

MAINE STATE LEGISLATURE

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SEVENTH REVISION

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CHAPTER 60.

Insurance and Insurance Companies.

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The Contract of Insurance, and Its Issue by Incorporated Companies.

Sec. 1. Contract of insurance, defined; business carried on by corporations; Lloyd's. R. S. c. 53, § 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 fifty-six, 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.

See § 95; 99 Me. 276; 101 Me. 297; 109 Me. 484.

Sec. 2. Number of directors; tenure; vacancies. R. S. c. 53, § 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.

Sec. 3. Directors may be divided into classes; terms of office; vacancies. R. S. c. 53, § 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.

The Standard Fire Insurance Policy.

Sec. 4. Only policies of standard form may be issued; exceptions. R. S. c. 53, § 4. No fire insurance company shall issue fire insurance policies on property in this state, other than those of the standard form set forth in the following section, except as follows:

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 _____."

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

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."

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."

97 Me. 591; 100 Me. 486; 101 Me. 297; 106 Me. 347; 112 Me. 52, *530, 537; *114 Me. 416.

Sec. 5. Form of standard policy. R. S. c. 53, § 5. 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.

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.

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 within a reasonable time 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 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 to 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

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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 _____."

Standard form, 97 Me. 591.

"Rider," *100 Me. 484; 106 Me. 347.

Cancellation, 89 Me. 32; 106 Me. 232; *108 Me. 509; 112 Me. 530, 537; 115 Me. 196.

Arbitration clause, 85 Me. 73; 87 Me. 193; 95 Me. 486; 97 Me. 591; 101 Me. 297; 104 Me. 372; 106 Me. 309; 112 Me. 53; *122 Me. 364.

Notice of other insurance, 94 Me. 43; 107 Me. 320.

Increase of risk, 100 Me. 484; 127 Me. 182.

Vacancy, 100 Me. 486.

Alienation, 107 Me. 320.

Levy and collection of assessment not waiver of forfeiture, 37 Me. 137; 38 Me. 439; 100 Me. 481; 107 Me. 323.

Fraud and false swearing, 82 Me. 270; 88 Me. 498; 90 Me. 350; 91 Me. 290; 92 Me. 279; 100 Me. 112; 108 Me. 402; 127 Me. 182.

Waiver, 108 Me. 510.

Sec. 6. Cancellation of policy for non-payment of premium. R. S. c. 53, § 6. An insurance company issuing fire insurance policies on property in this state, under the standard form required by sections four and five of this chapter, may cancel any such policy in the manner provided by law without tendering to the assured a ratable proportion of the premium, if the premium has not been paid to the company or its agent, or to a duly licensed insurance broker through whom the contract of insurance was negotiated.

Sec. 7. Notification to policyholders attached to policy. R. S. c. 53, § 7. There shall be printed on the margin of the policy near the part thereof that relates to cancellation, in type not smaller than long primer, or attached to such policy by rider in the form permitted by law the following: "If the premium on this policy has not been paid to the company or its agent, or to the duly licensed insurance broker through whom the contract of insurance was negotiated, this policy may be canceled by the company in the manner herein provided without tendering to the assured any part of the premium."

Sec. 8. Proceedings in case parties fail to agree as to amount of loss. R. S. c. 53, § 8. In case of loss under any fire insurance policy, issued on property in this state, in the standard form set forth in section five, 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 such third referee, and said commissioner shall thereupon make such appointment and shall send written notification thereof to the parties.

101 Me. 294; 106 Me. 309; 112 Me. 54; 118 Me. 191; 120 Me. 1.

Sec. 9. Relating to time limit for adjusting and paying fire losses; penalty. R. S. c. 53, § 9. In case of loss or damage to property insured by any fire insurance company transacting business in this state, said company or its representative shall begin adjustment of such loss within twenty days after the receipt of the notice provided for by section five of this chapter; but no fire insurance company shall pay any loss or damage until after the expiration of forty-five days from the date when proof of loss is executed; provided that nothing contained in this section shall prevent the payment of a loss to any property owner when the aggregate loss under policies covering the risk does not exceed one hundred dollars; provided, also, that upon application from an insurance company or its authorized representative, written permission to make earlier payment on any loss may be given said company or its authorized representative by the insurance commissioner, and immediately upon issuing such permit, the insurance commissioner shall notify and grant permits to any other companies known to be interested in the risk. For any violation of this section the insurance commissioner may suspend the authority of the company to transact business in this state for such length of time, not exceeding one year, as he may deem advisable.

122 Me. 239.

Sec. 10. Penalty for wilful violation of §§ 4, 5. R. S. c. 53, § 10. Any insurance company or agent who shall make, issue, or deliver a policy of fire insurance in wilful violation of sections four or five shall forfeit for each offense not less than fifty dollars, nor more than two hundred dollars; but such policy shall nevertheless be binding upon the company issuing the same.

Standard Provisions for Accident and Health Policies.

Sec. 11. Form of health or accident policy must be filed with insurance commissioner for approval; not to be delivered until thirty days after filing unless sooner approved. R. S. c. 53, § 11. No policy of insurance against loss or damage from the sickness, or the bodily injury, or death of the insured by accident, shall be issued or delivered to any person in this state until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto have been filed with the insurance commissioner; nor shall it be so issued or delivered until the expiration of thirty days after it has been so filed unless the said commissioner shall sooner give his written approval thereto. If the said commissioner shall notify, in writing, the company, corporation, association, society, or other insurer which has filed such form that it does not comply with the requirements of law, or in his opinion any particular section or clause is objectionable, and specify the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the commissioner shall be subject to review by any justice of the superior court.

119 Me. 139.

Sec. 12. Conditions under which policy may be issued. R. S. c. 53, § 12. No such policy shall be so issued or delivered (1) unless the entire money and other

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considerations therefor are expressed in the policy; nor (2) unless the time at which the insurance thereunder takes effect and terminates is stated in a portion of the policy preceding its execution by the insurer; nor (3) unless every printed portion thereof and of any indorsements or attached papers shall be plainly printed in type of which the face shall be not smaller than ten-point; nor (4) unless a brief description thereof be printed on its first page, and on its filing-back in type of which the face shall be not smaller than fourteen-point; nor (5) unless the exceptions of the policy be printed with the same prominence as the benefits, to which they apply; provided, however, that any portion of such policy which purports, by reason of the circumstances under which a loss is incurred, to reduce any indemnity promised therein to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in bold-face type and with greater prominence than any other portion of the text of the policy.

119 Me. 139.

Sec. 13. Policy must have correct copy of application attached. R. S. c. 53, § 13. Every accident, health, or casualty policy of insurance issued to a resident of this state by any insurance company, assessment association or fraternal order, which contains a reference to the application of the insured, either as a part of the policy or as having any bearing thereon, shall have attached thereto a correct copy of the application, and unless such copy is so attached, the application shall not be considered a part of the policy or received in evidence.

Sec. 14. Penalty for false statement in application. R. S. c. 53, § 14. 1929, c. 90. Any person who knowingly or wilfully makes a false or fraudulent statement or representation in, or relative to any application for accident, health or casualty insurance, or who makes any such statement for the purpose of obtaining a fee, commission, money, or benefit in a corporation transacting such business in this state, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for not less than thirty days nor more than eleven months, or by both such fine and imprisonment; and a person who wilfully makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a policy or certificate holder in any such corporation, for the purpose of procuring payment of a benefit named in the certificate of such holder, shall be guilty of perjury.

Sec. 15. Time within which notice of accident, injury, or death may be given. R. S. c. 53, § 15. No conditions, stipulations, or agreements contained in any application for insurance in any foreign or domestic casualty or accident insurance 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, within a reasonable time after the happening of the accident or injury, or death, and shall be valid and binding on the company.

89 Me. 99; 90 Me. 185; *99 Me. 231.

Stock Companies.

Sec. 16. Secretary and other officers. R. S. c. 53, § 16. 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.

65 Me. 379.

Sec. 17. Manner of calling meetings. R. S. c. 53, § 17. 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.

Sec. 18. Capital. R. S. c. 53, § 18. 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.

Sec. 19. Liability of stockholders, in certain cases. R. S. c. 53, § 19. 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.

Sec. 20. Capital and assets, how to be invested. R. S. c. 53, § 20. 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-seven, of chapter fifty-seven, and said insurance companies shall be restricted in their investments in the same manner as are the savings banks of this state.

Sec. 21. Loans on respondentia or bottomry. R. S. c. 53, § 21. 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.

