

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
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Chapter 60-A.

Fraternal Benefit Societies.

Effective date.—Public Laws 1957, c. in section 3 thereof that the act should 217, which inserted this chapter, provided become effective January 1, 1958.

Sec. 1. Fraternal benefit societies defined; commissioner defined.—Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of subsection II of section 43 whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

When used in this chapter the word “society,” unless otherwise indicated, shall mean fraternal benefit society.

When used in this chapter the word “commissioner” shall mean the insurance commissioner. (1957, c. 217, § 1. 1959, c. 378, § 51.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, added the last paragraph.

Sec. 2. Lodge system defined.—A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, by-laws, ritual and rules, which subordinate lodges or branches shall be required by the by-laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system. (1957, c. 217, § 1.)

Sec. 3. Representative form of government defined.—A society shall be deemed to have a representative form of government when:

I. It provides in its constitution or by-laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society’s constitution and by-laws;

II. The representatives elected constitute a majority in number and have not less than $\frac{2}{3}$ of the votes nor less than the votes required to amend its constitution and by-laws;

III. The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in 4 calendar years;

IV. Each insured member shall be eligible for election to act or serve as a delegate to such meeting;

V. The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or by-laws of the society;

VI. Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body;

VII. The officers are elected either by the supreme legislative or governing body or by the board of directors; and

VIII. The members, officers, representatives or delegates shall not vote by proxy. (1957, c. 217, § 1.)

Sec. 4. Organization.—The organization of a society shall be governed as follows:

I. Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer, competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

A. The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

B. The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter. Any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society; and

C. The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

II. Such articles of incorporation, duly certified copies of the constitution, by-laws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year, such bond to be in an amount to be determined by the insurance commissioner not to exceed the sum of \$25,000 with sureties approved by the insurance commissioner, shall be filed with the insurance commissioner, who may require such further information as he deems necessary. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the insurance commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as provided in this chapter.

III. No preliminary certificate granted under the provisions of this section shall be valid after one year from its date or after such further period, not exceeding one year, as may be authorized by the insurance commissioner upon cause shown, unless the 500 applicants required have been secured and the organization has been completed as provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as provided.

IV. Upon receipt of a preliminary certificate from the insurance commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and by-laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

A. Actual bona fide applications for death benefits have been secured aggregating at least \$500,000 on not less than 500 lives;

B. All such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

C. Certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

D. Ten subordinate lodges or branches have been established into which the 500 applicants have been admitted;

E. There has been submitted to the insurance commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

F. It shall have been shown to the insurance commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one regular monthly premium as provided, which premiums in the aggregate shall amount to at least \$2,500 dollars, all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. Said advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, as provided, such premiums shall be returned to said applicants.

V. The insurance commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The insurance commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

VI. Every society shall have the power to adopt a constitution and by-laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and by-laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society. (1957, c. 217, § 1.)

Sec. 5. Corporate powers retained.—Any incorporated society authorized to transact business in this state at the time this chapter becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate. (1957, c. 217, § 1.)

Effective date.—The effective date of the act inserting this chapter is January 1, 1958.

Sec. 6. Existing voluntary associations; may incorporate. — After one year from the effective date of this chapter, no unincorporated or voluntary association shall be permitted to transact business in this state.

Any domestic voluntary association now authorized to transact business in this state may incorporate and shall receive from the insurance commissioner a permanent certificate of incorporation as a fraternal benefit society when:

I. It shall have completed its conversion to an incorporated society not later than one year from the effective date of this chapter;

II. It has filed its articles of incorporation and has satisfied the other requirements described in section 4; and

III. The insurance commissioner shall have made such examination and procured whatever additional information he shall deem advisable.

Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing suits, claims or contracts. (1957, c. 217, § 1.)

Effective date.—The effective date of the act inserting this chapter is January 1, 1958.

Sec. 7. Location of office; place of meeting.—The principal office of any domestic society shall be located in this state. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least 5 subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state. (1957, c. 217, § 1.)

