

# MAINE STATE LEGISLATURE

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



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

REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

---

1959 CUMULATIVE SUPPLEMENT

---

ANNOTATED

---

IN FIVE VOLUMES

VOLUME 2

---

**Place in Pocket of Corresponding  
Volume of Main Set**

---

THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1959

**Sec. 260. Short title.**—Sections 249 to 259, inclusive, may be cited as “The Motor Vehicle Sales Finance Act.” (1957, c. 386, § 1.)

## Chapter 60.

### Insurance and Insurance Companies.

Sections 2 to 12-A. The Insurance Commissioner. Powers and Duties.  
 Section 29-A. Signature of Agent.  
 Section 115-A. Cancellation of Automobile Damage Insurance.  
 Section 131-A. Prohibiting Certain Forms of Dividend Life Insurance.  
 Sections 146 to 158-A. Unfair Methods of Competition and Trade Practices.  
 Section 165-A. Rate of Premiums on Group Life Insurance.  
 Sections 314 to 314-B. Fees Payable to Insurance Commissioner.  
 Section 353. Penalties.  
 Sections 354 to 355. Records.

#### 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 \$10,000. 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. 1957, c. 418, § 18. 1959, c. 361, § 13.)

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

The 1957 amendment, effective July 1, 1957, increased his salary from \$8,000 to \$9,000 and carried appropriations for the fiscal years ending in 1958 and 1959.

The 1959 amendment changed the salary

of the commissioner from “\$9,000” to “\$10,000” and carried appropriations for the fiscal years ending June 30, 1960 and 1961.

**Effective date.** — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: “The provisions of this act shall become effective for the week ending August 23, 1959.”

**Sec. 2-A. Cost of printed material recovered.**—The commissioner may have the directory of insurance companies and agents, examination material, the insurance laws and other related laws and regulations under his administration published in pamphlet form from time to time, and may establish the price for each copy to cover the cost of printing and mailing. (1959, c. 146.)

**Sec. 3. Notice of organization; license to do business.**—Every domestic insurance company, upon organization, shall inform the commissioner thereof. No such company shall commence business by issuing policies until the

said commissioner has examined and ascertained that it has complied with the terms of its charter, paid in its capital stock and become qualified to act; and he shall then issue to it his certificate of that fact, and annually thereafter upon examination, so long as the same is found solvent and responsible to do business, he shall issue to it a like certificate. Exempt from the above shall be such shares of capital stock as shall be authorized by a majority of the company's stockholders at any meeting duly called for such purpose and reserved under such vote for stock option purposes. When options are exercised such increase in capital stock shall be duly certified to the commissioner for his approval as provided for in section 43. The certificate is effective until July 1st of the year following its date of issue. (R. S. c. 56, § 3. 1959, c. 220, § 1; c. 346, § 1.)

**Effect of amendments.**—This section was amended twice by the 1959 legislature. Chapter 220, § 1, added the third and fourth sentences to this section. Chapter 346, § 1, added the last sentence.

**Sec. 3-A. Transaction of insurance business without license prohibited.**—An organization of any type may not transact insurance business by issuing or delivering insurance contracts in this state without first obtaining a license or certificate of qualification from the commissioner as required by this chapter.

**I. Penalty.** An organization which violates this section shall be punished by a fine of not more than \$5,000, and a member of the organization who authorizes or participates in any act in violation of this section shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 2 years, or by both.

**II. Injunction.** The superior court in equity shall enjoin any operation in violation of this section on petition of the insurance commissioner or any interested person.

**III. Exceptions.** This section does not apply to an unauthorized insurance company which issues or delivers insurance contracts in this state with the permission of the commissioner through a surplus line broker, or which enters into a reinsurance contract with an authorized insurance company. (1959, c. 346, § 2.)