118 Me. 118.

Sec. 22. What property may be insured; limit of risk. R. S. c. 53, § 22. 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.

See § 55, ¶ II; 56 Me. 376.

Sec. 23. Furniture, owned part by husband and part by wife. R. S. c. 53, § 23. 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.

Sec. 24. Policies, how executed. R. S. c. 53, § 24. 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.

*56 Me. 377.

Sec. 25. Companies, not to trade. R. S. c. 53, § 25. Said company shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise, or commodities.

Sec. 26. Dividends. R. S. c. 53, § 26. 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. 27. Loss of capital. R. S. c. 53, § 27. 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. 28. Marine companies may divide certain profits. R. S. c. 53, § 28. 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. 29. Triennial statements. R. S. c. 53, § 29. 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. 30. Not to insure, after loss of capital. R. S. c. 53, § 30. 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. 31. Person deemed agent; notice to him, binding. R. S. c. 53, § 31. 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.

See § 119; 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; 114 Me. 12, 170.

Sec. 32. Certain provisions not to be applied to mutual companies. R. S. c. 53, § 32. 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 twenty-one and twenty-two 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.

61 Me. 416.

Mutual Companies.

Sec. 33. Insurance by mutual companies regulated. R. S. c. 53, § 33. 1929, c. 215. 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, against loss or damage by fire originating in any cause other than by design on the part of the assured.

109 Me. 488.

Sec. 34. Indorsements on policies. R. S. c. 53, § 34. 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.

Sec. 35. Insured to be members. R. S. c. 53, § 35. 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.

37 Me. 143; 100 Me. 481; 117 Me. 516.

Sec. 36. Assessments on premium notes and contracts of insurance; limits of liability to be stated. R. S. c. 53, § 36. 1921, c. 84. 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 endorsed 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. Any mutual company in place of the premium note required by law may provide in the policy of insurance as a condition of the insurance made by the policy that the insured and legal representatives shall pay in addition to the stipulated premium of such policies such sum as may be assessed by the directors of the company pursuant to the laws of this state, but such contingent liability of a member shall not be less than an amount equal to the cash premium written in his policy. The total amount of the liability of the policyholder shall be plain and legibly stated upon the filing back of each policy.

34 Me. 453; 49 Me. 448; 50 Me. 305; 53 Me. 226; 64 Me. 128; 100 Me. 481; *107 Me. 364; 117 Me. 514.

Sec. 37. Domestic mutual fire insurance company to publish statement; penalty for neglect or refusal. R. S. c. 53, § 37. 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.

Sec. 38. Liability of agents of domestic fire companies; company required to procure licenses for agents. R. S. c. 53, § 38. 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 one hundred twenty-two of this chapter, but no fee shall be required by the insurance commissioner for licenses issued to the agents of such companies.

Sec. 39. Policy and note one contract, and claims may be set off against it; if company fails, liability of maker; when insurance ends, note to be surrendered. R. S. c. 53, § 39. 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.

48 Me. 274; 49 Me. 425; 64 Me. 128; 107 Me. 365.

Sec. 40. Lien on insured real estate, and how secured. R. S. c. 53, § 40. 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 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.

28 Me. 253; 100 Me. 481; 109 Me. 488.

Sec. 41. Remedy, if assessment is not paid. R. S. c. 53, § 41. If an assessment, made as provided in section thirty-six, 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.

48 Me. 78.

Sec. 42. Lien continues on property of deceased persons insured; policy good for benefit of estate. R. S. c. 53, § 42. 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.

Sec. 43. Annual statements to be made by directors. R. S. c. 53, § 43. 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 policyholders at the annual meeting.

Sec. 44. Compensation of officers; votes by proxy, limited. R. S. c. 53, § 44. The salary or compensation for services of the directors, treasurer, and secretary, shall be fixed by the policyholders at their annual meeting, and no policyholder or other person is allowed more than fifteen votes by proxy.

Sec. 45. Assessments may be examined by the court on application of parties interested; adjustment of claims, when directors neglect to make assessments. R.

S. c. 53, § 45. 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, policyholder, or creditor, may apply to the supreme judicial court or to the superior court in 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.

110 Me. 493.

Sec. 46. Order of notice to parties interested and proceedings thereafter. R. S. c. 53, § 46. 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 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.

110 Me. 493.

Sec. 47. Proceedings before master or auditor. R. S. c. 53, § 47. 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.

110 Me. 493.

Sec. 48. Assessments, when final; control of funds and payment of assessments. R. S. c. 53, § 48. 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 assess-

ment 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.

110 Me. 493.

Sec. 49. Assessment not sufficient, collection may be stayed by court. R. S. c. 53, § 49. 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.

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Sec. 50. Procedure with domestic mutual fire insurance or assessment casualty companies, when insolvent or in hazardous condition. R. S. c. 53, § 50. Whenever any domestic mutual fire insurance company or assessment casualty company is found after examination to be insolvent, or is found to be in such condition that its further transaction of business will be hazardous to its policyholders, its creditors or to the public, or when it has wilfully violated its charter or any law of the state, or has refused to submit its books, papers, accounts, and affairs for examination, the insurance commissioner may, the attorney-general representing him, apply to any justice of the supreme judicial court or of the superior court, in term time or vacation, for an order directing such corporation to show cause why the insurance commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors or the public may require.

See § 86.

Sec. 51. Court may issue injunction; proceedings on hearing. R. S. c. 53, § 51. On such application, or at any time thereafter, such court may, in its discretion, issue an injunction restraining such corporation from the transaction of its business or disposition of its property, until the further order of the court. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct the insurance commissioner, or his successor in office, forthwith to take possession of the property and conduct the business of such corporation, and retain such possession and conduct such business until, on the application either of the insurance commissioner, the attorney-general representing him, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the insurance commissioner to take possession, has been removed, and that the corporation can properly resume possession of its property and the conduct of its business.

Sec. 52. Rights of insurance commissioner upon decree of sequestration. R. S. c. 53, § 52. If on such application, the court shall direct the insurance commissioner to take possession of the property, conserve the assets of such corporation, and conduct the business of the company, the rights of the said insurance commissioner with reference to such corporation and its said assets shall be the same

as those exercised by receivers and masters in chancery appointed by the courts for liquidation of insurance companies.

Sec. 53. Authority of commissioner as to special deputies, counsel and assistants. R. S. c. 53, § 53. For the purposes of sections fifty to fifty-four inclusive, the insurance commissioner shall have power to appoint, under his hand and official seal, one or more special deputies as his agent or agents, and to employ such counsel, clerks, and assistants as may be by him deemed necessary, and give each of such persons such powers to assist him as he may consider wise. The compensation of such special deputies, counsel, clerks, and assistants, and all expenses of taking possession of and conducting the business of liquidating any such corporation, shall be fixed by the insurance commissioner, subject to the approval of the court, and shall, on certificate of the insurance commissioner, be paid out of the funds or assets of such corporation. The insurance commissioner may, subject to the approval of the court, make and prescribe such rules and regulations as to him shall seem proper.

Sec. 54. Removal of office and papers. R. S. c. 53, § 54. At any time after the commencement of proceedings under an order of liquidation made pursuant to the four preceding sections, the said insurance commissioner may remove the principal office of the corporation in liquidation to the city of Augusta. In event of such removal the court shall, upon the application of the insurance commissioner, direct the clerk of the judicial courts in the county wherein such proceeding was commenced to transmit all of the papers filed therein with such clerk, to the clerk of the judicial courts in the county of Kennebec; and the proceedings shall thereafter be conducted in the same manner as though they had been commenced in the county of Kennebec.

Organization of Companies Under General Law.

Sec. 55. Insurance companies, how organized; rights and privileges; purposes. R. S. c. 53, § 55. 1921, c. 80. 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 sixty-three, 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 and loss of use and occupancy by fire; explosion, fire ensuing; explosion, no fire ensuing, except explosion of steam boilers and fly wheels; lightning or tempest and tornadoes on land; by water and breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, and of water pipes, or against accidental injury to such sprinklers, pumps, or other apparatus.

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; also to insure against loss or damage to motor vehicles, their fittings and contents, whether such vehicles are being operated or not and wherever the same may be, resulting from accident, collision or any of the perils usually insured against by marine insurance, including inland navigation and transportation.

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III. 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 or their connections or by the breakage or rupture of machinery or fly wheels; and against loss of use and occupancy caused thereby.

IV. 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 and to make insurance upon the health of individuals.

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

VI. To insure the owners of domestic animals against loss resulting from death or injury to the animals insured and to furnish veterinary's services.

