

MAINE STATE LEGISLATURE

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



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

EIGHTH REVISION

T H E

REVISED STATUTES

OF THE

STATE OF MAINE

PASSED SEPTEMBER 20, 1944, AND TAKING EFFECT
DECEMBER 30, 1944

VOLUME I



By the Authority of the Legislature

AUGUSTA
KENNEBEC JOURNAL PRINT

CHAPTER 56.

INSURANCE AND INSURANCE COMPANIES.

Section	1	The Contract of Insurance.
Sections	2-13	The Insurance Commissioner and His Duties.
Sections	14-21	Deposit of Securities with Treasurer of State.
Sections	22-24	Issue of Contract of Insurance by Incorporated Companies.
Sections	25-37	Organization of Companies Under General Law.
Sections	38-57	Foreign Insurance Companies.
Sections	58-73	Stock Companies.
Sections	74-95	Domestic Mutual Fire Insurance Companies.
Sections	96-103	Fire Insurance.
Sections	104-108	Lien of Mortgagees on Fire Policies.
Sections	109-113	Accident and Health Insurance.
Sections	114-115	Life Insurance.
Sections	116-121	Standard Non-forfeiture Law.
Sections	122-140	Standard Valuation Law. Miscellaneous Provisions.
Section	141	Group Insurance for Certain Employees.
Sections	142-143	Life Insurance Companies May Pay Pensions to Employees.
Section	144	Annuity Companies.
Sections	145-152	Domestic Associations.
Sections	153-156	Foreign Associations.
Section	157	Associations for Casualty Insurance.
Sections	158-171	Licenses to Agents and Supervision by Insurance Commissioner.
Sections	172-175	Foreign Associations for Casualty Insurance.
Sections	176-181	Whole Family Protection.
Sections	182-196	Foreign Surety Companies. Credit Insurance and Title Insurance.
Sections	197-209	Casualty Insurance on Assessment Plan.
Sections	210-217	Reciprocal Contracts of Indemnity.
Sections	218-232	Non-profit Hospital Service Organizations.
Sections	233-239	Motor Vehicle Road or Tourist Service.
Sections	240-248	Insurance Emergency.
Sections	249-259	Insurance Agents and Brokers.
Section	260	Rights of Assignees.
Section	261	Liability Absolute When Loss Occurs.
Section	262	Judgment Creditor May Have Insurance.
Section	263	Inquests Into Insurance Frauds.
Section	264	Automobile Finance Business.
Sections	265-270	Sale of Lightning-Rods.
Section	271	Recovery of Fines. Jurisdiction of Courts.
Section	272	Fees Payable to Insurance Commissioner.

The Contract of Insurance

Sec. 1. Contract of insurance. R. S. c. 60, § 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.

See § 210; c. 11, § 12, re insurance on state owned buildings and property; 99 Me. 276; 109 Me. 484.

The Insurance Commissioner and His Duties

Sec. 2. Commissioner, appointment, term, and duties; appointment and duties of deputy commissioner. R. S. c. 60, § 83; c. 125, §§ 16, 37. 1931, c. 216, Art. II, § 15. 1943, c. 320; c. 356, § 4. An insurance commissioner, hereinafter in this chapter called the "commissioner," shall be appointed by the governor and council, and shall hold his office for 4 years, and until his successor has been appointed and qualified, but shall not at the same time be bank commissioner. His office shall be at the state capitol. 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, and pay over the same to the treasurer of state forthwith. He shall receive an annual salary of \$4,500. He may appoint, subject to the provisions of the personnel law, 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.

See c. 19, § 69, re motor vehicle liability policy; c. 88, § 65, re cinematograph and moving pictures; c. 85, § 42, re duty to make regulations respecting explosives and illuminating substances; c. 85, §§ 21-31, re fires; c. 85, § 54, re fire safeguards; c. 128, § 10, re buildings for manufacturer of powder as nuisances; 102 Me. 286.

Sec. 3. Notice to commissioner of organization; license to do business. R. S. c. 60, § 85. Every domestic insurance company, upon organization, shall inform the 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. 9, § 21, sub-§ XXIX, re business to commence within 2 years of incorporation.

Sec. 4. Powers of commissioner in re exchange of stock by domestic companies. 1939, c. 144. Upon application of any domestic insurance company, the commissioner is authorized to approve the fairness of the terms and conditions of the issuance by any such insurance company of any shares of its capital stock and bonds or its other securities or obligations in exchange for one or more bona fide outstanding securities, claims, or property interests of any other insurance company, domestic or foreign, or partly in such exchange and partly for cash, but only after a hearing has been held by such commissioner upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear and be heard. At least 14 days' notice of any such hearing shall be published or given in such manner as the commissioner may determine to all persons to whom it is proposed to issue securities in such exchange.

Sec. 5. Proceedings for non-compliance. R. S. c. 60, § 89. Any insurance company incorporated in the state, having a specific capital, which does not within 3 months after receiving notice from the commissioner that its capital is impaired, satisfy him that it has fully complied with the law relating thereto, shall be proceeded against according to the provisions of section 10.

Sec. 6. Commissioner shall notify insurance companies. 1939, c. 90. If the commissioner shall notify any insurance company doing business in the state

that any policy form or form of endorsement used or proposed to be used by any such company does not meet with the approval of the commissioner, for the reason that it does not comply with the statutes of this state or is otherwise illegal or is misleading or capable of a construction which is unfair to the assured or the public, such policy form or form of endorsement shall not thereafter be used by such company in the state. The commissioner in notifying any such insurance company of his failure to approve of any such policy form or form of endorsement shall state his reason for disapproval thereof. Any such insurance company, receiving such notice from the commissioner, may within 30 days thereafter file an appeal in the superior court to be holden in Kennebec county stating therein its reasons and containing a copy of the commissioner's notification, and after such notice as it shall order, and upon hearing, said court shall determine whether or not the reasons assigned by the commissioner are valid and thereupon sustain or annul said ruling. During the pendency of any such appeal, such policy form or form of endorsement shall not be used.

Sec. 7. Annual statement of condition; penalty for neglect. R. S. c. 60, § 91. Every insurance company doing business in the state shall annually, by the 1st day of March, render to the commissioner either an exact statement, under oath, of its condition as it existed on the 31st day of the previous December, or its last exhibit, setting forth its condition as required by blanks approved by the commissioner, and any company, association, or society which neglects or refuses to comply with the provisions of this section, or to file its premium tax return, or to pay the tax for which it shall be liable, as required by the laws of this state, forfeits \$5 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 136 of chapter 14 may be filed, to a date not later than the 15th day of February.

See c. 14, §§ 132, 136, 141, re taxation.

Sec. 8. Commissioner to preserve statements. R. S. c. 60, § 92. 1939, c. 101, § 7. The commissioner shall preserve in 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 required under the provisions of this chapter.

Sec. 9. Examination of domestic companies; penalty for refusal. R. S. c. 60, § 84. 1939, c. 101, § 5. The commissioner shall biennially examine or cause to be examined every domestic 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 \$200.

Sec. 10. Application for injunction against domestic company; proceedings thereon. R. S. c. 60, § 86. If on examination the commissioner thinks that any domestic insurance company is insolvent, or that it is in such a condition as to render its further proceedings hazardous to the public or its 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 §§ 91-95; 89 Me. 413; 110 Me. 494.

Sec. 11. Proceedings for appointment of receiver of domestic life insurance company. R. S. c. 60, § 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 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 4% 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 section 10; 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. 12. Unauthorized insurance; exceptions. 1943, c. 24. No insurance company domiciled in this state will be permitted to insure persons, property, or other risks in any other state unless such company is authorized pursuant to the laws of such state to transact such insurance therein. Provided, however, that this section shall not apply:

I. To insurance companies organized in compliance with the insurance laws of this state, which cannot be properly authorized in other states because the laws of such states do not permit the writing of the class or kind of insurance written by such companies;

II. To contracts entered into where the person insured, or proposed to be insured is, when he signs the application, personally present in a state in which the insurer is authorized to transact business;

III. To the issuance of certificates under any lawfully transacted group life, group accident, or other group disability policy, entered into in a state in which the insurer is then authorized to transact business;

IV. To the renewal, reinstatement, conversion, or continuance in force, with or without modification, of contracts otherwise lawful, and which were not originally executed in violation of the provisions of this section;

V. To insurance written in any state which does not have a similar provision in its insurance laws.

The commissioner shall annually mail to each domestic insurance company of this state notice specifying those states having a similar law.

Sec. 13. Receivers. R. S. c. 60, § 90. Receivers appointed under the provisions of 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.

See c. 55, § 67 et seq., re receivers of savings banks.

Deposit of Securities with Treasurer of State

Sec. 14. Deposit of securities with treasurer of state. R. S. c. 60, § 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. 15. Treasurer of state to furnish certificate. R. S. c. 60, § 75. The treasurer of state shall furnish such company mentioned in section 14 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.

See c. 15, § 1, re fee for certificate.

Sec. 16. Interest or dividends, collected by companies; securities, how withdrawn or returned. R. S. c. 60, §§ 76, 77. The treasurer of state shall hold the securities deposited under the provisions of section 14 on deposit in accordance with the provisions of sections 14 and 15, but the 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. The treasurer of state on being satisfied of the repeal or alteration of the law of such other state described in section 14, disqualifying the depositing company from continuing its business therein, shall return the securities on demand.

Sec. 17. Company may relinquish its business out of state. R. S. c. 60, § 78. When a company described in section 14 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. 18. Deposit by accident or health stock companies. R. S. c. 60, § 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 \$100,000, 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.

See c. 15, § 1, re fee for certificate.

Sec. 19. Certificates to be furnished. R. S. c. 60, § 80. The treasurer of state shall furnish such company described in section 18 with a certificate or certificates in accordance with section 15; and shall hold the securities deposited as provided in section 18, under the provisions thereof, and the provisions of section 16 shall be applicable thereto.

Sec. 20. Return of securities. R. S. c. 60, § 81. When any company described in section 18 shall satisfy the 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. 21. Proceedings when company fails. R. S. c. 60, § 82. If any company depositing securities as provided in sections 14 and 18, 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 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.

Issue of Contract of Insurance by Incorporated Companies

Sec. 22. Insurance business carried on by corporations; Lloyd's. R. S. c. 60, § 1. The business involving the issuance of such insurance 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 49, 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 § 210; 101 Me. 297.

Sec. 23. Number of directors; tenure; vacancies. R. S. c. 60, § 2. The business of incorporated insurance companies shall be managed by not less than 7 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 1 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 1 vote for each share. The directors shall choose one of their number president.

Sec. 24. Directors may be divided into classes; terms of office; vacancies. R. S. c. 60, § 3. All insurance companies, stock or mutual, established in the state, may, by their by-laws, divide their directors into 2 or 3 classes, to hold their office for 2 or 3 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 1 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.

Organization of Companies Under General Law

Sec. 25. Insurance companies, how organized; rights and privileges; purposes. R. S. c. 60, § 55. 1939, c. 19. 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 the provisions of section 33, 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 principal 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.

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 housebreaking.

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.

XV. To insure against loss or damage to property, including loss of use and occupancy by tractors, vehicles, smoke and smudge, earthquake, hail, frost, or snow, weather or climatic conditions, including excess or deficiency of moisture, flood, rain, or drought.

Also to insure against loss or damage by insects or disease to domestic animals and to farm crops or products and loss of rental value of land used in producing such crops or products.

Also to insure against loss or damage, including loss of use or occupancy by water entering through leaks or openings in buildings.

Also to insure against loss or damage to aircraft, whether stationary or in motion, which shall include all or any of the hazards of fire, explosion, transportation, or collision.

Also to insure against loss by legal liability for damage to property or for bodily injury or death resulting from the maintenance and use of motor vehicles or aircraft or any object falling therefrom excepting explosives or missiles in time of war, insurrection, or civil strife.

Also to insure against loss by vandalism, sabotage, or malicious mischief to any and all kinds of property, or the wrongful conversion, disposal, or concealment of motor vehicles or aircraft.

Sec. 26. Articles of agreement; provision as to capital and guaranty fund; liability of policyholders and stockholders. R. S. c. 60, § 56. 1937, c. 107. The agreement described in the preceding section 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 \$100,000; 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 27 and holders of certificates of such guaranty capital shall not receive dividends in excess of 7% in any 1 year,

and in no case unless such dividends are properly earned after determining all liability as required by the commissioner. Mutual companies may be incorporated to transact fire, marine, and glass insurance and may operate in accordance with the provisions of section 77 and other provisions of the laws of this state relating to such companies, provided their net retention of liability on every risk shall not exceed \$200 until their gross assets exceed \$2,000, after which their net retention of liability on every risk shall not exceed 10% of their gross assets; 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 \$10,000 which may be divided into shares of not less than \$100 and certificates issued therefor. A dividend not exceeding 7% in any 1 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 63 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 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 6 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 \$10,000. Said guaranty capital shall be retired when the net cash assets of the company are 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 28, shall be authorized by the commissioner to write business and such company may take a premium note as provided in section 77, 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 1% 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. 27. Organization of mutual company; policies, when issued. R. S. c. 60, § 57. Any mutual insurance company may be organized under the provisions of sections 25 to 36, inclusive, with a guaranty capital of not less than \$100,000, divided into shares of \$100 each; and no policy shall be issued by such corporation until $\frac{1}{4}$, at least, of its guaranty capital has been paid in, in cash, and invested as provided in section 63. The holders of such guaranty capital may receive dividends for the like amount provided for the guaranty

capital of mutual fire insurance companies in section 26, and said guaranty capital may be retired in the same manner as provided in said section.

Sec. 28. Amount of applications required before policies are issued. R. S. c. 60, § 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 \$50,000; 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 63.

Sec. 29. Corporate name; objection by insurance commissioner. R. S. c. 60, § 59. 1939, c. 101, § 3. Any name not previously in use by an existing corporation or company may be adopted, provided that one or more of the words "insurance," "surety," "fidelity," "casualty," "bonding," or "fire" constitute a part of such title. The word "mutual" shall also appear in the title of all companies operating on the mutual plan. 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. 30. Notice of first meeting. R. S. c. 60, § 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 7 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. 31. Organization; record of proceedings; quorum necessary for organization. R. S. c. 60, § 61. At the first meeting mentioned in the preceding section, 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. 32. Officers. R. S. c. 60, § 62. The directors chosen under the provision of section 31 shall elect a president, a secretary, and other officers which under the by-laws they are authorized to choose.

Sec. 33. Certificates of articles of association to be submitted to 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. 60, § 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 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 2 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. 34. Increase of capital stock; authority to transact business on increased capital. R. S. c. 60, § 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 30 days after the payment and collection of the last instalment of such increase, shall present to the 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 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 71 of chapter 49, 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 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. 35. Dividends; capital stock may be increased by amount of certificates of profits issued. R. S. c. 60, § 65. 1939, c. 101, § 4. Any stock insurance company organized under the laws of this state may declare cash dividends on their capital stock; and any such company may issue, pro rata to its stockholders, certificates of such portion of its profits and income as the directors

from time to time determine, not including therein any portion of the premium money of risks not terminated, and after providing for all expenses, losses, and liabilities then incurred; and the capital stock of such company shall be increased by the amount of the certificates of stock so issued; and whenever any increase of capital stock is made by any insurance company under the provisions of the preceding section, a certificate thereof shall be filed with the commissioner, who shall certify to the amount of the capital stock of the company so increased, as provided in said section.

