

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIFTH REVISION.

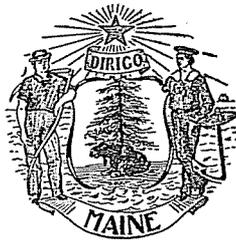
THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
KENNEBEC JOURNAL PRINT,
1904.

CHAPTER 49.

INSURANCE, AND INSURANCE COMPANIES.

SEC. 1. A contract of insurance, life excepted, is an agreement by which one party for a consideration promises to pay money or its equivalent, or to do some act of value to the assured upon the destruction or injury of something in which the other party has an interest. And the business involving the issuance of such contracts in this state shall be carried on only by duly incorporated insurance companies. All incorporated insurance companies may exercise the powers and are subject to the duties and liabilities contained herein and in chapter forty-seven, so far as consistent with their charters. Associations of individuals now formed or which may hereafter be formed, upon the plan known as Lloyd's, for the purpose of transacting marine insurance business, may exercise all rights, powers and privileges granted under the laws of this state.

Contract of insurance, defined.
R. S., c. 49, § 1.
1895, c. 95.

—how business of insurance shall be carried on.

SEC. 2. The business of incorporated insurance companies shall be managed by not less than seven directors, who shall be chosen by the stockholders at the time and place and in the manner provided in their by-laws; they shall be stockholders, and hold their offices for one year, and until others are chosen and qualified in their stead. Vacancies may be filled at a meeting called for the purpose. In elections and other business, stockholders have one vote for each share. The directors shall choose one of their number president.

Number of directors.
R. S., c. 49, § 2.

—tenure.

—vacancies.
See § 52.

SEC. 3. All insurance companies, stock or mutual, established in the state, may, by their by-laws, divide their directors into two or three classes, to hold their office for two or three years, according to the number of classes, and until others are chosen in their stead. At the first election after such classification, the company shall designate the term for which each director is elected, in such manner that one class shall thereafter go out of office, annually. Vacancies shall be filled for the remainder of the term of the class in which they occur. The repeal of such by-laws shall not affect the term of the directors then in office; but all directors elected before such repeal shall hold office until the expiration of the term for which they were originally elected.

Directors may be divided into classes.
R. S., c. 49, § 3.

—terms of office.

—vacancies.

THE STANDARD POLICY.

SEC. 4. No fire insurance company shall issue fire insurance policies on property in this state, other than those of the standard form herein set forth, except as follows:

Only policies of standard form may be issued.
1895, c. 18, § 1.
97 Me., 591.
May print certain data.

I. A company may print on or in its policies its name, location and date of incorporation, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and, if it is issued through an agent, the words, "This policy shall not be valid until countersigned by the duly authorized agent of the company at _____."

Printed forms of description.

II. A company may print or use in its policies, printed forms of description and specification of the property insured.

Lightning clause.

III. A company insuring against damage by lightning may print, in the clause enumerating the perils insured against, the additional words, "Also any damage by lightning, whether fire ensues or not," and, in the clause providing for an apportionment of loss in case of other insurance, the words, "whether by fire, lightning or both."

CHAP. 49.

Provisions authorized or required by law.

—proviso.

Blanks.

Other provisions.

Words, "Maine standard policy."

—how form shall be printed.

Form of standard policy.

IV. A company incorporated or formed in this state may print in its policies, any provisions which it is authorized or required by law to insert therein; and any company not incorporated or formed in this state may, with the approval of the insurance commissioner, so print any provision required by its charter or deed of settlement or by the laws of its own state or country, not contrary to the laws of this state; *provided*, that the insurance commissioner shall require any provision which, in his opinion, modifies the contract of insurance in such way as to affect the question of loss, to be appended to the policy by a slip or rider as hereinafter provided.

V. The blanks in said standard form may be filled in print or writing.

VI. A company may write upon the margin or across the face of a policy, or write, or print in type not smaller than long primer, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form; and all such slips, riders and provisions must be signed by the officers or agent of the company so using them.

VII. A company may print upon policies issued in compliance with the preceding provisions of this section, the words, "Maine standard policy." The said standard form of policy shall be plainly printed, and no portion thereof shall be in type smaller than long primer, and shall be as follows: "Number §

(Corporate name of the company or association, its principal place or places of business.)

This company shall not be liable beyond the actual value of the insured property at the time any loss or damage happens.

In consideration of dollars to it paid by the insured, hereinafter named, the receipt whereof is hereby acknowledged, does insure and legal representatives against loss or damage by fire, to the amount of dollars.

(Description of property insured.)

Bills of exchange, notes, accounts, evidences and securities of property of every kind, books, wearing apparel, plate, money, jewels, medals, patterns, models, scientific cabinets and collections, paintings, sculpture and curiosities are not included in said insured property, unless specially mentioned.

Said property is insured for the term of , beginning on the day of , in the year nineteen hundred and , at noon, and continuing until the day of , in the year nineteen hundred and , at noon, against all loss or damage by fire originating from any cause except invasion, foreign enemies, civil commotions, riots or any military or usurped power whatever; the amount of said loss or damage to be estimated according to the actual value of the insured property at the time when such loss or damage happens, but not to include loss or damage caused by explosions of any kind unless fire ensues, and then to include that caused by fire only.

94 Me., 39.

This policy shall be void if any material fact or circumstance stated in writing has not been fairly represented by the insured, or if the insured now has or shall hereafter make any other insurance on the said property without the assent in writing or in print of the company, or if, without such assent, the said property shall be removed, except that, if such removal shall be necessary for the preservation of the property from fire, this policy shall be valid without such assent for five days thereafter, or if, without such assent, the situation or circumstances affecting the risk shall, by or with the knowledge, advice, agency, or consent of the insured, be so altered

as to cause an increase of such risks, or if, without such assent, the said property shall be sold, or this policy assigned, or if the premises hereby insured shall become vacant by the removal of the owner or occupant, and so remain vacant for more than thirty days without such assent, or if it be a manufacturing establishment, running in whole or in part extra time, except that such establishments may run in whole or in part extra hours, not later than nine o'clock P. M., or if such establishments shall cease operations for more than thirty days without permission in writing indorsed hereon, or if the insured shall make any attempt to defraud the company, either before or after the loss, or if gunpowder or other articles subject to legal restriction, shall be kept in quantities or manner different from those allowed or prescribed by law, or if camphene, benzine, naphtha, or other chemical oils or burning fluids shall be kept or used by the insured on the premises insured, except that what is known as refined petroleum, kerosene, or coal oil, may be used for lighting, and in dwelling-houses, kerosene oil stoves may be used for domestic purposes, to be filled when cold, by daylight, and with oil of lawful fire test only.

82 Me., 270.
88 Me., 498.
90 Me., 350.
91 Me., 290.
92 Me., 279.

If the insured property shall be exposed to loss or damage by fire, the insured shall make all reasonable exertions to save and protect the same.

In case of any loss or damage under this policy, a statement in writing, signed and sworn to by the insured, shall be forthwith rendered to the company setting forth the value of the property insured, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used and the time at which and manner in which the fire originated, so far as known to the insured. The company may also examine the books of account and vouchers of the insured, and make extracts from the same.

In case of any loss or damage, the company, within sixty days after the insured shall have submitted a statement, as provided in the preceding clause, shall either pay the amount for which it shall be liable, which amount if not agreed upon shall be ascertained by award of referees as hereinafter provided, or replace the property with other of the same kind and goodness, or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises, or any portion thereof separately insured by this policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

If there shall be any other insurance on the property insured, whether prior or subsequent, the insured shall recover on this policy no greater proportion of the loss sustained than the sum hereby insured bears to the whole amount insured thereon. And whenever the company shall pay any loss, the insured shall assign to it, to the extent of the amount so paid, all rights to recover satisfaction for the loss or damage from any person, town, or other corporation, excepting other insurers; or the insured, if requested, shall prosecute therefor at the charge and for the account of the company.

If this policy shall be made payable to a mortgagee of the insured real estate, no act or default of any person other than such mortgagee or his agents, or those claiming under him, shall affect such mortgagee's right

CHAP. 49.

to recover in case of loss on such real estate; *provided*, that the mortgagee shall, on demand, pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy, for which no liability exists as to the mortgagor, or owner, and this company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the companies interested, upon such payment, the said mortgage, together with the note and debt thereby secured.

This policy may be canceled at any time at the request of the insured, who shall thereupon be entitled to a return of the portion of the above premium remaining, after deducting the customary monthly short rates for the time this policy shall have been in force. The company also reserves the right, after giving written notice to the insured, and to any mortgagee to whom this policy is made payable, and tendering to the insured a ratable proportion of the premium, to cancel this policy as to all risks subsequent to the expiration of ten days from such notice, and no mortgagee shall then have the right to recover as to such risks.

In case of loss under this policy and a failure of the parties to agree as to the amount of loss, it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured each choosing one out of the three persons to be named by the other, and the third being selected by the two so chosen; the award in writing by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference unless waived by the parties, shall be a condition precedent to any right of action in law or equity to recover for such loss; but no person shall be chosen or act as a referee against the objection of either party, who has acted in a like capacity within four months.

No suit or action against this company for the recovery of any claim by virtue of this policy shall be sustained in any court of law or equity in this state unless commenced within two years from the time the loss occurred.

In witness whereof, the said company has caused this policy to be signed by its president, and attested by its secretary, or by such proper officers as may be designated, at their office, in _____ Date _____."

SEC. 5. In case of loss under any fire insurance policy, issued on property in this state, in the standard form set forth in the preceding section, and the failure of the parties to agree as to the amount of loss, if the insurance company shall not, within ten days after a written request to appoint referees under the provision for arbitration in such policy, name three men under such provision, each of whom shall be a resident of this state, and willing to act as one of such referees; or if such insurance company shall not, within ten days after receiving the names of three men named by the insured under such provision, make known to the insured its choice of one of them to act as one of such referees, it shall be deemed to have waived the right to an arbitration under such policy, and be liable to suit thereunder, as though the same contained no provision for arbitration as to the amount of loss or damage. And in case of the failure of two referees, chosen, respectively by the insurance company and the insured, to agree upon and select within ten days from their appointment a third referee willing to act in said capacity, either of the parties may within twenty days from the expiration of said ten days make written application setting forth the facts to the insurance commissioner to appoint

89 Me., 32.

85 Me., 72.
87 Me., 193.
95 Me., 487.
97 Me., 591.

Proceedings
in case parties
fail to agree
as to amount
of loss.
1895, c. 18, § 1.

such third referee, and said commissioner shall thereupon make such appointment and shall send written notification thereof to the parties.

SEC. 6. Any insurance company or agent who shall make, issue or deliver a policy of fire insurance in wilful violation of section four shall forfeit for each offense not less than fifty, nor more than two hundred dollars; but such policy shall nevertheless be binding upon the company issuing the same.

Penalty for wilful violation of § 4. R. S., c. 49, § 2. 1895, c. 18, § 2.

STOCK COMPANIES.

SEC. 7. Every stock company or its directors, as often as once a year, shall, by ballot, elect a secretary, who shall be the clerk of the company and be sworn to the faithful discharge of his duty; besides other duties required by the by-laws of the company, he shall keep a true record of all the votes of the stockholders and of the directors, and a true list of the stockholders, and of the number of shares held by each, and record every transfer of shares in a book kept for the purpose. The directors may appoint such other officers as they think necessary.

Secretary and other officers. R. S., c. 49, § 4. 65 Me., 379.

SEC. 8. The secretary shall call special meetings of such company, besides any meeting for which the by-laws provide, to be held at the time and place, and for the purposes required in writing, by the proprietors of one-fifth of the capital stock; if the by-laws of such company prescribe no mode of calling such meeting, it may be notified in the manner prescribed in the act of incorporation for calling the first meeting.

Manner of calling meetings. R. S., c. 49, § 5.

SEC. 9. No insurance company shall be incorporated with a capital of less than one hundred thousand dollars, to be paid in at the periods and in the proportions required by the charter.

Capital. R. S., c. 49, § 6.

SEC. 10. If any such company becomes insolvent before its whole capital is paid in by the stockholders, any creditor thereof may have his action on the case against any one or more of the stockholders, whose proportion of the whole stock allowed by the charter is not paid in, to recover against them in their individual capacity towards his debt, an amount not exceeding the sum due from them on their shares.

Liability of stockholders, in certain cases. R. S., c. 49, § 7.

SEC. 11. The capital and other assets of stock insurance companies, incorporated in this state, except such as may be needed for immediate use, shall be invested in such manner and in such funds, stocks and bonds, as savings banks of this state may invest in, as provided in section twenty-three, of chapter forty-eight, and said insurance companies shall be restricted in their investments in the same manner as are the savings banks of this state.

Capital and assets, how to be invested. R. S., c. 49, § 8. 1897, c. 187.

SEC. 12. Such company may loan to citizens of the state, any portion not exceeding one-half of its capital stock, on respondentia or bottomry; but not unless at least three-fourths of all the directors agree to such loan, and enter their consent thereto at large on the records of the corporation, to be laid before the stockholders at their next meeting.

Loans on respondentia or bottomry. R. S., c. 49, § 9.

SEC. 13. Such company may make insurance on vessels, freight, money, goods and effects, or money lent on bottomry and respondentia, against fire on dwellings or other buildings, and on merchandise or other property within the United States, and fix the premiums and terms of payment; but no risk on any one bottom or on one building and contents shall exceed ten per cent of its capital stock actually paid in.

What property may be insured. R. S., c. 49, § 10. 56 Me., 376. See § 41, ¶ 11. —limit thereof.

SEC. 14. Insurance effected by a husband or wife on a dwelling-house owned by the insured and on the furniture therein, is valid for all the furniture, although part is owned by the husband and part by the wife.

Furniture, owned part by husband and part by wife. R. S., c. 49, § 11.

CHAP. 49.

Policies, how executed.
R. S., c. 49, § 12.
56 Me., 377.

Companies, not to trade.
R. S., c. 49, § 13.

Dividends.
R. S., c. 49, § 14.

Loss of capital.
R. S., c. 49, § 15.

Marine companies may divide certain profits.
R. S., c. 49, § 16.

Triennial statements.
R. S., c. 49, § 17.

Not to insure, after loss of capital.
R. S., c. 49, § 18.