VII. To guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations.

VIII. To insure against loss or damage by burglary, theft, or house breaking.

IX. To carry on the business commonly known as credit insurance or guaranty.

X. To examine titles of real estate and personal property, furnish information relative thereto and insure owners and others interested therein against loss by reason of incumbrances or defective titles.

XI. To insure against loss or damage to automobiles except loss or damage by fire or while being transported in any conveyance, either by land or water; including loss by legal liability for damage to property resulting from the maintenance and use of automobiles.

XII. To insure any goods or premises against loss or damage by water, caused by the breakage or leakage of sprinklers, pumps, water pipes, or plumbing and its fixtures and against accidental injury, from other cause than fire or lightning to such sprinklers, pumps, water pipes, plumbing and fixtures.

XIII. To insure against loss or damage to property arising from accidents to elevators, bicycles and vehicles, except rolling-stock of railroads (from other causes than fire or lightning).

XIV. To insure the payment of compensations and benefits under any workmen's compensation law now existing or hereafter enacted in this state, or in any other state, so far as the same may be permissible under the laws thereof.

Sec. 56. Articles of agreement; provision as to capital and guaranty fund; liability of policyholders and stockholders. R. S. c. 53, § 56. 1917, c. 12, 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 guaranty 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; a mutual company incorporated to transact any class or kind of insurance other than fire, marine or glass shall have a guaranty capital as provided in section fifty-seven and holders of certificates of such guaranty capital shall not receive dividends in excess of seven per cent in any one year, and in no case unless such dividends are properly earned after

determining all liability as required by the insurance commissioner. Mutual companies may be incorporated to transact fire, marine and glass insurance and may operate in accordance with the provisions of section thirty-six, and other provisions of the laws of this state relating to such companies, provided, that they shall confine their business to not more than ten towns; mutual companies which do not so limit their business, may incorporate for any of the foregoing purposes but before doing any business they shall establish a guaranty fund or capital of not less than ten thousand dollars which may be divided into shares of not less than one hundred dollars and certificates issued therefor. A dividend not exceeding seven per cent in any one calendar year may be paid from the net earnings of the company after providing for all expenses, losses, reserves and liabilities then incurred. Such guaranty fund or capital shall be invested as provided in section twenty and shall be deposited with the treasurer of state. When the cash and other available assets of the company are exhausted such part of said fund as may be required shall, with the approval of the insurance commissioner, be drawn and used to pay losses then due. When such fund is so drawn upon the directors shall make good the amount so drawn by assessments upon the contingent funds or notes of the company and unless such fund is restored within six months from date of withdrawal, the shareholders shall be assessed in proportion to the amount of stock owned by them for the purpose of restoring said capital. Shareholders and members of such companies shall be subject to the same provisions of law relative to their right to vote as apply respectively to shareholders in stock companies and policyholders in purely mutual companies; said guaranty capital may be retired, by vote of the policyholders, when the surplus funds of the company over and above all liabilities, including guaranty capital, shall equal or exceed the amount of such guaranty capital, or any part of said guaranty capital may be retired; provided that the amount of net surplus and guaranty fund shall not be less than ten thousand dollars. Said guaranty capital shall be retired when the net cash assets of the company equal to three times the amount of guaranty capital. Any mutual fire, marine, or glass insurance company which has established a guaranty capital as provided herein and has obtained applications for insurance as required by section fifty-eight, shall be authorized by the insurance commissioner to write business and such company may take a premium note as provided in section thirty-six, or in lieu of said note it may charge and collect a premium in cash and by its by-laws and policies fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to and in addition to the cash premium written in his policy and in no case less than one per cent of the maximum liability of the company under said policy. The total amount of the liability of the policyholder shall be plainly and legibly stated upon the filing-back of each policy. Whenever any reduction is made in the contingent liability of members such reduction shall apply proportionally to all policies in force.

Sec. 57. Organization of mutual company; policies, when issued. R. S. c. 53, § 57. 1917, c. 110. Any mutual insurance company may be organized under the provisions of sections fifty-five to sixty-six, inclusive, with a guaranty 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 guaranty capital has been paid in, in cash, and invested as provided in section twenty. The holders of such guaranty capital may receive dividends for the like amount provided for the guaranty capital

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of mutual fire insurance companies in section fifty-six, and said guaranty capital may be retired in the same manner as provided in said section.

Sec. 58. Amount of applications required before policies are issued. R. S. c. 53, § 58. 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 twenty.

Sec. 59. Corporate name; objection by insurance commissioner. R. S. c. 53, § 59. 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. 60. Notice of first meeting. R. S. c. 53, § 60. 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. 61. Organization; record of proceedings; quorum necessary for organization. R. S. c. 53, § 61. 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 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.

Sec. 62. Officers. R. S. c. 53, § 62. The directors so chosen shall elect a president, a secretary and other officers which under the by-laws they are authorized to choose.

Sec. 63. Certificate of articles of association to be submitted to insurance commissioner and when approved, to be filed and recorded in the office of secretary of state; certificate of organization issued and recorded. R. S. c. 53, § 63. 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 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:

"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.)

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.

Sec. 64. Increase of capital stock; authority to transact business on increased capital. R. S. c. 53, § 64. 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 forty-eight of chapter fifty-six, 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 guaranty capital, may increase it in the same manner.

Sec. 65. Dividends; capital stock may be increased by amount of certificates of profits issued. R. S. c. 53, § 65. 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;

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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. 66. Office and meetings to be in state and majority of directors citizens. R. S. c. 53, § 66. 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.

Sec. 67. Change of location by mutual fire insurance companies. R. S. c. 53, § 67. A mutual fire insurance company organized under the laws of this state, at any legal meeting of its policyholders, of which all policyholders of record shall have been given notice as hereinafter provided, may change the location of its principal place of business from one city or town to another in this state. A copy of so much of the proceedings of such meeting as relates to such change of location certified by the secretary of said company shall be returned to the office of the insurance commissioner for his approval within thirty days after adjournment of such meeting, and when so approved, shall forthwith be filed by the company in the office of the secretary of state for record; the date of filing shall be entered on the record thereof, and when said copy, bearing the approval of the insurance commissioner, is so filed, the location shall be deemed to be changed. A notice in writing of the time and place of such meeting, stating the fact that a change of location will be considered, mailed to all policyholders of record, postage prepaid, to their last known post-office address at least thirty days prior to the date of said meeting, shall constitute notice above required.

Rights of Assignees.

Sec. 68. Suit by assignee of policy. R. S. c. 53, § 68. 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 assignees so suing shall hold the judgment or its proceeds subject to the claims and equities of any other parties interested therein.

See c. 96, § 154; 69 Me. 411; 81 Me. 571.

Lien of Mortgagees.

Sec. 69. Lien of mortgagee upon policy. R. S. c. 53, § 69. The mortgagee of any real estate or the mortgagee of any personal property shall have a lien upon any policy of insurance against loss by fire procured thereon by the mortgagor, to take effect from the time he files with the 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.

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; 102 Me. 504; *125 Me. 465.

Sec. 70. Lien enforced by suit. R. S. c. 53, § 70. If the mortgagor does not so consent, the mortgagee of any real estate may, at any time within sixty

days after a loss, and the mortgagee of any personal property may at any time within thirty 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, and which said suit shall be commenced and service made on such trustee within said sixty or thirty days.

64 Me. 217; 76 Me. 588; 80 Me. 104; 102 Me. 504; 107 Me. 321; 125 Me. 467.

Sec. 71. Application of amount recovered. R. S. c. 53, § 71. 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.

Sec. 72. Priority of mortgagees. R. S. c. 53, § 72. 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.

125 Me. 469.

Sec. 73. Mortgagee's policy void, unless consented to. R. S. c. 53, § 73. 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.

45 Me. 453.

Deposit of Securities with Treasurer of State.

Sec. 74. Deposit of securities with treasurer of state. R. S. c. 53, § 74. 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 policyholders in said company.

Sec. 75. Treasurer to furnish certificate. R. S. c. 53, § 75. The treasurer of state 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.

Sec. 76. Interest or dividends, collected by companies; securities, how withdrawn. R. S. c. 53, § 76. The treasurer of state 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 of state 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 said treasurer shall issue a new certificate as provided in the preceding section.

Sec. 77. Return of securities. R. S. c. 53, § 77. The treasurer of state on being satisfied of the repeal or alteration of the law of such other state, dis-

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qualifying such company from continuing its business therein, shall return the securities on demand.

