

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# Seventieth Legislature.

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SENATE.

No. 139

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## STATE OF MAINE.

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

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AN ACT relating to Fraternal Beneficiary Organizations.

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

Section 1. A fraternal beneficiary association is hereby de-  
2 fined to be any corporation, society or voluntary association,  
3 formed or organized and carried on for the sole benefit of its  
4 members and their beneficiaries, and not for profit. Each as-  
5 sociation shall have a lodge system, with ritualistic form of  
6 work and representative form of government, and shall make  
7 provision for the payment of benefits in the case of death,  
8 and may make provision for the payment of benefits in the  
9 case of sickness, temporary or permanent physical disability,

10 either as the result of disease, accident or old age, provided  
11 the period in life at which payment of physical disability  
12 benefits on account of old age commences, shall not be under  
13 seventy years, subject to their compliance with its constitution  
14 and laws. The fund from which the payment of such benefits  
15 shall be made, and the fund from which the expenses of such  
16 association shall be defrayed shall be derived from assess-  
17 ments or dues collected from its members. Payments of death  
18 benefits shall be to the families, heirs, blood relatives,  
19 adopted children, adopted parents, affianced husband or affi-  
20 anced wife of, or to persons dependent upon the member.  
21 Such associations shall be governed by this act and shall be  
22 exempt from the provisions of insurance laws of this state,  
23 except as herein provided and no law hereafter passed shall  
24 apply to them unless they be expressly designated therein.  
25 Any such fraternal beneficiary association may create, main-  
26 tain, disburse and apply a reserve or emergency fund in ac-  
27 cordance with its constitution or by-laws.

Sect. 2. Seven or more persons, resident of the state, desir-  
2 ing to form a fraternal beneficiary corporation for the pur-  
3 poses above provided, and having signed an agreement there-  
4 for, declaring therein the purposes of such corporation, may  
5 organize as such in the manner provided in sections one, two  
6 and three of chapter fifty-five of the Revised Statutes, and  
7 such corporation shall have all the powers, privileges and im-  
8 munities, and be subject to all the liabilities named in said  
9 section three.

Sect. 3. The president, secretary, and a majority of the  
2 directors, or other officers corresponding thereto, shall forth-  
3 with make, sign and swear to a certificate setting forth a true  
4 copy of the agreement and declaration of the purposes of the  
5 association, with the names of the subscribers thereto, the  
6 date of the first meeting, and the successive adjournments, if

7 any, and shall submit such certificate and the records of the  
 8 corporation to the insurance commissioner, who, upon pay-  
 9 ment of a fee of five dollars, shall make such examination  
 10 and require such evidence as he deems necessary; and if it  
 11 appears that the purposes of the corporation conform to law,  
 12 he shall certify his approval thereof, and the certificate shall  
 13 then be filed by said officer in the office of the secretary of  
 14 state, who, upon payment of a fee of five dollars, shall cause  
 15 the same with the endorsements, to be recorded, and shall  
 16 thereupon issue a certificate in the following form:

STATE OF MAINE.

Be it known that whereas (here the names of the subscrib-  
 19 ers to the agreement of the association shall be inserted),  
 20 have associated themselves with the intention of forming a  
 21 corporation under the name of (here the name of the cor-  
 22 poration shall be inserted) for the purpose (here the purpose  
 23 declared in the agreement of association shall be inserted),  
 24 and have complied with the provisions of the statutes of this  
 25 state in such case made and provided, as appears from the  
 26 certificate of the officers of the corporation, duly approved  
 27 by the insurance commissioner and recorded in this office;  
 28 now, therefore, I (here the name of the secretary shall be  
 29 inserted), secretary of the state of Maine, do hereby certify  
 30 that said (here the names of the subscribers to the agreement  
 31 of association shall be inserted), their associates and succes-  
 32 sors, are legally organized and established as and are hereby  
 33 made an existing corporation under the name of (here the  
 34 name of the corporation shall be inserted), with the powers,  
 35 rights and privileges, and subject to the limitations, duties  
 36 and restrictions which by law appertain thereto. Witness my  
 37 official signature hereunto subscribed, and the seal of the state  
 38 of Maine hereunto affixed, this .....day..... of  
 39 .....in the year (in these blanks the day, month and

40 the year of execution of the certificate shall be inserted). The  
41 secretary shall sign the same and cause the seal of the state  
42 be thereto affixed, and such certificate shall be conclusive  
43 evidence of the existence of such corporation at the date of  
44 such certificate. He shall cause a record of such certificate  
45 to be made, and a certified copy of such record may be given  
46 in evidence, with like effect as the original certificate.

