

MAINE STATE LEGISLATURE

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CHAPTER 7
CASUALTY INSURANCE

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SUBCHAPTER I

FOREIGN FRATERNAL BENEFIT ASSOCIATIONS

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§ 901. License required

Any association organized or incorporated under the laws of another state or country as a fraternal benefit society and which does not conduct its business upon the lodge system with a ritualistic form of work and a representative form of government, in accordance with Title 13, sections 2341 to 2343, and which is not subject to the statutes of this State regulating fraternal benefit societies, but which confines its membership to the members of some particular order, class or fraternity and which has the other qualifications required by Title 13, chapter 89, may be licensed by the commissioner to transact the business of casualty insurance on the assessment plan and to provide for the payment of death or funeral benefits of not more than \$100 to the beneficiaries of deceased members, subject to and in accordance with sections 902 to 904.

R.S.1954, c. 60, § 198; 1959, c. 363, § 35; c. 378, § 43.

§ 902. Issuance of license; termination

No such association shall transact any business in this State without a license from the commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of

its charter or articles of association; a copy of its constitution and bylaws certified by its secretary; a power of attorney to the commissioner as provided by Title 13, section 2344; a statement under oath of its president and secretary, in the form required by the commissioner, duly verified by an examination of its business for the preceding year, made in accordance with the provisions of Title 13, section 2642, which statement and examination must show that the association had at least 5,000 members in good standing at the date of such report and that it had on that date available assets in excess of all known liabilities of not less than \$20,000; a copy of its policy and application, which must show that benefits are provided for by assessments upon or other payments by persons holding similar contracts; and a certificate of deposit from the Treasurer of State; and it shall furnish the commissioner with such further information as he may deem necessary to a proper exhibit of its business and plan of working. Upon compliance with the foregoing provisions the commissioner may license such association to transact business in this State as defined until the first day of the succeeding July, and such license may thereafter be renewed annually, but in all cases to terminate on the first day of the next succeeding July. Title 13, sections 2344, 2350, 2443, 2481 to 2487, 2522, 2606 and 2642 and section 1009 of this Title apply to these associations.

R.S.1954, c. 60, § 199; 1959, c. 363, § 36.

§ 903. Deposit of securities

No license shall be issued to any such association until it has deposited with the Treasurer of State securities which are a legal investment for savings banks of this State amounting to not less than the maximum policy issued by such association nor to less than \$1,000. The Treasurer of State shall receive such securities and hold the same on deposit and in trust for the benefit of all the policyholders of the association in this State and shall receipt for and hold the same in the manner provided in sections 322 and 323, but he shall retain and hold the same as long as any liability remains outstanding in this State. Whenever any judgment, obtained in a court of competent jurisdiction in this State by a policyholder or any beneficiary thereof, remains unsatisfied for more than 60 days after legal demand upon the association and no appeal from the decision of said court is pending, said court may issue an order directing the Treasurer of State to immediately convert so much of said deposit as may be necessary into cash and to forthwith satisfy said judgment and such additional costs appertaining thereto as said court may allow, and

the Treasurer of State shall immediately comply with said order and the association shall not transact any further business in this State until such deposit is restored. When any such association discontinues business in this State, and the commissioner is satisfied upon investigation that the association has no liabilities outstanding therein, he shall so certify to the Treasurer of State, who shall thereupon return said deposit to the association.

R.S.1954, c. 60, § 200.

§ 904. Assessments; payment of expenses

Every call for a payment by the policyholders of any such association shall distinctly state the purpose of the same, and no part of the money collected for the payment of indemnity claims or death or funeral benefits and no part of the reserve or emergency fund shall be used for expenses.

R.S.1954, c. 60, § 201.

SUBCHAPTER II

RECIPROCAL CONTRACTS OF INDEMNITY

Sec.

