ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fourth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTH LEGISLATURE

1969

[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO THREE ELECTRONIC FILES. THIS IS THE SECOND FILE.]

§ 1807. Sharing in commissions prohibited; penalty

1. A consultant shall not, directly or indirectly, receive or share in any commission or compensation paid, directly or indirectly, by any insurer with respect to any insurance or annuity contract procured, renewed, continued, modified, terminated or otherwise disposed of pursuant to any recommendation given or transaction engaged in by the licensee under his license.

2. If the licensee has received or is to receive any fee, commission, or compensation from the insured or proposed insured, or from any other person other than the insurer, directly or indirectly, with respect to any insurance transaction or proposed insurance transaction, or with respect to any insurance or annuity contract existing or proposed, it shall conclusively be presumed that the licensee was acting as a consultant with respect to such transaction or contract.

3. In addition to any applicable suspension, revocation or refusal to continue the licensee's license, violation of this section shall, upon conviction, be punishable by a fine of not over $5,000 or by imprisonment for less than one year, or by both such fine and imprisonment.

§ 1808. Obligation to serve interest of client

A consultant is obligated, under his license, to serve with objectivity and complete loyalty the interests of his client alone; and to render his client such information, counsel, and service as within the knowledge, understanding and opinion in good faith of the licensee will best serve the client's insurance or annuity needs and interests.

§ 1809. Nonresident consultants; service of process

Section 1617 (service of process) shall also apply as to nonresidents of this State licensed as consultants by this State.

SUBCHAPTER V

INSURANCE ADJUSTERS

QUALIFICATIONS AND REQUIREMENTS

§ 1851. Short title

This subchapter may be referred to as the "insurance adjuster law."

§ 1852. Scope of this subchapter

This subchapter shall apply only to insurance adjusters, as defined in section 1509.

§ 1853. Qualifications for adjuster license

For the protection of the people of this State the commissioner shall not issue, continue or permit to exist any license as an adjuster except in compliance with this chapter, or as to any individual not qualified therefor as follows:

1. Must be at least 21 years of age.

2. Must be competent, trustworthy, financially responsible, and of good personal and business reputation.

3. Must pass any written examination required for the license under this chapter.

4. Must have had at least 2 years' experience, or special training with respect to handling of loss claims under insurance contracts, of sufficient duration and scope reasonably to make him competent to fulfill the responsibilities of an adjuster; or, in lieu of such experience or training, is to be employed by and subject to the immediate personal supervision of a licensed adjuster in this State who has been so established in business for not less than 3 years next preceding date of application for the license. This subsection shall not apply as to persons holding subsisting licenses as adjuster in this State immediately prior to the effective date of this Act.

5. Must post the bond required under section 1856.

§ 1854. Adjuster's bond

1. Before issuance of an adjuster license the applicant shall file with the commissioner and thereafter maintain in force while so licensed, a surety bond in favor of the State of Maine executed by an authorized surety insurer, and conditioned on the due accounting and payment by the licensee of funds of others received by him in connection with transactions under the license.

2. The bond shall be continuous in form, and aggregate liability thereon may be limited to $10,000.

3. The bond shall remain in force until the surety is released from liability by the commissioner, or until cancelled by the surety. Without prejudice to any prior liability accrued, the surety may cancel the bond upon 30 days' advance written notice to the licensee and the commissioner.

4. The commissioner may waive the requirement of a separate bond as to a licensee employed or to be employed by a licensed firm or corporation adjuster which has posted with the commissioner a general bond covering all such licensees in such aggregate liability amount in excess of $10,000 as the commissioner deems reasonable.

§ 1855. Records

1. Each adjuster shall keep at his business address shown on his license a record of all transactions under the license.

2. The record shall include:

A. A copy of all investigations or adjustments undertaken or consummated.

B. A statement of any fee, commission or other compensation received or to be received by the adjuster on account of such investigation or adjustment.

3. The adjuster shall make such records available for examination by the commissioner at all times, and shall retain the records for at least 3 years.

§ 1856. Nonresident adjusters; process; special catastrophe losses

1. Section 1617 (service of process) shall also apply as to nonresidents of this State licensed as adjuster by this State.

2. No adjuster license is required as to any adjuster sent into this State on behalf of an authorized insurer for the investigation or adjustment of a particularly unusual or extraordinary loss, or of a series of losses resulting from a catastrophe common to all such losses.

CHAPTER 19

SURPLUS LINES

§ 2001. Short title

This chapter constitutes and may be cited as the "surplus lines" law.

§ 2002. Exemptions

This surplus line law shall not apply to life insurance, health insurance or reinsurance; or to the following insurance when written by licensed general lines agents or brokers or surplus line brokers of this State:

1. Wet marine and transportation insurance.

2. Insurance on subjects located, resident, or to be performed wholly outside of this State, or on vehicles or aircraft owned and principally garaged outside this State.

3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

4. Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in commercial interstate flight, or cargo of such aircraft, or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

§ 2003. Definitions—"Broker," "export"

1. "Broker" as used in this chapter and unless context otherwise requires, means a surplus lines broker duly licensed as such under this chapter.

2. To "export" means to place in an unauthorized insurer under this surplus lines law insurance covering a subject of insurance resident, located or to be performed in Maine.

§ 2004. Conditions for export

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated "surplus lines," may be procured from unauthorized insurers, subject to the following conditions:

1. The insurance must be procured through a licensed surplus lines broker.

2. The desired coverage is necessary for the adequate protection of a risk in the State.

3. It may be written under the laws of this State by an authorized insurer.

4. The insurance is not available after diligent effort has been made to place the coverage with authorized insurers.

§ 2005. Application to commissioner

Prior to effecting any such surplus lines insurance the broker shall make written application to the commissioner stating his reasons for desiring to insure a particular risk with an unauthorized insurer. The commissioner shall grant him permission if he finds that the conditions for export referred to in section 2004 exist as to the desired coverage.

§ 2006. Open lines for export

1. The commissioner may by order declare eligible for export generally and without compliance with the provisions of section 2004, subsections 2 and 3, and section 2005, any class or classes of insurance coverage or risk for which he finds, after a hearing of which notice was given to each insurer authorized to transact such class or classes in this State, that there is not a reasonable or adequate market among authorized insurers either as to acceptance of the risk, contract terms, or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the commissioner.

2. The broker shall file with or as directed by the commissioner a memorandum as to each such coverage placed by him in an unauthorized insurer, in such form and context as the commissioner may reasonably require for the identification of the coverage and determination of the tax payable to the State relative thereto.

3. The broker, or a licensed Maine agent of the authorized insurer or a general lines broker, may also place with authorized insurers any insurance coverage made eligible for export generally under subsection 1, and without regard to rate or form filings which may otherwise be applicable as to the authorized insurer. As to coverages so placed in an authorized insurer the premium tax thereon shall be reported and paid by the insurer as required generally under the law of this State.

§ 2007. Eligible surplus lines insurers

1. A broker shall not knowingly place surplus lines insurance with an

insurer that is unsound financially, or that is ineligible under this section.

2. The commissioner shall from time to time publish a list of all surplus lines insurers deemed by him to be eligible currently, and shall mail a copy of such list to each broker at his office last of record with the commissioner. This subsection shall not be deemed to cast upon the commissioner the duty of determining the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the commissioner has no credible evidence to the contrary. While any such list is in effect the broker shall restrict to the insurers so listed all surplus lines business placed by him.

§ 2008. Evidence of the insurance; changes; penalty

1. Upon placing a surplus lines coverage, the broker shall promptly issue and deliver to the insured evidence of the insurance consisting either of the policy as issued by the insurer, or, if such policy is not then available, the surplus lines broker's certificate. Such a certificate shall be executed by the broker and shall show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and insurer. If the direct risk is assumed by more than one insurer, the certificate shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

2. No broker shall issue any such certificate or any cover note, or purport to insure or represent that insurance will be or has been granted by any unauthorized insurer, unless he has prior written authority from the insurer for the insurance, or has received information from the insurer in the regular course of business that such insurance has been granted, or an insurance policy providing the insurance actually has been issued by the insurer and delivered to the insured.

3. If after the issuance and delivery of any such certificate there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by an insurer as stated in the broker's original certificate, or in any other material respect as to the insurance evidenced by the certificate, the broker shall promptly issue and deliver to the insured a substitute certificate accurately showing the current status of the coverage and the insurers responsible thereunder.

4. If a policy issued by the insurer is not available upon placement of the insurance and the broker has issued and delivered his certificate as hereinabove provided, upon request therefor by the insured the broker shall as soon as reasonably possible procure from the insurer its policy evidencing such insurance and deliver such policy to the insured in replacement of the broker's certificate theretofore issued.

5. Any surplus lines broker who knowingly or negligently issues a false certificate of insurance or who fails promptly to notify the insured of any material change with respect to such insurance by delivery to the insured of a substitute certificate as provided in subsection 3, shall upon conviction, be subject to the penalty provided by section 12 or to any greater applicable

penalty otherwise provided by law.

§ 2009. Endorsement of contract

Every insurance contract procured and delivered as a surplus lines coverage pursuant to this chapter shall have stamped upon it, and bearing the name of the surplus line broker who procured it, the following:

"This insurance contract is issued pursuant to the Maine Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Maine Insurance Department."

§ 2010. Surplus lines insurance valid

Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with this chapter shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

§ 2011. Liability of insurer

1. As to a surplus lines risk which has been assumed by an unauthorized insurer pursuant to this chapter, and if the premium thereon has been received by the surplus lines broker who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the broker is indebted to the insurer with respect to such insurance or for any other cause.

2. Each unauthorized insurer assuming a surplus lines risk under this chapter shall be deemed thereby to have subjected itself to the terms of this section.

§ 2012. Surplus lines brokers—Licensing

1. Any person while licensed in this State as a resident general lines agent or as a general lines broker, who is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines, and while maintaining an office at a designated location in this State, may be licensed as a surplus lines broker.

2. Application for the license shall be made to the commissioner on forms as designated and furnished by the commissioner.

3. The license fee shall be as specified in section 601 (fee schedule).

4. The license and licensee shall be subject to the applicable provisions of chapter 17 (agents, brokers, consultants and adjusters).

§ 2013. Suspension, revocation of broker's license

1. The commissioner may suspend or revoke any surplus lines broker's license:

A. If the broker fails to file the annual statement or to remit the tax as required by section 2017; or

B. If the broker fails to maintain an office in this State, or to keep the records, or to allow the commissioner to examine his records as required by this law, or if he removes his records from the State; or

C. If the broker places a surplus lines coverage in an insurer other than as authorized under section 2007; or

D. For any other applicable cause for which a general lines agent's license may be suspended or revoked.

2. The procedures provided by chapter 17 for suspension or revocation of licenses shall apply to suspension or revocation of a surplus lines broker's license.

3. Upon suspending or revoking the broker's surplus lines license the commissioner shall also suspend or revoke all other licenses of or as to the same individual under this Title.

§ 2014. Broker may compensate agents and brokers

A licensed surplus lines broker may accept and place surplus line business for any insurance agent or broker licensed in this State for the kind of insurance involved, and may compensate the agent or broker therefor.

§ 2015. Records of broker

1. Each broker shall keep in his office in this State a full and true record of each surplus lines coverage procured by him, including a copy of each daily report, if any, a copy of each certificate of insurance issued by him, and such of the following items as may be applicable:

A. Amount of the insurance;

B. Gross premium charged;

C. Return premium paid, if any;

D. Rate of premium charged upon the several items of property;

E. Effective date of the contract, and the terms thereof;

F. Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by such insurer if less than the entire risk;

G. Name and address of the insured;

H. Brief general description of the property or risk insured and where located or to be performed; and

I. Other information as may be required by the commissioner.

2. The record shall not be removed from this State and shall be open to examination by the commissioner at all times within 5 years after issuance of the coverage to which it relates.

§ 2016. Monthly report of broker

Each broker shall file a monthly report with the commissioner showing the amount of insurance placed for any person or organization, the location of each risk, the gross premium charged, the names of each insurer in which the insurance was placed, the date and term of each insurance contract issued and any other pertinent information required by the commissioner. The report shall show in the same detail each contract cancelled during the month covered by the report and the return premium on it.

§ 2017. Annual report and tax

1. Each broker shall file an annual report in January with the commissioner and the Treasurer of State containing a sworn statement of the gross premium charged for insurance placed, and the gross return premiums on the insurance cancelled, during the year ending on the 31st of the preceding December. At the time of filing the report, he shall pay to the Treasurer of State 3% of the difference between the gross premiums and the return premiums reported for the business transacted during the year.

2. If a surplus lines policy covers risks or exposures only partially in this State the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this State.

§ 2018. Failure to file statement or remit tax—penalty

If any broker fails to file his annual statement, or fails to remit the tax. provided by section 2017, prior to the first day of March after the tax is due, and if in the commissioner's opinion such failure is without just cause, he shall be liable for a fine of $25 for each day of delinquency commencing with the first day of March. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner shall shall be paid to the Treasurer of State and credited to the insurance regulatory fund.

§ 2019. Legal process against surplus line insurer

1. An unauthorized insurer shall be sued, upon any cause of action arising in the State under any contract issued by it as a surplus lines contract pursuant to this law, in the Superior Court.

2. Service of legal process against the insurer may be made in any such

action by service of 2 copies thereof upon the commissioner, and payment of the service of process fee specified in section 601 (fee schedule). The commissioner shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose, by prepaid registered or certified mail with return receipt requested. If no such person is so designated in the policy, the commissioner shall in like manner mail a copy of the process to the broker through whom such insurance was procured, or to the insurer at its principal place of business, addressed to the address of the broker or insurer, as the case may be, last of record with the commissioner. Upon service of process upon the commissioner in accordance with this provision, the court shall be deemed to have jurisdiction in personam of the insurer.

3. An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision stating the substance of this section, and designating the person to whom the commissioner shall mail process as provided in subsection 2 of this section.

CHAPTER 21

UNAUTHORIZED INSURERS — PROHIBITIONS, PROCESS AND ADVERTISING

§ 2101. Representing or aiding unauthorized insurer prohibited

1. No person shall in this State directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact such business in this State, in the solicitation, negotiation, procurement or effectuation of insurance or annuity contracts, or renewal thereof, or forwarding of applications for insurance or annuities, or the dissemination of information as to coverage or rates, or inspection of risks, or fixing of rates, or investigation or adjustment of claims or losses, or collection or forwarding of premiums, or in any other manner represent or assist such an insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this State.

2. This section does not apply to:

A. Matters authorized to be done by the commissioner under the unauthorized insrers process act, sections 2104 to 2108;

B. Transactions as to which the insurer is not required to have a certificate of authority pursuant to section 405 (exceptions to certificate of authority requirement);

C. A licensed adjuster or attorney at law representing such an insurer from time to time in his professional capacity;

D. Transactions in this State relating to a policy of wet marine and transportation insurance delivered or issued for delivery outside this State;

E. The employee, compensated on salary only, of a Maine employer who on behalf of the employer assists in the procurement or administration of insurance coverages on the property, risks and insurable interests of the employer.

§ 2102. Purpose of unauthorized insurers process act and unauthorized insurers false advertising act

The purpose of sections 2103 to 2108 (unauthorized insurers process act) and sections 2109 to 2111 (unauthorized insurers false advertising process act) is to subject certain insurers to the jurisdiction of the commissioner and the courts of this State in suits and disciplinary proceedings as provided therein, by or on behalf of insureds or beneficiaries under insurance contracts or the commissioner. The Legislature declares its concern that many Maine residents hold insurance policies delivered in this State by unauthorized insurers, other than as to surplus lines coverages written pursuant to chapter 19, thus presenting to such residents the often insuperable obstacle of resort to distant courts for the assertion of legal rights under their policies; and that such insurers may induce residents to purchase insurance through false advertising sent into this State. In furtherance of such state interest, the Legislature herein provides a method of substituted service of process upon such insurers, declares that in so doing it exercises its power to protect Maine residents, to define, for the purposes of this chapter, what constitutes doing business in this State, and also exercises powers and privileges available to the State under Public Law 15, 79th Congress of the United States, chapter 20, 1st Session, S. 340, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

§ 2103. Unauthorized insurers process act; title; interpretation

1. Sections 2104 to 2108 constitute and may be cited as the unauthorized insurers process act.

2. The act shall be so interpreted as to effectuate its general purpose to make uniform the laws of those states which enact it.

§ 2104. Commissioner process agent

Solicitation, effectuation, or delivery of any insurance contract, by mail or otherwise, within this State by an unauthorized insurer, or the performance within this State of any other service or transaction connected with such insurance by or on behalf of such insurer, shall be deemed to constitute an appointment by such insurer of the commissioner and his successors in office as its attorney, upon whom may be served all lawful process issued within this State in any action or proceeding against such insurer arising out of any such contract or transaction; and shall be deemed to signify the insurer's agreement that any such service of process shall have the same legal effect and validity as personal service of process upon it in this State.