Person deemed agent; notice to him, binding.
R. S., c. 49, § 19.
See § 93.

Certain provisions, not to be applied to mutual companies.
R. S., c. 49, § 22.
61 Me., 416.

Mutual companies, insurance by, regulated.
R. S., c. 49, § 23.

SEC. 15. All policies, of insurance shall be signed by the president, or in case of his death, inability or absence, by any two of the directors, and countersigned by the secretary; and they shall be binding upon the company as if executed under its corporate seal.

SEC. 16. Said company shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise or commodities.

SEC. 17. The directors, at such times as their charter or by-laws prescribe, shall make dividends of so much of the profits of the company as they think advisable; but moneys received and notes taken for premiums on risks, which are undetermined at the time of making such dividends, shall not be part of said profits.

SEC. 18. After diminution of the capital stock by losses, depreciation or otherwise, no dividend shall be made until such diminution is supplied by actual funds, or the value is restored.

SEC. 19. Any marine insurance company may, by by-laws or votes duly passed for that purpose, divide among the stockholders thereof, and the persons insured therein, in proportion to the stock owned by such stockholders, and to the amount of premiums paid by the insured on risks terminated, all the clear profits of the company above six per cent a year on its capital stock. Before such division is made, all arrearages of dividends to stockholders, required to make up their annual dividends equal to six per cent a year, shall first be paid.

SEC. 20. Once in every three years, and oftener, if required by the stockholders, the directors shall lay before them at a meeting, an exact and particular statement of the affairs of the company, showing their profits, if any, after deducting losses and dividends.

SEC. 21. If the company sustains losses to an amount equal to its capital stock, and the president or directors, after knowing the same, make any new or further insurance, the estates of all who made such insurance or who consent thereto, shall be jointly and severally liable for the amount of any loss which occurs under such insurance.

SEC. 22. An agent authorized by an insurance company, whose name is borne on the policy, is its agent in all matters of insurance; any notice required to be given to said company or any of its officers, by the insured, may be given to such agent. (a)

SEC. 23. The provisions in the foregoing sections relating to the amount of capital stock to be owned by any insurance company, and the division of the same into shares, and dividends of profit thereon, and other provisions incidental to the nature of its fund, and such of said provisions as relate to the liability of directors or stockholders in case of deficiency of capital, and the regulations concerning the business of any such company contained in sections twelve and thirteen are not applicable to mutual fire insurance companies; but the other preceding provisions and the following are binding on such companies, so far as is consistent with their charters.

MUTUAL COMPANIES.

SEC. 24. Domestic mutual fire insurance companies may make insurance for a term, not exceeding seven years, on dwelling-houses, stores, shops and other buildings, and on household furniture, merchandise and other property, the contents of any building within the state, against loss or damage by fire originating in any cause other than by design on the part of the assured.

(a) 47 Me., 386; 49 Me., 203; 52 Me., 324; 54 Me., 170; 56 Me., 379; 59 Me., 433; 69 Me., 410; 70 Me., 539; 77 Me., 149; 88 Me., 107.

SEC. 25. Every such company, shall cause to be printed or written on the outside of every policy that it issues, under the number, name of the insured and date of the expiration, the words, "Total liability to assessment," and the figures showing such liability.

Indorsement on policies.
1889, c. 270, § 3.

SEC. 26. Every person insured by such company, or his legal representatives or assigns continuing to be insured therein, is a member of the company during the term specified in his policy, and no longer.

Insured to be members.
R. S., c. 49, § 25.
37 Me., 143.

SEC. 27. The insured, before receiving his policy, shall deposit his note for the sum determined by the directors, which shall not be less than five per cent of the amount insured, and such part of it as the by-laws require, shall be immediately paid and indorsed thereon; and the remainder in such instalments, as the directors from time to time require for the payment of losses and other expenses, to be assessed on all who are members when such losses or expenses happen, in proportion to the amounts of their notes: *Provided*, that a mutual company which collects a cash premium of not less than the tariff rate charged by stock companies may take a premium note for an equal amount and such companies shall maintain a premium reserve equal to fifty per cent of the cash premium on its policies in force. No domestic mutual insurance company shall insure in one risk an amount exceeding twenty-five per cent of its gross assets, including the amount at any time due on its premium notes.

Assessments on premium notes.
R. S., c. 49, § 26.
1895, c. 95.
31 Me., 453.
49 Me., 448.
50 Me., 305.
53 Me., 226.
64 Me., 128.

—premium reserve.

SEC. 28. Every domestic mutual fire insurance company, shall publish annually three weeks successively in some daily or weekly paper printed in the county where it is located, a condensed statement of its condition, conformable to its last annual report to the commissioner; and any such company which neglects or refuses to publish such statement, forfeits not less than fifty dollars.

Shall publish statement.
1889, c. 270, § 2.

—penalty for refusal.

SEC. 29. Any person who solicits insurance on behalf of any domestic mutual fire insurance company, or transmits for a person other than himself, an application for, or a policy of insurance to, or from such company, or in any manner acts in the negotiation of such insurance, or in the inspection or valuation of the property insured shall be deemed the agent of such company and, except as hereinafter provided, shall become liable to all the duties, requirements, liabilities and penalties to which an agent of any insurance company is subject. Said companies shall procure licenses for their agents as provided in section ninety-six of this chapter, but no fee shall be required by the insurance commissioner for licenses issued to the agents of such companies.

Liability of agents of domestic fire companies.
1901, c. 140.

—company required to procure licenses for agents.

SEC. 30. A policy of insurance, issued by a life, fire or marine insurance company, domestic or foreign, and a deposit note given therefor, are one contract; and a loss under such policy, or other equitable claims, may be proved in defense to said note, though it was indorsed or assigned before it was due; and when a company becomes insolvent, the maker of the note is only liable for the equitable proportion thereof which accrued during the solvency; and if the insolvency occurs within sixty days of the date of the note, it is void except for the amount of the maker's claim, if any, on the company. 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 the next section.

Policy and note one contract, and loss, etc., set off against it.
R. S., c. 49, § 27.

—if company falls, liability of maker.

—when insurance ends, note to be surrendered.
48 Me., 274.
49 Me., 425.
64 Me., 128.

SEC. 31. The company shall have a lien against the assured, on the buildings insured and the land appurtenant thereto, for the amount at any time due on said note, to commence from the time of the recording of the

Lien on insured real estate, and how secured.
R. S., c. 49, § 29.
28 Me., 253.

CHAP. 49.

same, as hereinafter provided, and to continue sixty days after the expiration of the policy, on which such note is given; if the company 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; and, during the pendency of such lien, an attachment of such property, in a suit on said note in favor of the company, has priority of all other attachments or claims; and execution, when recovered, may be levied on it accordingly.

Remedy, if assessment is not paid.
R. S., c. 49, § 29.
48 Me., 78.

SEC. 32. If an assessment, made as provided in section twenty-seven, remains unpaid for thirty days after demand made by any agent of the company on any person liable to pay the note, the directors may sue for and collect the amount due on such note; and the amount collected shall remain in the treasury of the company subject to the payment of such sums as might otherwise be assessed on the note; and the overplus at the expiration of the policy shall be the property of the assured.

Lien good on property of deceased persons insured.
R. S., c. 49, § 20.

SEC. 33. Upon the death of a member, the lien of the company 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 provisions of the charter of the company.

Annual statements to be made by directors.
R. S., c. 49, § 31.

SEC. 34. The directors of every mutual company shall cause a detailed account of their expenses for the year preceding, the amount of property actually insured at that time, the amount due on their premium notes, and the amount of all debts due to and from the company, to be laid before the policy-holders at the annual meeting.

Compensation of officers; votes by proxy, limited.
R. S., c. 49, § 32.

SEC. 35. The salary or compensation for services of the directors, treasurer and secretary, shall be fixed by the policy-holders at their annual meeting, and no policy-holder or other person is allowed more than fifteen votes by proxy.

Assessments, when made, may be examined by the court, on application of parties interested.
R. S., c. 49, § 33.

SEC. 36. Whenever the directors of a mutual fire insurance company, or a mutual marine insurance company, make an assessment, or call on its members for money, or by vote determine that there exists a necessity for such assessment or call, they, or any person interested in the company as an officer, policy-holder, or creditor, may apply to the supreme judicial court for any county, by a petition in the nature of a bill in equity, praying the court to examine said assessment or call, or to determine the necessity therefor, and all matters connected therewith, and to ratify, amend or annul the assessment or call, or to order that the same be made as law and justice may require; *provided*, that such application, when made by any party except the corporation, or a receiver, or the insurance commissioner, shall rest in the discretion of the court. And whenever the directors unreasonably neglect to make an assessment or call, to satisfy an admitted or ascertained claim upon the company, any judgment creditor, or any person holding such admitted or ascertained claim, or the insurance commissioner, may make the application. Upon such application, if made by the directors, or upon order of court, if made by application of any other party, the directors shall set forth the claims against the company, its assets, and all other facts and particulars appertaining to the matter.

—claims, how adjusted, when directors neglect to make assessments.

Order of notice to parties interested.
R. S., c. 49, § 34.

—court may examine and determine the case.

SEC. 37. The court before which such petition is filed, shall order notice to all parties interested, by publication or otherwise, and the petition may be filed in vacation, in which case the order of notice may be made by any justice of the court; and upon the return thereof, the court shall proceed to examine the assessment or call, the necessity therefor, and all matters connected therewith; any parties interested may appear and be heard thereon, and all questions that may arise shall be heard and determined as

CHAP. 49.

in other equity cases. The court may refer the apportionment or calculation to any competent person, and upon the examination may ratify, amend or annul the assessment or call, or order one to be made. In case the assessment or call is altered or amended, or one is ordered, the directors shall forthwith proceed to vote the same in legal form, and the record of such vote shall be set forth in a supplemental bill or answer.

SEC. 38. Whenever the court appoints a master or auditor to make the apportionment or calculation for an assessment under the foregoing provisions, such master or auditor shall appoint a time and place to hear all parties interested in the assessment or call, and shall give personal notice thereof, in writing, to the insurance commissioner, and through the post office, or in such other manner as the court directs, so far as he is able, to all persons liable upon said assessment or call. Said auditor or master shall hear the parties, and make report to the court of all his doings respecting such assessment or call, and all matters connected therewith, and all parties interested in such report or assessment have a right to be heard by the court, respecting the same, in the same manner as is above provided.

SEC. 39. When an assessment or call has been so ratified, ascertained or established, a decree shall be entered which shall be final and conclusive upon the company and all parties liable to the assessment or call as to the necessity of the same, the authority of the company to make or collect it, the amount thereof, and all formalities connected therewith. And where an assessment or call is altered or amended by vote of directors and decree of the court thereon, such amended or altered assessment or call is binding upon all parties who would have been liable under it as originally made, and in all legal proceedings shall be held to be such original assessment or call. All proceedings above provided for shall be at the cost of the company, unless the court for cause otherwise orders; and in all cases the court may control the disposal of the funds collected under these proceedings, and may issue all necessary processes to enforce the payment of such assessments against all persons liable therefor.

SEC. 40. Whenever it shall appear to the presiding justice of the court before which such petition is pending, that the net proceeds of any assessment or call will not be sufficient to furnish substantial relief to those having claims against the company, he may decree that no assessment shall be collected; and when, on application of the insurance commissioner, or any person interested, said justice is of opinion that further attempts to collect an assessment then partially collected will not benefit those having claims against the company, he may stay its further collection.

—may refer apportionment.

—assessments altered or amended, proceedings in case of.

Time and place for hearing parties, appointment of.
R. S., c. 49, § 35.

—auditor shall hear parties, and report to the court.

Assessment, when final.
R. S., c. 49, § 36.

—if amended, to be made final.

—costs, how paid.

—control of funds and payment of assessments.

Assessment not sufficient, collection may be stayed by court.
R. S., c. 49, § 37.

ORGANIZATION OF INSURANCE COMPANIES UNDER GENERAL LAW.

SEC. 41. Any ten or more persons, residents of the state, associated by such an agreement in writing as is hereinafter described, with the intention of constituting a corporation for the transaction of insurance business shall, upon complying with section forty-nine, become and remain a corporation with all the powers, rights and privileges and be subject to all the duties, liabilities and restrictions set forth in all the general laws relating to insurance corporations. Corporations may be organized as herein provided, upon the stock or mutual principle for the following purposes:

I. To insure against loss or damage to property by fire, lightning or tempest on land.

Insurance companies, how established.
R. S., c. 49, § 38.
1895, c. 95.

—rights and privileges.

—purposes when organized on stock, or mutual principle.

CHAP. 49.

II. To insure vessels, freights, goods, money, effects and money lent on bottomry or respondentia, against the perils of the sea and other perils usually insured against by marine insurance companies, including risks of inland navigation and transportation.

III. To insure against breakage or damage to plate glass, local or in transit.

Corporations may also be organized as herein provided, upon the stock principle, only, for the following purposes:

IV. To insure against loss or damage to property of the assured, or loss or damage to the life, person or property of another for which the assured is liable, caused by the explosion of steam boilers.

V. To insure any person against bodily injury or death by accident, or any person, firm or corporation against loss or damage on account of the bodily injury or death by accident of any person for which loss or damage said person, firm or corporation is responsible.

VI. To insure the owners of domestic animals against loss resulting from the death of or injury to the animals insured.

SEC. 42. Such agreement shall set forth the fact that the subscribers thereto associate themselves with the intention to constitute a corporation, the name by which it shall be known, the class or classes of insurance for the transaction of which it is to be constituted, the plan or principle upon which its business is to be conducted, the town or city in which it is established or located, and if a stock company, the amount of its capital stock, and if a mutual company with a guarantee capital, the amount thereof. The capital stock of a stock company organized for any of the purposes hereinbefore mentioned shall not be less than one hundred thousand dollars.

SEC. 43. Any mutual insurance company may be organized under the provisions of sections forty-one to fifty-two inclusive, with a guarantee capital of not less than one hundred thousand dollars, divided into shares of one hundred dollars each; and no policy shall be issued by such corporation until one-fourth, at least, of its guarantee capital has been paid in, in cash, and invested as provided in section eleven.

