

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

Sec. 259. Waiver.—Any waiver of the provisions of sections 249 to 259, inclusive, shall be unenforceable and void. (1957, c. 386, § 1.)

Sec. 260. Short title.—Sections 249 to 259, inclusive, may be cited as "The Motor Vehicle Sales Finance Act." (1957, c. 386, § 1.)

Chapter 60.

Insurance and Insurance Companies.

Section 131-A. Prohibiting Certain Forms of Dividend Life Insurance.
Sections 165 to 165-A. Group Life Insurance Standard Provisions.

The Insurance Commissioner. Powers and Duties.

Sec. 2. Commissioner, appointment, term and duties; deputy commissioners.—An insurance commissioner, as heretofore appointed and hereinafter in this chapter called the "commissioner," shall be appointed by the governor and council and shall hold his office for 4 years and until his successor has been appointed and qualified, but shall not at the same time be bank commissioner. His office shall be at the state capitol. 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 all his doings and of all fees and moneys received by him by virtue of his office, and pay over the same to the treasurer of state forthwith. He shall receive an annual salary of \$9,000. He may appoint, subject to the provisions of the personnel law, not to exceed 2 deputy commissioners, one of whom, by virtue of such appointment, shall be and perform all the duties of the first deputy insurance commissioner. In the event of a vacancy in the office of the insurance commissioner or during the absence or disability of that officer, the first deputy insurance commissioner so appointed under the provisions of this section shall become during such vacancy, absence or disability of that officer the acting insurance commissioner. (R. S. c. 56, § 2. 1947, cc. 182, 387. 1949, c. 349, § 90. 1951, c. 412, § 15. 1955, c. 473, § 15. 1957, c. 418, § 18.)

Effect of amendments. — The 1955 amendment increased the annual salary of the insurance commissioner from \$7,000 to \$8,000. The 1957 amendment, effective July 1, 1957, increased his salary from \$8,000 to \$9,000 and carried appropriations for the fiscal years ending in 1958 and 1959.

Sec. 6. Insurance companies notified.—If the commissioner shall notify any insurance company doing business in the state that any policy form or form of endorsement used or proposed to be used by any such company does not meet with the approval of the commissioner, for the reason that it does not comply with the statutes of this state or is otherwise illegal or is misleading or capable of a construction which is unfair to the assured or the public, such policy form or form of endorsement shall not thereafter be used by such company in the state. The commissioner in notifying any such insurance company of his failure to approve of any such policy form or form of endorsement shall state his reason for disapproval thereof. Any such insurance company, receiving such notice from the commissioner, may within 30 days thereafter file an appeal in the superior court to be holden in Kennebec county stating therein its reasons and containing a copy of the commissioner's notification, and after such notice as it shall order, and upon hearing, said court shall determine whether or not the reasons assigned by the commissioner are valid and thereupon sustain or annul said ruling. During the pendency of any such appeal, such policy form or form of endorsement shall not be used. It is the intent of this section that any such policy

form or form of endorsement shall first be submitted to the commissioner for approval before being delivered or issued for delivery to any person in this state. No such policy form or form of endorsement may be so delivered or issued for delivery until the expiration of 30 days after it has been so submitted unless the commissioner shall sooner give his written approval thereto.

This section shall not apply to policy forms or forms of endorsement for ocean marine insurance as referred to in subsection II of section 316, and for insurance on specially rated inland marine risks. (R. S. c. 56, § 6. 1957, c. 42.)

Effect of amendment. — The 1957 of the first paragraph and added the second amendment added the last two sentences and paragraph of this section.

Sec. 7. Annual statement of condition; neglect. — Every insurance company doing business in the state shall annually, by the 1st day of March, render to the commissioner either an exact statement, under oath, of its condition as it existed on the 31st day of the previous December or its last exhibit, setting forth its condition as required by blanks approved by the commissioner and any company, association or society which neglects or refuses to comply with the provisions of this section forfeits \$5 a day for each day's neglect. Except in the case of life insurance companies, the commissioner may, for good and sufficient cause shown, extend the filing date of such annual statement for a reasonable period of time. (R. S. c. 56, § 7. 1947, c. 188, § 7. 1957, c. 138.)