§ 2105. Service of process

1. Service of process upon any such insurer pursuant to section 2104 shall be made by delivering to and leaving with the commissioner or some person

in apparent charge of his office 2 copies thereof and the payment to him of the fees as prescribed by section 601. The commissioner shall forthwith mail by registered or certified mail one of the copies of such process to the defendant at its principal place of business last known to the commissioner, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within 10 days thereafter by registered or certified mail by plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt or receipt issued by the post office with which the letter is registered or certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

2. Service of process in any such action, suit or proceeding shall in addition to the manner provided in subsection 1 be valid if served upon any person within this State, who in this State on behalf of such insurer, is:

A. Soliciting insurance; or

B. Making any contract of insurance or issuing or delivering any policies or written contracts of insurance; or

C. Collecting or receiving any premium for insurance;

and a copy of such process is sent within 10 days thereafter by registered or certified mail by the plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered or certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

3. No plaintiff or complainant shall be entitled to a judgment or to have his complaint taken pro confesso under this section until the expiration of 30 days from the date of the filing of the affidavit of compliance.

4. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

§ 2106. Exemptions from service or process provisions

Sections 2104 and 2105 shall not apply to surplus lines insurance lawfully effectuated under chapter 19, or to reinsurance, or to any action or proceeding against an unauthorized insurer arising out of any of the following where the policy or contract contains a provision designating the commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising

out of any such policy, or where the insurer enters a general appearance in any such action:

1. Wet marine and transportation insurance;

2. Insurance on or with respect to subjects located, resident, or to be performed wholly outside this State, or on vehicles or aircraft owned and principally garaged outside this State;

3. Insurance on property or operations of railroads engaged in interstate commerce; or

4. Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft.

§ 2107. Defense of action by unauthorized insurer

1. Before an unauthorized insurer files or causes to be filed any pleading in any action or proceeding instituted against it under sections 2104 and 2105, such insurer shall:

A. Procure a certificate of authority to transact insurance in this State; or

B. Deposit with the clerk of the court in which such action or proceeding is pending cash or securities, or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action. The court may in its discretion make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to the court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action or proceeding, and that the insurer will pay final judgment entered therein without requiring suit to be brought on such judgment in the state where such funds or securities are located.

2. The court in any action or proceeding in which service is made in the manner provided in section 2105 may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection 1, and to defend such action.

3. Nothing in subsection 1 is to be construed to prevent an unauthorized insurer from filing a motion to quash or to set aside the service of any process made in the manner provided in section 2105 on the ground either:

A. That such unauthorized insurer has not done any of the acts enumerated in section 2104; or

B. That the person on whom service was made pursuant to subsection 2 of section 2105 was not doing any of the acts therein enumerated.

§ 2108. Attorney fees

In any such action against an unauthorized insurer, if the insurer has failed for 30 days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court shall allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action, and in no event shall such fee be less than $100. Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

§ 2109. Unauthorized insurers false advertising process act; title

Sections 2102 and 2109 to 2111 constitute and may be referred to as the "unauthorized insurers false advertising process act."

§ 2110. Notice to domiciliary supervisory official

No unauthorized insurer through any estimate, illustration, circular, pamphlet, letter, announcement, statement, or any other means or medium, shall misrepresent to any person in this State as to its financial condition or the terms of any contract issued or to be issued by it or the advantages thereof, or the dividends or share to be received thereon. Whenever the commissioner has reason to believe that any such insurer is so misrepresenting, he shall so notify the insurer and the insurance supervisory official of the insurer's domiciliary state or province by registered or certified mail.

§ 2111. Action by commissioner

1. If within 30 days following the giving of the notice provided for in section 2110 the insurer has not ceased such dissemination, and if the commissioner has reason to believe that such insurer is soliciting, issuing or delivering contracts of insurance to residents of this State or collecting premiums on such contracts or performing any other transaction in connection with such insurance, and that a proceeding by him in respect to such matters would be to the interest of the public, he shall take action against such insurer under provisions of section 2167 (trade practices act, service of process on unauthorized insurers).

2. If upon such hearing the commissioner finds that the insurer has misrepresented as referred to in section 2110 of this chapter, he shall by order on such hearing require the insurer to cease and desist from such violation, and shall mail a copy of the order by registered or certified mail to the insurer at its principal place of business last of record with the commissioner and to the insurance supervisory official of the insurer's domiciliary state or province. Each violation thereafter of such desist order shall subject the insurer to a penalty of $2,000, to be recovered by a civil action brought against the insurer by the commissioner. Service of process upon the insurer in such action may be made upon the commissioner pursuant to sections 2105 or 2167 or in any other lawful manner.

§ 2112. Reciprocal judgment

The Attorney General upon request of the commissioner may proceed in the courts of this State or any reciprocal state or in any federal court or

agency to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner.

1. Definitions. In this section:

A. "Reciprocal state" means any state the laws of which contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders in equity issued by courts located in other states, against insurers incorporated or authorized to do business in such state.

B. "Foreign decree" means any decree or order in equity of a court located in a "reciprocal state," including a court of the United States located therein, against a "domestic insurer" obtained by a "qualified party."

C. "Domestic insurer" means any insurer incorporated or authorized to do business in this State.

D. "Qualified party" means a state regulatory agency acting in its capacity to enforce the insurance laws of its state.

2. List of reciprocal states. The commissioner shall determine which states qualify as reciprocal states and shall maintain at all times an up-to-date list of such states.

3. Filing and status of foreign decrees. A copy of any foreign decree authenticated in accordance with the act of Congress or the statutes of this State may be filed in the office of the clerk of any Superior Court of this State. The clerk, upon verifying with the commissioner that the decree or order qualifies as a foreign decree shall treat the foreign decree in the same manner as a decree of a Superior Court of this State. A foreign decree so filed has the same effect and shall be deemed as a decree of a Superior Court of this State, and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a decree of a Superior Court of this State and may be enforced or satisfied in like manner.

4. Notice of filing.

A. At the time of the filing of the foreign decree, the Attorney General shall make and file with the clerk of the court an affidavit setting forth the name and last known post office address of the defendant.

B. Promptly upon the filing of the foreign decree and the affidavit, the clerk shall mail notice of the filing of the foreign decree to the defendant at the address given, and to the commissioner, and shall make a note of the mailing in the docket. In addition, the Attorney General may mail a notice of the filing of the foreign decree to the defendant and to the commissioner and may file proof of mailing with the clerk. Lack of mailing notice or filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the Attorney General has been filed.

C. No execution or other process for enforcement of a foreign decree filed hereunder shall issue until 30 days after the date the decree is filed.

5. Stay.

A. If the defendant shows the Superior Court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree rquired by the state in which it was rendered;

B. If the defendant shows the Superior Court any ground upon which enforcement of a decree of any Superior Court of this State would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which is required in this State.

6. Fees. Any person filing a foreign decree shall pay to the clerk of court the applicable fee. Fees for docketing, transcription or other enforcement proceedings shall be as provided for decrees of the Superior Court.

§ 2113. Report and tax of independently procured coverages.

1. Every insured who in this State procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this State so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this State, other than insurance procured through a surplus line broker pursuant to the surplus line law of this State or exempted from tax pursuant to section 2002, shall within 30 days after the date such insurance was so procured, continued or renewed file a written report of the same with the commissioner on forms designated by the commissioner and furnished to the insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as the commissioner reasonably requests. If the insurance covers also a subject of insurance resident, located or to be performed outside this State a proper pro rata portion of the entire premium payable for all such insurance shall be allocated to this State for the purposes of this section.

2. Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this State, or for which premiums in whole or in part are remitted directly or indirectly from within this State, shall be deemed to be insurance procured or continued or renewed in this State within the intent of subsection 1 above.

3. For the general support of the government of this State there is levied upon the insured with respect to the obligation, chose in action, or right represented by such insurance, a tax at the rate of 3% of the gross amount of the premium charged for the insurance. Within 30 days after the insurance was so procured, continued or renewed, and coincidentally with the filing with the commissioner of the report provided for in subsection 1 above, the insured shall pay the amount of the tax to the commissioner.

4. The tax imposed hereunder if delinquent shall bear interest at the rate of 6% per annum, compounded annually.

5. The tax shall be collectible from the insured by civil action brought by the commissioner, or by distraint.

6. The commissioner shall promptly deposit all taxes and interest collected under this section with the Treasurer of State to the credit of the General Fund.

7. This section does not abrogate or modify any provision of section 2101 (representing or aiding unauthorized insurer prohibited).

8. This section does not apply as to life or disability insurances.

§ 2114. Penalty

Any person who in this State represents an unauthorized insurer in the transaction of business in this State in violation of law, shall, in addition to any other applicable penalty, be liable for the full amount of any loss sustained on any insurance contract made by or through him, directly or indirectly, and for any premium taxes which may become due under any law of this State by reason of such contract.

CHAPTER 23

TRADE PRACTICES AND FRAUDS

§ 2151. Purpose

The purpose of sections 2151 to 2167 is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945, Public Law 15, 79th Congress, by defining or providing for the determination of all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices, by defining or providing for the determination of all such practices in other states by residents of this State which constitute unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined.

§ 2152. Unfair methods; deceptive acts prohibited

No person shall engage in this State in any trade practice which is defined in this chapter, as, or determined pursuant to this chapter, to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. No resident of this State shall engage in any other state in any trade practice which is defined in this chapter as, or determined pursuant to this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

§ 2153. Misrepresentation; false advertising of policies

No person shall make, issue, circulate, or cause to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the

terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title on any policy or class of policies misrepresenting the true nature thereof.

§ 2154. False information, advertising

No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

§ 2155. "Twisting" prohibited

No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, borrow against, surrender, retain, exchange, modify, convert, or otherwise affect or dispose of any insurance policy.

§ 2156. False or misleading financial statements

1. No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

2. No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

3. No person shall advertise the capital or assets of an insurer without in the same advertisement setting forth the amount of the insurer's liabilities.

§ 2157. Defamation

No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or

circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to an insurer, or of an organization proposing to become an insurer, and which is calculated to injure any person engaged or proposing to engage in the business of insurance.

§ 2158. Boycott, coercion and intimidation

No person shall:

1. Enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of or monopoly in the business of insurance.

2. Enter into any agreement to commit any act of boycott, coercion or intimidation, or in pursuance thereof monopolize or attempt to monopolize any part of the business of insurance.

§ 2159. Unfair discrimination — life insurance, annuities and health insurance

1. No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

2. No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

§ 2160. Rebates — life, health and annuity contracts

Except as otherwise expressly provided by law, no person shall knowingly permit or offer to make or make any contract of life insurance, life annuity or health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, or sell, or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith, and whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein or as measured thereby, of any insurer or other corporation, association, or partnership, or any dividends or profits accrued or to accrue thereon.

§ 2161. Exceptions to discrimination, rebates, stock inducements provision — life, health and annuity contracts

1. Nothing in sections 2159 and 2160 shall be construed as including within the definition of discrimination or rebates any of the following practices:

A. In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses, or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;

B. In the case of life insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

C. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

D. Reduction of premium rate for policies of large amount, but not exceeding savings in issuance and administration expenses reasonably attributable to such policies as compared with policies of similar plan issued in smaller amounts;

E. Reduction in premium rates for life or health insurance policies or annuity contracts on salary savings, payroll deduction, pre-authorized check, bank draft or similar plans in amounts reasonably commensurate with the savings made by the use of such plans;

F. The issuance of policies of group insurance with or without annuities at rates less than the usual rate of premiums for individual policies or contracts as otherwise provided for by law;

G. Allowance to an agent or broker, and receipt by the agent or broker, of commissions with respect to insurance written on himself.

2. Nothing in this chapter shall be construed as including within the definition of securities as inducements to purchase insurance the selling or offering for sale, contemporaneously with life insurance or annuities, of mutual fund shares or face amount certificates of regulated investment companies under offerings registered with the Securities and Exchange Commission where such shares or such face amount certificates or such insurance or annuities may be purchased independently of and not contingent upon purchase of the other, at the same price and upon the same terms and conditions as where purchased independently.

§ 2162. Unfair discrimination, rebates prohibited — property, casualty, surety insurance

1. No property, casualty or surety insurer or any employee or representative thereof, and no broker, agent or solicitor as to such insurance shall pay, allow or give, or offer to pay, allow or give, directly or indirectly,

as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified or provided for in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

2. No such insurer shall make or permit any unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance.

3. Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers or solicitors, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. As used in this section the word "insurance" includes suretyship and the word "policy" includes bond. This section does not apply as to wet marine and transportation insurance.

§ 2163. Receipt of rebate, illegal inducement prohibited

No person shall knowingly receive or accept, directly or indirectly, any rebate of premium or part thereof, or agent's, solicitor's or broker's commission thereon payable on any policy of insurance or annuity contract, or any special favor or advantage in the dividend or other benefit to accrue thereon, or receive anything of value as inducement to such insurance or contract or in connection therewith which is not specified, promised or provided for in the policy or contract, except as provided in section 2161 (exceptions to discrimination, rebate, stock inducement provision).

§ 2164. Stock operations and advisory board contracts

No person shall issue or deliver or permit its agents, officers, or employees to issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

§ 2165. Desist orders for prohibited practices

1. If, after a hearing thereon of which notice of such hearing and of the charges against him were given such person, the commissioner finds that any person in this State has engaged or is engaging in any act or practice defined in or prohibited under this chapter, or that a resident of this State has so engaged or is so engaging in another state, the commissioner shall order such person to desist from such acts or practices.

2. Such desist order shall become final upon expiration of the time allowed for appeals from the commissioner's orders, if no such appeal is taken, or, in the event of such an appeal, upon final decision of the court if the court affirms the commissioner's order or dismisses the appeal. An

intervenor in such hearing shall have the right to appeal as provided in section 236.

3. In event of such an appeal, to the extent that the commissioner's order is affirmed the court shall issue its own order commanding obedience to the terms of the commissioner's order.

4. No order of the commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty, or forfeiture under law.

5. Violation of any such desist order shall be deemed to be and shall be punishable as a violation of this Title.

6. This section shall not be deemed to affect or prevent the imposition of any penalty provided by this Title or by other law for violation of any other provision of this chapter, whether or not any such hearing is called or held or such desist order issued.

§ 2166. Procedures as to undefined practices

1. If the commissioner believes that any person engaged in the insurance business is engaging in this State, or that any resident of this State engaged in the insurance business is engaging in another state, in any method of competition or in any act or practice not defined in this chapter, in the conduct of such business, which is unfair or deceptive and that a proceeding by him in respect thereto would be in the public interest, he shall, after a hearing of which notice of the hearing and of the charges against him are given such person, make a written report of his findings of fact relative to such charges and serve a copy thereof upon such person and any intervenor at the hearing.

2. If such report charges a violation of this chapter and if such method of competition, act or practice has not been discontinued, the commissioner may at any time after 20 days after the service of such report cause an action to be instituted in the Superior Court of the county wherein the person resides or has his principal place of business to enjoin and restrain such person from engaging in such method, act, or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs or orders as are ancillary to its jurisdiction or necessary in its judgment to prevent injury to the public pendente lite; but the people of this State shall not be required to give security before the issuance of any order or injunction under this section. If a stenographic record of the proceedings in the hearing before the commissioner was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in such action.

3. If the court finds that:

A. The method of competition complained of is unfair, or that the act or practice complained of is unfair or deceptive; and

B. The proceedings by the commissioner with respect thereto is to the interest of the public; and

C. The findings of the commissioner are supported by the weight of the evidence,

it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

4. Either party may appeal from such final judgment or order or decree of court in a like manner as provided for appeals in civil cases.

5. If the commissioner's report made under subsection 1 above, or order on hearing made under section 235 does not charge a violation of this chapter, then any intervenor in the proceedings may appeal therefrom within the time and the manner provided in this Title for appeals from the commissioner generally.

§ 2167. Service upon unauthorized insurers

1. Service of all process, statements of charges, and notices under this chapter upon unauthorized insurers shall be made by any deputy or employee of the department delivering to and leaving with the commissioner or some person in apparent charge of his office, 2 copies thereof, or in the manner provided for by section 2105 (service of process, unauthorized insurers process act).

2. The commissioner shall forward all such process, statements of charges, and notices to the insurer in the manner provided in section 2105.

3. No default shall be taken against any such unauthorized insurer until expiration of 30 days after date of forwarding by the commissioner under subsection 1 above, or date of service of process if under section 2105.

4. Section 2105 shall apply as to all process, statements of charges, and notices under this section.

§ 2168. Coercion in requiring insurance

1. No person engaged in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property shall require, as a condition to such financing or lending, or as a condition to the renewal or extension of any such loan or to the performance of any other act in connection with such financing or lending, that the purchaser or borrower, or his successors, shall negotiate through a particular insurer or insurers, insurance agent or agents, broker or brokers, type of insurer or types of insurers, any policy of insurance or renewal thereof insuring such property.

2. This section shall not prevent the exercise by any mortgagee of his right to approve the insurer selected by the borrower on a reasonable nondiscriminatory basis related to the solvency and assessment policies of the insurer and its ability to service the policy.

3. Any person violating this section shall be punished by a fine of not more than $100 or by imprisonment of not more than 60 days, or by both; and if he holds a license from the commissioner, he shall forfeit the same. The Superior Court, on complaint by any person that this section is being

violated, may issue an injunction against such violation and may hold in contempt and punish therefor in case of disregard of such injunction.