SEC. 44. No policy shall be issued by a purely mutual company until applications have been made in good faith, for insurance to the amount of fifty thousand dollars; and no policy shall be issued by a stock company until its capital stock has been paid in, in cash, and invested as provided in section eleven.

SEC. 45. Any name not previously in use by an existing corporation or company may be adopted, *provided*, that the words "insurance" or "mutual insurance," as the business is to be conducted, constitute a part of such title. The commissioner may refuse his certificate hereinafter provided, until the adoption of a different name, if, in his judgment, the name adopted too closely resembles the name of an existing corporation or company, or is likely to mislead the public.

SEC. 46. The first meeting for the purpose of an organization shall be called by a notice signed by one or more of the subscribers to such agreement, stating the time, place and purpose thereof, a copy of which notice shall seven days at least before the day appointed be given to each subscriber, left at his usual place of business or residence, or deposited in the post office, prepaid, and addressed to him at his usual place of business or residence. Such notice shall be proved by affidavit of the person giving it.

SEC. 47. At such first meeting, including any adjournment thereof, an organization shall be effected by the choice by ballot of a temporary clerk, who shall be sworn to the faithful discharge of his duties; by the adoption

--stock companies, additional purposes.

80 Me., 244, 251.
89 Me., 570.
92 Me., 574.
93 Me., 461, 469.

Articles of agreement.
R. S., c. 49, § 39.

--location, capital stock, etc.

--capital.

Organization of mutual company.
R. S., c. 49, § 40.

--policies, when issued.

New companies, when to issue policies.
R. S., c. 49, § 41.
1895, c. 95.

Corporate name.
R. S., c. 49, § 42.

--when insurance commissioner may object.

First meeting, how called.
R. S., c. 49, § 43.

Organization shall be effected.
R. S., c. 49, § 44.

of by-laws consistent with the constitution and laws of the state, and by the election in the manner provided by law, of directors and such other officers as the by-laws require, but at such first meeting no person shall be a director who has not subscribed to the articles of association. The temporary clerk shall record the proceedings until and including the qualification of the secretary of the corporation by his being sworn. No organization shall be effected at any such meeting or its adjournment, unless a majority of the subscribers to the articles of agreement and association are present and vote.

—record of proceedings.

—quorum necessary for organization.

SEC. 48. The directors so chosen shall elect a president, a secretary and other officers which under the by-laws they are authorized to choose.

Officers.
R. S., c. 49, § 45.

SEC. 49. The president, secretary and a majority of the directors shall forthwith make, sign and swear to a certificate setting forth a copy of the articles of association, with the names of the subscribers thereto, the date of the first meeting, and of any adjournment thereof, and shall submit such certificate and the records of the corporation to the inspection of the insurance commissioner, who shall examine the same, and may require such other evidence as he may deem necessary. The commissioner, if it appears that the requirements of the two preceding sections have been complied with, shall certify that fact and his approval of the certificate by indorsement thereon. Such certificate shall thereupon be filed in the office of the secretary of state by said officers, and upon being paid by them the fee hereinafter provided and all other fees or duties required by law, the secretary shall cause the same, with the indorsement thereon, to be recorded, and shall thereupon issue to said corporation a certificate in the following form:

Certificate of articles of association.
R. S., c. 49, § 46.

—to be submitted to insurance commissioner.

—to be approved by commissioner, and filed and recorded in the office of secretary of state.
See c. 47, § 5.

“STATE OF MAINE.

Be it known, that whereas” [names of subscribers to the association] “have associated themselves with the intention of forming a corporation, under the name of ———, for the purpose” [here the purpose declared in the articles of association shall be inserted,] “with a capital stock of \$———, and have complied with the provisions of the statutes of the state in such case made and provided, as appear from the certificate of the president, secretary and directors of said corporation, duly approved by the insurance commissioner and recorded in this office: Now, therefore, I, ———, Secretary of the State of Maine, hereby certify that” [subscribers’ names] “their associates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of the ——— company, with all the powers, rights and privileges, and subject to the duties, liabilities and restrictions which by law appertain thereto. Witness my official signature, hereunto subscribed, and the seal of the State of Maine hereunto affixed, this ——— day of ———, A. D. 19——.” (In case of purely mutual companies, so much as relates to capital stock shall be omitted.)

Form of certificate of organization.

The secretary of state shall sign the same, and cause the seal of the state to be thereto affixed, and such certificate shall have the force and effect of a special charter, and be conclusive evidence of the organization and establishment of such corporation. Said certificate shall be duly recorded in the office of the secretary of state, and a duly authenticated copy of such record may be used in evidence, with like effect as the original certificate.

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

CHAP. 49.

Capital stock,
how in-
creased.
R. S., c. 49, § 47.

—certificate.

—when
authorized to
transact
business on
increased
capital.

Dividends.
R. S., c. 49, § 49.

—capital
stock to be
increased by
amount of
certificates
issued.

Office and
meetings to
be in state,
and majority
of directors
citizens.
R. S., c. 49, § 50.

Suit by
assignee of
policy.
R. S., c. 49, § 51.
See c. 34, § 146.
69 Me., 411.
81 Me., 571.

Lien of mort-
gagee upon
policy.
R. S., c. 49, § 52.

SEC. 50. Any stock insurance company may, at a meeting called for the purpose, increase the amount of its capital stock, and the number of shares therein, and within thirty days after the payment and collection of the last instalment of such increase, shall present to the insurance commissioner a certificate setting forth the amount of such increase, and the fact of such payment, signed and sworn to by the president, secretary and a majority of the directors of such corporation. The insurance commissioner shall examine the certificate and ascertain the character of the investments of such increase, and, if the same conforms to law, shall indorse his approval thereon, and upon payment of the fees required by section thirty-nine of chapter forty-seven, such certificate so approved shall be filed with the secretary of state, and thereupon the company shall be authorized to transact business upon the capital so increased, and the insurance commissioner shall issue his certificate to that effect; and any mutual insurance company with a guarantee capital, may increase it in the same manner.

SEC. 51. No stock insurance company organized under the laws of this state, shall declare cash dividends exceeding in amount six per cent semi-annually on their capital stock; but any such company may issue, pro rata to its stockholders, certificates of such portion of its profits and income as the directors from time to time determine, not including therein any portion of the premium money of risks not terminated, and after providing for all expenses, losses and liabilities then incurred; and the capital stock of such company shall be increased by the amount of the certificates of stock so issued; and whenever any increase of capital stock is made by any insurance company under the preceding section, a certificate thereof shall be filed with the insurance commissioner, who shall certify to the amount of the capital stock of the company so increased, as provided in said section.

SEC. 52. All insurance companies incorporated and organized under the laws of this state, shall have their principal place of business in some city or town in the state, and a majority of the directors shall be citizens of the state. The meetings of the directors shall be held in the state.

RIGHTS OF ASSIGNEES.

SEC. 53. The assignee of any policy, the assignment of which has been assented to by the company or its agent, may sue the company on the policy in his own name, and all sums due thereon, may be recovered in such suit, subject to any defense existing against the original party; the assignee so suing shall hold the judgment or its proceeds subject to the claims and equities of any other parties interested therein.

LIEN OF MORTGAGEES.

SEC. 54. The mortgagee of any real estate 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 secretary of the company 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 company,

and the mortgagee's receipt therefor shall be a sufficient discharge of the company. (a)

SEC. 55. If the mortgagor does not so consent, the mortgagee may, at any time within sixty days after a loss, enforce his lien by a suit against the mortgagor, and the company as his trustee, in which judgment may be rendered for what is found due from said company upon the policy, notwithstanding the time of payment of the whole sum secured by the mortgage has not arrived.

How enforced.
R. S., c. 49, § 53.
64 Me., 217.
76 Me., 588.
80 Me., 104.

SEC. 56. The amount so recovered shall be applied first to the payment of the costs of the suit and officer's fees on the execution, and next to the payment of the amount due on the mortgage; and the balance, if any, shall be retained by the company and paid to the mortgagor. If the company assumes the defense, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the suit, would be.

How amount recovered in suit is to be applied.
R. S., c. 49, § 54.
—costs.

SEC. 57. When two or more mortgagees claim the benefit of the three preceding sections, their rights shall be determined according to the priority of their claims and mortgages by the principles of law.

Priority of mortgages.
R. S., c. 49, § 55.

SEC. 58. When any mortgagee claims the benefit of said sections, 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 company insuring the mortgagor's interest.

Mortgagee's policy void, unless consented to.
R. S., c. 49, § 56.
45 Me., 453.

SECURITIES DEPOSITED WITH THE TREASURER OF STATE.

SEC. 59. When any company, incorporated in this state, desires to deposit any portion of its stocks or other securities with any officer of the state, as a prerequisite to the establishment of agencies in any other state in compliance with the law thereof, the treasurer of state shall receive such stocks or other securities and hold the same on deposit and in trust for the benefit of all the policy-holders in said company.

Deposit of securities with treasurer of state.
R. S., c. 49, § 57.

SEC. 60. Said treasurer shall then furnish such company with a certificate or certificates of the fact, in his official capacity, embracing the items of the security so deposited, the amount and par value of each, and his opinion of their value.

Treasurer, to furnish certificate.
R. S., c. 49, § 58.

SEC. 61. He shall hold such securities on deposit in accordance with these provisions, but such company may receive and collect the interest or dividends thereon and withdraw them from time to time, on depositing in their place other securities whose market value shall be equal to the par value of those withdrawn; and the treasurer shall make such exchange, if the governor and council, upon application of the company, shall find and certify to him that the market value of the securities offered, is not less than the par value of those proposed to be withdrawn; and thereupon the treasurer shall issue a new certificate as provided in the preceding section.

Interest or dividends, collected by companies; securities, how withdrawn.
1887, c. 5.

SEC. 62. Said treasurer on being satisfied of the repeal or alteration of the law of such other state, disqualifying such company from continuing its business therein, shall return the securities on demand.

Return of securities.
R. S., c. 49, § 60.

SEC. 63. When such company desires to relinquish its business out of the state, said treasurer, on application thereof and on the oath of the president and secretary, that its assets are ample to meet all the existing demands against it, shall deliver up its securities.

Same subject.
R. S., c. 49, § 61.

(a) 29 Me., 339; 45 Me., 453; 47 Me., 237; 51 Me., 71; 52 Me., 128; 64 Me., 217; 68 Me., 364; 76 Me., 588; 80 Me., 104; 86 Me., 521.

CHAP. 49.

Duty of treasurer in case of failure of the company.
R. S., c. 49, § 62.

SEC. 64. If any such company fails, while its securities are so on deposit, said treasurer shall demand of its secretary or clerk, and he shall furnish a full and complete list of the names and residences of all policy-holders and others having claims upon the company; and they shall be notified forthwith through the post office by said treasurer, of the condition of the company; and he shall state in the notice, that the securities held by him will be disposed of, and the proceeds, after paying expenses, paid over in a ratable proportion upon their claims properly authenticated, and the time when such dividend will be made; but nothing in the foregoing provisions imposes any liability on the state on account of any delinquency of said treasurer.

THE INSURANCE COMMISSIONER.

Commissioner, appointment, term, and duties.
R. S., c. 49, § 64.
1895, c. 95.

SEC. 65. An insurance commissioner, whose office shall be at the state capitol, shall be appointed by the governor and council, and shall hold his office for three years unless sooner removed, but shall not at the same time be bank examiner. He may administer oaths in the performance of his official duties, in any part of the state and at any time. He shall keep a correct account of all his doings, and of all fees and moneys received by him by virtue of his office, pay over the same to the treasurer of state quarterly, and at the same time settle his account with the governor and council. He shall give bond to the treasurer, in the sum of five thousand dollars, for the faithful discharge of his duties. He may with the approval of the governor and council, appoint and with their consent remove, a deputy commissioner who by virtue of such appointment, shall be and perform the duties of chief clerk of the department. In the event of a vacancy in the office of commissioner or during the absence or disability of that officer, the deputy commissioner shall perform the duties of the office.

—appointment and duties of deputy commissioner.

He shall examine domestic insurance companies, and may require the production of books and papers and may examine officers.
R. S., c. 49, § 65.
1889, c. 258.

SEC. 66. He shall annually examine or cause to be examined, every domestic stock insurance and mutual life insurance company, and biennially, every domestic mutual fire insurance company, in order to ascertain its ability to meet its engagements and do a safe insurance business; and shall make such other examinations as he regards necessary for the safety of the public or the holders of policies. He may require the officers to produce for examination all books and papers of the company, and to answer, on oath, all questions propounded to them in relation to its condition and affairs; and any officer who refuses to produce any such book or papers upon his demand, or to be sworn, or to answer any such questions, forfeits not exceeding two hundred dollars.

New companies to inform com'r of organization.
R. S., c. 49, § 66.
1895, c. 105.
See c. 1, § 6.
¶ xxviii.

SEC. 67. Every domestic insurance company, upon organization, shall inform the commissioner thereof. No such company shall commence business by issuing policies until the commissioner has examined and ascertained that it has complied with the terms of its charter, paid in its capital stock and become qualified to act; and he shall then issue to it his certificate of that fact, and annually thereafter upon examination, so long as the same is found solvent and responsible to do business, he shall issue to it a like certificate.

—not to do business without license from commissioner.
See c. 117, § 17.

When the commissioner may apply for an injunction against domestic company.

SEC. 68. If on examination the commissioner thinks that any domestic insurance company is insolvent, or that it is in such a condition as to render its further proceedings hazardous to the public or its policy-holders he shall apply to a justice of the supreme judicial court to issue an injunction restraining the company in whole or in part from proceeding further

with its business. Any justice of said court may thereupon, either with or without notice, issue such temporary injunction, or if on notice, such temporary or permanent injunction, as he thinks proper, either of which he may afterwards modify, vacate or perpetuate, and may pass such orders and decrees, appoint receivers to receive the assets of the company, and masters, and do any other act conformable to the general rules of chancery practice which in his opinion is requisite for the safety of the public and for the best interests of all parties concerned, all which orders and decrees he may in like manner enforce. All such proceedings shall be at once made known to the clerk of courts for the county, who shall enter them on his docket, place them on file and record them in the records of the court. The clerk's fees shall be audited and allowed by the court, and paid from the assets of the company.