Sec. 36. Office and meetings to be in state and majority of directors citizens. R. S. c. 60, § 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. 37. Change of location by mutual fire insurance companies. R. S. c. 60, § 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 commissioner for his approval within 30 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 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 30 days prior to the date of said meeting, shall constitute notice above required.

Foreign Insurance Companies

Sec. 38. Definition of terms "domestic" and "foreign." R. S. c. 60, § 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. 39. Capital required of stock company; assets required of a mutual company; business authorized. R. S. c. 60, § 104. 1943, c. 334, § 3. 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 \$200,000, 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 \$50,000 and contingent assets of not less than \$300,000, or net cash assets of not less than \$75,000 with contingent assets of not less than \$150,000, or net cash assets equal to its total liabilities and contingent assets of not less than \$100,000, 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 1/10 of its net assets and that it has transacted business in its home state at least 5 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 \$100,000, 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. After July 9, 1943 any foreign mutual fire insurance company admitted to do business in this state in accordance with the requirements of this chapter shall be allowed to write a non-assessable policy if its cash surplus to policyholders is kept and maintained in excess of \$200,000, as determined by the commissioner in accordance with the provisions of this chapter. If such a company, after qualifying to issue non-assessable policies, shall fail to maintain such a surplus it shall cease to issue a non-assessable policy until it has again met and maintained such a surplus for a period of 1 year.

See § 40; 67 Me. 183.

Sec. 40. Interpretation of §§ 39, 75, and 77. 1943, c. 334, § 4. The provisions of sections 39, 75, and 77 shall not be construed as limiting any rights existing on July 9, 1943, of any mutual companies, other than mutual fire insurance companies, to issue non-assessable policies.

Sec. 41. Foreign insurance company to obtain license; requirements before license granted. R. S. c. 60, § 105. No foreign insurance company shall transact any insurance business in the state, unless it first obtains a license from the commissioner. Before receiving such license, it shall furnish the commissioner with:

- I. A certified copy of its charter and by-laws;
- II. A statement, under oath, signed by its president or secretary, showing its financial condition according to a form supplied by the commissioner;
- III. A power of attorney appointing the commissioner 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 1st 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 1st day of the succeeding July.

70 Me. 544; 80 Me. 288; 88 Me. 105; 132 Me. 422.

Sec. 42. 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. 60, § 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 besides 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. 43. All real estate and securities of foreign insurance companies to be held by trustees; commissioner may examine books and accounts. R. S. c. 60, § 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 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. 44. Licenses to foreign insurance companies. R. S. c. 60, § 108. 1941, c. 79. When a foreign insurance company shall have complied with the provisions of sections 39 to 43, inclusive, and the 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, except as hereinafter provided, renew the licenses of the company and agents on the 1st day of July, annually, so long as he finds the company solvent. The commissioner shall not refuse to renew the license of any foreign insurance company doing business in this state unless the commissioner shall have, on or before the 1st day of June, notified said company in writing by registered mail, at its principal office in the United States, of his intention not to renew its license, together with a detailed statement of his reasons therefor.

If, upon application by said company, the commissioner shall refuse for 5 days to countermand such notice of intention not to renew said license, said company shall have the right of appeal in the same manner and effect as is provided in section 52. Upon appeal said justice may, after hearing, make an order continuing the right of said company to do business in this state until final decision. If the decision of the justice reverses the decision of the commissioner, the commissioner shall, forthwith, issue the license.

Sec. 45. Reciprocal provisions as to foreign companies. R. S. c. 60, § 109. 1941, c. 103. When by the laws of any other state of the United States or Province of the Dominion of Canada, any fines, penalties, licenses, fees, deposits, or other obligations or prohibitions in excess of those imposed by the laws of the 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 of the United States or Province of the Dominion of Canada and their agents doing business in or applying for admission to this state. All insurance

companies of other nations shall be regarded for the purposes of this section as though incorporated in the state where they have elected to make their deposit and establish their principal agency in the United States.

Sec. 46. Commissioner may revoke license for violation of law. R. S. c. 60, § 110. The 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 41 and 249.

Sec. 47. Commissioner may examine foreign insurance companies. R. S. c. 60, § 111. 1943, c. 143. The 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; provided that in relation to the affairs of any company incorporated by or organized under the laws of any of the United States, it shall be optional with said commissioner to accept the certificate of the insurance commissioner or superintendent of the state where said company was organized, as to its standing and condition, or to proceed to investigate its affairs as hereinbefore provided.

Sec. 48. The commissioner may examine books, papers, and officers; penalty, if company refuses to submit. R. S. c. 60, § 112. For the purposes set forth in the preceding section, the commissioner or any person whom he may empower shall have free access to all the books and papers of any insurance company doing business in the state, and may examine under oath its officers or agents relative to its business and condition. If any such company, its officers or agents, refuse to submit to such examination, or to comply with any provision of this chapter in relation thereto, the authority of such company to do business in the state shall be revoked until satisfactory proof is furnished to the commissioner that the company is in a sound and solvent condition.

Sec. 49. Suspension of foreign companies. R. S. c. 60, § 113. When the commissioner thinks that any licensed foreign insurance company is in failing condition or unsafe, he may suspend its right to do business in this state until such disability is removed; and if the company or any of its agents, after such suspension and notice thereof to such agent, or the injunction mentioned in section 10, issues any new policies, such agent or company forfeits not exceeding \$200. 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. 50. Receivers of foreign companies, appointment, powers. R. S. c. 60, § 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 provisions of the preceding section the 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 10. 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. 51. Commissioner may suspend any insolvent foreign life insurance company; penalty for issuing policies afterwards. R. S. c. 60, § 115. When the commissioner learns that the net cash funds of any foreign life insurance company doing business in this state are not equal to its liabilities, including the net value of its policies according to the combined experience or actuaries' table of mortality, with interest at 4% 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 \$300; and the delivery of a policy in the state by mail or otherwise shall be deemed an issuing of such policy.

Sec. 52. Appeal by suspended company. R. S. c. 60, § 116. When the commissioner suspends the operations of a company or, on application, refuses to countermand such suspension, it may appeal to a justice of the supreme judicial court 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. 53. Foreign insurance companies, life excepted, to publish annual statement of condition; penalty for neglect. R. S. c. 60, § 117. Every foreign insurance company, life excepted, doing business in the state, shall annually, before the 1st day of May, publish 3 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 \$50.

Sec. 54. Suits against foreign insurance companies; judgment binds company; suspension unless judgment is paid within 30 days; commissioner to notify company of service of process. R. S. c. 60, § 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 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 30 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 \$200; 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 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. 99, § 22, re service on foreign insurance company; *56 Me. 420, 479; 69 Me. 411; 72 Me. 310; 132 Me. 422; 133 Me. 149.

Sec. 55. Notices and processes, how served; company bound by agent's knowledge of risk. R. S. c. 60, § 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 commissioner, as provided in the preceding section, with like effect as if given or served on the principal. Such agents and the agents of all domestic companies shall be regarded as in the place of the company in all respects regarding any insurance effected by them. The company is bound by their knowledge of the risk and of all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known by the company, and waived by it as if noted in the policy.

See § 259; 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; 128 Me. 512; 133 Me. 149; 136 Me. 223; 139 Me. 112.

Sec. 56. Jurisdiction of courts in actions against foreign insurance companies. R. S. c. 60, § 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 2 years from the time when the cause of action accrues.

Railroad companies have insurable interest in property along route, c. 42, § 63.
As to insurance of church in actual occupancy of parish, c. 53, § 13.
Foreign insurance companies have benefit of statute limitations under certain circumstances c. 99, § 112.
Penalty for burning property with intent to defraud the insurer, c. 118, § 7.

Sec. 57. Dividend of foreign mutual fire insurance company; when and where payable. R. S. c. 60, § 121. 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 7 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.

Stock Companies

Sec. 58. Secretary and other officers. R. S. c. 60, § 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. 59. Manner of calling meetings. R. S. c. 60, § 17. The secretary shall call special meetings of a stock 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 $\frac{1}{5}$ 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. 60. Capital. R. S. c. 60, § 18. No insurance company shall be incorporated with a capital of less than \$100,000, to be paid in at the periods and in the proportions required by the charter.

Sec. 61. Capital stock may be reduced. R. S. c. 60, § 88. 1939, c. 101, § 6. Whenever, after setting aside an amount equal to 50% of the premiums in force or the actual unearned portions of such premiums for fire risks; and for marine risks, 50% of the amount of premiums written in its policies upon yearly risks and upon risks covering more than 1 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 $\frac{3}{4}$ of its capital stock, the company shall restore its capital to the legal amount, 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; but no such company shall reduce its capital stock, as aforesaid, more than 20% thereof, nor to a sum less than \$100,000.

Sec. 62. Liability of stockholders, in certain cases. R. S. c. 60, § 19. If any stock 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. 63. Capital and assets, how to be invested. R. S. c. 60, § 20. 1939, c. 101, § 1. An amount equivalent to the aggregate par value of all issued and outstanding shares of capital stock of stock insurance companies incorporated in this state, or in the case of any such companies having no par value stock an amount equivalent to the amount of capital represented by shares of no par value stock issued and outstanding, and such part of the surplus of such companies as the commissioner may direct, shall be invested in such manner and in such funds, stocks and bonds as savings banks of this state may invest, as provided in section 38 of chapter 55, and said insurance companies shall be restricted in their investments of the above amounts in the same manner as are the savings banks of this state.

Sec. 64. Loans on respondentia or bottomry. R. S. c. 60, § 21. Stock companies may loan to citizens of the state, any portion not exceeding $\frac{1}{2}$ of its capital stock, on respondentia or bottomry; but not unless at least $\frac{3}{4}$ 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. 65. What property may be insured; limit of risk. R. S. c. 60, § 22. Stock companies 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 1 bottom or on 1 building and contents shall exceed 10% of its capital stock actually paid in.

See § 25, sub-§ II; 56 Me. 376.

Sec. 66. Policies, how executed. R. S. c. 60, § 24. 1939, c. 101, § 2. All policies of insurance shall be signed by either the chairman of the board, the president, a vice-president, an assistant vice-president, or any 2 of the directors, and countersigned by either the treasurer, an assistant treasurer, the secretary or assistant secretary; and they shall be binding upon the company as if executed under its corporate seal.

*56 Me. 377.

Sec. 67. Companies, not to trade. R. S. c. 60, § 25. Stock companies shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise, or commodities.

Sec. 68. Dividends. R. S. c. 60, § 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. 69. Loss of capital. R. S. c. 60, § 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. 70. Marine companies may divide certain profits. R. S. c. 60, § 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 6% 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 6% a year, shall first be paid.

Sec. 71. Triennial statements. R. S. c. 60, § 29. Once in every 3 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. 72. Not to insure, after loss of capital. R. S. c. 60, § 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. 73. Certain provisions not to be applied to mutual companies. R. S. c. 60, § 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 64 and 65 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.

Domestic Mutual Fire Insurance Companies

Sec. 74. Insurance by mutual companies regulated. R. S. c. 60, § 33. 1939, c. 18. Domestic mutual fire insurance companies may make insurance for a term, not exceeding 7 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, and for such other purposes as are now or may be hereafter enumerated in section 25.

109 Me. 488.

Sec. 75. Indorsements on policies. R. S. c. 60, § 34. 1943, c. 334, § 1. Every domestic mutual fire insurance company shall cause to be printed or written on the outside of every policy that it issues, under the number, name of the assured, and date of expiration, the words, "Total liability to assessment", and the figures showing such liability, except non-assessable policies.

See § 40.

Sec. 76. Insured to be members. R. S. c. 60, § 35. 1937, c. 67. Every person insured by a domestic mutual fire insurance company, or his legal representatives or assigns, continuing to be insured therein, is a member of the company and subject to its by-laws, during the term of insurance specified in his policy.

37 Me. 143; 100 Me. 481; 117 Me. 516; 139 Me. 113.

Sec. 77. Assessments on premium notes and contracts of insurance; limits of liability to be stated. R. S. c. 60, § 36. 1931, c. 225, § 18. 1933, cc. 181, 280. 1935, c. 108. 1937, c. 72. 1941, c. 159. 1943, c. 334, § 2. The insured, before receiving his policy, shall deposit his note for the sum determined by the directors, which shall not be less than 5% of the amount insured, and such part of it as the by-laws require, shall be immediately paid and indorsed thereon. The remainder shall be assessed in such installments as the directors from time to time require for the payment of losses, accrued expenses, and a reasonable overlay, 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 50% of the cash premium on its policies in force. No domestic mutual insurance company shall insure in 1 risk an amount exceeding 25% 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 plainly and legibly stated upon the filing-back of each policy. The delivery of the policy and payment of the premium by any assured shall be deemed an acceptance of the contract.

Any domestic mutual insurance company may, without pledging any of its assets, receive advances or borrow funds necessary for the purpose of its business or to enable it to comply with any surplus requirement or to make good any impairment or deficiency or other requirement of the laws of this state, or to defray the reasonable expenses of its organization, or to provide any fund to be voluntarily contributed to surplus, upon an agreement that such moneys and such interest thereon as may be agreed upon, said interest not exceeding 6% per year, shall be repaid only out of free and divisible surplus of such insurer with the approval of the commissioner whenever, in his judgment, the financial condition of such insurer warrants it. Any such sum or sums so advanced or so borrowed shall not form a part of the legal liabilities of such insurer and shall not be a basis of any set-off; but until repaid all statements published by such insurer or filed with the commissioner shall show, as a footnote thereto, the amount thereof then remaining unpaid. No such contract or agreement shall be valid unless first approved by the commissioner in writing as not unfair, misleading, or contrary to any law of this state.

Provided, however, that a domestic mutual fire insurance company from and after July 9, 1943 may issue non-assessable advance cash premium policies in this state upon compliance with either of the following requirements, notwithstanding the provisions of any special law or charter previously enacted by the legislature:

I. It shall have and maintain a surplus to policyholders, as determined by its latest annual statement filed with the commissioner, of not less than \$100,000, or

II. It shall have and maintain a surplus to policyholders, as determined by its latest annual statement filed with the commissioner, of not less than \$75,000, provided its unearned premium reserve is at all times less than its surplus to policyholders.

If such a company, after qualifying to issue a non-assessable advance cash premium policy, shall fail to maintain one of the above requirements it shall cease to issue a non-assessable policy until it has again met and maintained the above requirements for a period of 1 year. If such a company issues both assessable and non-assessable advance cash premium policies, any assessment levied under the contingent liability provisions of this chapter shall be for the exclusive benefit of holders of policies subject to assessment and such policyholders shall not be liable to an assessment in an amount greater in proportion to the total deficiency than the ratio that the deficiency attributable to the assessable business bears to the total deficiency.

See § 40; 34 Me. 453; 49 Me. 448; 50 Me. 305; 53 Me. 226; 64 Me. 128; 100 Me. 481; *107 Me. 364; 117 Me. 514; 128 Me. 374.