- 951. Contracts as insurance; filing of declarations.
- 952. Actions; service of process.
- 953. Subscriber not to assume more than 10% of his net worth.
- 954. Reserve sum.
- 955. Attorney to report; books and records open to inspection.
- 956. Corporations may exchange contracts.
- 957. Annual certificate.
- 958. Violations.

§ 951. Contracts as insurance; filing of declarations

The making of contracts between individuals, firms or corporations, providing indemnity among themselves from casualty or other contingencies or from loss or damage to their own property, shall constitute the business of insurance. Section 521, subsection 3, requiring companies to do insurance business in this State by constituted agents resident herein subject to its laws, and sections 2502, 2504 and 2521, relating to insurance agents and brokers, shall not apply to the attorney in fact of a reciprocal or interinsurance exchange nor to the traveling salaried home office representatives of such exchanges operating on a salary basis and receiving no commissions, but any reciprocal or interinsurance exchange that operates under the agency system in this State and

appoints agents on a commission basis shall be subject to and conform to the sections hereinabove mentioned.

Any corporation now or hereafter organized under the laws of this State shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to exchange insurance contracts of the kind and character mentioned. The right to exchange such contracts is declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred. Where such contracts are exchanged through an attorney, agent or other representative acting for such individuals, firms or corporations, the said attorney, agent or other representative shall file with the commissioner a declaration in writing, verified by the oath of such attorney, agent or other representative, setting forth:

1. Name of attorney. The name of the attorney, agent or other representative through whom such contracts are exchanged;

2. Copy of form of policy. A copy of the form of policy, contract or agreement under which such insurance is to be exchanged;

3. Copy of form of power of attorney. A copy of the form of power of attorney or other authority of such attorney, agent or other representative under which such contracts are to be exchanged;

4. Location of office. The location of the office or offices from which such contracts or agreements are to be issued;

5. Applications for indemnity; security. That applications have been made for indemnity upon at least 100 separate risks as represented by bona fide applications to become concurrently effective and that there is on deposit with such attorney, or properly constituted trustees, a sum in cash or convertible securities sufficient to pay at least one total loss equal to the maximum line on any one risk.

R.S.1954, c. 60, § 236; 1959, c. 378, § 46.

§ 952. Actions; service of process

Concurrently with the filing of the declaration provided for by the terms of section 951, the attorney shall file with the commissioner an instrument in writing, executed by him for said sub-

scribers, agreeing that upon the issuance of the certificate of authority provided for in section 957, in all civil actions in this State arising out of such policies, contracts or agreements, action may be brought in the county or state in which the property insured is situated, that service of process may be made on the commissioner, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney and that the authority of such instrument shall continue in force irrevocable so long as any liability remains outstanding in this State against the subscribers. Three copies of such process shall be served and the commissioner shall file one copy, forward one copy to said attorney and return one copy with his admission of service. Said attorney, agent or other representative is authorized to file the instrument appointing the commissioner to receive service of process, which instrument shall be binding upon all the subscribers.

R.S.1954, c. 60, § 237; 1963, c. 414, § 80.

§ 953. Subscriber not to assume more than 10% of his net worth

Such attorney, agent or other representative, filing as provided for in section 952, shall file with the commissioner a statement verified by his oath, showing the maximum amount of indemnity upon any single risk. Such attorney, agent or other representative, whenever and as often as shall be required, shall file with the commissioner a statement verified by his oath to the effect that he has examined the commercial rating of all subscribers to the power of attorney, as shown by the reference book of a commercial agency having at least 100,000 subscribers, and that from such examination or other information in his possession, it appears that no subscriber has assumed on any single risk an amount greater than 10% of the net worth of said subscriber.

R.S.1954, c. 60, § 238.

§ 954. Reserve sum

There shall at all times be maintained by the contracting parties described in section 951, as a reserve, a sum in cash or convertible securities or in bona fide agreements to pay, sufficient to pay at least one total loss equal to the maximum line on any one risk.

