

MAINE STATE LEGISLATURE

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FORTY-NINTH LEGISLATURE.

SENATE.

No. 42.

STATE OF MAINE.

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

AN ACT concerning insurance and insurance companies.

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 an insurance commissioner, who shall be appointed by
4 the governor and council, and shall hold his office
5 three years unless sooner removed. The commissioner
6 shall keep a correct record of his doings and of all
7 matters relating to the subject of insurance and insur-
8 ance companies upon which he may be called officially
9 to act. He shall receive no salary or pay for any
10 services performed by him pertaining to said depart-
11 ment except the fees prescribed by this act.

SECT. 2. Such commissioner shall annually examine
2 or cause to be examined, every joint stock insurance
3 company and mutual life insurance company incorpo-
4 rated by this state, in such manner as to ascertain its
5 ability to meet its engagements and to do a safe insur-
6 ance business; and he shall make such other examina-
7 tions as he may regard necessary for the safety of the
8 public or the holders of policies. In all such cases he
9 may require the officers to produce for examination any
10 and all books and papers of the company, and to answer
11 upon oath all questions which he may propound to them
12 in relation to the condition and affairs of the company;
13 and any officer who shall refuse to produce any such
14 books or papers upon his demand, or to be sworn, or to
15 answer any such question, shall be subject to a penalty
16 not exceeding two hundred dollars. Every insurance
17 company incorporated by this state shall organize within
18 two years after its charter is granted, otherwise the
19 charter shall be void, and upon such organization the
20 company shall inform the commissioner thereof.

SECT. 3. No insurance company incorporated by this
2 state shall commence business by issuing policies until
3 the commissioner shall first examine and ascertain that
4 the company has complied with the terms of its charter,
5 paid in its capital stock, and become qualified to act,
6 and he shall thereupon issue to said company his cer-

7 tificate of that fact, for which service he shall receive
8 from the company a fee of twenty dollars and all trav-
9 eling expenses ; and annually thereafter upon exam-
10 ination so long as such company shall be found solvent
11 and responsible to do business as aforesaid, the com-
12 missioner shall issue to it a like certificate and receive
13 a like fee.

SECT. 4. No joint stock insurance company or mutual
2 fire or life insurance company, or co-operative associa-
3 tion incorporated by any other state, shall be permitted
4 to do business in this state, unless it shall have a bona-
5 fide paid up capital, or cash assets amounting to one
6 hundred thousand dollars.

SECT. 5. Every mutual fire and mutual marine insur-
2 ance company incorporated by this state shall annually
3 make to the commissioner a statement under oath of
4 its secretary or treasurer, of its condition, according to
5 such form as he may prescribe ; and to this end, he
6 shall furnish all such companies in the month of Sep-
7 tember of each year, with suitable blanks for such
8 purpose, to be filled by them, one of which shall be
9 at once filled and returned to said commissioner.

SECT. 6. If upon examination the commissioner is
2 of opinion that any insurance company incorporated by
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 known to the clerk
22 of the courts for the county, who shall enter them on
23 his 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. 7. It shall not be lawful for any insurance
2 company incorporated by any other state or govern-
3 ment to transact any insurance business in this state,
4 unless the company shall first obtain a license from the

5 commissioner, authorizing the company so to do. Be-
6 fore receiving such license, the company shall furnish
7 the commissioner with a true certified copy of its
8 charter and by-laws, together with a statement under
9 oath, signed by the president or secretary of the com-
10 pany, showing its financial condition in conformity
11 with such form as may be supplied by the commis-
12 sioner. Upon receiving such copies and statement,
13 the commissioner shall grant such license, if in his
14 opinion the same ought to be granted, which shall
15 authorize the company to do an insurance business in
16 this state subject to the laws of the state until the first
17 day of July then next. And annually thereafter, such
18 license may be renewed from year to year, so long as
19 the commissioner shall regard the company responsible
20 and safe as aforesaid, such license in all cases to term-
21 inate on the first day of July next succeeding. For
22 such license and each renewal the company shall pay
23 the commissioner the sum of twenty dollars.

SECT. 8. No person shall act as agent of any insur-
2 ance company until he has produced to the commis-
3 sioner and filed with him a duplicate power of attorney
4 from the company or its authorized agent, authorizing
5 him to act as such agent. Upon filing such power the
6 commissioner shall thereupon issue a license to such
7 agent, if the company has received a license to do an

8 insurance business in this state, which license shall
9 continue until the first day of July then next, and the
10 same may be renewed from year to year upon produc-
11 tion of a certificate from the company that his agency
12 is continued. For each such license and renewal
13 thereof the commissioner shall receive the sum of one
14 dollar. And if any person shall solicit, receive or
15 forward any risk or application for insurance to any
16 insurance company without first receiving such license,
17 or if he shall fraudulently assume to be an agent and
18 thus procure risks and receive money for premiums, he
19 shall forfeit the penalty of not more than fifty dollars
20 for each offence, but any policy thus procured shall
21 bind the company if otherwise valid.