§ 2169. Notice of free choice of agent or insurer

Every debtor, borrower or purchaser of property with respect to which insurance of any kind on the property is required in connection with a debt or loan secured by such property or in connection with the sale of such property shall be informed by the creditor or lender of his right of free choice in the selection of the agent and insurer through or by which such insurance is to be placed. There shall be no interference either directly or indirectly with such borrower's, debtor's or purchaser's free choice of an agent and of an insurer which complies with the requirements set out in section 2168, and the creditor or lender shall not refuse an adequate policy so tendered by the borrower, debtor or purchaser. Upon notice of any refusal of such tendered policy, the commissioner shall order the creditor or lender to accept the tendered policy, if he determines that such refusal is not in accordance with the requirements set out in section 2168. Failure to comply with such an order of the commissioner shall be deemed a violation of this section.

§ 2170. Certain fees for handling insurance transactions in connection with loans prohibited

1. No person who makes a loan on real or personal property shall in connection with such a transaction make any separate charge to or require any fee from or require the payment of any money for handling insurance papers for an insurer, insurance agency, borrower, mortgagor or purchaser, other than the insurance premium on insurance written as additional security for the loan. This prohibition includes any separate charge or fee or payment of any money for the substitution by a borrower or a mortgagor or a purchaser of one insurance policy on the property for an existing policy on the property when the existing or substituted policy is provided through an insurer or insurance agent or broker licensed to do business in the State.

2. This section shall not prohibit fees paid to a lender for handling or processing credit accident and health or credit life insurance not exceeding 10% of premiums.

3. Nothing in this section prevents the payment of the interest which may be charged on premium loans or premium advancements in accordance with the security agreement, or dividends to group policyholders.

§ 2171. Using insurance information to detriment of another

Whenever the instrument requires that the purchaser, mortgagor or borrower furnish insurance of any kind on real or personal property being conveyed or as collateral security to a loan, the mortgagee or lender shall refrain from disclosing or using any and all such insurance information to his or its own advantage and to the detriment of either the borrower, purchaser, mortgagor, insurer or company or agency complying with the requirements relating to insurance.

§ 2172. Fictitious groups prohibited

1. No insurer or person on behalf of any insurer shall offer, make or permit any preference or distinction for purposes of any property, casualty or surety insurance coverage, as to form of policy, certificate, premium, rates, benefits or conditions of insurance, based upon membership, nonmembership, or employment of any person or persons in or by any particular group, association, corporation or organization; and shall not make any such preference or distinction available in any event based upon any fictitious grouping of persons. For the purposes of this section a fictitious grouping is defined as any grouping by other than a common insurable interest as to the subject of the insurance and the risk to be insured.

2. This section shall not apply as to any grouping organized prior to January 1, 1968.

§ 2173. Interlocking ownership; management

1. Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this Title, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create any monopoly therein.

2. Any person otherwise qualified may be a director of 2 or more insurers which are competitors, unless the effect thereof is to lessen substantially competition between insurers generally or tends materially to create any monopoly.

§ 2174. Illegal dealing in premiums; excess charges for insurance

1. No person shall knowingly collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as authorized by this Title.

2. No person shall wilfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner; or, in cases where classifications, premiums, or rates are not required by this Title to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines brokers licensed under chapter 19, of the amount of applicable state and federal taxes and nominal service charge to cover communication expenses, in addition to the premium required by the insurer. This provision shall not be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

§ 2175. Insurer's ownership of funeral establishment prohibited

No insurer shall own or manage or supervise or operate or maintain a mortuary establishment or funeral establishment.

§ 2176. Funeral contracts prohibited

No insurer shall contract or agree with any funeral director, funeral establishment or mortuary establishment to the effect that such director or establishment shall conduct the funeral of any individual insured by the insurer. Nothing in this section shall prevent compliance with Title 39, section 59, or the use of an insurance policy to provide security for the payment for a funeral.

§ 2177. Insurer name — deceptive use prohibited

No person who is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

§ 2178. False applications, claims, proofs of loss; penalty

No agent, broker, solicitor, examining physician, applicant or other person shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for insurance; or for the purpose of obtaining any money or benefit, knowingly or wilfully present or cause to be presented a false or fraudulent claim; or any proof in support of such a claim for the payment of the loss upon a contract of insurance; or prepare, make, or subscribe a false or fraudulent account, certificate, affidavit or proof of loss, or other document or writing, with intent that the same may be presented or used in support of such a claim. Violations of this section shall be subject to the penalty provided in section 12, or as provided by any other applicable law which provides a greater penalty.

§ 2179. Inquests into insurance frauds

On application in writing to the commissioner by an officer of any insurer doing business in the State, stating that he has reason to believe and does believe that any person has, by false representations, procured from the insurer an insurance, or that the insurer has sustained a loss by the fraudulent act of the insured or with his knowledge or consent, and requesting an investigation thereof, the commissioner shall summon and examine, under oath, at a time and place designated by him, any persons and require the production of all books and papers necessary for a full investigation of the facts and make report thereof, with the testimony by him taken, to the insurer making such application.

CHAPTER 25

RATES AND RATING ORGANIZATIONS

§ 2301. Purpose of chapter; interpretation

The purpose of this chapter is to promote the public welfare by regulating insurance rates, in accordance with the intent of Congress as expressed in Public Law 15 — 79th Congress, to the end that they shall not be excessive,

inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter. Nothing in this chapter is intended to prohibit or discourage reasonable competition, or to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

§ 2302. Scope of chapter

1. This chapter applies to:

A. Casualty insurance and all forms of motor vehicle insurance, on risks or operations in this State;

B. Surety insurance;

C. Property, marine and inland marine insurance, on risks located in this State. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the commissioner, or as established by general custom of the business, as inland marine insurance.

2. This chapter shall not apply to:

A. Reinsurance, except joint reinsurance as provided in section 2322;

B. Health insurance;

C. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

D. Insurance of hulls of aircraft, including their accessories and equipment, or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;

E. Life insurance;

F. Title insurance;

G. Insurance written on an assessment plan by domestic mutual insurers.

3. Workmen's compensation shall first be subject to Title 39, but any parts of this chapter not inconsistent with such Title shall also apply. The filings required by Title 39, section 22, may be made on behalf of any workmen's compensation insurer by a rating organization licensed in accordance with section 2310.

4. Nothing in this chapter shall abridge or restrict the freedom of contract between insurers and agents or brokers with respect to commissions

or between insurers and their employees with respect to compensation.

§ 2303. Making of rates

1. Rates shall be made in accordance with the following provisions:

A. Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated;

B. Rates shall not be excessive, inadequate or unfairly discriminatory;

C. Due consideration shall be given:

(1) To past and prospective loss experience within and outside this State;

(2) To the conflagration and catastrophe hazards;

(3) To a reasonable margin for underwriting profit and contingencies;

(4) To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

(5) To past and prospective expenses both countrywide and those specially applicable to this State;

(6) To all other relevant factors within and outside this State; and

(7) In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent 5 year period for which such experience is available;

D. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

E. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks which may have a probable effect upon losses or expenses.

2. Nothing in this section shall be taken to prohibit as unreasonable or unfairly discriminatory the establishment of classifications or modifications of classifications or risks based upon size, expense, management, individual experience, purpose of insurance, location or dispersion of hazard, or any other reasonable considerations, provided such classifications and modi-

fications apply to all risks under the same or substantially similar circumstances or conditions.

3. Except to the extent necessary to meet the provisions of subsection 1, paragraph B, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

4. Rates made in accordance with this section may be used subject to this chapter.

§ 2304. Rate filings

1. Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the effective date thereof, and shall indicate the character and extent of the coverage contemplated.

2. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this chapter, he shall require the insurer to furnish the information upon which it supports the filing. Any filing may be supported by the experience, or judgment if experience is not available, of the insurer or rating organization making the filing, the experience of other insurers or rating organizations or any other factors which the insurer or rating organization deems relevant. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

3. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner, and shall become effective when filed and shall be deemed approved and in compliance with the requirements of this chapter until such time as the commissioner rejects the filing.

4. A rate filing and its supporting data are confidential until the filing becomes effective.

§ 2305. Exemption from filing

Under such rules and regulations as he adopts the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he deems advisable to ascertain whether any rates affected by such order meet the standards set forth in section 2303, subsection 1, paragraph B.

§ 2306. Disapproval of filing

1. If at any time the commissioner has reason to believe that a filing does not meet the requirements of this chapter, he shall, after a hearing held upon not less than 10 days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

2. No such order shall be issued by the commissioner with respect to the rate of an insurer if such rate is one used by any other insurer unless such order applies equally to all insurers using such rate. Such order may be issued to an insurer without being applicable to all other insurers using the same rate if the basis for such order is that the insurer affected thereby could not otherwise, with safety to the public and to its policyholders, be permitted to continue to transact business.

§ 2307. Limitation of disapproval power

No manual of classifications, rules, rating plans, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to section 2303, shall be disapproved if the rates produced meet the requirements of this chapter.

§ 2308. Excess rates

Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

§ 2309. Rating organizations — filings for members and subscribers authorized

An insurer may satisfy its obligation to make filings required by section 2303 by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf. Nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

§ 2310. Rating organizations — licensing

1. No rating organization shall make or file rates for risks located in this State without first being licensed therefor under this chapter.

2. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this State, may make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application, and shall file therewith as applicable:

A. A certified copy of its constitution, its articles of agreement or association, or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business;

B. A certified list of its members and subscribers;

C. The name and address of a resident of this State upon whom notices or orders of the commissioner or process affecting such rating organization may be served;

D. A statement of its qualifications as a rating organization; and

E. A power of attorney appointing the commissioner to be the true and lawful attorney of such organization in and for this State, upon whom all lawful process in any action or proceeding against the organization, other than an action or proceeding instituted by the commissioner, may be served in the same manner as service of process on insurers under section 422.

3. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within 60 days after the same has been filed with him.

4. Licenses issued pursuant to this section shall remain in effect until the first day of the next July and annually thereafter may be renewed, expiring on the first day of the succeeding July unless sooner suspended or revoked by the commissioner. The fee for the license and for each annual renewal thereof shall be as specified in section 601 (fee schedule).

5. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this section.

§ 2311. Subscribers to rating organizations

1. Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer to be a subscriber to its rating service for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its subscribers.

2. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer,

be reviewed by the commissioner at a hearing held upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

§ 2312. Notice of changes

Every rating organization shall notify the commissioner promptly of every change in its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, its list of members and subscribers, and the name and address of the resident of this State designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

§ 2313. Rules not to affect dividends

No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

§ 2314. Technical services

Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all subscribers without discrimination.

§ 2315. Stamping Bureau

Any fire insurance rating organization may provide for the examination of its members' and subscribers' policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within 60 days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, the rating organization shall notify the commissioner thereof. All information so submitted for examination shall be confidential.

§ 2316. Adherence to filings

No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in this chapter or in accordance with sections 2305 (exemption from filing) or 2308 (excess rates). This section shall not apply to contracts or policies for inland marine risks as to which filings are not required.

§ 2317. Deviations

1. Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization.

2. The commissioner shall set a time and place for a hearing at which the insurer and the rating organization may be heard and shall give them not less than 10 days' written notice thereof. If the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing.

3. In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making as provided in section 2303. The commissioner shall issue an order permitting the deviation for the insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying the application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory.

4. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner.

§ 2318. Appeal from rating organization

1. Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of the rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization.

2. The commissioner shall, after a hearing held upon not less than 10 days' written notice to the appellant and to the rating organization, issue an order approving the action or decision of the rating organization or directing it to give further consideration to such proposal; or if the appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

§ 2319. Appeal by insurers and others as to filings

1. Any person or organization in interest aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon, except that the insurer or rating organization that made the filing shall not be authorized to proceed under this section. Such

application shall specify the grounds to be relied upon by the applicant.

2. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within 30 days after receipt of such application, hold a hearing upon not less than 10 days' written notice to the applicant and to every insurer and rating organization which made such filing.

3. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

§ 2320. Information furnished insureds; hearings and appeals of insureds

1. Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

2. Every rating organization and every insurer which makes its own rates shall provide within this State reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within 30 days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within 30 days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

§ 2321. Advisory organizations

1. Every group, association or other organization of insurers, whether located within or outside this State, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this chapter, shall be known as an advisory organization.

2. Every advisory organization shall file with the commissioner:

A. A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules, and regulations governing its activities;

B. A list of its members;

C. The name and address of a resident of this State upon whom notice or orders of the commissioner or process issued at his direction may be served; and

D. An agreement that the commissioner may examine such advisory organization in accordance with section 2328 (examination).

3. If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with this chapter, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with this chapter, and requiring the discontinuance of such act or practice.

4. No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection 3 of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

§ 2322. Joint underwriters; joint reinsurers

1. Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this chapter and with respect to joint reinsurance, to sections 2328 (examinations), 2329 (penalties), and 2330 (appeals from commissioner).

2. If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

§ 2323. Recording and reporting of loss and expense experience

1. The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 2303. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this State and are not susceptible of determination by a prorating of countrywide expense experience.

2. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him, and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it.

3. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

4. Each insurer shall report its loss or expense experience to the lawful rating organization or agency of which it is a member or subscriber, but shall not be required to report its loss or expense experience to any rating organization or agency of which it is not a member or subscriber. Any insurer not reporting such experience to a rating organization or other agency may be required to report such experience to the commissioner. Any report of such experience of any insurer filed with the commissioner shall be deemed confidential and shall not be revealed by the commissioner to any other insurer or other person, but the commissioner may make compilations including such experience.

§ 2324. Interchange of rating plan data; consultation; cooperative action in rate-making

1. Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

2. In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

3. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is authorized, but the filings resulting from such cooperation are subject to all provisions of this chapter which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

§ 2325. Assigned risks

1. Agreements may be made among casualty insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to

procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

2. Every insurer undertaking to transact in this State the business of automobile and motor vehicle bodily injury, property damage liability, physical damage, and medical payments insurance and every rating organization which files rates for such insurance shall cooperate in the preparation and submission of a plan for the equitable apportionment among insurers of applicants for insurance who are in good faith entitled to, but who are unable to procure through ordinary methods, such insurance. The plan shall provide:

A. Distribution of risks. Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise and their assignment to insurers;

B. Rates. Rates and rate modifications applicable to such risks which shall not be excessive, inadequate or unfairly discriminatory;

C. Liability. The limits of liability which the insurer shall be required to assume; and

D. Hearings; appeal. A method whereby applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the commissioner.

3. The plan referred to in subsection 2 shall be filed in writing with the commissioner. The commissioner shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsection 2, paragraphs A, B, C, and D. The plan, unless sooner approved in writing, shall be on file for a waiting period of 30 days before it becomes effective. The plan shall be deemed approved unless disapproved by the commissioner within the waiting period.

Subsequent to the waiting period, the commissioner may disapprove the plan on the grounds that it does not meet the requirements set forth in subsection 2, paragraphs A, B, C, and D, but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected, specifying the matters to be considered at such hearing, and only by an order specifying in what respect he finds that the plan fails to meet such requirements, and stating when within a reasonable period thereafter the plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in the order. Amendments to the plan shall be prepared, filed and reviewed in the same manner as herein provided with respect to the original plan.

4. When the plan referred to in subsection 2 or amendments thereto have been approved or promulgated, no insurer shall thereafter issue a policy of automobile and motor vehicle bodily injury, property damage liability, physical damage and medical payments insurance or undertake to transact such business in this State unless such insurer shall participate

in such an approved or promulgated plan.

5. If, after hearing, the commissioner finds that any activity or practice of any insurer or rating organization in connection with the operation of the plan referred to in subsection 2 is unfair or unreasonable or otherwise inconsistent with this section, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this section and requiring the discontinuance of such activity or practice.

§ 2326. False or misleading information

1. No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to:

A. The commissioner;

B. Any statistical agency designated by the commissioner; or

C. Any rating organization, or any insurer which will affect the rates or premiums chargeable under this chapter.

2. A violation of this section shall subject the one guilty of such violalation to the penalties provided in section 2329.

§ 2327. Fleet rates

1. Two or more insurers, who, by virtue of their business associations in the United States, represent themselves to be or are customarily known as a "group" or similar insurance trade designation, may make the same filings or use the same rates for each such insurer, subject to the provisions of section 2303; and nothing contained in this chapter shall be construed to prohibit an agreement to make the same filings or use the same rates and concerted action in connection with such filings or rates by such insurers. This section shall not apply to 2 or more insurers who are not under the same common executive or general management or control and who act in concert in underwriting groups or pools.

2. This section shall not be deemed to prohibit or restrict any agreement or action otherwise lawful under section 2322 (joint underwriters; joint reinsurers).

§ 2328. Examinations

The commissioner shall examine the affairs, transactions, accounts, and records of each rating organization licensed in this State as provided in section 2310, of each advisory organization in this State as defined in section 2321, and of joint underwriters and joint reinsurers as defined in section 2322, as often as he deems advisable, but not less frequently than once every 5 years. The examination shall be conducted in the same manner and is subject to the same applicable provisions as apply to examination of insurers in chapter 3. The reasonable costs of any such examination shall be paid by the organization or association so examined. In lieu of any such examination the commissioner may accept the report of an

examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

§ 2329. Penalties

1. Any person or organization violating any provision of this chapter shall be subject to a penalty of not more than $500 for each such violation; or, if the violation is wilful, the penalty shall be not more than $1,000. Such penalty may be in addition to any other penalty provided by law.