Effect of amendment. — The 1957 amendment added the last sentence of this section.

Organization of Companies under General Law.

Sec. 32. Merger of domestic mutual insurance companies.—

IV. When said agreement is so signed, acknowledged, adopted, recorded and filed, the separate existence of all of the constituent companies or all of such constituent companies except the one into which such constituent companies shall have been consolidated shall cease; and the constituent companies, whether consolidated into a new company or merged into one of such constituent companies, as the case may be, shall become the consolidated company by the name provided in said agreement, possessing all the rights, privileges, powers, franchises and immunities as well of a public as of a private nature, and being subject to all the liabilities, restrictions and duties of each of such companies so consolidated and all and singular the rights, privileges, powers, franchises and immunities of each of said companies and all property, real, personal and mixed, wheresoever located, and all debts due to any of said constituent companies on whatever account, and all other things in action of or belonging to each of said companies shall be vested in the consolidated company; and all property, rights, privileges, powers, franchises and immunities and all and every other interest shall be thereafter as effectually the property of the consolidated company as they were of the several and respective constituent companies and the title to any real estate, whether by deed or otherwise, under the laws of this state, vested in any of such constituent companies, shall not revert or be in any way impaired by reason thereof, provided that all rights of creditors and all liens upon the property of any of said constituent companies shall be preserved unimpaired, limited to the property affected by such liens at the time of the consolidation, and all debts, liabilities and duties of the respective constituent companies shall thenceforth attach to said consolidated company and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. (1955, c. 219)

V. "Consolidate" as used in this section shall be construed to include and

authorize either a merger or consolidation or both. [1955, c. 219] (1951, c. 138, § 1. 1955, c. 219.)

Effect of amendment.—The 1955 amendment added subsections IV and V to this section. As subsections I, II and III were not changed, they are not set out.

Sec. 33. Change of purposes.—Any mutual insurance company organized for one or more of the purposes set forth in section 30 may at an annual meeting, or at a special meeting the call for which shall give notice of the proposed action, change its purposes by altering or abridging the same or by enlarging the same to include one or more of the purposes set forth in section 30, except subsections VII, IX, X, XIV, and the 2nd paragraph of subsection XV, or make any other change or alteration in its certificate or organization as originally filed or subsequently amended that may be desired, provided such change or alteration is not otherwise specifically provided for and would be proper to insert in an original certificate of organization. A certificate of such changes shall be submitted to the insurance commissioner who, if it appears that the provisions hereinafter recited have been complied with, shall certify that fact and his approval of the certificate by endorsement thereon. Such certificate shall thereupon be filed with the secretary of state together with a fee in the sum of \$20 for the use of the state, whereupon the secretary shall cause the same with his endorsement thereon to be recorded and shall issue a certificate as provided in section 42. Any such mutual company which changes its purposes to include the writing of any class or kind of insurance other than fire, marine or glass shall either have been doing business for a period of not less than 20 years, have a surplus of at least 60% of its unearned premium reserve as appears in its last annual statement filed with the insurance commissioner and have admitted assets of not less than \$125,000 after deducting therefrom the amount by which the net investment of such company in real estate owned exceeds, if it operates on the prepaid basis, 10% of its premiums in force or, if it operates on the assessment plan, 2% of the balance of its premium notes, both as appear in such statement, or shall have a guaranty capital of not less than \$100,000 divided into shares of \$100 each, and no policy shall be issued until $\frac{1}{4}$ at least of its guaranty capital has been paid in, in cash, and invested as provided in section 71. If a company operating under the provisions of this section fails to comply with a request of the insurance commissioner to increase its paid-in guaranty capital, it shall cease to write any class or kind of insurance other than fire, marine or glass until such time as the commissioner's request has been complied with. The holders of certificates of such guaranty capital shall not receive dividends in excess of 7% in any 1 year and in no case unless such dividends are properly earned after providing for all expenses, losses, reserves and liabilities then incurred. The holders of such certificates of guaranty capital shall have no voting rights. Said guaranty capital may be retired by vote of the policyholders when the surplus funds of the company, over and above all liabilities including guaranty capital, shall equal or exceed the amount of such guaranty capital. Provided that the net retention of liability on any 1 risk written by any company operating under the provisions of this section shall not exceed 5% of its policyholders' surplus. (1951, c. 285, § 1. 1953, c. 144. 1955, c. 289. 1957, c. 56.)

