

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

NEW DRAFT.

Sixty-Seventh Legislature.

HOUSE.

No. 142.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-FIVE.

AN ACT to amend sections one, twenty-six, thirty-eight, forty-one, sixty-four, seventy-two, seventy-three, seventy-four, eighty-eight and eighty-nine, of chapter forty-nine of the Revised Statutes, relating to insurance.

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

SECTION 1. Sections one, twenty-six, thirty-eight, 2 forty-one, sixty-four, seventy-two, seventy-three, seventy- 3 four, eighty-eight and eighty-nine of chapter forty-nine of 4 the Revised Statutes, relating to insurance, are hereby 5 amended so that said sections, as amended, shall read as 6 follows:

SECT. 1. A contract of insurance is an agreement by 2 which one party for a consideration promises to pay money

3 or its equivalent, or to do some act of value to the assured
4 upon the destruction or injury of something in which the
5 other party has an interest. And the business involving
6 the issuance of such contracts in this state shall be carried
7 on only by duly incorporated insurance companies. All
8 incorporated insurance companies may exercise the powers
9 and are subject to the duties and liabilities contained
10 herein and in Chapter forty-six, so far as consistent with
11 their charters. Associations of individuals now formed or
12 which may hereafter be formed, upon which the plan
13 known as Lloyd's, for the purpose of transacting marine
14 insurance business, may exercise all rights, powers and
15 privileges granted under the laws of this state.

SECT. 26. The insured, before receiving his policy,
2 shall deposit his note for the sum determined by the direc-
3 tors, which shall not be less than five per cent of the
4 amount insured, and such part of it as the by-laws require,
5 shall be immediately paid towards incidental expenses and
6 endorsed thereon; and the remainder in such installments,
7 as the directors from time to time require for the payment
8 of losses and other expenses, to be assessed on all who are
9 members when such losses or expenses happen, in propor-
10 tion to the amounts of their notes. Provided, that a
11 mutual company which collects a cash premium of not less
12 than the tariff rate charged by stock companies may take
13 a premium note for an equal amount and such companies
14 shall maintain a premium reserve equal to fifty per cent of
15 the cash premium on its policies in force. A married
16 woman may insure her property and give her note, with
17 or without her husband, and it shall be as valid against
18 her as if she were unmarried. No domestic mutual insur-

19 ance company shall insure in one risk an amount exceed-
20 ing twenty-five per cent of its gross assets, including
21 the amount at any time due on its premium notes.

SECT. 38. Any ten or more persons, residents of the
2 state, associated by such an agreement in writing as is
3 hereinafter described, with the intention of constituting a
4 corporation for the transaction of insurance business shall,
5 upon complying with section forty-six, become and
6 remain a corporation with all the powers, rights and priv-
7 ileges and be subject to all the duties, liabilities and
8 restrictions set forth in all the general laws relating to
9 insurance corporations. Corporations may be organized
10 as herein provided, upon the stock or mutual principle for
11 the following purposes, viz :

First. To insure against loss or damage to property by
13 fire, lightning or tempest on land.

Second. To insure vessels, freights, goods, money,
15 effects, and money lent on bottomry or respondentia,
16 against the perils of the sea and other perils usually
17 insured against by marine insurance companies, including
18 risks of inland navigation and transportation.

Third. To insure against breakage or damage to plate
20 glass, local or in transit.

Corporations may also be organized as herein provided,
22 upon the stock principle, *only*, for the following purposes,
23 viz :

Fourth. To insure against loss or damage to property
25 of the assured, or loss or damage to the life, person, or
26 property of another for which the assured is liable, caused
27 by the explosion of steam boilers.

Fifth. To insure any person against bodily injury or
29 death by accident, or any person, firm or corporation

30 against loss or damage on account of the bodily injury or
31 death by accident of any person for which loss or damage
32 said person, firm or corporation is responsible.

