

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED  
THE CONSTITUTIONS

OF THE  
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

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BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:  
PUBLISHED BY BAILEY & NOYES.

kept by the corporation, and shall record said copy in a book kept for that purpose. And said corporation shall pay the attorney general and secretary of state five dollars each for their services in advance. CHAP. 49.

SEC. 20. From the time of filing such certificate in the secretary of state's office, the signers of said articles and their successors and assigns shall be a corporation the same as if incorporated by a special act, with all the rights and powers, and subject to all the duties, obligations and liabilities provided by this and chapter forty-six.

When to be a corporation, subject to all provisions of this and chapter forty-six. 1867, c. 125, § 5. 1870, c. 93, § 3.

## CHAPTER 49.

### INSURANCE AND INSURANCE COMPANIES.

- SEC. 1. Insurance companies subject to the provisions of this and chapter forty-six.
2. Business to be managed by president and directors; how chosen; tenure of office; vacancies, how filled.
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  10. Insurance valid on furniture owned partly by husband and partly by wife.
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  12. Insurance companies not to engage in trade.
  13. Dividends, when and how made. \*
  14. Loss of capital to be repaired.
  15. Marine insurance companies may divide certain profits.
  16. Triennial statements to be made.
  17. Not to insure after loss of capital.
  18. Person authorized to receive applications and payments, to be deemed agent; notice to him and all his acts binding.
  19. Statements of description and value are representations and not warranties. No omissions, concealments or mistakes of the insured shall prevent his recovery, unless fraudulent or increase the risk.
  20. Insured to give notice of loss, and render a particular account thereof, under oath, to company, and if required, shall exhibit books and vouchers and be examined on oath. Inconsistent provisions in policies, void.
  21. Certain provisions not to be applied to mutual companies.

### MUTUAL COMPANIES.

- SEC. 22. Mutual companies, insurance by, regulated.
23. Regulations to be set forth in the policies.
  24. All persons insured to be members.
  25. Assessments on premium notes. Married woman's note valid.
  26. Policy and note one contract, and loss and other claims set off against it. If company fails, maker only ratably liable on note, and if in sixty days, not at all; and in no case beyond the amount of note. When insurance ends, note to be surrendered.
  27. Lien on real estate insured, and how secured.

- CHAP. 49. SEC. 28. Remedy if assessment is not paid.
29. Lien good on property of deceased persons insured.
  30. Annual statements to be made, and published.
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LIEN OF MORTGAGEES.

- SEC. 32. Lien of mortgagee upon policy.
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  36. Claims of mortgagee, when to be void.

SECURITIES DEPOSITED WITH STATE TREASURER.

- SEC. 37. Insurance companies may deposit securities with treasurer of state.
38. Treasurer to furnish certificate thereof.
  39. Interest or dividend may be collected by the company. Securities, how withdrawn.
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  42. Duty of treasurer in case of failure of the company.
  43. Treasurer's fees.

THE APPOINTMENT, TENURE OF OFFICE, POWERS, DUTIES AND COMPENSATION  
OF THE INSURANCE COMMISSIONER.

- SEC. 44. Appointment, tenure of office, salary and duties of insurance commissioner. He must keep an accurate account of his fees and settle the same. Also a record of his official acts.
45. He shall examine domestic insurance companies, and may require the production of books and papers, and ask questions of officers. Penalty for refusing.
  46. New companies to organize in two years, or charter void. No such company to do business without a license from the commissioner. Fee therefor. Annual renewal of license.
  47. Mutual fire and marine companies to make annual returns to commissioner on blanks furnished by him.
  48. When the commissioner thinks any domestic company insolvent, he shall apply for an injunction. Proceedings thereon. Clerk's fees, how paid.
  49. No foreign insurance company shall do business in this state without exhibiting its financial condition to the commissioner, and receiving a license from him, to be annually renewed. Fees therefor.
  50. No person shall act as agent of any insurance company without filing a copy of his power of attorney with the commissioner and receiving a license. Penalty therefor. Fees of commissioner. Policy issued without license, void.
  51. Commissioner may license insurance brokers. Fees therefor. Penalty for acting without license.
  52. Commissioner may suspend operations of unsafe foreign companies. Penalty for doing business thereafter. Commissioner may require statement of their condition.
  53. When such companies are dissolved or restrained at home, or suspended by the commissioner, court may appoint receivers, who may maintain actions in their own names.

- SEC. 54. Domestic companies to make annual returns to commissioner on blanks furnished by him.
55. Foreign companies annually to publish condensed statement of their condition in each county where they issue policies.
56. Commissioner to preserve statements of all companies examined by him and all rendered to him; and annually report to the legislature the condition of all companies.
57. Commissioner may suspend any insolvent life insurance company. Penalty for issuing policies afterwards. How it may resume business.
58. Company may appeal to a judge of S. J. C. from the decision of the commissioner suspending its business or refusing to allow it to resume. His decision final.
- SEC. 59. Penalties, how recovered. County attorney to prosecute.

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## INQUESTS INTO INSURANCE FRAUDS.

- SEC. 60. Investigation of insurance frauds by commissioner or magistrate appointed by him, on application of an officer of insurance company. Fees therefor.