SEC. 69. No bill in equity, or other proceedings for the appointment of a receiver of a domestic life insurance company, or to wind up its affairs, shall be maintained by any other person than the insurance commissioner. If it appears to the commissioner that the assets of such company are less than its liabilities, reckoning the net value of its policies according to the combined experience or actuaries' table of mortality, with interest at four per cent a year, he shall suspend the right of such company to do business, and apply to a justice of the supreme judicial court to proceed as provided in the preceding section; but if it appears that the assets are greater than its liabilities, computed as aforesaid, such proceedings shall not be commenced, or, if commenced, they shall be dismissed, and the company allowed to resume the transaction of business.

SEC. 70. Whenever, after setting aside a sum equal to the full amount of premiums on outstanding marine risks, together with one-half of all premiums on existing fire and inland risks, the net assets of any insurance company with a specific capital, do not amount to more than three-fourths of its capital stock, the company shall, by assessing the stock, restore its capital to the legal amount. Shares on which such assessment is not paid within sixty days after demand upon the owner thereof, shall be forfeited, and ordered by a vote of the directors to be sold at public auction, and seven days' notice of the sale shall be given in some daily or weekly paper published in the place where such company is located; and the proceeds of sale, after deducting expenses and the assessments due on such shares, shall be paid to the owner or his representative; *provided*, that whenever the capital stock of any insurance company is impaired as aforesaid, it may, by a majority vote of the stock, at a meeting of the stockholders legally called, reduce its capital by canceling its shares pro rata to the number thereof, or it may reduce the par value of its shares, or such company may thus reduce its capital stock and also assess as hereinbefore provided; but no such company shall reduce its capital stock, as aforesaid, more than twenty per cent thereof, nor to a sum less than one hundred thousand dollars.

SEC. 71. Any insurance company incorporated in the state, having a specific capital, which does not within three months after receiving notice from the insurance commissioner that its capital is thus impaired, satisfy him that it has fully complied with the law relating thereto, shall be proceeded against according to section sixty-eight.

SEC. 72. Receivers appointed under this chapter, shall have the same power and rights of action, and the course of proceedings so far as applicable shall be the same, as is prescribed for receivers of savings banks.

—proceedings thereon.
R. S., c. 49, § 67.
89 Me., 413.

—clerk's fees, how paid.

Proceedings for appointment of receiver.
R. S., c. 49, § 68.

—right of insolvent company to do business suspended.
See § 89.

—if solvent, proceedings dismissed.

Capital stock shall be restored by assessment.
R.S., c. 49, § 69.

—shares shall be sold for non-payment of assessments.

—notice of sale.

—proceeds of sale.

—proviso.

—capital stock may be reduced.

Proceedings for non-compliance.
R. S., c. 49, § 70.

Receivers.
R. S., c. 49, § 83.

CHAP. 49.

Annual statement of condition.
R. S., c. 49, § 77.
1901, c. 218.

—penalty for neglect.
See c. 8.
§§ 47, 50.

Commissioner to preserve statements.
R. S., c. 49, § 80.

—to make annual report and publish condition of companies.

Fines, how recovered.
R. S., c. 49, § 84.
1887, c. 109, § 3.

—prosecutions, how commenced.
1891, c. 92.

SEC. 73. Every insurance company, doing business in the state, shall annually, by the thirty-first day of January, render to the commissioner either an exact statement, under oath, of its condition as it existed on the thirty-first day of the previous December, or its last exhibit, setting forth its condition as required by blanks furnished by the commissioner, and any company, association or society which neglects or refuses to comply with the provisions of this section, or to file its premium tax return, or to pay the tax for which it shall be liable, as required by the laws of this state, forfeits five dollars a day for each day's neglect, *provided*, that for good cause shown, the commissioner may extend the time within which the statement required by this section may be filed, to a date not later than the fifteenth day of February.

SEC. 74. The commissioner shall preserve in a proper form, the statement of the condition of every company examined or caused to be examined by him, and all statements rendered to him as herein required; and shall annually report to the governor and council, and at once publish the general condition of all insurance companies doing business in the state, and such suggestions as he thinks proper in connection therewith, and shall prepare and publish as aforesaid an abstract of all returns and statements made to him by such companies.

SEC. 75. Penalties for violation of any law of the state relating to insurance may be recovered in an action of debt in the name and to the use of the state, or enforced by indictment. The county attorney for the county where the penalties are incurred shall prosecute therefor at the direction of the insurance commissioner, or may prosecute therefor on complaint made to him by any citizen, and he shall be entitled to taxable costs in the enforcement of this statute. Prosecutions may be commenced by complaint and warrant before any municipal or police judge or trial justice, as in the case of other offenses not within the final jurisdiction of such judge or justice, as provided in section five of chapter one hundred and thirty-three.

INQUESTS INTO INSURANCE FRAUDS.

Investigation of insurance frauds, on application of an officer of any insurance company.
R. S., c. 49, § 85.

SEC. 76. On application in writing to the commissioner by an officer of any insurance company doing business in the state, stating that he has reason to believe and does believe that any person has, by false representations, procured from said company an insurance, or that the company has sustained a loss by the fraudulent act of the insured, or with his knowledge or consent, and requesting an investigation thereof, said commissioner, or his deputy or such magistrate as he appoints, 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 company making such application.

FOREIGN INSURANCE COMPANIES.

Definition of "domestic" and "foreign."
R. S., c. 49, § 86.

SEC. 77. The word "domestic," when used in this chapter, means companies incorporated by this state; and the word "foreign," means companies not so incorporated.

Capital required.
R. S., c. 49, § 87.
1887, c. 109, § 4.
1889, c. 222.
67 Me., 183

SEC. 78. No foreign fire or marine insurance company shall be admitted to do business in the state unless it has a bona fide, paid up, unimpaired capital, if a stock company, of at least two hundred thousand dollars, well

invested in or secured by real estate, bonds, stock or securities other than names alone, or if a mutual company net cash assets to the amount aforesaid; and no foreign life, casualty, health or livestock insurance company shall be so admitted unless it has a bona fide, paid up, unimpaired capital, if a stock company, of at least one hundred thousand dollars, well invested in or secured by real estate, bonds, stocks or securities other than names alone; or if a mutual company, net cash assets to the amount aforesaid.

SEC. 79. No foreign insurance company shall transact any insurance business in the state, unless it first obtains a license from the commissioner. Before receiving such license, it shall furnish the commissioner with,

I. A certified copy of its charter and by-laws.

II. A statement, under oath, signed by its president or secretary, showing its financial condition according to a form supplied by the commissioner.

III. A power of attorney appointing the insurance commissioner of Maine, to be the true and lawful attorney of such company in and for this state, upon whom all lawful process in an action or proceeding against the company may be served with the same effect as if the company existed in this state. Said power of attorney shall stipulate and agree on the part of the company, that any lawful process against the company which is served on said attorney shall be the same in legal force and validity as if served on the company, and that the authority shall continue in force irrevocable so long as any liability remains outstanding against the company in this state. A certificate of such appointment, duly certified and authenticated shall be filed in the office of said commissioner and copies certified by him shall be received in evidence in all courts of this state. Upon receiving the papers herein enumerated the commissioner may, if he deems it advisable, grant a license authorizing the company to do insurance business in this state by constituted agents resident therein subject to its laws, until the first day of the next July, and annually thereafter such license may be renewed so long as he regards the company as responsible and safe, but in all cases to terminate on the first day of the succeeding July.

SEC. 80. Foreign insurance companies incorporated or associated under the laws of any government or state, other than the United States, or one of the United States, shall not be licensed to do business in this state, until, beside complying with the provisions of law relating to the admission of companies of other states, it has made a deposit with the treasurer of this state or with the financial officer or insurance commissioner of some one of the other states of the United States, of a sum not less than the capital or assets required of like companies organized under the laws of other states to entitle them to admission to this state. Such deposit must be in exclusive trust for the benefit and security of all the company's policyholders and creditors in the United States, and may be in securities under the same restrictions as the investments of companies of other states.

SEC. 81. All real estate, securities and assets of any such company in the United States shall be held by trustees who are citizens thereof, for the benefit of all its creditors in the United States. These trustees shall be appointed by such company, and a certified copy of the vote by which they are appointed, and of the deed of trust shall be filed in the office of the insurance commissioner, and he may examine such trustees or the agents of such company under oath, and its assets, books and accounts in the

—foreign life, casualty, health or livestock insurance companies, capital required.

Foreign insurance company shall obtain license.

—requirements before license granted.
R. S., c. 49, § 72.
1895, c. 95.
70 Me., 544.
80 Me., 288.
88 Me., 105.

—license may be renewed annually.
See c. 117, § 17.

Insurance companies of foreign countries, before doing business in the state, shall make a deposit.
1893, c. 147, § 1.

—shall be in trust for benefit of policyholders in the United States.

All real estate and securities of such companies shall be held by trustees.
1899, c. 147, § 2.
—insurance commissioner may examine books and accounts.

CHAP. 49.

Licenses to such companies. 1893, c. 147, § 3. See c. 117, § 17.

Reciprocal provisions as to foreign companies. 1901, c. 155.

Commissioner may revoke license for violation of law. 1891, c. 112, § 4. 1897, c. 256.

Insurance commissioner may examine foreign insurance companies. R. S., c. 49, § 78.

—may employ assistants.

—proviso.

He may examine books, papers and officers. R. S., c. 49, § 79.

—penalty, if company refuses to submit.

Suspension of foreign companies. R. S., c. 49, § 75. 80 Me., 290.

—penalty.

Receivers of foreign companies, appointment, powers. R. S., c. 49, § 76.

same manner as he may examine the officers, agents, books and accounts of any company authorized to do insurance business in the state.

SEC. 82. When such foreign insurance company shall have complied with the foregoing provisions, and the insurance commissioner is satisfied that it is solvent in the United States, he may issue to it a license to transact business in this state and may renew the licenses of the company and agents on the first day of July, annually, so long as he finds the company solvent.

SEC. 83. When by the laws of any other state or country, any fines, penalties, licenses, fees, deposits or other obligations or prohibitions additional to or in excess of those imposed by the laws of this state upon foreign insurance companies and their agents are imposed on insurance companies of this state and their agents, the same fines, licenses, fees, deposits, obligations or prohibitions shall be imposed upon all insurance companies of such state or country and their agents doing business in or applying for admission to this state.

SEC. 84. The insurance commissioner may revoke the license of any foreign insurance company authorized to do business in the state that shall neglect or refuse to comply with the laws thereof, or that shall violate any of the provisions of sections seventy-nine and ninety-six of this chapter.

SEC. 85. The insurance commissioner, whenever he deems it necessary for the protection of policy-holders, shall visit and examine any insurance company, doing business by agencies in this state, but not incorporated therein. He may employ necessary assistants; all requisite expenses for such examination without the state, shall be borne by the company so examined; *provided*, that in relation to the affairs of any company incorporated by or organized under the laws of any of the United States, it shall be optional with said commissioner to accept the certificate of the insurance commissioner or superintendent of the state where said company was organized, as to its standing and condition, or to proceed to investigate its affairs as hereinbefore provided.

SEC. 86. For the purposes aforesaid, the commissioner, or any person whom he may empower, shall have free access to all the books and papers of any insurance company doing business in the state, and may examine under oath its officers or agents relative to its business and condition. If any such company, its officers or agents, refuse to submit to such examination, or to comply with any provision of this chapter in relation thereto, the authority of such company to do business in the state shall be revoked until satisfactory proof is furnished to the commissioner that the company is in a sound and solvent condition.

SEC. 87. When the commissioner thinks that any licensed foreign insurance company is in failing condition or unsafe, he may suspend its right to do business in this state until such disability is removed. And if the company or any of its agents, after such suspension and notice thereof to such agent, or the injunction mentioned in section sixty-eight, issues any new policies, such agent or company forfeits not exceeding two hundred dollars. And to enable the commissioner to act in the premises, he may require of such company a full statement of all its affairs bearing upon its responsibility, in the form prescribed by him.

SEC. 88. When a foreign insurance company doing business in this state is dissolved, restrained or prohibited from doing business in the place where it is incorporated, and when under the preceding section the commissioner regards the proceedings advisable, he may apply to the supreme

judicial court, or any justice thereof, either in term time or vacation, setting forth the facts, and thereupon the court or justice may appoint a receiver or receivers, to take possession of the assets of the company in this state, and collect, sell or dispose of the same as the court or justice may decree, and divide the proceeds pro rata among such creditors in this state, as prove their claims before said court or justice before the dividend is made; and the balance, if any, shall be paid to the company or its assigns. The proceedings herein provided for, shall conform to section sixty-eight. The receivers may maintain an action for any such assets in their own names as receivers, subject to all equities existing between the original or previous parties.

SEC. 89. When the commissioner learns that the net cash funds of any foreign life insurance company doing business in this state, are not equal to its liabilities, including the net value of its policies according to the combined experience or actuaries' table of mortality, with interest at four per cent a year, he shall give notice to such company and its agents, to cease issuing policies within the state. He may buy and use the life valuation tables adopted by the insurance department of Massachusetts, for all purposes of valuation. When he is satisfied that the funds of such company have become equal to its liabilities, valuing its policies as aforesaid, he shall give notice to such company and agents that its business may be resumed. If any officer or agent, after such notice of suspension is given, issues any new policy in behalf of such company, he forfeits for each offense not exceeding three hundred dollars; and the delivery of a policy in the state by mail or otherwise shall be deemed an issuing of such policy.

SEC. 90. When the commissioner suspends the operations of a company, or, on application, refuses to countermand such suspension, it may appeal to a justice of the supreme judicial court, by presenting to him a petition therefor in term time or vacation, and he shall fix a time and place of hearing which may be at chambers and in vacation, and cause notice thereof to be given to the commissioner; and after the hearing, he may affirm or reverse the decision of the commissioner; and the decision of such justice is final.

SEC. 91. Every foreign insurance company, life excepted, doing business in the state, shall annually, before the first day of May, publish three weeks successively, in some daily or weekly paper printed in every county where it has a duly authorized agent, or issues policies, a condensed statement of its condition conformable to its last annual report to the commissioner, and any such insurance company which neglects or refuses to publish such statement, forfeits not less than fifty dollars.