Sixth. To insure the owners of domestic animals
34 against loss resulting from the death of or injury to the
35 animals insured.

SECT. 41. No policy shall be issued by a purely mutual
2 company until applications have been made in good faith,
3 for insurance to the amount of fifty thousand dollars, and
4 no policy shall be issued by a stock company until its
5 capital stock has been paid in, in cash, and invested as
6 provided in section eight.

SECT. 64. An insurance commissioner, whose office
2 shall be at the state capitol, shall be appointed by the
3 governor and council, and shall hold his office for three
4 years unless sooner removed, but shall not at the same
5 time be examiner of banks. He may administer oaths in
6 the performance of his official duties, in any part of the
7 state and at any time. He shall keep a correct account
8 of all his doings, and of all fees and moneys received by
9 him by virtue of his office, pay over the same to the
10 treasurer of the state quarterly, and at the same time
11 settle his account with the governor and council. He
12 shall give bond to the treasurer, in the sum of five
13 thousand dollars, for the faithful discharge of his duties.
14 He may with the approval of the governor and council,
15 appoint and with their consent remove, a deputy commis-
16 sioner who by virtue of such appointment, shall be and
17 perform the duties of chief clerk of the department and
18 who shall receive an annual salary of one thousand dollars.
19 In the event of a vacancy in the office of commissioner or
20 during the absence of a disability of that officer, the

21 deputy commissioner shall perform the duties of the
22 office.

SECT. 72. No foreign insurance company shall transact
2 any insurance business in this state, unless it first obtains
3 a license from the commissioner. Before receiving such
4 license, it shall furnish the commissioner with—

First. A certified copy of its charter and by-laws.

Second. A statement, under oath, signed by its presi-
7 dent or secretary, showing its financial condition according
8 to a form supplied by the commissioner.

Third. A power of attorney appointing the insurance
10 commissioner of Maine, to be the true and lawful attorney
11 of such company in and for this state, upon whom all law-
12 ful process in an action or proceeding against the company
13 may be served with the same effect as if the company
14 existed in this state. Said power of attorney shall stipu-
15 late and agree on the part of the company, that any lawful
16 process against the company which is served on said attor-
17 ney shall be the same in legal force and validity as if
18 served on the company, and that the authority shall con-
19 tinue in force irrevocable so long as any liability remains
20 outstanding against the company in this state. A certifi-
21 cate of such appointment, duly certified and authenticated
22 shall be filed in the office of said commissioner and copies
23 certified by him shall be received in evidence in all courts
24 of this state. Upon receiving the papers herein enumer-
25 ated the commissioner may, if he deems it advisable, grant
26 a license authorizing the company to do insurance busi-
27 ness in this state by constituted agents resident therein
28 subject to its laws, until the first day of the next July, and
29 annually thereafter such license may be renewed so long
30 as he regards the company as responsible and safe, but in all

31 cases to terminate on the first day of the succeeding July.
32 For such license and each renewal the company shall pay
33 the commissioner twenty dollars. Every foreign insur-
34 ance company now transacting business in this state shall
35 within thirty days from the approval of this act file with
36 the insurance commissioner a power of attorney similar to
37 that herein described.

SECT. 73. The Commissioner may issue a license to any
2 person to act as an agent of a domestic insurance com-
3 pany upon his filing with the commissioner a certificate
4 from the company or its authorized agent empowering
5 him so to act; and to any resident of the State to act as
6 an agent of any foreign insurance company which has
7 received a license to do business in this State as provided
8 in section 72, upon his filing such certificate; and such
9 license shall continue until the first day of the next July.
10 For each such license the commissioner shall receive two
11 dollars, and if any person solicits, receives, or forwards
12 any risk or application for insurance to any company,
13 without first receiving such license, or fraudulently
14 assumes to be an agent and thus procures risks and
15 receives money for premiums, he forfeits not more than
16 fifty dollars for each offense; but any policy issued on
17 such application binds the company if otherwise valid.
18 Agents of duly authorized insurance companies may place
19 risks with agents of other duly authorized companies
20 when necessary for the adequate insurance of property,
21 persons, or interests. An insurance agent shall be per-
22 sonally liable on all contracts of insurance unlawfully
23 made by or through him, directly or indirectly, for or in
24 behalf of any company not authorized to do business in
25 the State. Nothing herein contained shall require a duly

26 licensed insurance agent or broker to obtain any license
27 for an employe doing only clerical office work in the office
28 of said agent or broker.