Sect. 4. No charter granted under the provisions of this act  
2 shall be valid after one year from its date unless the organ-  
3 ization has been completed and business begun thereunder,  
4 and when any domestic corporation has discontinued business  
5 for the period of one year its charter shall become null and  
6 void.

Sect. 5. Any fraternal beneficiary corporation existing  
2 under the laws of this state, and now engaged in transacting  
3 business herein, may re-incorporate under the provisions of  
4 this act; provided, that nothing in this act contained shall be  
5 construed as requiring any such corporation to reincor-  
6 porate; and any such corporation may continue to exercise  
7 all the rights, powers and privileges conferred by this act,  
8 and its articles of incorporation not inconsistent herewith,  
9 and shall be subject to the requirements and penalties of this  
10 act the same as if re-incorporated hereunder.

Sect. 6. No association hereafter organized under the pro-  
2 visions of this act shall incur any liability or issue any bene-  
3 fit certificate until it has received from the insurance com-  
4 missioner a certificate to the effect that it has complied with  
5 the requirements of law and is duly authorized to transact  
6 business in this state. Before such certificate is granted the  
7 association must present satisfactory evidence to the insur-  
8 ance commissioner that it has established mortuary assess-  
9 ment rates which are not lower than those now indicated as  
10 necessary by the national fraternal congress mortality tables

11 and that at least five hundred persons have each paid one  
12 advance mortuary assessment on the rates so established and  
13 become a bona-fide member of a local branch of the asso-  
14 ciation, and that it has deposited with the state treasurer at  
15 least one thousand dollars as a part of its emergency or re-  
16 serve fund for the benefit and protection of certificate hold-  
17 ers in said association, which fund shall be held and used as  
18 hereinafter provided.

Sect. 7. Each such association hereafter organized under  
2 the provisions of this act shall, on or before the thirty-first  
3 day of December in each year deposit with the state treasurer  
4 to the credit of its emergency or reserve fund not less than  
5 fifteen per cent of its total mortuary receipts for the year  
6 then ending; until the amount so deposited amounts to not  
7 less than fifty thousand dollars. These amounts shall be depos-  
8 ited in such interest bearing securities as any insurance com-  
9 pany or savings bank may from time to time by law invest  
10 its funds and the securities shall be held in trust by the state  
11 treasurer, but the association shall have at all times the right  
12 to exchange any part of said securities for others of like  
13 amount and character, and the income from said fund shall  
14 be paid by said treasurer to the association. When deemed  
15 advisable by the majority of the directors, or other officers  
16 corresponding thereto, such part of the fund as may be con-  
17 sidered necessary, may with the written approval of the in-  
18 surance commissioner, be applied from time to time to the  
19 payment of death benefits but for no other purpose; pro-  
20 vided, however, that such fund shall not at any time be re-  
21 duced below an amount equal to one assessment or periodical  
22 call upon all of its members, nor to less than one thousand  
23 dollars. The insurance commissioner shall annually, in Feb-  
24 ruary, certify to the treasurer of state, the minimum amount  
25 of reserve fund required to be kept on deposit in the state

26 treasury by each association doing business under this act.  
27 If said association shall neglect for sixty days to satisfy  
28 any judgment against it, in any court in this state, then the  
29 said treasurer shall convert into money any of said securities,  
30 and forthwith satisfy such judgment, and said association  
31 shall not transact any further business until said deposit is  
32 restored. When any such association shall discontinue busi-  
33 ness, any justice of the supreme judicial court may appoint  
34 a receiver or agent to administer any unexhausted portion of  
35 such fund which shall be used, less compensation not to ex-  
36 ceed five per cent, as such court or justice may allow the  
37 receiver or agent; first, in the payment of accrued, mortuary  
38 or indemnity claims upon certificates or policies, or if in-  
39 sufficient to pay such claims in full, they shall be paid, pro  
40 rata; second, if a balance remains after the payment of such  
41 claims, such balance to be distributed to the holders of cer-  
42 tificates then in force, pro rata, in accordance with the total  
43 mortuary payments of said members, after first paying all  
44 expenses incident to such distribution. If, upon the thirty-  
45 first day of December of any year, the emergency or reserve  
46 fund of any such association is found to be less than the  
47 amount of one assessment or periodical call upon all the  
48 members thereof, said association shall, within six months  
49 thereafter, collect from its members a sum sufficient to bring  
50 said emergency or reserve fund up to one assessment or  
51 periodical call upon all its members, and deposit the amount  
52 with the state treasurer to the credit of said fund.