**Sec. 6. Insurance companies notified of disapproval of forms.**—If the commissioner shall notify any insurance company doing business in the state that any policy form or form of endorsement used or proposed to be used by any such company does not meet with the approval of the commissioner, for the reason that it does not comply with the statutes of this state or is otherwise illegal or is misleading or capable of a construction which is unfair to the assured or the public, such policy form or form of endorsement shall not thereafter be used by such company in the state. The commissioner in notifying any such insurance company of his failure to approve of any such policy form or form of endorsement shall state his reason for disapproval thereof. Any such insurance company, receiving such notice from the commissioner, may within 30 days thereafter file an appeal in the superior court to be holden in Kennebec county stating therein its reasons and containing a copy of the commissioner's notification, and after such notice as it shall order, and upon hearing, said court shall determine whether or not the reasons assigned by the commissioner are valid and thereupon sustain or annul said ruling. During the pendency of any such appeal, such policy form or form of endorsement shall not be used. It is the intent of this section that any such policy form or form of endorsement shall first be submitted to the commissioner for approval before being delivered or issued for delivery to any person in this state. No such policy form or form of endorsement may be so delivered or issued for delivery until the expiration of 30 days after it has been so submitted unless the commissioner shall sooner give his written approval thereto.

This section shall not apply to policy forms or forms of endorsement for ocean marine insurance as referred to in subsection II of section 316, and for insurance on specially rated inland marine risks. (R. S. c. 56, § 6. 1957, c. 42.)

**Effect of amendment.** — The 1957 amendment added the last two sentences of the first paragraph and added the second paragraph of this section.

**Sec. 7. Annual statement of condition; neglect.** — Every insurance company doing business in the state shall annually, by the 1st day of March, render to the commissioner either an exact statement, under oath, of its condition as it existed on the 31st day of the previous December or its last exhibit, setting forth its condition as required by blanks approved by the commissioner and any company, association or society which neglects or refuses to comply with the provisions of this section forfeits \$5 a day for each day's neglect. Except in the case of life insurance companies, the commissioner may, for good and sufficient cause shown, extend the filing date of such annual statement for a reasonable period of time. (R. S. c. 56, § 7. 1947, c. 188, § 7. 1957, c. 138.)

**Effect of amendment.** — The 1957 amendment added the last sentence of this section.

**Sec. 12-A. Dissolution of domestic insurance company.** — The commissioner shall bring a bill in equity for dissolution of a domestic insurance company when the company has not obtained a license to transact insurance business as required by section 3 within one year of the date of its incorporation, or when it stops transacting insurance business continuously for one year.

**I. Power of court.** On proof of its failure to become licensed or to transact business, the court shall enjoin the company from further activity and order its dissolution or sale according to chapter 53, sections 103 to 110, inclusive, 117 and 118.

**II. Insurance business defined.** The transaction of insurance business means the issuance of contracts of insurance covering risks in this state, or the receipt of premiums for the continuation of contracts already in force. (1959, c. 152, § 1.)

**Editor's note.**—P. L. 1959, c. 152, adding this section, provided in section 2 thereof as follows:

“Sec. 2. Application. Domestic insurance companies incorporated prior to the effective

date of this act shall be deemed to have been incorporated on said effective date for the purposes of this act.” The act became effective on September 12, 1959.

### Issue of Contract of Insurance by Incorporated Companies.

**Sec. 26-A. Violation and penalty.**—A person or organization other than an incorporated insurance company which transacts insurance business by issuing or delivering insurance contracts in this state shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 2 years, or by both.

**I. Exception.** This does not apply to the issue or delivery of contracts of indemnity governed by sections 236 to 243. (1959, c. 346, § 3.)

### Signature of Agent.

**Sec. 29-A. Signature must be in person.**—When the provisions of this chapter require an insurance agent's signature or countersignature it must be written by the person of whom it is required. A rubber stamp or other facsimile may not be used.

**I. Exception by power of attorney.** The agent may grant a power of attorney to a person who is 21 years of age or over to sign insurance policies and endorsements for him, but he must first obtain the permission of the

insurance commissioner and of the proper official of the company which issues the policies or endorsements.

**II. Exception for air travel accident insurance.** This section shall not apply to air travel accident insurance issued through a dispensing machine as provided under section 118, subsection I, paragraph A, subparagraph 8. (1959, c. 173.)

### 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 VII, IX, X, XIV, and the 2nd paragraph 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. 1957, c. 56.)

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

The 1957 amendment deleted from the exception in the first sentence former references to subsection III, portions of subsection IV, all of subsection VI, and the fourth paragraph of subsection XV.

