

# MAINE STATE LEGISLATURE

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# FORTY-NINTH LEGISLATURE.

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HOUSE.

No. 16.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

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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. An insurance department is hereby  
2 established to be under the supervision and charge of  
3 the bank and insurance examiner, who shall keep a  
4 correct record of his doings and of all matters relating  
5 to the subject of insurance and insurance companies  
6 upon which he may be called officially to act. He  
7 shall receive no salary or pay for any services per-  
8 formed by him pertaining to said department except  
9 the fees prescribed by this act.

SECT. 2. The examiner shall annually examine or  
2 cause to be examined each stock insurance company

3 and mutual life insurance company incorporated in this  
4 state, so as to ascertain its condition and means with  
5 reference to its ability to meet its engagements and do  
6 a safe insurance business, and he shall make such other  
7 examinations as the governor may require or the ex-  
8 aminer may regard necessary for the safety of the public  
9 or the policy holders. In all such cases he may require  
10 the officers or agents to produce for examination any  
11 and all books and papers of the company, and cause  
12 them to answer on oath all questions which may be  
13 propounded to them relative thereto and to the busi-  
14 ness and affairs of the company. And if such officer  
15 or agent shall refuse to produce any such book or paper  
16 thus called for, or refuse to be sworn or answer any  
17 such question, he shall forfeit a penalty not exceeding  
18 five hundred dollars.

SECT. 3. He may also, whenever he sees fit, require  
2 any agent of any insurance company doing business  
3 in this state to exhibit the books and papers of his  
4 agency and answer any questions which may be pro-  
5 pounded to him in order to elicit a full disclosure of  
6 all things pertaining to his agency. And if such agent  
7 shall refuse to produce any such book or paper, or to  
8 be sworn, or answer any such question put to him, he  
9 shall forfeit a penalty of not more than three hundred  
10 dollars.

SECT. 4. Every insurance company incorporated in  
2 this state shall organize within two years after its  
3 charter is granted, otherwise the charter shall be void,  
4 and upon such organization the company shall inform  
5 the examiner thereof. And no stock insurance com-  
6 pany or mutual life insurance company incorporated as  
7 aforesaid shall commence business by issuing any poli-  
8 cies until the examiner shall first examine and ascer-  
9 tain that the company has complied with the terms of  
10 its charter, has paid in its capital stock and become  
11 qualified to act. The examiner shall thereupon issue  
12 to said company his certificate of the fact, for which  
13 service he shall receive fifteen dollars and his actual  
14 expenses, and such certificate shall be a full authority  
15 for the company to do an insurance business according  
16 to its charter.

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

SECT. 6. Every mutual company incorporated in  
2 this state shall annually make to the examiner a state-  
3 ment, under oath, of its condition according to such  
4 form as the examiner may prescribe ; and to this end  
5 he shall furnish the company in the month of Septem-  
6 ber annually two blanks for such statement, one of  
7 which shall be at once filled and returned truly  
8 answered to the examiner.

SECT. 7. If upon examination the examiner is of  
2 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 its policy holders, he shall apply to a  
6 justice of the supreme judicial court to issue an injunc-  
7 tion restraining the company in whole or in part from  
8 further proceeding with its business. Such justice or  
9 any other justice of said court may thereupon, either  
10 with or without notice, issue such temporary injunc-  
11 tion, or if on notice such temporary or permanent  
12 injunction as he may think proper, either of which he  
13 may afterwards modify, vacate or perpetuate, and he  
14 may also pass such orders and decrees, appoint receiv-  
15 ers to receive the assets of the company and such  
16 masters, and do any other act conformable to the gen-  
17 eral rules of chancery practice as may in his opinion

18 be requisite for the safety of the public and for the  
19 best interests of all parties concerned, all which orders  
20 and decrees he may in like manner enforce. All such  
21 proceedings shall be at once made to the clerk of the  
22 courts for the county, who shall enter them on his  
23 docket, place them on file, and record them in the  
24 records of the court. For his fees the clerk shall  
25 receive payment out of the assets of the company, the  
26 same to be audited and allowed by the court.

SECT. 8. The examiner shall also have power at any  
2 time when in his opinion the condition of any com-  
3 pany existing under the laws of any other state or  
4 government is such as to give reasonable cause to  
5 believe that the company is in failing circumstances or  
6 unable to do a safe insurance business, to suspend the  
7 right of such company to do further business in this  
8 state until the disability is removed. And if the com-  
9 pany or any of its agents under this or next previous  
10 section shall, after such injunction or suspension, un-  
11 dertake to do any business by issuing any new policies,  
12 such agent or company shall forfeit a penalty not  
13 exceeding five hundred dollars. And in order to ena-  
14 ble the examiner to act in the premises, he shall have  
15 power at any time to require of any such company a  
16 full statement of all its affairs bearing upon the matter  
17 of its responsibility in such form as he may prescribe.

