conditions, stipulations or agreements contained in any law, by-law, application, policy or certificate of any such company organized or doing business under this act shall deprive the courts of this state of jurisdiction of action against such companies nor limit the time for commencing the same to a period of less than two years from the time when the cause of such action accrues. All statements in an application for a policy, certificate or membership in any such organization are representations and not warranties and erroneous descriptions or statements, unless material or fraudulent, shall not prevent any beneficiary from recovering on the policy and any person who, with the authority of any such company, collects any fees, dues, assessments or other payments for the corporation or who fills out, in whole or in part, for any person other than himself, an application for insurance in such company shall be deemed the agent of the insurer and not of the insured.

Sect. 24. No policy or certificate issued by any corporation, association or society organized or doing business under this act shall be forfeited by reason of the failure of the policy or certificate holder to pay any fees, dues, assessments or other payments for which he may be liable until there has been mailed, under letter postage, to his last known address a written or printed notice stating the amount due and the date on which the same must be paid, which shall not be less than thirty days from the mailing of said notice.

Sect. 25. Any corporation, association or society, neglecting or refusing to comply with, or violating the provision of this act shall be fined not less than fifty nor more than two hundred dollars upon conviction thereof.

Sect. 26. All acts or parts of acts, inconsistent herewith, are hereby repealed.

STATE OF MAINE.

IN SENATE, February 22, 1901.

Presented by Mr. STEARNS of Oxford, and laid on table to be printed on motion by Mr. BRYANT of Somerset, pending reference to Committee on Mercantile Affairs and Insurance.

KENDALL M. DUNBAR, *Secretary.*