## FOREIGN INSURANCE COMPANIES AND AGENCIES.

- SEC. 61. Definition of "domestic" and "foreign."
62. No foreign company to do business in this state without a paid up capital of \$100,000; and no stipulations in charter, by laws or policy, shall defeat jurisdiction or limit right of action to less than two years.
63. Suits against foreign companies may be brought in courts of this state. Service, how made. When judgment against them is not paid in thirty days after demand, commissioner may suspend their operations. Penalty for violating such suspension; but policy so issued, binding.
64. Agents of all insurance companies regarded as principals; and all notices served on them binding on the principals; and all knowledge by them same as by principal.

## LIFE POLICIES EXEMPT FROM ATTACHMENT.

- SEC. 65. How far life policies are exempt from attachment in the life time of the insured.

## LIMIT OF FOREGOING PROVISIONS.

- SEC. 66. Foregoing provisions do not apply to marine companies having no agent in this state, or prevent citizens from effecting insurance therein.

## STOCK COMPANIES.

SEC. 1. All incorporated insurance companies may exercise the powers, and shall be subject to the duties and liabilities contained herein and in chapter forty-six, so far as consistent with the provisions of their charters.

Insurance companies subject to the provisions of this and chapter forty-six. R. S. c. 49, § 1.

SEC. 2. The business of such companies shall be managed by not less than seven directors, who shall be chosen by the stockholders at the time and place and in the manner provided in their by-laws; be stockholders and citizens of the state, and hold their offices one year, and until others are chosen and qualified in their stead. Vacancies may be filled at a meeting called for the purpose. In elections and

Business to be managed by president and directors. How chosen. Tenure of office. Vacancies, how filled. R. S. c. 49, §§ 2, 3, 4, 5.

CHAP. 49. other business, stockholders have one vote for each share. The directors shall choose one of their number president. (a)

Secretary and other officers.  
R. S. c. 49, § 6.

SEC. 3. Every such company or the directors thereof, as often as once a year, shall, by ballot, elect a secretary, who shall be the clerk of the company and sworn to the faithful discharge of his duty; besides other duties required by the by-laws of the company, he shall keep a true record of all the votes of the stockholders and of the directors, and a true list of the stockholders, and of the number of shares held by each, and record every transfer of shares in a book kept for the purpose. The directors may appoint such other officers as they think necessary.

Manner of calling meetings.  
R. S. c. 49, § 7.

SEC. 4. The secretary shall call special meetings of such company, besides any meeting for which the by-laws provide, to be held at the time and place, and for the purposes required in writing, by the proprietors of one-fifth of the capital stock; if the by-laws of such company prescribe no mode of calling such meeting, it may be notified in the manner prescribed in the act of incorporation for calling the first meeting.

Capital to be at least \$100,000.  
R. S. c. 49, § 8.

SEC. 5. No insurance company shall be incorporated in this state with a capital of less than one hundred thousand dollars, to be paid in at the periods and in the proportions required by the charter.

Liability of stockholders in certain cases.  
R. S. c. 49, § 9.

SEC. 6. If any such company becomes insolvent before the whole capital is paid in by the stockholders, any creditor thereof may have his action on the case against any one or more of the stockholders, whose proportion of the whole stock allowed by the charter is not paid in, to recover against them in their individual capacity towards his debt, an amount not exceeding the sum due from them on their shares.

Capital, how invested.  
R. S. c. 49, § 10.

SEC. 7. The capital stock of said companies, paid at each installment, shall within six months thereafter, except as provided in the next section, be invested in the funded debt of the United States, or of this state, or in the stock of some bank legally incorporated in this state, or in all of them, as their interest requires; or any amount, not exceeding two-thirds of the capital, may be loaned to persons resident in this state, well secured on mortgages of real estate situated therein, or on pledge of any of the funded debts or stocks aforesaid.

Loans on respondentia or bottomry.  
R. S. c. 49, § 11.

SEC. 8. Such company may loan to citizens of this state, any portion not exceeding one half of its capital stock on respondentia or bottomry; but not unless at least three-fourths of all the directors agree to such loan, and enter their consent thereto at large on the records of the corporation, to be laid before the stockholders at their next meeting.

What property may be insured. Limit thereof.  
R. S. c. 49, §§ 12, 13.

SEC. 9. Such company may make insurance on vessels, freight, money, goods, and effects, against captivity of persons, on the life of

(a) 1859, c. 111; 1869, c. 52; 1870, c. 156, § 23.

any person during his absence at sea, on money lent upon bottomry and respondentia, against fire on dwelling houses or other buildings, and on merchandise or other property within the United States, and fix the premiums and terms of payment; but no risk on any one bottom or on one building and contents shall exceed ten per cent. of its capital stock actually paid in.

SEC. 10. Insurance effected by a husband or wife on a dwelling house owned by the insured and on the furniture therein, shall be valid for all the furniture, though part is owned by the husband and part by the wife.

SEC. 11. All policies of insurance shall be signed by the president, or in case of his death, inability, or absence, by any two of the directors, and countersigned by the secretary; and they shall be binding upon the company as if executed under its corporate seal.

SEC. 12. Said companies shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise, or commodities whatever.

SEC. 13. The directors, at such times as their charter or by-laws prescribe, shall make dividends of so much of the profits of the company as they think advisable; but moneys received and notes taken for premiums on risks, which are undetermined at the time of making such dividends, shall not be part of said profits.

SEC. 14. After any diminution of the capital stock by losses, depreciation or otherwise, no dividend shall be made until such diminution is supplied by actual funds, or the value restored.