Effect of amendments. — The 1955 amendment inserted in the fourth sentence the requisite period of doing business and the provisions as to surplus and assets.

The 1957 amendment deleted from the exception in the first sentence former references to subsection III, portions of subsection IV, all of subsection VI, and the fourth paragraph of subsection XV.

Sec. 53. Reciprocal provisions.—When by the laws of any other state of the United States or province of the Dominion of Canada, any fines, penalties, licenses, fees or deposits, or other obligations or prohibitions in excess of those imposed by the laws of the state upon foreign insurance companies and their

agents are imposed on insurance companies of this state and their agents, the same fines, licenses, fees or deposits, penalties, obligations or prohibitions shall be imposed upon all insurance companies of such state of the United States or province of the Dominion of Canada and their agents doing business in or applying for admission to this state. All insurance companies incorporated by another country shall be regarded for the purposes of this section as though incorporated in the state where they have elected to make their deposit and establish their principal agency in the United States. (R. S. c. 56, § 45. 1945, c. 118, § 5. 1947, c. 15, § 5. 1957, c. 299.)

Effect of amendment. — The 1957 amendment inserted the words “or other obligations or prohibitions” following the word “deposits” the first time it appears and inserted the words “penalties, obligations or prohibitions” following such word the second time it appears.

Stock Companies.

Sec. 71. Capital and assets invested.—An amount equivalent to the aggregate par value of all issued and outstanding shares of capital stock of stock insurance companies incorporated in this state, or in the case of any such companies having no par value stock, an amount equivalent to the amount of capital represented by shares of no par value stock issued and outstanding, and such part of the surplus of such companies as the commissioner may direct shall be invested in such manner and in such funds, stocks and bonds as savings banks of this state may invest, as provided in section 19-I of chapter 59, and said insurance companies shall be restricted in their investments of the above amounts in the same manner as are the savings banks of this state. (R. S. c. 56, § 63. 1957, c. 397, § 38.)

Effect of amendment. — The 1957 amendment changed the reference from “section 42” to “section 19-I”.

Sec. 73. What property insured; limit of risk.—Stock companies may make insurance on vessels, freight, money, goods and effects, or money lent on bottomry and respondentia, against fire on dwellings or other buildings, and on merchandise or other property within the United States, and fix the premiums and terms of payment; but no such company shall expose itself to loss on any one risk in this state to an amount exceeding 10% of its paid-up capital and surplus; but, in determining the amount of such risk, no portion thereof which shall have been reinsured in any insurance company authorized to do business in this state shall be included. (R. S. c. 56, § 65. 1955, c. 250.)

Effect of amendment.—The 1955 amendment rewrote the part of this section after the first semicolon.

Fire Insurance.

Sec. 110. Time limit for adjusting and paying fire losses.—In case of physical loss by fire to property insured by any company transacting insurance business in this state, said company or its representative shall begin adjustment of such loss within 20 days after the receipt of the notice provided for by section 105; but no fire insurance company shall pay any loss or damage in excess of \$1,000 until after the expiration of 45 days from the date of loss. Nothing contained in this section shall prevent the payment of a loss to any property owner when the aggregate loss under all policies covering the risk does not exceed \$1,000. Upon application from an insurance company or its authorized representative, written permission to make earlier payment on any loss may be given said company or its authorized representative by the commissioner, and immediately upon issuance of such permit, the commissioner shall notify and grant

permits to any other companies known to be interested in the risk. For any violation of the provisions of this section the commissioner may suspend the authority of the company to transact business in this state for such length of time, not exceeding 1 year, as he may deem advisable. In any statute relating to fire insurance or in any policy of fire insurance reference to the date of loss or the time when a loss occurs shall mean the day of the fire against which the policy insures. (R. S. c. 56, § 103. 1947, c. 32. 1957, c. 204.)