R.S.1954, c. 60, § 239.

§ 955. Attorney to report; books and records open to inspection

The attorney, agent or other representative described in section 951 shall make a report to the commissioner for the calendar year on or before the 31st day of January, showing the financial condition of affairs at the office where such contracts are issued and shall furnish such additional information and reports as he may require. Such attorney shall not be required to furnish the names and addresses of any subscribers. The books, records, assets and affairs of the subscribers at the office of the attorney shall be subject to examination by the commissioner or his authorized representative, and reasonable expense incurred in making such examination shall be borne by said subscribers.

R.S.1954, c. 60, § 240.

§ 956. Corporations may exchange contracts

Any corporation, now or hereafter organized under the laws of this State shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to exchange contracts of the kind and character mentioned in sections 951 to 955. The right to exchange such contracts is declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred.

R.S.1954, c. 60, § 241.

§ 957. Annual certificate

Each attorney, agent or other representative by or through whom are issued any policies of or contracts for indemnity of the character referred to in this subchapter shall procure from the commissioner, annually, a certificate of authority stating that all the requirements of this subchapter have been complied with, and upon such compliance and the payment of the fees therefor the commissioner shall issue such certificate authorizing such attorney, agent or representative to do business in this State, subject to said subchapter, until the first day of the next July and such certificate may be renewed annually thereafter. In case of a breach of any of the conditions imposed by said subchapter, the commissioner may revoke the certificate of authority issued thereunder.

R.S.1954, c. 60, § 243.

§ 958. Violations

Any attorney, agent or other representative who shall, except for the purposes of applying for the certificate of authority, exchange any contracts of indemnity of the kind and character specified in this subchapter, or directly or indirectly solicit or negotiate any applications for the same without first complying with the said subchapter, or in case of an employee of said attorney, agent or other representative, unless his principal shall have first complied with said subchapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000.

R.S.1954, c. 60, § 242.

SUBCHAPTER III

ASSESSMENT PLAN

Sec.

- 1001. Contract defined; duly organized corporation required.
- 1002. Formation of corporation; guaranty fund; authority to write business; liability of policyholder.
- 1003. Fraudulent operation; closing of business; receiver; dissolution.
- 1004. Assigned risks; reinsurance.
- 1005. Reserve fund; investment and payment of claims.
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- 1007. Foreign corporations; authority to do business; renewal and revocation.
- 1008. Calls for payments; proceeds.
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- 1010. Benefit or relief not liable to attachment; change of beneficiary.
- 1011. False representation by solicitor, agent or physician.
- 1012. Annual report; examinations.
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§ 1001. Contract defined; duly organized corporation required

Every contract whereby a benefit is to accrue to the party or parties named therein upon the accidental death only, or the physical disability from accident or sickness of a person, which benefit is in any degree or manner conditioned upon the collection of an assessment upon persons holding similar contracts, shall be deemed a contract of casualty insurance on the assessment plan,

and the business involving the issuance of such contracts shall be carried on in this State only by duly organized corporations which shall be subject to the provisions and requirements of this subchapter. Nothing herein contained shall be construed as applicable to fraternal benefit societies conducting their business in accordance with the laws of this State.

R.S.1954, c. 60, § 223; 1959, c. 378, § 44.

§ 1002. Formation of corporation; guaranty fund; authority to write business; liability of policyholder