SEC. 15. Any marine insurance company may, by the by-laws or votes duly passed for that purpose, divide among the stockholders thereof, and the persons insured therein, in proportion to the stock owned by such stockholders, and to the amount of premiums paid by the insured on risks terminated, all the clear profits of the company above six per cent. per annum on its capital stock. Before such division is made, all arrearages of dividends to stockholders, required to make up their annual dividends equal to six per cent. per annum, shall first be paid.

SEC. 16. Once in every three years, and oftener if required by the stockholders, the directors shall lay before them at a meeting, an exact and particular statement of the affairs of the company, showing their profits, if any, after deducting losses and dividends.

SEC. 17. If the company sustains losses to an amount equal to their capital stock, and the president or directors after knowing the same make any new or further insurance, the estates of all who make such insurance or consent thereto, shall be jointly and severally liable for the amount of any loss, which occurs under such insurance.

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25 Me. 515.  
56 Me. 371.

Insurance valid on furniture owned part by husband and part by wife.  
1860, c. 173, § 2.  
45 Me. 472.  
51 Me. 110.

Policies, how executed,  
R. S. c. 49, § 14.  
56 Me. 371.

Insurance companies not to engage in trade.  
R. S. c. 49, § 15.

Dividends, when and how made.  
R. S. c. 49, § 16.

Loss of capital to be repaired.  
R. S. c. 49, § 17.

Marine insurance companies may divide certain profits.  
R. S. c. 49, § 18.

Triennial statements to be made.  
R. S. c. 49, § 19.

Not to insure after loss of capital.  
R. S. c. 49, § 20.

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Person authorized to receive applications and payments, to be deemed agent; notice to him and all his acts, binding.

1861 c. 34, § 2.  
1862 c. 115, § 1.  
46 Me. 500.  
47 Me. 379.  
49 Me. 200.  
52 Me. 322.  
56 Me. 371.

SEC. 18. An agent authorized by an insurance company, whose name shall be borne on the policy, shall be deemed the agent of said company in all matters of insurance; any notice required to be given to said company or any of its officers, by the insured, may be given to such agent; any application for insurance, or valuation, or description of the property, or of the interest of the insured therein, if drawn by said agent, shall be conclusive upon the company, but not upon the insured, although signed by him; all acts, proceedings and doings of such agent with the insured, shall be as binding upon the company, as if done and performed by the person specially empowered or designated therefor by the contract.

Statements of description and value are representations and not warranties. No omissions, concealments or mistakes by insured shall prevent his recovery unless fraudulent or increase the risk.

1861, c. 34, § 3, 4.  
1862, c. 115, § 2.  
45 Me. 168.  
46 Me. 394.  
47 Me. 403.  
48 Me. 285, 558.  
49 Me. 200.  
50 Me. 580.  
51 Me. 91.  
52 Me. 60, 180, 322, 333.  
54 Me. 170.

Insured to give notice of loss and render a particular account thereof, under oath, to company, and if required, shall exhibit his books and vouchers, and be examined on oath. Inconsistent provisions in policies, void.

1861, c. 34, § 5.  
46 Me. 500.  
47 Me. 379.  
49 Me. 200, 282.  
51 Me. 32.  
52 Me. 322, 492.  
53 Me. 107.  
54 Me. 170.  
56 Me. 371, 474.

SEC. 19. All statements of description or value in an application or policy of insurance, shall be deemed representations and not warranties; erroneous descriptions or statements of value or title by the insured, shall not prevent his recovering on his policy unless the jury find that the difference between the property as described and as it really existed, contributed to the loss or materially increased the risk; a change in the property insured, its use or occupation or a breach of any of the terms of the policy by the insured, shall not affect the policy unless they materially increase the risk; nor shall any misrepresentation of the title or interest of the insured in the whole or a part of the property insured, real or personal, unless material or fraudulent, prevent his recovering on his policy to the extent of his insurable interest.

SEC. 20. In case of loss, under a policy against fire, the insured shall notify the company or its agent thereof, and within a reasonable time afterwards, shall deliver to the same, as particular an account of the loss and damage as the nature of the case will admit, stating therein his interest in the property, what other insurance, if any, existed thereon, in what manner the building insured, or containing the property insured, was occupied at the time of the fire, and by whom and when and how the fire occurred, so far as he knows or believes, to be sworn to before some disinterested magistrate, who shall certify that he has examined the circumstances attending the loss, and has reason to and does believe such statement is true; the insured shall, if so requested, within ten days after notice of loss, exhibit to the agent or company his books of account, bills of parcels and any other vouchers in his possession, and shall if requested, submit to an examination under oath, in the place of his residence; no other preliminary proof of any kind shall be required before commencing an action against such company. All provisions contained in any policy of insurance, in conflict with any of the provisions hereof, are null and void, and all contracts of insurance made, renewed or extended in this state, or on property within this state, shall be subject to the provisions hereof.



SEC. 21. The provisions in the foregoing sections relating to the amount of capital stock to be owned by any insurance company, and the division of the same into shares, and dividends of profit thereon, and other provisions incidental to the nature of its fund, and such of said provisions as relate to the liability of directors or stockholders in case of deficiency of capital, and the regulations concerning the business of any such company contained in sections eight and nine, shall not be construed as applicable to mutual fire insurance companies; but the other preceding and the following provisions shall be binding on such companies, so far as consistent with their charters.