2. The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

3. No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than 10 days' written notice to such person or organization specifying the alleged violation.

§ 2330. Appeals from commissioner

Any insurer or rating organization aggrieved by any order or decision of the commissioner may appeal therefrom as provided in section 236 (appeal from the commissioner).

CHAPTER 27

THE INSURANCE CONTRACT

§ 2401. Scope of chapter

This chapter applies as to all insurance contracts and annuity contracts, other than:

1. Reinsurance.

2. Policies or contracts not issued for delivery in this State nor delivered in this State.

3. Wet marine and transportation insurance.

§ 2402. "Policy" defined

"Policy" means the written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders,

endorsements and papers which are a part thereof.

§ 2403. "Premium" defined

"Premium" is the consideration for insurance, by whatever name called. Any "assessment", or any "membership", "policy", "survey", "inspection", "service" or similar fee or other charge in consideration for an insurance contract is deemed part of the premium.

§ 2404. Insurable interest — personal insurance

1. Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

2. If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

3. "Insurable interest" as to such personal insurance means that every individual has an insurable interest in the life, body, and health of himself, and of other persons as follows:

A. In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

B. In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured; and

C. An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business proprietorship, partnership or firm, or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life, body and health of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to such individual.

4. An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

§ 2405. Insurable interest — exception when certain institutions designated beneficiary

1. Life insurance contracts may be entered into in which the person paying the consideration for the insurance has no insurable interest in the life of the individual insured, where charitable, benevolent, educational, or religious institutions, or their agencies, are designated irrevocably as the beneficiaries thereof.

2. In making such contracts the person paying the premium shall make and sign the application therefor as owner, and shall designate a charitable, benevolent, educational or religious institution, or any agency thereof, irrevocably as the beneficiary or beneficiaries of such contract. The application shall be signed also by the individual whose life is to be insured.

3. Nothing in this section shall be deemed to prohibit any combination of the applicant, premium payer, owner, and beneficiary from being the same person.

4. Such a contract shall be valid and binding among the parties thereto, notwithstanding the absence otherwise of an insurable interest in the life of the individual insured.

§ 2406. Insurable interest, property

1. No contract of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.

2. "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.

§ 2407. Power to contract — Purchase of insurance and annuities by minors

1. Any person of competent legal capacity may contract for insurance.

2. Any minor not less than 15 years of age, nearest birthday, may, notwithstanding his minority, contract for or own annuities, or insurance, or affirm by novation or otherwise pre-existing contracts for annuities or insurance upon his own life, body, health, property, liabilities or other interests, or on the persons of another in whom the minor has an insurable interest. Such a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to or under any contract for annuity or for insurance upon his own life, body or health, or any contract such minor effected upon his own property, liabilities or other interests, or any contract effected or owned by the minor on the person of another, as might be exercised by a person of full legal age, and may at any time surrender his interest in any such contracts and give valid discharge for any benefit accruing or money payable thereunder. Such a minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, nor to rescind, avoid or repudiate any exercise of a right or privilege thereunder, except that such a minor not otherwise emancipated, shall not be bound by

any unperformed agreement to pay by promissory note or otherwise, any premium on any such annuity or insurance contract.

3. Any annuity contract or policy of life or health insurance procured by or for a minor under subsection 2 shall be made payable either to the minor or his estate or to a person having an insurable interest in the life of the minor.

§ 2408. Consent of insured — life, health insurance

No life or health insurance contract upon an individual, except a contract of group life insurance or annuity or of group or blanket health insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing, except in the following cases:

1. A spouse may effectuate such insurance upon the other spouse.

2. Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to such minor.

3. Family policies may be issued insuring any 2 or more members of a family on an application signed by either parent, a step-parent, or by a husband or wife.

§ 2409. Alteration of application, life and health insurance

No alteration of any written application for any life or health insurance policy or annuity contract shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not be ascribed to the applicant.

§ 2410. Application; statements; as evidence

1. The insured shall not be bound by any statement made in an application for an individual life or health insurance policy or annuity contract, and the application shall not be admissible in evidence in any action relative to such policy or contract, unless a true copy of the application was attached to or endorsed on the policy or contract when issued as a part thereof. This provision shall not apply to industrial life insurance policies or to group life or group health insurance policies.

2. If any policy of life or health insurance delivered in this State is reinstated or renewed, and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within 30 days after receipt of such request at its home office, or branch office, deliver or mail to the person making such request a copy of such application reproduced by any legible means. If such copy is not so delivered or mailed after having been so requested, the insurer shall be precluded from introducing the application in evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal. In the case of such a request from a beneficiary or assignee, the time within which the insurer is required to furnish a copy of such application shall not begin to run until after receipt of evidence satis-

factory to the insurer of the beneficiary's or assignee's vested interest in the policy or contract.

3. As to kinds of insurance other than individual life or health insurance, no application for insurance signed by or on behalf of the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for, if the insurer has failed, at the expiration of 30 days after receipt by the insurer of written demand therefor by or on behalf of the insured, to furnish to the insured a copy of such application reproduced by any legible means.

§ 2411. Representations in applications

All statements and descriptions in any application for insurance or for an annuity contract, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a recovery under the policy or contract unless either:

1. Fraudulent; or

2. Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or

3. The insurer in good faith would either not have issued the insurance or contract, or would not have issued it at the same premium rate, or would not have issued insurance in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

§ 2412. Filing, approval of forms

1. No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this State, unless the form has been filed with and approved by the commissioner. This provision shall not apply to surety bonds, or to specially rated inland marine risks, or to policies, riders, endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies effectuated and delivered outside this State but covering persons resident in this State, the group certificates to be delivered or issued for delivery in this State shall be filed, for the commissioner's information only, with the commissioner at his request. As to forms for use in property, marine other than wet marine and transportation insurance, casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

2. Every such filing shall be made not less than 30 days in advance of any such delivery. At the expiration of such 30 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than an additional 30 days the period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial 30 days period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after hearing and for cause shown, withdraw any such approval.

3. Any order of the commissioner disapproving any such form or withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than 30 days after the giving of the order of withdrawal, as the commissioner shall in such order prescribe.

4. The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

5. Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in sections 229 to 236.

§ 2413. Grounds for disapproval

1. The commissioner shall disapprove any form filed under section 2412, or withdraw any previous approval thereof, only on one or more of the following grounds:

A. If it is in any respect in violation of or does not comply with this Title;

B. If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract;

C. If it has any title, heading, or other indication of its provisions which is misleading;

D. As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged; or, as to any health insurance contract, if it contains any unjust, unfair or inequitable provision or provisions;

E. As to a life insurance or health insurance policy, if it contains a provision or provisions such as to encourage misrepresentation.

2. The insurer shall not use in this State any such form after disapproval or withdrawal of approval.

§ 2414. Standard provisions, in general

1. Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this Title pertaining to contracts of particular kinds of insurance. The commissioner may waive the required use of a particular provision in a particular insurance policy form if:

A. He finds such provision unnecessary for or unrelated to the protection of the insured and inconsistent with the purposes of the policy, and

B. The policy is otherwise approved by him.

2. No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the commissioner may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

3. In lieu of the provisions required by this Title for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the commissioner.

4. A policy issued by a domestic insurer for delivery in another jurisdiction may contain or omit any provisions as required or permitted by the laws of such jurisdiction.

5. This section does not apply as to the standard fire policy.

§ 2415. Charter, bylaw provisions

No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer (other than the subscriber's agreement or power of attorney of a reciprocal insurer) a part of the contract unless such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid.

§ 2416. Execution of policies

1. Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer.

2. A facsimile signature of any such executing individual may be used in lieu of an original signature.

3. No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the policy.

§ 2417. Underwriters' and combination policies

1. Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

2. Two or more insurers may, with the approval of the commissioner, issue a combination policy which shall contain provisions substantially as follows:

A. That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and

B. That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

3. This section shall not apply to co-surety obligations.

§ 2418. Validity and construction of non-complying forms

1. A policy hereafter delivered or issued for delivery to any person in this State in violation of this Title but otherwise binding on the insurer, shall be held valid, but shall be construed as provided in this Title.

2. Any condition, omission or provision not in compliance with the requirements of this Title and contained in any policy, rider, or endorsement hereafter issued and otherwise valid, shall not thereby be rendered invalid but shall be construed and applied in accordance with such condition, omission or provision as would have applied had the same been in full compliance with this Title.

§ 2419. Delivery of policy as to motor vehicle insurance

In event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle is insured, a duplicate of such policy setting forth the name and address of the insurer, insurance classification of vehicle, type of coverage, limits of liability, premiums for the respective coverages, and duration of the policy, or memorandum thereof containing the same such information, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum. This section does not apply to inland marine floater policies.

§ 2420. Assignability; rights of insurer, assignee

1. A policy may be assignable or not assignable, as provided or permitted by its terms.

2. Subject to its terms relating to assignability, a life or health insurance policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured or owner, may be assigned either by pledge or transfer of title, by an assignment executed by the insured or owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer.

3. Any assignment of a policy which is otherwise lawful and of which the insurer has received notice, shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

4. Any individual insured under a group insurance policy or group annuity contract shall have the right, unless expressly prohibited under the terms of the policy or contract, to assign to any other person his rights and benefits under the policy or contract, including, but not limited to, the right to designate the beneficiary or beneficiaries and the rights as to conversion provided for in sections 2621 to 2625. While the assignment is in effect, and whether heretofore or hereafter made, the insurer shall be entitled to deal with the assignee as the owner of such rights and benefits in accordance with the terms of the assignment; but without prejudice to the insurer on account of any lawful action taken or payment made by it prior to receipt by it at its home office of written notice of the assignment or of the termination thereof.

§ 2421. Renewal of policy

Any policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer and upon a currently authorized policy form and at the premium rate then required therefor for a specified additional period or periods by a certificate or other endorsement of the policy, and without requiring issuance of a new policy.

§ 2422. Notice to, knowledge of agent binding on insurer

1. An agent authorized by an insurer, if the name of such agent is borne on the policy, is the insurer's agent in all matters of insurance. Any notice required to be given by the insured to the insurer or any of its officers may be given in writing to such agent.

2. The authorized agent of an insurer shall be regarded as in the place of the insurer in all respects regarding any insurance effected by him. The insurer is bound by his knowledge of the risk and all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known to the insurer and waived by it as if noted in the policy.

§ 2423. Forms for proof of loss to be furnished

An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

§ 2424. Claims administration not waiver

Without limitation of any right or defense of an insurer otherwise, none of of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

1. Acknowledgement of the receipt of notice of loss or claim under the policy.

2. Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

3. Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

§ 2425. Payment discharges insurer

Whenever the proceeds of or payments under an insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance therewith or in accordance with any written assignment thereof, the person then designated as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

§ 2426. Advance payments

1. No payment or payments made by any person, or by his insurer by virtue of an insurance policy, on account of bodily injury or death or damage to or loss of property of another, shall constitute an admission of liability or waiver of defense as to such injury, death, loss or damage, or be admissible in evidence in any action brought against the insured person or his insurer for damages, indemnity or benefits arising out of such injury, death, loss or damage unless pleaded as a defense to the action.

2. All such payments shall be credited upon any settlement with respect to the same damage, expense, or loss made by, or upon any judgment rendered therefor in such an action against, the payor or his insurer, and in favor of any person to whom or on whose account payment was made.

§ 2427. Minor may give acquittance

1. Any minor domiciled in this State who has attained the age of 18 years shall be deemed competent to receive and to give full acquittance and discharge for a payment or payments in aggregate amount not exceeding $3,000 in any one year made by a life insurer under the maturity, death, or settlement agreement provisions in effect or elected by such minor under a life insurance policy or annuity contract, if such policy, contract or agreement provides for payment to such minor. No such minor shall be deemed competent to alienate the right to or to anticipate or commute such payments. This section shall not be deemed to restrict the rights of minors set forth in section 2407.

2. If a guardian of the property of any such minor is duly appointed and written notice thereof is given to the insurer at its home office, any such payment thereafter falling due shall be paid to the guardian for the account of the minor, unless the policy or contract under which the payment is made expressly provides otherwise.

3. This section shall not be deemed to require any insurer making any such payment to determine whether any other insurer may be effecting a similar payment to the same minor.

§ 2428. Exemption of proceeds — life, endowment, annuity, accident contracts

1. Certain policies of insurance shall be exempt from claims of creditors, and the rights of beneficiaries and assignees thereof shall be protected, as set forth.

2. Except in cases of transfers with intent to defraud creditors, if a contract of life, endowment, annuity or accident insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself or is assigned or in any way made payable to any other person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such contract of insurance or executors or administrators of such insured or of the person so effecting such contract of insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted and whether or not the contract of insurance is made payable to the person whose life is insured or to the executor or administrator of such person if the beneficiary or assignee shall predecease such person, and such proceeds and avails shall be exempt from all liability for any debt of the beneficiary existing at the time the proceeds and avails is made available for his use. Subject to the statutes of limitations, the amount of any premiums for such contract of insurance paid with intent to defraud creditors, with interest thereon, shall inure to the benefit of the creditors from the proceeds of the contract of insurance; but the insurer issuing the contract shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the insurer shall have received written notice, by or in behalf of a creditor with specifications of the amount claimed along with such facts as will assist the insurer to ascertain the particular policy, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, and unless such insurer shall have been served

with trustee process for the cash surrender value of any such contract of insurance as required by law prior to making payment of the proceeds in accordance with the terms of the contract of insurance.

3. For the purpose of subsection 2, a contract of insurance shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the contract permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

§ 2429. Exemption of proceeds, health insurance

Except as may otherwise be expressly provided by the policy or contract, the proceeds or avails of all contracts of health insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts heretofore or hereafter effected shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use.

§ 2430. Exemption of proceeds, group insurance

1. A policy of group life insurance or group health insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any debt or liability of such insured individual or his beneficiary or of any other person having a right under the policy.

2. This section shall not apply to group insurance issued pursuant to this Title to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

§ 2431. Exemption of proceeds, individual annuity contracts; assignability of rights

1. The benefits, rights, privileges and options which under any individual annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

A. As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice received at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

B. The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under

which he is an annuitant, shall not at any time exceed $450 per month for the length of time represented by such installments, and that such periodic payments in excess of $450 per month shall be subject to garnishee execution to the same extent as are wages and salaries.

C. If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of $450 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

§ 2432. Exemption of employee's interest — group annuities, pension trusts

If any group annuity contract or pension trust, whether heretofore or hereafter issued, is effected by an employer for the benefit of his employees, whether or not requiring any contribution toward the cost thereof by such employees, the interest of any employee, beneficiary or joint or contingent annuitant in any policy, certificate or fund in connection therewith and his interest in any payments or proceeds thereof and in any optional or death benefits shall not in any way be subject to execution, levy, attachment, garnishment, trustee process or any other legal or equitable process.

§ 2433. Jurisdiction of courts, limitation of actions

No conditions, stipulations or agreements in a contract of insurance shall deprive the courts of this State of jurisdiction of actions against foreign insurers, or limit the time for commencing actions against such insurers to a period of less than 2 years from the time when the cause of action accrues.

§ 2434. Suits against foreign insurers

Any person having a claim against any foreign insurer may bring a trustee action or any other appropriate action therefor in the courts of this State. Service of process upon such an insurer shall be made as provided in sections 421 and 422.

CHAPTER 29

LIFE INSURANCE AND ANNUITY CONTRACTS

§ 2501. Scope of chapter.

This chapter applies only to contracts of life insurance and annuities, other than reinsurance, group life insurance and group annuities, except that section 2537 (separate accounts) shall also apply as to group annuity contracts.

§ 2502. Industrial life insurance defined

For the purposes of this Title "industrial life insurance" is that form of life insurance written under policies of face amount of $2,500 or less bearing the words "industrial policy," or "weekly premium policy" or words of similar import imprinted on the face thereof as part of the descriptive matter, and under which premiums are payable monthly or more often.

§ 2503. Standard provisions required

1. No policy of life insurance other than pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in this State unless it contains in substance all of the applicable provisions required by sections 2504 to 2515. This section shall not apply to annuity contracts nor to any provision of a life insurance policy, or contract supplemental thereto, relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

2. Any of such provisions or portions thereof not applicable to single premium or nonparticipating or term policies or insurance granted in exchange for lapsed or surrendered policies, shall to that extent not be incorporated therein.

§ 2504. Payment of premiums

There shall be a provision relating to the time and place of payment of premiums.

§ 2505. Grace period

There shall be a provision that a grace period of 30 days, or, at the option of the insurer, of one month of not less than 30 days, or of 4 weeks in the case of industrial life insurance policies the premiums for which are payable more frequently than monthly, shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force. The insurer may impose an interest charge not in excess of 6% per annum for the number of days of grace elapsing before the payment of the premium, and, whether or not such interest charge is imposed, if a claim arises under the policy during such period of grace the amount of any premium due or overdue, together with interest and any deferred installment of the annual premium, may be deducted from the policy proceeds. Grace shall date from the premium due date specified in the policy.