Seven or more persons, citizens of this State, may form a corporation to carry on the business of casualty insurance on the assessment plan. Such corporations shall be organized and the proceedings thereunder shall conform to Title 13, sections 901, 902 and 931, but no such corporation shall begin to do business until at least 500 persons have subscribed, in writing, to be insured therein and have each paid in one full disability assessment; nor until it shall have established a guaranty fund or capital of not less than \$10,000, which may be divided into shares of not less than \$100 and certificates issued therefor. A dividend not exceeding 7% in any one calendar year may be paid from the net earnings of the company after providing for all expenses, losses, reserves and liabilities then incurred. Such guaranty fund or capital shall be invested as provided in section 596 and shall be deposited with the Treasurer of State. When the cash and other available assets of the company are exhausted, such part of said fund as may be required shall, with the approval of the commissioner, be drawn and used to pay losses then due. When such fund is so drawn upon, the directors shall make good the amount so drawn, either from the receipts of the company or by assessments upon the contingent funds of the company. Unless such fund is restored within 6 months from date of withdrawal, the shareholders shall be assessed in proportion to the amount of stock owned by them for the purpose of restoring said capital. Shareholders and members of such companies shall be subject to the same law relative to their right to vote as apply respectively to shareholders in stock companies and policyholders in purely mutual companies. Said guaranty fund or 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 fund or capital, or any part of said guaranty fund or capital may be retired, provided the amount of net surplus and guaranty fund or capital

shall not be less than \$10,000. The guaranty fund or capital shall be retired when the net cash assets of the company equal twice the amount of said guaranty fund or capital. The corporation shall not begin business until it has filed with the commissioner a certified copy of the record of its organization and bylaws which has been approved by him; nor until the commissioner has certified that it has complied with this Title relating to insurance on the assessment plan and is authorized to transact business. No organization under this section shall continue valid more than one year unless the organization has been completed and business begun thereunder. When such company has established a guaranty fund or capital and has complied with the other requirements of the laws of this State, it shall be authorized by the commissioner to write business. Such company may charge and collect a premium in cash and by its bylaws and policies fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to and in addition to the cash premium written in his policy. The total amount of the liability of the policyholder shall be plainly and legibly stated upon the filing-back of each policy. Whenever any reduction is made in the contingent liability of members such reduction shall apply proportionally to all policies in force.

R.S.1954, c. 60, § 224.

§ 1003. Fraudulent operation; closing of business; receiver; dissolution

When the commissioner, on investigation, is satisfied that any corporation transacting the business of casualty insurance on the assessment plan in this State under this Title has exceeded its powers, failed to comply with any law or is conducting business fraudulently, he shall report the facts to the Attorney General, who shall thereupon apply to the Superior Court for an injunction restraining such corporation from the further prosecution of business. The said court upon hearing the matter may issue such injunction or decree the removal of any officer and substitute a suitable person to serve in his stead until a successor is duly chosen, and may make such other order and decrees as the interest of the corporation and the public may require. Whenever any domestic corporation transacting the business of casualty insurance on the assessment plan shall, after an existence of one year or more, have a membership of less than 300, the commissioner may present the facts in relation to the same to the Superior Court.

The said court shall thereupon notify the officers of such corporation of a hearing and unless it shall then appear that some special and good reason exists why the corporation should not be closed, some person shall be appointed receiver of such corporation, and shall proceed at once to take possession of the books, papers, moneys and other assets of the corporation and shall forthwith, under the direction of the court, proceed to close the affairs of such corporation and to distribute to those entitled thereto its funds. For this service the receiver may be allowed out of any funds in possession of the corporation, or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the corporation shall be finally closed, the court may decree a dissolution of the same.

R.S.1954, c. 60, § 225; 1963, c. 414, § 78.

§ 1004. Assigned risks; reinsurance

No casualty insurance corporation organized under the laws of this State shall transfer its risks to or reinsure them in any other corporation, unless the said contract of transfer or reinsurance is first submitted to and approved by a $\frac{2}{3}$ vote of those present and voting at a meeting of the insured called to consider the same, of which meeting a written or printed notice shall be mailed to each policy or certificate holder at least 10 days before the day fixed for said meeting. In case said transfer or reinsurance shall be approved, every policy or certificate holder of the said corporation who shall file with the secretary thereof, within 5 days after the said meeting, written notice of his preference to be transferred to some other corporation than that named in the contract, shall be accorded all the rights and privileges, if any, in aid of such transfer as would have been accorded under the terms of the said contract had he been transferred to the corporation named therein.