SECT. 9. 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 examiner  
6 authorizing the company so to do. Before receiving  
7 such license, the company shall furnish the examiner  
8 with a true certified copy of its charter and by-laws,  
9 together with a statement under oath signed by the  
10 president or secretary of the company, containing all  
11 such facts as shall be required by the examiner bearing  
12 upon the ability of the company to meet its engage-  
13 ments and do a safe insurance business as proposed.  
14 The company shall also furnish the examiner with a  
15 written instrument under seal of the corporation, signed  
16 by the proper officer of the company, with an authenti-  
17 cated copy of the vote authorizing him to act, whereby  
18 the company shall agree to adopt and abide by all the  
19 provisions of the laws of this state regulating insur-  
20 ance, the same as if a part of their charter, so far as  
21 covers policies and acts of the company in this state,  
22 together with an agreement to pay all taxes assessed  
23 in this state upon it. Upon receiving such copies,  
24 statement and agreement, the examiner 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 day  
28 of July then next. And annually thereafter such  
29 license may be renewed from year to year so long as  
30 the examiner shall regard the company responsible  
31 and safe as aforesaid, such license in all cases to termi-  
32 nate on the first day of July next succeeding. For  
33 each such license and for each renewal thereof, the  
34 company shall pay the examiner the sum of ten dol-  
35 lars, and if the application shall be denied, the exam-  
36 iner shall have right to receive and retain such fee the  
37 same as if granted.

SECT. 10. No person shall act as agent of any insur-  
2 ance company until he has produced to the examiner  
3 and filed with him a duplicate power of attorney from  
4 the company authorizing him to act as such agent.  
5 Upon filing such power the examiner shall there-  
6 upon issue a license to such agent, if the company  
7 has received a license to do an insurance business  
8 in this state, which license shall continue until the  
9 first day of July then next, and the same may be  
10 renewed from year to year upon production of a certifi-  
11 cate from the company that his agency is continued.  
12 For each such license and renewal thereof the exami-  
13 ner shall receive the sum of one dollar. And if any  
14 person shall solicit, receive or forward any risk or  
15 application for insurance, or deliver or receive pay for



16 any policy for any company, or do any other acts as  
17 agent directly or indirectly for any insurance company  
18 without first receiving such license, he shall forfeit the  
19 penalty of not more than one hundred dollars for each  
20 offence, but any policy thus procured shall bind the  
21 company if otherwise valid. All policies procured by  
22 any agent shall be countersigned by him.

SECT. 11. Any person may be licensed by the exami-  
2 ner as insurance broker to negotiate contracts of insur-  
3 ance, and to effect insurance for others than himself  
4 for a compensation, and by virtue thereof he may place  
5 risks or effect insurance with any insurance company  
6 of this state or with the agents of any insurance com-  
7 pany out of the state who have been licensed to do an  
8 insurance business in this state, but with no other.  
9 For such license, such broker shall pay the sum of five  
10 dollars, which shall authorize him thus to act until the  
11 first day of July then next, and his license may be  
12 renewed or extended from year to year afterwards,  
13 ending annually on the first day of July, he paying  
14 the same fees at each renewal as above provided. He  
15 shall keep a correct account of all risks thus effected  
16 by him, and amount of premiums paid to each com-  
17 pany annually, and report the same when required to  
18 the examiner. And any person who without such

19 license assumes to act as such broker, shall forfeit the  
20 sum of not more than one hundred dollars.

SECT. 12. Every stock insurance company incorpo-  
2 rated in this state, and every insurance company incor-  
3 porated out of this state and doing business in the state,  
4 shall annually, on or before the fifteenth day of Janu-  
5 ary, render to the examiner an exact statement, under  
6 oath, of its condition as it existed on the thirty-first  
7 day of December previous, setting forth the amount of  
8 its assets and liabilities, business done during the year  
9 previous, number and amount of policies issued, pre-  
10 miums received, licenses and expenses paid in all and  
11 in this state, with such other items as the examiner  
12 may require bearing upon the matter of insurance and  
13 safety of the company. For receiving, recording and  
14 reporting such statement the company shall pay the  
15 examiner a fee of two dollars. And every agent shall  
16 also annually at the same time, make report under oath  
17 to the examiner of the amount of business done by him,  
18 including amount and number of policies issued, pre-  
19 miums received, and such other items as the examiner  
20 may require touching his agency. And to this end the  
21 examiner shall annually furnish each such company  
22 and agent with proper blanks for their statements,  
23 which shall be answered and returned as aforesaid.