Effect of amendment. — The 1957 words “in excess of \$1,000” in the present amendment made the former first sentence and substituted \$1,000” for tence into three sentences, inserted the “\$100” in the present second sentence.

Accident and Sickness Insurance.

Sec. 118. Form and content of policy.—

I.

A. No such policy shall be delivered or issued for delivery to any person in this state unless:

1. The entire money and other considerations therefor are expressed therein; and
2. The time at which the insurance takes effect and terminates is expressed therein; and
3. It purports to insure only 1 person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the policyholder; and
4. The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than 10-point with a lower-case, unspaced alphabet length not less than 120-point (the “text” shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and
5. The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in subsection II, are printed, at the insurer’s option, either included with the benefit provision to which they apply, or under an appropriate caption such as “EXCEPTIONS” or “EXCEPTIONS AND REDUCTIONS,” provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and
6. Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and
7. It contains no provisions purporting to make any portion of the charter, rules, constitution or by-laws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.
8. Countersigned by a duly licensed resident agent, which countersignature may be in facsimile when used solely in connection with personal ac-

cident insurance covering air travel on a common carrier issued through the medium of policy dispensing machines. (1955, c. 177)

B. If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in this section.

(1955, c. 177.)

Effect of amendment.—The 1955 amendment added subparagraph 8 to paragraph A of subsection I. As the rest of the section was not changed, only subsection 1 is set out.

Sec. 120. Group accident and sickness insurance defined.—

II.

A.

3. The policy must cover at least 10 employees at date of issue. (1955, c. 226)

Effect of amendment.—The 1955 amendment substituted "10" for "25" in subparagraph 3 of paragraph A of subsection II. As the rest of the section was not changed, only this subparagraph is set out.

Sec. 121. Blanket accident and sickness insurance defined.—

I.

F. Under a policy or contract issued in the name of a newspaper which shall be deemed the policyholder covering independent contractor newspaperboys.

G. Under a policy or contract issued to a sports team or to a camp, which team or camp owner or sponsor shall be deemed the policyholder, covering members or campers, including coaches, counsellors and other personnel.

(1957, c. 175)

Effect of amendment. — The 1957 amendment inserted paragraphs F and G of subsection I. As the rest of the section was not changed by the amendment, it is not set out.

Sec. 123. Policies under franchise plan.—

I. Accident and sickness insurance on a franchise plan is declared to be that form of accident and sickness insurance issued to:

A. Five or more employees of any corporation, copartnership or individual employer or any governmental corporation, agency or department thereof, or

B. Ten or more members of any trade, occupational or professional association, or of a labor union, or of any other association having had an active existence for at least 2 years where such association or union has a constitution or by-laws and is formed in good faith for purposes other than that of obtaining insurance;

where such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons, under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association for its members, or by some designated person acting on behalf of such employer or association or by the insured directly to the insurer, if permitted by the insurer.

(1957, c. 101)

Effect of amendment. — The 1957 amendment added the language "or by the insured directly to the insurer, if permitted by the insurer" at the end of subsection I. As subsection II was not changed by the amendment, it is not set out.

Prohibiting Certain Forms of Dividend Life Insurance.**Sec. 131-A. Prohibiting certain forms of dividend life insurance.—**

No life insurance company or association shall hereafter deliver or issue for delivery in this state, as a part of or in combination with any insurance, endowment or annuity contract, any agreement or plan, addition to the rights, dividends and benefits arising out of any such insurance, endowment or annuity contract, which provides for the accumulation of funds over a period of years and for payment of all or any part of such accumulated funds only to members or policyholders of a designated group or class who continue as members or policyholders until the end of a specified period of years. Nor shall any such company or association deliver or issue for delivery in this state any individual life insurance policy which provides that on the death of anyone not specifically named therein, the owner or beneficiary of the policy shall receive the payment or granting of anything of value. (1955, c. 248.)

Group Life Insurance Definition.

Sec. 164. Group life insurance defined.—No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

I. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

A. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership or contract. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.

B. The premium for the policy shall be paid by the policyholder, 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. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

C. The policy must cover at least 10 employees at date of issue.

D. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

II. A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

A. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable either in installments or in one sum at the end of a period not in excess of 18 months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.