SEC. 92. Any person having a claim against any foreign insurance company, may bring a trustee action or any other appropriate suit therefor in the courts of this state. Service made upon the insurance commissioner or upon any duly appointed agent of the company within the state shall be deemed sufficient service upon the company, and the judgment rendered therein shall bind the company as valid in every respect, whether the defendants appear or not. Unless such judgment is paid within thirty days after demand, the commissioner may on notice and hearing of the parties, suspend the power of the company to do business in this state until it is paid, and if the company or any agent thereof issues any policy in the state during such suspension, said company and agent each forfeits not exceeding two hundred dollars; but any policy so issued is binding on the company in favor of the holder. Whenever lawful pro-

Commissioner may suspend any insolvent foreign life insurance company.
R. S., c. 49, § 81.

—how it may resume business.

—penalty for issuing policies afterwards.

Appeal by suspended company.
R. S., c. 49, § 82.

Foreign insurance companies, life excepted, to publish annual statement of condition.
R. S., c. 49, § 88.
1895, c. 95.
—penalty.

Suits against foreign insurance companies, how brought.
R. S., c. 49, § 89.
1895, c. 95.
See c. 83, § 22.

—judgment binds company.

—suspension unless judgment is paid within thirty days.

—commissioner shall no-

CHAP. 49.

tify company
of service.
56 Me., 420, 479.
69 Me., 411.
72 Me., 310.

Notices and
processes,
how served.
R. S., c. 49, § 90.
See § 22.

—company
bound by
agent's
knowledge
of risk.

Jurisdiction
of courts in
actions
against for-
eign insur-
ance com-
panies.
1893, c. 150.
1887, c. 109, § 4.

Time within
which notice
of accident,
injury or
death may be
given, fixed at
not less
than thirty
days.
1895, c. 46.
89 Me., 99.
90 Me., 185.

Licenses to
agents.
R. S., c. 49, § 73.
1891, c. 112, § 5.
1895, c. 95.
1897, c. 256.
61 Me., 335.
70 Me., 544.
80 Me., 288.
81 Me., 508, 510.
88 Me., 105.
95 Me., 36.

—penalty.
See c. 8, § 51.

—policy issued
without li-
cense, valid.

cess against an insurance company shall be served on the insurance commissioner, he shall forthwith notify the company of such service by letter and within a reasonable time forward a copy of the process served on him, by mail, postpaid, and directed to the officers of the company.

SEC. 93. All notices and processes which, under any law, by-law or provision of a policy, any person has occasion to give or serve on any such company, may be given to or served on its agent, or on the commissioner, as provided in the preceding section, with like effect as if given or served on the principal. Such agents and the agents of all domestic companies shall be regarded as in the place of the company in all respects regarding any insurance effected by them. The company is bound by their knowledge of the risk and of all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known by the company, and waived by it as if noted in the policy. (a)

SEC. 94. No conditions, stipulations or agreements, shall deprive the courts of this state of jurisdiction of actions against foreign insurance companies or associations, nor limit the time for commencing actions against such companies or associations to a period of less than two years from the time when the cause of action accrues.

SEC. 95. No conditions, stipulations or agreements contained in any application for insurance in any foreign or domestic casualty or accident insurance company, or contained in any policy issued by any such company, or in any way made by any such company, limiting the time within which notice of the accident or injury, or death, shall be given to such company, to a period of less than thirty days after the happening of the accident or injury, or death, shall be valid. Said notice may be given to the company insuring, at any time within thirty days after the happening of the accident or injury, or death, and shall be valid and binding on the company.

Note. Railroad companies have insurable interest in property along route, c. 52, § 73.
As to insurance of church in actual occupancy of parish, c. 16, § 13.
Foreign insurance companies have benefit of statute limitations under certain circumstances, c. 83, § 107.
Penalty for burning property with intent to defraud the insurer, c. 127, § 18.

INSURANCE AGENTS AND BROKERS.

SEC. 96. The insurance commissioner may issue a license to any person to act as an agent of a domestic insurance company, or of any steam boiler insurance company authorized to do business in the state, upon his filing with the commissioner a certificate from the company or association, or its authorized agent, empowering him so to act; and to any resident of the state to act as an agent of any foreign insurance company, which has received a license to do business in the state as provided in section seventy-nine upon his filing such certificate. Such license shall continue until the first day of the next July. If any person solicits, receives or forwards any risk or application for insurance to any company, without first receiving such license, or fraudulently assumes to be an agent and thus procures risks and receives money for premiums, he forfeits not more than fifty dollars for each offense; but any policy issued on such application binds the company if otherwise valid. Agents of duly authorized insurance companies may place risks with agents of other duly authorized companies when necessary for the adequate insurance of property, persons or

(a) 69 Me., 411; 72 Me., 310; 81 Me., 248; 87 Me., 382; 88 Me., 107; 89 Me., 271, 275; 92 Me., 277.

interests. An insurance agent shall be personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for or in behalf of any company not authorized to do business in the state. Nothing herein contained shall require a duly licensed insurance agent or broker to obtain any license for an employee doing only clerical office work in the office of said agent or broker.

—agent personally liable for unlawful contracts.

SEC. 97. The insurance commissioner may license any person as broker to negotiate contracts of insurance for others than himself for a compensation, by virtue of which license he may effect insurance with any domestic company or its agents; or any resident of the state to negotiate such contracts and effect insurance with the agents of any foreign company who have been licensed to do business in this state as provided in sections seventy-nine and ninety-six, but with no others; said license shall remain in force one year unless revoked as hereinafter provided. Whoever, without such license, assumes to act as such broker, shall be punished by a fine not exceeding fifty dollars, or by imprisonment not more than sixty days for each offense. The insurance commissioner, after reasonable notice, may revoke the license of any agent or broker for violation of the insurance laws; or the license of any agent upon receipt of written request therefor from the company filed in the office of said commissioner.

Commissioner may license insurance brokers. R. S., c. 49, § 74. 1897, c. 256. See c. 117, § 17. 81 Me., 509. 88 Me., 105.

—penalty, for acting without license.

—may revoke license for cause or upon request of company.

SEC. 98. The insurance commissioner may issue licenses to firms and corporations in the manner provided in the two preceding sections, authorizing said firms and corporations to act as insurance agents and brokers. The application for said license shall, in case of a firm, give the name of the firm by which the business is to be transacted, and the name and residence of each individual member thereof, and in case of a corporation, the corporate name in which the business is to be transacted, and the name and residence of each officer or member of such corporation authorized to transact business therefor; the license issued to such firm shall give the firm name, and the name of each individual member thereof, and the license issued to such corporation shall give the corporate name, and the name of each officer or member thereof authorized to transact business therefor under such license, and such licenses shall authorize the persons named therein to transact business for and in the name of the firm or corporation only.

Firms and corporations may be licensed as insurance agents and brokers. 1901, c. 184.

See c. 117, § 17.

SEC. 99. The insurance commissioner may annually issue licenses to citizens of this state, already agents of one or more duly authorized fire insurance companies, subject to revocation at any time, permitting the person named therein to procure policies of fire insurance on property in this state in foreign insurance companies not authorized to transact business in this state. Before the person named in such a license shall procure any insurance in such companies on any property in this state he shall in every case, execute and file with the insurance commissioner an affidavit that he is unable to procure, in companies admitted to do business in the state, the amount of insurance necessary to protect said property, and shall only procure insurance under such license after he has procured insurance in companies admitted to do business in this state, to the full amount which said companies are willing to write on said property; *provided*, that such licensed person shall not be required to offer any portion of such insurance to any company which is not possessed of cash assets amounting to at least twenty-five thousand dollars, or one which has, within the preceding twelve months, been in an impaired condition. Each person so licensed shall keep

Insurance commissioner may issue licenses to special insurance brokers. 1895, c. 76, § 1. See c. 117, § 17.

—conditions upon which insurance may be procured.

CHAP. 49.

—licensees shall keep account of business done and report to commissioner.

—shall give bond.

Penalty for violation of § 99. 1895, c. 76, § 2.

a separate account of the business done under the license, a certified copy of which account he shall forthwith file with the insurance commissioner, showing the exact amount of such insurance placed for any person, firm or corporation, the gross premium charged thereon, the companies in which the same is placed, the date of the policies and the term thereof, and also a report in the same detail of all such policies canceled, and the gross return premiums thereon, and before receiving such license shall execute and deliver to the treasurer of state a bond in the penal sum of five hundred dollars, with such sureties as the treasurer shall approve, with a condition that the licensee will faithfully comply with all the requirements of this section, and will file with the treasurer of state, in January of each year, a sworn statement of the gross premiums charged for insurance procured or placed and the gross returned premiums on such insurance canceled under such license during the year ending on the thirty-first day of December next preceding, and at the time of filing such statement will pay into the treasury of state a sum equal to two per cent of such gross premiums, less such returned premiums so reported.

SEC. 100. Any person thus licensed, who shall procure or act in procurement or negotiation of insurance in any unauthorized foreign company, and shall neglect to make and file the statements and affidavits herein required, or shall wilfully make a false affidavit or statement, shall forfeit his license and be punished by a fine not exceeding one hundred dollars, or by imprisonment not more than sixty days; and whoever without such license, assumes to act as a special insurance broker, shall incur like punishment.

LIFE INSURANCE.

Life policies issued after March 31, 1877, forfeited for non-payment of premiums, after being in force three years and containing no surrender provision, how far continued in force. R. S., c. 49, § 91. 1887, c. 71, § 1.

—how net value of policy shall be ascertained.

—what deductions to be made.

SEC. 101. Every life insurance policy issued after March thirty-one, eighteen hundred and seventy-seven, by any company chartered by this state, which may be forfeited for non-payment of premiums, including all notes given for premiums or loans, or interest thereon, after it has been in force three full years, and which does not provide for a surrender value, at least equivalent to the value arising under the terms of this and the following section, is nevertheless continued in force to an extent, and for a period to be determined as follows, to wit: the net value of the policy, when the premium becomes due and is not paid, shall be ascertained according to the combined experience or actuaries' table of mortality, with interest at the rate of four per cent a year; from such net value, there shall be deducted the present value of the differences between the future premiums named in the policy, and the future net premiums on said policy, ascertained according to the rates of mortality and interest aforesaid, in no event, however, to exceed one-fourth of said net value, and in ascertaining said net value, when the premium is payable semi-annually or quarterly, there shall be deducted from the net value of the policy, assuming net annual premiums, the net premiums for the unpaid semi-annual or quarterly instalments for that year which shall not be considered an indebtedness, but as forborne premiums; what remains, after deducting any indebtedness to the company on account of the policy, or notes held by the company against the insured, which notes shall be canceled, shall be considered as a net single premium of temporary insurance, and the term for which it will insure shall be determined according to the age of the party at the time of the lapse of the policy, and the assumptions of mortality and interest aforesaid; but if the policy is an

endowment, payable at a time certain, or at death if it should previously occur, then, if what remains as aforesaid, exceeds the single net premium of temporary insurance for the balance of the endowment term for the full amount of the policy, such excess shall be considered a net single premium for simple endowment, payable only at the same time as the original endowment, and in case the insured survives to that time; and the amount thus payable by the company shall be determined according to the age of the party at the time of the lapse of the policy, and the assumptions of mortality and interest aforesaid.

SEC. 102. If the death of the insured occurs within the term of temporary insurance covered by the value of the policy as determined in the preceding section, and if no condition of the insurance other than the payment of premiums, has been violated by the insured, the company shall pay the amount of the policy, as if there had been no lapse of the premium, anything in the policy to the contrary notwithstanding; *provided, however*, that notice of the claim and proof of the death shall be submitted to the company in the manner provided by the terms of the policy, within one year after the death; *provided, also*, that the company may deduct from the amount insured in the policy the amount compounded at seven per cent a year of the ordinary life premiums at age of issue, that had been foreborne at the time of the death, including the whole year's premium in which the death occurs, not exceeding five in number. But any such company may issue to a resident of any other state or country, a policy conforming to the laws of such state or country, and not subject to this and the preceding section.

SEC. 103. No life insurance company organized or incorporated under the laws of this state, shall reinsure its risks except by permission of the insurance commissioner; but nothing in this chapter shall be construed to prevent any life insurance company from reinsuring a fractional part, not exceeding one-half of any individual risk.

SEC. 104. No life insurance company doing business in this state, shall make or permit any distinction or discrimination in favor of individuals between insurants of the same class and expectation of life, in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts which it makes. Nor shall any such company or any agent, sub-agent, broker or any other person, make any contract of insurance or agreement as to such contract, other than as plainly expressed in the policy issued thereon. Nor shall any such company or agent, sub-agent, broker or any other person, pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy; or any special favor or advantage in the dividends or other benefit to accrue thereon; or any valuable consideration or inducement whatever, not specified in the policy contract of insurance.

SEC. 105. Any person or corporation violating any provision of the preceding section shall be fined not more than two hundred dollars; and the insurance commissioner shall, on the conviction of any person acting as such agent, sub-agent or broker, at once revoke the certificate of authority issued to him for the term of one year.

SEC. 106. Life and accident policies, and the money due thereon are exempt from attachment, and from all claims of creditors, during the life of the insured, when the annual cash premium paid does not exceed one hundred and fifty dollars; but when it exceeds that sum, and the premium

In case of death during term of temporary insurance, company to pay amount of policy.
R. S., c. 49, § 92.
1887, c. 71, § 2.

—proviso.

—policy may be issued to resident of another state or country, not subject to this, and preceding section.

Reinsurance of risks.
R. S., c. 49, § 93.

Discrimination in life or endowment insurance policies, prohibited.
1891, c. 128, § 1
83 Me., 265.

Penalty.
1891, c. 128, § 2.

Policies are exempt from attachment.
R. S., c. 49, § 94.
See c. 77, § 19.

CHAP. 49.

—lien of creditor.
87 Me., 70.
90 Me., 39.
97 Me., 441.

was paid by the debtor, his creditors have a lien on the policies for such sum over one hundred and fifty dollars a year, as the debtor has paid for two years, subject to any pledge or assignment thereof made in good faith.

ANNUITY COMPANIES.

Annuity companies made subject to law relating to life insurance. 1893, c. 55.