§ 2506. Entire contract

There shall be a provision that except as otherwise expressly provided by law, the policy and the application therefor, if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the

entire contract between the parties, and that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties.

§ 2507. Incontestability

There shall be a provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of not more than 2 years after its date of issue, except for nonpayment of premiums and, at the insurer's option, provisions relating to benefits in the event of total and permanent disability and provisions granting additional benefits specifically against death by accident or accidental means.

§ 2508. Misstatement of age

There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium or benefit has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

§ 2509. Dividends

1. There shall be a provision in participating policies that, beginning not later than the end of the 3rd policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend becoming payable shall at the option of the party entitled to elect such option be either:

A. Payable in cash, or

B. Applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than 30 days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of A even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed 6 years from the date of apportionment and that interest will be added to such dividend at a specified rate.

2. Renewable term policies of 10 years or less may provide that the surplus accrued to such policies shall be determined and apportioned each year after the second policy year, and accumulated during each renewal period, and that at the end of the renewal period, on renewal of the policy by the insured, the insurer shall apply the accumulated surplus as an annuity for the next succeeding renewal term in the reduction of premiums.

3. In participating industrial life insurance policies, in lieu of the provision required in subsection 1, there shall be a provision that, beginning not later than the end of the 5th policy year, the policy shall participate annually in the divisible surplus, if any, in the manner set forth in the policy.

4. This section does not apply as to insurance issued in consideration of lapsed or surrendered policies.

§ 2510. Policy loan

1. There shall be a provision that after 3 full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, and the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void, but not until at least 30 days' notice has been mailed by the insurer to the last address, of record with the insurer, of the insured or other policy owner and of any assignee of record at the insurer's home office. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for 6 months after application therefor. Such provision shall also contain a table showing in figures the loan values each year during the first 20 years of the policy, or during the term of the policy, whichever is shorter. The policy, at the insurer's option, may provide for automatic premium loan.

2. This section shall not apply to term policies, or to term insurance benefits provided by rider or supplemental policy provisions or to industrial life insurance policies.

§ 2511. Table of installments

In case the policy provides that the proceeds may be payable in installments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed installments.

§ 2512. Reinstatement

There shall be a provision that unless:

1. The policy has been surrendered for its cash surrender value, or

2. Its cash surrender value has been exhausted, or

3. The paid-up term insurance, if any, has expired;

the policy will be reinstated at any time within 3 years, or 2 years in the case of industrial life insurance policies, from the date of premium default

upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding 6% per annum compounded annually.

§ 2513. Payment of claims

There shall be a provision that when the benefits under the policy shall become payable by reason of the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed 2 months from the receipt of such proofs.

§ 2514. Beneficiary, industrial policies

An industrial life insurance policy shall have the name of the beneficiary designated thereon or in the application or other form if attached to the policy, with a reservation of the right to designate or change the beneficiary after the issuance of the policy, unless such beneficiary be irrevocably designated. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may also include a similar provision applicable to any other payment due under the policy.

§ 2515. Title

There shall be a title on the policy, briefly describing the same.

§ 2516. Excluded or restricted coverage

A clause in any policy of life insurance policy or annuity contract providing that such policy or contract shall be incontestable after a specified period shall preclude only a contest of the validity of the policy or contract, and shall not preclude the assertion at any time of defenses based upon provisions in the policy or contract which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

§ 2517. Standard provisions — annuity and pure endowment contracts

1. No annuity or pure endowment contract, other than reversionary annuities, also called survivorship annuities, or group annuities and except as stated herein, shall be delivered or issued for delivery in this State unless it contains in substance each of the provisions specified in sections 2518 to 2523. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

2. This section shall not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies, nor to variable annuity contracts.

§ 2518. Grace period — annuities

In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that there shall be a period of grace of one month, but not less than 30 days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding 6% per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

§ 2519. Incontestability — annuities

If any statements, other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, and subject to section 2521, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of 2 years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

§ 2520. Entire contract — annuities

In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

§ 2521. Misstatement of age or sex — annuities

In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof with interest at the rate to be specified in the contract but not exceeding 6% per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

§ 2522. Dividends — annuities

If an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

§ 2523. Reinstatement — annuities

In an annuity or pure endowment contract, other than a reversionary or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding 6% per annum payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

§ 2524. Standard provisions — reversionary annuities

1. Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this State unless it contains in substance each of the following provisions:

A. Any such reversionary annuity contract shall contain the provisions specified in sections 2518 to 2522, except that under section 2518 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

B. In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within 3 years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding 6% per annum compounded annually.

2. This section shall not apply to group annuities, variable annuities, or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

§ 2525. Limitation of liability

1. No policy of life insurance shall be delivered or issued for delivery in this State if it contains any of the following provisions:

A. A provision limiting the time within which an action at law or in equity may be commenced on such a policy to less than 3 years after the cause of action has accrued.

B. A provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(1) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(2) Death as a result of aviation or any air travel or flight;

(3) Death as a result of a specified hazardous occupation or occupations or avocation;

(4) Death while the insured is a resident outside continental United States and Canada; or

(5) Death within 2 years from the date of issue of the policy as a result of suicide, while sane or insane.

2. A policy which contains any exclusion or restriction pursuant to paragraph B, shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than the reserve attributable thereto determined according to the Commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits, or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy, with adjustment for indebtedness or dividend credit.

3. This section shall not apply to group life insurance, health insurance, reinsurance, or annuities, or to any provision in a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

4. Nothing contained in this section shall prohibit any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section.

§ 2526. Prohibited provisions

1. No life insurance policy, other than industrial insurance, shall be delivered or issued for delivery in this State, if it contains any of the following provisions:

A. A provision by which the policy purports to be issued or to take effect more than one year before the original application for the insurance was made.

B. A provision for any mode of settlement at maturity of the policy of less value than the amount insured under the policy, plus dividend additions, if any, less any indebtedness to the insurer on or secured by the policy and less any premium that may by the terms of the policy be deducted.

C. A provision to the effect that the agent soliciting the insurance is the agent of the person insured under the policy, or making the acts or representations of such agent binding upon the person so insured under the policy.

2. No policy of industrial life insurance shall be delivered or issued for delivery in this State if it contains any of the following provisions:

A. A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

B. A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within 2 years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

C. A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

3. No insurer shall provide in any policy, certificate, contract or agreement of life insurance for the payment of any insurance, indemnity or benefit in services, goods, wares or merchandise of any kind.

§ 2527. Provisions required by law of other jurisdiction

The policies of a foreign life insurer may contain any provision which the law of the state, territory, district, or country under which the insurer is organized prescribes shall be in such policies when issued in this State, and the policies of a domestic life insurer may, when issued or delivered in any other state, territory, district, or country, contain any provisions required by the laws thereof, anything in this chapter to the contrary notwithstanding.

§ 2528. Short title

Sections 2528 to 2534 shall be known as the "Standard Nonforfeiture Law."

§ 2529. Nonforfeiture provisions

1. In the case of policies issued on or after the effective date of this Title no policy of life insurance, except as stated in section 2534 shall be issued or delivered in this State unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

A. Paid-up nonforfeiture benefit. That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

B. Cash surrender value. That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least 3 full years in the case of ordinary insurance or 5 full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

C. Effective date of benefit. That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

D. Cash surrender value if policy paid up. That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the 3rd policy anniversary in the case of ordinary insurance or the 5th policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

E. Mortality table and interest rate used. A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

F. Method used in computing value and benefit. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

2. Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

3. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of 6 months after demand therefor with surrender of the policy.

§ 2530. Cash surrender value

Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by section 2529, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

1. Present value of adjusted premiums. The then present value of the adjusted premiums as defined in section 2532, corresponding to premiums which would have fallen due on and after such anniversary, and

2. Amount of indebtedness. The amount of any indebtedness to the insurer on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by section 2529, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

§ 2531. Paid-up nonforfeiture benefits

Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by sections 2529 to 2534 in the absence of the condition that premiums shall have been paid for at least a specified period.

§ 2532. Adjusted premiums

1. How calculated. Except as provided in subsection 3, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

A. The then present value of the future guaranteed benefits provided for by the policy;

B. 2% of the amount of insurance, if the insurance be uniform in amount, or the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;

C. 40% of the adjusted premium for the first policy year;

D. 25% of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

In applying the percentages specified in paragraphs C and D, no adjusted premium shall be deemed to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

2. In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

3. The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to:

A. The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by

B. The adjusted premiums for such term insurance, the foregoing items A and B being calculated separately and as specified in subsections 1 and 2 except that, for the purposes of subsection 1, paragraphs B, C and D, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in pargraph B shall be equal to the excess of the corresponding amount determined for the entire

policy over the amount used in the calculation of the adjusted premiums in paragraph A.

4. All adjusted premiums and present values referred to in sections 2529 to 2534 shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the Commissioners 1961 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding 3½% per year, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit for ordinary insurance, the rates of mortality assumed may not be more than those shown in the Commissioners 1958 Extended Term Insurance Table and for industrial insurance the rates of mortality may not be more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

§ 2533. Calculation of cash surrender value of certain policies on default

Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in sections 2530 to 2532 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding section 2530, additional benefits payable:

1. Death or accident. In the event of death or dismemberment by accident or accidental means;

2. Total disability. In the event of total and permanent disability;

3. Reversionary annuity. As reversionary annuity or deferred reversionary annuity benefits;

4. Term insurance benefits. As term insurance benefits provided by a rider or supplemental policy provisions to which, if issued as a separate policy, section 2529 to 2534 would not apply;

5. Child term insurance benefits. As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child; and

6. Other policy benefits. As other policy benefits additional to life insurance and endowment benefits; and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by sections 2529 to 2534, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

§ 2534. Exceptions

Sections 2529 to 2534 shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in section 2532 is less than the adjusted premium so calculated, on such 15-year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this State through an agent or other representative of the insurer issuing the policy.

§ 2535. Incontestability, limitation of liability after reinstatement

1. A reinstated policy of life insurance or annuity contract may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

2. When any life insurance policy or annuity contract is reinstated, such reinstated policy or contract may exclude or restrict liability to the same extent that such liability could have been or was excluded or restricted when the policy or contract was originally issued, and such exclusion or restriction shall be effective from the date of reinstatement.

§ 2536. Participating, nonparticipating policies — right to issue

A life insurer may issue policies on either the participating basis or the nonparticipating basis, or on both bases, if the right or absence of right of participation is reasonably related to the premium charged and the insurer is otherwise not in violation of sections 2159 (unfair discrimination — life insurance, annuities, and health insurance) or 2160 (rebates — life, health and annuity contracts).

§ 2537. Separate accounts

1. Any insurer may establish one or more separate accounts, including that type known as a unit investment trust, as defined by the Investment Company Act of 1940, Stat. 789, 15 U.S.C. § 80a, et seq., as amended, and may allocate to such separate accounts, in accordance with the terms of a written contract or agreement or annuity or pension, profitsharing or retirement plan, whether or not qualified under the applicable provisions of the Internal Revenue Code, 68A Stat. 1, 26 U.S.C. § 1, et seq., as amended, with any individual or any group, any amounts paid or remitted to or held by the insurer which are to be applied to provide for annuities or other benefits payable in fixed and guaranteed or variable dollar amounts, or both.

2. The amounts allocated to each such account and accumulations thereon may be invested and reinvested as provided in section 1128 (special investments: separate accounts).

3. The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the separate account, without regard to other income, gains or losses of the insurer. That portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the insurer may conduct.

4. Assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then in accordance with the terms of the contract or the rules or other written agreement applicable to such separate account; except, that the portion of the assets of such separate account at least equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in section 1128, if any, shall be valued in accordance with rules otherwise applicable to the insurer's assets.

5. If the contract or agreement provides for payment of benefits in variable amounts, it shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract or agreement including a group agreement and any certificate issued thereunder shall state that such dollar amount may decrease or increase and shall contain on its first page a statement that the benefits thereunder are on a variable basis.

6. No insurer shall deliver or issue for delivery within this State any contract or agreement providing benefits in variable amounts under this section unless it is duly authorized to conduct a life insurance or annuity business within this State and has satisfied the commissioner that its condition or methods of operation in connection with the issuance of such contracts or agreements will not render its operation hazardous to the public or its policyholders in this State. In determining the qualification of an insurer requesting such authority, the commissioner shall consider, among other things,

A. The history and financial condition of the insurer;

B. The character, responsibility and general fitness of the officers and directors of the insurer; and

C. In the case of an insurer other than a domestic insurer, whether the statutes or regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders and the public which is substantially equal to that provided by this section and the rules and regulations issued thereunder.

An insurer which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurer authorized to transact business in this State shall be deemed to have met the provisions of this subsection if either it or the parent or affiliated insurer meets the requirements hereof.

7. Any insurer which establishes one or more separate accounts pursuant to subsection 1, to the extent it deems necessary to comply with the Investment Company Act of 1940, 54 Stat. 789, 15 U.S.C. § 80a, et seq., as amended, may amend its charter to provide, with respect to any separate account or any portion thereof, for the benefit of persons having beneficial interests therein, special voting and other rights and special procedures for the conduct of the business and affairs of such separate account or portion thereof, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and selection of a committee, the members of which need not be otherwise affiliated with the insurer, to manage the business and affairs of such separate account or portion thereof. In addition, the insurer may make such other provisions in respect to the separate account, as the insurer may deem appropriate to facilitate compliance with any requirements of, or pursuant to, any federal or state law, now or hereafter in effect. However, this subsection shall not in any manner affect existing laws pertaining to the voting rights of the policyholders of the insurer.

8. No sale, exchange or other transfer of assets may be made by an insurer between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account to which the transfer is made,

A. By a transfer of cash, or

B. By a transfer of securities having a readily determinable market value, is approved by the commissioner. The commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

9. The insurer shall not, in connection with the allocation of investments or expenses, or in any other respect, discriminate unfairly between separate accounts or between separate and other accounts, but this subsection shall not require the insurer to follow uniform investment policies for its accounts.

10. Variable annuity contracts delivered or issued for delivery in this State may include as an incidental benefit provisions for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at the time of death. Any such contract providing such a benefit shall not be deemed to be life insurance and therefore shall not be subject to the provisions of this Title governing life insurance contracts. A provision for any other benefit on death during the deferred period shall be subject to such insurance provisions.

11. The commissioner shall have sole authority to regulate the issuance and sale of the contracts or agreements authorized by subsection 1, and to promulgate such rules and regulations as may be necessary for the effectuation of this section.

12. Except as otherwise provided in this section, all pertinent provisions of this Title shall apply to separate accounts and contracts relating thereto.

The reserve liability for variable annuities shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

§ 2538. Prohibited policy plans

1. No life insurer shall hereafter deliver or issue for delivery in this State:

A. As part of or in combination with any life insurance, endowment or annuity contract, any agreement or plan, additional to the rights, dividends, and benefits arising out of any such contract, which provides for the accumulation of profits over a period of years and for payment of all or any part of such accumulated profits only to members or policyholders of a designated group or class who continue as members or policyholders until the end of a specified or ascertainable period of years.

B. Any "registered" policy; that is, any policy (other than one "registered" as a security under applicable State law) purporting to be "registered" or otherwise specially recorded, with any agency of the State of Maine, or of any other state, or with any bank, trust company, escrow company, or other institution other than the insurer; or purporting that any reserves, assets or deposits are held, or will be so held, for the special benefit or protection of the holder of such policy, by or through any such agency or institution.

C. Any policy or contract under which any part of the premium or of funds or values arising from the policy or contract or from investment of reserves, or from mortality savings, lapses or surrenders, in excess of the normal reserves or amounts required to pay death, endowment, and nonforfeiture benefits in respective amounts as specified in or pursuant to the policy or contract, are on a basis not involving insurance or life contingency features,

(1) To be placed in special funds or segregated accounts or specially designated places or

(2) To be invested in specially designated investments or types thereof, and the funds or earnings thereon to be divided among the holders of such policies or contracts, or their beneficiaries or assignees. This provision does not apply as to any contract authorized under section 2537.

D. Any policy which provides that on the death of anyone not specifically named therein the owner or beneficiary shall receive the payment or granting of anything of value. This provision shall not prohibit family policies insuring unspecified members of a family, nor prohibit payment to unspecified beneficiaries of a class designated by the insured or policy owner.

E. Any policy providing benefits or values for surviving or continuing policyholders contingent upon the lapse or termination of the policies of other policyholders, whether by death or otherwise.

F. Any policy, other than as authorized under section 2537 (separate

accounts), containing or referring to one or more of the following provisions or statements:

(1) Investment returns or profit-sharing, other than as a participation in the divisible surplus of the insurer under a regular participation provision as provided for in section 2509.

(2) Special treatment in the determination of any dividend that may be paid as to such policy.

(3) Reference to premiums as "deposits".

(4) Relating policyholder interest or returns from such policy or contract to those of stockholders.

