

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE

1897

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PUBLIC LAWS
OF THE
STATE OF MAINE.

1897.

'Sect. 1. Every loan and building association doing business in this state shall semi-annually on the last secular days of April and October make a return signed and sworn to by its secretary of its monthly capital dues paid in by its shareholders during the six months preceding each of said days, exclusive of withdrawals, fines, interest and premiums. Said return shall be made to the treasurer of state on or before the second Mondays of May and November, and for willfully making a false return, the secretary forfeits not less than five hundred nor more than five thousand dollars. The treasurer of such association shall pay to the treasurer of state a tax on account of such dues, of one-fourth of one per cent a year on the amount so returned.'

Approved March 27, 1897.

CHAP. 320

Required to make semi-annual returns.

--when.

--penalty for making false returns.

--taxation of.

Chapter 320.

An Act relating to Fraternal Beneficiary Organizations.

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

Sect. 1. A fraternal beneficiary association is hereby declared to be a corporation, society or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit. Each association shall have a lodge system, with ritualistic form of work and representative form of government, and shall make provision for the payment of benefits in case of death, and may make provision for the payment of benefits in case of sickness, temporary or permanent physical disability, either as the result of disease, accident or old age, provided the period in life at which payment of physical disability benefits on account of old age commences, shall not be under seventy years, subject to their compliance with its constitution and laws. The fund from which the payment of such benefits shall be made, and the fund from which the expenses of such association shall be defrayed shall be derived from assessments or dues collected from its members. Payments of death benefits shall be to the families, heirs, blood relatives, affianced husband or affianced wife of, or to persons dependent upon the member. Such associations shall be governed by this act and shall be

Fraternal beneficiary association defined, and how carried on.

--shall have lodge system and make provision for death benefits, etc.

--funds shall be derived from assessments.

--benefits, to whom paid.

--exempt from provisions of insurance laws.

CHAP. 320

—except-
tion.

How cor-
poration
shall be or-
ganized.

Officers
shall make
certificate
setting
forth pur-
poses,
names of
subscrib-
ers, etc., to
be exam-
ined by in-
surance
commis-
sioner for
approval,
and then
filed in of-
fice of sec-
retary of
state, to be
recorded.

—form of
certificate
to be issued
by secre-
tary of
state.

exempt from the provisions of insurance laws of this state, except as herein provided and no law hereafter passed shall apply to them unless they be expressly designated therein.

Sect. 2. Seven or more persons, resident of the state, desiring to form a fraternal beneficiary corporation for the purposes above provided, and having signed an agreement therefor, declaring therein the purposes of such corporation, may organize as such in the manner provided in sections one, two and three of chapter fifty-five of the revised statutes, and such corporation shall have all the powers, privileges and immunities, and be subject to all the liabilities named in said section three.

Sect. 3. The presiding officer, treasurer and a majority of the directors or other officers, shall forthwith make, sign and swear to a certificate setting forth a true copy of the agreement and declaration of the purposes of the association, with the names of the subscribers thereto, the date of the first meeting, and the successive adjournments, if any, and shall submit such certificate and the records of the corporation to the insurance commissioner, who shall make such examination and require such evidence as he deems necessary; and if it appears that the purposes of the corporation conform to law, he shall certify his approval thereof, and the certificate shall then be filed by said officers in the office of the secretary of state, who, upon payment of a fee of five dollars, shall cause the same with the indorsements, to be recorded, and shall thereupon issue a certificate in the following form:

STATE OF MAINE.

Be it known that whereas (here the names of the subscribers to the agreement of association shall be inserted), have associated themselves with the intention of forming a corporation under the name of (here the name of the corporation shall be inserted), for the purpose (here the purpose declared in the agreement of association shall be inserted), and have complied with the provisions of the statutes of this state in such case made and provided, as appears from the certificate of the officers of the corporation, duly approved by the insurance commissioner and recorded in this office; now therefore, I (here the name of the secretary shall be inserted), secretary of the state of Maine, do hereby certify that said (here the names of the subscribers to the agreement of association shall be

inserted), their associates and successors, are legally organized and established as and are hereby made an existing corporation under the name of (here the name of the corporation shall be inserted), with the powers, rights and privileges, and subject to the limitations, duties and restrictions which by law appertain thereto. Witness my official signature hereunto subscribed, and the seal of the state of Maine hereunto affixed, this.....day.....of.....in the year..... (in these blanks the day, month and year of execution of the certificate shall be inserted.) The secretary shall sign the name and cause the seal of the state to be thereto affixed, and such certificate shall be conclusive evidence of the existence of such corporation at the date of such certificate. He shall cause a record of such certificate to be made.