Sec. 78. Domestic mutual fire insurance company to publish statement; penalty for neglect or refusal. R. S. c. 60, § 37. Every domestic mutual fire insurance company shall publish annually 3 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 \$50.

Sec. 79. Liability of agents of domestic fire companies; company required to procure licenses for agents. R. S. c. 60, § 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 249, but no fee shall be required by the commissioner for licenses issued to the agents of such companies.

139 Me. 113.

Sec. 80. Policy and note 1 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. 60, § 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 60 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. 81. Lien on insured real estate, and how secured. **R. S. c. 60, § 40.** Any fire insurance 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 60 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. 82. Remedy, if assessment is not paid. **R. S. c. 60, § 41. 1937, c. 68.** If any assessment, made as provided in section 77, is not paid by some person liable to pay the note, within 30 days after written demand by the company or its agent, the directors may declare the policy suspended until the assessment is paid or may at their option sue for and collect the amount due on such note; and the full amount collected may 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 termination of the policy shall be returned to the assured. Forwarding such notice to the assured by mail to his last known address, or delivering it to him in hand by an authorized agent or officer of the company, shall be deemed conclusive proof that said notice has been duly given.

48 Me. 78.

Sec. 83. Lien continues on property of deceased persons insured; policy good for benefit of estate. **R. S. c. 60, § 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. 84. Annual statements to be made by directors. R. S. c. 60, § 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. 85. Compensation of officers; votes by proxy, limited. R. S. c. 60, § 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 15 votes by proxy.

Sec. 86. Assessments may be examined by the court on application of parties interested; adjustment of claims, when directors neglect to make assessments. R. S. c. 60, § 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 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 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. 87. Order of notice to parties interested and proceedings thereafter. R. S. c. 60, § 46. The court before which the petition described in the preceding section 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. 88. Proceedings before master or auditor. R. S. c. 60, § 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 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. 89. Assessments, when final; control of funds and payment of assessments. R. S. c. 60, § 48. When an assessment or call has been ratified, ascertained, or established as provided for in the 3 preceding sections, a decree shall be entered which shall be final and conclusive upon the company and all parties liable to the assessment or call as to the necessity of the same, the authority of the company to make or collect it, the amount thereof, and all formalities connected therewith; and where an assessment or call is altered or amended by vote of directors and decree of the court thereon, such amended or altered assessment or call is binding upon all parties who would have been liable under it as originally made, and in all legal proceedings shall be held to be such original assessment or call. All proceedings above provided for shall be at the cost of the company, unless the court for cause otherwise orders; and in all cases the court may control the disposal of the funds collected under these proceedings, and may issue all necessary processes to enforce the payment of such assessments against all persons liable therefor.

110 Me. 493.

Sec. 90. Assessment not sufficient, collection may be stayed by court. R. S. c. 60, § 49. Whenever it shall appear to the presiding justice of the court before which the petition provided for in section 86 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 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.

110 Me. 493.

Sec. 91. Procedure with domestic mutual fire insurance or assessment casualty companies, when insolvent or in hazardous condition. R. S. c. 60, § 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 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 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 § 10.

Sec. 92. Court may issue injunction; proceedings on hearing. R. S. c. 60, § 51. On the application provided for in the preceding section, or at any time thereafter, the 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 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 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 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. 93. Rights of commissioner upon decree of sequestration. R. S. c. 60, § 52. If on the application provided for in section 91, the court shall direct the 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 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. 94. Authority of commissioner as to special deputies, counsel, and assistants. R. S. c. 60, § 53. For the purposes of sections 91 to 95, inclusive, the 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 commissioner, subject to the approval of the court, and shall, on certificate of the commissioner, be paid out of the funds or assets of such corporation. The commissioner may, subject to the approval of the court, make and prescribe such rules and regulations as to him shall seem proper.

Sec. 95. Removal of office and papers. R. S. c. 60, § 54. At any time after the commencement of proceedings under an order of liquidation made pursuant to the 4 preceding sections, the 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 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.

Fire Insurance

Sec. 96. Only policies of standard form may be issued; exceptions. R. S. c. 60, § 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 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 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; 132 Me. 172.

Sec. 97. Form of standard policy. R. S. c. 60, § 5. The standard form of fire insurance 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 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. 98. **Penalty for wilful violation of §§ 96, 97.** R. S. c. 60, § 10. Any insurance company or agent who shall make, issue, or deliver a policy of fire insurance in wilful violation of sections 96 or 97 shall forfeit for each offense not less than \$50, nor more than \$200; but such policy shall nevertheless be binding upon the company issuing the same.

Sec. 99. **Cancellation of policy for non-payment of premium.** R. S. c. 60, § 6. An insurance company issuing fire insurance policies on property in this state, under the standard form required by sections 96 or 97, 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. 100. **Notification to policyholders attached to policy.** R. S. c. 60, § 7. There shall be printed on the margin of the policy near the part thereof that relates to cancelation, 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. 101. **Proceedings in case parties fail to agree as to amount of loss.** R. S. c. 60, § 8. In case of loss under any fire insurance policy, issued on property in this state, in the standard form set forth in section 97, and the failure of the parties to agree as to the amount of loss, if the insurance company shall not, within 10 days after a written request to appoint referees under the provision for arbitration in such policy, name 3 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 10 days after receiving the names of 3 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. In case of the failure of 2 referees, chosen respectively by the insurance company and the insured, to agree upon and select within 10 days from their appointment a 3rd referee willing to act in said capacity, either of the parties may within 20 days from the expiration of said 10 days make written application setting forth the facts to the commissioner to appoint such 3rd 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. 102. **Insurance on furniture, owned part by husband and part by wife; effect thereof.** R. S. c. 60, § 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. 103. **Relating to time limit for adjusting and paying fire losses; penalty.** R. S. c. 60, § 9. 1933, c. 171. In case of physical loss by fire to property insured by any company transacting insurance business in this state, said company or its representative shall begin adjustment of such loss within 20 days after the receipt of the notice provided for by section 97; but no fire insurance company shall pay any loss or damage until after the expiration of 45 days from

the date when the statement of loss referred to in said section 97 is filed with the company; provided that nothing contained in this section shall prevent the payment of a loss to any property owner when the aggregate loss under all policies covering the risk does not exceed \$100; 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 commissioner, and immediately upon issuance of such permit, the commissioner shall notify and grant permits to any other companies known to be interested in the risk. For any violation of the provisions of this section the commissioner may suspend the authority of the company to transact business in this state for such length of time, not exceeding 1 year, as he may deem advisable.

122 Me. 239.

Lien of Mortgagees on Fire Policies

Sec. 104. Lien of mortgagee upon policy. R. S. c. 60, § 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. 105. Lien enforced by suit. R. S. c. 60, § 70. If the mortgagor does not consent as provided for in the preceding section, the mortgagee of any real estate may, at any time within 60 days after a loss, and the mortgagee of any personal property may at any time within 30 days after a loss, enforce his lien by a 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 60 or 30 days.

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

Sec. 106. Application of amount recovered. R. S. c. 60, § 71. The amount recovered under the provisions of section 105 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. 107. Priority of mortgagees. R. S. c. 60, § 72. When two or more mortgagees claim the benefit of the 3 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. 108. Mortgagee's policy void, unless consented to. R. S. c. 60, § 73. When any mortgagee claims the benefit of sections 104 to 107, inclusive, 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.

Accident and Health Insurance

Sec. 109. Form of health or accident policy must be filed with commissioner for approval; not to be delivered until 30 days after filing unless sooner approved. R. S. c. 60, § 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 commissioner; nor shall it be so issued or delivered until the expiration of 30 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. 110. Conditions under which policy may be issued. R. S. c. 60, § 12. No such policy described in section 109 shall be so issued or delivered:

I. Unless the entire money and other considerations therefor are expressed in the policy; nor

II. 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

III. 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 10-point; nor

IV. 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 14-point; nor

V. 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. 111. Policy must have correct copy of application attached. R. S. c. 60, § 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. 112. Penalty for false statement in application. R. S. c. 60, § 14. 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 \$100, nor more than \$500, or by imprisonment for not less than 30 days, nor more than 11 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.

See c. 122, § 1, re perjury.

Sec. 113. Time within which notice of accident, injury, or death may be given. R. S. c. 60, § 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 30 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.

Life Insurance

Sec. 114. Minimum non-forfeiture values after March 31, 1877. R. S. c. 60, § 133. 1931, c. 137, § 1. Every life insurance policy issued after the 31st day of March, 1877, and before the 1st day of September, 1931, 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 3 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 4% 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 $\frac{1}{4}$ of said net value, and in ascertaining said net value, when the premium is payable semiannually or quarterly, there shall be deducted from the net value of the policy, assuming net annual premiums, the net premiums for the unpaid semiannual 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.

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 paragraph, 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 1 year after the death; provided also, that the company may deduct from the amount insured in the policy the amount compounded at 7% a year of the ordinary life premiums at age of issue, that had been forborne at the time of the death, including the whole year's premium in which the death occurs, not exceeding 5 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 paragraph.

Sec. 115. Minimum non-forfeiture values on and after September 1, 1931. R. S. c. 60, § 134. 1931, c. 137, § 2. The legal minimum standard of value for life insurance policies issued on or after the 1st day of September, 1931, by any life insurance company chartered by this state, shall be the American experience table of mortality with interest at $3\frac{1}{2}\%$ per year; provided, however, that any such life insurance company may, at its option, value its insurance policies issued on and after said day, in accordance with their terms on the basis of the American men ultimate table of mortality with interest not higher than $3\frac{1}{2}\%$ per year by the level net premium method. Any such life insurance company may voluntarily value its policies, or any class thereof, according to either of the said tables of mortality at a lower rate of interest than that above prescribed, but not lower than 3% per year.

Whenever any policy of life insurance issued on or after September 1st, 1931, by any life insurance company chartered by this state, after being in force 3 full years, shall by its terms lapse or become forfeited by the non-payment of any premium or any note therefor or any loan on such policy or of any interest on such note or loan, the reserve on such policy computed according to the standard of value adopted by said company in accordance with the preceding paragraph of this section, together with the value of any dividend additions upon said policy, after deducting any indebtedness to the company and the sum of \$2.51 for each \$100 of the face of said policy, shall upon demand not later than 2 months after the date of lapse with surrender of the policy be applied as a surrender value as agreed upon in the policy, provided that if no other option expressed in the policy be availed of by the owner thereof, and if the policy itself does not direct what option shall become operative in default of selection by the owner, the same shall be applied to continue the insurance in force at its full amount including any outstanding dividend additions less any outstanding

indebtedness on the policy but without future participation and without the right to loans, so long as such surrender value will purchase non-participating temporary insurance at net single premium rates by the standard adopted by the company, at the age of the insured at the time of lapse or forfeiture, provided in case of any endowment policy if the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in the policy, the excess shall be used to purchase in the same manner pure endowment insurance payable at the end of the endowment term named in the policy on the conditions on which the original policy was issued, and provided further, that any attempted waiver of the provisions of this paragraph in any application or policy, or otherwise, shall be void, and provided further, that any value allowed in lieu thereof shall at least equal the net value of the temporary insurance or of the temporary and pure endowment insurance herein provided for. Anything herein to the contrary notwithstanding the net single premium rate employed in computing the term of temporary insurance or the amount of pure endowment insurance granted as a non-forfeiture value under any life insurance policy may at the option of the company be based upon a table of mortality showing rates of mortality not greater than 130% of those shown by the American men ultimate table of mortality instead of the table used in computing the reserve on the policy, or in case of substandard policies not greater than 130% of the rates of mortality shown by the table of mortality approved by the commissioner for computing the reserve on the policy. The term of temporary insurance herein provided for shall include the period of grace, if any. Any such life insurance 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 the provisions of this section.

Standard Non-Forfeiture Law

Sec. 116. Issuing of life insurance policies regulated. 1943, c. 135, § 2. On and after January 1st, 1944, no policy of life insurance, except as stated in section 121, shall be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

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

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

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

IV. That, if the policy shall have become paid-up by completion of all premium payments or if it is continued under any paid-up non-forfeiture benefit

which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

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

VI. A statement of the method to be used in calculating the cash surrender value and the paid-up non-forfeiture benefit available under the policy on any policy anniversary with an explanation of the manner in which the cash surrender values and the paid-up non-forfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy.

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

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

Sec. 117. Cash surrender value. 1943, c. 135, § 3. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by section 116, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

I. The then present value of the adjusted premiums as defined in section 119, corresponding to premiums which would have fallen due on and after such anniversary, and

II. The amount of any indebtedness to the company on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up non-forfeiture benefit, whether or not required by section 116, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

Sec. 118. Paid-up non-forfeiture benefits. 1943, c. 135, § 4. Any paid-up non-forfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by the provisions of sections 116 to 121, inclusive, in the absence of the condition that premiums shall have been paid for at least a specified period.

Sec. 119. Adjusted premiums. 1943, c. 135, § 5. The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

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

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

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

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

Provided, however, that in applying the percentages specified in subsections III and IV, no adjusted premium shall be deemed to exceed 4% of the amount of insurance or level amount equivalent thereto. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent level amount thereof for the purpose of this section shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the inception of the insurance as the benefits under the policy.

All adjusted premiums and present values referred to in sections 116 to 121, inclusive, shall be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table for Ordinary insurance and the 1941 Standard Industrial Mortality Table for Industrial insurance and the rate of interest, not exceeding $3\frac{1}{2}\%$ per year, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than 130% of the rates of mortality according to such applicable table. Provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

Sec. 120. Calculation of cash surrender value of certain policies in case of default. 1943, c. 135, § 6. Any cash surrender value and any paid-up non-forfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in sections 117, 118, and 119 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends

used to provide such additions. Notwithstanding the provisions of section 117, additional benefits payable:

- I. In the event of death or dismemberment by accident or accidental means,
- II. In the event of total and permanent disability,
- III. As reversionary annuity or deferred reversionary annuity benefits,
- IV. As decreasing term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, sections 116 to 121, inclusive, would not apply, and
- V. As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and non-forfeiture benefits required by the provisions of sections 116 to 121, inclusive, and no such additional benefits shall be required to be included in any paid-up non-forfeiture benefits.

Sec. 121. Exceptions; effective date; title. 1943, c. 135, §§ 1, 7, 8. The provisions of sections 116 to 121, inclusive, shall not apply to any reinsurance, group insurance, pure endowment, annuity, or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in section 119, is less than the adjusted premium so calculated, on such 15 year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

The provisions of sections 116 to 121, inclusive, shall be effective from January 1, 1946, and shall be known as the "Standard Non-Forfeiture Law".

Standard Valuation Law. Miscellaneous Provisions

Sec. 122. Calculation of reserve liabilities. 1943, c. 134, § 2. The commissioner shall annually value, or cause to be valued, the reserved liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

Sec. 123. Minimum standards. 1943, c. 134, § 3. The minimum standard for the valuation of all such policies and contracts issued prior to January 1, 1946 shall be that provided by the laws in effect immediately prior to such date. The

minimum standard for the valuation of all such policies and contracts issued on or after January 1, 1946 shall be the commissioners reserve valuation method defined in section 124, 3½% interest, and the following tables:

I. For all Ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the Commissioners 1941 Standard Ordinary Mortality Table.