B. The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

C. The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

D. The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments to the creditor, or \$10,000, whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan. The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness, or \$10,000, whichever is less.

E. The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

III. A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

A. The members eligible for insurance under the policy shall be all of the

members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

B. The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

C. The policy must cover at least 25 members at date of issue.

D. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

IV. A policy issued to the trustees of a fund established by 2 or more employers in the same industry or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

A. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

B. The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both. No policy may be issued on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. The policy must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

C. The policy must cover at date of issue at least 100 persons and not less than an average of 5 persons per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if either the participating employers constitute at date of issue at least 60% of those employer members whose employees are not already covered for group life insurance or the total number of persons covered at

date of issue exceeds 600; and the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

D. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers or unions.

V. A policy issued to trustees of a fund established by the employer members of a trade association, which trustees shall be deemed the policyholder, to insure employees of such employers for the benefit of persons other than the association or the employers, subject to the following requirements:

A. The policy may be issued only if

1. the association has been in existence for at least 5 years and was formed for purposes other than obtaining insurance, and

2. the participating employers, meaning such employer members whose employees are to be insured, constitute at date of issue at least 50% of the total employers eligible to participate, unless the total number of persons covered at date of issue exceeds 600, in which event such participating employers must constitute at least 25% of such total employers, in either case omitting from consideration any employer whose employees are already covered for group life insurance.

B. The persons eligible for insurance under the policy shall be all of the employees of the participating employers, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the individual proprietor or partners whenever a participating employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

C. The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employers or funds contributed jointly by the employers and the employees. A policy on which part of the premium so payable is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees of each participating employer, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions, a policy on which no part of the premium so payable is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

D. The policy must cover at least 100 employees at date of issue.

E. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the policyholder or the employer.

VI. A policy issued to an incorporated or unincorporated association of municipal employees, which association is organized and maintained in good faith for the purposes other than that of obtaining insurance and has been so organized and maintained for a period of 2 years prior to the issuance of such policy or contract, which shall be deemed the policyholder to insure members of such association for the benefit of persons other than the association or any of its officials, representatives or agents, subject to the following requirements:

A. The members eligible for insurance shall be all of the members of the association, or all of any class or classes thereof determined by conditions pertaining to membership in the association, or both.

B. The premium for the policy shall be paid by the policyholder wholly from the association's funds. No policy may be issued which does not insure all of the eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

C. The policy must cover at least 10 members at date of issue.

D. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or the association.

E. The policy must provide for a reduction of coverage of a member after his retirement from active service with a municipality.

VII. No such policy of group life insurance may be issued to an employer, or labor union or to the trustees of a fund established in whole or in part by an employer or a labor union, which provides term insurance on any person which, together with any other term insurance under any group life insurance policy or policies issued to the employer or employers of such person or to a labor union or labor unions of which such person is a member or to the trustees of a fund or funds established in whole or in part by such employer or employers or such labor union or labor unions, exceeds \$20,000, unless 150% of the annual compensation of such person from his employer or employers exceeds \$20,000, in which event all such term insurance shall not exceed \$40,000 or 150% of such annual compensation, whichever is the lesser. (1949, c. 316. 1951, c. 102. 1955, c. 97; c. 228, §§ 1, 2. 1957, c. 154.)

Effect of amendments.—The first 1955 amendment made changes in former paragraph D of subsection I and the second 1955 amendment made changes in former paragraphs A and C of subsection I. The 1957 amendment rewrote this section.

Group Life Insurance Standard Provisions.

Sec. 165. Group life insurance standard provisions.

III.

F. A provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding \$500 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured. (1955, c. 98)

Effect of amendment.—The 1955 amendment substituted "\$500" for "\$250" in paragraph F of subsection III. Only the paragraph changed by the amendment is set out.

Sec. 165-A. Rate of premiums.—No domestic or foreign life insurance company shall be permitted to do business in this state if it hereafter delivers or issues for delivery, within this state, any policy of group life insurance on which the premium shall be less than the net premium based on the Commissioners 1941 Standard Ordinary Mortality Table with interest at 3% per annum, plus a loading computed in accordance with a formula which shall be determined by the commissioner. Anything in this chapter to the contrary notwithstanding, any group life insurance policy issued or delivered in this state may provide for readjustment of the rate of premium based on the experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, and such readjustment may be made retroactive only for such policy year. (1957, c. 65.)