SECT. 9. Any person may be licensed by the com-
2 missioner as insurance broker to negotiate contracts of
3 insurance, and to effect insurance for others than him-
4 self for a compensation, and by virtue thereof he may
5 place risks or effect insurance with any insurance com-
6 pany of this state or with the agents of any insurance
7 company out of the state who have been licensed to do
8 an 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. And
15 any person who without such license assumes to act as
16 such broker, shall forfeit the sum of not more than fifty
17 dollars.

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

SECT. 11. When any insurance company incorpora-
2 ted by any other state or government doing business in
3 this state shall be dissolved, restrained or prohibited

4 from doing business in the place where it is incorpora-
5 ted, and whenever under the last previous section the
6 commissioner may regard the proceeding proper and
7 advisable, he may apply to the supreme judicial court
8 or any justice thereof, either in term time or vacation,
9 setting forth the facts, and thereupon the court or jus-
10 tice may appoint a receiver or receivers, to take pos-
11 session of the assets of the company in this state, and
12 collect, sell, or dispose of the same as the court or
13 justice may decree, and divide the proceeds pro rata
14 among the creditors in this state, who shall prove
15 their claims before said court or justice before the
16 dividend is made ; the balance if any to be paid over
17 to the company or assigns, the proceedings herein
18 provided for to conform to the provision of section six.
19 The receivers may sue and prosecute any action on
20 or for any such assets in their own names as receivers,
21 but subject to all equities which exist between the
22 original or previous parties.

SECT. 12. Every stock insurance company and mu-
2 tual life insurance company incorporated by this state,
3 and every insurance company incorporated out of this
4 state and doing business therein, shall, annually, on
5 or before the thirty-first day of January, render to the
6 commissioner an exact statement, under oath, of its
7 condition as it existed on the thirty-first day of Decem-

ber previous, or its last exhibit, setting forth its condition as required by blanks furnished by the commissioner.

SECT. 13. Every insurance company incorporated out of this state, doing business in this state, shall annually cause to be published in some daily or weekly paper, published in the county where said company has a duly authorized agent, a condensed statement of its condition conformable to its last annual report to the commissioner. The commissioner shall preserve in a proper form the statements of the condition of every company examined or caused to be examined by him, and all which shall be rendered to him as aforesaid. He shall annually report to the legislature the general condition of the several insurance companies doing business in this state, together with the names and location of their authorized agents in this state, with such suggestions as he may think proper, and in connection therewith shall prepare an abstract of all the returns and statements made to him by said insurance companies.

SECT. 14. Any person having a claim against any insurance company not incorporated by this state, may sue therefor in the courts of this state, and service made upon any authorized agent of said company shall be valid and binding on the company and hold it to

6 answer to such suit ; and the judgment rendered in
7 such suit shall bind the company as a valid judgment
8 in every respect, whether the defendants appear or
9 not ; this provision to embrace also all cases of foreign
10 attachment or trustee suits. For the purpose of re-
11 ceiving notice or service of any fact, proceeding or
12 process, the agent shall be regarded as still authorized
13 until another is appointed. Unless any such judgment
14 shall be paid within thirty days after demand made
15 upon any such agent by the officer holding the exe-
16 cution, the commissioner may, upon notice and hearing
17 of the parties, suspend the power of the company to
18 do business in this state, until it shall be paid, and if
19 the company or any agent thereof shall issue any
20 policy in this state during such suspension, said com-
21 pany and agent shall each forfeit a sum not exceeding
22 one hundred dollars. But any policy so granted shall
23 be valid and binding on the company in favor of the
24 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 com-
4 pany incorporated out of the state, may be given to or
5 served on the agent of said company with like effect as
6 if given to or served on the principal. Such agents
7 and the agents of all companies incorporated in this

8 state shall be regarded as in the place of the company
9 in all respects regarding any insurance effected by them
10 respectively. The company shall be bound by their
11 knowledge of the risks, and of all matters connected
12 therewith. Omissions and misdescriptions known to the
13 agent shall be regarded as known by the company, and
14 waived by it the same as if noted in the policy.

SECT. 16. The commissioner shall have power to
2 administer oaths whenever or wherever necessary in all
3 parts of the state, in the performance of the duties of
4 his office.