**Sec. 43. Increase of capital stock; authority to transact business on increased capital.**—Any stock insurance company may, at a meeting called for the purpose, increase the amount of its capital stock and the number of shares therein; and within 30 days after the payment and collection of the last installment of such increase shall present to the commissioner a certificate, setting forth the amount of such increase and the fact of such payment, signed and sworn to by the president, secretary and a majority of the directors of such corporation. The commissioner shall examine the certificate and ascertain the character of the investments of such increase and, if the same conforms to law, shall indorse his approval thereon, and upon payment of the fees required by section 75 of chapter 53, such certificate so approved shall be filed with the secretary of state, and thereupon the company shall be authorized to transact business upon the capital so increased and the commissioner shall issue his certificate to that effect; and any mutual insurance company with a guaranty capital may increase it in the same manner. Exempt from such officers' certification shall be such shares of capital stock as shall be authorized by a majority of the company's stockholders at any meeting duly called for such purpose and reserved under such vote for stock option purposes. When options are exercised such increase in capital stock shall be duly certified to the commissioner for his approval as provided in this section. (R. S. c. 56, § 34. 1959, c. 220, § 2.)

**Effect of amendment.**—The 1959 amendment added the last two sentences to this section.

**Sec. 52-A. Authority of foreign insurer restricted.**—A foreign insurance company which is licensed to do business in this state may not effect an insurance contract covering a resident of this state, property situated in this state, a risk incident to the performance or non-performance of any obligation to be performed in this state, or a risk incident to any obligation which is governed by the laws of this state though actually to be performed elsewhere, unless it is issued or countersigned by a resident agent.

**I. Exceptions.** This section does not apply to the following contracts of insurance:

**A.** A contract of life insurance, or annuity contract, or a supplemental contract of insurance against accidental death or permanent and total disability made in connection with it.

**B.** A contract of insurance covering the rolling stock of a railroad or any vessel, aircraft or motor carrier used in interstate or foreign commerce, or covering any liability or other risks incident to the ownership, maintenance or operation of them.

**C.** A contract of insurance covering any property in interstate or foreign commerce, or any liability or risk incidental to it.

**D.** A contract of reinsurance between insurance companies or other insurers.

**E.** A bid bond issued by a surety company in connection with any public or private building or construction project.

**F.** A contract of group insurance of a type permitted by this chapter issued to a nonresident policyholder, and any insurance certificate applicable to it. (1959, c. 346, § 4.)

**Sec. 53. Reciprocal provisions.**—When by the laws of any other state of the United States or province of the Dominion of Canada, any fines, penalties, licenses, fees or deposits, or other obligations or prohibitions in excess of those imposed by the laws of the state upon foreign insurance companies and their agents are imposed on insurance companies of this state and their agents, the same fines, licenses, fees or deposits, penalties, obligations or prohibitions shall be imposed upon all insurance companies of such state of the United States or province of the Dominion of Canada and their agents doing business in or applying for admission to this state. All insurance companies incorporated by another country shall be regarded for the purposes of this section as though incorporated in the state where they have elected to make their deposit and establish their principal agency in the United States. (R. S. c. 56, § 45. 1945, c. 118, § 5. 1947, c. 15, § 5. 1957, c. 299.)

**Effect of amendment.** — The 1957 amendment inserted the words “or other obligations or prohibitions” following the word “deposits” the first time it appears and inserted the words “penalties, obligations or prohibitions” following such word the second time it appears.

**Sec. 61.** Repealed by Public Laws 1959, c. 53.

### Stock Companies.

**Sec. 71. Capital and assets invested.**—An amount equivalent to the aggregate par value of all issued and outstanding shares of capital stock of stock insurance companies incorporated in this state, or in the case of any such companies having no par value stock, an amount equivalent to the amount of capital represented by shares of no par value stock issued and outstanding, and such part of the surplus of such companies as the commissioner may direct shall be invested in such manner and in such funds, stocks and bonds as savings banks of this state may invest, as provided in section 19-I of chapter 59, and said in-



insurance companies shall be restricted in their investments of the above amounts in the same manner as are the savings banks of this state. (R. S. c. 56, § 63. 1957, c. 397, § 38.)

**Effect of amendment.**—The 1957 amendment changed the reference from “section 42” to “section 19-I”.

**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.

### Domestic Mutual Fire Insurance Companies.

**Sec. 86.** Repealed by Public Laws 1959, c. 54.

**Sec. 87. Liability of agents of domestic fire companies; licenses for agents.**—Any person who solicits insurance on behalf of any domestic mutual fire insurance company or transmits for a person other than himself an application for, or a policy of insurance to or from such company, or in any manner acts in the negotiation of such insurance, or in the inspection or valuation of the property insured shall be deemed the agent of such company and, except as hereinafter provided, shall become liable to all the duties, requirements, liabilities and penalties to which an agent of any insurance company is subject. Said companies shall procure licenses for their agents as provided in section 273-B, but no fee shall be required by the commissioner for licenses issued to the agents of such companies. (R. S. c. 56, § 79. 1959, c. 346, § 5.)