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Certain provisions not to be applied to mutual companies.  
R. S. c. 49, § 23.

## MUTUAL COMPANIES.

SEC. 22. Domestic mutual fire insurance companies may make insurance for a term, not exceeding seven years, on dwelling houses, stores, shops, and other buildings, and on household furniture, merchandise and other property, the contents of any building within this state, against loss or damage by fire originating in any cause other than by design in the assured.

Mutual companies, insurance by, regulated.  
R. S. c. 49, § 24.

SEC. 23. No by-law, rule, or requirement, made by any such company shall be binding on any person insured, to vacate his policy, unless it is distinctly set forth in the policy or renewal.

Regulations to be set forth.  
R. S. c. 49, § 25.  
18 Me. 155.  
29 Me. 97, 292.  
34 Me. 487.

SEC. 24. Every person insured by such company, or his legal representatives or assigns continuing to be insured therein, shall be deemed a member of the company during the term specified in his policy and no longer.

Insured to be members.  
R. S. c. 49, § 26.  
37 Me. 137.

SEC. 25. The insured, before receiving his policy, shall deposit his promissory note for the sum of money determined by the directors; such part of it, as the by-laws require, shall be immediately paid towards incidental expenses and endorsed thereon; and the remainder shall be payable in such instalments, as the directors, from time to time, require for the payment of losses and other expenses, to be assessed on all who are members when such losses or expenses happen, in proportion to the amounts of their notes. A married woman may insure her property and give her note, with or without her husband, and it shall be as valid against her as if she was unmarried.

Assessments on premium notes. Married women's note valid.  
R. S. c. 49, § 27.  
1860, c. 173, § 1.  
34 Me. 451.  
49 Me. 448.  
50 Me. 301.  
53 Me. 225.

SEC. 26. A policy of insurance, issued by life, fire or marine insurance company, domestic or foreign, and a deposit note given therefor, shall be deemed one contract; and a loss under such policy or other equitable claims may be proved in defence to said note, though it were endorsed or assigned before it was due; and where a company becomes insolvent, the maker of the note shall only be liable for the equitable proportion thereof which accrued during the solvency; and if the insolvency occurs within sixty days of the date of the note, it shall be void except for the amount of the maker's claim,

Policy and note one contract, and loss and other claims set off against it. If company fails, maker only ratably liable on note, and if in sixty days, not at all; and in no case, beyond the amount of note. When

**CHAP. 49.** if any, on the company. No insured shall be held to contribute to insurance ends, note to any losses or expenses beyond the amount of his deposit note. At be surrendered. the expiration of his term of insurance, his note, on payment of all assessments for which it is liable, shall be relinquished to him, except as provided in the next section.

R. S. c. 49, § 28.  
1860, c. 173, § 3.  
1868, c. 194, § 1.  
48 Me. 269.  
49 Me. 431.  
Lien on real estate insured, and how secured.  
R. S. c. 49, § 29.  
28 Me. 252.

**SEC. 27.** The company shall have a lien against the assured, on the buildings insured and the land appurtenant thereto, for the amount at any time due on said note, to commence from the time of the recording of the same, as hereinafter provided, and to continue sixty days after the expiration of the policy, on which such note is given; if the company causes a certificate of its claim to such lien, signed by the secretary, to be recorded by the register of deeds for the county or district; and, during the pendency of such lien, an attachment of such property, in a suit on said note in favor of the company, shall have priority of all other attachments or claims; and execution, when recovered, may be levied on it accordingly.

Remedy if assessment is not paid.  
R. S. c. 49, § 30.  
48 Me. 75.

**SEC. 28.** If an assessment, made as provided in the twenty-fifth section, remains unpaid for thirty days after demand made by any agent of the company on any person liable to pay the note, the directors may sue for and collect the amount due on such note; and the amount collected shall remain in the treasury of the company subject to the payment of such sums, as might otherwise be assessed on the note; and the overplus at the expiration of the policy shall be the property of the assured.

Lien good on property of deceased persons insured.  
R. S. c. 49, § 31.

**SEC. 29.** Upon the decease of a member, the lien of the company shall remain good on the property insured to the amount due on the deposit note, and the policy shall descend to the executor or administrator of the deceased for the benefit of the estate during its continuance, unless voluntarily surrendered or forfeited by the provisions of the charter of the company.

Annual statements to be made and published.  
R. S. c. 49, § 32.

**SEC. 30.** The directors of each such company shall cause a detailed account of their expenses for the year next preceding their annual meeting, the amount of property actually insured at that time, the amount due on their premium notes, and amount of all debts due to and from the company, to be laid before the stockholders at their annual meeting in each year; and a copy thereof shall be printed in some newspaper published in the county, if any, otherwise in the state paper; but no such company, having an accumulated fund for the payment of losses, shall be required to publish the names of its debtors.

Compensation of officers.  
Votes by proxy limited.  
R. S. c. 49, § 33.  
1858, c. 27.

**SEC. 31.** The salary or compensation for services of the directors, treasurer, and secretary, shall be fixed by the stockholders at their annual meeting, and no stockholder or other person shall be allowed more than fifteen votes by proxy.

