

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

115-

OF THE

FORTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1870.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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1870.

PUBLIC LAWS
OF THE
STATE OF MAINE.
1870.

'Sect. 1. When a petition for a railroad corporation is presented to the legislature, it must state the places where the road is to begin and end, the distance between them and its general course.'

SECT. 2. Chapter one hundred and eighty-six of the public laws of the year eighteen hundred and sixty-eight, is hereby repealed.

SECT. 3. This act shall take effect when approved.

Approved March 21, 1870.

CHAP. 156.

incorporation of
railroads,
amended.

Public laws 1868,
chap. 180, relat-
ing to enforcing
judgments
against railroad
corporations,
repealed.

Chapter 156.

An act concerning insurance and insurance companies.

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

SECT. 1. An insurance commissioner shall be appointed by the governor and council, and shall hold his office three years unless sooner removed. The commissioner shall keep a correct record of his doings and of all matters relating to the subject of insurance and insurance companies upon which he may be called officially to act. He shall receive no salary or pay for any services performed by him pertaining to said department, except the fees prescribed by this act.

Office of insurance
commissioner
created.

SECT. 2. Such commissioner shall annually examine or cause to be examined, every joint stock insurance company and mutual life insurance company incorporated by this state, in such manner as to ascertain its ability to meet its engagements and to do a safe insurance business; and he shall make such other examinations as he may regard necessary for the safety of the public or the holders of policies. In all such cases he may require the officers to produce for examination any and all books and papers of the company, and to answer upon oath all questions which he may propound to them in relation to the condition and affairs of the company; and any officer who shall refuse to produce any such books or papers upon his demand, or to be sworn, or to answer any such question, shall be subject to a penalty not exceeding two hundred dollars. Every insurance company incorporated by this state shall organize within two years after its charter is granted, otherwise the charter shall be void, and upon such organization the company shall inform the commissioner thereof.

Duties of
examiner.

SECT. 3. No insurance company incorporated by this state shall commence business by issuing policies until the commissioner shall first examine and ascertain that the company has

Insurance com-
panies incorpo-
rated in this state
not to commence
issuing policies

CHAP. 156.

until commis-
sioned by com-
missioner.

Fee.

Foreign insur-
ance companies
of less than \$100,-
000 paid up
capital, prohib-
ited doing business
in the state.

Insurance com-
panies of the state
to make annual
return of their
condition to the
commissioner.

Injunction
against insolvent
companies.

Proceedings
thereon.

Foreign insurance
companies to ob-
tain license before
doing business
in the state.

complied with the terms of its charter, paid in its capital stock, and become qualified to act, and he shall thereupon issue to said company his certificate of that fact, for which service he shall receive from the company a fee of twenty dollars and all travelling expenses; and annually thereafter upon examination so long as such company shall be found solvent and responsible to do business as aforesaid, the commissioner shall issue to it a like certificate and receive a like fee.

SECT. 4. No joint stock insurance company or mutual fire or life insurance company, or coöperative association incorporated by any other state, shall be permitted to do business in this state, unless it shall have a bonafide paid up capital or cash assets amounting to one hundred thousand dollars.

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

SECT. 6. If upon examination the commissioner is of opinion that any insurance company incorporated by this state is insolvent, or that its affairs and condition are such as to render its further proceedings hazardous to the public or its policy holders, he shall apply to a justice of the supreme judicial court to issue an injunction restraining the company in whole or in part from further proceeding with its business. Such justice or any other justice of said court may thereupon, either with or without notice, issue such temporary injunction, or if on notice such temporary or permanent injunction as he may think proper, either of which he may afterwards modify, vacate or perpetuate, and he may also pass such orders and decrees, appoint receivers to receive the assets of the company, and such masters, and do any other act conformable to the general rules of chancery practice as may in his opinion be requisite for the safety of the public and for the best interests of all parties concerned, all which orders and decrees he may in like manner enforce. All such proceedings shall be at once made known to the clerk of the courts for the county, who shall enter them on his docket, place them on file and record them in the records of the court. For his fees the clerk shall receive payment out of the assets of the company, the same to be audited and allowed by the court.

SECT. 7. It shall not be lawful for any insurance company incorporated by any other state or government to transact any insurance business in this state, unless the company shall first

obtain a license from the commissioner, authorizing the company so to do. Before receiving such license, the company shall furnish the commissioner with a true certified copy of its charter and by-laws, together with a statement under oath, signed by the president or secretary of the company, showing its financial condition in conformity with such form as may be supplied by the commissioner. Upon receiving such copies and statement, the commissioner shall grant such license if in his opinion the same ought to be granted, which shall authorize the company to do an insurance business in this state subject to the laws of the state until the first day of July then next. And annually thereafter, such license may be renewed from year to year, so long as the commissioner shall regard the company responsible and safe as aforesaid, such license in all cases to terminate on the first day of July next succeeding. For such license and each renewal the company shall pay the commissioner the sum of twenty dollars. Fee.

