

# MAINE STATE LEGISLATURE

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# FORTY-EIGHTH LEGISLATURE.

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SENATE.

No. 20.

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## STATE OF MAINE.

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

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AN ACT concerning insurance and insurance companies.

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

SECTION 1. The governor, by and with the advice  
2 and consent of council, shall appoint some suitable  
3 person to be insurance commissioner, who shall, unless  
4 sooner removed by the governor, hold his office for the  
5 term of three years from date of his commission and  
6 until his successor shall be appointed and qualified.

SECT. 2. The commissioner shall annually examine  
2 each stock insurance company and mutual life insur-  
3 ance company incorporated by this state, in such man-  
4 ner as to ascertain its condition and means with refer-  
5 ence to its ability to meet its engagements and do a  
6 safe insurance business ; and he shall make such other

7 examinations as the governor may require or the com-  
8 missioner may regard necessary for the safety of the  
9 public or policy holders. In all such cases the com-  
10 missioner may require the officers or agents to produce  
11 for examination any and all books and papers of the  
12 company, and cause them to answer, on oath, all ques-  
13 tions which may be propounded to them relative there-  
14 to, and to the business and affairs of the company.  
15 And if such officer or agent shall refuse to produce  
16 any such book or paper thus called for, or refuse to  
17 be sworn, or answer any such question, he shall forfeit  
18 a penalty not exceeding five hundred dollars.

SECT. 3. He may also at any time if he sees fit  
2 require any agent of any insurance company doing  
3 business in this state, to exhibit the books and papers  
4 of his agency, and answer any and all questions which  
5 may in like manner be propounded to him in order to  
6 elicit a full disclosure of all things pertaining to his  
7 agency. And if such agent shall refuse to produce  
8 any such book or paper, or to be sworn, or answer  
9 any such question, he shall forfeit a penalty of not  
10 more than three hundred dollars, and be suspended  
11 from his agency until restored to place by the com-  
12 missioner or the governor.

SECT. 4. No stock insurance company or mutual  
2 life insurance company incorporated in this state shall

3 commence business by issuing policies until the com-  
4 missioner shall first examine and ascertain that the  
5 company has complied with the terms of its charter  
6 and become qualified to act ; and thereupon he shall  
7 issue to said company his certificate of that fact, for  
8 which service he shall receive from the company a fee  
9 of fifteen dollars and all travelling expenses.

SECT. 5. Every insurance company shall organize  
2 within one year and inform the commissioner thereof,  
3 or its charter shall be void.

SECT. 6. No mutual insurance company shall com-  
2 mence business by issuing policies until at least one  
3 one hundred thousand dollars of risks in amount shall  
4 have been secured or applied for.

SECT. 7. Executors, administrators, guardians and  
2 trustees, shall represent the stock held by them in  
3 their said capacity in every respect the same as if  
4 absolute owner thereof ; but they are not to be per-  
5 sonally responsible for any liability as stockholders,  
6 but the estate in their hands shall be responsible to the  
7 same extent as the testator, intestate, ward or person  
8 interested in the trust, would be if alive and compe-  
9 tent to act and held the stock in his own name.

SECT. 8. Every mutual fire and marine insurance  
2 company incorporated in this state shall annually make  
3 to the commissioner a statement, under oath of its

4 secretary or treasurer, of its condition, according to  
5 such form as he may prescribe ; and to this end, he  
6 shall furnish such company, in the month of Septem-  
7 ber of each year, with at least two blanks for such  
8 statement to be filled by them, one of which shall be  
9 at once returned truly answered to the commissioner.