## LIEN OF MORTGAGEES.

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SEC. 32. The mortgagee of any real estate shall have a lien upon any policy of insurance against loss by fire procured thereon by the mortgager, to take effect from the time he files with the secretary of the company a written notice, briefly describing his mortgage, the estate conveyed thereby, and the sum remaining unpaid thereon. If the mortgager, by a writing by him signed, and filed with the secretary, consents that the whole of the sum secured by the policy, or so much as is required to discharge the amount due on the mortgage at the time a loss occurs, shall be applied to the payment of the mortgage, it shall be so paid by the company, and the mortgagee's receipt therefor shall be a sufficient discharge of the company therefor.

Lien of mortgage upon policy.  
R. S. c. 49, § 34.  
29 Me. 337.  
45 Me. 447.  
47 Me. 232.  
51 Me. 69.  
52 Me. 123.

SEC. 33. If the mortgager does not so consent, the mortgagee may, at any time within sixty days after a loss, enforce his lien by a suit against the mortgager, and the company as his trustee, in which judgment may be rendered for what is found due from said company upon the policy, notwithstanding the time of payment of the whole sum secured by the mortgage has not arrived.

How enforced, if mortgager does not consent.  
R. S. c. 49, § 35.

SEC. 34. The amount so recovered shall be applied first to the payment of the costs of the suit and officer's fees on the execution, and next to the payment of the amount due on the mortgage; and the balance, if any, shall be retained by the company and paid to the mortgager. If the company assumes the defence of the suit, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the suit, would be.

How amount recovered in suit to be applied, costs.  
R. S. c. 49, § 36.

SEC. 35. When two or more mortgagees claim the benefit of the three preceding sections, their rights shall be determined according to the priority of their claims and mortgages by the principles of law.

Priority of mortgage how determined.  
R. S. c. 49, § 37.

SEC. 36. When any mortgagee claims the benefit of said sections, any policy of insurance, which he had procured or subsequently procures on his interest in the same property by virtue of his mortgage, shall be void, unless it is consented to by the company insuring the mortgager's interest.

Claims of mortgage, when to be void.  
R. S. c. 49, § 38.  
45 Me. 447.

## SECURITIES DEPOSITED WITH STATE TREASURER.

SEC. 37. When any insurance company, incorporated in this state, desires to deposit any portion of its stocks or other securities with any officer of this state, as a pre-requisite to the establishment of agencies in any other state in compliance with the law thereof, the treasurer of state is to receive such stocks or other securities and to hold the same on deposit and in trust for the benefit of all the policy holders in said company.

Insurance companies may deposit securities with treasurer of state.  
R. S. c. 49, § 41.

SEC. 38. The treasurer shall then furnish such company with a certificate or certificates of the fact, in his official capacity, embracing

Treasurer to furnish certificate thereof.  
R. S. c. 49, § 42.

CHAP. 49. the items of the security so deposited, the amount and par value of each, and his opinion of their value.

Interest or dividends may be collected by the company. Securities, how withdrawn.  
R. S. c. 49, § 43.

SEC. 39. He shall hold such securities on deposit in accordance with these provisions, but such company may receive and collect the interest or dividends on them, and withdraw them, from time to time, on depositing in lieu thereof others of like character and value, to be determined by the treasurer.

When to be returned to the company.  
R. S. c. 49, § 44.

SEC. 40. The treasurer on being satisfied of the repeal or alteration of the law of such other state, disqualifying such company from continuing its business therein, shall return the securities on demand.

Securities to be returned to company ceasing to do business.  
R. S. c. 49, § 45.

SEC. 41. When such company desires to relinquish its business out of the state, the treasurer, on application thereof and on the oath of the president and secretary, that its assets are ample to meet all the existing demands against it, shall deliver its securities.

Duty of treasurer in case of failure of the company.  
R. S. c. 49, § 46.

SEC. 42. If any such company fails, while its securities are so on deposit, the treasurer shall demand of its secretary or clerk, and he shall furnish a full and complete list of the names and residences of all policy holders and others having claims upon the company; and they shall be notified forthwith through the post-office by the treasurer, of the condition of the company; and he shall state in the notice, that the securities held by him will be disposed of, and the proceeds, after paying expenses, paid over in a ratable proportion upon their claims properly authenticated, and the time when such dividend will be made; but nothing in the foregoing provisions shall be construed to impose any liability on this state on account of any delinquency of the treasurer.

Treasurer's fees.  
R. S. c. 49, § 47.

SEC. 43. Such company, on so depositing its securities, shall pay to the treasurer the sum of five dollars for each certificate granted by him; and in case of proceedings under the provisions of the preceding section the treasurer shall retain, as compensation for the services thereby required of him, the sum of two per cent. on the amount received and disbursed by him.

#### THE APPOINTMENT, TENURE OF OFFICE, POWERS, DUTIES AND COMPENSATION OF THE INSURANCE COMMISSIONER.

Appointment, tenure of office, salary and duties of insurance commissioner. He must keep an account of fees and settle same. Also a record of his official acts.  
1870, c. 156, §§ 1, 16, 24.

SEC. 44. An insurance commissioner shall be appointed by the governor and council, who shall hold his office three years unless sooner removed, but shall not at the same time be examiner of banks. He shall have no compensation for his official services except the fees prescribed in the following sections; and if they amount to more than twenty-five hundred dollars a year, the balance shall be paid by him into the treasury of state; and he shall keep an accurate account of all fees received, and settle the same annually with the governor and council. He may administer oaths in the performance of his official duties in any part of the state and at any time. He shall keep a

correct account of his doings and of all matters relating to the subject of insurance and insurance companies, on which he is officially called to act. CHAP. 49.