R.S.1954, c. 60, § 226.

§ 1005. Reserve fund; investment and payment of claims

Any corporation organized under section 1002 or any corporation of this State doing assessment insurance business under this Title or its charter shall keep on deposit with the Treasurer of State a reserve fund for the benefit and protection of certificate holders in said corporation; for the creation of which it shall, on or before the 31st day of December of each year, deposit with said Treasurer of State a sum sufficient to make the total deposit with said Treasurer of State not less than the amount of one as-

assessment or periodical call on all its policyholders for benefit and expense funds, until the reserve fund so accumulated shall amount, together with the amount there deposited prior to the first day of March, 1889, to not less than \$25,000. These amounts may be deposited in such interest-bearing securities as the Governor and Council may approve or in such securities as any insurance company or savings bank may, from time to time, be authorized to hold for purpose of investment. These securities shall be held in trust by the Treasurer of State, but the corporation shall have at all times the right to exchange any part of said securities for others of like amount and character. When deemed advisable by a majority of the directors, such part of the fund as may be considered necessary may be applied from time to time to the payment of claims under insurance contracts and the expense necessarily incident thereto, and for no other purpose. Said fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members for benefit and expense funds nor to less than \$1,000.

R.S.1954, c. 60, § 227.

§ 1006. Duty of commissioner; satisfaction of judgments

The commissioner shall annually, in February, certify to the Treasurer of State the minimum amount of reserve fund required to be kept on deposit in the State Treasury by each corporation doing business on the assessment plan under this Title. If said corporation shall neglect for 60 days to satisfy any judgment against it, in any court in this State, then the said Treasurer of State shall convert into money any of said securities and forthwith satisfy such judgment, and said corporation shall not transact any further business until said deposit is restored. When any such corporation shall discontinue business, the Superior Court may appoint a receiver or agent to administer any unexhausted portion of such fund which shall be used, less compensation not to exceed 5% as such court may allow the receiver or agent; 1st, in the payment of accrued indemnity claims upon certificates or policies or if insufficient to pay such claims in full, they shall be paid pro rata; 2nd, if a balance remains after the payment of such claims, such balance shall be distributed to the holders of certificates then in force, pro rata, in proportion to the total payments by each policyholder after first paying all expenses incident to such distribution. If, upon the 31st day of December of any year, the reserve fund of any such corporation is found to be less than the amount of one assessment or periodical call upon all the mem-

bers thereof, said corporation shall, within one year thereafter, collect from its members a sum sufficient to bring said reserve fund up to one assessment or periodical call upon all its members and deposit the amount with the Treasurer of State to the credit of said fund.

R.S.1954, c. 60, § 228; 1963, c. 414, § 79.

§ 1007. Foreign corporations; authority to do business; renewal and revocation

Any corporation organized under authority of another state or government to issue policies or certificates of casualty insurance on the assessment plan, as a condition precedent to the transaction of business in this State, shall deposit with the commissioner a certified copy of its charter; a statement under oath, of its president and secretary, in the form required by the commissioner, of its business for the preceding year; a certificate, under oath, of its president and secretary, that it has the ability to pay and for the 12 months preceding has paid the maximum amount named in its policies or certificates in full; a certificate from the proper authority in its home state that corporations of this State, engaged according to this Title in casualty insurance on the assessment plan, are legally entitled to do business in such state; a copy of its policy or certificate and application, which must show that benefits are provided for by assessment upon policy or certificate holders; evidence satisfactory to the commissioner that the corporation accumulates a fund, equal at all times in amount to not less than the proceeds of one assessment or periodical call on all policy or certificate holders thereof, that such accumulation is permitted by the law of its incorporation, and is a trust for the benefit of policy or certificate holders and is securely invested. No such company shall be hereafter authorized, unless such company shall have a guaranty fund or capital or net cash assets equal to the amount required of domestic companies incorporated after the 12th day of July, 1913. Every such corporation, and agent of such corporation, shall comply with sections 530 and 2502. The commissioner may thereupon issue or renew the authority of such corporation to do business in this State and such authority to the corporation and its agents shall be revoked whenever the commissioner, on investigation, is satisfied that such corporation is not paying the maximum amount named in its policies or certificates in full or has violated section 1009, and the commissioner shall enforce section 530. Upon such revocation the commissioner shall cause notice thereof to be published in the state paper