Sec. 78. Same subject. R. S. c. 53, § 78. When such company desires to relinquish its business out of the state, the treasurer of state, 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.

Sec. 79. Deposit by accident or health stock companies. R. S. c. 53, § 79. Every stock insurance company incorporated in the state for the purpose of writing accident or health insurance, shall make and maintain a deposit, with the treasurer of state, of securities to the market value of at least one hundred thousand dollars, to be held in trust for the benefit of all the policyholders in said company, before it shall have the right to transact any business. 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 policyholders in said company.

Sec. 80. Certificates to be furnished. R. S. c. 53, § 80. The treasurer of state shall then furnish such company with a certificate or certificates in accordance with section seventy-five; and shall hold said securities under the provisions of the preceding section, and the provisions of section seventy-six shall be applicable thereto.

Sec. 81. Return of securities. R. S. c. 53, § 81. When any such company shall satisfy the insurance commissioner that it has no policies in force and all its obligations to policyholders have been fully satisfied, the treasurer of state shall return its securities on demand.

Sec. 82. Proceedings when company fails. R. S. c. 53, § 82. If any company depositing securities as provided in sections seventy-four and seventy-nine, fails to meet its obligations to its policyholders, while its securities are so on deposit, the treasurer of state shall demand of its secretary or clerk, and he shall furnish a full and complete list of the names and residences of all policyholders and others having claims upon the company; and they shall be notified forthwith through the post-office by the 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. Nothing in the foregoing provisions imposes any liability on the state on account of any delinquency of said treasurer. Any company which has made such deposit, or the insurance commissioner, or any creditor of such company may at any time commence a suit in equity in the supreme judicial court or in the superior court against the state and other parties properly joined therein to enforce, administer, or terminate the trust created by such deposit. The process in such suit shall be served on the treasurer of state and attorney-general, who shall appear and answer on behalf of the state and perform such orders and decrees as the court may make therein.

The Insurance Commissioner and His Duties.

Sec. 83. Commissioner, appointment, term, and duties; appointment and duties of deputy commissioner. R. S. c. 53, § 83. 1917, c. 206. 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 four years, and until his successor has been appointed and qualified, but shall not at the same time be bank commissioner. 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 the insurance commissioner or during the absence or disability of that officer, the deputy insurance commissioner shall perform the duties of the office.

Sec. 84. Examination of domestic companies; penalty for refusal. R. S. c. 53, § 84. The insurance commissioner 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 more than two hundred dollars.

Sec. 85. Notice to commissioner of organization; license to do business. R. S. c. 53, § 85. Every domestic insurance company, upon organization, shall inform the insurance commissioner thereof. No such company shall commence business by issuing policies until the said 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.

See c. 1, § 6, ¶ xxviii.

Sec. 86. Application for injunction against domestic company; proceedings thereon. R. S. c. 53, § 86. If on examination the insurance 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 policyholders he shall apply to a justice of the supreme judicial court or of the superior court to issue an injunction restraining the company in whole or in part from proceeding further with its business. Any justice of either of said courts 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.

See §§ 50-54; 89 Me. 413; 110 Me. 494.

Sec. 87. Proceedings for appointment of receiver of domestic life insurance company. R. S. c. 53, § 87. 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 said 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 or of the superior 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. 88. Capital stock to be restored by assessment; shares to be sold for non-payment of assessments; proceedings; capital stock may be reduced. R. S. c. 53, § 88. 1917, c. 27. Whenever, after setting aside an amount equal to fifty per cent of the premiums in force or the actual unearned portions of such premiums for fire risks; and for marine risks, fifty per cent of the amount of premiums written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other marine risks not terminated; 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 representatives; 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. 89. Proceedings for non-compliance. R. S. c. 53, § 89. 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 eighty-six.

Sec. 90. Receivers. R. S. c. 53, § 90. 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.

Sec. 91. Annual statement of condition; penalty for neglect. R. S. c. 53, § 91. 1919, c. 39. 1923, c. 78. 1925, c. 173. Every insurance company doing business in the state shall annually, by the first day of March, render to the insurance 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 approved by the insur-

ance 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 premium tax return required by section fifty-four of chapter twelve may be filed, to a date not later than the fifteenth day of February.

See c. 12, §§ 51, 54, 59.

Sec. 92. Commissioner to preserve statements; make annual report and publish condition of companies. R. S. c. 53, § 92. The insurance 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. 93. Recovery of fines; jurisdiction of courts. R. S. c. 53, § 93. 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. 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 six of chapter one hundred forty-four.

Inquests into Insurance Frauds.

Sec. 94. Investigation of insurance frauds. R. S. c. 53, § 94. On application in writing to the insurance 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.

Investigation of fires, see c. 35, §§ 48-55; licenses for the manufacture and sale of lightning-rods, see c. 49, §§ 41, 42.

Reciprocal Contracts of Indemnity.

Sec. 95. Making contracts of indemnity between individuals not insurance; attorneys or agents to file a declaration verified by oath. R. S. c. 53, § 95. The making of contracts between individuals, firms, or corporations, providing indemnity among themselves from casualty or other contingencies or from loss or damage to their own property, shall not constitute the business of insurance and shall not be subject to the laws of this state relating to insurance, except as provided in this section and the seven following sections. Where such contracts are exchanged through an attorney, agent, or other representative acting for such individuals, firms, or corporations, the said attorney, agent, or other rep-

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representative shall file with the insurance commissioner a declaration in writing, verified by the oath of such attorney, agent, or other representative, setting forth:

(a) The name of the attorney, agent, or other representative through whom such contracts are exchanged.

(b) A copy of the form of policy, contract, or agreement under which such insurance is to be exchanged.

(c) A copy of the form of power of attorney or other authority of such attorney, agent or other representative under which such contracts are to be exchanged.

(d) The location of the office or offices from which such contracts or agreements are to be issued.

(e) That applications have been made for indemnity upon at least one hundred separate risks as represented by bona fide applications to become concurrently effective, and that there is on deposit with such attorney, or properly constituted trustees a sum in cash or convertible securities sufficient to pay at least one total loss equal to the maximum line on any one risk.

Sec. 96. Suits, how and where to be brought; service of process on insurance commissioner. R. S. c. 53, § 96. Concurrently with the filing of the declaration provided for by the terms of the preceding section, the attorney shall file with the insurance commissioner an instrument in writing, executed by him for said subscribers, agreeing that upon the issuance of the certificate of authority provided for in section one hundred two, in all suits in this state arising out of such policies, contracts, or agreements, action may be brought in the county or state in which the property insured is situated, that service of process may be made on the insurance commissioner, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney, and that the authority of such instrument shall continue in force irrevocable so long as any liability remains outstanding in this state against the subscribers. Three copies of such process shall be served and the insurance commissioner shall file one copy, forward one copy to said attorney and return one copy with his admission of service. Said attorney, agent, or other representative is hereby authorized to file the above mentioned instrument appointing the insurance commissioner to receive service of process, which instrument shall be binding upon all the subscribers.

Sec. 97. No subscriber to assume more than ten per cent of his net worth. R. S. c. 53, § 97. Such attorney, agent, or other representative, shall file with the insurance commissioner shall file one copy, forward one copy to said attorney maximum amount of indemnity upon any single risk; and such attorney, agent, or other representative, whenever and as often as shall be required, shall file with the insurance commissioner a statement verified by his oath to the effect that he has examined the commercial rating of all subscribers to the power of attorney above referred to, as shown by the reference book of a commercial agency having at least one hundred thousand subscribers, and that from such examination or other information in his possession, it appears that no subscriber has assumed on any single risk an amount greater than ten per cent of the net worth of said subscriber.

Sec. 98. Reserve sum. R. S. c. 53, § 98. There shall, at all times, be maintained as a reserve a sum in cash or convertible securities or in bona fide agreements to pay, sufficient to pay at least one total loss equal to the maximum line on any one risk.

Sec. 99. Attorney to make report to the insurance commissioner; books and records to be open to inspection. R. S. c. 53, § 99. Such attorney, agent, or other representative shall make a report to the insurance commissioner for the calendar year on or before the thirty-first day of January showing the financial condition of affairs at the office where such contracts are issued, and shall furnish such additional information and reports as he may require; provided, however, that such attorney shall not be required to furnish the names and addresses of any subscribers. The books, records, assets and affairs of the subscribers at the office of the attorney shall be subject to examination by the insurance commissioner, or his authorized representative, and reasonable expense incurred in making such examination shall be borne by said subscribers.