Sect. 4. Any such corporation may hold at any one time, as a death fund belonging to the beneficiaries of anticipated deceased members, an amount not exceeding one assessment from a general or unlimited membership, or an amount not exceeding in the aggregate, one assessment from each limited class or division of its members; provided, that nothing in this section shall be held to restrict such fund to less than twenty-five thousand dollars.

Amount of death fund that corporation may hold at one time, restricted.

—proviso.

Sect. 5. No corporation organized under the provisions of this act shall commence to do business or issue any certificate until it has presented to the insurance commissioner and received his certification that it has obtained not less than five hundred bona fide applications for membership. Nor until it has deposited with the treasurer of state at least one thousand dollars as a part of its emergency fund, which shall be held and applied in accordance with the provisions of section six of chapter two hundred thirty-seven of the public laws of eighteen hundred and eighty-nine, as amended. All such companies or associations hereafter organized or incorporated under the laws of this state shall also comply with all provisions of section six of said chapter.

Shall not do business until 500 applications have been received.

—nor until it has established emergency fund.

—how emergency fund shall be applied.

Sect. 6. No charter granted under the provisions of this act shall be valid after one year from its date unless the organization has been completed and business begun thereunder. And when any domestic corporation has discontinued business for the period of one year its charter shall become null and void.

When charter shall become invalid.

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Contracts for reinsurance must be approved by members.

Sect. 7. No such corporation shall reinsure with or transfer its membership certificates or funds to any organization, unless the said contract of transfer or reinsurance is first submitted to and approved by a two thirds vote of the members of each association or society present at meetings called to consider the same, of which meetings written or printed notice shall be mailed to each certificate holder at least thirty days before the date fixed for said meeting, nor unless the said contract of transfer or reinsurance is first submitted to and approved by the insurance commissioner.

Existing corporations may reincorporate under this act.

Sect. 8. Any fraternal beneficiary corporation existing under the laws of this state, and now engaged in transacting business as herein defined, may reincorporate under the provisions of this act; provided, that nothing in this act contained shall be construed as requiring any such corporation to reincorporate; and any such corporation may continue to exercise all the rights, powers and privileges conferred by this act, and its articles of incorporation not inconsistent herewith, and shall be subject to the requirements and penalties of this act the same as if reincorporated hereunder.

Foreign corporations doing business here may continue to, upon compliance with this act.

Sect. 9. Fraternal beneficiary corporations, associations or societies organized under the laws of another state or country, now transacting business in this state as herein defined, and which now report or which shall report when requested to the insurance department, may continue such business upon complying with the provisions of this act. Fraternal beneficiary corporations, associations or societies, not now transacting business in this state, which may hereafter desire to do so, shall first obtain license therefor from the insurance commissioner. Such a corporation, association or society shall furnish the commissioner with a certified copy of its charter and by-laws, with a statement under oath, showing its membership and financial condition, with a power of attorney, as hereinafter specified, and shall also furnish the commissioner with such other information as he shall deem necessary to a proper exhibit of its business and standing and plan of working, and if he deems it expedient, he may license such corporation, association or society to do business in this state in accordance with the provisions of this act. For such license he may receive a fee of twenty dollars.

—foreign corporations not doing business, may by procuring license.

—shall first furnish sworn statement of conditions, etc.

—fees.