SEC. 45. He shall annually examine or cause to be examined, every domestic joint stock insurance company and mutual life insurance company, to ascertain its ability to meet its engagements and do a safe insurance business; and make such other examinations as he regards necessary for the safety of the public or the holders of policies. In all such cases he may require the officers to produce for examination any and all books and papers of the company, and to answer, on oath all questions propounded to them in relation to the condition and affairs of the company; and any officer who refuses to produce any such books or papers upon his demand, or to be sworn, or to answer any such questions, shall be subject to a penalty not exceeding two hundred dollars.

He shall examine domestic insurance companies and may require the production of books and papers, and ask questions of officers.

Penalty for refusing to comply. 1870, c. 156, § 2.

SEC. 46. Every such insurance company shall organize within two years after its charter is granted, otherwise the charter shall be void; and upon such organization shall inform the commissioner thereof. No such company shall for the first time commence business by issuing policies, until the commissioner first examines and ascertains that the company has complied with the terms of its charter, paid in its capital stock, and become qualified to act; and he shall then issue to it his certificate of that fact, for which service he shall receive from it twenty dollars and all traveling expenses; and annually thereafter upon examination, so long as the same is found solvent and responsible to do business, the commissioner shall issue to it a like certificate and receive a like fee.

New companies to organize in two years, or charter void. No such company to do business without a license from the commissioner.

Fee therefor. Annual renewal of license. 1870, c. 156, §§ 2, 3.

SEC. 47. Every domestic mutual fire and marine insurance company shall annually make to the commissioner a statement, under oath, of its secretary or treasurer, of its condition, according to the form prescribed by him; and to this end, he shall furnish all such companies, in the month of September of each year, with suitable blanks for such purpose, to be filled by them, one of which shall be at once filled and returned to him.

Mutual fire and marine companies to make annual returns to commissioner on blanks furnished by him. 1870, c. 156, § 5.

SEC. 48. If on examination the commissioner thinks that any domestic insurance company is insolvent, or that it is in such a condition as to render its further proceedings hazardous to the public or its policy holders, he shall apply to a justice of the supreme judicial court to issue an injunction restraining the company in whole or in part from further proceeding with its business. Such justice or any other justice of said court may thereupon, either with or without notice, issue such temporary injunction or if on notice such temporary or permanent injunction as he may think proper, either of which he may afterwards modify, vacate or perpetuate, and may pass such orders and decrees, appoint receivers to receive the assets of the company, and such masters, and do any other act conformable to the general rules

When the commissioner thinks any domestic company insolvent, he shall apply for an injunction. Proceedings thereon. Clerks' fees, how paid. 1870, c. 156, § 6.

CHAP. 49. of chancery practice as may in his opinion be requisite for the safety of the public and for the best interests of all parties concerned, all which orders and decrees he may in like manner enforce. All such proceedings shall be at once made known to the clerk of the courts for the county, who shall enter them on his docket, place them on file and record them in the records of the court. The clerk's fees shall be audited and allowed by the court, and paid from the assets of the company.

No foreign insurance company shall do business in this state, without exhibiting its financial condition to the commissioner, and receiving a license from him, and be annually renewed. Fees therefor.

1870, c. 156, § 7.

SEC. 49. No foreign insurance company shall transact any insurance business in this state, unless it first obtains a license therefor from the commissioner. Before receiving such license, it shall furnish the commissioner with a true certified copy of its charter and by-laws, with a statement under oath, signed by its president or secretary, showing its financial condition according to a form supplied by the commissioner. Upon receiving such copies and statement, the commissioner shall grant a license, if he thinks it ought to be granted, which shall authorize the company to do an insurance business in this state subject to the laws of the state, until the first day of July then next; and annually thereafter, such license may be renewed, so long as he regards the company responsible and safe, in all cases to terminate on the first day of July next succeeding. For such license and each renewal, the company shall pay the commissioner twenty dollars.

No person shall act as agent of any insurance company, without filing his power of attorney with the commissioner, and receiving a license. Penalty therefor. Fees of commissioner. Policy issued without license valid.

1870, c. 156, § 8.

SEC. 50. No person shall act as agent of any insurance company until he has produced to the commissioner and filed with him a duplicate power of attorney\* from the company or its authorized agent, authorizing him to act as such agent. Upon filing such power the commissioner shall issue a license to him if the company has received a license to do an insurance business in this state; and such license shall continue until the first day of July then next, and may be renewed from year to year on producing a certificate from the company that his agency is continued. For each such license or renewal thereof, the commissioner shall receive the sum of one dollar. And if any person solicits, receives or forwards any risk or application for insurance to any insurance company, without first receiving such license, or fraudulently assumes to be an agent, and thus procures risks and receives money for premiums, he shall forfeit not more than fifty dollars for each offence; but any policy issued on an application thus procured, shall bind the company if otherwise valid.

Commissioner may license insurance brokers. Fees therefor. Penalty for acting without license.

1870, c. 156, § 9.