Sec. 8. Consolidations and mergers.—A domestic society may consolidate or merge with any other society by complying with the provisions of this section.

It shall file with the insurance commissioner:

I. A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

II. A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the insurance commissioner but not earlier than December 31st, next preceding the date of the contract;

III. A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a $\frac{2}{3}$ vote of the supreme legislative or governing body of each society; and

IV. Evidence that at least 60 days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official organ of each society.

If the insurance commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the insurance commissioner of this state or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the insurance commissioner of such state or territory and a certificate of such approval filed with the insurance commissioner of this state.

Upon the consolidation or merger becoming effective as provided, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the

consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees. (1957, c. 217, § 1.)

Sec. 9. Conversion of fraternal benefit society into mutual life insurance company.—Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of chapter 60 dealing with financial requirements of mutual life insurance companies, if such plan of conversion has been approved by the insurance commissioner. Such plan shall be prepared in writing setting forth in full the terms and conditions thereof. The board of directors shall submit such plan to the supreme legislative or governing body of such society at any regular or special meeting thereof, by giving a full, true and complete copy of such plan with the notice of such meeting. Such notice shall be given as provided in the by-laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of $\frac{2}{3}$ of all members of such body shall be necessary for the approval of such agreement. No such conversion shall take effect unless and until approved by the insurance commissioner who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society. (1957, c. 217, § 1.)

Sec. 10. Qualifications for membership.—A society may admit to benefit membership any person not less than 15 years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than 6 months after becoming a benefit member shall pass an additional medical examination, or make an additional declaration of insurability, as required by the society.

Any person admitted prior to attaining the full age of 21 years shall be bound by the terms of the application and certificate and by all the by-laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority had been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs. (1957, c. 217, § 1.)

Sec. 11. Articles of incorporation, constitution and by-laws; amendments.—A domestic society may amend its articles of incorporation, constitution or by-laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or by-laws so provided, by referendum. Such referendum may be held in accordance with the provisions of its articles of incorporation, constitution or by-laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within 6 months from the date of submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods specified.

No amendment to the articles of incorporation, constitution or by-laws of any domestic society shall take effect unless approved by the insurance commissioner

who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects and purposes of the society. Unless the insurance commissioner shall disapprove any such amendment within 60 days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the insurance commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves such amendment, the reasons therefor shall be stated in such written notice.

Within 90 days from the approval thereof by the insurance commissioner, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments, or synopsis thereof, have been furnished the addressee.

Every foreign or alien society authorized to do business in this state shall file with the insurance commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or by-laws within 90 days after the enactment of same.

Printed copies of the constitution or by-laws as amended, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof. (1957, c. 217, § 1.)

Sec. 12. Institutions.—It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. For such purpose it may own, hold or lease personal property or real property located within or without this state, with necessary buildings thereon. Such property shall be reported in every annual statement but shall not be allowed as an admitted asset of such society.

Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefor, but no such institution shall be operated for profit. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement. No society shall own or operate funeral homes or undertaking establishments. (1957, c. 217, § 1.)

Sec. 13. Payment of benefits other than insurance benefits.—A society may pay benefits, other than insurance benefits, to its members from any special account or fund maintained for such purpose. If such benefits are of such a nature that they could constitute benefits within the classes of insurance set forth in section 15, a society making such payments may not:

- I. Make any separate charge therefor;
- II. Issue any certificate, policy or other document promising such payments;
- III. Provide in its constitution, by-laws or any other document that such payments may be received by the member as a matter of right; or
- IV. Advertise such payments as insurance or as payments to which the member has any right.

The society shall maintain a separate accounting of all disbursements made under this section and report them in its annual statement. (1957, c. 217, § 1.)

Sec. 14. No personal liability.—The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society. (1957, c. 217, § 1.)

