

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1955 SUPPLEMENT

ANNOTATED

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

company, when acting in this state as a fiduciary or a co-fiduciary with others, may with the consent of its co-fiduciary or co-fiduciaries, if any, who are hereby authorized to give such consent, cause any investment held in any such capacity to be registered and held in the name of a nominee or nominees of such bank or trust company. Such bank or trust company shall be liable for the acts of any such nominee with respect to any investment so registered. (1955, c. 90.)

Sec. 247. Investment kept separate; records.—The records of such bank or trust company shall at all times show the ownership of any such investment, which investment shall be in the possession and control of such bank or trust company and be kept separate and apart from the assets of such bank or trust company. (1955, c. 90.)

Sec. 248. Application.—The provisions of sections 246 to 248, inclusive, shall govern fiduciaries and co-fiduciaries acting under wills, agreements, court orders and other instruments now existing or hereafter made, provided that nothing contained in sections 246 to 248, inclusive, shall be construed as authorizing any departure from or variation of the express words or limitations set forth in any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers. (1955, c. 90.)

Chapter 60.

Insurance and Insurance Companies.

Section 131-A. Prohibiting Certain Forms of Dividend Life Insurance.

The Insurance Commissioner. Powers and Duties.

Sec. 2. Commissioner, appointment, term and duties; deputy commissioners.—An insurance commissioner, as heretofore appointed and 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 \$8,000. He may appoint, subject to the provisions of the personnel law, not to exceed 2 deputy commissioners, one of whom, by virtue of such appointment, shall be and perform all the duties of the first deputy insurance commissioner. In the event of a vacancy in the office of the insurance commissioner or during the absence or disability of that officer, the first deputy insurance commissioner so appointed under the provisions of this section shall become during such vacancy, absence or disability of that officer the acting insurance commissioner. (R. S. c. 56, § 2. 1947, cc. 182, 387. 1949, c. 349, § 90. 1951, c. 412, § 15. 1955, c. 473, § 15.)

Effect of amendment.—The 1955 amendment increased the annual salary of the insurance commissioner from \$7,000 to \$8,000.

Organization of Companies under General Law.

Sec. 32. Merger of domestic mutual insurance companies.—

IV. When said agreement is so signed, acknowledged, adopted, recorded and filed, the separate existence of all of the constituent companies or all of such constituent companies except the one into which such constituent companies shall have been consolidated shall cease; and the constituent companies,

whether consolidated into a new company or merged into one of such constituent companies, as the case may be, shall become the consolidated company by the name provided in said agreement, possessing all the rights, privileges, powers, franchises and immunities as well of a public as of a private nature, and being subject to all the liabilities, restrictions and duties of each of such companies so consolidated and all and singular the rights, privileges, powers, franchises and immunities of each of said companies and all property, real, personal and mixed, wheresoever located, and all debts due to any of said constituent companies on whatever account, and all other things in action of or belonging to each of said companies shall be vested in the consolidated company; and all property, rights, privileges, powers, franchises and immunities and all and every other interest shall be thereafter as effectually the property of the consolidated company as they were of the several and respective constituent companies and the title to any real estate, whether by deed or otherwise, under the laws of this state, vested in any of such constituent companies, shall not revert or be in any way impaired by reason thereof, provided that all rights of creditors and all liens upon the property of any of said constituent companies shall be preserved unimpaired, limited to the property affected by such liens at the time of the consolidation, and all debts, liabilities and duties of the respective constituent companies shall thenceforth attach to said consolidated company and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. (1955, c. 219)

V. "Consolidate" as used in this section shall be construed to include and authorize either a merger or consolidation or both. [1955, c. 219] (1951, c. 138, § 1. 1955, c. 219.)

Effect of amendment.—The 1955 amendment added subsections IV and V to this section. As subsections I, II and III were not changed, they are not set out.