SECT. 74. The commissioner may license any person
2 as broker to negotiate contracts of insurance for others
3 than himself for a compensation, by virtue of which license
4 he may effect insurance with any domestic company or its
5 agents; or any resident of the state to negotiate such con-
6 tracts and effect insurance with the agents of any foreign
7 company who have been licensed to do business in this
8 state, as provided in sections seventy-two and seventy-
9 three but with no others. For such license he shall pay
10 five dollars, authorizing him to act until the first day of
11 the next July. Whoever, without such license, assumes
12 to act as such broker, forfeits not more than fifty dollars,
13 or by imprisonment not more than sixty days for each
14 offense. The insurance commissioner may revoke or sus-
15 pend the license of any agent or broker at any time by
16 giving such agent or broker written notice thereof. When
17 the commissioner revokes the license of any insurance
18 agent or broker, such agent or broker may appeal to a
19 justice of the supreme judicial court, by presenting to him
20 a petition therefor, in term time or vacation, and such
21 justice shall fix a time and place of hearing which may be
22 at chambers and in vacation, and cause notice thereof to
23 be given to the commissioner; and after the hearing he
24 may confirm or reverse the decision of the commissioner;
25 and the decision of such justice is final. The commis-
26 sioner shall have power to revoke the license of any
27 foreign insurance company authorized to do business in
28 this state that shall neglect or refuse to comply with the

29 laws thereof, or that shall violate any of the provisions of
30 sections seventy-two and seventy-three of chapter forty-
31 nine of the Revised Statutes as hereby amended.

SECT. 88. Every foreign insurance company (Life
2 excepted) doing business in this state, shall annually,
3 before the first day of May, publish three weeks succes-
4 sively, in some daily or weekly paper printed in every
5 county where it has a duly authorized agent, or issues
6 policies, a condensed statement of its condition conforma-
7 ble to its last annual report to the commissioner, and
8 any such insurance company which neglects or refuses
9 to publish such statement, forfeits not less than fifty
10 dollars.

SECT. 89. Any person having a claim against any for-
2 eign insurance company, may bring a trustee action or any
3 other appropriate suit therefor in the courts of this state.
4 Service made upon the insurance commissioner or upon
5 any duly appointed agent of the company within the state
6 shall be deemed sufficient service upon the company, and
7 the judgment rendered therein shall bind the company as
8 valid in every respect, whether the defendants appear or
9 not. Unless such judgment is paid within thirty days
10 after demand, the commissioner may, on notice and hear-
11 ing of the parties, suspend the power of the company to
12 do business in this state until it is paid, and if the com-
13 pany or any agent thereof issues any policy in the state
14 during such suspension, said company and agent each for-
15 feits not exceeding one hundred dollars; but any policy
16 so issued is binding on the company in favor of the holder.
17 Whenever lawful process against an insurance company
18 shall be served on the insurance commissioner, he shall

19 forthwith notify the company of such service by letter and
20 within a reasonable time forward a copy of the process
21 served on him, by mail, postpaid, and directed to the
22 officers of the company. For each copy of process the
23 insurance commissioner shall collect the sum of two dol-
24 lars, which shall be paid by the plaintiff at the time of the
25 service, the same to be recovered by him as part of the
26 taxable costs if he prevails in the suit.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 18, 1895. }

Reported by Mr. FAIRBANKS of Bangor, from Committee on Mercantile Affairs and Insurance, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*