SEC. 107. All corporations, whether incorporated in this state or elsewhere, which issue contracts whereby such corporations, in consideration of a premium to be paid annually or otherwise, agree to pay an annuity commencing in the future, or a sum fixed or to be ascertained by given methods, are hereby made subject, in relation to doing business in this state, to all the provisions of law relating to life insurance, except so far as relates to taxation.

FOREIGN SURETY COMPANIES.

CREDIT INSURANCE AND TITLE INSURANCE.

Foreign surety companies may do business in this state. 1885, c. 284, § 1.

—credit and title insurance. 1893, c. 161, § 2.

Insurance commissioner shall first be appointed attorney, upon whom process may be served. 1885, c. 284, § 2.

—service of process on, valid, as if served on company.

—certificate of appointment to be filed with commissioner.

Copy of all processes to be forwarded to secretary of company. 1885, c. 284, § 3. See c. 117, § 17.

No person shall act as agent, unless company has \$250,000 capital paid up. 1893, c. 161, § 1. 1885, c. 284, § 8.

SEC. 108. Any company, incorporated and legally organized under the laws of any foreign country, or of any state of the United States, other than the State of Maine, for the purpose of transacting business as surety on obligations of persons or corporations, or the business of credit insurance or title insurance, may transact such business in this state upon complying with the provisions of the eleven following sections, and not otherwise.

SEC. 109. No such company not incorporated under the authority of this state shall, directly or indirectly, take risks or transact business in this state until it shall have first appointed, in writing, the insurance commissioner of Maine to be the true and lawful attorney of such company in and for this state, upon whom all lawful process, in any action or proceeding against the company, may be served with the same effect as if the company existed in this state. Said power of attorney shall stipulate and agree on the part of the company that any lawful process against the company which is served on said attorney shall be of the same legal force and validity as if served on the company, and that the authority shall continue in force so long as any liability remains outstanding against the company in this state. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the said insurance commissioner, and copies certified by him shall be received in evidence in all the courts of this state. Service upon such attorney, or upon any duly appointed agent of the company within this state, shall be deemed sufficient service upon the company.

SEC. 110. Whenever lawful process against such company shall be served upon said insurance commissioner, he shall forthwith forward a copy of the process served on him, by mail, postpaid, and directed to the secretary of the company.

SEC. 111. No person shall act within this state, as agent or otherwise, in procuring or securing applications for suretyship upon the bond of any person or corporation, or for credit insurance or title insurance, or aid in transacting the business of such suretyship or insurance, for any company incorporated or organized, under the laws of any other state or country, unless such company is possessed of two hundred and fifty thousand dollars, paid up, unimpaired capital, exclusive of any obligations of the stockholders of any description, well invested in or well secured by real estate,

bonds, stocks or securities other than names alone, or if a mutual company, net cash assets of the amount aforesaid.

SEC. 112. Every person who shall so far represent any such company established in any other state or country, as to receive or transmit applications for suretyship or insurance, or to receive for delivery, bonds or policies founded on applications forwarded from this state, or otherwise to procure suretyship to be effected by such company upon the bonds of persons or corporations in this state, or upon bonds given to persons or corporations in this state, or otherwise to procure such insurance in the state, shall be deemed to be acting as agent for said company, and shall be subject to the restrictions and liable to the penalties herein made applicable to agents of such companies.

Who shall be deemed agents. 1885, c. 284, § 5.

—liabilities of.

SEC. 113. Every such company, before transacting any business as aforesaid, shall deposit with the insurance commissioner a copy of its charter, and also a statement, signed and sworn to by the president and secretary of the company, stating the amount of its capital and the manner of its investments, designating the amount invested in mortgage, in public securities, in the stock of incorporated companies, stating what companies, and also the amount invested in other securities, particularizing each item of investment, the amount of existing policies issued by said company, or of existing bonds upon which such company is surety, stating what portion thereof is secured by the deposit with such company of collateral security, the amount of premium thereon, and the amount of liabilities, specifying therein the amount of outstanding claims adjusted or unadjusted, due or not due; and thereupon said commissioner may grant a license, authorizing said company to transact surety business or the business of credit insurance or title insurance in this state subject to its laws, until the first day of July next following, and such license may be renewed annually thereafter.

Copy of charter and statement of capital to be deposited with commissioner. 1885, c. 284, § 6.

—licenses.

SEC. 114. Every such company shall, in the month of January, annually, also deposit with the said insurance commissioner a similar statement of its capital, assets and liabilities, and the investments and risks as aforesaid, to be made up to the thirty-first day of December next preceding, signed and sworn to as above directed, and the insurance commissioner, in his annual report, shall publish an abstract thereof.

Annual statement to be deposited with commissioner. 1885, c. 284, § 7.

SEC. 115. No person shall act as agent of any such company until such company and such agent shall have complied with all the requirements of the laws of the state, relating to such companies and their agents, and every person acting without such compliance shall be fined one hundred dollars.

Agents not to act until requirements of law have been complied with. 1885, c. 284, § 9. —penalty.

SEC. 116. The insurance commissioner shall annually examine the statements and returns required to be made by the companies as aforesaid, and if in his opinion any return shall be obscure, defective or unsatisfactory, he shall immediately require answers under oath from the officer or officers by whom such obscure, defective or unsatisfactory return shall have been made, to such interrogatories as he may deem necessary or proper in order to explain such return and exhibit a full and accurate view of the business and resources of the company. Every company, the officers of which shall refuse or neglect to answer such interrogatories for the space of thirty days, may be suspended from transacting business in this state until satisfactory answers are made by them.

If annual returns are obscure or defective, commissioner may require answers under oath. 1885, c. 284, § 10.

—penalty for refusing to answer. 1885, c. 284, § 11.

SEC. 117. The insurance commissioner, either personally, or by a committee appointed by him, consisting of one or more persons not directors,

Examination of such companies. 1885, c. 284, § 12.

CHAP. 49.

officers or agents of any such company doing business in this state, may at any time examine into the affairs of such companies. The officers or agents of such companies shall exhibit their books to said commissioner or committee, and otherwise facilitate such examination, and the commissioner or committee may examine, under oath, the officers and agents of such companies in relation to their affairs; and said commissioner shall, if he deems it necessary or proper, publish the result of such investigation in one or more newspapers published in the state. Whenever it shall appear to the said commissioner, from the statement or from an examination of the affairs of any such company, not incorporated under the authority of this state, that such company is insolvent, or is conducting its business fraudulently, or refuses or neglects to comply with the laws of the state, relating to such companies, he shall revoke the license issued to such company and its agents, and shall cause a notice thereof to be published in one or more newspapers published in this state, and the agent or agents of such company, after such notice, shall transact no further business in this state. All the expenses of an examination made under the provisions of this section shall be paid to the commissioner by the company examined.

—commissioner may publish result of investigation.

—may revoke licenses.

—expenses of examination how paid.

Violations shall be reported to attorney general.
1885, c. 284, § 13.

Any company organized for such purposes with sufficient capital, may be accepted as surety on bonds required by law.
1885, c. 283, § 1.

SEC. 118. The insurance commissioner shall report to the attorney general any violation of the provisions of law relating to such companies, which shall come to his knowledge, and the attorney general shall institute proper legal proceedings in the name of the state, against any person or company violating any such provision.

SEC. 119. Any company with a paid up capital of not less than two hundred and fifty thousand dollars, duly incorporated and organized for the purpose of transacting business as surety on obligations of persons or corporations, and which has complied with all the requirements of the law regulating the admission of such companies to transact business in the state, may, upon production of evidence of solvency and credit satisfactory to the judge, head of department or other officer authorized to approve such bond, be accepted as surety upon the bond of any person or corporation required by the laws of the state to execute a bond, and if such surety company shall furnish satisfactory evidence of its ability to provide all the security required by law, no additional surety may be exacted, but other surety or sureties may, in the discretion of the official authorized to approve such bond, be required, and such surety company may be released from its liability on the same terms and conditions as are by law prescribed for the release of individuals, it being the true intent and meaning of this section to enable corporations created for that purpose to become surety on bonds required by law, subject to all the rights and liabilities of private individuals.

Expenses of procuring surety, how paid.
1885, c. 283, § 2.

SEC. 120. Any court or officer whose duty it is to pass upon the account of any person or corporation required by law to give a bond, may, whenever such person or corporation has given any such surety company as surety upon said bond, allow in the settlement of such account a reasonable sum for the expense of procuring such surety.

Company estopped to deny corporate power.
1885, c. 283, § 3.

SEC. 121. Any company which shall execute any bond as surety under the provisions of section one hundred and nineteen shall be estopped, in any proceedings to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute such instrument or assume such liability.

CASUALTY INSURANCE ON ASSESSMENT PLAN.

SEC. 122. Every contract whereby a benefit is to accrue to the party or parties named therein upon the accidental death only, or the physical disability from accident or sickness of a person, which benefit is in any degree or manner conditioned upon the collection of an assessment upon persons holding similar contracts, shall be deemed a contract of casualty insurance on the assessment plan, and the business involving the issuance of such contracts shall be carried on in this state only by duly organized corporations, which shall be subject to the provisions and requirements of this and the eleven following sections; but nothing therein contained shall be construed as applicable to fraternal beneficiary associations conducting their business in accordance with the laws of this state.

Definition of contract.
1889, c. 237, § 1.
1901, c. 219.

—business shall be carried on only by duly organized corporations.

SEC. 123. Seven or more persons, citizens of this state, may form a corporation to carry on the business of casualty insurance on the assessment plan. Such corporations shall be organized, and the proceedings thereunder shall conform to sections one, two and three of chapter fifty-seven; but no such corporation shall begin to do business until at least five hundred persons have subscribed, in writing, to be insured therein, and have each paid in one full disability assessment, which shall be deposited in the state treasury on emergency or reserve fund account, to be held in trust for the benefit of the beneficiaries as provided in section one hundred and twenty-six, nor until said corporation has filed with the insurance commissioner a certified copy of the record of its organization and by-laws, which has been approved by him; nor until the insurance commissioner has certified that it has complied with the provisions of this chapter relating to insurance on the assessment plan and is authorized to transact business. No organization under the provisions of this section shall continue valid more than one year unless the organization has been completed and business begun thereunder.

Formation of corporation to carry on casualty insurance on assessment plan.
1889, c. 237, § 2.
1893, c. 215.
1901, c. 219.

—organizations not valid more than one year, unless business is begun.

SEC. 124. When the insurance commissioner, on investigation, is satisfied that any corporation transacting the business of casualty insurance on the assessment plan in this state under this chapter, has exceeded its powers, failed to comply with any provision of law, or is conducting business fraudulently, he shall report the facts to the attorney general, who shall thereupon apply to a justice of the supreme judicial court for an injunction restraining such corporation from the further prosecution of business; and the said justice upon hearing the matter, may issue such injunction, or decree the removal of any officer, and substitute a suitable person to serve in his stead until a successor is duly chosen, and may make such other order and decrees as the interest of the corporation and the public may require. And whenever any domestic corporation transacting the business of casualty insurance on the assessment plan, shall after an existence of one year or more, have a membership of less than three hundred, the insurance commissioner may present the facts in relation to the same to any justice of the supreme judicial court; the said justice shall thereupon notify the officers of such corporation of a hearing and unless it shall then appear that some special and good reason exists why the corporation should not be closed, some person shall be appointed receiver of such corporation, and shall proceed at once to take possession of the books, papers, moneys and other assets of the corporation, and shall forthwith, under the direction of the court, proceed to close the affairs of such corporation and to distribute to those entitled thereto its funds. For this ser-

Proceedings against corporation conducting business fraudulently, etc.
1889, c. 237, § 4.

—when and how domestic corporation may be closed.
1895, c. 112, § 1.

—receiver.

CHAP. 49.

—receiver,
how paid.

How risks
may be trans-
ferred to, or
reinsured in,
another cor-
poration.
1889, c. 237, § 5.
89 Me., 418.

Reserve fund
shall be de-
posited with
treasurer
of state.
1889, c. 237, § 6.
1893, c. 214, § 1.
1901, c. 219.

—how created.

—investment
of.
See § 11; c. 48,
§ 23.

—part of fund
may be ap-
plied to pay-
ment of
claims.

—proviso.
87 Me., 131.

—insurance
commissioner
shall annually
certify
amount of
fund to be
kept on de-
posit.
86 Me., 232.

—how judg-
ment against
corporation
may be satis-
fied.

—receiver may
be appointed,
when business
is discon-
tinued.

vice the receiver may be allowed out of any funds in possession of the corporation or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the corporation shall be finally closed, the court may decree a dissolution of the same.

SEC. 125. No such corporation organized under the laws of this state shall transfer its risks to or reinsure them in any other corporation, unless the said contract of transfer or reinsurance is first submitted to and approved by a two-thirds vote of those present and voting at a meeting of the insured called to consider the same, of which meeting a written or printed notice shall be mailed to each policy or certificate holder at least ten days before the day fixed for said meeting; and, in case said transfer or reinsurance shall be approved, every policy or certificate holder of the said corporation who shall file with the secretary thereof, within five days after the said meeting, written notice of his preference to be transferred to some other corporation than that named in the contract, shall be accorded all the rights and privileges, if any, in aid of such transfer as would have been accorded under the terms of the said contract had he been transferred to the corporation named therein.

