

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTIETH LEGISLATURE

OF THE

STATE OF MAINE

1901.

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PUBLIC LAWS
OF THE
STATE OF MAINE.
1901.

Chapter 247.

An Act relating to Fraternal Beneficiary Organizations.

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

Section 1. A fraternal beneficiary association is hereby defined to be any 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 the 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, adopted children, adopting parents, affianced husband or affianced wife of, or to persons dependent upon the member. Such associations shall be governed by this act and shall be 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. Any such fraternal beneficiary association may create, maintain, disburse and apply a reserve or emergency fund in accordance with its constitution or by-laws.

Term "beneficiary association" defined.

—shall have lodge system, ritual and make provision for payment of benefits.

—fund for payment of benefits shall be derived from assessments.

—to whom payments of benefits shall be made.

—shall not be subject to insurance laws of state.

—may create reserve fund.

Section 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.

How seven or more residents of the state may arrange themselves into a fraternal beneficiary association.

Section 3. The president, secretary, and a majority of the directors, or other officers corresponding thereto, 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 sub-

Officers to prepare a certificate to be examined by insurance commissioner.

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-fee.

-certificate
to be recorded
in office of
secretary of
state.

-fee.

mit such certificate and the records of the corporation to the insurance commissioner, who, upon payment of a fee of five dollars, 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 officer in the office of the secretary of state, who, upon payment of a fee of five dollars, shall cause the same with the endorsements, to be recorded, and shall thereupon issue a certificate in the following form:

STATE OF MAINE.

Form of cer-
tificate to be
issued by
secretary of
state.

Be it known that whereas (here the names of the subscribers to the agreement of the 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 the year of execution of the certificate shall be inserted). The secretary shall sign the same 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, and a certified copy of such record may be given in evidence, with like effect as the original certificate.

-to be signed
and under
seal by
secretary of
state.Business
must be com-
menced
within one
year or
charter is
void.

Section 4. 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.

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Section 5. Any fraternal beneficiary corporation existing under the laws of this state, and now engaged in transacting business herein, 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.

Any association now doing business may reincorporate under this act.

Section 6. No association hereafter organized under the provisions of this act shall incur any liability or issue any benefit certificate until it has received from the insurance commissioner a certificate to the effect that it has complied with the requirements of law and is duly authorized to transact business in this state. Before such certificate is granted the association must present satisfactory evidence to the insurance commissioner that it has established mortuary assessment rates which are not lower than those now indicated as necessary by the national fraternal congress mortality tables and that at least five hundred persons have each paid one advance mortuary assessment on the rates so established and become a bona fide member of a local branch of the association, and that it has deposited with the state treasurer at least one thousand dollars as a part of its emergency or reserve fund for the benefit and protection of certificate holders in said association, which fund shall be held and used as herein after provided.

Shall not do business until authorized by insurance commissioner.

—must satisfy commissioner that proper rates have been established, etc.

Section 7. Each such association hereafter organized under the provisions of this act shall, on or before the thirty-first day of December in each year deposit with the state treasurer to the credit of its emergency or reserve fund not less than fifteen per cent of its total mortuary receipts for the year then ending, until the amount so deposited amounts to not less than fifty thousand dollars. These amounts shall be deposited in such interest bearing securities as any insurance company or savings bank may from time to time by law invest its funds and the securities shall be held in trust by the state treasurer, but the association shall have at all times the right to exchange any part of said securities for others of like amount and character, and the income from said fund shall be paid by said treasurer to the association. When deemed advisable by the majority of the directors, or other officers corresponding thereto, such part of the fund as may be considered necessary, may with the written approval of the insurance commissioner, be applied from time to time to the payment of death benefits but for no other purpose; provided, however, that such fund shall not at any time be reduced below

Emergency fund must be provided for.

—character of deposits.

—when deemed advisable part of fund may be applied to payment of death benefits.