SECT. 13. 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 this  
8 state, or by any and all of its agents, after receiving  
9 license as aforesaid. And until such tax is paid no  
10 license shall be renewed to the company thus in  
11 default. The examiner shall duly inform the state  
12 treasurer of the amounts respectively due from the  
13 several companies under the provisions of this section,  
14 as soon as may be after the returns are received.

SECT. 14. Any person having a claim against any  
2 insurance company incorporated by any other state or  
3 government, may sue therefor in the courts of this  
4 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 shall  
8 bind the company as a valid judgment in every respect,  
9 whether the action be answered to or not; this pro-  
10 vision to embrace also all cases of foreign attachment  
11 or trustee suits. For the purpose of receiving notice

12 or service of any fact, proceeding or process, the agent  
13 shall be regarded as still authorized until another is  
14 appointed. Unless any such judgment shall be paid  
15 within thirty days after demand by the officer holding  
16 the execution upon such agent, the examiner may,  
17 upon notice and hearing of the parties, suspend the  
18 power of the company to do business in this state until  
19 payment is made ; and if said company or its agents  
20 after being notified of such suspension shall afterward  
21 continue to do business, or issue any policies, they  
22 shall forfeit the same penalty as is above provided in  
23 case no license is granted. But any policy so granted  
24 shall be valid and binding on the company in favor of  
25 the holder.

SECT. 15. 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 or serve on any  
4 company incorporated out of the state, may be given  
5 to or served on the agent of said company with like  
6 effect as if given to or served on the principal. Such  
7 agents and the agents of all companies incorporated in  
8 this state shall be regarded as in the place of the  
9 company in all respects regarding any insurance  
10 effected by them respectively. The company shall be  
11 bound by their knowledge of the risks, and of all  
12 matters connected therewith. Omissions and mis-

13 descriptions known to the agent shall be regarded as  
14 known by the company, and waived by it the same as  
15 if noted in the policy. No such omission or mis-  
16 description, nor any change in the character or use of  
17 the property insured shall affect the validity of the  
18 policy, unless it has caused or promoted the loss to a  
19 material extent.

SECT. 16. The examiner shall have power to ad-  
2 minister oaths whenever or wherever necessary in all  
3 parts of the State, in the performance of the duties of  
4 his office.

SECT. 17. He shall annually report to the legislature  
2 the standing and business of all companies doing an  
3 insurance business in this state, with the names of all  
4 authorized agents, and such other facts and recom-  
5 mendations as he may deem important.

SECT. 18. Certified copies of any papers in the  
2 office of the examiner pertaining to its business  
3 officially, shall be legal evidence in all courts of the  
4 state.

SECT. 19. All life policies and money due on same  
2 are exempt from attachment and from all claims of  
3 creditors during the life of the insured, where the  
4 annual cash premium paid does not exceed one hun-  
5 dred and fifty dollars, and when it exceeds that sum, if  
6 the premium has been paid by the debtor his creditors

7 have a lien on the policy or policies for such an amount  
8 in excess of one hundred and fifty dollars per year as  
9 the debtor may have paid for two years, subject how-  
10 ever to any pledge or assignment thereof made in good  
11 faith.

SECT. 20. Section third of chapter forty-nine of the  
2 revised statutes is amended by striking out all the words  
3 in the last line after "share;" sections twenty-one,  
4 twenty-two, thirty-nine and forty of same chapter;  
5 also chapter sixty-seven of the public laws of eighteen  
6 hundred fifty-nine; chapter thirty-four of the public  
7 laws of eighteen hundred sixty-one; chapter one hun-  
8 dred and fifteen of the public laws of eighteen hundred  
9 sixty-two; chapter two hundred and thirteen of the  
10 public laws of eighteen hundred sixty-three; section  
11 two of chapter one hundred and ninety-four of the laws  
12 of eighteen hundred sixty-eight, and all of chapter  
13 two hundred and twenty of the public laws of eighteen  
14 hundred sixty-eight, except sections one and ten, are  
15 hereby repealed.

SECT. 21. This act shall go into force and take  
2 effect on the first day of July next.



STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES, }  
January 27, 1870. }

Reported from the Committee on Mercantile Affairs and Insurance, and printed under the Joint Rule.

S. J. CHADBOURNE, *Clerk.*