Domestic Fraternal Beneficiary Associations.

Secs. 171-178. Repealed by Public Laws 1957, c. 217, § 2.

Editor's note.—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

Foreign Fraternal Beneficiary Associations.

Secs. 179-182. Repealed by Public Laws 1957, c. 217, § 2.

Editor's note.—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

Associations for Casualty Insurance.

Sec. 183. Repealed by Public Laws 1957, c. 217, § 2.

Editor's note.—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

Licenses to Agents. Supervision.

Secs. 184-197. Repealed by Public Laws 1957, c. 217, § 2.

Editor's note.—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

Whole Family Protection.

Sec. 202. Fraternal beneficiary societies may insure children under 18 years of age; benefits.—Any fraternal beneficiary society authorized to do business in this state and operating on the lodge plan may provide in its constitution and by-laws in addition to other benefits provided for therein, for the payment of death, endowment or annuity benefits upon the lives of children under 18 years of age. Any such society may at its option organize and operate branches for such children, and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total death benefits for each \$1,000 of insurance payable as above provided shall in no case exceed the following amounts based on age at last birthday prior to death: birth, \$100; 6 months, \$200; 1 year, \$400; 2 years, \$600; 3 years, \$800; 4 years, \$1,000; and thereafter the full amount of the policy shall be paid. Provided, however, that any such society having admitted assets as shown by its annual statement filed with the commissioner in excess of 105% of its entire liabilities, including its required reserves, provided that reserves for death benefits are at least equivalent to the amount required by the commissioner's standard ordinary table of mortality with interest at 3½% per annum and computed according to the commissioner's reserve valuation method, may pay the full amount of the policy at all ages without regard to the aforementioned limitations. (R. S. c. 56, § 176. 1949, c. 383. 1955, c. 253. 1957, c. 217, § 2.)

Editor's note.—This section was repealed by Public Laws 1957, c. 217, § 2. However, section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

Effect of amendment.—The 1955 amendment deleted the former last sentence, which authorized a double indemnity policy to be written for a child over 15 years of age, and added the present last sentence.

Secs. 203-207. Repealed by Public Laws 1957, c. 217, § 2.

Editor's note.—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

Insurance Agents and Brokers.

Sec. 274. License of insurance brokers; acting without license; certain contracts to be effectuated through resident agent; countersigning fee; revocation of licenses.

No licensed foreign or alien insurer in this state shall issue, deliver or otherwise effectuate any contract of insurance covering either persons resident in this state or property situated in this state, or covering any risk incident to the performance or non-performance of any contract or obligation to be performed in this state, or covering any risk incident to any obligation or duty which is governed by the laws of this state though actually to be performed elsewhere, unless such contract of insurance is issued or effectuated through, or countersigned by, a resident licensed insurance agent of this state. A licensed individual insurance agent shall be deemed to be resident in this state if he has his domicile or his principal place of business in this state, and a licensed corporation insurance agent shall be deemed to be resident in this state if it maintains a lawfully established place of business in this state; and a licensed firm or association insurance agent shall be deemed to be resident in this state if it maintains an established place of business in this state.

This section shall not apply to contracts of insurance of the following kinds:

I. Any contract of life insurance, or annuity contract, or any supplemental contract of insurance against accidental death or permanent and total disability made in connection therewith.

II. Any contract of insurance covering the rolling stock of any railroad or covering any vessel, aircraft or motor carrier used in interstate or foreign commerce, or covering any liability or other risks incident to the ownership, maintenance or operation thereof.

III. Any contract of insurance covering any property in interstate or foreign commerce, or any liability or risk incident thereto.

IV. Any contract of reinsurance between any insurance companies or other insurers.

(1957, c. 264.)

Effect of amendment. — The 1957 amendment inserted the two paragraphs appearing above as the second and third paragraphs of this section. As the rest of the section was not changed by the amendment, only the new paragraphs are set out.