Such corporations shall appoint insurance

Sect. 10. Each such association now doing or hereafter admitted to do business within this state, and not having its

principal office within this state, and not being organized under the laws of this state, shall appoint in writing the insurance commissioner and his successors in office to be its true and lawful attorney, upon whom all lawful process in any action or proceeding against it may be served, and in such writing shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such certificate, certified by said insurance commissioner, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service upon such attorney shall be deemed sufficient service upon such association. When legal process against any such association is served upon said insurance commissioner, he shall immediately notify the association of such service by letter, prepaid and directed to its secretary or corresponding officer, and shall within two days after such service forward in the same manner a copy of the process served on him to such officer. The plaintiff in such process so served shall pay to the insurance commissioner at the time of such service a fee of two dollars, which shall be recovered by him as part of the taxable costs, if he prevails in the suit.

commissioner, lawful attorneys, upon whom service may be made.

—copies of certificate by insurance commissioner, shall be admitted as evidence.

—when process is served, commissioner shall notify corporation.

—plaintiff shall pay fee to commissioner.

Sect. 11. No certificate issued by any association transacting business under this act shall be valid or legal which shall be conditional upon an agreement or understanding that the beneficiary shall pay the dues and assessments, or either of them, for said member. Any corporation authorized to transact business as defined in this act may employ paid agents in soliciting business. But no person shall act as such an agent until he has first been licensed therefor by the insurance commissioner in accordance with the provisions of section seventy-three, of chapter forty-nine of the revised statutes, and any person violating this provision shall, upon conviction, be punished as provided in said section seventy-three. For such license the commissioner shall receive two dollars.

No certificate valid, if beneficiary is required to pay dues of member.

—may employ paid agents.

—agents must be licensed.

—license fee.

Sect. 12. Every corporation, association or society doing business as herein defined shall annually, on or before the first day of March, report to the insurance commissioner the names and addresses of its president, secretary and treasurer, or other

Corporations shall report annually to commissioner.

CHAP. 320

officers answering thereto, and shall make such further statements of its membership and financial transactions for the year ending on the preceding thirty-first day of December, with other information relating thereto, as said commissioner may deem necessary to a proper exhibit of its business and standing; and the commissioner may at any other times require any further statement he may deem necessary to be made relating to such corporation.

Penalty for soliciting business by any unauthorized person.

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

Benefits shall not be liable to attachment.

Sect. 14. The money or other benefit, charity, relief, or aid to be paid, provided or rendered by any corporation, association or society authorized to do business under this act, and as herein provided, shall not be liable to attachment by trustee, or other process, and shall not be seized, taken or appropriated, or applied by any legal or equitable process, nor by operation of law, to pay any debt or liability of a certificate holder, or any beneficiary thereof.

Punishment for willfully making false statements in application for membership on death or disability certificates.

Sect. 15. Any solicitor, agent or examining physician, who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining any money or benefit, in any corporation, association or society transacting business under this act, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment not less than thirty days nor more than one year, or both; and any person who shall willfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such corporation, for the purpose of procuring the payment of the benefit named in the certificate of such holder, shall be guilty of perjury, and upon conviction, shall be punished accordingly.

Foreign corporations not

Sect. 16. Fraternal beneficiary organizations organized or incorporated under the laws of any other state or country which

do not operate upon the 'lodge system,' as defined in section one of this act, and which limit their membership to the members of some particular order, class or fraternity, may be admitted to transact business in this state upon complying with the provisions of chapter two hundred thirty-seven, of the public laws of eighteen hundred eighty-nine, and acts additional to and amendatory thereof, regulating the admission and conduct of assessment companies. All such corporations shall be exempt from the provisions of this act and shall comply with and be subject to all provisions of said statutes relating to assessment companies.

Sect. 17. Nothing herein contained shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, Knights of Pythias or similar orders, organized or incorporated under the laws of this state, and which do not have as their principal object the issuance of insurance certificates. Nor shall anything herein contained apply to domestic corporations or voluntary associations which limit their membership to the employes of a particular city or town, designated firm, business house or corporation; nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description which do not operate with a view to profit and which do not provide for a funeral benefit of more than one hundred dollars, or sick or disability benefits of more than one hundred and fifty dollars, to any person in any one year. Provided always, that any association which has more than three hundred members and which issues to any person a certificate providing for the payment of benefits shall not be exempt by the provisions of this section, and such associations shall comply with all requirements of this act. The insurance commissioner may require of any association such information relating to its membership and certificates as will enable him to determine whether it is exempt from the provisions of this act. And no order or association which is exempt by the provisions of this section from the requirements of this act, shall employ paid agents or give or allow to any person any compensation for procuring new members.