Sec. 15. Benefits.—A society authorized to do business in this state may provide for the payment of:

- I. Death benefits in any form;
- II. Endowment benefits;
- III. Annuity benefits;
- IV. Temporary or permanent disability benefits as a result of disease occurring before age 65 or accident at any age;
- V. Hospital, medical or nursing benefits due to sickness or bodily infirmity occurring before age 65 or accident at any age; and
- VI. Monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of \$300. (1957, c. 217, § 1.)

Sec. 15-A. Application of benefits.—The benefits allowed by section 15 may be provided on the life of a member or on the lives of a member, his spouse and minor children in the same or separate certificates. (1959, c. 188, § 1.)

Sec. 16. Benefits on lives of children.—A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than 21 years of age at time of application therefor, upon the application of some adult person, as its by-laws or rules may provide, which benefits shall be in accordance with the provisions of section 15. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith. (1957, c. 217, § 1. 1959, c. 188, § 2.)

Effect of amendment.—The 1959 amendment repealed the former second paragraph which read as follows: "Children insured under certificates issued pursuant to this section shall be transferred to and become members of the adult branch of the society upon attaining the minimum age for adult membership under the laws of the society."

Sec. 17. Nonforfeiture benefits, cash surrender values, certificate loans and other options.—A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its by-laws may permit. As to certificates issued on and after the effective date of this chapter, a society shall grant at least one paid-up nonforfeiture benefit.

In the case of certificates other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table or the 1941 Standard Industrial Table, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of I over II as follows:

- I. The reserve under the certificate determined on the basis specified in the certificate; and
- II. The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to 2½% of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

In the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the

rates of mortality not greater than 130% of those shown by the mortality table specified in the certificate for the computation of the reserve.

In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table or the 1941 Standard Industrial Table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this state applicable to life insurance companies issuing policies containing like insurance benefits based upon such tables. (1957, c. 217, § 1.)

Effective date.—The effective date of the act inserting this chapter is January 1, 1958.

Sec. 18. Beneficiaries.—The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, by-laws or rules of the society. Every society by its constitution, by-laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of \$500.

If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as provided, shall be payable to the personal representative of the deceased member. (1957, c. 217, § 1.)

Sec. 19. Benefits not attachable.—No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society. (1957, c. 217, § 1.)

Sec. 20. The contract.—Every society authorized to do business in this state shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and by-laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

Any changes, additions or amendments to the charter or articles of incorporation, constitution or by-laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

A society shall provide in its constitution or by-laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the member to the society the amount of the member's equitable proportion of such deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the certificate and draw interest not to exceed 5% per annum compounded annually. (1957, c. 217, § 1.)

Sec. 21. Provisions, standard and prohibited.—After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this state unless a copy of the form shall have been filed with the insurance commissioner.

I. The certificate shall contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

A. Title on the face and filing page of the certificate clearly and correctly describing its form;

B. A provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate;

C. A provision that the member is entitled to a grace period of not less than a full month, or 30 days at the option of the society, in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate;

D. A provision that the member shall be entitled to have the certificate reinstated at any time within 3 years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding 6% per annum compounded annually;

E. Except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of 15 years or less expiring before age 66, a provision that, in the event of default in payment of any premium after 3 full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's by-laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

F. A provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects

another available paid-up nonforfeiture benefit, not later than 60 days after the due date of the premium in default;

G. A statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

H. A table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate whichever is shorter;

I. A provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of 2 years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization, and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of 2 years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of 2 years from date of reinstatement with the same exceptions as provided;

J. A provision that in case the age of the member or of the beneficiary is considered in determining the premium and it is found at any time before final settlement under the certificate that the age has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age; but if the correct age was not an insurable age under the society's charter or by-laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on actuarial principles;

K. A provision or provisions which recite fully, or which set forth the substance of, all sections of the charter, constitution, by-laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate;

L. If the constitution or by-laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium; and

M. In the case of a certificate issued by a foreign or alien society, a provision that the rights or obligations of the member or of any person rightfully claiming under the certificate shall be governed by the laws of this state.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

II. After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this state containing in substance any of the following provisions:

A. Any provision limiting the time within which any action at law or in equity may be commenced to less than 2 years after the cause of action shall accrue;

B. Any provision by which the certificate shall purport to be issued or to take effect more than 6 months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

C. Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

III. The word "premiums" as used in this chapter means premiums, rates or other required contributions by whatever name known. (1957, c. 217, § 1.)