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an amount equal to one assessment or periodical call upon all of its members, nor to less than one thousand dollars. The insurance commissioner shall annually, in February, certify to the treasurer of state, the minimum amount of reserve fund required to be kept on deposit in the treasury by each association doing business under this act. If said association shall neglect for sixty days to satisfy any judgment against it, in any court in this state, then the said treasurer shall convert into money any of said securities, and forthwith satisfy such judgment, and said association shall not transact any further business until said deposit is restored. When any such association shall discontinue business, any justice of the supreme judicial court may appoint a receiver or agent to administer any unexhausted portion of such fund which shall be used, less compensation not to exceed five per cent, as such court or justice may allow the receiver or agent; first, in the payment of accrued, mortuary or indemnity claims upon certificates or policies, or if insufficient to pay such claims in full, they shall be paid, pro rata; second, if a balance remains after the payment of such claims, such balance to be distributed to the holders of certificates then in force, pro rata, in accordance with the total mortuary payments of said members, after first paying all expenses incident to such distribution. If, upon the thirty-first day of December of any year, the emergency or reserve fund of any such association is found to be less than the amount of one assessment or periodical call upon all the members thereof, said association shall, within six months thereafter, collect from its members a sum sufficient to bring said emergency or reserve fund up to one assessment or periodical call upon all its members, and deposit the amount with the state treasurer to the credit of said fund.

—minimum amount of reserve fund

—proceedings when association fails to satisfy any judgment.

—receiver may be appointed when business is discontinued.

—to administer unexhausted portion of fund.

—how fund must be preserved.

Shall not re-insure unless contract is approved by a two-thirds vote of such association.

—shall not vote by proxy.

Foreign associations may continue business.

Section 8. No such association shall re-insure with or transfer its membership certificates or funds to any organization, unless the said contract of transfer or re-insurance is first submitted to and approved by a two-thirds vote of the members of each association 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 re-insurance is first submitted to and approved by the insurance commissioner. The members of fraternal beneficiary associations shall not vote by proxy.

Section 9. Fraternal beneficiary associations organized under the laws of another state or country which were transacting business in this state as herein defined, on the twenty-eighth day of February, eighteen hundred and eighty-nine, or which subsequently thereto have been legally admitted to transact business

in this state and which now report or which shall report when requested to the insurance commissioner may continue such business subject to the provisions of this act. A fraternal beneficiary association which was not transacting business in this state on the twenty-eighth day of February, eighteen hundred and eighty-nine, and which has not since been legally admitted to transact business therein and which may hereafter desire to do so, shall first obtain a license therefor from the insurance commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of its charter or articles of association and a copy of its constitution or laws, certified by its secretary or corresponding officer, a power of attorney to the commissioner, as hereinafter provided; a statement under oath of the president and secretary, or corresponding officers, in the form required by the commissioner, of its business for the preceding year; a certificate from the proper official in its home state or country, that the company is legally organized and that similar associations of this state may be admitted to transact business in said state or country; a copy of its application and policy or certificate, which must show that benefits are provided for by assessments upon persons holding similar contracts, and shall furnish the commissioner with such other information as he may 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 association to do business in this state in accordance with the provisions of this act; provided, however, that no license shall be issued to any such company unless it shall have adopted and have in force mortuary assessment rates which are not lower than those now indicated as necessary by the national fraternal congress mortality tables. Any such association upon filing the papers herein required shall pay the commissioner twenty dollars.

Section 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 shall 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 appointment, 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

—certain associations must obtain license to do business.

—must first file certain information.

—must have in force proper assessment rates.

Foreign associations admitted shall appoint insurance commissioner to act as attorney upon whom service can be made.

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—service upon attorney shall be deemed sufficient upon association.

—associations shall be notified whenever process is served.

Certificates valid on condition that all dues are paid.

—money collected for indemnity purposes must not be used for expenses.

—proviso.

Shall file certificate of appointment of agents with commissioner.

—license may be issued to agents upon payment of fee.

—when license expires.

—penalty for acting as agent without license.

Penalty for soliciting for associations not authorized.

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.

Section 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. Every call for a payment by the policy or certificate holders shall distinctly state the purpose of the same. No part of the money collected for mortuary or indemnity purposes or for the emergency or reserve fund shall be used for expenses; provided that any such association now transacting business in this state and whose laws provide for and which is now using such funds for expenses may continue so to do but not to exceed the amount named for that purpose in such existing laws.