Sect. 18. The insurance commissioner, in person or by deputy, shall have the power of visitation and examination into the affairs of any domestic corporation subject to the provisions of this act, that are conferred upon him by the provisions of chapter forty-nine, provided that he shall not be

operating on the lodge system, may be admitted to transact business in the state.

--condition.

--act does not apply to such corporations.

Act shall not apply to certain orders, and associations.

--proviso.

Insurance commissioner or deputy, shall have power of visitation.

CHAP. 320

—when proceedings of any foreign corporations become hazardous, it shall be restrained.

required to make periodical examinations of domestic companies. Whenever the commissioner is satisfied that any foreign association is not paying the maximum amount named in its policies or certificates in full, or in such condition as to render further proceedings hazardous to the public or its policy holders, he may apply to a justice of the supreme judicial court for an injunction restraining such corporation from the further prosecution of its business. Said justice after reasonable notice and hearing upon the matter, may issue an injunction restraining the company in whole or in part from proceeding further with its business, and may make such other order and decrees as the interest of the corporation and the public may require.

When proceedings of domestic or any corporation becomes hazardous, it may be closed.

—manner of closing.

Sect. 19. Whenever after examination the commissioner is satisfied that any domestic corporation is not paying the maximum amount named in its policies or certificates in full or is in such condition as to render further proceedings hazardous to the public or its policy holders or is transacting its business fraudulently; or whenever such domestic corporation shall, after the existence of one year or more, have a membership of less than three hundred, the insurance commissioner may present the facts in relation to the same to any justice of the supreme judicial court; and said justice shall thereupon notify the officers of such corporation of a hearing and unless it shall then appear that some special and good reason exists why the corporation should not be closed, some person shall be appointed receiver of such corporation, and shall proceed at once to take possession of the books, papers, moneys, and other assets of the corporation, and shall forthwith, under the direction of the court proceed to close the affairs of such corporation and to distribute to those entitled thereto its funds. For this service the receiver may be allowed out of any funds in possession of the corporation or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the corporation shall be finally closed, the court may decree a dissolution of the same.

Existing corporations may continue to do business.

Sect. 20. Fraternal beneficiary organizations, organized or incorporated under the laws of this state, which are transacting business herein upon the passage of this act, and which limit their membership to the members of some particular order, class or fraternity may continue such business by complying with the provisions of this act not inconsistent therewith.

Sect. 21. Any corporation, association or society, neglecting or refusing to comply with, or violating the provisions of this act shall be fined not less than fifty nor more than two hundred dollars, upon conviction thereof.

Sect. 22. All acts or parts of acts, inconsistent herewith, are hereby repealed.

Approved March 27, 1897.

CHAP. 321

Penalty for violating provisions of this act.

Inconsistent acts, repealed.

Chapter 321.

An Act to amend Section five of Chapter twenty-two of the Public Laws of eighteen hundred and eighty-seven, as amended by Chapter two hundred six of the Public Laws of eighteen hundred and ninety-three, relating to the filling of vacancies in the office of Truant Officers.

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

Section five of chapter twenty-two of the public laws of eighteen hundred and eighty-seven, as amended by chapter two hundred six of the public laws of eighteen hundred and ninety-three is hereby amended by adding thereto the following words: 'Superintending school committees shall have power to fill vacancies occurring during the year,' so that said section, as amended, shall read as follows:

'Sect. 5. The municipal officers shall fix the compensation of the truant officers elected as prescribed in section three. Superintending school committees shall have power to fill vacancies occurring during the year.'

Approved March 27, 1897.

Section 5, chapter 22, public laws, 1887, further amended.

Compensation of truant officers. —vacancies, how filled.

Chapter 322.

An Act relating to Suits on Promissory Notes.

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

Sect. 1. In any proceeding at law or in equity in which the amount due on a promissory note given for the price of land conveyed, is in question, and a total failure of consideration would be a defense, a partial failure of consideration may be shown in reduction of damages.

In suits on notes, partial failure of consideration may be shown in reduction of damages.