SEC. 51. Any person may be licensed by the commissioner as insurance broker to negotiate contracts of insurance, and to effect insurance for others than himself for a compensation, and by virtue thereof he may place risks or effect insurance with any insurance company of this state, or with the agents of any foreign insurance company who have been licensed to do an insurance business in this state, but with no other. For such license he shall pay the sum of

five dollars, which shall authorize him thus to act until the first day of July then next; and on payment of the same fee his license may be renewed from year to year afterwards, ending annually on the first day of July. Any person without such license, assuming to act as such broker, shall forfeit not more than fifty dollars. CHAP. 49.

SEC. 52. When the commissioner thinks any licensed foreign insurance company is in failing condition or unsafe, he may, on reasonable notice, suspend its right to do insurance business in the state until the disability is removed. And if the company or any of its agents, after such suspension or the injunction mentioned in section forty-eight, issues any new policies, such agent or company shall forfeit not exceeding two hundred dollars. And to enable the commissioner to act in the premises, he may at any time require of any such company a full statement of all its affairs bearing upon its responsibility in the form prescribed by him.

When commissioner may suspend operations of unsafe foreign companies. Penalty for doing business thereafter. Commissioner may require statement of their condition. 1870, c. 156, § 10.

SEC. 53. When any foreign insurance company doing business in this state is dissolved, restrained or prohibited from doing business in the place where it is incorporated, and when under the last preceding section the commissioner regards the proceedings advisable, he may apply to the supreme judicial court, or any justice thereof, either in term time or vacation, setting forth the facts, and thereupon the court or justice may appoint a receiver or receivers, to take possession of the assets of the company in this state, and collect, sell, or dispose of the same as the court or justice may decree, and divide the proceeds pro rata among the creditors in this state, who prove their claims before said court or justice before the dividend is made; and the balance, if any, shall be paid over to the company or assigns. The proceedings herein provided for, shall conform to the provisions of section forty-eight. The receivers may maintain any action on or for any such assets in their own names as receivers, subject to all equities which exists between the original or previous parties.

When such companies are dissolved or restrained at home, or suspended by the commissioner, court may appoint receivers, who may maintain actions in their own names. 1870, c. 156, § 11.

SEC. 54. Every domestic stock insurance company, and mutual life insurance company, and every foreign insurance company doing business in this state, shall annually, by the thirty-first day of January, render to the commissioner an exact statement, under oath, of its condition as it existed on the thirty-first day of December previous, or its last exhibit, setting forth its condition as required by blanks furnished by the commissioner.

Domestic companies to make annual returns to commissioner, on blanks furnished by him. 1870, c. 156, § 12.

SEC. 55. Every foreign insurance company doing business in this state, shall annually cause to be published three weeks successively, in some daily or weekly paper, printed in the county where said company has a duly authorized agent or takes policies, a condensed statement of its condition conformable to its last annual report to the commissioner.

Foreign companies annually to publish condensed statement of their condition, in each county where they take policies. 1870, c. 156, § 13.

## CHAP. 49.

Commissioner to preserve statements of the condition of all companies examined by him, and all rendered to him; and annually report to the legislature the condition of all companies, &c. 1870, c. 156, § 13.

Commissioner may suspend any insolvent life insurance company. Penalty for issuing policies afterwards. How it may resume business. 1870, c. 156, § 18.

Company may appeal from decision of commissioner suspending its business, or refusing to allow it to resume, to a judge of the S. J. C. His decision final. 1870, c. 156, § 19.

Penalties, how recovered. County attorney to prosecute. 1870, c. 156, § 22.

Investigation of insurance frauds by commissioner, or magistrate appointed by him, on application of an

SEC. 56. The commissioner shall preserve, in a proper form, the statements of the condition of every company examined or caused to be examined by him, and all which shall be rendered to him as herein required; and shall annually report to the legislature the general condition of the insurance companies doing business in this state, with the names and locations of their authorized agents in this state, and such suggestions as he thinks proper, and in connection therewith, shall prepare an abstract of all returns and statements made to him by insurance companies.

SEC. 57. When the commissioner learns that the net cash funds of any life insurance company doing business in this state, are not equal to its liabilities, including the net value of its policies according to the "combined experience or actuaries' rate of mortality," with interest at four per cent. per annum, he shall give notice to such company and its agents to cease issuing policies within this state. He may purchase and use the life valuation tables adopted by the insurance department of Massachusetts for this and all purposes of valuation. When he is satisfied that the funds of such company have become equal to its liabilities, valuing its policies as aforesaid, he shall give notice to such company and agents that its business may be resumed. If any officer or agent, after such notice of suspension is given, issues any new policy in behalf of such company, he shall forfeit for each offence a sum not exceeding three hundred dollars; and the delivery of a policy in this state by mail or otherwise shall be deemed an issuing of such policy.

SEC. 58. When the commissioner suspends the operations of a company, or, on application, refuses to countermand such suspension, it may appeal to a judge of the supreme judicial court, by presenting to him a petition therefor in term time or vacation, and he shall fix a time and place of hearing which may be at chambers and in vacation, and cause notice thereof to be given to the commissioner; and after the hearing, he may affirm or reverse the decision of the commissioner; and the decision of such justice shall be final.

SEC. 59. All penalties provided by this act, may be recovered in an action of debt in the name of the state, and enure to the state when collected. The county attorney for the county where the forfeiture is incurred, shall sue therefor at the direction of the commissioner.