Section 12. Any association authorized to transact business as defined in this act may employ paid agents in soliciting business but no person shall act as such agent until the association or its authorized manager has filed with the insurance commissioner a certificate certifying that such person has been appointed as the agent of the association. Upon receiving such certificate the commissioner may, upon the payment of the fee of two dollars, issue a license to such person, authorizing him to transact business in this state in accordance with the provisions of this act and such license shall expire on the first day of the next July, but no license shall be issued under the provisions of this act to firms or corporations. If any person acts as such agent without first receiving such license or fraudulently assumes to be an agent and solicits or procures risks or receives money for premiums or assessments he forfeits not less than fifty dollars nor more than one hundred dollars for each offense but any policy or certificate issued on such application binds the association, if otherwise valid.

Section 13. Any person who shall solicit membership for, or in any manner assist in procuring membership in any such association doing a business not authorized by this act, or who shall solicit membership for, or in any manner assist in procur-

ing membership in any such association 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.

Section 14. Every association 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 officers corresponding thereto, and shall make under oath 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 association.

Shall report to commissioner annually.

Any such association which neglects or refuses to make the returns required by this section shall forfeit five dollars a day for each day's neglect; and for willfully making a false statement, the association and the persons making oath thereto, or subscribing the same, shall severally be punished by a fine of not less than one hundred nor more than five hundred dollars.

—penalty for neglect to make returns.

Section 15. The money or other benefit, charity, relief or aid to be paid, provided or rendered, or which has been paid, provided or rendered by any association 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, existing at the death of such holder.

Benefit, charity or relief funds shall not be liable to attachment, etc.

Section 16. 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 association 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 association, for the purpose of procuring the payment of the benefit named in the certificate of such holder,

Any agent or physician making false statements shall be punished.

—penalty for making false statement concerning the death of certificate holders.

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shall be guilty of perjury, and upon conviction, shall be punished accordingly.

Act does not apply to certain orders.

—nor to associations whose membership is limited to employes.

—other exceptions.

—associations of more than 300 members shall not be exempt.

Examination of, by insurance commissioner.

—proceedings when business becomes hazardous.

Section 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 one 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 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.

Section 18. The insurance commissioner, in person or by deputy, shall have the power of visitation and examination into the affairs of any domestic association subject to the provisions of this act, that are conferred upon him by the provisions of chapter forty-nine of the revised statutes, provided that he shall not be required to make periodical examinations of domestic associations. Whenever after examination the commissioner is satisfied that any domestic association 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 association 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 association of a hearing and unless it shall then appear that some special and good reason exists why the association should

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not be closed, some person shall be appointed receiver of such association and shall proceed at once to take possession of the books, papers, moneys, and other assets of the association, and shall forthwith, under the direction of the court proceed to close the affairs of such association and to distribute to those entitled thereto its funds in the manner provided in section seven of this act. For this service the receiver may be allowed out of any funds in possession of the association 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 association shall be finally closed, the court shall decree a dissolution of the same.

—receiver may be appointed and affairs closed.

Sect. 19. Fraternal beneficiary associations, 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.

—fees.

Associations whose membership is limited to some particular order may continue to do business.

Section 20. Whenever the commissioner deems it prudent for the protection of the policy or certificate holders in this state he, or any person whom he may appoint, may examine any foreign fraternal beneficiary association applying for admission or transacting business in this state and such association shall pay the expenses of the examination. The commissioner may employ assistants and for the purposes aforesaid he, or any person he may appoint, shall have free access to all the books and papers that relate to the business of such association and to the books and papers kept by any of its organizers and may summon and qualify as witnesses under oath, and examine the directors, officers, agents, organizers and trustees of such association and other persons in relation to its affairs, transactions and condition. He may, in his discretion, accept in lieu of such examination the examination of the insurance department of the state or country where such foreign association is organized.

Commissioner may examine foreign associations, applying for admission to the state.