SECT. 8. No person shall act as agent of any insurance company until he has produced to the commissioner, and filed with him a duplicate power of attorney from the company or its authorized agent, authorizing him to act as such agent. Upon filing such power the commissioner shall thereupon issue a license to such agent, if the company has received a license to do an insurance business in this state, which license shall continue until the first day of July then next, and the same may be renewed from year to year upon production of a certificate from the company that his agency is continued. For each such license and renewal thereof the commissioner shall receive the sum of one dollar. And if any person shall solicit, receive or forward any risk or application for insurance to any insurance company without first receiving such license, or if he shall fraudulently assume to be an agent and thus procure risks and receive money for premiums, he shall forfeit the penalty of not more than fifty dollars for each offence, but any policy issued on an application thus procured shall bind the company if otherwise valid. Insurance agents to have license from the commissioner before acting. Fee. Penalty.

SECT. 9. Any person may be licensed by the commissioner as insurance broker to negotiate contracts of insurance, and to effect insurance for others than himself; for a compensation, and by virtue thereof he may place risks or effect insurance with any insurance company of this state, or with the agents of any insurance company out of the state who have been licensed to do an insurance business in this state, but with no other. For such license, such broker shall pay the sum of five dollars, which shall authorize him thus to act until the first day of July then next, and his license may be renewed or extended from year to year afterwards, ending annually on the first day of July, he paying the same fees at each renewal as above provided. And any person Insurance brokers may be licensed. Fee.

CHAP. 156.

Penalty.

Injunction
against foreign
insurance com-
panies by com-
missioner.

who without such license assumes to act as such broker, shall forfeit the sum of not more than fifty dollars.

Penalty.

SECT. 10. The commissioner shall have power at any time when in his opinion the condition of any insurance company existing under the laws of any other state or government is such as to give just cause to believe that the company is in failing circumstances or unable to do a safe insurance business, upon reasonable notice, to suspend the right of such company to do further business in this state until the disability is removed. And if the company or any of its agents shall, after such injunction or suspension, under this or the previous section six, undertake to do any business by issuing any new policies, such agent or company shall forfeit a penalty not exceeding two hundred dollars. And in order to enable the commissioner to act in the premises, he shall have power at any time to require of any such company a full statement of all its affairs bearing upon the matter of its responsibility, in such form as he may prescribe.

Receivers may be
appointed to take
possession of
assets of foreign
insurance com-
panies doing
business in the
state which have
dissolved or
failed.

SECT. 11. When any insurance company incorporated by any other state or government doing business in this state shall be dissolved, restrained or prohibited from doing business in the place where it is incorporated, and whenever under the last previous section the commissioner may regard the proceeding proper and advisable, he may apply to the supreme judicial court or any justice thereof, either in term time or vacation, setting forth the facts, and thereupon the court or justice may appoint a receiver or receivers, to take possession of the assets of the company in this state, and collect, sell, or dispose of the same as the court or justice may decree, and divide the proceeds *pro rata* among the creditors in this state, who shall prove their claims before said court or justice before the dividend is made; the balance if any to be paid over to the company or assigns, the proceedings herein provided for to conform to the provision of section six. The receivers may sue and prosecute any action on or for any such assets in their own names as receivers, but subject to all equities which exist between the original or previous parties.

All insurance
companies doing
business in the
state to annually
report its condi-
tion to the
commissioner.

SECT. 12. Every stock insurance company and mutual life insurance company incorporated by this state, and every insurance company incorporated out of this state and doing business therein, shall annually, on or before the thirty-first day of January, render to the commissioner an exact statement, under oath, of its condition as it existed on the thirty-first day of December previous, or its last exhibit, setting forth its condition as required by blanks furnished by the commissioner.

Foreign insur-
ance companies
doing business in
the state to pub-
lish statement of
their condition.

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, for three weeks successively,

published in the county where said company has a duly authorized agent, or takes policies, 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 suggestion 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.

Commissioner to report to the legislature annually the condition of companies doing business in the state.

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 answer to such suit; and the judgment rendered in such suit shall bind the company as a valid judgment in every respect, whether the defendants appear or not; this provision to embrace also all cases of foreign attachment or trustee suits. For the purpose of receiving notice or service of any fact, proceeding or process, the agent shall be regarded as still authorized until another is appointed. Unless any such judgment shall be paid within thirty days after demand made upon any such agent by the officer holding the execution, the commissioner may, upon notice and hearing of the parties, suspend the power of the company to do business in this state, until it shall be paid, and if the company or any agent thereof shall issue any policy in this state during such suspension, said company and agent shall each forfeit a sum not exceeding one hundred dollars. But any policy so granted shall be valid and binding on the company in favor of the holder.