SECT. 9. If, upon examination, the commissioner is  
2 of opinion that any insurance company incorporated in  
3 this state is insolvent, or that its affairs and condition  
4 are such as to render its further proceedings hazardous  
5 to the public or those holding its policies, he shall  
6 apply to a justice of the supreme judicial court to issue  
7 an injunction restraining said company, in whole or in  
8 part, from further proceeding with its business. Such  
9 justice or any other justice of said court may there-  
10 upon, with or without notice, issue such temporary  
11 injunction, or if on notice, such temporary or perma-  
12 nent injunction as he may think proper, either of which  
13 he may afterwards modify, vacate or perpetuate ; and  
14 he may also pass such orders and decrees, appoint  
15 receivers or masters, or do any other act conformable  
16 to the general rules of chancery practice as may in his  
17 opinion be requisite for the safety of the community  
18 and the best interests of all parties concerned. All  
19 such orders, decrees and proceedings, shall be at once  
20 made to the clerk of the courts for the county, who

21 shall place the same on file and record them in the  
22 records of the court.

SECT. 10. The commissioner shall also have power  
2 at any time when in his opinion the condition of any  
3 company, or the acts and conduct of any agent of any  
4 such company existing under the laws of any other  
5 state or government, is such as to give reasonable cause  
6 to believe that the company is in failing circumstances  
7 or unable to do a safe insurance business, or that such  
8 agent is unfit to do such business, to suspend the right  
9 of such company or agent to do further business in  
10 this state until the disability is removed. And in such  
11 case he shall advertise in the state paper a caution  
12 against insurance in such company or by such agent,  
13 as the case may be. And if any such company or  
14 agent under this or the next previous section shall  
15 after such injunction or suspension undertake to do  
16 any such business by issuing any new policies, such  
17 agent so offending shall forfeit a penalty not exceed-  
18 ing five hundred dollars.

SECT. 11. It shall not be lawful for any insurance  
2 company incorporated by any other state or govern-  
3 ment, directly or indirectly, to take risks or transact  
4 any insurance business in this state, unless the com-  
5 pany shall first obtain a license from the commissioner  
6 authorizing the company so to do. Before receiving

7 such license, the company shall furnish the commis-  
8 sioner with a true certified copy of its charter and by-  
9 laws, together with a statement under oath, signed by  
10 the president or secretary of the company, containing  
11 all such facts as shall be required by the commissioner  
12 bearing upon the ability of the company to meet their  
13 obligations and do a safe insurance business as pro-  
14 posed. And they shall also furnish the commissioner  
15 with a written instrument, under seal of the corpora-  
16 tion, signed by the proper officer of the company, with  
17 a certified copy of the vote authorizing them to act,  
18 whereby the company shall agree to adopt and abide  
19 by all the provisions of the laws of this state regulating  
20 insurance, the same as if a part of their charter, so far  
21 as it covers policies and acts of the company in this  
22 state, together with an agreement to pay all taxes  
23 assessed upon them. Upon receiving such copies,  
24 statement and agreement, the commissioner shall grant  
25 such license, if in his opinion the same ought to be  
26 granted, which license shall authorize the company to  
27 do an insurance business in this state until the first  
28 day of April then next. And annually thereafter, such  
29 license may be renewed from year to year, so long as  
30 the commissioner shall regard the company responsible  
31 and safe as aforesaid, such license in all cases to ter-  
32 minate on the first day of April next succeeding. For

33 each such license and for each renewal thereof, the  
34 company shall pay the commissioner the sum of fifteen  
35 dollars, to be paid at the time of making the applica-  
36 tion, and if upon examination any such application  
37 shall be denied the commissioner will retain the fee  
38 the same as if license be granted.

SECT. 12. No person shall act as agent of any  
2 insurance company until he has produced to the com-  
3 missioner and filed with him a duplicate power of  
4 attorney from the company authorizing him to act as  
5 such agent. Upon filing such power, to the satisfac-  
6 tion of the commissioner, he shall issue a license to  
7 such agent, if the company has received a license to  
8 do an insurance business in this state, which license  
9 shall continue until the first day of April then next,  
10 and the same may be renewed from year to year upon  
11 production of a certificate from the company that his  
12 agency is continued. For each such license and re-  
13 newal thereof he shall pay the commissioner the sum  
14 of two dollars. And if any person shall solicit, receive  
15 or forward any risk or application for insurance, or  
16 deliver or receive pay for any policy for any company,  
17 or do any other acts as agent, directly or indirectly,  
18 for any insurance company without having first re-  
19 ceived such license, he shall forfeit the penalty of not  
20 more than one hundred dollars for each offence; but



21 any policy thus procured shall bind the company if  
22 otherwise valid. All policies procured by any agent  
23 shall be countersigned by him.