(5) That the policyholder as a member of a select group will be entitled to extra benefits or extra dividends not available to policyholders generally.

2. This section shall not be deemed to prohibit the provision, payment, allowance or apportionment of regular dividends or "savings" under regular participating forms of policies or contracts.

§ 2539. Holding proceeds of policies in trust

1. Any domestic life insurer shall have power to hold the proceeds of any policy issued by it under a trust or other agreement upon such terms and restrictions as to revocation by the policyholder and control by the beneficiaries and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as shall have been agreed to in writing by the insurer and the policyholder.

2. The insurer shall not be required to segregate funds so held but may hold them as a part of its general corporate assets.

3. A foreign or alien insurer, when authorized by its charter or the laws of its domicile, may exercise any such powers with respect to policies issued to or held by residents of this State.

4. Nothing in this section shall be construed to subject any such insurer to any other laws or requirements of this State which would not be deemed applicable in the absence of this section.

§ 2540. "Wholesale life insurance" defined

"Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where such policies are issued on the lives of not less than 4 employees at date of issue. Premiums for such policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees.

CHAPTER 31

GROUP LIFE INSURANCE

§ 2601. Scope of chapter — short title

1. This chapter applies only to group life insurance.

2. This chapter does not apply to any contracts or policies entered into or issued prior to August 6, 1949 nor to any extensions, renewals or modifications thereof or amendments thereto whenever made.

3. This chapter may be known and cited as the "Group Life Insurance Law."

§ 2602. Group contracts must meet group requirements

1. No life insurance policy shall be delivered or issued for delivery in this State insuring the lives of more than one individual unless to one of the groups as provided for in sections 2603 to 2610, and unless in compliance with the other applicable provisions of this chapter.

2. Subsection 1, shall not apply to life insurance policies:

A. Insuring only individuals related by blood, marriage or legal adoption; or

B. Insuring only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the operation thereof; or

C. Insuring only individuals otherwise having an insurable interest in each other's lives.

§ 2603. Employee groups

The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustee or trustees of a fund established by an employer, which employer, trustee or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

1. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, or contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include re-

tired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

2. The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy must cover at least 10 employees at date of issue.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

§ 2604. Debtor groups

The lives of a group of individuals may be insured under a policy issued to a creditor, or to a trustee or trustees or agent designated by 2 or more creditors, which creditor, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the single creditor or debtors of 2 or more creditors, as the case may be, subject to the following requirements:

1. The debtors eligible for insurance under the policy shall be all of the debtors of the single creditor or all the debtors of the 2 or more creditors whose indebtedness is repayable either

A. In installments, or

B. In one sum at the end of a period not in excess of 18 months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.

2. The premium for the policy shall be paid by the policyholder, either from the creditor's or creditors' funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

4. The amount of the insurance on the life of any debtor shall at no time exceed the lesser of (a) the amount of the unpaid indebtedness, or (b) $40,000. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan.

5. The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

6. Notwithstanding the provisions of the above subsections, insurance on agricultural credit transaction commitments not exceeding 2 years in duration may be written up to the amount of the loan commitment on a nondecreasing or level term plan, and insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

§ 2605. Labor union groups

The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

1. The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union or both. The policy may provide that the term "members" shall include retired members.

2. The premium for the policy shall be paid by the policyholder, either

wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy must cover at least 25 members at date of issue.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

§ 2606. Trustee groups

The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by 2 or more employers in the same industry or in related industries or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

1. No policy may be issued to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer, except where such other employer exercises substantial control over the business operations of the participating employers.

2. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees or union members, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include trustees or their employees, or both, if their duties are principally connected with such trusteeship.

3. The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or

by the union or unions, or by both or partly from such funds and partly from funds contributed by the insured persons. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least 75% of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

4. The policy must cover at date of issue at least 100 persons; and it must cover an average of not less than 3 persons per employer unit unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

5. The amount of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholders, employers or unions.

§ 2607. Trade association groups

The lives of a group of individuals may be insured under a policy issued to trustees of a fund established by the employer members of a trade association, which trustees shall be deemed the policyholder, to insure employees of such employers for the benefit of persons other than the association or the employers, subject to the following requirements:

1. The policy may be issued only if

A. The association has been in existence for at least 5 years and was formed for purposes other than obtaining insurance, and

B. The participating employers, meaning such employer members whose employees are to be insured, constitute at date of issue at least 50% of the total employers eligible to participate, unless the total number of persons covered at date of issue exceeds 600, in which event such participating employers must constitute at least 25% of such total employers, in either case omitting from consideration any employer whose employees are already covered for group life insurance.

2. The persons eligible for insurance under the policy shall be all of the employees of the participating employers, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the individual proprietor or partners whenever a participating employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. The policy may provide that the term "employees" shall include the employees of the association, and the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

3. The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employers or funds contributed jointly by the employers and the employees. A policy on which part of the premium so payable is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees of each participating employer, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium so payable is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

4. The policy must cover at least 100 employees at date of issue.

5. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the policyholder or the employer.

§ 2608. Municipal employees association groups

The lives of a group of individuals may be insured under a policy issued to an incorporated or unincorporated association of municipal employees, which association is organized and maintained in good faith for purposes other than that of obtaining insurance and has been so organized and maintained for a period of 2 years prior to the issuance of such policy or contract, which shall be deemed the policyholder to insure members of such association for the benefit of persons other than the association or any of its officials, representatives or agents, subject to the following requirements:

1. The members eligible for insurance shall be all of the members of the association, or all of any class or classes thereof determined by conditions pertaining to their employment or to membership in the association, or both.

2. The premium for the policy shall be paid by the policyholder wholly from the association's funds. No policy may be issued which does not insure all of the eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy must cover at least 10 members at date of issue.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or the association.

5. The policy must provide for a reduction of coverage of a member after his retirement from active service with a municipality.

§ 2609. Professional association groups

The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by an association of individuals licensed by the State of Maine or authorized by law to engage in a recognized profession, which trustees shall be deemed the policyholder, to insure members of such association, or all of any class or classes thereof determined by con-

ditions pertaining to their employment or to membership in the association, subject to the following requirements:

1. The individuals eligible for insurance shall be all the members of the association or all of any class or classes thereof, determined by conditions pertaining to their employment or to membership in the association, or to both.

2. The premium for the policy shall be paid by the trustees wholly from funds contributed by the association, or partly from such funds and partly from funds contributed specifically for their insurance by the insured individuals. The number of individuals covered by the policy must exceed 75% of the eligible individuals, unless the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the entrants become insured. A policy on which no part of the premium is to be derived from funds contributed by the insured individuals specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy must cover at date of issue at least 100 individuals.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder; and as to any one insured person the amount of term insurance together with term insurance of such person under all other group life insurance policies, shall not exceed $100,000.

§ 2610. Credit union groups

The lives of a group of individuals may be insured under a policy issued to a single credit union, or to a trustee or trustees or agent designated by 2 or more credit unions, which credit union, trustee, trustees or agent shall be deemed the policyholder, to insure members of the credit union or credit unions to the extent of each insured member's share in any such union, for the benefit of persons other than the credit union or credit unions or its officials, representatives or agents, subject to the following requirements:

1. The members eligible for insurance under the policy shall be all of the members of the single credit union or all of the members of the 2 or more credit unions, or all of any class or classes thereof determined by conditions pertaining to their membership in the credit union or credit unions, or both.

2. The premium for the policy shall be paid by the policyholder, either wholly from the credit union's funds, or the credit unions' funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is

not satisfactory to the insurer.

3. The policy must cover at least 25 members at date of issue.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured members or by the policyholder.

§ 2611. Dependents' coverage

1. Insurance under any group life insurance policy issued pursuant to sections 2603 (employee groups), 2605 (labor union groups), 2606 (trustee groups), 2607 (trade association groups), and 2608 (municipal employees association groups), may if 60% of the then insured employees or members who then have eligible dependents elect, be extended to insure the dependents, or any class or classes thereof, of each insured employee or member who so elects in amounts in accordance with a plan which precludes individual selection and shall not be in excess of 50% of the insurance on the life of such employee or members nor in any event in excess of $2,000 upon the life of a spouse or in excess of $1,000 upon the life of a child, or, as to a child whose age at death is under 6 months, the amount shall not be in excess of $100. A "dependent" is the spouse of the insured employee or member and an insured employee's or member's child under 21 years of age or his child 21 years or older who is attending an educational institution and relying upon the insured employee or member for financial support.

2. Premiums for the insurance on such dependents may be paid by the group policyholder, or by the employee or member or by the group policyholder and the employee or member jointly.

3. A spouse, but not a child, insured pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested in the employee or member.

4. Notwithstanding the provision of section 2620 only one certificate need be issued for each family unit if a statement concerning any dependent's coverage is included in such certificate.

§ 2612. Limit as to amount of insurance

No such policy of group life insurance may be issued to an employer, or labor union or to the trustees of a fund established in whole or in part by an employer or a labor union, which provides term insurance on any person which, together with any other term insurance under any group life insurance policy or policies issued to the employer or employers of such person or to a labor union or labor unions of which such person is a member or to the trustees of a fund or funds established in whole or in part by such employer or employers or such labor union or labor unions, exceeds $25,000, unless 150% of the annual compensation of such person from his employer or employers exceeds $25,000, in which event all such term insurance shall not exceed $100,000, or 150% of such annual compensation, whichever is the lesser.

§ 2613. Provisions required in group contracts

No policy of group life insurance shall be delivered in this State unless it contains in substance the provisions set forth in sections 2613 to 2624 or provisions which in the opinion of the commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder; except, however, that:

1. Sections 2619 to 2623 and section 2627 shall not apply to policies issued to a creditor to insure debtors of such creditor;

2. The standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and

3. If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

§ 2614. Grace period

The group life insurance policy shall contain a provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

§2615. Incontestability

1. The group life insurance policy shall contain a provision that the validity of the policy shall not be contested, except for nonpayment of premium, after it has been in force for 2 years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of 2 years during such person's lifetime nor unless it is contained in a written instrument signed by him.

2. Any such provision shall preclude only a contest of the validity of the policy or of the insurance, and shall not preclude the assertion at any time of defenses based upon terms of the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such provision.

§ 2616. Application; statements deemed representations

The group life insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued and become a part of the contract; that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used

in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary prior to the insured's death.

§ 2617. Insurability

The group life insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

§ 2618. Misstatement of age

The group life insurance policy shall contain a provision specifying an equitable adjustment of premiums or of benefits or both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

§ 2619. Payment of benefits

The group life insurance policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding $500 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

§ 2620. Information as to insurance

The group life insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured printed information as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in sections 2621, 2622 and 2623.

§ 2621. Conversion on termination of eligibility

There shall be a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, and provided further that:

1. The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

2. The individual policy shall be in an amount not in excess of the amount

of life insurance which ceases because of such termination less the amount of any life insurance for which such person is or becomes eligible under the same or any other group policy within 31 days after such termination; provided, that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

3. The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

§ 2622. Conversion on termination of policy

The group life insurance policy shall contain a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least 5 years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 2621, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

1. The amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within 31 days after such termination, and

2. $2,000.

§ 2623. Death pending conversion

The group life insurance policy shall contain a provision that if a person insured under the policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with sections 2621 or 2622 and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

§ 2624. Information to debtor

A policy issued to a creditor to insure debtors of such creditor shall contain a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

§ 2625. Notice as to conversion right

If any individual insured under a group life insurance policy hereafter delivered in this State becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium

within the period specified in such policy, and if such individual is not given notice of the existence of such right at least 15 days prior to the expiration date of such period, then, in such event the individual shall have an additional period within which to exercise such right, but nothing herein contained shall be construed to continue any insurance beyond the period provided in such policy. This additional period shall expire 15 days next after the individual is given such notice but in no event shall such additional period extend beyond 60 days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

§ 2626. Rate of premiums

1. No insurer shall be permitted to do business in this State if it delivers or issues for delivery, within this State, any policy of group life insurance on which the premium shall be less than the net premium based on an applicable mortality table and interest assumption factor found by the commissioner to be reasonably suitable for current use for the purpose, plus in any case a loading computed in accordance with a formula which shall be determined by the commissioner.

2. Anything in this Title to the contrary notwithstanding, any group life insurance policy issued or delivered in this State may provide for readjustment of the rate of premium based on the experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, and such readjustment may be made retroactive only for such policy year.

§ 2627. Application of dividends, rate reductions

If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued for the first or any subsequent year of insurance under any policy of group life insurance heretofore issued or hereafter issued under this chapter to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which the insured persons belong, including reasonable expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees, members or debtors.

CHAPTER 33

HEALTH INSURANCE CONTRACTS

§ 2701. Scope of chapter

Nothing in this chapter shall apply to or affect:

1. Any policy of liability or workmen's compensation insurance with or without supplementary expense coverage therein;

2. Any group or blanket policy;

3. Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to health insurance as:

A. Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means, or as

B. Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

4. Reinsurance

§ 2702. Short title

This chapter may be cited as the "uniform health policy provision law".

§ 2703. Scope, format of policy

No policy of health insurance shall be delivered or issued for delivery to any person in this State unless it otherwise complies with this Title, and complies with the following:

1. The entire money and other considerations therefore shall be expressed therein;

2. The time when the insurance takes effect and terminates shall be expressed therein;

3. It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 23 years and any other person dependent upon the policyholder;

4. The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower case unspaced alphabet length not less than one hundred and twenty-point; the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions;

5. The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 2705 to 2729, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions", or "Exceptions and Reductions", except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

6. Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

7. The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

§ 2704. Required provisions; captions—omissions—substitutions

1. Except as provided in subsection 2, each such policy delivered or issued for delivery to any person in this State shall contain the provisions specified in sections 2705 to 2716, in the words in which the same appear; except, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision shall be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate individual or group captions or sub-captions as the commissioner may approve.

2. If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

§ 2705. Entire contract—changes

There shall be a provision as follows:

Entire contract; changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

§ 2706. Time limit on certain defenses

There shall be a provision as follows:

Time limit on certain defenses: (a) After 3 years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability, as defined in the policy, commencing after the expiration of such 3-year period.

1. The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial 3-year period, nor to limit the application of sections 2717 through 2723 in the event of misstatement with respect to age or occupation or other insurance.

2. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium 1 until at least age 50 or, 2 in the case of a policy issued after age 44, for at least 5 years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption "Incontestable:"

After this policy has been in force for a period of 3 years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(b) No claim for loss incurred or disability, as defined in the policy, commencing after 3 years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

§ 2707. Grace period

There shall be a provision as follows:

A grace period of . . . . ., insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies, days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision:

Unless not less than 30 days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the company written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.

§ 2708. Reinstatement

1. There shall be a provision as follows:

Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the 45th day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as

they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed herein or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.

2. The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums

A. Until at least age 50, or

B. In the case of a policy issued after age 44, for at least 5 years from its date of issue.

§ 2709. Notice of claim

1. There shall be a provision as follows:

Notice of claim: Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ———— (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

2. In a policy providing a loss-of-time benefit which may be payable for at least 2 years, an insurer may at its option insert the following between the first and 2nd sentence of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least 2 years, he shall, at least once in every 6 months after having given notice of the claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of 6 months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.

§ 2710. Claim forms

There shall be a provision as follows:

Claim forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

§ 2711. Proofs of loss

There shall be a provision as follows:

Proofs of loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

§ 2712. Time of payment of claims

There shall be a provision as follows:

Time of payment of claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid ———————— (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

§ 2713. Payment of claims

1. There shall be a provision as follows:

Payment of claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the company, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

2. The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

A. "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $———————— (insert an amount which shall not exceed $1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

B. Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.

§ 2714. Physical examination, autopsy

There shall be a provision as follows:

Physical examination and autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

§ 2715. Legal actions

There shall be a provision as follows:

Legal actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

§ 2716. Change of beneficiary

1. There shall be a provision as follows:

Change of beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change the beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

2. The first clause of the above provision relating to the irrevocable designation of beneficiary may be omitted at the insurer's option.

§ 2717. Right to examine and return policy

1. Except as to nonrenewable accident policies and individual credit health insurance policies, every individual health insurance policy shall contain a provision therein or in a separate rider attached thereto when delivered, stating in substance that the person to whom the policy is issued shall be permitted to return the policy within 10 days of its delivery to such person and to have a refund of the premium paid if after examination of the policy the purchaser is not satisfied with it for any reason. The provision shall be set forth in the policy under an appropriate caption, and if not so printed on the face page of the policy adequate notice of the provision shall be printed or stamped conspicuously on the face page.

2. The policy may be so returned to the insurer at its home or branch office to the agent through whom it was applied for, and thereupon shall be void as from the beginning and as if the policy had not been issued.