Sec. 100. Corporations may exchange contracts. R. S. c. 53, § 100. Any corporation, now or hereafter organized under the laws of this state, shall in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority to exchange contracts of the kind and character mentioned in the five preceding sections. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred.

Sec. 101. Penalty for violation of §§ 95-100. R. S. c. 53, § 101. Any attorney, agent, or other representative who shall, except for the purposes of applying for the certificate of authority as herein provided, exchange any contracts of indemnity of the kind and character specified in the six preceding sections, or directly or indirectly solicit or negotiate any applications for the same without first complying with the foregoing provisions, or in case of an employee of said attorney, agent, or other representative unless his principal shall have first complied with the foregoing provisions, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars.

Sec. 102. Each attorney, agent, etc., to secure annual certificate. R. S. c. 53, § 102. Each attorney, agent, or other representative by or through whom are issued any policies of or contracts for indemnity of the character referred to in the seven preceding sections shall procure from the insurance commissioner annually a certificate of authority stating that all the requirements of sections ninety-five to one hundred two, both inclusive, have been complied with, and upon such compliance and the payment of the fees therefor the insurance commissioner shall issue such certificate authorizing such attorney, agent or representative to do business in this state, subject to the provisions of said sections, until the first day of the next July and such certificate may be renewed annually thereafter. In case of a breach of any of the conditions imposed by the provisions of said sections, the insurance commissioner may revoke the certificate of authority issued thereunder.

Foreign Insurance Companies.

Sec. 103. Definition of terms "domestic" and "foreign." R. S. c. 53, § 103. The word "domestic," when used in this chapter, means companies incorporated by this state; and the word "foreign," means companies not so incorporated.

Sec. 104. Capital required of stock company; assets required of a mutual company; business authorized. R. S. c. 53, § 104. 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 hun-

dred 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; or if a mutual company doing fire insurance only, that it possesses net cash assets of not less than fifty thousand dollars and contingent assets of not less than three hundred thousand dollars, or net cash assets of not less than seventy-five thousand dollars with contingent assets of not less than one hundred fifty thousand dollars, or net cash assets equal to its total liabilities and contingent assets of not less than one hundred thousand dollars, provided that such capital and assets, other than contingent, are well invested and immediately available for the payment of losses in this state, that it insures on any single hazard an amount no larger than one-tenth of its net assets and that it has transacted business in its home state at least five years prior to date of applying for admission. In addition to fire and marine insurance a stock or mutual company may be authorized to transact inland marine, tornado, and sprinkler insurance and insurance upon automobiles or damage caused thereby, also for loss of use and occupancy by fire or other cause. Mutual fire insurance companies incorporated under the laws of other states, which insure only factories or mills or property connected with such factories or mills, may be authorized to transact business in this state. No life, casualty, accident, health, liability, plate glass, steam-boiler, or fly-wheel, burglary, and theft, or sprinkler 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 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.

67 Me. 183.

Sec. 105. Foreign insurance company to obtain license; requirements before license granted. R. S. c. 53, § 105. No foreign insurance company shall transact any insurance business in the state, unless it first obtains a license from the insurance 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.

70 Me. 544; 80 Me. 288; 88 Me. 105.

Sec. 106. Insurance companies of foreign countries, before doing business in the state, to make a deposit, in trust for benefit of policyholders in the United States. R. S. c. 53, § 106. No foreign insurance company incorporated or associated under the laws of any government or state, other than the United States, or one of the United States, shall 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. 107. All real estate and securities of such companies to be held by trustees; commissioner may examine books and accounts. R. S. c. 53, § 107. 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 same manner as he may examine the officers, agents, books, and accounts of any company authorized to do insurance business in the state.

Sec. 108. Licenses to such companies. R. S. c. 53, § 108. 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. 109. Reciprocal provisions as to foreign companies. R. S. c. 53, § 109. 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. 110. Commissioner may revoke license for violation of law. R. S. c. 53, § 110. 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 one hundred five and one hundred twenty-two of this chapter.

Sec. 111. Insurance commissioner may examine foreign insurance companies. R. S. c. 53, § 111. The insurance commissioner, whenever he deems it necessary for the protection of policyholders, 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

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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. 112. He may examine books, papers, and officers; penalty, if company refuses to submit. R. S. c. 53, § 112. For the purposes aforesaid, the insurance 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. 113. Suspension of foreign companies. R. S. c. 53, § 113. When the insurance 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 eighty-six, 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.

80 Me. 290.

Sec. 114. Receivers of foreign companies, appointment, powers. R. S. c. 53, § 114. 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 insurance commissioner regards the proceedings advisable, he may apply to the supreme judicial court, or the superior court, or any justice of either of said courts, 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 eighty-six. 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. 115. Commissioner may suspend any insolvent foreign life insurance company; penalty for issuing policies afterwards. R. S. c. 53, § 115. When the insurance 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 more than 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. 116. Appeal by suspended company. R. S. c. 53, § 116. When the insurance 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 or of the superior 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. 117. Foreign insurance companies, life excepted, to publish annual statement of condition; penalty for neglect. R. S. c. 53, § 117. 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. 118. Suits against foreign insurance companies; judgment binds company; suspension unless judgment is paid within thirty days; commissioner to notify company of service of process. R. S. c. 53, § 118. 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 process 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, post-paid, and directed to the officers of the company.

See c. 95, § 22; *56 Me. 420, 479; 69 Me. 411; 72 Me. 310.

Sec. 119. Notices and processes, how served; company bound by agent's knowledge of risk. R. S. c. 53, § 119. 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 insurance 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. Omis-

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sions and misdescriptions known to the agent shall be regarded as known by the company, and waived by it as if noted in the policy.

See § 31; 69 Me. 411; 72 Me. 310; 81 Me. 248; 87 Me. 382; 88 Me. 107; *89 Me. 271, 275; 92 Me. 277; 106 Me. 278, 413; 108 Me. 433; 109 Me. 324; *111 Me. 294; 112 Me. 101; *114 Me. 6, 170; *116 Me. 355; *117 Me. 244, 567; 119 Me. 417; 127 Me. 361.

Sec. 120. Jurisdiction of courts in actions against foreign insurance companies. R. S. c. 53, § 120. 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.

Railroad companies have insurable interest in property along route, c. 64, § 63.
As to insurance of church in actual occupancy of parish, c. 20, § 13.

Foreign insurance companies have benefit of statute limitations under certain circumstances, c. 95, § 111.

Penalty for burning property with intent to defraud the insurer, c. 138, § 24.

Sec. 121. Dividend of foreign mutual fire insurance company; when and where payable. 1917, c. 184. Any dividend due from a foreign mutual fire insurance company under a policy of insurance issued by it shall be payable at the place of business of its duly commissioned agent in this state seven days subsequent to a demand for the payment thereof made by the assured or by his authorized representative; upon failure to so make such payment, an action therefor may be maintained.

Insurance Agents and Brokers.

Sec. 122. Licenses of agents; agent personally liable for unlawful contracts; penalty. R. S. c. 53, § 121. 1917, c. 25, § 1. The insurance commissioner may issue a license to any person to act as an agent of a domestic insurance company, 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 one hundred five or section one hundred fifty-four, 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 shall be punished by a fine of not more than two hundred dollars, or by imprisonment for not more than sixty days, 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 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.

See c. 12, § 56; 61 Me. 335; 70 Me. 544; 80 Me. 288; 81 Me. 508, 510; 88 Me. 105; 95 Me. 36.

Sec. 123. Commissioner may license insurance brokers; penalty for acting without license; may revoke license for cause or upon request of company. R. S. c. 53, § 122. 1917, c. 25, § 2. 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 one hundred five and one hundred twenty-two, 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 of not more than two hundred dollars, or by imprisonment for 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.

81 Me. 509; 88 Me. 105.

Sec. 124. Firms and corporations may be licensed as insurance agents and brokers. R. S. c. 53, § 123. 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.