II. For all Industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 Standard Industrial Mortality Table.

III. For Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such policies,—the 1937 Standard Annuity Mortality Table.

IV. For Total and Permanent Disability benefits in or supplementary to Ordinary policies or contracts—Class (3) Disability Table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

V. For Accidental Death benefits in or supplementary to policies—the Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance policies.

VI. For Group Life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

Sec. 124. Commissioners reserve valuation method defined. 1943, c. 134, § 4. Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of I over II, as follows:

I. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the 1st policy year, divided by the present value, at the date of issue, of an annuity of 1 per year payable on the 1st and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of such policy.

II. A net 1 year term premium for such benefits provided for in the 1st policy year.

Reserves according to the commissioners reserve valuation method for:

- A. Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,
- B. Annuity and pure endowment contracts,
- C. Disability and accidental death benefits in all policies and contracts, and

D. All other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of the preceding subsection.

Sec. 125. Amount of aggregate reserves. 1943, c. 134, § 5. In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1946, be less than the aggregate reserves calculated in accordance with the method set forth in section 124 and the mortality table or tables and rate or rates of interest used in calculating non-forfeiture benefits for such policies.

Sec. 126. Calculation of reserves. 1943, c. 134, § 6. Reserves for all policies and contracts issued prior to January 1, 1946 may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after January 1, 1946, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any non-forfeiture benefits provided for therein. Provided, however, that reserves for participating life insurance policies issued on or after January 1, 1946 may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the non-forfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the non-forfeiture benefits by more than $\frac{1}{2}\%$ the company issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and non-forfeiture benefits in such policies as the commissioner shall approve.

Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Sec. 127. Deficiency reserve; effective date; title. 1943, c. 134, §§ 1, 7, 8. If the gross premium charged by any life insurance company on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest, and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

The provisions of sections 122 to 127, inclusive, shall be effective from January 1, 1946, and shall be known as the "Standard Valuation Law".

Sec. 128. Bonds may be valued on principles of amortization. R. S. c. 60, § 135. 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 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. 129. Reinsurance of risks. R. S. c. 60, § 136. No life insurance company organized or incorporated under the laws of this state shall reinsure its risks except by permission of the commissioner; but nothing in this chapter shall be construed to prevent any life insurance company from reinsuring a fractional part, not exceeding $\frac{1}{2}$ of any individual risk.

Sec. 130. Discrimination by life insurance companies prohibited. R. S. c. 60, § 137. 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. 131. Insured person not to accept rebates, special favor, or inducement. R. S. c. 60, § 138. 1939, c. 101, § 10. 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 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. 132. Penalty for violation of §§ 130-131; commissioner may revoke license. R. S. c. 60, § 139. Any company, association, society, officer, solicitor, agent, broker, or other person who violates any provision of the 2 preceding

sections shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of \$100 for each and every violation, or, in the discretion of the court, to imprisonment for not less than 90 days, nor more than 6 months. The 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 1 year.

Sec. 133. Sections 130-132 not applicable to certain payments. R. S. c. 60, § 140. Nothing in the 3 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 1 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 50 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. 134. Benefits or privileges of policies not to be misrepresented. R. S. c. 60, § 141. 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 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.

See § 135, re penalty; 136 Me. 141.

Sec. 135. Penalty for violation of § 134; commissioner may revoke license. R. S. c. 60, § 142. Any insurance company, association, or society, agent, solicitor, or broker, or any person, firm, association, or corporation violating 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 \$100 for each and every violation, or in the discretion of the court, to imprisonment for a period of not more than 6 months. The 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 1 year.

Sec. 136. Incriminating evidence to be no excuse from testifying. R. S. c. 60, § 143. 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 130, 131, 132 and 134, 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. 137. Policies are exempt from claims of creditors; rights of beneficiaries and assignees. R. S. c. 60, § 144. 1937, c. 106. Certain policies of insurance shall be exempt from claims of creditors, and the rights of beneficiaries and assignees thereof shall be protected, as herein set forth.

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. 156, § 21, re disposal of life insurance in estates; *87 Me. 70; 90 Me. 39; *97 Me. 441.

Sec. 138. Life insurance companies not to contract to pay benefits in anything but money. R. S. c. 60, § 145. 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. 139. Minors may make valid contracts for life insurance. R. S. c. 60, § 146. In respect to insurance heretofore or hereafter issued upon the life of any person between the ages of 15 and 21 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. 140. Life insurance policies incontestable after 2 years; exceptions. R. S. c. 60, § 147. 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 indorsed 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 2 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.

Group Insurance for Certain Employees

Sec. 141. Group insurance for employees of the state, county, city, or town. 1935, c. 95. 1937, c. 130. 1939, c. 146. The state, any county, city, or town may make contracts of insurance with any insurance company authorized to transact business within the state insuring its employees or any class or classes thereof under a policy or policies of group insurance covering life, health, or accident insurance, and may contract with any such company granting annuities or pensions for the pensioning of such employees, and, for such purposes, may agree to pay part or all of the premiums or charges for carrying such contracts, raise money by taxation therefor, and appropriate out of its treasury money necessary to pay such premiums or charges or portions thereof. Like authority to make contracts of insurance and appropriate out of its treasury, money necessary to pay such premiums or charges or portions thereof is granted to any water district or other quasi-municipal corporation chartered and organized as such under the laws of this state. Any such water district or other quasi-municipal corporation may provide for the retirement and pensioning of its employees, and for such purpose may create and set aside out of its treasury, funds for a reserve or reserves, or it may contract with any insurance company authorized to transact such business within the state and grant annuities for the retirement and pensioning of its employees, and for such purposes may agree to pay a part or all of the premiums or annual charges for carrying out such contracts or for creating such annuity reserves.

Life Insurance Companies May Pay Pensions to Employees

Sec. 142. Pensions may be paid by life insurance companies. 1933, c. 173, § 1. Any life insurance company organized under the laws of this state, by vote of not less than a majority of its board of directors, may grant a pension to any officer or employee who has been continuously in the service of the company for not less than 15 years and who has become incapacitated for further service by reason of physical or mental disability resulting from sickness or injury, or who is retiring by reason of the infirmities of age. No such pension shall exceed $\frac{1}{3}$ of the average salary of the officer or employee for 10 years preceding the date of retirement, and any such pension shall be discontinued when any such pensioner substantially recovers his earning capacity or whenever so ordered by the board of directors.

Sec. 143. Employees' contributory pension system authorized. 1933, c. 173, § 2. Any company described in section 142, with the written approval of the commissioner, may also establish an employees' savings fund or contributory pension system for the benefit of its aged or disabled employees, to which fund or system the employees shall contribute an amount not less than the amount contributed by the company.

Annuity Companies

Sec. 144. Annuity companies made subject to law relating to life insurance. R. S. c. 60, § 148. 1943, c. 179, § 1. 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 made subject, in relation to doing business in this state, to all the provisions of law relating to life insurance, including all provisions relating to taxation.

Domestic Associations

Sec. 145. Term "beneficiary association" defined; required form of organization, and benefit fund; not subject to insurance laws. R. S. c. 61, § 1. A fraternal beneficiary association is defined to be any corporation, society, or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit. Each association shall have a lodge system, with ritualistic form of work and representative form of government, and shall make provision for the payment of benefits in case of death, and may make provision for the payment of benefits in the case of sickness, temporary or permanent physical disability, either as the result of disease, accident, or old age, provided the period in life at which payment of physical disability benefits on account of old age commences shall not be under 70 years, subject to compliance with its constitution and laws. The fund from which the payment of such benefits shall be made and the fund from which the expenses of such association shall be defrayed shall be derived from assessments or dues collected from its members. Payment of death benefits shall be to the families, heirs, blood-relatives, adopted children, adopting parents, affianced husband or affianced wife of the member, or to persons dependent upon such member; provided that if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, or upon the subordinate lodge of which he is a member, he shall have the privilege with the consent of the society, to make such institution or such subordinate lodge, his beneficiary. Such association shall be governed by sections 145 to 171, inclusive, and shall be exempt from the provisions of insurance laws of this state, except as therein provided, and no law passed after the 21st day of March, 1901 shall apply to them, unless they be expressly designated therein. Any such fraternal beneficiary association may create, maintain, disburse, and apply a reserve or emergency fund in accordance with its constitution or by-laws.

116 Me. 224.

Sec. 146. Organization of fraternal beneficiary associations. R. S. c. 61, § 2. Seven or more persons, residents of the state, desiring to form a fraternal beneficiary corporation for the purposes above provided, and having signed an agreement therefor, declaring therein the purposes of such corporation, may organize as such in the manner provided in sections 1, 2, and 3 of chapter 50, and such

corporation shall have all the powers, privileges, and immunities, and be subject to all the liabilities named in said section 3.

Sec. 147. Certificate of organization; to be recorded in office of secretary of state; certificate issued by secretary of state. R. S. c. 61, § 3. The president, secretary, and a majority of the directors, or other officers corresponding thereto, shall forthwith make, sign, and swear to a certificate setting forth a true copy of the agreement and declaration of the purposes of the association, with the names of the subscribers thereto, the date of the first meeting, and the successive adjournments, if any, and shall submit such certificate and the records of the corporation to the commissioner, who shall make such examination and require such evidence as he deems necessary; and if it appears that the purposes of the corporation conform to law, he shall certify his approval thereof, and the certificate shall then be filed by said officer in the office of the secretary of state, who shall cause the same with the indorsements to be recorded, and shall thereupon issue a certificate in the following form:

"STATE OF MAINE.

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

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

Sec. 148. Business must be commenced within 1 year or charter is void. R. S. c. 61, § 4. No charter granted under the provisions of the 2 preceding sections shall be valid after 1 year from its date unless the organization has been completed and business begun thereunder, and when any domestic corporation has discontinued business for the period of 1 year its charter shall become null and void.

See c. 9, § 21, sub-§ XXIX.

Sec. 149. Any association may reincorporate under the provisions of sections 145 to 171. R. S. c. 61, § 5. Any fraternal beneficiary corporation existing under the laws of this state, and engaged in transacting business herein on the 21st day of March, 1901, may reincorporate under the foregoing provisions; provided

that nothing herein contained shall be construed as requiring any such corporation to reincorporate; and any such corporation may continue to exercise all the rights, powers, and privileges conferred by sections 145 to 171, inclusive, and by its articles of incorporation not inconsistent herewith, and shall be subject to the requirements and penalties of said sections the same as if reincorporated thereunder.

Sec. 150. Association not to do business until authorized by commissioner. R. S. c. 61, § 6. No association, hereafter organized under the provisions of sections 146 and 147, shall incur any liability or issue any benefit certificate until it has received from the commissioner a certificate to the effect that it has complied with the requirements of law and is duly authorized to transact business in this state. Before such certificate is granted the association must present satisfactory evidence to the commissioner that it has established mortuary assessment rates which are not lower than those now indicated as necessary by the national fraternal congress mortality tables and that at least 500 persons have each paid one advance mortuary assessment on the rates so established and become a bona fide member of a local branch of the association, and that it has deposited with the treasurer of state at least \$1,000 as a part of its emergency or reserve fund for the benefit and protection of certificate holders in said association, which fund shall be held and used as hereinafter provided.

Sec. 151. Reserve fund must be provided; application to payment of death benefits; minimum amount; proceedings when company in default. R. S. c. 61, § 7. Each such association organized under the foregoing provisions, after the 21st day of March, 1901, shall, on or before the 31st day of December in each year deposit with the treasurer of state to the credit of its emergency or reserve fund not less than 15% of its total mortuary receipts for the year then ending, until the amount so deposited amounts to not less than \$50,000. These amounts shall be deposited in such interest-bearing securities as any insurance company or savings bank may from time to time be authorized to hold for purpose of investment, and the securities shall be held in trust by the treasurer of state, but the association shall have at all times the right to exchange any part of said securities for others of like amount and character, and the income from said fund shall be paid by said treasurer to the association. When deemed advisable by the majority of the directors, or other officers corresponding thereto, such part of the fund as may be considered necessary may, with the written approval of the commissioner, be applied from time to time to the payment of death benefits but for no other purpose; provided, however, that such fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members, nor to less than \$1,000. The commissioner shall annually, in February, certify to the treasurer of state the minimum amount of reserve fund required to be kept on deposit in the treasury by each such association doing business under the provisions of sections 145 to 181, inclusive. If said association shall neglect for 60 days to satisfy any judgment against it, in any court in this state, then the said treasurer shall convert into money any of said securities, and forthwith satisfy such judgment, and said association shall not transact any further business until said deposit is restored. When any such association shall discontinue business, any justice of the supreme judicial court 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 5%, as such court or justice may allow the receiver or agent, first, in the payment of accrued mortuary or indemnity claims upon certificates or policies. If such

fund is insufficient to pay such claims in full, they shall be paid, pro rata. 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 accordance with the total mortuary payments of said members, after first paying all expenses incident to such distribution. If, upon the 31st day of December of any year, the emergency or reserve fund of any such association is found to be less than the amount of one assessment or periodical call upon all the members thereof, said association shall, within 6 months thereafter, collect from its members a sum sufficient to bring said emergency or reserve fund up to one assessment or periodical call upon all its members, and deposit the amount with the treasurer of state to the credit of said fund.

Sec. 152. Association not to reinsure unless contract is approved by a 2/3 vote of such association; voting by proxy forbidden. R. S. c. 61, § 8. No such association shall reinsure with or transfer its membership certificates or funds to any organization, unless the said contract of transfer or reinsurance is first submitted to and approved by a 2/3 vote of the members of each association present at meetings called to consider the same, of which meetings written or printed notice shall be mailed to each certificate holder at least 30 days before the date fixed for said meeting; nor unless the said contract of transfer or reinsurance is first submitted to and approved by the commissioner. The members of fraternal beneficiary associations shall not vote by proxy.

Foreign Associations

Sec. 153. Certain foreign associations may continue business; other foreign associations must obtain license; prerequisites of license. R. S. c. 61, § 9. Fraternal beneficiary associations organized under the laws of another state or country which were transacting business in this state as herein defined, on the 28th day of February, 1889, or which subsequently thereto have been legally admitted to transact business in this state and which now report or which shall report when requested to the commissioner, may continue such business subject to the provisions of sections 145 to 171, inclusive. A fraternal beneficiary association which was not transacting business in this state on the 28th day of February, 1889, and which has not since been legally admitted to transact business therein and which may desire to do so, shall first obtain a license therefor from the commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of its charter or articles of association and a copy of its constitution or laws, certified by its secretary or corresponding officer; a power of attorney to the commissioner, as herein-after provided; a statement under oath of the president and secretary, or corresponding officers, in the form required by the commissioner, of its business for the preceding year; a certificate from the proper official in its home state or country, that the company is legally organized and that similar associations of this state may be admitted to transact business in said state or country; a copy of its application and policy or certificate, which must show that benefits are provided for by assessments upon persons holding similar contracts; and shall furnish the commissioner with such other information as he may deem necessary to a proper exhibit of its business and standing and plan of working; if he deems it expedient he may license such association to do business in this state in accordance with the provisions of sections 145 to 181, inclusive; provided, however, that no license shall be issued to any such company unless it shall have adopted and have in force mortuary assessment rates which are not

lower than those now indicated as necessary by the national fraternal congress mortality tables.