SEC. 126. Any corporation organized under section one hundred and twenty-three, or any corporation of this state doing assessment insurance business under this chapter or its charter, shall keep on deposit with the treasurer of state a reserve fund for the benefit and protection of certificate holders in said corporation; for the creation of which it shall on or before the thirty-first day of December of each year, deposit with said treasurer not less than ten per cent of the total receipts on assessments made to pay indemnity claims during the year then ended, until the reserve fund so accumulated shall amount, together with the amount there deposited prior to March one, eighteen hundred and eighty-nine, to not less than twenty-five thousand dollars. These amounts may be deposited in such interest bearing securities as the governor and council may approve, or in such securities as any insurance company or savings banks may, from time to time, be authorized to hold for purpose of investment. These securities shall be held in trust by the treasurer of state, but the corporation shall have at all times the right to exchange any part of said securities for others of like amount and character. When deemed advisable by a majority of the directors, such a part of the fund as may be considered necessary, may be applied from time to time, to the payment of claims under insurance contracts and the expense necessarily incident thereto, and for no other purpose. *Provided, however,* that said fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members. The insurance commissioner shall annually, in February, certify to the treasurer of state, the minimum amount of reserve fund required to be kept on deposit in the state treasury by each corporation doing business on the assessment plan, under this chapter. If said corporation shall neglect for sixty days to satisfy any judgment against it, in any court in this state, then the said treasurer shall convert into money any of said securities, and forthwith satisfy such judgment, and said corporation shall not transact any further business until said deposit is restored. When any such corporation shall discontinue business, any justice of the supreme judicial court may appoint a receiver or agent to administer any unexhausted portion of such fund which shall be used, less compensation not to exceed five per cent, as such

court or justice may allow the receiver or agent, first, in the payment of accrued indemnity claims upon certificates or policies, or if insufficient to pay such claims in full, they shall be paid, pro rata; second, if a balance remains after the payment of such claims, such balance shall be distributed to the holders of certificates then in force, pro rata, in proportion to the total payments by each policy-holder after first paying all expenses incident to such distribution. If, upon the thirty-first day of December of any year, the reserve fund of any such corporation is found to be less than the amount of one assessment or periodical call upon all the members thereof, said corporation shall, within one year thereafter, collect from its members a sum sufficient to bring said reserve fund up to one assessment or periodical call upon all its members, and deposit the amount with the treasurer of state to the credit of said fund.

SEC. 127. Any corporation organized under authority of another state or government to issue policies or certificates of casualty insurance on the assessment plan, as a condition precedent to the transaction of business in this state, shall deposit with the insurance commissioner a certified copy of its charter; a statement under oath, of its president and secretary, in the form by the insurance commissioner required, of its business for the preceding year; a certificate, under oath, of its president and secretary, that it has the ability to pay and for the twelve months preceding has paid, the maximum amount named in its policies or certificates in full; a certificate from the proper authority in its home state that corporations of this state, engaged according to the provisions of this chapter in casualty insurance on the assessment plan, are legally entitled to do business in such state; a copy of its policy or certificate and application, which must show that benefits are provided for by assessment upon policy or certificate holders; evidence satisfactory to the insurance commissioner that the corporation accumulates a fund, equal at all times in amount to not less than the proceeds of one assessment or periodical call on all policy or certificate holders thereof, that such accumulation is permitted by the law of its incorporation, and is a trust for the benefit of policy or certificate holders, and is securely invested. Every such corporation, and agent of such corporation, shall also comply with the provisions of sections eighty-seven, ninety-six and ninety-seven of this chapter. The insurance commissioner may thereupon issue or renew the authority of such corporation to do business in this state, and such authority to the corporation and its agents shall be revoked whenever the insurance commissioner, on investigation, is satisfied that such corporation is not paying the maximum amount named in its policies or certificates in full, or has violated the provisions of section one hundred and twenty-nine, and the insurance commissioner shall enforce the provisions of section eighty-seven of this chapter. Upon such revocation the commissioner shall cause notice thereof to be published in the state paper, and no new business shall be thereafter done by said corporation or its agents in this state.

SEC. 128. Every call for payments upon the policy or certificate holders of any corporation doing business in this state as a casualty insurance company on the assessment plan, shall distinctly state the purpose of the same, whether for indemnity claims or for expenses, and the proceeds of indemnity calls, less a commission actually paid for collecting the same not exceeding three per cent thereof, shall be used for payment of claims under policy contracts, for investigating and contesting policy claims believed to be fraudulent, and for deposit with the treasurer of state on reserve fund and for no other purpose.

—how fund shall be used.

89 Me., 419.
—how fund may be brought up when less than one assessment on all the members.

Foreign corporations shall deposit certified copy of charter, etc., with commissioner. 1889, c. 237, § 7. 1901, c. 219.

—shall comply with sections 87, 86, 97.

—commissioner may issue authority to corporation to do business.

—may revoke authority. 1899, c. 106, § 3.

—commissioner shall give notice of revocation. See §§ 92, 132.

Calls shall state purpose of same. 1889, c. 237, § 8. 1893, c. 214, § 2. 1901, c. 219.

—application of proceeds.

CHAP. 49.

Policy shall bear on the face the words: "This policy is subject to assessments." 1889, c. 106, § 2.

Benefit or relief not liable to attachment. 1889, c. 237, § 9. See c. 77, § 13.

—beneficiary may be changed.

Penalty for false representation by solicitor, agent or physician. 1889, c. 237, § 10.

Corporations shall report annually. 1889, c. 237, § 11.

—commissioner may examine any such corporations.

Fees for filing statement, etc. 1889, c. 237, § 12. See §§ 83, 132.

Term "beneficiary association" defined. 1901, c. 247, § 1.

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

SEC. 129. In every policy or certificate issued after July one, eighteen hundred and ninety-nine, to a resident of this state by any casualty or accident insurance company doing business on the assessment plan, there shall be printed in bold type, making one of the principal lines near the top thereof, the words, "This policy is subject to assessments," and in or upon every application, circular, card, advertisement and printed document issued by such corporation within the state there shall be printed conspicuously the words "assessment plan."

SEC. 130. The money or other benefit, charity, relief or aid to be paid, provided or rendered by any corporation authorized to do casualty insurance business on the assessment plan under this chapter shall not be liable to attachment by trustee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process, or by operation of law, to pay any debt or liability of a policy or certificate holder, or any beneficiary named therein. The beneficiary named in any certificate may be changed by the insured at any time under such regulations as the corporation may prescribe.

SEC. 131. Any solicitor, agent or examining physician who 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, in any corporation transacting business on the assessment plan under this chapter, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year.

SEC. 132. Every corporation doing business on the assessment plan under this chapter, or its charter, shall annually, on or before the thirty-first day of January, return to the insurance commissioner, in such manner and form as he shall prescribe, a statement of its affairs for the year ending on the preceding thirty-first day of December, and the said commissioner, in person or by deputy, shall have the powers of visitation of and examination into the affairs of any such corporation, which are conferred upon him in the case of life insurance companies, by this chapter; but such corporation doing business under this chapter, shall not be subject to any other provisions or requirements of this chapter, except as set forth in sections eighty-three, ninety-two to ninety-five inclusive and in sections one hundred and twenty-two to one hundred and thirty-three, inclusive.

SEC. 133. The fees for filing statements, certificates or other documents required of such companies or for any service or act of the insurance commissioner, and the penalties for any violation of sections one hundred and twenty-two to one hundred and thirty-three inclusive, by such companies shall be the same as provided in the case of life insurance companies.

FRATERNAL BENEFICIARY ASSOCIATIONS.

SEC. 134. A fraternal beneficiary association is hereby defined to be any corporation, society or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit. Each association shall have a lodge system, with ritualistic form of work and representative form of government, and shall make provision for the payment of benefits in case of death, and may make provision for the payment of benefits in the case of sickness, temporary or permanent physical disability, either as the result of disease, accident or old age, provided the period in life at which payment of physical disability

benefits on account of old age commences, shall not be under seventy years, subject to their compliance with its constitution and laws. The fund from which the payment of such benefits shall be made, and the fund from which the expenses of such association shall be defrayed shall be derived from assessments or dues collected from its members. Payments of death benefits shall be to the families, heirs, blood relatives, adopted children, adopting parents, affianced husband or affianced wife of, or to persons dependent upon the member. Such associations shall be governed by the last twenty-four sections of this chapter and shall be exempt from the provisions of insurance laws of this state, except as therein provided and no law passed after March twenty-one, nineteen hundred and one, shall apply to them unless they be expressly designated therein. Any such fraternal beneficiary association may create, maintain, disburse and apply a reserve or emergency fund in accordance with its constitution or by-laws.

—fund for payment of benefits.

—to whom payments shall be made.

—not subject to insurance laws of state.

—may create reserve fund.

SEC. 135. Seven or more persons, residents of the state, desiring to form a fraternal beneficiary corporation for the purposes above provided, and having signed an agreement therefor, declaring therein the purposes of such corporation, may organize as such in the manner provided in sections one, two and three of chapter fifty-seven, and such corporation shall have all the powers, privileges and immunities, and be subject to all the liabilities named in said section three.

Organization of fraternal beneficiary associations. 1901, c. 247, § 2.

SEC. 136. The president, secretary, and a majority of the directors, or other officers corresponding thereto, shall forthwith make, sign and swear to a certificate setting forth a true copy of the agreement and declaration of the purposes of the association, with the names of the subscribers thereto, the date of the first meeting, and the successive adjournments, if any, and shall submit such certificate and the records of the corporation to the insurance commissioner, who shall make such examination and require such evidence as he deems necessary; and if it appears that the purposes of the corporation conform to law, he shall certify his approval thereof, and the certificate shall then be filed by said officer in the office of the secretary of state, who shall cause the same with the indorsements, to be recorded, and shall thereupon issue a certificate in the following form:

Officers to prepare a certificate to be examined by insurance commissioner. 1901, c. 247, § 3. See c. 117, § 17.

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

“STATE OF MAINE.

Be it known that whereas” (here the names of the subscribers to the agreement of the association shall be inserted), “have associated themselves with the intention of forming a corporation under the name of” (here the name of the corporation shall be inserted) “for the purpose” (here the purpose declared in the agreement of association shall be inserted), “and have complied with the provisions of the statutes of this state in such case made and provided, as appears from the certificate of the officers of the corporation, duly approved by the insurance commissioner and recorded in this office: Now, therefore, I” (here the name of the secretary shall be inserted), “Secretary of the State of Maine, do hereby certify that said” (here the names of the subscribers to the agreement of association shall be inserted); “their associates and successors, are legally organized and established as and are hereby made an existing corporation under the name of” (here the name of the corporation shall be inserted), “with the powers, rights and privileges, and subject to the limitations, duties and restrictions which by law appertain thereto. Witness my official signature hereunto subscribed, and the seal of the State of Maine hereunto affixed, this day of in the year .” (day, month and year inserted).

Form of certificate to be issued by secretary of state.

CHAP. 49.

—to be signed and under seal by secretary of state.

Business must be commenced within one year or charter is void.
1901, c. 247, § 4.
See c. 1, § 6, ¶ xxix.

Any association may re-incorporate under this chapter.
1901, c. 247, § 5.

Shall not do business until authorized by insurance commissioner.
1901, c. 247, § 6.

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

Emergency fund must be provided.
1901, c. 247, § 7.

—character of deposits.
See § 11; c. 48, § 23.

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

The secretary shall sign the same and cause the seal of the state to be thereto affixed, and such certificate shall be conclusive evidence of the existence of such corporation at the date of such certificate. He shall cause a record of such certificate to be made, and a certified copy of such record may be given in evidence, with like effect as the original certificate.

SEC. 137. No charter granted under the provisions of the two preceding sections shall be valid after one year from its date unless the organization has been completed and business begun thereunder, and when any domestic corporation has discontinued business for the period of one year its charter shall become null and void.

SEC. 138. Any fraternal beneficiary corporation existing under the laws of this state, and engaged in transacting business herein on March twenty-one, nineteen hundred and one, may reincorporate under the foregoing provisions; *provided*, that nothing herein contained shall be construed as requiring any such corporation to reincorporate; and any such corporation may continue to exercise all the rights, powers and privileges conferred by the last twenty-four sections of this chapter, and its articles of incorporation not inconsistent herewith, and shall be subject to the requirements and penalties of said sections the same as if reincorporated thereunder.

SEC. 139. No association hereafter organized under the provisions of sections one hundred thirty-five and one hundred thirty-six shall incur any liability or issue any benefit certificate until it has received from the insurance commissioner a certificate to the effect that it has complied with the requirements of law and is duly authorized to transact business in this state. Before such certificate is granted the association must present satisfactory evidence to the insurance commissioner that it has established mortuary assessment rates which are not lower than those now indicated as necessary by the national fraternal congress mortality tables and that at least five hundred persons have each paid one advance mortuary assessment on the rates so established and become a bona fide member of a local branch of the association, and that it has deposited with the treasurer of state at least one thousand dollars as a part of its emergency or reserve fund for the benefit and protection of certificate holders in said association, which fund shall be held and used as hereinafter provided.

SEC. 140. Each such association organized under the foregoing provisions, after March twenty-one, nineteen hundred and one, shall, on or before the thirty-first day of December in each year deposit with the treasurer of state to the credit of its emergency or reserve fund not less than fifteen per cent of its total mortuary receipts for the year then ending, until the amount so deposited amounts to not less than fifty thousand dollars. These amounts shall be deposited in such interest bearing securities as any insurance company or savings bank may from time to time by law invest its funds in, and the securities shall be held in trust by the treasurer of state, but the association shall have at all times the right to exchange any part of said securities for others of like amount and character, and the income from said fund shall be paid by said treasurer to the association. When deemed advisable by the majority of the directors, or other officers corresponding thereto, such part of the fund as may be considered necessary, may with the written approval of the insurance commissioner, be applied from time to time to the payment of death benefits but for no other purpose; *provided, however*, that such fund shall not at any time be reduced below an amount equal to one assessment or periodical call

CHAP. 49.

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

SEC. 141. No such association shall reinsure with or transfer its membership certificates or funds to any organization, unless the said contract of transfer or reinsurance is first submitted to and approved by a two-thirds vote of the members of each association present at meetings called to consider the same, of which meetings written or printed notice shall be mailed to each certificate holder at least thirty days before the date fixed for said meeting, nor unless the said contract of transfer or reinsurance is first submitted to and approved by the insurance commissioner. The members of fraternal beneficiary associations shall not vote by proxy.

SEC. 142. Fraternal beneficiary associations organized under the laws of another state or country which were transacting business in this state as herein defined, on the twenty-eighth day of February, eighteen hundred and eighty-nine, or which subsequently thereto have been legally admitted to transact business in this state and which now report or which shall report when requested to the insurance commissioner, may continue such business subject to the provisions of the last twenty-four sections of this chapter. A fraternal beneficiary association which was not transacting business in this state on the twenty-eighth day of February, eighteen hundred and eighty-nine, and which has not since been legally admitted to transact business therein and which may after March twenty-one, nineteen hundred and one, desire to do so, shall first obtain a license therefor from the insurance commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of its charter or articles of association and a copy of its constitution or laws, certified by its secretary or corresponding officer, a power of attorney to the commissioner, as hereinafter provided; a statement under oath of the president and secretary, or corresponding officers, in the form required by the commissioner,

—minimum amount of reserve fund.