§ 2718. Optional policy provisions

Except as provided in section 2704, subsection 2, no such policy delivered or issued for delivery to any person in this State shall contain provisions respecting the matters set forth in sections 2719 to 2723, unless such provisions are in the words in which the same appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

§ 2719. Change of occupation

There may be a provision as follows:

Change of occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the company as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

§ 2720. Misstatement of age

There may be a provision as follows:

Misstatement of age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

§ 2721. Overinsurance—same insurer

There may be a provision as follows:

If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for . . . . . (insert type of coverage or coverages) in excess of $. . . . . (insert maximum limit of indemnity or indemnities) the excess shall be void and all premiums paid for such excess shall be returned to the insured or to his estate.

or, in lieu thereof:

Insurance effective at any one time on the insured under this policy and a like policy or policies in this insurer is limited to the one policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

§ 2722. Insurance with other insurers, provision of service or expense incurred basis

1. There may be a provision as follows:

Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

2. If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 2723 there shall be added to the caption of the foregoing provision the phrase "—expense incurred benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organization or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workmen's compensation or employer's liability statute, whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

§ 2723. Insurance with other insurers—other benefits

1. There may be a provision as follows:

Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice, including the indemnities under this policy, bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

2. If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 2722, there shall be added to the caption of the foregoing provision the phrase "other benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workmen's compensation or employer's liability statute, whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

§ 2724. Relation of earnings to insurance

There may be a provision as follows:

If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of 2 years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such 2 years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of $200 or the sum of the monthly benefits specified in such coverages, which-

ever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time. The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (A.) until at least age 50 or, (B.) in the case of a policy issued after age 44, for at least 5 years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute, including any workmen's compensation or employer's liability statute, or benefits provided by union welfare plans or by employer or employee benefit organizations.

§ 2725. Unpaid premiums

There may be a provision as follows:

Unpaid premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

§ 2726. Conformity with state statutes

There may be a provision as follows:

Conformity with state statutes: Any provision of this policy which, on its effective date is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

§ 2727. Illegal occupation

There may be a provision as follows:

Illegal occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

§ 2728. Intoxicants and narcotics

There may be a provision as follows:

Intoxicants and narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic, or of any hallucinogenic drug, unless administered on the advice of a physician.

§ 2729. Renewability

Health insurance policies, other than accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis, shall provide in substance in a provision thereof or in an endorsement thereon or rider attached thereto that subject to the right to terminate the policy upon nonpayment of premium when due, such right to refuse renewal may not be exercised so as to take effect before the renewal date occurring on, or after and nearest, each policy anniversary (or in the case of lapse and reinstatement, at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement), and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force. The parenthetic reference to lapse and reinstatement may be omitted at the insurer's option.

§ 2730. Order of certain provisions

The provisions which are the subject of sections 2705 to 2716, and 2718 to 2727, or any corresponding provisions which are used in lieu thereof in accordance with such sections shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

§ 2731. Third party ownership

The word "insured", as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

§ 2732. Requirements of other jurisdictions

1. Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this State, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state or country under which the insurer is organized.

2. Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

§ 2733. Policies issued for delivery in another state

If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public official of such other state has informed the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that the policy meet the standards set

forth in sections 2703 to 2732.

§ 2734. Conforming to statute

1. No policy provision which is not subject to this chapter shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this chapter.

2. A policy delivered or issued for delivery to any person in this State in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties, and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this chapter.

§ 2735. Age limit

If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force, subject to any right of termination, until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

§ 2736. Filing of rates

Each insurer issuing individual health insurance policies for delivery in this State shall, before use thereof, file with the commissioner its premium rates and classification of risks pertaining to such policies. The insurer shall adhere to its rates and classifications as filed with the commissioner. The insurer may change such filings from time to time as it deems proper.

§ 2737. Noncancellable disability insurance defined

"Noncancellable disability insurance" means insurance against disability resulting from sickness, ailment or bodily injury, but not including insurance solely against accidental injury, under any contract which does not give the insurer the option to cancel or otherwise terminate the contract at or after one year from its effective date or renewal date.

§ 2738. Notice as to renewability

The commissioner shall have the right to make the following requirements:

1. When a policy has neither a brief description nor a separate statement printed on the first page and on the filing back, referring to the renewal con-

ditions of the policy, a separately captioned provision, setting forth the conditions under which the policy may be renewed, must appear on the first page of the policy. The caption shall be clear and definite and shall be approved by the commissioner; but any one of the following captions is acceptable:

"RENEWAL SUBJECT TO CONSENT OF COMPANY.

RENEWAL SUBJECT TO COMPANY CONSENT.

RENEWABLE AT OPTION OF COMPANY."

2. If the policy is not renewable, a separate, appropriately captioned provision on the first page of the policy shall so state.

§ 2739. Lapse of policy, advance notice; limitation of action

No individual policy of health insurance issued or delivered in this State, except a policy which by its terms is renewable or continuable with the insurer's consent, or except a policy the premiums for which are payable monthly or at shorter intervals, shall terminate or lapse for non-payment of any premium until the expiration of 3 months from the due date of such premium, unless the insurer, within not less than 10 nor more than 45 days prior to said due date, shall have mailed, postage prepaid, duly addressed to the insured at his last address shown by the insurer's records, a notice showing the amount of such premium and its due date. If such a notice is not so sent, the insured may pay the premium in default at any time within such period of 3 months. The affidavit of any officer, clerk or agent of the insurer, or of any other person authorized to mail such notice, that the notice required by this section has been duly mailed by the insurer in the manner required shall be prima facie evidence that such notice was duly given. No action shall be maintained on any policy to which this section applies and which has lapsed for nonpayment of any premium unless such action is commenced within 2 years from the due date of such premium.

§ 2740. Franchise health insurance law

1. Health insurance on a franchise plan is hereby declared to be that form of health insurance issued to:

A. Four or more employees of any corporation, copartnership, or individual employer or any governmental corporation, agency or department thereof; or

B. Ten or more members, employees or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least 2 years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance; where such persons with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons, under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll

deductions, or by the association or union for its members, or by some designated person acting on behalf of such employer or association or union, or by the insured directly to the insurer if permitted by the insurer. The term "employees" as used herein may be deemed to include the officers, managers and employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

2. No provision of this Title shall be deemed to prohibit different rates charged, or benefits payable, or different underwriting procedure for individuals insured under a franchise plan, if rates charged, benefits payable or underwriting procedure used do not discriminate between franchise plans.

CHAPTER 35

GROUP AND BLANKET HEALTH INSURANCE

§ 2801. Scope of chapter—short title

1. This chapter applies only to group health insurance contracts and to blanket health insurance contracts as herein provided.

2. This chapter may be cited as the "group or blanket health insurance law."

§ 2802. Group insurance defined

1. Any policy or contract of insurance against death or injury resulting from accident or from accidental means which covers more than one person, except blanket accident policies as defined in section 2812 and family accident and sickness policies conforming to section 2703, shall be deemed a group accident insurance policy.

2. Any policy or contract which insures against disablement, disease or sickness of the insured, excluding disablement which results from accident or from accidental means, and which covers more than one person, except blanket sickness insurance policies as defined in section 2813 and family accident and sickness policies conforming to section 2703, shall be deemed a group sickness insurance policy or contract.

3. Any policy or contract of insurance which combines the coverage of group accident insurance and of group sickness insurance shall be deemed a group accident and sickness insurance policy.

4. Any reference hereinafter to group health insurance shall mean group accident, group sickness and group accident and sickness insurance as herein defined.

§ 2803. Must meet requirements

No policy or contract of group health insurance, shall be delivered or issued for delivery in this State unless to a group as provided for in this chapter and otherwise in conformity with the requirements of this chapter.

§ 2804. Employee groups

A group of individuals may be insured under a policy issued to an employer or to the trustees of a fund established by an employer, which employer or trustee shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

1. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations and the employees, individual proprietors and partners of one or more affiliated corporations, proprietors or partnerships, if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership or contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners, if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees, and that it may also include elected or appointed officials of a public body. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.

2. The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees, or wholly from funds contributed by the insured employees. A policy on which any part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.

A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy must cover at least 3 employees at date of issue.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

§ 2805. Union and employee association groups

A group of individuals may be insured under a policy issued to a labor union or to an incorporated or unincorporated association of employees, which association has a constitution and bylaws and has 50 or more members and is organized and maintained in good faith for purposes other than that of obtain-

ing insurance and has been so organized and maintained for a period of not less than 2 years prior to the issuance of such policy or contract, which shall be deemed the policyholder to insure members of such union or association for the benefit of persons other than the union or association or any of its officials, representatives or agents, subject to the following requirements:

1. The members eligible for insurance under the policy shall be all of the members of the union or association or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union or association, or both. The policy may provide that the term member shall also include retired members.

2. The premium for the policy shall be paid by the policyholder, either wholly from the union's or association's funds or partly from such funds and partly from funds contributed by the insured members specifically for their insurance, or wholly from funds so contributed by the insured members. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy must cover at least 25 members at date of issue.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union or association.

§ 2806. Trustee groups

A group of individuals may be insured under a policy issued to the trustee or trustees of a fund established by 2 or more employers in the same industry or related industries or by one or more labor unions, or by one or more employers and one or more labor unions which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

1. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include the individual proprietor or partners if an employer is an individual proprietor or a partnership. The policy may provide that the term "employee" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term

"employees" shall include the trustee or trustees or their employees, or both, if their duties are principally connected with such trusteeship.

2. The premium for the policy shall be paid by the trustee or trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or partly from such funds and partly or wholly from funds contributed by the insured persons. The policy must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

3. The policy must cover at date of issue at least 100 persons and not less than an average of 5 persons per employer unit, except that, in the case of credit union employees or associations of insurance agents the policy must cover at least 25 persons but shall not be subject to any required average number of employees covered per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if either:

A. The participating employers constitute at date of issue at least 60% of those employer members whose employees are not already covered for the same or similar benefits under a plan maintained by their employer, or

B. The total number of persons covered at date of issue exceeds 600.

4. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers or unions.

§ 2807. Debtor groups

A group of individuals may be insured under a policy issued to a creditor, or to a trustee or trustees or agent designated by 2 or more creditors, which creditor, trustee, trustees or agent shall be deemed the policyholder, insuring a group of debtors of the creditor or a group of debtors of the 2 or more creditors, as the case may be, all as defined and set forth under section 2604 and under the same conditions and limitations as specified in such section, provided that the amount of indemnity payable with respect to any person insured thereunder shall not at any time exceed the aggregate of the periodic scheduled unpaid installments, nor the sum of $40,000, whichever is less, and provided that nothing in this paragraph shall be construed or deemed to apply to or affect disability benefit provisions in group credit life insurance policies as authorized under section 2604.

§ 2808. Other groups

A group of individuals may be insured under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this State under this Title, to insure any class or classes of individuals that could be insured under such group life policy. A group health insurance policy may also be issued to cover any other group which in the commissioner's discretion is substantially similar.

§ 2809. Coverage of family, dependents; continuation of coverage

1. Any policy of group health insurance issued pursuant to sections 2804 (employee groups), 2805 (union and employee association groups), 2806 (trustee groups) or 2808 (other groups) may include coverage for members of the family or dependents of individuals otherwise insured in such groups.

2. Any group health insurance policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical or surgical services for members of the family or dependents of an individual in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of such individual.

§ 2810. Group health insurance payments; beneficiaries

The benefits payable under any policy or contract of group health insurance shall be payable to the employee or other insured member of the group or to some beneficiary or beneficiaries designated by him, other than the employer or the association or any officer thereof as such; but if there is no designated beneficiary as to all or any part of the insurance at the death of the employee or member, then the amount of insurance payable for which there is no designated beneficiary shall be payable to the estate of the employee or member, except that the insurer may in such case, at its option, pay such insurance to any one or more of the following surviving relatives of the employee or member: Wife, husband, mother, father, child or children, brothers or sisters; and except that payment of benefits for expenses incurred on account of hospitalization or medical or surgical aid, as provided in section 2811, may be made by the insurer to the hospital or other person or persons furnishing such aid. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

§ 2811. Payment of expenses

Any policy or contract of group health insurance may include provisions for the payment by the insurer of benefits for expenses incurred, by the employee or other member of the insured group, on account of hospitalization or medical or surgical aid for himself, his spouse, his child or children, or other persons chiefly dependent upon him for support and maintenance.

§ 2812. Readjustment of premium rate

If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued for the first or any subsequent year of insurance under any policy of group health insurance heretofore issued, or hereafter issued under this chapter, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under the policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which the insured persons belong, including reasonable expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees, members or debtors.

§ 2813. "Blanket health insurance" defined

Blanket health insurance is hereby declared to be that form of health insurance covering groups of persons as enumerated in one of the following paragraphs:

1. Under a policy or contract issued to any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group of persons who may become passengers defined by reference to their travel status on such common carrier or such means of transportation.

2. Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees, dependents or guests, defined by reference to specified hazards incident to an activity or activities or operations of the policyholder.

3. Under a policy or contract issued to a college, school or other institution of learning, a school district or districts, or school jurisdictional unit, or to the head, principal or governing board of any such educational unit, who or which shall be deemed the policyholder, covering students, teachers, or employees.

4. Under a policy or contract issued to any religious, charitable, recreational, educational, or civic organization, or branch thereof, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

5. Under a policy or contract issued to a sports team, camp or sponsor thereof, which shall be deemed the policyholder, covering members, campers, employees, officials or supervisors.

6. Under a policy or contract issued to any volunteer fire department, first aid, civil defense, or other such volunteer organization, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

7. Under a policy or contract issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers.

8. Under a policy or contract issued to an association, including a labor union, which has a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

9. Under a policy or contract issued to cover any other risk or class of risks which, in the discretion of the commissioner, may be properly eligible for blanket health insurance. The discretion of the commissioner may be exercised on an individual risk basis or class of risks, or both.

§ 2814. Blanket health insurance—payments; beneficiaries

All benefits under any blanket health insurance policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, as shall be specified in the policy, except that if the person insured be a minor, such benefits may be made payable to his parent, guardian or other person actually supporting him, or to a person or persons chiefly dependent upon him for support and maintenance.

§ 2815. Legal liability of policyholders

Nothing contained in this chapter shall be deemed to affect the legal liability of policyholders for the death of or injury to any member of any such group.

§ 2816. Requirements

No policy of group or blanket health insurance shall, except as provided in section 2829, be delivered or issued for delivery in this State, unless the policy contains in substance each and all of the provisions set forth in sections 2817 to 2827, or provisions which in the opinion of the commissioner are more favorable to the holders of such certificates or not less favorable to the holders of such certificates and more favorable to policyholders.

§ 2817. Applicant's statements; waivers, amendments

There shall be a provision that no statement made by the applicant for insurance shall avoid the insurance or reduce benefits thereunder unless contained in the written application signed by the applicant; and a provision that no agent has authority to change the policy or to waive any of its provisions; and that no change in the policy shall be valid unless approved by an officer of the insurer and evidenced by indorsement on the policy, or by amendment to the policy signed by the policyholder and the insurer.

§ 2818. Statements in application

There shall be a provision that all statements contained in any such application for insurance shall be deemed representations and not warranties.

§ 2819. New employees, members

There shall be a provision that all new employees or new members, as the case may be, in the groups or classes eligible for such insurance must be added to such groups or classes for which they are respectively eligible.

§ 2820. Renewal of policy

There shall be a provision stating the conditions under which the insurer may decline to renew the policy.

§ 2821. Individual certificates

Except in the case of blanket health insurance, a provision that the insurer shall issue to the policyholder, for delivery to each member of the insured

group, an individual certificate or printed information setting forth in summary form a statement of the essential features of the insurance coverage of such employee or such member, to whom the benefits thereunder are payable, and in substance the provisions of sections 2821 to 2827. If dependents are included in the coverage only one certificate or printed summary need be issued for each family unit.

§ 2822. Age limits

There shall be a provision specifying the ages, if any there be, to which the insurance provided therein shall be limited; and the ages, if any there be, for which additional restrictions are placed on benefits and the additional restrictions placed on the benefits at such ages.

§ 2823. Notice of claim

There shall be a provision that written notice of sickness or of injury must be given to the insurer within 30 days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

§ 2824. Proof of loss

There shall be a provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within 30 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within 90 days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

§ 2825. Forms for proof of loss

There shall be a provision that the insurer will furnish to the policyholder such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of 15 days after the insurer received notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

§ 2826. Examination, autopsy

There shall be a provision that the insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the

right and opportunity to make an autopsy in case of death where it is not prohibited by law.

§ 2827. Time for payment of benefits

There shall be a provision that all benefits payable under the policy, other than benefits for loss of time, will be payable not more than 60 days after receipt of proof, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not later than at the expiration of each period of 30 days during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

§ 2828. Time for suits

There shall be a provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration of 60 days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all unless brought within 2 years from the expiration of the time within which proof of loss is required by the policy.

§ 2829. Exceptions

1. Any portion of any such policy, delivered or issued for delivery in this State, which purports, by reason of the circumstances under which a loss is incurred, to reduce any benefits promised thereunder to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in such policy and in each certificate issued thereunder, in bold face type and with greater prominence than any other portion of the rest of such policy or certificate, respectively; and all other exceptions of the policy shall be printed in the policy and certificate with the same prominence as the benefits to which they apply.

2. If any such policy contains any provision which affects the liability of the insurer because of any violation of law by the insured during the term of the policy, it shall be in the following form: The insurer shall not be liable for death, injury incurred or disease contracted, to which a contributing cause was the insured's commission of or attempt to commit a felony, or which occurs while the insured is engaged in an illegal occupation.