Sec. 154. Foreign associations admitted to appoint commissioner to act as attorney upon whom service can be made; notice to association when process is served. R. S. c. 61, § 10. Each such association which, on the 21st day of March, 1901, was doing or was thereafter admitted to do, business within this state, and not having its principal office within this state, and not being organized under the laws of this state, shall appoint in writing the commissioner and his successors in office to be its true and lawful attorney, upon whom all lawful process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by said commissioner, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service upon such attorney shall be deemed sufficient service upon such association. When legal process against any such association is served upon said commissioner, he shall immediately notify the association of such service by letter, prepaid and directed to its secretary or corresponding officer, and shall within 2 days after such service forward to such officer, in the same manner, a copy of the process served on him.

Sec. 155. Certificates valid on condition that all dues are paid; money collected for indemnity purposes must not be used for expenses. R. S. c. 61, § 11. No certificate issued by any such association transacting business under the provisions of sections 145 to 181, inclusive, shall be valid or legal which shall be conditional upon an agreement or understanding that the beneficiary shall pay the dues and assessments, or either of them for said member. Every call for a payment by the policy or certificate holders shall distinctly state the purpose of the same. No part of the money collected for mortuary or indemnity purposes or for the emergency or reserve fund shall be used for expenses; provided that any such association transacting business in this state on the 21st day of March, 1901, and whose laws provide for and which is now using such funds for expenses, may continue to do so, but not to exceed the amount named for that purpose in such existing laws.

Sec. 156. Fraternal beneficiary associations; organizations included. R. S. c. 61, § 12. Fraternal beneficiary associations transacting business in this state on the 28th day of February, 1889, as heretofore defined and named in section 153, shall include those so transacting business through their supreme bodies, or by a subordinate body, or by one affiliated therewith or rendering allegiance thereto, or by an organization embracing a portion of the territory of any such association and at that time or subsequent thereto contributing to its funds, or by one using its ritualistic work and calling its members by the same general name; and no change since that time or hereafter, in the internal divisions or operations of any such association, or its relations with subordinate bodies, shall deprive it of the power to so transact business through its supreme body and subordinate and affiliated divisions or agents, or to prevent such subordinate or affiliated bodies from doing business, so long as death benefits are paid, and they shall be considered as legally organized and duly authorized for such purpose under the provisions hereof and may transact business in this state as

independent bodies only in the event that said supreme body shall cease to transact business herein.

Associations for Casualty Insurance

Sec. 157. Fraternal associations paying accident benefits may be incorporated. R. S. c. 61, § 13. Any fraternal beneficiary association or order, which is carried on for the sole benefit of its members or their beneficiaries, and not for profit, which has a lodge system with a ritualistic form of work and representative form of government, and which provides benefits for the death or disability of its members resulting from accidental injuries, and does not obligate itself to pay natural death or funeral benefits, may be organized in this state in accordance with the provisions of sections 145 to 171, inclusive; and any such association or order duly incorporated under the laws of another state or country may be authorized to do business in this state upon complying with the provisions of said sections; provided, however, that no such association shall be obliged to adopt mortuary assessment rates or to require a medical examination.

Licenses to Agents and Supervision by Insurance Commissioner

Sec. 158. Associations file certificate of appointment of agents with commissioner; licenses to agents; penalty for acting as agent without license. R. S. c. 61, § 14. Any association authorized to transact business as defined in sections 145 to 171, inclusive, may employ paid agents in soliciting business but no person shall act as such agent until the association or its authorized manager has filed with the commissioner a certificate certifying that such person has been appointed as the agent of the association. Upon receiving such certificate the commissioner may issue a license to such person, authorizing him to transact business in this state in accordance with the provisions of said sections and such license shall expire on the 1st day of the next July, but no license shall be issued under the provisions of this section to firms or corporations. If any person acts as such agent without first receiving such license, or fraudulently assumes to be an agent and solicits or procures risks or receives money for premiums or assessments, he forfeits not less than \$50, nor more than \$100, for each offense; but any policy or certificate issued on such application binds the association, if otherwise valid.

Sec. 159. Penalty for soliciting for associations not authorized. R. S. c. 61, § 15. Any person who shall solicit membership for, or in any manner assist in, procuring membership in any such association doing a business not authorized by sections 145 to 171, inclusive, or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized as herein provided, to do business as therein defined, in this state, shall be punished by a fine of not less than \$50, nor more than \$200.

Sec. 160. Associations to report to commissioner annually; penalty for neglect to make returns. R. S. c. 61, § 16. Every association doing business as a fraternal beneficiary association as herein defined shall annually, on or before the 1st day of March, report to the commissioner the names and addresses of its president, secretary, and treasurer, or other officers corresponding thereto, and shall make under oath such further statements of its membership and financial transactions for the year ending on the preceding 31st day of December, with other information relating thereto, as said commissioner may deem neces-

sary to a proper exhibit of its business and standing; and the commissioner may at any other time require any further statement he may deem necessary to be made relating to such association. Any such association which neglects or refuses to make the returns required by this section shall forfeit \$5 a day for each day's neglect; and for wilfully making a false statement, the association and the persons making oath thereto, or subscribing the same, shall severally be punished by a fine of not less than \$100, nor more than \$500.

Sec. 161. Benefit, charity, or relief funds not to be liable to attachment. R. S. c. 61, § 17. The money or other benefit, charity, relief, or aid to be paid, provided, or rendered, or which has been paid, provided, or rendered by any fraternal beneficiary association authorized to do business under the provisions of sections 145 to 181, inclusive, and as herein provided, shall not be liable to attachment by trustee, or other process, and shall not be seized, taken, or appropriated, or applied by any legal or equitable process, nor by operation of law, to pay any debt or liability of a certificate holder, or any beneficiary thereof, existing at the death of such holder; provided that the foregoing provisions shall not apply to debts contracted for the purpose of paying assessments or dues in order to keep such certificates in force.

See c. 156, § 21, re life insurance in intestate and insolvent estates; *96 Me. 34; 98 Me. 342.

Sec. 162. Any agent or physician making false statements to be punished; making false statement concerning the death of certificate holders, declared to be perjury. R. S. c. 61, § 18. Any solicitor, agent, or examining physician, who shall knowingly or wilfully make any false or fraudulent statement or misrepresentation in or with reference to any application for membership, or for the purpose of obtaining any money or benefit, in any such association transacting business under the provisions of sections 145 to 181, inclusive, shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not less than 30 days, nor more than 11 months; and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association, for the purpose of procuring the payment of the benefit named in the certificate of such holder, shall be guilty of perjury, and upon conviction shall be punished accordingly.

See c. 122, § 1, re perjury.

Sec. 163. Exemption of certain orders and associations. R. S. c. 61, § 19. Nothing contained in sections 145 to 171, inclusive, shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, Knights of Pythias, or similar orders, organized or incorporated under the laws of this state, and which do not have as their principal object the issuance of insurance certificates. Nor shall anything therein contained apply to domestic corporations or voluntary associations which limit their membership to the employees of a particular city or town, designated firm, business house, or corporation; nor to domestic lodges, orders or associations of a purely religious, charitable, or benevolent description which do not operate with a view to profit and which do not provide for a funeral benefit of more than \$100, or sick or disability benefits of more than \$150, to any 1 person in any 1 year. Provided always, that any association which has more than 300 members and which issues to any person a certificate providing for the payment of benefits shall not be exempt by the provisions of this section, and such associations shall comply with all requirements of sections 145 to 181, inclusive, relating to fraternal beneficiary associations. The

commissioner may require of any association such information relating to its membership and certificates as will enable him to determine whether it is exempt from the provisions hereof; and no association which is exempt by the provisions of this section from the requirements hereof, shall employ paid agents or give or allow to any person any compensation for procuring new members.

Sec. 164. Examination by commissioner; proceedings when business becomes hazardous; receiver may be appointed and affairs closed; fees. R. S. c. 61, § 20. 1931, c. 225, § 15. The commissioner, in person or by deputy, shall have the power of visitation and examination into the affairs of any domestic association subject to the provisions of sections 145 to 181, inclusive, provided that he shall not be required to make periodical examinations of domestic associations. Whenever after examination the commissioner is satisfied that any domestic association is not paying the maximum amount named in its policies or certificates in full or is in such condition as to render further proceedings hazardous to the public or its policyholders or is transacting its business fraudulently; or whenever such domestic association shall, after the existence of 1 year or more, have a membership of less than 300, the commissioner may present the facts in relation to the same to any justice of the supreme judicial court or of the superior court; and said justice shall thereupon notify the officers of such association of a hearing and unless it shall then appear that some special and good reason exists why the association should not be closed, some person shall be appointed receiver of such association and shall proceed at once to take possession of the books, papers, moneys, and other assets of the association, and shall forthwith, under the direction of the court, proceed to close the affairs of such association and to distribute to those entitled thereto its funds in the manner provided in section 151. For this service the receiver may be allowed out of any funds in possession of the association or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the association shall be finally closed, the court shall decree a dissolution of the same.

Sec. 165. Certain associations may continue to do business. R. S. c. 61, § 21. Fraternal beneficiary associations, organized or incorporated under the laws of this state, which were transacting business herein on the 21st day of March, 1901, and which limit their membership to the members of some particular order, class, or fraternity may continue such business by complying with the provisions of sections 145 to 181, inclusive.

Sec. 166. Commissioner may examine foreign associations, applying for admission to the state; if examination is denied, association to be suspended. R. S. c. 61, § 22. Whenever the commissioner deems it prudent for the protection of the policy or certificate holders in this state he, or any person whom he may appoint, may examine any foreign fraternal beneficiary association applying for admission or transacting business in this state and such association shall pay the expenses of the examination. The commissioner may employ assistants and for the purposes aforesaid he, or any person he may appoint, shall have free access to all the books and papers that relate to the business of such association and to the books and papers kept by any of its organizers and may summon and qualify as witnesses under oath, and examine the directors, officers, agents, organizers, and trustees of such association and other persons in relation to its affairs, transactions, and condition. He may accept in lieu of such examination the examination of the insurance department of the state or country where such

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

Sec. 167. License may be revoked; appeal and proceedings thereon. R. S. c. 61, § 23. When the commissioner, on investigation, is satisfied that any association organized under the laws of another state or country and transacting business under the provisions of sections 145 to 171, inclusive, has exceeded its powers, or has failed to comply with any provision of law, or is conducting business fraudulently, or that its condition is such as to render further proceedings hazardous to the public or to its certificate holders, or in case any such association shall vote to discontinue its business, he shall notify the president and secretary, or other officers corresponding thereto of his findings, and state the grounds therefor and after 30 days' notice require said association, on a date named, to show cause why its license should not be revoked and its authority to transact business in this state terminated. If on the date named in said notice such objections have not been removed to the satisfaction of the commissioner, or the association does not present good and sufficient reasons why its authority to transact business in this state should not at that time be revoked, he may revoke the authority of such association to continue business in this state. When the commissioner suspends or revokes the authority of any association to continue business in this state, or on application refuses to countermand such suspension or revocation the association may within 30 days apply to any 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 and a copy of said petition to be served on the commissioner, and after said hearing he may affirm or reverse the decision of the commissioner and the decision of such justice shall be final.

Sec. 168. Issuance of policies limited. R. S. c. 61, § 24. 1943, c. 149. No association organized or doing business under the provisions of sections 145 to 171, inclusive, shall issue any policy or certificate upon the life of any person more than 60 years of age; nor on the life of any person who has not been examined by a reputable, practicing physician and passed a satisfactory medical examination; provided, however, that any such organization may, upon such terms and conditions as the commissioner shall approve, issue policies or certificates without medical examination in amounts not exceeding \$3,000 upon the life of any person not over 45 years of age. No person shall be admitted to membership in any such organization unless he has first filed an application with and been initiated in and becomes a member of a local branch. The by-laws of such association shall provide that meetings of such branches shall be held at least once each month.

Sec. 169. Laws of this and other states regarding fines and penalties to be reciprocal. R. S. c. 61, § 25. When the laws of any state or country, under which any such association is organized or incorporated, impose on fraternal associations of this state any additional or greater fees, fines, penalties, prohibitions, or obligations than are imposed hereby upon similar associations of other states or countries, the same fees, fines, penalties, prohibitions, or obliga-

tions shall be imposed upon the associations of such state or country applying for admission or transacting business in this state.

Sec. 170. Penalties and prosecutions. R. S. c. 61, § 26. 1933, c. 118, § 1. Any association neglecting or refusing to comply with, or violating any of the provisions of sections 145 to 181, inclusive, relating to fraternal beneficiary associations, shall be punished by a fine of not more than \$200 upon conviction thereof. Prosecutions for such violations may be commenced by complaint and warrant before any municipal judge or trial justice as in the case of other offenses not within the final jurisdiction of such judge or justice.

Sec. 171. Term "association" construed. R. S. c. 61, § 27. The word "association" as used in the 26 preceding sections shall be taken and construed as meaning a corporation, society, or voluntary association.

Foreign Associations for Casualty Insurance

Sec. 172. Foreign fraternal beneficiary associations transacting casualty insurance licensed. R. S. c. 61, § 28. Any association organized or incorporated under the laws of another state or country as a fraternal beneficiary association and which does not conduct its business upon the lodge system with a ritualistic form of work and a representative form of government, in accordance with the provisions of section 145, and which is not subject to the statutes of this state regulating fraternal beneficiary associations, but which confines its membership to the members of some particular order, class, or fraternity, and which has the membership and qualifications required in sections 145 to 181, inclusive, may be licensed by the commissioner to transact the business of casualty insurance on the assessment plan and to provide for the payment of death or funeral benefits of not more than \$100 to the beneficiaries of deceased members, subject to and in accordance with the provisions of the 3 following sections.

Sec. 173. Such association must be licensed; prerequisites to receiving license; termination of license. R. S. c. 61, § 29. No such association shall transact any business in this state without a license from the commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and by-laws certified by its secretary; a power of attorney to the commissioner as provided by section 154; a statement under oath of its president and secretary, in the form required by the commissioner, duly verified by an examination of its business for the preceding year, made in accordance with the provisions of section 166, which statement and examination must show that the association had at least 5,000 members in good standing at the date of such report, and that it had on that date available assets in excess of all known liabilities of not less than \$20,000; a copy of its policy and application, which must show that benefits are provided for by assessments upon or other payments by persons holding similar contracts; and a certificate of deposit from the treasurer of state as hereinafter provided; and it shall furnish the commissioner with such further information as he may deem necessary to a proper exhibit of its business and plan of working. Upon compliance with the foregoing provisions the commissioner may license such association to transact business in this state as herein defined until the 1st day of the succeeding July, and such license may thereafter be renewed annually, but in all cases to terminate on the 1st day of the next succeeding July. The provisions of sections 154, 158, 160, 161, 162, 166, 167, and 205 shall apply to such associations.