Sec. 125. Personal examination of applicants required in certain cases. R. S. c. 53, § 124. 1927, c. 208. Before an agent or broker is licensed as provided in the three preceding sections he shall file with the insurance commissioner a statement under oath, giving his name, residence, present occupation, his occupation for the five years next preceding the date of such statement, and such other information, if any, as the insurance commissioner may require. After the statement herein provided for is filed, the insurance commissioner may, if he is satisfied that the appointee is a suitable person, issue to him a license in accordance with said sections; provided, however, that it shall not be necessary for an applicant qualifying as an agent or broker for any particular company to re-qualify. The insurance commissioner may at any time after granting such license, for cause shown, and after a hearing, determine any person so appointed, or any person theretofore appointed as agent, to be unsuitable to act as such agent, and shall thereupon revoke such license and notify both the company and the agent of such revocation. Before any person is licensed as hereinbefore provided as a first-time agent of any foreign fire insurance company or as a first-time insurance broker, he shall appear in person at such time and place as the insurance commissioner, his deputy, or any person delegated by the insurance commissioner or his deputy shall designate in writing for that purpose, for a personal examination as to his character and qualifications to act as such agent or broker. The examiner shall be satisfied that such person is of good character and is otherwise qualified for the license he desires; that he intends to hold himself out in good faith as an insurance agent or broker, and

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that no part of the commission on the business of such agent or broker shall be paid to any person, firm, or corporation other than a duly licensed agent, broker, or insurance company.

Sec. 126. Insurance commissioner may issue licenses to special insurance brokers; conditions upon which insurance may be procured; licensee to keep account of business done and report to commissioner; licensee to give bond. R. S. c. 53, § 125. 1917, c. 63. 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. The person named in such a license shall in each case make application to the insurance commissioner setting forth his reasons for desiring to insure the particular risk with companies not authorized in Maine, and said commissioner shall, if he deems it advisable, grant permission to procure such insurance. He shall give notice to the insurance commissioner not later than five days after the risk is insured, giving the name of the owner, location of the property, name of the company or companies issuing policies thereon. In case the insurance commissioner finds that any company named by a special broker under the provisions of this section is not financially sound and is not believed to be a responsible and reliable company, he shall so notify the special broker who shall forthwith substitute another company, submitting the name of the substitute company to the insurance commissioner for approval. Each person so licensed shall keep a separate account of the business done under the license which shall be open to the inspection of the insurance commissioner or his representative. He shall monthly file with the insurance commissioner a statement showing the amount of insurance placed for any person, firm, or corporation, the location of each risk, the gross premium charged thereon, the companies in which the insurance is placed, the date of the policies and the term thereof, and such further information as the insurance commissioner may require. He shall also report in the same detail all policies canceled during the month covered by the report showing the return premiums thereon. Before receiving such license he shall execute and deliver to the treasurer of state a bond in the penal sum of one thousand dollars, with such sureties as the insurance commissioner 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. 127. License may be revoked for violation of law, or for misrepresentation. R. S. c. 53, § 126. Whenever the insurance commissioner shall become satisfied that any insurance agent licensed in this state has wilfully violated any of the insurance laws of this state, or has wilfully overinsured property located in this state, or has wilfully misrepresented any policy of fire insurance, or has dealt unjustly with or wilfully deceived any citizen in this state in regard to any fire insurance policies, or has failed or refused to pay either to the company which he represents, or has represented, any money or property in the hands of such agent belonging to the company, when demanded, or has in any other way become unfit for such position, he may, after a hearing, revoke the license of such

agent for all the companies which he represents in this state for such length of time as he may decide, not exceeding one year; provided, however, that the insurance commissioner shall give said agent ten days' notice of such revocation of license or licenses and the reasons therefor.

Sec. 128. Penalty for violation of § 126. R. S. c. 53, § 127. 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 of not more than one hundred dollars, or by imprisonment for not more than sixty days; and whoever without such license, assumes to act as a special insurance broker, shall incur like punishment.

Sec. 129. Adjusters of losses by fire must be licensed; revocation of license. R. S. c. 53, § 128. No insurance company transacting fire insurance business in this state shall permit any representative to adjust a loss until such representative has been licensed in accordance with the provisions of this section; but a license as an adjuster shall not be required of a duly licensed fire insurance agent residing in this state. The insurance commissioner may issue a license to any person to act as an adjuster of losses by fire upon receipt of an application in such form as may be required by him. Before issuing a license to any adjuster the insurance commissioner shall satisfy himself that the applicant is a suitable person to act as an adjuster. The insurance commissioner may at any time after the granting of such license, for cause shown, and after a hearing, determine that any person so licensed is unsuitable to act as an adjuster and shall thereupon revoke such license and shall notify the adjuster of such revocation.

Sec. 130. Discrimination or rebates on premiums for fire or liability insurance declared unlawful. R. S. c. 53, § 129. No insurance company transacting fire or liability insurance in this state, and no agent or broker transacting fire or liability insurance, either personally or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, as an inducement to fire or liability insurance on any risk in this state, now or hereafter to be written, any rebate of or part of the premium payable on any policy or of the agent's commission thereon; nor shall any such company, agent or broker, personally or otherwise, offer, promise, allow, give, set off, or pay, directly or indirectly, as an inducement to such fire or liability insurance any earning, profit, dividends, or other benefit, founded, arising, accruing, or to accrue on such insurance, or therefrom, or other valuable consideration, or any special favor which is not specified, promised, or provided for in the policy of insurance; nor shall any such company, agent, or broker, personally or otherwise, offer, promise, give, or sell as an inducement to such insurance any stocks, bonds, securities, or property, or any dividends or profits accruing or to accrue thereon, nor, except as specified in the policy, offer, promise, or give any other thing of value whatsoever, or purchase any stocks, bonds, securities, or other property, for which shall be paid or agreed to be paid more than the fair and reasonable value thereof.

Sec. 131. Transactions between companies or agents to be lawful, also dividends to policyholders. R. S. c. 53, § 130. The preceding section shall not prevent any insurance company from paying to another insurance company, or to any duly authorized agent or broker of this or any other state who holds himself out and carries on an insurance business in good faith as such, or prevent an insurance company, agent, or broker from receiving, a commission on any policy under which it, itself, or he, himself, is insured, or any mutual company from paying dividends duly earned to policyholders.

Sec. 132. Penalty for violation of § 130. R. S. c. 53, § 131. Any insurance company, agent, or broker who violates any provision of section one hundred thirty shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars for each and every violation, or in the discretion of the court, by imprisonment for not more than six months. The insurance commissioner may revoke the license of any company, agent, or broker violating said section.

Life Insurance.

Sec. 133. Life policies issued after March 31, 1877, in default for non-payment of premiums, after being in force three years and containing no surrender provision, continued in force; net value of policy to be ascertained; deductions may be made. R. S. c. 53, § 132. Every life insurance policy issued after the thirty-first day of March, eighteen hundred 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. 134. In case of death during term of temporary insurance, company to pay amount of policy; policy may be issued to resident of another state or country, not subject to this and preceding section. R. S. c. 53, § 133. 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. 135. Bonds may be valued on principles of amortization. R. S. c. 53, § 134. All bonds or other evidences of debt having a fixed term and rate, held by a life insurance company authorized to do business in this state, may, if amply secured and not in default as to principal and interest, be valued upon the principles of amortization, provided that the insurance commissioner shall have full discretion in determining the method of calculating values according to the foregoing principles, and the values found by him in accordance with such method shall be final and binding; provided further that any such corporation may return such bonds or other evidences of debt at their market value or book value, but in no event at an aggregate value exceeding the aggregate of the values calculated according to the foregoing principles.

Sec. 136. Reinsurance of risks. R. S. c. 53, § 135. 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. 137. Discrimination by life insurance companies prohibited. R. S. c. 53, § 136. No life insurance company doing business in this state shall make or permit any distinction or discrimination between individuals of the same class of insurance risk and of equal expectation of life in the amount payable upon the policy, the premiums or rates charged for policies of life insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the same. No company, association, or society, by itself or any other party, and no insurance agent, solicitor, or broker personally, or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, as an inducement to life, personal accident or health insurance, on any risk in this state now or hereafter to be written, any rebate of or part of the premium payable on any policy or of the agent's commission thereon; nor shall any such company, association or society, agent, collector, or broker, personally or otherwise, offer, promise, allow, give, set off, or pay, directly or indirectly, as inducement to such insurance, any earnings, profit, dividends, or other benefit, founded, arising, accruing, or to accrue on such insurance or therefrom, or any other valuable consideration, which is not specified, promised, or provided for in the policy of insurance; nor shall any such company, association or society, agent, collector, or broker, personally or otherwise, offer, promise, give, or sell as inducement to such insurance or in connection with such inducement, any stocks, bonds, securities, or property, or any dividends or profits accruing or to accrue thereon, nor except as specified in the policy, offer, promise, or give any other thing of value whatsoever, or purchase any stocks, bonds, securities, or property for which shall be paid or agreed to be paid more than the fair and reasonable value thereof.