Sec. 277. Coercion in the placing of insurance on real estate or personal property.—No trustee, director, officer, agent or other employee of any person, firm, corporation, bank, loan and building association or other financial institution engaged in the business of making loans of money to the public or financing the purchase of real or personal property or the lending of money on the security of real or personal property shall directly or indirectly require that the person, firm or corporation, for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted or performed, negotiate any policy of insurance or renewal thereof covering such property through a particular insurance company or insurance agent or broker, as a condition precedent to financing the purchase of such property or to loaning money upon the security of a mortgage thereon, or as a condition prerequisite for the renewal or extension of any such loan or mortgage,

or for the performance of any act in connection therewith. Any person violating the provisions of this section shall be punished by a fine of not more than \$100, or by imprisonment of not more than 60 days, or by both such fine and imprisonment; and if he holds a license from the commissioner, he shall forfeit the same. Any justice of the supreme judicial or superior court, in term time or vacation, on complaint by any person that the provisions of this section are being violated, may issue an injunction against such violation and may hold in contempt and punish therefor in case of disregard of said injunction. This section shall not prevent the exercise by any such person, firm, corporation, trustee, director, officer, agent or employee of the right to approve or disapprove for cause the insurance company to underwrite the insurance. (1951, c. 192, § 2. 1953, c. 308, § 79. 1957, c. 100.)

Effect of amendment. — The 1957 substituted the words "for cause" therefor amendment deleted the word "of" and in the last sentence.

General Provisions Concerning Agents and Brokers.

Sec. 294. Licenses to special insurance brokers; conditions upon which insurance procured; licensee to keep account of business done and report; bond.—The commissioner may annually issue licenses, subject to revocation at any time, to citizens of this state already agents of one or more duly authorized fire insurance companies, permitting the person named therein to procure policies of insurance on fire, inland and ocean marine and casualty insurance risks and fidelity and surety coverages in this state in foreign insurance companies not authorized to transact business in this state when necessary for the protection of persons, property or interests; provided such insurance coverage may be written under the laws of this state by authorized insurers and is not available in companies authorized to do business in this state. The person named in such a license shall in each case make application to the commissioner setting forth his reasons for desiring to insure the particular risk with companies not authorized in this state, and said commissioner shall, if he deems it advisable, grant permission to procure such insurance. He shall give notice to the commissioner not later than 5 days after the risk is insured, giving the name of the owner, location of the property and name of the company or companies issuing policies thereon, and such other information as the commissioner may require. In case the commissioner finds that any company named by a special broker under the provisions of this section is not financially sound and is not believed to be a responsible and reliable company, he shall so notify the special broker who shall forthwith substitute another company, submitting the name of the substitute company to the commissioner for approval. Each person so licensed shall keep a separate account of the business done under the license which shall be open to the inspection of the commissioner or his representative. He shall monthly file with the commissioner a statement showing the amount of insurance placed for any person, firm or corporation, the location of each risk, the gross premium charged thereon, the companies in which the insurance is placed, the date of the policies and the term thereof and such further information as the commissioner may require. He shall also report in the same detail all policies canceled during the month covered by the report showing the return premiums thereon. Before receiving such license he shall execute and deliver to the treasurer of state a bond in the penal sum of \$1,000, with such sureties as the commissioner shall approve, with a condition that the licensee will faithfully comply with all the requirements of this section and will file with the treasurer of state, in January of each year, a sworn statement of the gross premiums charged for insurance procured or placed and the gross returned premiums on such insurance canceled under such license during the year ending on the 31st day of December next preceding, and at the time of filing such statement will pay into the treas-

ury of state a sum equal to 2% of such gross premiums, less such returned premiums as are reported. (R. S. c. 56, § 253. 1957, c. 263.)

Effect of amendment. — The 1957 amendment inserted inland and ocean marine insurance and fidelity and surety coverages in the enumeration of the kind of policies permitted, and added the words “when necessary for the protection of persons, property or interests” and the proviso at the end of the first sentence. It also inserted the words “and such other information as the commissioner may require” at the end of the third sentence.

Sec. 297. Adjusters of losses; examination; licenses and revocation; fees; waiver of section.