Effective date.—The effective date of the act inserting this chapter is January 1, 1958.

Sec. 22. Accident and health insurance and total and permanent disability insurance certificates; filing and approval.—No domestic, foreign or alien society authorized to do business in this state shall issue or deliver in this state any certificate or other evidence of any contract of accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the insurance commissioner and approved by him as conforming to reasonable rules and regulations from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. The insurance commissioner shall, within a reasonable time after the filing of any such form, notify the society filing the same either of his approval or of his disapproval of such form. The insurance commissioner may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the members than the one or ones so required. Pursuant to the foregoing provisions the insurance commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practical, to the provisions of chapter 60 dealing with uniform health and accident policy provisions and disability policy provisions. Where the insurance commissioner deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. Any filing made hereunder shall be deemed approved unless disapproved within 30 days from the date of such filing. (1957, c. 217, § 1. 1959, c. 188, § 3.)

Effect of amendment.—The 1959 amendment substituted "30" for "60" in the last sentence of this section.

Sec. 23. Waiver.—The constitution and by-laws of the society may provide that no subordinate body nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the by-laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member. (1957, c. 217, § 1.)

Sec. 24. Reinsurance.—A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the insurance commissioner; but no such society may reinsure substantially all of its insurance in force without the written permission of the insurance commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed or otherwise becoming effective after the effective date of this chapter, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society. (1957, c. 217, § 1.)

Effective date.—The effective date of the act inserting this chapter is January 1, 1958.

Sec. 25. Annual license.—Societies which are now authorized to transact business in this state may continue such business until the 1st day of July next succeeding the effective date of this chapter. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the 1st day of the succeeding July. A license so issued shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the insurance commissioner \$50. A duly certified copy or duplicate of such license shall be prima facie evidence that the license is a fraternal benefit society within the meaning of this chapter. (1957, c. 217, § 1. 1959, c. 188, § 4.)

Effect of amendment.—The 1959 amendment substituted "\$50" for "\$5" in the fourth sentence of this section.

Effective date.—The effective date of the act inserting this chapter is January 1, 1958.

Sec. 26. Foreign or alien society, admission.—No foreign or alien society shall transact business in this state without a license issued by the insurance commissioner. Any such society may be licensed to transact business in this state upon filing with the insurance commissioner:

- I. A duly certified copy of its charter or articles of incorporation;
 - II. A copy of its constitution and by-laws, certified by its secretary or corresponding officer;
 - III. A power of attorney to the insurance commissioner as prescribed in section 30;
 - IV. A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the insurance commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the insurance commissioner of this state;
 - V. A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;
 - VI. Copies of its certificate forms; and
 - VII. Such other information as he may deem necessary;
- and upon a showing that its assets are invested in accordance with the provisions of this chapter.

Any foreign or alien society desiring admission to this state shall have the qualifications required of domestic societies organized under this chapter. (1957, c. 217, § 1.)

Sec. 27. Injunction; liquidation; receivership of domestic society.—When the insurance commissioner upon investigation finds that a domestic society:

- I. Has exceeded its powers;
- II. Has failed to comply with any provision of this chapter;
- III. Is not fulfilling its contracts in good faith;
- IV. Has a membership of less than 400 after an existence of one year or more; or
- V. Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business;

he shall notify the society of his findings, state in writing the reasons for his dissatisfaction, and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the insurance commissioner may present the facts relating thereto to the attorney general who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto.