83 Me. 265; *111 Me. 291; 116 Me. 46.

Sec. 138. Insured person not to accept rebates, special favor or inducement. R. S. c. 53, § 137. No insured person, firm, or corporation shall knowingly receive or accept, directly or indirectly, any rebate of premium or part thereof, or agent's, solicitor's, or broker's commission thereon payable on any policy of life, personal accident or health insurance, or any special favor or advantage in the dividend or other benefit to accrue thereon; nor shall any such person, firm, or corporation receive anything of value as inducement to such insurance or in connection therewith, which is not specified, promised, or provided for in the policy of insurance.

Sec. 139. Penalty for violation of §§ 137-138; insurance commissioner may revoke license. R. S. c. 53, § 138. Any company, association, society, officer, solicitor, agent, broker, or other person who violates any provision of the two preceding sections shall be guilty of misdemeanor and upon conviction thereof shall be sentenced to pay a fine of one hundred dollars for each and every violation, or in the discretion of the court, to imprisonment for not less than ninety days nor more than six months. The insurance commissioner, after a hearing, may revoke or suspend any license issued to any such company, association, society, agent, or broker for a period not exceeding one year.

Sec. 140. Sections 137-139 not applicable to certain payments. R. S. c. 53, § 139. Nothing in the three preceding sections shall be so construed as to prohibit any company issuing non-participating life insurance from paying bonuses to policyholders or otherwise abating their premiums, in whole or in part, out of surplus accumulated from non-participating insurance; nor to prohibit any company transacting industrial insurance on the weekly payment plan from returning to policyholders who have made premium payments for a period of at least one year directly to the company at its home or branch offices, a percentage of the premium which the company would have paid for the weekly collection of such premiums; nor to prohibit any life insurance company doing business in this state from issuing policies of life or endowment insurance with or without annuities at rates less than the usual rates of premiums for such policies, insuring members of organizations or employees of any employer who through their secretary or employer may take out insurance in an aggregate of not less than fifty members and pay their premiums through such secretary or employer; nor to prohibit an agent from receiving commissions from his company for insurance on himself.

Sec. 141. Benefits or privileges of policies not to be misrepresented. R. S. c. 53, § 140. No insurance company, association, or society, or any officer, director, agent, broker, or solicitor thereof shall issue, circulate, or use, or cause or permit to be issued, circulated, or used, any written or oral statement, or circular misrepresenting the terms of any life, personal accident, or health policy issued or to be issued by such company, or misrepresenting the benefits or privileges promised under any such policy. No insurance company, association, or society; officer, director, agent, solicitor, or broker, or any person, firm, association, or corporation shall make any misrepresentation, oral, written, or otherwise, to any person for the purpose of inducing or tending to induce such person to take out of a policy of life, personal accident or health insurance, or for the purpose of inducing or tending to induce any person having life, personal accident, or health insurance to lapse, forfeit, or surrender such insurance and to take out a policy of insurance in another company.

Sec. 142. Penalty for violation of § 141; insurance commissioner may revoke license. R. S. c. 53, § 141. Any insurance company, association, or society, agent, solicitor, or broker, or any person, firm, association, or corporation, violat-

ing any provision of the preceding section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars for each and every violation, or in the discretion of the court, to imprisonment for a period of not more than six months. The insurance commissioner, after a hearing, shall have authority in his discretion to revoke or suspend the license theretofore issued to any company, association, or society, agent, or broker, for a period not exceeding one year.

Sec. 143. Incriminating evidence to be no excuse from testifying. R. S. c. 53, § 142. No person shall be excused from testifying or from producing any books, papers, contracts, agreements, or documents at the trial or hearing of any person or company, association, or society charged with violating any provision of sections one hundred thirty-seven, one hundred thirty-eight, one hundred thirty-nine, and one hundred forty-one, on the ground that such testimony or evidence may tend to incriminate himself; but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Sec. 144. Rights of creditors and beneficiaries under policies of life and accident insurance. R. S. c. 53, § 143. 1929, c. 205. If a policy of life, endowment or accident insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life, endowment or accident insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance, or his executors or administrators, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person; provided, that, subject to the statute of limitations, the amount of any premiums for said insurance paid with intent to defraud creditors, with interest thereon, shall enure to their benefit from the proceeds of the policy; but the company issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the company shall have written notice, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specifications of the amount claimed.

If an annuity contract, whether heretofore or hereafter issued, is effected by any person, based upon his own life, or on another life, payable to a person other than himself, the lawful beneficiary or assignee thereof, other than the person so effecting such contract, or his executors or administrators, shall be entitled to its proceeds and avails against the creditors and representatives of the person effecting such contract, to the same extent and under the same conditions hereinbefore provided with reference to the proceeds and avails of policies of life and accident insurance.

See c. 89, § 21; *87 Me. 70; 90 Me. 39; *97 Me. 441.

Sec. 145. Life insurance companies not to contract to pay benefits in anything but money. 1917, c. 119. No corporation organized or authorized under the laws of this state to transact life insurance or to pay benefits shall provide in any policy, certificate, contract, or agreement issued or made by it, for the payment of any insurance, indemnity, or benefit, in services, goods, wares, or merchandise of any kind.

Sec. 146. Minors may make valid contracts for life insurance. 1921, c. 120. In respect to insurance heretofore or hereafter issued upon the life of any person between the ages of fifteen and twenty-one years, for the benefit of such minor, or for the benefit of the father, mother, husband, wife, child, brother, or sister of such minor, the insured shall not, by reason only of such minority, be incompetent to contract for such insurance, or for the surrender of such insurance, or to give a valid discharge for any benefit accruing, or for money payable under the contract, provided that such surrender or discharge shall be given with the consent of the beneficiary.

Sec. 147. Life insurance policies incontestable after two years; exceptions. 1923, c. 164. The policy of life insurance together with the application and the medical examination therefor, a copy or photograph of which application without the medical examination shall be endorsed upon or attached to the policy and made a part thereof, shall constitute the entire contract between the parties and shall be incontestable after it shall have been in force during the life time of the insured for two years from its date, except for non-payment of premiums and except for violations of the policy relating to the naval or military service in time of war and at the option of the company provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted.

Annuity Companies.

Sec. 148. Annuity companies made subject to law relating to life insurance. R. S. c. 53, § 144. 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.

Sec. 149. Foreign surety, credit, and title insurance companies may do business in this state. R. S. c. 53, § 145. 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. 150. Insurance commissioner to be appointed attorney, upon whom process may be served; certificate of appointment to be filed with commissioner. R. S. c. 53, § 146. 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 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. 151. Copy of all processes to be forwarded. R. S. c. 53, § 147. 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, post-paid, and directed to the secretary of the company.

Sec. 152. No person to act as agent, unless company has \$250,000 capital paid up. R. S. c. 53, § 148. 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. 153. Persons deemed agents, and their liabilities. R. S. 53, § 149. 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.

Sec. 154. Copy of charter and statement of condition to be deposited with commissioner, before license is issued. R. S. c. 53, § 150. 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 mortgages, 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.

Sec. 155. Annual statement to be filed with commissioner. R. S. c. 53, § 151. 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-

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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.

Sec. 156. Agents not to act until requirements of law have been complied with; penalty. R. S. c. 53, § 152. 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 punished by a fine of one hundred dollars.

Sec. 157. If annual returns are obscure or defective, commissioner may require answers under oath; penalty for refusing to answer. R. S. c. 53, § 153. 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.

Sec. 158. Examination of such companies; commissioner may publish result of investigation; may revoke license; expenses of examination. R. S. c. 53, § 154. The insurance commissioner, either personally, or by a committee appointed by him, consisting of one or more persons not directors, 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.

Sec. 159. Violations to be reported to attorney-general. R. S. c. 53, § 155. 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. 160. Any company organized for such purposes with sufficient capital, may be accepted as surety on bonds required by law. R. S. c. 53, § 156. 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 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.

104 Me. 133.

Sec. 161. Premiums on bonds, how paid and allowed. R. S. c. 53, § 157. 1917, c. 97. 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. The premiums on account of all official bonds required by law to be given by county officials shall be paid from the treasuries of their several counties.