Sec. 174. Deposit with treasurer of state required; to be held in trust for policyholders. R. S. c. 61, § 30. No license shall be issued to any such association until it has deposited with the treasurer of state securities which are a legal investment for savings banks of this state amounting to not less than the maximum policy issued by such association nor to less than \$1,000. The treasurer of state shall receive such securities and hold the same on deposit and in trust for the benefit of all the policyholders of the association in this state, and shall receipt for and hold the same in the manner provided in sections 15 and 16, but he shall retain and hold the same as long as any liability remains outstanding in this state. Whenever any judgment obtained in a court of competent jurisdiction in this state, by a policyholder or any beneficiary thereof, remains unsatisfied for more than 60 days after legal demand upon the association, and no appeal from the decision of said court is pending, said court may issue an order directing the treasurer of state to immediately convert so much of said deposit as may be necessary into cash and to forthwith satisfy said judgment and such additional costs appertaining thereto as said court may allow, and the treasurer shall immediately comply with said order, and the association shall not transact any further business in this state until such deposit is restored. When any such association discontinues business in this state, and the commissioner is satisfied upon investigation that the association has no liabilities outstanding therein, he shall so certify to the treasurer of state, who shall thereupon return said deposit to the association.

Sec. 175. Assessments; reserve fund not to be used for expenses. R. S. c. 61, § 31. Every call for a payment by the policyholders of any such association shall distinctly state the purpose of the same, and no part of the money collected for the payment of indemnity claims or death or funeral benefits and no part of the reserve or emergency fund shall be used for expenses.

Whole Family Protection

Sec. 176. Fraternal beneficiary societies may insure children between ages of 1 and 18; schedule of benefits permitted. R. S. c. 61, § 32. 1937, c. 132. Any fraternal beneficiary society, authorized to do business in this state and operating on the lodge plan, may provide in its constitution and by-laws in addition to other benefits provided for therein, for the payment of death, endowment, or annuity benefits upon the lives of children between the ages of 1 and 18 years at the next birthday. Any such society may at its option organize and operate branches for such children, and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total death benefits payable as above provided shall in no case exceed the following amounts at the next birthday after death, respectively, as follows: 1, \$25; 2, \$50; 3, \$75; 4, \$100; 5, \$130; 6, \$175; 7, \$200; 8, \$250; 9, \$325; 10, \$400; 11, \$500; 12, \$600; 13, \$700; 14, \$800; 15, \$900; and 16 to 18 years, where not otherwise authorized by law, \$1,000.

Sec. 177. Subscriptions to aggregate 500 before benefit certificate is issued. R. S. c. 61, § 33. No benefit certificate as to any child shall take effect until after medical examination or inspection by a licensed medical practitioner, in accordance with the laws of the society, nor shall any such benefit certificates be issued until the society shall have at least 500 subscriptions therefor, on each of which at least 1 assessment has been paid, nor where the number of lives represented by such certificates fall below 500. The death benefit contributions to be

made upon such certificates shall be based upon the "Standard Industrial Mortality Table" or the "English Life Table Number Six" and a rate of interest not greater than 4% per year, or upon a higher standard; provided that contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws, and provided further, that extra contributions shall be made if the reserves hereafter provided for become impaired.

Sec. 178. Reserve must be maintained; certificate may be changed when child reaches minimum age of initiation; original beneficiary to have no claim on new certificate. R. S. c. 61, § 34. Any society entering into such insurance agreements shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in section 177, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized; provided that a society may provide that when a child reaches the minimum age for initiation into membership in such society, any benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any other form of certificate issued by the society, provided that such surrender will not reduce the number of lives insured in the branch below 500, and upon the issuance of such new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate, nor the person who paid the contributions shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

Sec. 179. Society must make separate financial statement to commissioner; accounts to be kept separate as long as certificates remain in force. R. S. c. 61, § 35. An entirely separate financial statement of the business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the commissioner by any society availing itself of the provisions hereof. The separation of assets, funds, and liabilities required hereby shall not be terminated, rescinded, or modified, nor shall the funds be diverted for any use other than as specified in section 178, as long as any certificates issued hereunder remain in force, and this requirement shall be recognized and enforced in any liquidation reinsurance, merger, or other change in the condition or the status of the society.

Sec. 180. Constitution and by-laws may provide for specified payments. R. S. c. 61, § 36. Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

Sec. 181. Child's certificate may be continued after termination of membership of person responsible for its support. R. S. c. 61, § 37. In the event of the termination of membership in the society by the person responsible for the support of any child, on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided the contributions are continued, or for the benefit of any other

person responsible for the support and maintenance of such child, who shall assume the payment of the required contributions.

See § 138, re death benefits payable only in money.

Foreign Surety Companies. Credit Insurance and Title Insurance

Sec. 182. Foreign surety, credit, and title insurance companies may do business in this state. R. S. c. 60, § 149. 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 11 following sections, and not otherwise.

Sec. 183. Commissioner to be appointed attorney, upon whom process may be served; certificate of appointment to be filed with commissioner. R. S. c. 60, § 150. No company as described in section 182 not incorporated under the authority of this state shall take, directly or indirectly, risks or transact business in this state until it shall have first appointed, in writing, the 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 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. 184. Copy of all processes to be forwarded. R. S. c. 60, § 151. Whenever lawful process against a company described in section 182 shall be served upon said 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. 185. No person to act as agent, unless company has \$250,000 capital paid-up. R. S. c. 60, § 152. 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 \$250,000, 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. 186. Persons deemed agents, and their liabilities. R. S. c. 60, § 153. Every person who shall so far represent any company described in section 182 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. 187. Copy of charter and statement of condition to be deposited with commissioner, before license is issued. R. S. c. 60, § 154. 1941, c. 247, § 1. Every company described in section 182, before transacting any business, shall deposit with the 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 stating the names and addresses of all its attorneys-in-fact within this state together with the scope of authority of each such attorney-in-fact; 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 1st day of July next following, and such license may be renewed annually thereafter.

Sec. 188. Annual statement to be filed with commissioner. R. S. c. 60, § 155. 1933, c. 169. 1943, c. 9. Every company described in section 182 shall, in the month of January, annually, also deposit with the commissioner a similar statement of its capital, assets, and liabilities, and the investments and risks as required in the preceding section, to be made up to the 31st day of December next preceding, signed and sworn to by the president and secretary of the company, and the commissioner, in his annual report, shall publish an abstract thereof.

Sec. 189. Agents not to act until requirements of law have been complied with; penalty. R. S. c. 60, § 156. No person shall act as agent of any company described in section 182 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 \$100.

Sec. 190. If annual returns are obscure or defective, commissioner may require answers under oath; penalty for refusing to answer. R. S. c. 60, § 157. The commissioner shall annually examine the statements and returns required to be made as provided for in sections 182 to 189, inclusive, by the companies described in section 182, 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 such company, the officers of which shall refuse or neglect to answer such interrogatories for the space

of 30 days, may be suspended from transacting business in this state until satisfactory answers are made by them.

Sec. 191. Examination of companies; commissioner may publish result of investigation; may revoke license; expenses of examination. R. S. c. 60, § 158. The commissioner, either personally or by a committee appointed by him, consisting of one or more persons not directors, officers, or agents of any company described in section 182 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. 192. Violations to be reported to attorney-general. R. S. c. 60, § 159. The commissioner shall report to the attorney-general any violation of the provisions of law relating to companies described in section 182, 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. 193. Any company organized for certain purposes with sufficient capital, may be accepted as surety on bonds required by law. R. S. c. 60, § 160. Any company with a paid-up capital of not less than \$250,000, 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. 194. Premiums on bonds, how paid and allowed. R. S. c. 60, § 161. 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. 195. Commissioner to notify registers of probate of authorization of surety companies. R. S. c. 60, § 162. 1941, c. 247, § 2. 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 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 the names and addresses of all attorneys-in-fact registered with him whose addresses are in the county of such register; and he shall on the 1st 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. 196. Company estopped to deny corporate power. R. S. c. 60, § 163. 1941, c. 247, § 3. Any company which shall execute any bond as surety under the provisions of section 193 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 its attorney-in-fact within the scope of his power of attorney filed in accordance with the provisions of section 187, to execute such instrument or assume such liability, or the authority of any licensed agent to countersign such instrument.

Casualty Insurance on Assessment Plan

Sec. 197. Definition of contract; business to be carried on only by duly organized corporation. R. S. c. 60, § 164. Every contract whereby a benefit is to accrue to the party or parties named therein upon the accidental death only, or the physical disability from accident or sickness of a person, which benefit is in any degree or manner conditioned upon the collection of an assessment upon persons holding similar contracts, shall be deemed a contract of casualty insurance on the assessment plan, and the business involving the issuance of such contracts shall be carried on in this state only by duly organized corporations, which shall be subject to the provisions and requirements of this and the 12 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. 198. 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. 60, § 165. 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 1, 2, and 3 of

chapter 50; but no such corporation shall begin to do business until at least 500 persons have subscribed, in writing, to be insured therein, and have each paid in 1 full disability assessment; nor until it shall have established a guaranty fund or capital of not less than \$10,000, which may be divided into shares of not less than \$100 and certificates issued therefor. A dividend not exceeding 7% in any 1 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 63, 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 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 6 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 \$10,000. 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 commissioner a certified copy of the record of its organization and by-laws, which has been approved by him; nor until the 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 1 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 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. 199. 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. 60, § 166. When the commissioner, on investigation, is satisfied that any corporation transacting the business of casualty insurance on the assessment plan in this state under the provisions of 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. 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 300, the 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. 200. Transfer of risks or reinsurance in another corporation. R. S. c. 60, § 167. No casualty insurance 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 $\frac{2}{3}$ 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 10 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 5 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. 201. Reserve fund; its investment and application to payment of claims. R. S. c. 60, § 168. Any corporation organized under the provisions of section 198, or any corporation of this state doing assessment insurance business under the provisions of 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 31st 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 1 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 1st day of March, 1889, to not less than \$25,000. 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 1 assessment or periodical call upon all of its members for benefit and expense funds, nor to less than \$1,000.

Sec. 202. Duty of commissioner; satisfaction of judgments. R. S. c. 60, § 169. The 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 the provisions of this chapter. If said corporation shall neglect for 60 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 5%, as such court or justice may allow the receiver or agent; 1st, 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; 2nd, 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 31st day of December of any year, the reserve fund of any such corporation is found to be less than the amount of 1 assessment or periodical call upon all the members thereof, said corporation shall, within 1 year thereafter, collect from its members a sum sufficient to bring said reserve fund up to 1 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. 203. Authorization of foreign corporations; conditions under which authority to do business in the state is granted, renewed, and revoked. R. S. c. 60, § 170. 1931, c. 225, § 17. 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 commissioner a certified copy of its charter; a statement under oath, of its president and secretary, in the form by the 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 12 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 commissioner that the corporation accumulates a fund, equal at all times in amount to not less than the proceeds of 1 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 12th day of July, 1913. Every such corporation, and agent of such corporation, shall also comply with the provisions of sections 49, 249, and 250. The 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 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 205, and the commissioner shall enforce the provisions of section 49. Upon such revocation the commissioner shall cause notice thereof to be published in the state paper, and no new business shall be thereafter done by said corporation or its agents in this state.

Sec. 204. Calls to state purpose of same; application of proceeds. R. S. c. 60, § 171. 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 3% 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. 205. Policy to bear on the face the words: "This policy is subject to assessments." R. S. c. 60, § 172. In every policy or certificate issued after the 1st day of July, 1899, 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. 206. Benefit or relief not liable to attachment; beneficiary may be changed. R. S. c. 60, § 173. The money or other benefit, charity, relief, or aid to be paid, provided, or rendered by any corporation authorized to do casualty insurance business on the assessment plan under the provisions of 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. 156, § 21, re disposal of life insurance in estates.

Sec. 207. Penalty for false representation by solicitor, agent, or physician. R. S. c. 60, § 174. 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 the provisions of this chapter, shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not less than 30 days, nor more than 11 months.

Sec. 208. Corporations to report annually; commissioner may examine any such corporations. R. S. c. 60, § 175. Every corporation doing business on the assessment plan under the provisions of this chapter, or its charter, shall annually, on or before the 31st day of January, return to the commissioner, in such manner and form as he shall prescribe, a statement of its affairs for the year ending on the preceding 31st 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 the provisions of this chapter shall not be subject to any other provisions or requirements of this chapter, except as set forth in sections 45, 54 to 56, inclusive, and 113, and in sections 197 to 209, inclusive.

Sec. 209. Fees for filing statement, etc. R. S. c. 60, § 176. The fees for filing statements, certificates, or other documents required of casualty insurance companies or for any service or act of the commissioner, and the penalties for any violation of the provisions of sections 197 to 209, inclusive, by such companies shall be the same as provided in the case of life insurance companies.

Reciprocal Contracts of Indemnity

Sec. 210. Making contracts of indemnity between individuals not insurance; attorneys or agents to file a declaration verified by oath. R. S. c. 60, § 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 7 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 representative shall file with the commissioner a declaration in writing, verified by the oath of such attorney, agent, or other representative, setting forth:

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

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

III. 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.

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

V. That applications have been made for indemnity upon at least 100 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 1 total loss equal to the maximum line on any 1 risk.

Sec. 211. Suits, how and where to be brought; service of process on commissioner. R. S. c. 60, § 96. Concurrently with the filing of the declaration provided for by the terms of the preceding section, the attorney shall file with the 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 217, 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 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 commissioner shall file 1 copy, forward 1 copy to said attorney and return 1 copy with his admission of service. Said attorney, agent, or other representative is authorized to file the above-mentioned instrument appointing the commissioner to receive service of process, which instrument shall be binding upon all the subscribers.

Sec. 212. No subscriber to assume more than 10% of his net worth. R. S. c. 60, § 97. 1931, c. 225, § 16. Such attorney, agent, or other representative, filing as provided for in the preceding section, shall file with the commissioner of this state a statement verified by his oath, showing the 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 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 100,000 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 10% of the net worth of said subscriber.

Sec. 213. Reserve sum. R. S. c. 60, § 98. There shall at all times be maintained by the contracting parties described in section 210, as a reserve, a sum in cash or convertible securities or in bona fide agreements to pay, sufficient to pay at least 1 total loss equal to the maximum line on any 1 risk.

Sec. 214. Attorney to make report to the commissioner; books and records to be open to inspection. R. S. c. 60, § 99. The attorney, agent, or other representative described in section 210 shall make a report to the commissioner for the calendar year on or before the 31st 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 commissioner, or his authorized representative, and reasonable expense incurred in making such examination shall be borne by said subscribers.

Sec. 215. Corporations may exchange contracts. R. S. c. 60, § 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 5 preceding sections. The right to exchange such contracts is 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. 216. Penalty for violation of §§ 210-215. R. S. c. 60, § 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 6 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 \$100, nor more than \$1,000.

Sec. 217. Each attorney, agent, etc., to secure annual certificate. R. S. c. 60, § 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 7 preceding sections shall procure from the commissioner, annually, a certificate of authority stating that all the requirements of sections 210 to 217, inclusive, have been complied with, and upon such compliance and the payment of the fees therefor the 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 1st 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 commissioner may revoke the certificate of authority issued thereunder.