The commissioner may waive the provisions of this section for a period of not to exceed 90 consecutive days whenever a catastrophe or other emergency condition arising in this state makes it necessary, in his opinion, for adjusters from other states to enter this state to assist in the adjustment of losses. (R. S. c. 56, § 256. 1947, c. 155. 1949, c. 349, § 92. 1957, c. 108.)

Effect of amendment. — The 1957 amendment added the above paragraph as the last paragraph of this section. As the rest of the section was not changed by the amendment, it is not set out.

Liability Absolute When Loss Occurs.

Sec. 302. Liability of insurance company absolute when loss occurs.

Cited in *Jenkins v. Hardware Mutual Casualty Co.*, 152 Me. 288, 128 A. (2d) 852.

Judgment Creditor May Have Insurance.

Sec. 303. Application of insurance money after final judgment; company entitled to notice of accident or injury; bill not brought until 20 days after final judgment; exceptions.

Section not designed to afford relief through reformation of policy.—This section was not designed to afford an alleged insured (judgment debtor) relief through reformation of an insurance policy and the application of benefits under the policy as reformed. *Jenkins v. Hardware Mutual Casualty Co.*, 162 Me. 288, 128 A. (2d) 852.

Insurer did not waive right to contest

coverage under insurance policy where it did not undertake the defense of an action against insured without reservation of the right to contest but on the contrary, insurer's counsel raised the question of coverage on the first inspection of the declaration and thereafter took no part in the defense of action against insured. *Jenkins v. Hardware Mutual Casualty Co.*, 152 Me. 288, 128 A. (2d) 852.

Automobile Finance Business.

Secs. 305, 306. Repealed by Public Laws 1957, c. 386, § 2.

Cross reference.—For present motor vehicle sales finance act, see c. 59, §§ 249 to 260. sections provided in § 3 thereof that the act should become effective January 1, 1958.

Editor's note.—The act repealing these

Fees Payable to Insurance Commissioner.

Sec. 314. Fees payable to commissioner.

For each license issued to a foreign insurance company, or foreign surety company, or credit insurance or title insurance company, or to a foreign fraternal beneficiary association to do business in this state, and for each renewal thereof, a fee of \$50. For each certificate of qualification of a domestic insur-

ance company to act under its charter and for each annual renewal thereof, a fee of \$50, except that domestic fire insurance companies writing on the assessment plan only are exempt from this requirement. For certificate of authority to make reciprocal contracts of indemnity under the provisions of sections 236 to 243, inclusive, and every renewal thereof, a fee of \$50. For each annual statement filed by any insurance company, domestic or foreign, a fee of \$50, except that domestic mutual fire insurance companies writing on the assessment plan only are exempt from this requirement. All said fees shall be used solely to defray administrative charges and salaries for examinations required by law, for examining and auditing filed annual statements and for the carrying out of any rate regulation imposed by the laws of this state. Every insurance company shall also pay all traveling expenses incurred by order of the commissioner in making the examination required by law, except that a domestic mutual insurance company doing its direct business entirely within the state shall not be required to pay any of the expenses of the examination.

(1957, c. 48.)

Effect of amendment. — The 1957 amendment increased the fees provided in the second paragraph from \$30 to \$50. As only the second paragraph was changed by the amendment, the rest of the section is not set out.

Chapter 60-A.

Fraternal Benefit Societies.

Effective date.—Public Laws 1957, c. 217, which inserted this chapter, provided in section 3 thereof that the act should become effective January 1, 1958.

Sec. 1. Fraternal benefit societies defined.—Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of subsection II of section 43 whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

When used in this chapter the word “society,” unless otherwise indicated, shall mean fraternal benefit society. (1957, c. 217, § 1.)

Sec. 2. Lodge system defined.—A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, by-laws, ritual and rules, which subordinate lodges or branches shall be required by the by-laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system. (1957, c. 217, § 1.)

Sec. 3. Representative form of government defined.—A society shall be deemed to have a representative form of government when:

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

II. The representatives elected constitute a majority in number and have not less than $\frac{2}{3}$ of the votes nor less than the votes required to amend its constitution and by-laws;

III. The meetings of the supreme legislative or governing body and the elec-