Sect. 8. No such association shall re-insure with or trans-  
2 fer its membership certificates or funds to any organization,  
3 unless the said contract of transfer or re-insurance is first  
4 submitted to and approved by a two-thirds vote of the mem-  
5 bers of each association present at meetings called to consider  
6 the same, of which meetings written or printed notice shall be

7 mailed to each certificate holder at least thirty days before the  
8 date fixed for said meeting, nor unless the said contract of  
9 transfer or re-insurance is first submitted to and approved  
10 by the insurance commissioner. The members of fraternal  
11 beneficiary associations shall not vote by proxy.

Sect. 9. Fraternal beneficiary associations organized under  
2 the laws of another state or country which were transacting  
3 business in this state as herein defined, on the twenty-eighth  
4 day of February, 1889, or which subsequently thereto have  
5 been legally admitted to transact business in this state and  
6 which now report or which shall report when requested to  
7 the insurance commissioner may continue such business sub-  
8 ject to the provisions of this act. A fraternal beneficiary as-  
9 sociation which was not transacting business in this state on  
10 the 28th day of February, 1889, and which has not since been  
11 legally admitted to transact business therein and which may  
12 hereafter desire to do so, shall first obtain a license therefor  
13 from the insurance commissioner. Before receiving such li-  
14 cense it shall file with the commissioner a duly certified copy  
15 of its charter or articles of association and a copy of its con-  
16 stitution or laws, certified by its secretary or corresponding  
17 officer, a power of attorney to the commissioner, as hereinafter  
18 provided: a statement under oath of the president and secre-  
19 tary, or corresponding officers, in the form required by the  
20 commissioner, of its business for the preceding year; a cer-  
21 tificate from the proper official in its home state or country,  
22 that the company is legally organized and that similar asso-  
23 ciations of this state may be admitted to transact business  
24 in said state or country; a copy of its application and policy  
25 or certificate, which must show that benefits are provided  
26 for by assessments upon persons holding similar contracts,  
27 and shall furnish the commissioner with such other informa-  
28 tion as he may deem necessary to a proper exhibit of its busi-



29 ness and standing and plan of working and if he deems it  
30 expedient he may license such association to do business in  
31 this state in accordance with the provisions of this act; pro-  
32 vided, however, that no license shall be issued to any such  
33 company unless it shall have adopted and have in force mor-  
34 tuary assessment rates which are not lower than those now  
35 indicated as necessary by the national fraternal congress mor-  
36 tality tables. Any such association upon filing the papers  
37 herein required shall pay the commissioner twenty dollars.

Sect. 10. Each such association now doing or hereafter  
2 admitted to do business within this state, and not having its  
3 principal office within this state, and not being organized  
4 under the laws of this state, shall appoint in writing  
5 the insurance commissioner and his successors in office to be  
6 its true and lawful attorney, upon whom all lawful process  
7 in any action or proceeding against it shall be served, and in  
8 such writing shall agree that any lawful process against it  
9 which is served on said attorney shall be of the same legal  
10 force and validity as if served upon the association, and that  
11 the authority shall continue in force so long as any liability  
12 remains outstanding in this state. Copies of such appoint-  
13 ment, certified by said insurance commissioner, shall be  
14 deemed sufficient evidence thereof, and shall be admitted in  
15 evidence with the same force and effect as the original thereof  
16 might be admitted. Service upon such attorney shall be  
17 admitted. Service upon said attorney shall be deemed suf-  
18 ficient service upon such association. When legal process  
19 against any such association is served upon said insurance  
20 commissioner, he shall immediately notify the association of  
21 such service by letter, prepaid and directed to its secretary  
22 or corresponding officer, and shall within two days after such  
23 service forward in the same manner a copy of the process  
24 served on him to such officer. The plaintiff in such process

25 so served shall pay to the insurance commissioner at the time  
26 of such service a fee of two dollars, which shall be recovered  
27 by him as part of the taxable costs, if he prevails in the suit.