Sec. 33. Change of purposes.—Any mutual insurance company organized for one or more of the purposes set forth in section 30 may at an annual meeting, or at a special meeting the call for which shall give notice of the proposed action, change its purposes by altering or abridging the same or by enlarging the same to include one or more of the purposes set forth in section 30, except subsections III, all of IV, excepting that portion which permits the writing of automobile medical payment coverages, VI, VII, IX, X, XIV, and the 2nd and 4th paragraphs of subsection XV, or make any other change or alteration in its certificate or organization as originally filed or subsequently amended that may be desired, provided such change or alteration is not otherwise specifically provided for and would be proper to insert in an original certificate of organization. A certificate of such changes shall be submitted to the insurance commissioner who, if it appears that the provisions hereinafter recited have been complied with, shall certify that fact and his approval of the certificate by endorsement thereon. Such certificate shall thereupon be filed with the secretary of state together with a fee in the sum of \$20 for the use of the state, whereupon the secretary shall cause the same with his endorsement thereon to be recorded and shall issue a certificate as provided in section 42. Any such mutual company which changes its purposes to include the writing of any class or kind of insurance other than fire, marine or glass shall either have been doing business for a period of not less than 20 years, have a surplus of at least 60% of its unearned premium reserve as appears in its last annual statement filed with the insurance commissioner and have admitted assets of not less than \$125,000 after deducting therefrom the amount by which the net investment of such company in real estate owned exceeds, if it operates on the prepaid basis, 10% of its premiums in force or, if it operates on the assessment plan, 2% of the balance of its premium notes, both as appear in such statement, or shall have a guaranty capital of not less than

\$100,000 divided into shares of \$100 each, and no policy shall be issued until $\frac{1}{4}$ at least of its guaranty capital has been paid in, in cash, and invested as provided in section 71. If a company operating under the provisions of this section fails to comply with a request of the insurance commissioner to increase its paid-in guaranty capital, it shall cease to write any class or kind of insurance other than fire, marine or glass until such time as the commissioner's request has been complied with. The 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 providing for all expenses, losses, reserves and liabilities then incurred. The holders of such certificates of guaranty capital shall have no voting rights. 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. Provided that the net retention of liability on any 1 risk written by any company operating under the provisions of this section shall not exceed 5% of its policyholders' surplus. (1951, c. 285, § 1. 1953, c. 144. 1955, c. 289.)

Effect of amendment.—The 1955 amendment inserted in the fourth sentence the requisite period of doing business and the provisions as to surplus and assets.

Stock Companies.

Sec. 73. What property insured; limit of risk.—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 such company shall expose itself to loss on any one risk in this state to an amount exceeding 10% of its paid-up capital and surplus; but, in determining the amount of such risk, no portion thereof which shall have been reinsured in any insurance company authorized to do business in this state shall be included. (R. S. c. 56, § 65. 1955, c. 250.)

Effect of amendment.—The 1955 amendment rewrote the part of this section after the first semicolon.

Accident and Sickness Insurance.

Sec. 118. Form and content of policy.—

I.

A. No such policy shall be delivered or issued for delivery to any person in this state unless:

1. The entire money and other considerations therefor are expressed therein; and
2. The time at which the insurance takes effect and terminates is expressed therein; and
3. It purports to insure only 1 person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the policyholder; and
4. The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than 10-point with a

lower-case, unspaced alphabet length not less than 120-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and

5. The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in subsection II, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "EXCEPTIONS" or "EXCEPTIONS AND REDUCTIONS," provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

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

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

8. Countersigned by a duly licensed resident agent, which countersignature may be in facsimile when used solely in connection with personal accident insurance covering air travel on a common carrier issued through the medium of policy dispensing machines. (1955, c. 177)

B. If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in this section.

(1955, c. 177.)

Effect of amendment.—The 1955 amendment added subparagraph 8 to paragraph A of subsection I. As the rest of the sec-

tion was not changed, only subsection I is set out.

Sec. 120. Group accident and sickness insurance defined.—

II.

A.

3. The policy must cover at least 10 employees at date of issue. (1955, c. 226)

Effect of amendment.—The 1955 amendment substituted "10" for "25" in subparagraph 3 of paragraph A of subsection II.

As the rest of the section was not changed, only this subparagraph is set out.

Prohibiting Certain Forms of Dividend Life Insurance.