The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

No society so enjoined shall have the authority to do business until:

- I. The insurance commissioner finds that the violation complained of has been corrected;
- II. The costs of such action shall have been paid by the society if the court finds that the society was in default as charged;
- III. The court has dissolved its injunction; and
- IV. The insurance commissioner has reinstated the certificate of authority.

If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

No action under this section shall be recognized in any court of this state unless brought by the attorney general upon request of the insurance commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the insurance commissioner as such receiver.

The provisions of this section relating to hearing by the insurance commissioner, action by the attorney general at the request of the insurance commissioner, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business. (1957, c. 217, § 1.)

Sec. 28. Suspension, revocation or refusal of license of foreign or alien society.—When the insurance commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state:

- I. Has exceeded its powers;
- II. Has failed to comply with any of the provisions of this chapter;
- III. Is not fulfilling its contracts in good faith; or
- IV. Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public;

he shall notify the society of his findings, state in writing the reasons for his

dissatisfaction and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not present good and sufficient reason, why its authority to do business in this state should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this state.

Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein. (1957, c. 217, § 1.)

Sec. 29. Licensing of agents.—Agents of societies shall be licensed in accordance with the provisions of this section.

I. Insurance agent defined. The term “insurance agent” as used in this section means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term “insurance agent” shall not include:

A. Any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained, or

B. Any agent or representative of a society who devotes less than 25% of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of \$25,000, or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting 25% of his time to the solicitation or procurement of insurance contracts for such society.

II. License required. Any person who in this state acts as insurance agent for a society without having authority to do so by virtue of a license issued and in force pursuant to the provisions of this section shall, except as provided in subsection I, be guilty of a misdemeanor.

III. Payment of commissions forbidden. No society doing business in this state shall pay any commission or other compensation to any person for any services in obtaining in this state any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed insurance agent of such society and except an agent exempted under paragraph B of subsection I.

IV. Prerequisites, issuance and renewal of insurance agents' licenses.

A. The commissioner may issue a license to any person who has complied with this section, on payment of the fee provided in chapter 60, section 314, subsection V, authorizing the licensee to act as an insurance agent for any society named in the license which is authorized to transact insurance business in this state.

B. Before any insurance agent's license shall be issued there shall be on file in the office of the insurance commissioner the following documents:

1. a written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the insurance commissioner may prescribe; and

2. a certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the insurance commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

C. No written or other examination shall be required of any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent.

D. The insurance commissioner may refuse to issue or renew any insurance agent's license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

E. Every license issued pursuant to this section, and every renewal thereof, shall expire on July 1st, annually.

F. If the application for a renewal license shall have been filed with the insurance commissioner on or before December 31st of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless same shall be revoked or suspended, until the issuance by the insurance commissioner of the renewal license or until the expiration of 5 days after he shall have refused to renew such license and shall have served written notice of such refusal on the applicant. If the applicant shall, within 30 days after such notice is given, notify the insurance commissioner in writing of his request for a hearing on such refusal, the insurance commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, reinstate such license.

G. Any such renewal license of an insurance agent may be issued upon the application of the society named in the existing license. Such application shall be in the form or forms prescribed by the insurance commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the insurance commissioner may, after reasonable notice to any such society, require that any or all agents of such society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of such licenses, and he may also require that each such application shall be accompanied by the certificate specified in subparagraph 2 of paragraph B of subsection IV.

V. Notice of termination of appointment of insurance agent. Every society doing business in this state shall, upon the termination of the appointment of any insurance agent licensed to represent it in this state, forthwith file with the insurance commissioner a statement, in such form as he may prescribe, of the facts relative to such termination and the cause thereof. Every statement made pursuant to this section shall be deemed a privileged communication.

VI. Revocation or suspension of insurance agent's license.

A. The insurance commissioner may revoke or may suspend for such period as he may determine, any insurance agent's license if, after notice and hearing as specified in this section, he determines that the licensee has:

1. violated any provision of, or any obligation imposed by, this section, or has violated any law in the course of his dealings as agent;
2. made a material misstatement in the application for such license;
3. been guilty of fraudulent or dishonest practices;
4. demonstrated his incompetency or untrustworthiness to act as an insurance agent; or
5. been guilty of rebating as defined by the laws of this state applicable to life insurance companies.