SECT. 13. Every stock insurance company and mu-  
2 tual life company incorporated in this state, and every  
3 insurance company incorporated out of this state and  
4 doing business in the state, shall annually, on or be-  
5 fore the fifteenth day of January, render to the com-  
6 missioner an exact statement, under oath, of its con-  
7 dition as it existed on the thirty-first day of December  
8 previous, setting forth the amount of its assets, busi-  
9 ness done during the year previous, number and  
10 amount of policies issued, premiums received, losses  
11 and expenses paid in all, and also in this state, with  
12 such other items as the commissioner may require  
13 bearing upon the matter of insurance and safety of the  
14 company. For receiving and recording such statement  
15 the commissioner shall receive the fee of three dollars.  
16 And every agent of each such company shall also at  
17 the time named annually make report, under oath, to  
18 the commissioner, of the amount of business done by  
19 him, including number and amount of policies issued,  
20 premiums received, and such other items as the com-  
21 missioner may require touching his agency. And to  
22 this end the commissioner shall annually furnish each  
23 such company and agent with proper blanks for their

24 statements, which shall be answered and returned as  
25 aforesaid.

SECT. 14. There shall be annually paid into the  
2 treasury of the state on or before the first day of Feb-  
3 ruary, by every company doing business in this state  
4 and not incorporated here, a tax of two per cent. on  
5 all premiums which during the year ending on the  
6 thirty-first day of December previous have been re-  
7 ceived by or agreed to be paid to such company in  
8 this state, or by any and all of its agents, after re-  
9 ceiving license as aforesaid. And all stock insurance  
10 companies and mutual life companies incorporated in  
11 this state shall, at the time mentioned, pay a tax of  
12 one per cent. on all premiums so received by them or  
13 their agents or agreed to be paid to them. And until  
14 such taxes are paid no license to the company shall be  
15 renewed. The commissioner shall duly inform the  
16 state treasurer of the amounts respectively due from  
17 the several companies under the provisions of this sec-  
18 tion, as soon as may be after the returns are received.

SECT. 15. Any person having a claim against any  
2 such insurance company incorporated by any other  
3 state or government, may sue therefor in the courts of  
4 of this state, and service made upon any agent of said  
5 company authorized as aforesaid, shall be valid and  
6 binding on the company, and hold them to answer to

7 such suit; and the judgment rendered in such suit  
8 shall bind the company as a valid judgment in every  
9 respect, whether the action be answered to or not, this  
10 provision to embrace also all cases of foreign attach-  
11 ment or trustee suits. For the purpose of receiving  
12 notice or service of any fact or proceeding or process,  
13 the agents of such companies shall be regarded as still  
14 authorized until others are appointed in their place.  
15 Unless any such judgment shall be paid within thirty  
16 days after demand made by the officer holding the  
17 execution, the commissioner may, upon notice and  
18 hearing of the parties, suspend the power of the com-  
19 pany to do business in this state, until such time as he  
20 may see fit to remove the disability. In such case the  
21 commissioner shall advertise such fact in the state  
22 paper cautioning the public, and if the company or  
23 any agent shall afterwards issue any policy during  
24 such suspension, they shall forfeit the same penalty as  
25 if no license had ever been granted. But any policy  
26 so granted shall be valid to bind the company in favor  
27 of the holder.