—how examinations may be conducted.

If any such association, or its officers or agents, refuse to submit to such examination or to comply with the provisions of this section relating thereto, the authority of such association to transact business in this state shall be suspended until satisfactory evidence is furnished the commissioner relating to the standing and affairs of the association, and during such suspension the association shall not transact any business in this state.

—if examination is denied, association shall be suspended.

When the commissioner, on investigation, is satisfied that any association organized under the laws of another state or country and transacting business under this act has exceeded its powers, or has failed to comply with any provision of law, or is conducting business fraudulently, or that its condition is such as to render further proceedings hazardous to the public or to its certifi-

—when objection exists to the conduct of business, license may be revoked.

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cate holders, or in case any such association shall vote to discontinue its business he shall notify the president and secretary, or other officers corresponding thereto of his findings, and state the grounds of his dissatisfaction and after thirty days' notice require said association, on a date named, to show cause why its license should not be revoked and its authority to transact business in this state terminated. If on the date named in said notice such objections have not been removed to the satisfaction of the commissioner, or the association does not present good and sufficient reasons why its authority to transact business in this state should not at that time be revoked, he may revoke the authority of such association to continue business in this state.

—appeals may be taken to the supreme judicial court.

When the commissioner suspends or revokes the authority of any association to continue business in this state, or on application refuses to countermand such suspension or revocation the association may within thirty days apply to any justice of the supreme judicial court, by presenting to him a petition therefor, in term time or vacation, and he shall fix a time and place of hearing which may be at chambers and in vacation, and cause notice thereof and a copy of said petition to be served on the commissioner, and after said hearing he may affirm or reverse the decision of the commissioner and the decision of such justice shall be final.

—hearing and notice.

Policies limited, and how.

Section 21. No association organized or doing business under this act shall issue any policy or certificate upon the life of any person more than sixty years of age; nor on the life of any person who has not been examined by a reputable, practicing physician and passed a satisfactory medical examination. No person shall be admitted to membership in any such organization unless he has first filed an application with and been initiated in and becomes a member of a local branch. The by-laws of such association shall provide that meetings of such branches shall be held at least once each month.

Laws of this and other states regarding fines and penalties shall be reciprocal.

Section 22. When the laws of any state or country under which any such association is organized or incorporated impose on fraternal associations of this state any additional or greater fees, fines, penalties, prohibitions or obligations than are imposed by this act upon similar associations of other states or countries the same fees, fines, penalties, prohibitions or obligations shall be imposed upon the associations of such state or country applying for admission or transacting business in this state.

Penalty for neglecting to comply with this act.

Section 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.

How prosecutions may be commenced.

Section 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.

Section 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.

Term
'association'
construed.

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

Inconsistent
acts repealed

Section 27. This act shall take effect when approved.

Approved March 21, 1901.

Chapter 248.

An Act to fix the compensation of the Clerk of Courts for Androscoggin County.

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

Section 1. The clerk of the judicial courts of Androscoggin county shall hereafter receive an annual salary of two thousand dollars, to be paid quarterly out of the county treasury. Said sum shall be in full compensation for the performance of all duties required of him by law, including those performed by him as clerk of the county commissioners, or by a clerk, pro tempore, employed by him under section seven, chapter seventy-eight, and also for any and all sums paid by him for clerk hire. He shall keep a true and accurate account of all fees as required by law, and on the first Wednesday of January, April, July and October in each year shall, under oath, render such account, specifying the items, to the county treasurer. He shall be responsible for such fees, whether collected by him or not, and shall pay the whole amount of the same to the treasurer of said county for the use thereof.

Salary of
clerk of
courts for
Androscog-
gin county
fixed.

—fees, how
disposed of.

Section 2. This act shall take effect on the first day of July, nineteen hundred and one, and the first account filed by said clerk as herein required, and the first payment of salary to him as herein provided, shall be on the first Wednesday of October, nineteen hundred and one.

When act
shall take
effect.

Section 3. All acts and parts of acts, inconsistent with this act, are hereby repealed.

Inconsistent
acts repealed

Approved March 21, 1901.