B. The revocation or suspension of any insurance agent's license shall terminate forthwith the license of such agent. No individual whose license has been revoked shall be entitled to obtain any insurance agent's license under the provisions of this section for a period of one year after such revocation or, if such revocation be judicially reviewed, for one year after the final determination thereof affirming the action of the insurance commissioner in revoking such license. (1957, c. 217, § 1. 1959, c. 188, §§ 5, 6. 1961, c. 184, § 3.)

Effect of amendments.—This section was amended twice by P. L. 1959 c. 188. Section 5 of P. L. 1959, c. 188, rewrote paragraph B of subsection I. Section 6 changed the expiration date of licenses and renew-

als in paragraph E, subsection IV.

The 1961 amendment, effective on its approval, April 7, 1961, rewrote paragraph A of subsection IV.

Sec. 30. Service of process.—Every society authorized to do business in this state shall appoint in writing the insurance commissioner and each successor 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 shall agree in such writing 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 society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by said insurance commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

Service shall only be made upon the insurance commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. While legal process against a society is served upon the insurance commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. Legal process shall not be served upon a society except in the manner provided. At the time of serving any process upon the insurance commissioner, the plaintiff or complainant in the action shall pay to the insurance commissioner a fee of \$2. (1957, c. 217, § 1. 1961, c. 317, § 208.)

Effect of amendment.—The 1961 amendment deleted the former fourth sentence of the second paragraph of this section which read "No such service shall require a so-

ciety to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of the service to a society."

Sec. 31. Injunction.—No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this state unless made by the attorney general upon request of the insurance commissioner. (1957, c. 217, § 1.)

Sec. 32. Review.—All decisions and findings of the insurance commissioner made under the provisions of this chapter shall be subject to review by

proper proceedings in any court of competent jurisdiction in this state. (1957, c. 217, § 1.)

Sec. 33. Funds.—All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the by-laws of such society.

Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from the effective date of this chapter, shall, in every provision of the by-laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses. (1957, c. 217, § 1.)

Effective date.—The effective date of the act inserting this chapter is January 1, 1958.

Sec. 34. Investments.—A society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurance companies and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds. (1957, c. 217, § 1.)

Sec. 35. Reports and valuations.—Reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

I. Financial statement. Every society which transacts insurance business in this state shall annually, on or before the first day of March, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a filing fee as provided in chapter 60, section 314, subsection VIII. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

II. A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1st of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

III. As a part of the annual statement herein required, each society shall, on or before the first day of March, file with the insurance commissioner a valuation of its certificates in force on December 31st last preceding. The insurance commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than 2 calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by

which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this chapter shall be determined in accordance with the provisions of law applicable prior to the effective date of this chapter and as to certificates issued on or after one year from the effective date of this chapter shall not be less than the reserves determined according to the commissioners' reserve valuation method as defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

IV. Reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of certificates 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 certificates, over the then present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of A. over B., as follows:

A. A net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; 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 one year higher than the age at issue of such certificate; and

B. A net one-year term premium for such benefits provided for in the first certificate year.

Reserves according to the commissioners' reserve valuation method for life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, annuity and pure endowment benefits, disability and accidental death benefits in all certificates and contracts, and all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of this subsection.

V. The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in subsection VI.

VI. Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the insurance department of the state of domicile of the society.

The minimum standards of valuation for certificates issued prior to one year from the effective date of this chapter shall be those provided by the law applicable immediately prior to the effective date of this chapter but not lower than the standards used in the calculating of rates for such certificates.