Sect. 11. No certificate issued by any association transact-  
2 ing business under this act shall be valid or legal which shall  
3 be conditional upon an agreement or understanding that the  
4 beneficiary shall pay the dues and assessments, or either  
5 of them for said member. Every call for a payment by the  
6 policy or certificate holders shall distinctly state the purpose  
7 of the same. No part of the money collected for mortuary  
8 or indemnity purposes or for the emergency or reserve fund  
9 shall be used for expenses; provided that any such association  
10 now transacting business in this state and whose laws provide  
11 for and which is now using such funds for expenses may con-  
12 tinue so to do but not to exceed the amount named for that  
13 purpose in such existing laws.

Sect. 12. Any association authorized to transact business as  
2 defined in this act may employ paid agents in soliciting busi-  
3 ness but no person shall act as such agent until the associ-  
4 ation or its authorized manager has filed with the insurance  
5 commissioner a certificate certifying that such person has  
6 been appointed as the agent of the association. Upon re-  
7 ceiving such certificate the commissioner may, upon the pay-  
8 ment of the fee of two dollars, issue a license to such person,  
9 authorizing him to transact business in this state in accord-  
10 ance with the provisions of this act and such license shall  
11 expire on the first day of the next July, but no license shall be  
12 issued under the provisions of this act to firms or corpora-  
13 tions. If any person acts as such agent without first receiv-  
14 ing such license or fraudulently assumes to be an agent and  
15 solicits or procures risks or receives money for premiums or  
16 assessments he forfeits not less than fifty dollars nor more  
17 than one hundred dollars for each offense but any policy or

18 certificate issued on such application binds the association, if  
19 otherwise valid.

Sect. 13. Any person who shall solicit membership for, or  
2 in any manner assist in procuring membership in any such  
3 association doing a business not authorized by this act, or  
4 who shall solicit membership for, or in any manner assist in  
5 procuring membership in any such association not authorized,  
6 as herein provided, to do business as herein defined, in this  
7 state, shall be guilty of a misdemeanor, and upon conviction  
8 thereof, shall be punished by a fine of not less than fifty nor  
9 more than two hundred dollars.

Sect. 14. Every association doing business as herein de-  
2 fined shall annually, on or before the first day of March, report  
3 to the insurance commissioner the names and addresses of its  
4 president, secretary and treasurer, or other officers corre-  
5 sponding thereto, and shall make under oath such further  
6 statements of its membership and financial transactions for  
7 the year ending on the preceding thirty-first day of Decem-  
8 ber, with other information relating thereto, as said commis-  
9 sioner may deem necessary to a proper exhibit of its busi-  
10 ness and standing; and the commissioner may at any other  
11 times require any further statement he may deem necessary  
12 to be made relating to such association.

Any such association which neglects or refuses to make the  
14 returns required by this section shall forfeit five dollars a day  
15 for each days neglect; and for wilfully making a false state-  
16 ment the association and the persons making oath thereto,  
17 or subscribing the same, shall severally be punished by a  
18 fine of not less than one hundred nor more than five hun-  
19 dred dollars.

Sect. 15. The money or other benefit, charity, relief or aid  
2 to be paid, provided or rendered, or which has been paid,  
3 provided or rendered by any association authorized to do

4 business under this act, and as herein provided, shall not be  
5 liable to attachment by trustee, or other process, and shall  
6 not be seized, taken or appropriated, or applied by any le-  
7 gal or equitable process, nor by operation of law, to pay  
8 any debt or liability of a certificate holder, or any beneficiary  
9 thereof, existing at the death of such holder.