## INQUESTS INTO INSURANCE FRAUDS.

SEC. 60. On application in writing to the commissioner by an officer of any insurance company doing business in this state, stating that he has reason to believe and does believe that any person has procured of said company an insurance by false representations, or that the company has sustained a loss by the fraudulent act of the



insured, or with his knowledge or consent, and requests an investigation thereof, said commissioner, or such magistrate as he appoints, shall summon and examine, under oath, at a time and place designated by him, any persons, and require the production of all books and papers necessary for a full investigation of the facts, and make report thereof with the testimony by him taken to the company making such application. Such company shall pay the commissioner or magistrate his expenses for making such investigation and ten dollars a day for his services, and the fees of the witnesses to be taxed as in the supreme judicial court.

## CHAP. 49.

officer of insurance company. Fees therefor. 1870, c. 156, § 17.

## FOREIGN INSURANCE COMPANIES AND AGENCIES.

SEC. 61. The word domestic, when used in this chapter, means companies incorporated by this state; and the word foreign, means companies not so incorporated.

SEC. 62. No foreign joint stock insurance company, or mutual fire or life insurance company, or co-operative association, shall be permitted to do business in this state unless it has a bona fide paid up capital or cash assets amounting to one hundred thousand dollars; and no conditions, restrictions or stipulations in its charter, by-laws or policies, shall deprive the courts of this state of jurisdiction of actions against such companies, nor limit the time of commencing them to a period less than two years from the time the cause of action occurs.

SEC. 63. Any person having a claim against any foreign insurance company, may bring a suit therefor in the courts of this state, including trustee suits, and service, made on any authorized agent of said company, shall be valid and binding on the company and hold it to answer to such suit; and the judgment rendered therein shall bind the company as a valid judgment in every respect, whether the defendants appear or not. For the purpose of receiving notice of any fact or proceeding, or service of any process, the agent shall be regarded as still authorized until another is appointed. Unless any such judgment is paid within thirty days after demand made upon any such agent by the officer holding the execution, the commissioner may, on notice and hearing of the parties, suspend the power of the company to do business in this state, until it is paid, and if the company or any agent thereof issues any policy in this state during such suspension, said company and agent shall each forfeit not exceeding one hundred dollars. But any policy so issued shall be binding on the company in favor of the holder.

SEC. 64. All notices and processes which by any law, by-law or provision of any policy, any insured or other person has occasion to give or serve on any such company, may be given to or served on its agent with like effect as if given to or served on the principal. Such agents and the agents of all domestic companies, shall be regarded as

Definition of "domestic" and "foreign." R. S. c. 49, § 39.

No foreign company to do business in this state without a paid up capital of \$100,000; and no stipulations in charter, by-laws or policy, shall defeat jurisdiction, or limit actions to less than two years.

1861, c. 84, § 1.  
1870, c. 156 § 4.

All suits against foreign companies may be brought in courts of this state. Service, how made. When judgment against them is not paid in thirty days after demand, commissioner may suspend their operations. Penalty for violating such suspension; but policy so issued, binding.

1870, c. 156, § 14.  
56 Mc. 417, 474.

Agents of all insurance companies regarded as the principals; and all notices served on them, binding on principal.

**CHAP. 50.** in the place of the company in all respects regarding any insurance effected by them. The company shall be bound by their knowledge of the risks and of all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known by the company, and waived by it the same as if noted in the policy.

pals; and all knowledge by them, same as by the principals.  
1870, c. 156,  
§ 15.

#### LIFE POLICIES EXEMPT FROM ATTACHMENT.

How far life policies are exempt from attachment in lifetime of the insured.  
1870, c. 156,  
§ 20.  
See c. 75, § 10.

**SEC. 65.** All life policies and money due thereon are exempt from attachment and from all claims of creditors during the life of the insured, when the annual cash premium paid does not exceed one hundred and fifty dollars; but when it exceeds that sum, and the premium was paid by the debtor, his creditors have a lien on the policies for such sum over one hundred and fifty dollars per year, as the debtor has paid for two years, subject to any pledge or assignment thereof made in good faith.

#### LIMIT OF FOREGOING PROVISIONS.

Foregoing provisions do not apply to marine companies having no agents in this state, or prevent citizens from effecting insurance therein.  
1870, c. 156,  
§ 21.

**SEC. 66.** The preceding twenty-one sections shall not apply to any foreign marine insurance company having no agent in this state, nor prevent any citizens from effecting insurance in such company either in person or through a licensed broker.

## CHAPTER 50.

### TOLL BRIDGES.

- SEC. 1.** Military companies may pass over toll bridges free; also others going to or returning from funeral, or worship on sabbath.
2. Persons exempted to give toll gatherer name and place of abode, on request. Forfeiture for refusal or giving false information.
3. Restrictions on weight of teams and droves of cattle and horses.
4. Penalty for delaying passengers.
5. Two persons only and children to pass in a carriage toll free.
6. Penalty for injuring toll gates or attempting to pass without paying toll.
7. Covered toll bridges to be lighted. Penalty for neglect.
8. Surrender of toll bridges to county may be accepted by county commissioners. Party aggrieved may appeal.
9. Owners of toll ferries, and bridges may take land for a toll house.

Who may pass over toll bridges free.  
R. S. c. 50, § 1.

**SEC. 1.** All military companies, with their ordnance and equipage, on days of training or review, while under arms, or in going to or returning from their place of parade, and all persons going to or from any funeral, or public worship on the sabbath, may pass over any toll bridge free of toll.