Non-profit Hospital Service Organizations

Sec. 218. Scope. 1939, c. 149, § 1. Any corporation organized under special act of the legislature, or under the provisions of chapter 50 for the purpose of establishing, maintaining, and operating a non-profit hospital service plan whereby hospital care is to be provided by a hospital, or a group of hospitals, with which such corporation has a contract for such purpose, may be licensed by the insurance commissioner on the terms and conditions hereinafter provided for in sections 219 to 232, inclusive.

Sec. 219. Incorporation. 1939, c. 149, § 2. The articles of incorporation, and amendments thereto, of every corporation organized under the provisions of sections 218 to 232, inclusive, shall be submitted to the commissioner, whose approval thereof shall be indorsed thereon before the same are filed with the secretary of state.

There shall be not less than 7 directors, and at least a majority of the directors of such corporation must be at all times administrators, corporators, trustees, or members of the clinical staff of the hospital or hospitals which have contracted with such corporation to render hospital service to the subscribers.

Sec. 220. Contracts. 1939, c. 149, § 3. Such corporation mentioned in section 218 may enter into contracts for the rendering of hospital service to the subscribers only with hospitals approved by the departments of health and welfare of the several states. All contracts issued by such corporation shall constitute direct obligations of the hospital or hospitals with which such corporation has contracted for hospital care.

Sec. 221. License. 1939, c. 149, § 4. Application for the license provided for in section 218 shall be made in such form as may be required by the commissioner and shall contain such information as he shall deem necessary. Each application for such certificate or license shall be accompanied by copies of the following documents:

- I. Certificate of incorporation;
- II. By-laws;
- III. Proposed contracts between the corporation and participating hospitals showing terms under which hospital service is to be furnished to subscribers;
- IV. Contracts to be issued to subscribers showing a table of the rates to be charged and the benefits to which they are entitled;
- V. Financial statement of the corporation, including the amounts of contribution paid or agreed to be paid to the corporation for working capital, and the name or names of each contributor and the terms of each contribution, total of which said contribution shall not be less than \$5,000.

The commissioner shall issue a certificate of authority or license upon payment of a fee of \$20 and upon being satisfied on the following points:

- I. That the applicant is established to provide a bona fide non-profit hospital service plan.
- II. That the contracts between the applicant and the participating hospitals obligate each hospital party to render service to which each subscriber may be entitled under the terms and conditions of the contract issued to the subscribers.
- III. That the rates charged and benefits to be provided are fair and reasonable.
- IV. That contributions to the working funds of the corporation are repayable only out of earned premiums over and above operating expenses, payments to participating hospitals and such reserve as the commissioner deems adequate.
- V. That the amount of money actually available for working capital be sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of the issuance of the certificate.

Sec. 222. Reports. 1939, c. 149, § 5. Every corporation organized under the provisions of sections 218 to 232, inclusive, shall annually on or before the 1st day of March file in the office of the commissioner a statement verified by at least two of the principal officers of said corporation showing its condition on the 31st day of December, then next preceding, which shall be in such form and shall contain such matters as the commissioner shall prescribe.

Sec. 223. Visitation. 1939, c. 149, § 6. The commissioner, or any deputy or examiner or any other person whom he shall appoint, shall have the power of visitation and examination into the affairs of any corporation described in section 218 and free access to all of the books, papers, and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath to examine its officers, agents, or employees, or other persons in relation to the affairs, transactions, and conditions of the corporation.

Sec. 224. Investments. 1939, c. 149, § 7. Any corporation subject to the provisions of sections 218 to 232, inclusive, shall be restricted in its investments in the same manner as are savings banks in this state.

See c. 55, § 38, re investments by savings banks.

Sec. 225. Disputes. 1939, c. 149, § 8. Any dispute arising between a corporation subject to the provisions of sections 218 to 232, inclusive, and any hospital with which such corporation has a contract for hospital service may be submitted to the commissioner for his decision with respect thereto. Any decision and findings of the commissioner made under the provisions of said sections shall not be any bar to constituted legal procedure for the review of such proceedings in a court of competent jurisdiction.

Sec. 226. Dissolution. 1939, c. 149, § 9. Any dissolution or liquidation of a corporation subject to the provisions of sections 218 to 232, inclusive, shall be conducted under the supervision of the commissioner who shall have all power with respect thereto granted to him under the provisions of law with respect to the dissolution and liquidation of insurance companies.

Sec. 227. Taxation. 1939, c. 149, § 10. Every corporation subject to the provisions of sections 218 to 232, inclusive, is declared to be a charitable and benevolent institution, and its funds and property shall be exempt from taxation.

Sec. 228. Agents. 1939, c. 149, § 11. No person, for himself or in behalf of any individual, firm, association, or corporation, shall sell, or offer to sell, any such hospital service as is provided for in sections 218 to 232, inclusive, without being licensed therefor by the commissioner.

Sec. 229. Agents' licenses. 1939, c. 149, § 12. The commissioner shall grant a license to sell such service as is provided for in sections 218 to 232, inclusive, in behalf of any individual, firm, association, or corporation licensed therefor, to any applicant who shall furnish the commissioner with satisfactory evidence of his integrity and authority to sell the service offered. Such license, when granted, shall expire on January 1st thereafter, and annually thereafter may be renewed so long as the commissioner shall be satisfied of the licensee's integrity, authority, and responsibility to provide the service stipulated.

Sec. 230. Revocation. 1939, c. 149, § 13. The commissioner may revoke a license granted under the provisions of sections 218 to 232, inclusive, for cause, at any time, after hearing.

Sec. 231. Fees. 1939, c. 149, § 14. The fee for each license issued under the provisions of section 229 shall be \$2. Said fees shall be paid to the commissioner for the use of the state.

Sec. 232. Penalty. 1939, c. 149, § 15. Any person, firm, association, or corporation, or any officer, agent, servant, or employee thereof, who shall violate any of the provisions of sections 218 to 232, inclusive, shall be punished by a fine of not more than \$300, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Motor Vehicle Road or Tourist Service

Sec. 233. Motor vehicle road service. 1937, c. 65, § 1. No individual, firm, association, or corporation shall perform, or offer to perform, in this state, for a stipulated fee covering a certain period, any form of road or other tourist service relating to the repair, operation, and care of automobiles or to the protection and assistance of automobile owners or drivers, other than licensed insurance companies, or to furnish or offer to furnish tourist service by selling or offering to sell to any proprietor of any so-called roadside house or camp

furnishing or offering to furnish meals, and/or lodging to the traveling public, any form of sign or other insignia indicating that said roadside house or camp has been approved by any individual, firm, association, or corporation, without being licensed therefor by the commissioner.

Sec. 234. Licenses. 1937, c. 65, § 2. If the commissioner is of the opinion that an applicant is reliable and entitled to confidence, such applicant shall be granted a license to perform such road or other service in this state, and such license shall expire on January 1st succeeding the date of issuance but may be renewed annually thereafter so long as the commissioner shall regard such licensee as financially responsible and entitled to confidence.

Sec. 235. Agents. 1937, c. 65, § 3. No person, for himself or in behalf of any individual, firm, association, or corporation, shall sell, or offer to sell, any such road or other service, without being licensed therefor by the commissioner.

Sec. 236. Agents' licenses. 1937, c. 65, § 4. The commissioner shall grant a license to sell such service in behalf of any individual, firm, association, or corporation licensed therefor to any applicant who shall furnish the commissioner with satisfactory evidence of his integrity and authority to sell the service offered. Such license, when granted, shall expire on January 1st thereafter, and annually thereafter may be renewed so long as the commissioner shall be satisfied of the licensee's integrity, authority, and responsibility to provide the service stipulated.

Sec. 237. Revocation. 1937, c. 65, § 5. The commissioner may revoke a license for cause, at any time, after hearing.

Sec. 238. Fees. 1937, c. 65, § 6. The fee for each license issued under the provisions of section 234 shall be \$20 and for each license issued under the provisions of section 236 the fee shall be \$2. Said fees shall be paid to the commissioner for the use of the state.

Sec. 239. Penalty. 1937, c. 65, § 7. Any person, firm, association, or corporation, or any officer, agent, servant, or employee thereof, who shall violate any of the provisions of sections 233 to 239, inclusive, shall be punished by a fine of not more than \$300, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Insurance Emergency

Sec. 240. Insurance emergency may be proclaimed. 1933, c. 262, § 1. Whenever it shall appear to the governor that the welfare of the state or any section thereof, or the welfare and security of insurance companies under the supervision of the commissioner, in sections 240 to 248, inclusive, referred to as "insurers", or their insureds or beneficiaries, require, the governor may proclaim that an insurance emergency exists, and the provisions of said sections shall thereupon become effective.

Sec. 241. The commissioner empowered to act. 1933, c. 262, § 2. During the period of any insurance emergency described in the preceding section, the commissioner shall have power to make, amend, or rescind such rules and regulations governing the business of any insurers as he deems expedient in order to adopt and maintain sound methods of protecting the interests of insureds, beneficiaries, or the public.

Sec. 242. Commissioner empowered to regulate or suspend companies. 1933, c. 262, § 3. During any insurance emergency period as described in sections 240 and 241, the commissioner is empowered to suspend for such time or times as he may determine the transaction of insurance functions of any insurer licensed in the state, whether domestic or foreign, solvent or otherwise, and to limit its insurance business in volume or character to such particular amounts or classifications and for such time or times as he may deem advisable.

Sec. 243. Commissioner may defer payments when necessary. 1933, c. 262, § 4. During any insurance emergency period as described in sections 240 and 241, the commissioner shall have authority to postpone or defer, by rules or orders made and issued by him, for such time or times as he may determine, the payment of any amount payable under the terms of any policy of insurance, annuity, or pure endowment contract, and the payment of judgments, notes, drafts, checks, bills of exchange, or other forms of payment of claims due from insurers to any person, firm, or corporation, whether such claim is liquidated or unliquidated, due or to become due at a day certain, and defer the payment of premiums on policies affected by such postponements or suspensions, and may direct payment in full or in part whenever in his discretion such payment may be safely consummated.

Sec. 244. "Insurer" defined. 1933, c. 262, § 5. The words "insurer" or "insurers", as used in sections 240 to 248, inclusive, shall include corporations, inter-insurers, associations, societies, and orders, as well as partnerships and individual agents, representing such organizations.

Sec. 245. Personal responsibility of the commissioner limited. 1933, c. 262, § 6. The commissioner shall not be held legally responsible for any act or failure to act in the premises when such act, or failure to act, shall have been shown to be the result of good faith.

Sec. 246. Penalties for violation. 1933, c. 262, § 7. Any violation of any order issued by virtue of the provisions of sections 240 to 248, inclusive, or any rule or regulatory provision made by the commissioner pursuant thereto, shall be punished by a fine of not more than \$1,000, or by imprisonment for less than 1 year, or by both such fine and imprisonment.

Sec. 247. Jurisdiction of the courts. 1933, c. 262, § 8. During any emergency insurance period as described in sections 240 and 241, the commissioner is authorized to issue such directions, rules, or orders as in his discretion the circumstances may warrant, and any justice of the supreme judicial or superior courts shall have full jurisdiction to enforce the provisions of sections 240 to 248, inclusive, by appropriate decrees in equity.

Sec. 248. Duration of §§ 240-248 at will of the governor. 1933, c. 262, § 9. The authority and power given the commissioner under the provisions of sections 240 to 248, inclusive, shall terminate and be of no effect when the governor shall proclaim that any insurance emergency has ceased to exist.

Insurance Agents and Brokers

Sec. 249. Licenses of agents; agent personally liable for unlawful contracts; penalty. R. S. c. 60, § 122. 1939, c. 95; c. 205, § 1. 1943, c. 79, § 1. The commissioner may issue a license to any person to act as an agent of a domestic insurance company, or to solicit, receive, or forward applications for life

insurance as an agent of a foreign life insurance company which has received a license to do business in this state as provided in section 41, upon his filing with the commissioner a certificate from the company or association, or its authorized agent, empowering him so to act, provided, however, that all applications for life insurance solicited, received, and forwarded by non-resident agents for foreign life insurance companies shall be placed through a duly licensed resident agent of such company in this state; and provided further, that a non-resident may only be so licensed in this state to act as an agent for a foreign life insurance company if, under the laws of the state of his residence, residents of Maine may be licensed to solicit and write life insurance in such state; and to any resident of the state to act as an agent of any other foreign insurance company, which has received a license to do business in the state as provided in section 41 or section 187, upon his filing such certificate. Such license shall continue until the 1st 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 \$200, or by imprisonment for not more than 60 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 business which they are duly licensed to solicit with agents of other duly authorized insurance companies transacting the same kinds of business, 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. No judge of probate, register of probate, or any clerk or employee in the office of such judge or register of probate shall be licensed to write surety bonds.

See § 79; c. 14, § 138, re returns for basis of taxation; 61 Me. 335; 70 Me. 544; 80 Me. 288; 81 Me. 508, 510; 88 Me. 105; 95 Me. 36; 133 Me. 149.

Sec. 250. Commissioner may license insurance brokers; penalty for acting without license; may revoke license for cause or upon request of company. R. S. c. 60, § 123. 1939, c. 95. The commissioner may license any resident 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 or foreign company or its agents; or any non-resident of the state to negotiate such contracts and effect insurance with the agents of any domestic or foreign company who have been licensed to do business in this state as provided in sections 41 and 249, but with no others; said license shall remain in force 1 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 \$200, or by imprisonment for not more than 60 days, for each offense. The 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; 133 Me. 149.

Sec. 251. Firms and corporations may be licensed as insurance agents and brokers. R. S. c. 60, § 124. 1939, c. 205, § 2. The commissioner may issue licenses to firms and corporations in the manner provided in the 2 preced-

ing 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. Any person who is an officer or employee of any bank, loan and building association, or other financial institution engaged in the business of making loans of money to the public, other than agencies licensed by the commissioner to finance the purchase and sale of motor vehicles or other merchandise, who shall directly or indirectly make conditional on the authorizing or granting of any loan, or the extension or renewal thereof, that the borrower shall place insurance with any designated insurance company, agent, or agency shall, if he holds a license from the commissioner, forfeit said license, and in addition thereto he shall be punished by a fine of not more than \$100, or by imprisonment for not more than 60 days, or by both such fine and imprisonment. Any justice of the supreme judicial or superior court, in term time or vacation, on complaint by any person that the provisions of this section are being violated, may issue an injunction against such violation, and may hold in contempt and punish therefor in case of disregard of said injunction.

Sec. 252. Personal examination of applicants required in certain cases. R. S. c. 60, § 125. 1931, c. 157. 1933, c. 195. 1943, c. 79, § 2; c. 142. Before an agent or broker is licensed as provided in the 3 preceding sections he shall file with the commissioner a statement under oath, giving his name, residence, present occupation, his occupation for the 5 years next preceding the date of such statement, and such other information, if any, as the commissioner may require. After the statement herein provided for is filed, the 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 once qualified as a broker, or as an agent for any particular company, to requalify. The 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 casualty or foreign fire insurance company, or as a first-time insurance broker, he shall pay to the commissioner a fee of \$10, and appear in person at such time and place as the commissioner, his deputy, or any person delegated by the commissioner or his deputy shall designate in writing for that purpose, for a personal written examination as to his qualifications to act as such agent or broker.