Sect. 16. Any solicitor, agent or examining physician,  
2 who shall knowingly or wilfully make any false or fraudu-  
3 lent statement or representation in or with reference to any  
4 application for membership, or for the purpose of obtaining  
5 any money or benefit, in any association transacting busi-  
6 ness under this act, shall be guilty of a misdemeanor, and,  
7 upon conviction, shall be punished by a fine of not less than  
8 one hundred nor more than five hundred dollars, or by im-  
9 prisonment not less than thirty days nor more than one  
10 year, or both; and any person who shall wilfully make a  
11 false statement of any material fact or thing in a sworn  
12 statement as to the death or disability of a certificate holder  
13 in any such association, for the purpose of procuring the  
14 payment of the benefit named in the certificate of such holder,  
15 shall be guilty of perjury, and upon conviction, shall be  
16 punished accordingly.

Sect. 17. Nothing herein contained shall be construed to  
2 affect or apply to grand or subordinate lodges of Masons,  
3 Odd Fellows, Knights of Pythias or similar orders, organ-  
4 ized or incorporated under the laws of this state, and which  
5 do not have as their principal object the issuance of insur-  
6 ance certificates. Nor shall anything herein contained ap-  
7 ply to domestic corporations or voluntary associations  
8 which limit their membership to the employes of a particu-  
9 lar city or town, designated firm, business house or corpo-  
10 ration; nor to domestic lodges, orders or associations of a  
11 purely religious, charitable and benevolent description

12 which do not operate with a view to profit and which do  
13 not provide for a funeral benefit of more than one hundred  
14 dollars, or sick or disability benefits of more than one hun-  
15 dred and fifty dollars, to any person in any one year.  
16 Provided always, that any association which has more than  
17 three hundred members and which issues to any person a  
18 certificate providing for the payment of benefits shall not  
19 be exempt by the provisions of this section, and such asso-  
20 ciations shall comply with all requirements of this act.  
21 The insurance commissioner may require of any association  
22 such information relating to its membership and certificates  
23 as will enable him to determine whether it is exempt from  
24 the provisions of this act. And no association which is  
25 exempt by the provisions of this section from the require-  
26 ments of this act, shall employ paid agents or give or allow  
27 to any person any compensation for procuring new mem-  
28 bers.

Sect. 18. The insurance commissioner, in person or by  
2 deputy, shall have the power of visitation and examination  
3 into the affairs of any domestic association subject to the  
4 provisions of this act, that are conferred upon him by the  
5 provisions of chapter forty-nine of the Revised Statutes,  
6 provided that he shall not be required to make periodical  
7 examinations of domestic associations. Whenever after  
8 examination the commissioner is satisfied that any domestic  
9 association is not paying the maximum amount named in  
10 its policies or certificates in full or is in such condition as  
11 to render further proceedings hazardous to the public or its  
12 policy holders or is transacting its business fraudulently; or  
13 whenever such domestic association shall, after the exis-  
14 tence of one year or more, have a membership of less than  
15 three hundred, the insurance commissioner may present  
16 the facts in relation to the same to any justice of the su-

17 preme judicial court; and said justice shall thereupon notify  
18 the officers of such association of a hearing and unless it  
19 shall then appear that some special and good reason exists  
20 why the association should not be closed, some person shall  
21 be appointed receiver of such association and shall proceed  
22 at once to take possession of the books, papers, moneys,  
23 and other assets of the association, and shall forthwith, un-  
24 der the direction of the court proceed to close the affairs of  
25 such association and to distribute to those entitled thereto  
26 its funds in the manner provided in section seven of this  
27 act. For this service the receiver may be allowed out of  
28 any funds in possession of the association or which may  
29 come therefrom into his hands, such sum as the court may  
30 determine to be reasonable and just. When the affairs of  
31 the association shall be finally closed, the court shall decree  
32 a dissolution of the same.

Sect. 19. Fraternal beneficiary associations, organized or  
2 incorporated under the laws of this state, which are trans-  
3 acting business herein upon the passage of this act, and  
4 which limit their membership to the members of some par-  
5 ticular order, class or fraternity may continue such business  
6 by complying with the provisions of this act not incon-  
7 sistent therewith.