Suits against foreign insurance companies and recovery of judgments.

SECT. 15. All notices and processes which by any law, by-law or provision of any policy, any insured or other person has occasion to give or serve on any company incorporated out of the state, may be given to or served on the agent of said company with like effect, as if given to or served on the principal. Such agents and the agents of all companies incorporated in this state shall be regarded as in the place of the company in all respects regarding any insurance effected by them respectively. The company shall be bound by their knowledge of the risks and of all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known by the company, and waived by it the same as if noted in the policy.

Service of notices and processes.

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

Commissioner authorized to administer oaths.

CHAP. 156.

Commissioner, upon application, to investigate charges of fraudulently obtaining insurance.

SECT. 17. Upon application in writing to the commissioner by the officers of any insurance company doing business in this state, stating that they have reason to believe and do believe that any person has procured of said company any insurance by false representations, or that said person has sustained a loss by the fraudulent act of the assured or with his knowledge or consent, and said company requests an investigation thereof, said commissioner or such magistrate as he may appoint, shall summon and examine, under oath, at such time and place as he shall designate, any person or persons, and require the production of all books and papers which may be necessary for a full investigation of the facts, and make report thereof with the testimony by him taken, and report the same to the company making such application. Such investigation shall be at the expense of said company, and it shall pay to the said commissioner or magistrate the witness fees to be taxed as in the supreme judicial court and his expenses, and ten dollars per day for his services.

Expense of investigation.

Injunction against life insurance companies when the resources are not equal to liabilities.

SECT. 18. Whenever it shall come to the knowledge of the commissioner that the actual funds of any life insurance company doing business in this state are not of a net cash value equal to its liabilities, including the net value of its policies according to the "combined experience" or "actuaries' rate of mortality," with interest at four per cent. per annum, it shall be his duty to give notice to such company and its agents to cease issuing policies within this state. The commissioner may have authority to purchase and use the life valuation tables adopted by the insurance department of Massachusetts for this and all purposes of valuation under this act. When he shall become satisfied that the funds of such company have become equal to its liabilities, valuing its policies as aforesaid, he shall give notice to such company and agents that its business may be resumed in the state. If any officer or agent, after such notice of suspension has been given, shall issue any new policy from or on behalf of such company, he shall forfeit for each offence a sum not exceeding three hundred dollars; and the delivery of a policy in this state by mail or otherwise shall be deemed an issuing of such policy.

Commissioner may purchase life valuation tables.

Injunction may be removed.

Liability for issuing policies during the injunction.

Appeal from decisions of commissioner to supreme judicial court.

SECT. 19. In case any company whose operations shall have been suspended by the commissioner shall be dissatisfied with the decision of the commissioner in suspending it or in refusing to allow it, upon application therefor, to resume business, it may petition the supreme judicial court for a revision of such decision. The petition may be presented to any justice of said court in vacation or term time, and he shall cause notice to be given to the commissioner of the time and place of hearing, which may be in chambers, and in vacation, and upon such hearing affirm or re-

verse the decision of the commissioner, and the decision of such justice shall be final.

CHAP. 156.

SECT. 20. All life policies and money due on the same are exempt from attachment and from all claims of creditors during the life of the insured, where the annual cash premium paid does not exceed one hundred and fifty dollars; and when it exceeds that sum, if the premium has been paid by the debtor, his creditors have a lien on the policy or policies for such an amount in excess of one hundred and fifty dollars per year as the debtor may have paid for two years, subject however to any pledge or assignment thereof made in good faith.

Exemption of life policies from attachment.

Exception.

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, or 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.

Foreign marine insurance companies unrepresented in the state by agent, not affected by this act.

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.

Penalties, how recovered.

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

R. S., chap. 49, sect. 3, relating to choice of directors, amended.

R. S., chap. 49, sect. 21, 22, 39, 40, repealed.

Public laws 1859, chap. 67; 1863, chap. 213; 1868, chap. 194, sect. 2; 1868, chap. 220, repealed.

SECT. 24. No person holding the office of insurance commissioner under this act, shall at the same time hold the office of examiner of banks; and if the fees under this act amount to a sum greater than two thousand five hundred dollars, the balance over and above said sum shall be paid by said commissioner into the treasury of the state, and the commissioner is hereby directed to keep an accurate account of said fees received, and account for the same annually with the governor and council.

Office of insurance commissioner incompatible with office of bank examiner.

SECT. 25. This act shall go into force and take effect on the first day of July next, but the commissioner may be appointed at any time after its approval.

Act to take effect July 1, 1870.