—proceedings when association fails to satisfy any judgment.

—receiver may be appointed when business is discontinued.

—to administer unexhausted portion of fund.

—how fund must be preserved.

Shall not reinsure unless contract is approved by a two-thirds vote of such association. 1901, c. 247, § 8.

—shall not vote by proxy.

Foreign associations may continue business. 1901, c. 247, § 9.

—certain associations must obtain license to do business.

—must first file certain information.

CHAP. 49.

of its business for the preceding year; a certificate from the proper official in its home state or country, that the company is legally organized and that similar associations of this state may be admitted to transact business in said state or country; a copy of its application and policy or certificate, which must show that benefits are provided for by assessments upon persons holding similar contracts, and shall furnish the commissioner with such other information as he may deem necessary to a proper exhibit of its business and standing and plan of working, and if he deems it expedient he may license such association to do business in this state in accordance with the provisions of this chapter; *provided, however*, that no license shall be issued to any such company unless it shall have adopted and have in force mortuary assessment rates which are not lower than those now indicated as necessary by the national fraternal congress mortality tables.

—must have in force proper assessment rates.
See c. 117, § 17.

Foreign associations admitted shall appoint insurance commissioner to act as attorney upon whom service can be made.
1901, c. 247, § 10.

—service upon attorney deemed sufficient.

—associations shall be notified whenever process is served.
See c. 117, § 17.

Certificates valid on condition that all dues are paid.
1901, c. 247, § 11.

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

—proviso.

Shall file certificate of appointment of agents with commissioner.
1901, c. 247, § 12.

—license may be issued to agents.
See c. 117, § 17.

SEC. 143. Each such association which, on March twenty-one, nineteen hundred and one, was doing or was thereafter admitted to do, business within this state, and not having its principal office within this state, and not being organized under the laws of this state, shall appoint in writing the insurance commissioner and his successors in office to be its true and lawful attorney, upon whom all lawful process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by said insurance commissioner, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service upon such attorney shall be deemed sufficient service upon such association. When legal process against any such association is served upon said insurance commissioner, he shall immediately notify the association of such service by letter, prepaid and directed to its secretary or corresponding officer, and shall within two days after such service forward in the same manner a copy of the process served on him to such officer.

SEC. 144. No certificate issued by any such association transacting business under this chapter shall be valid or legal which shall be conditional upon an agreement or understanding that the beneficiary shall pay the dues and assessments, or either of them for said member. Every call for a payment by the policy or certificate holders shall distinctly state the purpose of the same. No part of the money collected for mortuary or indemnity purposes or for the emergency or reserve fund shall be used for expenses; *provided*, that any such association transacting business in this state on March twenty-one, nineteen hundred and one, and whose laws provide for and which is now using such funds for expenses, may continue to do so, but not to exceed the amount named for that purpose in such existing laws.

SEC. 145. Any association authorized to transact business as defined in the last twenty-four sections of this chapter, may employ paid agents in soliciting business but no person shall act as such agent until the association or its authorized manager has filed with the insurance commissioner a certificate certifying that such person has been appointed as the agent of the association. Upon receiving such certificate the commissioner may issue a license to such person, authorizing him to transact business in this

CHAP. 49.

state in accordance with the provisions of said sections and such license shall expire on the first day of the next July, but no license shall be issued under the provisions of this section to firms or corporations. If any person acts as such agent without first receiving such license, or fraudulently assumes to be an agent and solicits or procures risks or receives money for premiums or assessments, he forfeits not less than fifty dollars nor more than one hundred dollars for each offense, but any policy or certificate issued on such application binds the association, if otherwise valid.

SEC. 146. Any person who shall solicit membership for, or in any manner assist in procuring membership in any such association doing a business not authorized by sections one hundred and thirty-four to one hundred and fifty-seven inclusive, or who shall solicit membership for, or in any manner assist in procuring membership in any such association not authorized, as herein provided, to do business as therein defined, in this state, shall be punished by a fine of not less than fifty, nor more than two hundred dollars.

SEC. 147. Every association doing business as a fraternal beneficiary association as herein defined shall annually, on or before the first day of March, report to the insurance commissioner the names and addresses of its president, secretary and treasurer, or other officers corresponding thereto, and shall make under oath such further statements of its membership and financial transactions for the year ending on the preceding thirty-first day of December, with other information relating thereto, as said commissioner may deem necessary to a proper exhibit of its business and standing; and the commissioner may at any other times require any further statement he may deem necessary to be made relating to such association. Any such association which neglects or refuses to make the returns required by this section shall forfeit five dollars a day for each day's neglect; and for wilfully making a false statement, the association and the persons making oath thereto, or subscribing the same, shall severally be punished by a fine of not less than one hundred, nor more than five hundred dollars.

SEC. 148. The money or other benefit, charity, relief or aid to be paid, provided or rendered, or which has been paid, provided or rendered by any fraternal beneficiary association authorized to do business under this chapter, and as herein provided, shall not be liable to attachment by trustee, or other process, and shall not be seized, taken or appropriated, or applied by any legal or equitable process, nor by operation of law, to pay any debt or liability of a certificate holder, or any beneficiary thereof, existing at the death of such holder.

SEC. 149. Any solicitor, agent or examining physician, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining any money or benefit, in any such association transacting business under this chapter, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars, or by imprisonment not less than thirty days nor more than one year; and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association, for the purpose of procuring the payment of the benefit named in the certificate of such holder, shall be guilty of perjury, and upon conviction, shall be punished accordingly.

SEC. 150. Nothing contained in the last twenty-four sections of this chapter shall be construed to affect or apply to grand or subordinate lodges

—when license expires.

—penalty for acting as agent without license.

Penalty for soliciting for associations not authorized.
1901, c. 247, § 13.

Shall report to commissioner annually.
1901, c. 247, § 14.

—penalty for neglect to make returns.

Benefit, charity or relief funds shall not be liable to attachment, etc.
1901, c. 247, § 15.
See c. 77, § 19.
95 Me., 34.

Any agent or physician making false statements shall be punished.
1901, c. 247, § 16.

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

§§ 124-157 do not apply to certain

CHAP. 49.

orders.
1901, c. 247, § 17.

—nor to associations whose membership is limited to employees.

—other exceptions.

—associations of more than 300 members not exempt.

Examination by insurance commissioner.
1901, c. 247, § 18.

—proceedings when business becomes hazardous.

—receiver may be appointed and affairs closed.

—fees.

Certain associations may continue to do business.
1901, c. 247, § 18.

of Masons, Odd Fellows, Knights of Pythias or similar orders, organized or incorporated under the laws of this state, and which do not have as their principal object the issuance of insurance certificates. Nor shall anything therein contained apply to domestic corporations or voluntary associations which limit their membership to the employees of a particular city or town, designated firm, business house or corporation; nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description which do not operate with a view to profit and which do not provide for a funeral benefit of more than one hundred dollars, or sick or disability benefits of more than one hundred and fifty dollars, to any one person in any one year. *Provided always*, that any association which has more than three hundred members and which issues to any person a certificate providing for the payment of benefits shall not be exempt by the provisions of this section, and such associations shall comply with all requirements of this chapter relating to fraternal beneficiary associations. The insurance commissioner may require of any association such information relating to its membership and certificates as will enable him to determine whether it is exempt from the provisions hereof. And no association which is exempt by the provisions of this section from the requirements hereof, shall employ paid agents or give or allow to any person any compensation for procuring new members.

SEC. 151. The insurance commissioner, in person or by deputy, shall have the power of visitation and examination into the affairs of any domestic association subject to the provisions of this chapter relating to fraternal beneficiary associations, that are conferred upon him by the provisions of this chapter, *provided*, that he shall not be required to make periodical examinations of domestic associations. Whenever after examination the commissioner is satisfied that any domestic association is not paying the maximum amount named in its policies or certificates in full or is in such condition as to render further proceedings hazardous to the public or its policy-holders or is transacting its business fraudulently; or whenever such domestic association shall, after the existence of one year or more, have a membership of less than three hundred, the insurance commissioner may present the facts in relation to the same to any justice of the supreme judicial court; and said justice shall thereupon notify the officers of such association of a hearing and unless it shall then appear that some special and good reason exists why the association should not be closed, some person shall be appointed receiver of such association and shall proceed at once to take possession of the books, papers, moneys and other assets of the association, and shall forthwith, under the direction of the court proceed to close the affairs of such association and to distribute to those entitled thereto its funds in the manner provided in section one hundred and forty. For this service the receiver may be allowed out of any funds in possession of the association or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the association shall be finally closed, the court shall decree a dissolution of the same.

SEC. 152. Fraternal beneficiary associations, organized or incorporated under the laws of this state, which were transacting business herein on March twenty-one, nineteen hundred and one, and which limit their membership to the members of some particular order, class or fraternity may continue such business by complying with the provisions hereof not inconsistent therewith.

SEC. 153. Whenever the commissioner deems it prudent for the protection of the policy or certificate holders in this state he, or any person whom he may appoint, may examine any foreign fraternal beneficiary association applying for admission or transacting business in this state and such association shall pay the expenses of the examination. The commissioner may employ assistants and for the purposes aforesaid he, or any person he may appoint, shall have free access to all the books and papers that relate to the business of such association and to the books and papers kept by any of its organizers and may summon and qualify as witnesses under oath, and examine the directors, officers, agents, organizers and trustees of such association and other persons in relation to its affairs, transactions and condition. He may accept in lieu of such examination the examination of the insurance department of the state or country where such foreign association is organized.

Commissioner may examine foreign associations, applying for admission to the state. 1901, c. 247, § 20.

—how examinations may be conducted.

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

—if examination is denied, association shall be suspended.

When the commissioner, on investigation, is satisfied that any association organized under the laws of another state or country and transacting business under the last twenty-four sections of this chapter has exceeded its powers, or has failed to comply with any provision of law, or is conducting business fraudulently, or that its condition is such as to render further proceedings hazardous to the public or to its certificate holders, or in case any such association shall vote to discontinue its business, he shall notify the president and secretary, or other officers corresponding thereto of his findings, and state the grounds of his dissatisfaction and after thirty days' notice require said association, on a date named, to show cause why its license should not be revoked and its authority to transact business in this state terminated. If on the date named in said notice such objections have not been removed to the satisfaction of the commissioner, or the association does not present good and sufficient reasons why its authority to transact business in this state should not at that time be revoked, he may revoke the authority of such association to continue business in this state.

—when license may be revoked.

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

—appeals may be taken.

—hearing and notice.

SEC. 154. No association organized or doing business under the last twenty-four sections of this chapter shall issue any policy or certificate upon the life of any person more than sixty years of age; nor on the life of any person who has not been examined by a reputable, practicing physician and passed a satisfactory medical examination. No person shall be admitted to membership in any such organization unless he has first filed an application with and been initiated in and becomes a member of a local branch. The by-laws of such association shall provide that meetings of such branches shall be held at least once each month.

Policies limited, and how. 1901, c. 247, § 21.

CHAP. 50.

Laws of this and other states regarding fines and penalties shall be reciprocal.
1901, c. 247, § 22.

Penalties.
1901, c. 247, § 23.

—prosecutions.
1901, c. 247, § 24.

Term "association" construed.
1901, c. 247, § 25.

SEC. 155. When the laws of any state or country under which any such association is organized or incorporated impose on fraternal associations of this state any additional or greater fees, fines, penalties, prohibitions or obligations than are imposed hereby upon similar associations of other states or countries, the same fees, fines, penalties, prohibitions or obligations shall be imposed upon the associations of such state or country applying for admission or transacting business in this state.

SEC. 156. Any association neglecting or refusing to comply with, or violating the provisions hereof relating to fraternal beneficiary associations, shall be fined not exceeding two hundred dollars upon conviction thereof. Prosecutions for such violations may be commenced by complaint and warrant before any municipal or police judge or trial justice as in the case of other offenses not within the final jurisdiction of such judge or justice, as provided in section five of chapter one hundred and thirty-three.

SEC. 157. The word "association" as used in the twenty-three preceding sections shall be taken and construed as meaning a corporation, society or voluntary association.

CHAPTER 50.

TOLL BRIDGES.

Who may pass over toll bridges free.
R. S., c. 50, § 1.

Persons exempted, to inform the toll gatherer.
R. S., c. 50, § 2.

Restrictions on weight of teams, and on droves of cattle and horses.
R. S., c. 50, § 3.
79 Me., 565.

Penalty for delaying passengers.
R. S., c. 50, § 4.

Two persons and children can pass in carriage, toll free.
R. S., c. 50, § 5.

SEC. 1. All military companies, with their ordnance and equipage, on days of training or review, while under arms, or in going to or returning from their place of parade, and all persons going to or from a funeral, or public worship on the Lord's day, may pass over toll bridges, free of toll.

SEC. 2. Every traveler, claiming to pass any toll bridge free, shall communicate to the toll gatherer his name and place of abode, if required. Whoever refuses or omits so to do, or wilfully renders a false answer, and thereby evades the payment of his legal toll, forfeits to the proprietors ten dollars to be recovered in an action of debt.

SEC. 3. If any person driving neat cattle or horses over any toll bridge more than fifty feet in length from one abutment, pier, or restle part to another, without the consent of the toll gatherer, or agent of the corporation owning it, permits more than twenty neat cattle or horses to be on such bridge at the same time, or drives or transports over it any loaded cart, wagon or other carriage, the weight whereof exceeds forty-five hundred pounds, exclusive of the team and carriage, and thereby breaks it down or injures it, neither he nor the owner of any property under his charge shall recover any damages against such corporation for his loss or injury.

SEC. 4. If a bridge corporation, or its agent, unreasonably delays or hinders any person driving a cart, wagon, sleigh or other carriage, from passing any toll gate, such corporation forfeits to such person not less than two, nor more than twenty dollars; to be recovered by an action on the case.

SEC. 5. No more than two persons, and children with them not received for the purpose of evading the payment of toll, have a right to pass a toll bridge in any carriage, free of the toll payable by foot passengers in addition to the toll due on the carriage.