**Effect of amendment.**—The 1959 amendment substituted “section 273-B” for “section 273”, formerly appearing in the last sentence of this section.

**Sec. 93. Compensation of directors; votes by proxy limited.**—The salary or compensation for services of the directors of domestic mutual fire insurance companies shall be fixed by the policyholders at their annual meeting and no policyholder or other person is allowed more than 15 votes by proxy. (R. S. c. 56, § 85. 1959, c. 16.)

**Effect of amendment.**—The 1959 amendment substituted the words “of domestic mutual fire insurance companies” for the words “treasurer and secretary”, formerly appearing near the beginning of this section.

### Fire Insurance.

**Sec. 105-A. Protection from nuclear loss allowed in standard fire insurance policy.**—The standard policy as set forth in section 105 is not intended to cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether or not directly or indirectly resulting from an insured peril under said policy.

Insurers issuing the standard policy pursuant to section 105 are authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether or not directly or indirectly resulting from an insured peril under said policy. Nothing in this section shall be construed

to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination. (1959, c. 170.)

**Sec. 110. Time limit for adjusting and paying fire losses.**—In case of physical loss by fire to property insured by any company transacting insurance business in this state, said company or its representative shall begin adjustment of such loss within 20 days after the receipt of the notice provided for by section 105; but no fire insurance company shall pay any loss or damage in excess of \$1,000 until after the expiration of 45 days from the date of loss. Nothing contained in this section shall prevent the payment of a loss to any property owner when the aggregate loss under all policies covering the risk does not exceed \$1,000. Upon application from an insurance company or its authorized representative, written permission to make earlier payment on any loss may be given said company or its authorized representative by the commissioner, and immediately upon issuance of such permit, the commissioner shall notify and grant permits to any other companies known to be interested in the risk. For any violation of the provisions of this section the commissioner may suspend the authority of the company to transact business in this state for such length of time, not exceeding 1 year, as he may deem advisable. In any statute relating to fire insurance or in any policy of fire insurance reference to the date of loss or the time when a loss occurs shall mean the day of the fire against which the policy insures. (R. S. c. 56, § 103. 1947, c. 32. 1957, c. 204.)

**Effect of amendment.** — The 1957 words “in excess of \$1,000” in the present amendment made the former first sentence and substituted \$1,000” for tence into three sentences, inserted the “\$100” in the present second sentence.

### **Cancellation of Automobile Damage Insurance.**

**Sec. 115-A. Cancellation of automobile physical damage insurance.**—An insurance company may cancel an automobile physical damage insurance policy only on 10 days’ written notice to the insured and any other person mentioned in the loss payable clause of the policy. When the policy is cancelled by the insured he shall notify forthwith any other person mentioned in the loss payable clause, and in the event the interest of any person mentioned in the loss payable clause is released, such person shall forthwith notify the company. (1959, c. 288.)

### **Accident and Sickness Insurance.**

#### **Sec. 116. Definition.**

**Cited** in *Hubert v. National Casualty Co.*, 154 Me. 94, 144 A. (2d) 119.

#### **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 section was not changed, only subsection I is set out.

**An amendment to the statute providing**

**for a three-year limitation is prospective and not retrospective.** — See *Hubert v. National Casualty Co.*, 154 Me. 94, 144 A. (2d) 119.

**Cited in** *Hubert v. National Casualty Co.*, 154 Me. 94, 144 A. (2d) 119.

### **Sec. 119. Miscellaneous requirements.**

**Cited in** *Hubert v. National Casualty Co.*, 154 Me. 94, 144 A. (2d) 119.

### **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.

**Sec. 121. Blanket accident and sickness insurance defined.—****I.**

**C.** Under a policy or contract, covering students, teachers or employees of a college, school or other institution of learning issued to the institution or to the head or principal thereof, who or which shall be deemed the policyholder.

**F.** Under a policy or contract issued in the name of a newspaper which shall be deemed the policyholder covering independent contractor newspaperboys.