Sec. 131-A. Prohibiting certain forms of dividend life insurance.—

No life insurance company or association shall hereafter deliver or issue for delivery in this state, as a part of or in combination with any insurance, endowment or annuity contract, any agreement or plan, addition to the rights, dividends and benefits arising out of any such insurance, endowment or annuity contract, which provides for the accumulation of funds over a period of years and for payment of all or any part of such accumulated funds only to members or policyholders of a designated group or class who continue as members or policyholders until the end of a specified period of years. Nor shall any such company or as-

sociation deliver or issue for delivery in this state any individual life insurance policy which provides that on the death of anyone not specifically named therein, the owner or beneficiary of the policy shall receive the payment or granting of anything of value. (1955, c. 248.)

Group Life Insurance Definition.

Sec. 164. Group life insurance defined.

I.

A. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any cases or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of 1 or more subsidiary corporations, the employees of 1 or more corporations with which the employer, having not less than 10 employees of its own, is under contract to provide specified services at cost and the employees, individual proprietors and partners of 1 or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership or contract. The policy may provide that the term "employees" shall include the individual proprietor or partners of the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. (1951, c. 102. 1955, c. 228, § 1)

C. The policy must cover at least 10 employees at date of issue. (1955, c. 228, § 2)

D. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees. No policy may be issued which provides term insurance on any employee which together with any other term insurance under any group life insurance policy or policies issued to the employers or any of them or to the trustees of a fund established in whole or in part by the employers or any of them exceeds \$20,000, unless 150% of the annual compensation of such person from his employer exceeds \$20,000, in which event, all such group life insurance shall not exceed \$40,000 or 150% of such annual compensation, whichever is less. (1951, c. 102. 1955, c. 97)

Effect of amendments.—The first 1955 amendment added that part of paragraph D of subsection I appearing after "\$20,000" in line seven. The second 1955 amendment substituted "10" for "25" in

the second sentence of paragraph A of subsection I and also in paragraph C thereof. Only the three paragraphs changed by the amendments are set out.

Group Life Insurance Standard Provisions.

Sec. 165. Group life insurance standard provisions.

III.

F. A provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum living at the death of the

person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding \$500 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured. (1955, c. 98)

Effect of amendment.—The 1955 amendment substituted “\$500” for “\$250” in paragraph F of subsection III. Only the paragraph changed by the amendment is set out.

Whole Family Protection.

Sec. 202. Fraternal beneficiary societies may insure children under 18 years of age; benefits.—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 under 18 years of age. 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 for each \$1,000 of insurance payable as above provided shall in no case exceed the following amounts based on age at last birthday prior to death: birth, \$100; 6 months, \$200; 1 year, \$400; 2 years, \$600; 3 years, \$800; 4 years, \$1,000; and thereafter the full amount of the policy shall be paid. Provided, however, that any such society having admitted assets as shown by its annual statement filed with the commissioner in excess of 105% of its entire liabilities, including its required reserves, provided that reserves for death benefits are at least equivalent to the amount required by the commissioner’s standard ordinary table of mortality with interest at 3½% per annum and computed according to the commissioner’s reserve valuation method, may pay the full amount of the policy at all ages without regard to the aforementioned limitations. (R. S. c. 56, § 176. 1949, c. 383. 1955, c. 253.)

Effect of amendment.—The 1955 amendment deleted the former last sentence, which authorized a double indemnity policy to be written for a child over 15 years of age, and added the present last sentence.

Chapter 61.

Laws Relating to Liquor.

Definitions.

Sec. 1. Definitions.

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

(1955, c. 355, § 1.)

“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.

(1955, c. 355, § 2.)

“Tavern” shall mean a reputable place for men only operated by responsible persons where no food is sold other than prepared packaged bar snacks and no business is carried on except the sale of cigarettes and tobacco products and except the sale of malt liquor at a bar. There shall be no tables, chairs or other seating accommodations and all persons served shall remain standing at the bar.

(1955, c. 217.)

Effect of amendments.—The first 1955 amendment inserted after the word “sold” in line two of the paragraph defining “tavern” the words “other than prepared pack-