3. If any such policy contains any provision which affects the liability of the insurer because of the insured's use of intoxicating liquor or narcotics or hallucinogenic drugs during the term of the policy, it shall be in the following form: The insurer shall not be liable for death, injury incurred or disease contracted while the insured is intoxicated or under the influence of narcotics or hallucinogenic drugs unless administered on the advice of a physician.

§ 2830. Omissions, modifications: commissioner may approve

The commissioner may approve any form of group or blanket health insurance policy, or any form of certificate or printed information to be issued under such policy, which omits or modifies any of the provisions hereinbefore required, if he deems such omission or modification suitable for the character of such insurance and not unjust to the persons insured thereunder.

§ 2831. Hospital, medical benefits—direct payment

Any such group or blanket policy may include benefits payable on account of hospital or medical or surgical aid for an employee or other member of the group insured by such policy, his or her spouse, child or children or other dependents, and may provide that any such benefits be paid by the insurer directly to the hospital, physician, surgeon doctor, nurse or other person furnishing services covered by such provisions of the policy.

CHAPTER 37

CREDIT LIFE AND CREDIT HEALTH INSURANCE

§ 2851. Scope

All life insurance and all health insurance in connection with loans or other credit transactions shall be subject to this chapter, except such insurance in connection with a loan or other credit transaction of more than 5 years duration or issued in an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

§ 2852. Purpose; construction

The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit health insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. This chapter shall be liberally construed.

§ 2853. Definitions

For the purpose of this chapter:

1. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

2. "Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

3. "Creditor" means the lender of money or vendor or lessor of goods, services or property, rights or privileges for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor or lessor, and an affiliate, associate or subsidiary of any of them, or any director, officer or employee of any of them, or any other person in any way associated with any of them.

4. "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

5. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

§ 2854. Forms available

Credit life insurance and credit health insurance shall be issued only in the following forms:

1. Individual life. Individual policies of life insurance issued to debtors on the term plan.

2. Individual accident and health. Individual policies of health insurance issued to debtors on a term plan, or disability benefit provisions in individual policies of credit life insurance.

3. Group life. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan.

4. Group accident and health. Group policies of health insurance issued to creditors on a term plan insuring debtors, or disability benefit provisions in group credit life insurance policies to provide such coverage.

5. Combination. A combination under subsections 1 and 2, or under 3 and 4.

§ 2855. Amounts of insurance

1. Credit life insurance.

A. Amount of coverage limited. The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

2. Agricultural credit commitments. Notwithstanding subsection 1, paragraph A, insurance on agricultural credit transaction commitments not exceeding 2 years in duration may be written up to the amount of the loan commitment, on a nondecreasing or level term plan.

3. Educational credit commitments. Notwithstanding subsection 1, paragraph A, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

4. Credit health insurance.

A. Coverage limited. The total amount of indemnity payable by credit health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments.

§ 2856. Term of insurance

1. The term of credit life insurance or credit health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor; except, that where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy.

2. Where evidence of insurability is required and such evidence is furnished more than 30 days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurer determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance.

3. The term of such insurance shall not extend more than 15 days beyond the original or revised scheduled maturity date of the indebtedness except when extended without additional cost to the debtor.

4. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 2859.

§ 2857. Policy provisions; delivery or disclosure to debtors

1. Policy or certificate delivered. All credit life insurance and credit health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

2. Content of policy or certificate. Each individual policy or group certificate of credit life insurance or credit health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor, or, in the case of a certificate under a group policy, the identity by name or otherwise of the debtor; the premium or amount of payment if a separate identifiable charge is paid by the debtor separately for credit life insurance and credit health insurance; a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions; and shall state that the benefit shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

3. When delivered. The individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as otherwise provided.

4. Notice of proposed insurance. If the individual policy or group certificate of insurance is not delivered to the debtor at the time indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the premium or

amount of payment by the debtor, if a separate identifiable charge is made separately for credit life insurance and credit health insurance, the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. Failure to comply with the foregoing requirement shall preclude the use of such application as evidence in any action brought against the insured. The copy of the application for, or notice of proposed insurance, shall refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. The application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 2856.

5. Risk not accepted. If the named insurer does not accept the risk, the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance, an appropriate refund shall be made.

§ 2858. Filing, approval and withdrawal of forms, rates; appeals

1. Forms filed. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be filed with the commissioner.

2. Approval of forms and rates. The commissioner shall within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance laws or of any regulation promulgated thereunder. In determining whether to disapprove any such form or premium rates, the commissioner shall give due consideration to past and prospective loss experience and mortality or morbidity rates, based on an appropriate mortality or morbidity table, and claim adjustment expenses, general administrative expenses, including handling cost for return premiums, commissions to agents, cost and compensation to the creditor, branch and field expenses and other acquisition costs, federal, state and local taxes, profit to the insurer, reasonable underwriting judgment, and any and all other factors and trends demonstrated to be relevant. The insurer may support these factors by statistical information, experience, actuarial computations and estimates certified by an executive officer of the insurer, and the commissioner shall give due consideration to such supporting data.

3. Notice of disapproval; waiting period. If the commissioner notifies the insurer that the form or rates are disapproved, it is unlawful thereafter for such insurer to issue or use such form or rates. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No

such policy, certificate of insurance, notice of proposed insurance, or any application, endorsement or rider or rate shall be issued or used until the expiration of 30 days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

4. Approval withdrawn. The commissioner may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw his approval of any such form or rate on any ground set forth in subsection 2. The written notice of such hearing shall state the reason for the proposed withdrawal. The insurer shall not use a form or rate after withdrawal of approval thereof.

5. Group certificate filing. If a group policy of credit life insurance or credit health insurance has been delivered in this State before September 16, 1961, or has been or is delivered in another state before or after such date, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in section 2857, subsections 2 and 4, and such forms shall be approved by the commissioner if they conform with the requirements specified in such subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner.

§ 2859. Premium rates; refunds; accounts credited when insurance not issued

1. Rates filed. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.

2. Refund. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the debtor. The commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

3. Accounts credited where insurance not issued. If a creditor requires a debtor to make any payment for credit life insurance or credit health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

§ 2860. Authorized insurer, agent required

All policies of credit life insurance and credit health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to transact such insurance therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner.

§ 2861. Premium not deemed interest; amount, collection

1. The premium or cost of such insurance when issued through any creditor shall not be deemed interest, or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any benefit or return or other gain or advantage to the creditor arising out of the sale or provision of such insurance shall not be deemed a violation of any other law, general or special, of the State of Maine.

2. The amount charged to a debtor for any credit life or credit health insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

3. The insurance premium or other identifiable charge for such insurance may be collected from the insured or included in the finance charge or principal of any loan or other credit transaction at the time such transaction is completed.

§ 2862. Claims

1. Claims reported. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

2. Claims paid. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

3. Creditor may not adjust claims. No plan or arrangement shall be used whereby any person other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; except, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

§ 2863. Existing insurance; choice of insurer

When credit life insurance or credit health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact such insurance within this State.

§ 2864. Enforcement

Whenever the commissioner finds that there has been a violation of this chapter or any regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner.

CHAPTER 39

CASUALTY INSURANCE CONTRACTS

§ 2901. Contracts subject to general provisions

All contracts of casualty insurance delivered or issued for delivery in this State and covering subjects resident, located, or to be performed in this State are also subject to the applicable provisions of chapter 27 (the insurance contract) and to other applicable provisions of this Title.

§ 2902. Uninsured vehicle coverage; insolvency of insurer

1. No policy insuring against liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this State with respect to any such vehicle registered or principally garaged in this State unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages, from owners or operators of uninsured or hit-and-run motor vehicles, for bodily injury, sickness or disease, including death, resulting from the ownership, maintenance, or use of such uninsured or hit-and-run motor vehicle. The coverage herein required may be referred to as "uninsured vehicle coverage."

2. The amount of coverage to be so provided shall be not less than the minimum limits for bodily injury liability insurance provided for under the motorists financial responsibility laws of this State.

3. For the purposes of this section the term "uninsured motor vehicle" shall be deemed also to include, subject to the terms and conditions of such coverage, an insured other motor vehicle where:

A. The liability insurer of such other motor vehicle is unable because of its insolvency to make payment with respect to the legal liability of its insured within the limits specified in its policy; and

B. The occurrence out of which such legal liability arose took place while the uninsured vehicle coverage required under subsection 1, above, was in effect; and

C. Written notice of such occurrence shall have been given to the insurer within 2 years thereof.

Nothing contained in this subsection shall be deemed to prevent any insurer from providing insolvency protection to its insureds under more favorable terms.

4. In the event of payment to any person under uninsured vehicle coverage, and subject to the terms of such coverage, to the extent of such payment the insurer shall be entitled to the proceeds of any settlement or recovery from any person legally responsible for the bodily injury as to which such payment was made, and to amounts recoverable from the assets of the insolvent insurer of the other motor vehicle.

§ 2903. Liability absolute when loss occurs

The liability of every insurer which insures any person against accidental loss or damage on account of personal injury or death or on account of accidental damage to property shall become absolute whenever such loss or damage, for which the insured is responsible, occurs. The rendition of a final judgment against the insured for such loss or damage shall not be a condition precedent to the right or obligation of the insurer to make payment on account of such loss or damage.

§ 2904. Judgment creditor may have insurance; exceptions

Whenever any person, administrator, executor, guardian, recovers a final judgment against any other person for any loss or damage specified in section 2903, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment by bringing a civil action, in his own name, against the insurer to reach and apply the insurance money, if when the right of action accrued, the judgment debtor was insured against such liability and if before the recovery of the judgment the insurer had had notice of such accident, injury or damage. The insurer shall have the right to invoke the defenses described in this section in the proceedings. None of the provisions of this paragraph and section 2903 shall apply:

1. Motor vehicle operated illegally or by one under age. When the insured automobile, motor vehicle or truck is being operated by any person contrary to law as to age or by any person under the age of 16 years where no statute restricts the age; or

2. Motor vehicle used in race contest. When such automobile, motor vehicle or trust is being used in any race or speed contest; or

3. Motor vehicle used for towing a trailer. When such automobile, motor vehicle or truck is being used for towing or propelling a trailer unless such privilege is indorsed on the policy or such trailer is also insured by the insurer; or

4. Liability assumed. In the case of any liability assumed by the insured for others; or

5. Liability under workmen's compensation. In the case of any liability under any workmen's compensation agreement, plan or law; or

6. Fraud or collusion. When there is fraud or collusion between the judgment creditor and the insured.

No civil action shall be brought against an insurer to reach and apply such insurance money until 20 days shall have elapsed from the time of the rendition of the final judgment against the judgment debtors.

§ 2905. Cancellation, release of interest insured under, automobile physical damage insurance

1. The insurer may cancel an automobile physical damage insurance policy only on 10 days' written notice to the insured and any other person mentioned in the loss payable clause of the policy.

2. When the policy is cancelled by the insured he shall notify forthwith any other person mentioned in the loss payable clause; and in the event the interest of any person mentioned in the loss payable clause is released, such person shall forthwith notify the insurer.

CHAPTER 41

PROPERTY INSURANCE CONTRACTS

§ 3001. Contracts subject to general provisions

All contracts of property insurance covering subjects located in this State are subject to this chapter, to the applicable provisions of chapter 27 (the insurance contract) and to other applicable provisions of this Title.

SUBCHAPTER I

STANDARD FIRE POLICY

§ 3002. Standard fire policy required; exceptions

1. No insurer shall issue fire insurance policies on property in this State, other than those of the Maine standard fire insurance policy, which shall contain the following general conditions and stipulations:

Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically, named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring (a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a ten days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the moragagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insur-

ance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within two years next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

2. The insurer may use an endorsement or rider attached to its printed policy forms used in other states in order, where necessary, to bring the terms of such form into compliance with the above provisions.

§ 3003. Combination coverages

Any policy or contract otherwise subject to the provisions of section 3002 (standard fire policy required; exceptions), which includes either on an unspecified basis as to the coverage or for a single premium coverage against the peril of fire and substantial coverage against other perils need not comply with such provisions, provided:

1. Such policy or contract shall afford coverage, with respect to the peril of fire, not less than the coverage afforded by such Maine standard fire policy.

2. That such coverage as to the peril of fire shall be made subject without change to the same general provisions and stipulations as those of such standard fire policy.

3. The provisions in relation to mortgagee interests and obligations in such standard fire policy shall be incorporated therein without change.

4. Such policy or contract is complete as to all of its terms without reference to the standard form of fire insurance policy or any other policy.

5. The commissioner is satisfied that such policy or contract complies with the provisions hereof.

§ 3004. Lines numbered consecutively

The lines of the conditions of the standard fire insurance policy shall be numbered consecutively at the option of the commissioner.

§ 3005. Cancellation of standard fire policy for nonpayment of premium

An insurer issuing fire insurance policies on property in this State, under the standard form required by section 3002, may cancel any such policy in

the manner provided by law without tendering to the assured a ratable proportion of the premium, if the premium has not been paid to the insurer or its agent, or to a duly licensed insurance broker through whom the contract of insurance was negotiated.

§ 3006. Willful violations

Any insurer or agent who shall make, issue or deliver a policy of fire insurance in willful violation of sections 3002 or 3003 shall forfeit for each offense not less than $50 nor more than $200, but the policy shall nevertheless be binding upon the insurer issuing the same.

SUBCHAPTER II

DEPOSIT NOTES

§ 3020. Policy and deposit note one contract; insolvency; liability of insured; note surrendered

1. A policy of insurance issued by a fire or marine insurer, domestic or foreign, and a deposit note given therefor are one contract. A loss under such policy or other equitable claims may be proved in defense to the note, though it was indorsed or assigned before it was due.

2. When an insurer becomes insolvent, the maker of the note is only liable for the equitable proportion thereof which accrued during the solvency. If the insolvency occurs within 60 days of the date of the note, it is void except for the amount of the maker's claim, if any, on the insurer. No insured shall be held to contribute to any losses or expenses beyond the amount of his deposit note. At the expiration of his term of insurance, his note, on payment of all assessments for which it is liable, shall be relinquished to him, except as provided in section 3021.

§ 3021. Lien on insured real estate

Any fire insurer shall have a lien against the insured, on the buildings insured and the land appurtenant thereto, for the amount at any time due on the note referred to in section 3020, to commence from the time of the recording of the same, and to continue 60 days after the expiration of the policy on which such note is given, if the insurer causes a certificate of its claim to such lien, signed by the secretary, to be recorded by the register of deeds for the county or district. During the pendency of such lien, an attachment of such property, in a civil action on the note in favor of the insurer, has priority of all other attachments or claims. Execution, when recovered, may be levied on it accordingly.

§ 3022. Lien continues on deceased's property; policy descends to estate

Upon the death of a member, the lien of the insurer remains good on the property insured to the amount due on the deposit note, and the policy descends to the executor or administrator of the deceased for the benefit of the estate during its continuance, unless voluntarily surrendered or forfeited by the charter of the insurer.

SUBCHAPTER III

LIEN OF MORTGAGEES ON POLICIES

§ 3030. Lien established; application of payments

The mortgagee of any real estate or the mortgagee of any personal property shall have a lien upon any policy of insurance against loss by fire procured thereon by the mortgagor, to take effect from the time he files with the insurer, at its home office, a written notice, briefly describing his mortgage, the estate conveyed thereby and the sum remaining unpaid thereon. If the mortgagor, by a writing by him signed and filed with the secretary, consents that the whole of the sum secured by the policy, or so much as is required to discharge the amount due on the mortgage at the time when a loss occurs, shall be applied to the payment of the mortgage, it shall be so paid by the insurer and the mortgagee's receipt therefor shall be a sufficient discharge of the insurer.

§ 3031. Enforcement of lien

If the mortgagor does not consent as provided for in section 3030, the mortgagee of any real estate may, at any time within 60 days after a loss, and the mortgagee of any personal property may at any time within 30 days after a loss, enforce his lien by a civil action against the mortgagor, and the insurer as his trustee, in which judgment may be rendered for what is found due from the insurer upon the policy, notwithstanding the time of payment of the whole sum secured by the mortgage has not arrived, and which action shall be commenced and service made on the trustee within such 60 or 30 days.

§ 3032. Application of amount recovered

The amount recovered under section 3031 shall be applied first to the payment of the costs of the civil action and officer's fees on the execution and next to the payment of the amount due on the mortgage. The balance, if any, shall be retained by the insurer and paid to the mortgagor. If the insurer assumes the defense, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the action, would be.

§ 3033. Priority of mortgagees

When 2 or more mortgagees claim the benefit of sections 3030 to 3032, their rights shall be determined according to the priority of their claims and mortgages by the principles of law.

§ 3034. Mortgagee's policy void, unless consented to

When any mortgagee claims the benefit of sections 3030 to 3033, any policy of insurance which he had procured or subsequently procures on his interest in the same property by virtue of his mortgage is void, unless consented to by the insurer insuring the mortgagor's interest.

[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO THREE ELECTRONIC FILES. FOR THE REMAINDER OF THE CHAPTER, SEE THE THIRD FILE.]