The minimum standard of valuation for certificates issued after one year from the effective date of this chapter shall be $3\frac{1}{2}\%$ interest and the following tables:

A. For certificates of life insurance: American Men Ultimate Table of Mortality, with Bowerman's or Davis' Extension thereof or with the con-

sent of the insurance commissioner, the Commissioner's 1941 Standard Ordinary Mortality Table or the Commissioner's 1941 Standard Industrial Table of Mortality;

B. For annuity certificates, including life annuities provided or available under optional modes of settlement in such certificates: The 1937 Standard Annuity Table;

C. For disability benefits issued in connection with life benefit certificates: Hunter's Disability Table, which, for active lives, shall be combined with a mortality table permitted for calculating the reserves on life insurance certificates, except that the table known as Class III Disability Table (1926) modified to conform to the contractual waiting period, shall be used in computing reserves for disability benefits under a contract which presumes that total disability shall be considered to be permanent after a specified period;

D. For accidental death benefits issued in connection with life benefit certificates: The Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

E. For non-cancellable accident and health benefits: The Class III Disability Table (1926) with conference modifications or, with the consent of the insurance commissioner, tables based upon the society's own experience.

The insurance commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The insurance commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this state. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of 3 consecutive years, the insurance commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates. Any society, with the consent of the insurance commissioner of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

VII. A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which such neglect continues, and, upon notice by the insurance commissioner to that effect, its authority to do business in this state shall cease while such default continues. (1957, c. 217, § 1. 1961, c. 184, § 4.)

Effect of amendment.—The 1961 amendment, effective on its approval, April 7, 1961, substituted "which transacts insurance" for "transacting" near the beginning of subsection I, deleted "insurance" preceding "commissioner" three times in that subsection and substituted "filing fee as pro-

vided in chapter 60, section 314, subsection VII" for "fee of \$5 for filing same" at the end of the first sentence of such subsection.

Effective date.—The effective date of the 1957 act inserting this chapter is January 1, 1958.

Sec. 36. Examination of domestic societies.—The insurance commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society and he shall make such examination at least once in every 3 years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free

access to all books, papers and documents that relate to the business of the society. The minutes of the proceedings of the supreme legislative or governing body and of the board of directors or corresponding body of a society shall be in the English language. In making any such examination the insurance commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society. A summary of the report of the insurance commissioner and such recommendations or statements of the insurance commissioner as may accompany such report, shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed to do so by the insurance commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the insurance commissioner shall be furnished by the society to each member of such board of directors or other governing body. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the insurance commissioner. This includes travel expenses if the society does all its direct business entirely within the state. (1957, c. 217, § 1. 1961, c. 184, § 1.)

Effect of amendment.—The 1961 amendment deleted "society examined or whose certificates are valued, upon statements furnished by the" preceding "insurance commissioner" near the end of the seventh sentence of this section and added the pres-

ent last sentence thereto.

Effective date.—Section 9 of c. 184, P. L. 1961, effective on its approval, April 7, 1961, provides that § 1 of the act, amending this section, shall be retroactive to August 28, 1957.

Sec. 37. Examination for foreign and alien societies.—The commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this state. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may in his discretion accept, in lieu of such examination, the examination of the insurance department of the state, territory, district, province or country where such society is organized. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the insurance commissioner. (1957, c. 217, § 1. 1959, c. 188, § 7. 1961, c. 184, § 2.)

Effect of amendments.—The 1959 amendment repealed the former last sentence of this section which read as follows: "The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been

valued, upon statements furnished by the insurance commissioner."

The 1961 amendment, effective on its approval, April 7, 1961, deleted "insurance" formerly preceding "commissioner" near the beginning of this section and added the present last sentence thereto.

Sec. 38. No adverse publications.—Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the insurance commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire. (1957, c. 217, § 1.)