SECT. 17. Upon application in writing to the com-
2 missioner by the officers of any insurance company
3 doing business in this state, stating that they have
4 reason to believe and do believe that any person has
5 procured of said company any insurance by false rep-
6 resentations, or that said person has sustained a loss
7 by the fraudulent act of the assured or with his knowl-
8 edge or consent, and said company requests an inves-
9 tigation thereof, said commissioner, or such magistrate
10 as he may appoint, shall summon and examine, under
11 oath, at such time and place as he shall designate,
12 any person or persons, and require the production of
13 all books and papers which may be necessary for a
14 full investigation of the facts, and make report thereof
15 with the testimony by him taken, and report the same

16 to the company making such application. Such
17 investigation shall be at the expense of said company,
18 and it shall pay to the said commissioner or magistrate
19 the witness fees to be taxed as in the supreme judicial
20 court and his expenses, and ten dollars per day for his
21 services.

SECT. 18. Whenever it shall come to the knowledge
2 of the commissioner that the actual funds of any life
3 insurance company doing business in this state are not
4 of a net cash value equal to its liabilities, including
5 the net value of its policies according to the "Com-
6 bined Experience" or "Actuaries' rate of mortality,"
7 with interest at four per cent. per annum, it shall be
8 his duty to give notice to such company and its agents
9 to cease issuing policies within this state. The com-
10 missioner may have authority to purchase and use the
11 life valuation tables adopted by the insurance depart-
12 ment of Massachusetts for this and all purposes of
13 valuation under this act. When he shall become sat-
14 isfied that the funds of such company have become
15 equal to its liabilities, valuing its policies as aforesaid,
16 he shall give notice to such company and agents that
17 its business may be resumed in the state. If any
18 officer or agent, after such notice of suspension has
19 been given, shall issue any new policy from or on
20 behalf of such company, he shall forfeit for each

21 offence a sum not exceeding three hundred dollars ;
22 and the delivery of a policy in this state, by mail or
23 otherwise, shall be deemed an issuing of such policy.

SECT. 19. In case any company whose operations
2 shall have been suspended by the commissioner shall
3 be dissatisfied with the decision of the commissioner in
4 suspending it, or in refusing to allow it, upon applica-
5 tion therefor, to resume business, it may petition the
6 supreme judicial court for a revision of such decision.
7 The petition may be presented to any justice of said
8 court in vacation or term time, and he shall cause
9 notice to be given to the commissioner of the time and
10 place of hearing, which may be in chambers, and in
11 vacation, and upon such hearing affirm or reverse the
12 decision of the commissioner, and the decision of such
13 justice shall be final.

SECT. 20. All life policies and money due on the 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,
6 if the premium has been paid by the debtor his credi-
7 tors have a lien on the policy or policies for such an
8 amount in excess of one hundred and fifty dollars per
9 year as the debtor may have paid for two years, sub-

ject however to any pledge or assignment thereof made
in good faith.

SECT. 21. This act shall not be so construed as to
apply to any foreign marine insurance company which
does not appoint agents to represent it in this state,
so as to interfere with the rights of any citizens to
effect insurance with such company, either by making
application in person or employing other persons,
licensed as aforesaid, to negotiate such insurance, or to
prevent any person or citizen of this state who may
desire to negotiate and effect insurance in such com-
pany.

SECT. 22. All penalties provided by this act may be
recovered in an action of debt in the name of the state,
and the same shall enure to the state when collected.
The county attorney for the county where the forfeiture
is incurred shall sue therefor at the direction of the
commissioner.

SECT. 23. Section third of chapter forty-nine of the
revised statutes is amended by striking out all the
words in the last line after "share;" sections twenty-
one, twenty-two, thirty-nine and forty of same chapter;
also chapter sixty-seven of the public laws of eighteen
hundred fifty-nine; chapter two hundred and thirteen
of the public laws of eighteen hundred sixty-three;

8 section two of chapter one hundred and ninety-four of
9 the laws of eighteen hundred sixty-eight, and all of
10 chapter two hundred and twenty of the public laws of
11 eighteen hundred sixty-eight, relating to insurance,
12 are hereby repealed, saving all rights existing and all
13 actions pending under any of such repealed acts.

SECT. 24. This act shall go into force and take
2 effect on the first day of July next, but, the commis-
3 sioner may be appointed at any time after its approval.

STATE OF MAINE.

IN SENATE, February 26, 1870.

Reported from the Committee on Mercantile Affairs and Insurance, by Mr. BUCK of Hancock, and printed under Joint Rule.

SAMUEL W. LANE, *Secretary.*