and no new business shall be thereafter done by said corporation or its agents in this State.

R.S.1954, c. 60, § 229; 1959, c. 378, § 45.

§ 1008. Calls for payments; proceeds

Every call for payments upon the policy or certificate holders of any corporation doing business in this State as a casualty insurance company on the assessment plan shall distinctly state the purpose of the same, whether for indemnity claims or for expenses, and the proceeds of indemnity calls, less a commission actually paid for collecting the same not exceeding 3% thereof, shall be used for payment of claims under policy contracts for investigating and contesting policy claims believed to be fraudulent and for deposit with the Treasurer of State in a reserve fund and for no other purpose.

R.S.1954, c. 60, § 230.

§ 1009. Assessment notice must appear on policy face

In every policy or certificate issued after the first day of July, 1899, to a resident of this State by any casualty or accident insurance company doing business on the assessment plan, there shall be printed in bold type, making one of the principal lines near the top thereof, the words "This policy is subject to assessments" and in or upon every application, circular, card, advertisement and printed document issued by such corporation within the State there shall be printed conspicuously the words "assessment plan".

R.S.1954, c. 60, § 231.

§ 1010. Benefit or relief not liable to attachment; change of beneficiary

The money or other benefit, charity, relief or aid to be paid, provided or rendered by any corporation authorized to do casualty insurance business on the assessment plan under this Title shall not be liable to attachment by trustee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process or by operation of law to pay any debt or liability of a policy or certificate holder or any beneficiary named therein. The beneficiary named in any certificate may be changed by the insured at any time under such regulations as the corporation may prescribe.

R.S.1954, c. 60, § 232.

§ 1011. False representation by solicitor, agent or physician

Any solicitor, agent or examining physician who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance or for the purpose of obtaining any money or benefit in any corporation transacting business on the assessment plan under this Title shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not less than 30 days nor more than 11 months.

R.S.1954, c. 60, § 233.

§ 1012. Annual report; examinations

Every corporation doing business on the assessment plan under this Title or its charter shall annually, on or before the 31st day of January return to the commissioner, in such manner and form as he shall prescribe, a statement of its affairs for the year ending on the preceding 31st day of December. The said commissioner, in person or by deputy, shall have the powers of visitation of and examination into the affairs of any such corporation which are conferred upon him in the case of life insurance companies by this Title; but such corporation doing business under this Title shall not be subject to any other provisions or requirements of this Title, except as set forth in sections 526, 534 to 536 and 803, and in this subchapter.

R.S.1954, c. 60, § 234.

§ 1013. Filing fees

The fees for filing statements, certificates or other documents required of casualty insurance companies or for any service or act of the commissioner and the penalties for any violation of this subchapter by such companies shall be the same as provided in the case of life insurance companies.

R.S.1954, c. 60, § 235.

SUBCHAPTER IV

CANCELLATION

Sec.

1051. Automobile physical damage insurance.

§ 1051. Automobile physical damage insurance

An insurance company may cancel an automobile physical damage insurance policy only on 10 days' written notice to the insured and any other person mentioned in the loss payable clause of the policy. When the policy is cancelled by the insured he shall notify forthwith any other person mentioned in the loss payable clause, and in the event the interest of any person mentioned in the loss payable clause is released, such person shall forthwith notify the company.

1959, c. 288.