SECT. 16. All notices and processes which by any  
2 law, by-law or provision of any policy, any insured or  
3 other person has occasion to give to or secure on any  
4 company incorporated out of the state, may be given  
5 to the agent aforesaid of said company, or served on

6 him for the company, with like effect as if given to or  
7 served on the principal. Such agents and the agents  
8 of all companies incorporated in this state, shall be  
9 regarded as in the place of the company in all respects.  
10 The company shall be bound by their knowledge of the  
11 risk and of all matters connected therewith. Omis-  
12 sions and misdescriptions known to the agent shall be  
13 regarded as waived by the company the same as if  
14 noted in the policy. No misdescription or omission,  
15 nor any change in the character or use of the property,  
16 shall affect the validity of the policy unless it has  
17 caused or promoted the loss to a material extent.

SECT. 17. The commissioner shall have power to  
2 administer oaths whenever and wherever necessary, in  
3 all parts of the state, in the performance of the duties  
4 of his office.

SECT. 18. He shall annually report to the legisla-  
2 ture the standing of all companies doing an insurance  
3 business in this state, with the names of all authorized  
4 agents, and such other facts and recommendations as  
5 he may deem important. He shall receive no other  
6 compensation than already provided by fees to be paid  
7 for any services connected with companies incorporated  
8 out of the state. For services performed respecting  
9 companies in the state he shall receive five dollars per  
10 day while so employed, together with expenses incur-

11 red, except for such services as are already provided  
12 for by fees to be paid by the companies or agents.

SECT. 19. Certified copies of any papers in the office  
2 of the commissioner pertaining to the business shall be  
3 legal evidence in all courts of the state.

SECT. 20. No life policy issued in this state shall be  
2 forfeited or affected by reason of the non-payment of  
3 any premium at maturity or at the time required by  
4 the policy, if within thirty days therefrom he shall  
5 pay or tender the same to the company or any of its  
6 agents; and if within that time death shall ensue, the  
7 policy shall be good for the amount due, deducting  
8 the amount of the overdue premium. And if at any  
9 time the party for whose benefit the policy is held  
10 shall desire to surrender the same and save all further  
11 payment of premiums, he may do so, and receive in  
12 lieu thereof from the company a paid up policy for the  
13 term of life for such an amount as his policy is worth  
14 at the time, according to the "Actuaries" or "Com-  
15 bined Experience" tables or rate of mortality, at four  
16 per cent. interest; all matters of unpaid premium  
17 notes and of dividends past and future to be adjusted  
18 and settled upon the same rules and principles as  
19 govern the company in other cases of policies of the  
20 same kind or class. The provisions of this section  
21 shall apply to all policies hereafter issued in this state,

22 and all those now existing which may be hereafter  
23 renewed or continued by future payments of pre-  
24 miums, such payments or renewals hereafter made to  
25 be regarded as an assent of the company and a waiver  
26 of objection to the provisions of this act, unless on the  
27 receipt or certificate of renewal a dissent or protest is  
28 expressly introduced against it.

SECT. 21. Section two of chapter forty-nine of the  
2 revised statutes is amended by striking out the word  
3 "seven" and inserting in its place the words "not  
4 less than five." Section three of same chapter is  
5 amended by striking out all the words in the last line  
6 after the word "share." Sections twenty-one and  
7 twenty-two, thirty-nine and forty of said chapter, also  
8 chapter sixty-seven of the public laws of eighteen  
9 hundred and fifty-nine, chapter thirty-four of the  
10 public laws of eighteen hundred and sixty-one, chap-  
11 ter one hundred and fifteen of the public laws of  
12 eighteen hundred and sixty-two, chapter two hundred  
13 and thirteen of the public laws of eighteen hundred  
14 and sixty-three, and section two of chapter one hun-  
15 dred and ninety-four of the public laws of eighteen  
16 hundred and sixty-eight, are hereby repealed.

SECT. 22. This act shall take effect on and after  
2 the first day of July next, but the appointment of the  
3 commissioner may be made at any time after this act

4 is approved, and he may proceed at once to perform  
5 the duties necessary to the full execution of the law  
6 when fully in force.

STATE OF MAINE.

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In SENATE, February 13, 1869.

Reported by Mr. BUCK, from the Committee on Mercantile Affairs and Insurance, and on motion of the same Senator, 450 copies were ordered to be printed.

THOMAS P. CLEAVES, *Secretary.*