Sec. 162. Insurance commissioner to notify registers of probate of authorization of surety companies. R. S. c. 53, § 158. Whenever any foreign or domestic surety company complies with all the requirements of law regulating the admission of such companies to transact business in this state and is authorized to transact business therein, the insurance commissioner shall forthwith transmit to each register of probate the name of such company and the names of all agents of such company who have been licensed by him, their places of residence and the dates when their licenses will expire; and he shall on the first days of February and August of each year forward to each register of probate a list containing the names of all surety companies, foreign and domestic, which are then licensed or qualified to transact business in the state, the names of all agents of said companies, who have been licensed by him, and their places of residence, and the dates when their respective licenses will expire; he shall from time to time communicate to the registers of probate the names of all surety companies which cease to qualify to transact business in this state. The registers shall preserve such lists on the files of the courts.

Sec. 163. Company estopped to deny corporate power. R. S. c. 53, § 159. Any company which shall execute any bond as surety under the provisions of section one hundred sixty shall be estopped in any proceedings to enforce the liability which it shall have assumed to incur, to deny its corporate power, or the authority of any licensed agent, to execute such instrument or assume such liability.

Casualty Insurance on Assessment Plan.

Sec. 164. Definition of contract; business to be carried on only by duly organized corporation. R. S. c. 53, § 160. 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 issu-

ance 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 twelve following sections; but nothing herein contained shall be construed as applicable to fraternal beneficiary associations conducting their business in accordance with the laws of this state.

Sec. 165. Formation of corporations to carry on casualty insurance on assessment plan; provisions as to guaranty fund; authorization to write business; liability of policyholder stated on policy. R. S. c. 53, § 161. 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 seventy; 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; nor until it shall have established a guaranty fund or capital of not less than ten thousand dollars, which may be divided into shares of not less than one hundred dollars and certificates issued therefor. A dividend not exceeding seven per cent in any one calendar year may be paid from the net earnings of the company after providing for all expenses, losses, reserves, and liabilities then incurred. Such guaranty fund or capital shall be invested as provided in section twenty of this chapter, and shall be deposited with the treasurer of state. When the cash and other available assets of the company are exhausted such part of said fund as may be required shall, with the approval of the insurance commissioner, be drawn and used to pay losses then due. When such fund is so drawn upon the directors shall make good the amount so drawn, either from the receipts of the company or by assessments upon the contingent funds of the company and unless such fund is restored within six months from date of withdrawal the shareholders shall be assessed in proportion to the amount of stock owned by them for the purpose of restoring said capital. Shareholders and members of such companies shall be subject to the same provisions of law relative to their right to vote as apply respectively to shareholders in stock companies and policyholders in purely mutual companies. Said guaranty fund or capital may be retired by vote of the policyholders when the surplus funds of the company over and above all liabilities, including guaranty capital, shall equal or exceed the amount of such guaranty fund or capital, or any part of said guaranty fund or capital may be retired; provided, that the amount of net surplus and guaranty fund or capital shall not be less than ten thousand dollars. The guaranty fund or capital shall be retired when the net cash assets of the company equal twice the amount of said guaranty fund or capital. The corporation shall not begin business until it 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. When such company has established a guaranty fund or capital as provided herein and has complied with the other requirements of the laws of this state, it shall be authorized by the insurance commissioner to write business; and such company may charge and collect a premium in cash and by its by-laws and policies fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal

to and in addition to the cash premium written in his policy. The total amount of the liability of the policyholder shall be plainly and legibly stated upon the filing-back of each policy. Whenever any reduction is made in the contingent liability of members such reduction shall apply proportionally to all policies in force.

Sec. 166. Proceedings against corporation conducting business fraudulently; when and how domestic corporation may be closed; appointment and duties of receiver; dissolution of corporation. R. S. c. 53, § 162. 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 or of the superior 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 or of the superior 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 service the receiver may be allowed out of any funds in possession of the corporation or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the corporation shall be finally closed, the court may decree a dissolution of the same.

Sec. 167. Transfer of risks or reinsurance in another corporation. R. S. c. 53, § 163. 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.

89 Me. 418.

Sec. 168. Reserve fund; its investment and application to payment of claims. R. S. c. 53, § 164. Any corporation organized under section one hundred sixty-five, or any corporation of this state doing assessment insurance business

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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 a sum sufficient to make the total deposit with said treasurer not less than the amount of one assessment or periodical call on all its policyholders for benefit and expense funds, until the reserve fund so accumulated shall amount, together with the amount there deposited prior to the first day of March, eighteen hundred 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 bank 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 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 for benefit and expense funds, nor to less than one thousand dollars.

Sec. 169. Duty of insurance commissioner; satisfaction of judgments. R. S. c. 53, § 165. 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 or of the superior 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 policyholder 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.

86 Me. 232; 87 Me. 181; 89 Me. 419.

Sec. 170. Authorization of foreign corporations; conditions under which authority to do business in the state is granted, renewed, and revoked. R. S. c. 53, § 166. 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; provided, that no such company shall be hereafter authorized, unless such company shall have a guaranty fund or capital or net cash assets equal to the amount required of domestic companies incorporated after the twelfth day of July, nineteen hundred thirteen. Every such corporation, and agent of such corporation, shall also comply with the provisions of sections one hundred thirteen, one hundred twenty-two, and one hundred twenty-three 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 seventy-two, and the insurance commissioner shall enforce the provisions of section one hundred thirteen 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 of its agents in this state.

Sec. 171. Calls to state purpose of same; application of proceeds. R. S. c. 53, § 167. 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 in a reserve fund and for no other purpose.

Sec. 172. Policy to bear on the face the words: "This policy is subject to assessments." R. S. c. 53, § 168. In every policy or certificate issued after the first day of July, eighteen hundred 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. 173. Benefit or relief not liable to attachment; beneficiary may be changed. R. S. c. 53, § 169. The money or other benefit, charity, relief, or aid to be paid, provided, or rendered by any corporation authorized to do casualty

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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.

See c. 89, § 21.

Sec. 174. Penalty for false representation by solicitor, agent, or physician. R. S. c. 53, § 170. 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 dollars, nor more than five hundred dollars, or imprisonment for not less than thirty days nor more than eleven months.

Sec. 175. Corporations to report annually; commissioner may examine any such corporations. R. S. c. 53, § 171. 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 fifteen, one hundred nine, one hundred eighteen to one hundred twenty, inclusive, and in sections one hundred sixty-four to one hundred seventy-six, inclusive.

Sec. 176. Fees for filing statement, etc. R. S. c. 53, § 172. 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 sixty-four to one hundred seventy-six inclusive, by such companies shall be the same as provided in the case of life insurance companies.

Liability Absolute when Loss Occurs.

Sec. 177. Liability of insurance company absolute when loss occurs. 1927, c. 146, § 1. The liability of every company which insures any person, firm, or corporation against accidental loss or damage on account of personal injury or death, or on account of accidental damage to property, shall become absolute whenever such loss or damage for which the insured is responsible, occurs; and the rendition of a final judgment against the insured, for such loss or damage, shall not be a condition precedent to the right or obligation of the insuring company to make payment on account of such loss or damage.

Judgment Creditor may have Insurance.

Sec. 178. Application of insurance money in cases after final judgment; company entitled to notice of accident or injury. 1927, c. 146, § 2. Whenever any person, administrator, executor, guardian, firm, or corporation, recovers a final judgment against any other person, firm, or corporation, for any loss or damage specified in the preceding section, the judgment creditor shall be

entitled to have the insurance money applied to the satisfaction of the judgment by bringing a bill in equity, in his own name, against the insuring company to reach and apply said insurance money; provided that when the right of action accrued the judgment debtor was insured against said liability, and that before the recovery of said judgment the insuring company had had notice of such accident, injury, or damage; provided also that the insuring company shall have the right to invoke the defenses described in section one hundred eighty in said equity proceedings.

Sec. 179. Bill not to be brought until twenty days after final judgment. 1927, c. 146, § 3. No bill in equity shall be brought against an insurance company, to reach and apply said insurance money until twenty days shall have elapsed from the time of the rendition of the final judgment against the judgment debtor.

Sec. 180. Exceptions. 1927, c. 146, § 4. None of the provisions of sections one hundred seventy-seven and one hundred seventy-eight shall apply

(1) when the automobile, motor vehicle or truck is being operated by any person contrary to law as to age, or by any person under the age of sixteen years where no statute restricts the age; or

(2) when such automobile, motor vehicle or truck is being used in any race or speed contest; or

(3) when such automobile, motor vehicle or truck is being used for towing or propelling a trailer unless such privilege is endorsed on the policy, or such trailer is also insured by the company; or

(4) in the case of any liability assumed by the insured for others; or

(5) in the case of any liability under any workmen's compensation agreement, plan or law; or

(6) when there is fraud or collusion between the judgment creditor and the insured.