Sec. 39. Misrepresentation.—No person shall cause or permit to be made, issued or circulated in any form:

I. Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this state, or the financial condition of any society;

II. Any false or misleading estimate or statement concerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract; or

III. Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete if it does not compare in detail:

A. The gross rates, and the gross rates less any dividend or other reduction allowed at the date of the comparison; and

B. Any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured;

or if it omits from consideration:

C. Any benefit or value provided in the contract;

D. Any differences as to amount or period of rates;

or

E. Any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment in the county jail not less than 30 days nor more than 11 months, or by both, and shall in addition, be liable for a civil penalty in the amount of 3 times the sum received by such violator as compensation or commission, which penalty may be sued for and recovered by any person or society aggrieved for his or its own use and benefit in accordance with the provisions of civil practice. (1957, c. 217, § 1. 1959, c. 188, § 8.)

Effect of amendment.—The 1959 amendment substituted "11 months" for "one year" in the last paragraph of this section.

Sec. 40. Discrimination and rebates.—No society doing business in this state shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes.

No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, any valuable consideration or inducement to, or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in the contract of insurance. (1957, c. 217, § 1.)

Sec. 41. Taxation.—Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and

school tax other than taxes on real estate and office equipment. (1957, c. 217, § 1.)

Sec. 42. Exemptions.—Except as provided in this chapter, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein. (1957, c. 217, § 1.)

Sec. 43. Exemption of certain societies.—Nothing contained in this chapter shall be so construed as to affect or apply to:

I. Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

II. Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

III. Domestic societies which limit their membership to employees of a particular municipality, designated firm, business house or corporation which provide for a death benefit of not more than \$400 or disability benefits of not more than \$350 to any person in any one year, or both; or

IV. Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than \$400 or for disability benefits of not more than \$350 to any one person in any one year, or both.

Any such society or association described in subsections III or IV which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in subsection IV which has more than 1,000 members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in subsection II, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

The insurance commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this chapter.

Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state. (1957, c. 217, § 1.)

Sec. 44. Penalties.—Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be punished by a fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for not less than 30 days nor more than 11 months, or both.

Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a bene-

fit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this state shall upon conviction be punished by a fine of not less than \$50 nor more than \$200.

Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed, shall, upon conviction, be punished by a fine of not more than \$200. (1957, c. 217, § 1.)

Chapter 61.

Laws Relating to Liquor.

Sections 31 to 31-A. Retail Sale of Liquor; Fees.

Definitions.

Sec. 1. Definitions.

“Catering” shall mean service of liquor with or without food by clubs having the catering privilege, to groups of nonmembers at a prearranged function.

“Club member” shall mean a person who, whether as a charter member or admitted in accordance with the by-laws of the club, has become a bona fide member and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with by-laws and whose name and address is entered on the list of members, and no person who does not have full club privileges shall be considered a bona fide member.

“Hotel guest” shall mean a person whose name and address is registered on the registry maintained by the hotel and who is the bona fide occupant of a room of the hotel. A person registering solely for the purpose of obtaining liquor is not to be deemed a hotel guest.

“Licensee” shall mean the person to whom a license of any kind is issued by the commission.

“Liquor” shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption, which contains more than $\frac{1}{2}$ of 1% of alcohol by volume.

“Malt liquors” shall mean all kinds and types of liquors as herein defined produced by the fermentation of malt wholly or partially or from any substitute therefor.

“Premise” or “premises” except as otherwise by law specifically designated premises shall mean and include all rooms interconnected with rooms where the license privilege is exercised in any building occupied by a licensee over which the licensee has direct or indirect control or interest.

“Class A restaurant” shall mean a reputable place operated by responsible persons of good reputation which is equipped for preparing and serving food on the premises. Year round class A restaurants must do a minimum of \$50,000 per year in sale and service of food to the public on their premises. Part-time licensees must do a minimum of \$30,000 business in sale or service of food to the public on their premises. In the case of both full-time and part-time licenses at least 60% of the total volume of business shall be sale of food. The commission, in the case of an applicant for an initial “class A restaurant” license, is authorized to and shall exercise its judgment as to the applicant’s probable qualification with the income provisions of this paragraph during the applicant’s initial license period where the applicant is the owner or operator of a year-round or part-time restaurant which operated in the calendar year prior to making application and substantially met the income requirements of this