Sect. 20. Whenever the commissioner deems it prudent  
2 for the protection of the policy or certificate holders in this  
3 state he, or any person whom he may appoint, may exam-  
4 ine any foreign fraternal beneficiary association applying  
5 for admission or transacting business in this state and such  
6 association shall pay the expenses of the examination.  
7 The commissioner may employ assistants and for the pur-  
8 poses aforesaid he, or any person he may appoint, shall  
9 have free access to all the books and papers that relate to  
10 the business of such association and to the books and pa-

11 pers kept by any of its organizers and may summon and  
12 qualify as witnesses under oath, and examine the directors,  
13 officers, agents, organizers and trustees of such association  
14 and other persons in relation to its affairs, transactions and  
15 condition. He may, in his discretion, accept in lieu of such  
16 examination the examination of the insurance department  
17 of the state or country where such foreign association is  
18 organized.

If any such association, or its officers or agents, refuse to  
20 submit to such examination or to comply with the provisions  
21 of this section relating thereto, the authority of such asso-  
22 ciation to transact business in this state shall be suspended  
23 until satisfactory evidence is furnished the commissioner re-  
24 lating to the standing and affairs of the association, and  
25 during such suspension the association shall not transact  
26 any business in this state.

When the commissioner, on investigation, is satisfied that  
28 any association organized under the laws of another state  
29 or country and transacting business under this act has ex-  
30 ceeded its powers, or has failed to comply with any provis-  
31 ion of law, or is conducting business fraudulently, or that  
32 its condition is such as to render further proceedings haz-  
33 ardous to the public or to its certificate holders, or in case  
34 any such association shall vote to discontinue its business  
35 he shall notify the president and secretary, or other officers  
36 corresponding thereto of his findings, and state the grounds  
37 of his dissatisfaction and after thirty days notice require  
38 said association, on a date named, to show cause why its  
39 license should not be revoked and its authority to transact  
40 business in this state terminated. If on the date named in  
41 said notice such objections have not been removed to the  
42 satisfaction of the commissioner, or the association does not  
43 present good and sufficient reasons why its authority to tran-

44 sact business in this state should not at that time be revoked,  
45 he may revoke the authority of such association to continue  
46 business in this state.

When the commissioner suspends or revokes the authority  
48 application refuses to countermand such suspension or re-  
49 vocation the association may within thirty days apply to any  
50 justice of the supreme judicial court, by presenting to him  
51 a petition therefor, in term time or vacation, and he shall  
52 fix a time and place of hearing which may be at chambers  
53 and in vacation, and cause notice thereof and a copy of said  
54 petition to be served on the commissioner, and after said  
55 hearing he may affirm or reverse the decision of the com-  
56 missioner and the decision of such justice shall be final.

Sect. 21. No association organized or doing business un-  
2 der this act shall issue any policy or certificate upon the  
3 life of any person more than sixty years of age; nor on  
4 the life of any person who has not been examined by a rep-  
5 utable, practicing physician and passed a satisfactory medi-  
6 cal examination. No person shall be admitted to member-  
7 ship in any such organization unless he has first filed an  
8 application with and been initiated in and becomes a mem-  
9 ber of a local branch. The by-laws of such association  
10 shall provide that meetings of such branches shall be held  
11 at least once each month.

Sect. 22. When the laws of any state or country under  
2 which any such association is organized or incorporated  
3 impose on fraternal associations of this state any additional  
4 or greater fees, fines, penalties, prohibitions or obligations  
5 than are imposed by this act upon similar associations of  
6 other states or countries the same fees, fines, penalties, pro-  
7 hibitions or obligations shall be imposed upon the associa-  
8 tions of such state or country applying for admission or  
9 transacting business in this state.



Sect. 23. Any association neglecting or refusing to comply with, or violating the provisions of this act shall be fined not exceeding two hundred dollars upon conviction thereof.

Sect. 24. Prosecutions for violation of any of the provisions of this act may be commenced by complaint and warrant before any municipal judge or trial justice as in the case of other offenses not within the final jurisdiction of such judge or justice, as provided in section five of chapter one hundred and thirty-two of the Revised Statutes.

Sect. 25. The word association as used in the various sections of this act shall be taken and construed as meaning a corporation, society or voluntary association.

Sect. 26. All acts or parts of acts, inconsistent herewith, are hereby repealed.

Sect. 27. This act shall take effect when approved.

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## STATE OF MAINE.

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IN SENATE, March 14, 1901.

Redorted by Mr. STEARNS from Committee on Mercantile Affairs and Insurance, and laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary.*