Provided that no personal examination or examination fee shall be required of a resident of the state when applying for license to solicit accident and health insurance only on behalf of not more than one insurance company licensed to

transact such business in this state, and provided further, that the annual premium for such policy shall not exceed \$2.

Said fee shall be used solely to defray all the expenses of conducting examinations, and said examinations shall be in writing and kept on file with the commissioner for at least 6 months. The examiner shall be satisfied that such person is of good character, of appropriate experience or preparation, 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 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.

Upon the death or disability of a licensed agent or the termination of the employment of an agent, the commissioner may issue to a suitable person appointed by an insurance company without examination a license for a limited period of time, not to exceed 6 months, to act as an agent for said company, if in his opinion such temporary license is necessary for the continuation of the business of the agency thereby affected.

Sec. 253. 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. 60, § 126. 1933, c. 185. 1939, c. 101, § 8. The commissioner may annually issue licenses, subject to revocation at any time, to citizens of this state, already agents of one or more duly authorized fire insurance companies, permitting the person named therein to procure policies of insurance on fire or casualty risks 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 commissioner setting forth his reasons for desiring to insure the particular risk with companies not authorized in this state, and said commissioner shall, if he deems it advisable, grant permission to procure such insurance. He shall give notice to the commissioner not later than 5 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 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 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 commissioner or his representative. He shall monthly file with the 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 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 \$1,000, with such sureties as the 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 31st day of December next preceding, and at the time of filing such

statement will pay into the treasury of state a sum equal to 2% of such gross premiums, less such returned premiums as are reported.

See § 255.

Sec. 254. License may be revoked for violation of law, or for misrepresentation. R. S. c. 60, § 127. Whenever the 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 1 year; provided, however, that the insurance commissioner shall give said agent 10 days' notice of such revocation of license or licenses and the reasons therefor.

Sec. 255. Penalty for violation of § 253. R. S. c. 60, § 128. Any person licensed under the provisions of section 253, 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 \$100, or by imprisonment for not more than 60 days; and whoever without such license assumes to act as a special insurance broker shall incur like punishment.

Sec. 256. Adjusters of losses must be licensed; revocation of license. R. S. c. 60, § 129. 1939, c. 101, § 9. No insurance company transacting 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 insurance agent residing in this state to adjust losses on his own risks, or of attorneys at law duly licensed to practice by the state, or of licensed life insurance agents. The commissioner may issue a license to any person to act as an adjuster of losses upon receipt of an application in such form as may be required by him. Such license shall continue until the 1st day of the next July. If any person adjusts or fraudulently assumes to be an adjuster, without first receiving such license, he shall be punished by a fine of not more than \$200, or by imprisonment for not more than 60 days, for each offense. Before issuing a license to any adjuster, the commissioner shall satisfy himself that the applicant is a suitable person to act as an adjuster. The 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. 257. Discrimination or rebates on premiums for fire or liability insurance declared unlawful; penalty. R. S. c. 60, §§ 130, 132. 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.

Any insurance company, agent, or broker who violates any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100 for each and every violation, or, in the discretion of the court, by imprisonment for not more than 6 months. The commissioner may revoke the license of any company, agent, or broker violating the provisions of this section.

Sec. 258. Transactions between companies or agents to be lawful, also dividends to policyholders. R. S. c. 60, § 131. The provisions of 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. 259. Person deemed agent; notice to him, binding. R. S. c. 60, § 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 § 55; 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.

Rights of Assignees

Sec. 260. Suit by assignee of policy. R. S. c. 60, § 68. The assignee of any policy, the assignment of which has been assented to by the insurance 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. 100, § 170, re assignee of non-negotiable choses in action may sue; 69 Me. 411; 81 Me. 571.

Liability Absolute When Loss Occurs

Sec. 261. Liability of insurance company absolute when loss occurs. R. S. c. 60, § 177. 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.

132 Me. 422; 133 Me. 335; 134 Me. 13, 18, 459; 136 Me. 141; 137 Me. 208.

Judgment Creditor May Have Insurance

Sec. 262. Application of insurance money in cases after final judgment; company entitled to notice of accident or injury; bill not to be brought until 20 days after final judgment; exceptions. R. S. c. 60, §§ 178, 179, 180. 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 this section in said equity proceedings. None of the provisions of this paragraph and the preceding section shall apply:

I. 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 16 years where no statute restricts the age; or

II. When such automobile, motor vehicle, or truck is being used in any race or speed contest; or

III. When such automobile, motor vehicle, or truck is being used for towing or propelling a trailer unless such privilege is indorsed on the policy, or such trailer is also insured by the company; or

IV. In the case of any liability assumed by the insured for others; or

V. In the case of any liability under any workmen's compensation agreement, plan, or law; or

VI. When there is fraud or collusion between the judgment creditor and the insured.

No bill in equity shall be brought against an insurance company to reach and apply said insurance money until 20 days shall have elapsed from the time of the rendition of the final judgment against the judgment debtors.

131 Me. 288; 132 Me. 422; 133 Me. 13, 18, 335; 134 Me. 13, 459; 136 Me. 143; 137 Me. 208; 139 Me. 219.

Inquests Into Insurance Frauds

Sec. 263. Investigation of insurance frauds. R. S. c. 60, § 94. On application in writing to the commissioner by an officer of any insurance company doing business in the state, stating that he has reason to believe and does believe that any person has, by false representations, procured from said company an insurance, or that the company has sustained a loss by the fraudulent act of the insured, or with his knowledge or consent, and requesting an investigation thereof, said commissioner, or his deputy or such magistrate as he appoints, shall summon and examine, under oath, at a time and place designated by him, any persons, and require the production of all books and papers necessary for a full

investigation of the facts, and make report thereof, with the testimony by him taken, to the company making such application.

See §§ 265, 266, re licenses for the manufacture and sale of lightning-rods; c. 85, §§ 22-29, re investigation of fires.

Automobile Finance Business

Sec. 264. **Financing of time sales on motor vehicles; license; fee; refusal to issue or renew; appeal; penalty.** 1939, c. 242, §§ 1, 2. Any person, firm, or corporation, except a savings bank, trust company, national bank, or any other bank which is under the supervision of the bank commissioner, the principal place of business and home office of which is in this state, desiring to conduct the business of financing time sales on motor vehicles shall annually make application to the commissioner for a license to conduct said business and said application shall be made on forms prepared and furnished by the commissioner and shall state such information as may be asked for thereon. The commissioner shall examine the facts stated in said application for license and may issue or renew a license to said applicant authorizing said applicant to engage in said business. Said licenses shall expire on the 30th day of June of each calendar year. All applications for such licenses shall be accompanied by a fee of \$50, which said fee shall be returned in the event that application is denied. If the commissioner, after investigation, shall find that the applicant is not of good repute or has been guilty of fraudulent or unfair business practices or misrepresentations to the public, he may refuse to issue or renew the license so applied for and he shall in writing notify the applicant of his failure to approve of said application and to issue or renew a license based thereon, and shall also state in writing his reasons for said refusal. If said refusal shall be to renew a license previously issued, said refusal shall not become effective until 15 days from the date thereof, and the license previously issued shall continue in full force and effect during said period of 15 days notwithstanding that said period may extend beyond the 30th day of June. Any applicant receiving from the commissioner notice of his refusal to so issue or renew a license to said applicant may within 60 days after the receipt of said notice file an appeal to the superior court in and for the county in which the applicant has a place of business, and if said appeal shall be from the refusal of the commissioner to renew a license previously issued, such license shall continue in full force and effect pending final decision on said appeal notwithstanding that said period may extend beyond the 30th day of June. After such notice as it shall order and upon hearing, said court shall determine whether or not the reasons assigned by the commissioner for said refusal are valid and said court shall thereupon sustain or reverse the ruling of the commissioner. If said court shall find that the reasons assigned by the commissioner for his refusal to issue or renew said license are not sufficient, and shall reverse the decision of said commissioner, the commissioner shall immediately issue the license or renewal of license so applied for. The commissioner may, after notice and hearing, revoke or suspend any license issued by him, which said order of revocation or suspension shall become effective at the end of 15 days from the date of issuance, and said licensee shall have the same right to an appeal from such suspension or revocation as is above provided. Pending final decision on any appeal from an order revoking or suspending any license previously issued, the license shall continue in full force and effect. Any person conducting the business of financing time sales on motor vehicles without being licensed by the commissioner shall be

punished by a fine of not more than \$500, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

Sale of Lightning-Rods

Sec. 265. Manufacturer selling lightning-rods to be licensed. R. S. c. 49, § 41. No manufacturer, whether a person, firm, or corporation, shall sell or offer for sale material used for the protection of buildings from damage by lightning until licensed to do so by the commissioner as hereinafter provided.

Sec. 266. Conditions of license; bond; guarantee. R. S. c. 49, § 42. No such license shall be issued until the commissioner has approved of the material made by such manufacturer for protection from lightning and of the manner and system of installing such material, nor until such manufacturer has filed a bond with the commissioner in the penal sum of \$10,000, with surety or sureties satisfactory to the commissioner, conditioned for fulfilling the guarantee agreement provided for by this section together with a written stipulation that legal process affecting such manufacturer or his agent, served upon the commissioner for the time being, shall have the same effect as if personally served upon such manufacturer or his agent within the state. The manufacturer shall also file with the commissioner a copy of the guarantee agreement to be issued by him, which shall be in a form approved by the commissioner and must provide in substance that in the event of damage by lightning to property equipped by said manufacturer or his agent, any money paid for the equipment of said building shall be returned to the owner thereof, or the damage to said building repaired. When the manufacturer has complied with the foregoing requirements, and the commissioner is satisfied that the manufacturer is safe and reliable as to assets, business standing, and methods, and is entitled to confidence, the commissioner shall issue a license to such manufacturer, to continue in force 1 year from date of issue. The license may be revoked at any time by the commissioner for good cause after a hearing.

Sec. 267. Agent's license. R. S. c. 49, § 43. Upon written notice from a manufacturer, licensed under the provisions of the preceding section, of the appointment of a suitable person, who must be a resident of the state, to act as his agent in this state, and upon the presentation of a certificate of the good reputation and moral character of such person, signed by the mayor or selectmen of the city or town of which he is a resident, the commissioner may, if he is satisfied that the appointee is a suitable person and a resident of this state, issue to him a license as such agent. For the purposes of the provisions of sections 265 to 270, inclusive, "such agent" shall be construed to mean the duly licensed resident of this state who purchases, sells, and installs such lightning-rod material. Such license shall continue in force until the 31st day of December following the date of issue, but may be revoked at any time by the commissioner for good cause after a hearing.

Sec. 268. Agent to exhibit license when requested by public officer; penalty. R. S. c. 49, § 44. Every agent shall, upon demand, exhibit his license to any mayor, selectman, sheriff or his deputy, constable, or police officer, and to any person to whom he sells or offers to sell lightning-rods, and shall furnish a copy of sections 265 to 270, inclusive, to every person to whom he sells such lightning-rods. If he neglects or refuses to do so, he shall be liable to the penalty provided by the following section for acting as such agent without a license.

Sec. 269. Penalty for selling without license; license not transferable. R. S. c. 49, § 45. Whoever sells or offers for sale such lightning-rods or other material, without being licensed as provided by section 266 or section 267, shall be punished by a fine of not more than \$200, or by imprisonment for 6 months, for each offense. The licenses provided for by sections 266 and 267 are valid for only 1 person, firm, or corporation and are not transferable.

Sec. 270. Holder of guarantee agreement may bring suit on bond. R. S. c. 49, § 46. The holder of any guarantee agreement issued under the provisions of section 266 may bring suit in the name of the commissioner upon the bond provided by said section, and have the same procedure and remedies thereon as in the case of official bonds of sheriffs, but the amount of damages need not be first ascertained. Whenever legal process against such manufacturer is served upon the commissioner, he shall take such action as is provided in the case of the service of legal process against foreign insurance companies.

See c. 79, §§ 181-184, re actions on sheriff's bond.

Recovery of Fines. Jurisdiction of Courts

Sec. 271. Recovery of fines; jurisdiction of courts. R. S. c. 60, § 93. 1933, c. 118, § 1. 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 commissioner, or may prosecute therefor on complaint made to him by any citizen. Prosecutions may be commenced by complaint and warrant before any municipal judge or trial justice, as in the case of other offenses not within the final jurisdiction of such judge or justice.

Fees Payable to Insurance Commissioner

Sec. 272. Fees payable to commissioner. R. S. c. 126, § 16. 1939, c. 89. 1943, c. 148. The commissioner shall receive:

For each license issued to a foreign insurance company, or foreign surety company, or credit insurance or title insurance company, or to a foreign fraternal beneficiary association authorizing such company or association to do business in this state, and for each renewal thereof, \$20.

For each annual statement filed by a foreign insurance company the sum of \$20, except fraternal benefit societies which shall be \$10. For each certificate of qualification of a domestic insurance company to act under its charter and for each annual renewal thereof \$20, except that domestic mutual fire insurance companies writing on the assessment plan only are exempt from this requirement. All said fees shall be used solely to defray administrative charges and salaries for examinations required by law and for examining and auditing filed annual statements. Every insurance company shall also pay all traveling expenses incurred by order of the commissioner in making the examinations required by law.

For each license issued to citizens of this state authorizing them to procure policies of fire insurance in foreign insurance companies not authorized to transact business in this state, \$20, payable annually.

For each license issued to a resident insurance broker, \$25 and to a non-resident broker, \$50.

For each license issued to a firm or corporation to act as insurance brokers, \$25 for each resident and \$50 for each non-resident named in the license.

For each license issued to a resident agent of any insurance company, except a domestic mutual fire insurance company, or to a resident agent of any fraternal beneficiary association, foreign surety company, credit insurance, or title insurance company and each renewal thereof, \$2, and for each non-resident agent of such company, \$10.

For each license issued to a firm or corporation to act as insurance agents, and each renewal thereof, \$2 for each resident and \$10 for each non-resident named in the license.

For each license issued to an adjuster of losses, \$2.

For each license issued to a manufacturer of lightning-rods, \$20; for each license issued to an agent of such manufacturer, \$2.

For approving organization of fraternal beneficiary association, \$5.

For receiving service of process against any foreign insurance company, foreign surety, credit insurance, or title insurance company, or foreign fraternal beneficiary association, or against persons making reciprocal contracts of indemnity, \$2, which shall be paid by the plaintiff at the time of such service; and shall be recovered by him as a part of the taxable costs, if he prevails in the suit.

For investigating insurance frauds, \$10 a day and his expenses, together with the fees of witnesses, to be taxed as in the supreme judicial court, which shall be paid by the company requesting the investigation, to the commissioner or magistrate appointed by him.

For certificate of authority to make reciprocal contracts of indemnity under the provisions of sections 210 to 217, inclusive, and every renewal thereof, \$20.