**G.** Under a policy or contract issued to a sports team or to a camp, which team or camp owner or sponsor shall be deemed the policyholder, covering members or campers, including coaches, counsellors and other personnel.

(1957, c. 175. 1959, c. 32.)

**Effect of amendments.** — The 1957 amendment inserted paragraphs F and G of subsection I.

The 1959 amendment inserted “or employees of a college, school or other insti-

tution of learning” in paragraph C of subsection I.

As the rest of the section was not changed by the amendments, it is not set out.

**Sec. 123. Policies under franchise plan.—**

**I.** Accident and sickness insurance on a franchise plan is declared to be that form of accident and sickness insurance issued to:

**A.** Five or more employees of any corporation, copartnership or individual employer or any governmental corporation, agency or department thereof, or

**B.** Ten or more members of any trade, occupational or professional association, or of a labor union, or of any other association having had an active existence for at least 2 years where such association or union has a constitution or by-laws and is formed in good faith for purposes other than that of obtaining insurance;

where such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons, under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association for its members, or by some designated person acting on behalf of such employer or association or by the insured directly to the insurer, if permitted by the insurer.

(1957, c. 101)

**Effect of amendment.** — The 1957 amendment added the language “or by the insured directly to the insurer, if permitted by the insurer” at the end of

subsection I. As subsection II was not changed by the amendment, it is not set out.

**Sec. 126. Appeal.**

An appeal may be taken to the law court as in other actions. (1949, c. 421. 1959, c. 317, § 30.)

**Effect of amendment.**—The 1959 amendment rewrote the last paragraph. As the rest of the section was not changed by the amendment, it is not set out.

**Effective date and applicability of Public Laws 1959, c. 317.** — Section 420, chapter 317, Public Laws 1959, provides as follows: “This act shall become effective December 1, 1959. It shall apply to all actions brought

after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail.”

**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 association 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.)

**Standard Nonforfeiture Law.****Sec. 135. Adjusted premiums.—**

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

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

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

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

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

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

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

Except as otherwise provided in subsection II, all adjusted premiums and present values referred to in sections 132 to 137 shall for all policies of Ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of Ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured. Such calculations for all policies of Industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding 3½% per year, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture

benefit, the rates of mortality assumed may not be more than 130% of the rates of mortality according to such applicable table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

**II.** In the case of Ordinary policies issued on and after the operative date of this subsection, all adjusted premiums and present values referred to in sections 132 to 137 shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest, not exceeding 3½% per year, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that for any category of Ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this act, any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date, which shall be the operative date of this subsection for such company, this subsection shall become operative with respect to the Ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this subsection for such company shall be January 1, 1966. (R. S. c. 56, § 119. 1959, c. 118, § 1.)

**Effect of amendment.**—The 1959 amendment designated the first paragraph as subsection I and changed the designation of old subsections I, II, III and IV to

paragraphs A, B, C and D respectively, rewrote the fourth paragraph, added new subsection II and made minor changes in wording throughout the section.

### Standard Valuation Law.

#### Sec. 139. Minimum standards.

**I.** For all Ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of section 135, subsection II of the Standard Nonforfeiture Law, as amended, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in sections 138 to 143 may be calculated according to an age not more than 3 years younger than the actual age of the insured.

(1959, c. 118, § 2.)

**Effect of amendment.**—The 1959 amendment added all of the language after “1941 Standard Ordinary Mortality Table” to

subsection I of this section. As the rest of the section was not changed by the amendment, it is not set out.

### Unfair Methods of Competition and Trade Practices.

**Sec. 146. Purpose.**—The purpose of sections 146 to 158 is to regulate trade practices in the business of insurance in accordance with the intent of con-

gress as expressed in the act of congress of March 9, 1945 (Public Law 15, 79th Congress), by defining or providing for the determination of all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices, by defining or providing for the determination of all such practices in other states by residents of this state which constitute unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined. (R. S. c. 56, § 130. 1949, c. 319. 1959, c. 82, § 1.)

**Effect of amendment.**—The 1959 amendment added all of the language after the word “practices,” and before the word “and” in this section.

### **Sec. 147. Definitions.**

**III.** “Resident” includes a resident individual or organization of any type engaged in the business of insurance. (R. S. c. 56, § 131. 1949, c. 319. 1959, c. 82, § 5.)

**Effect of amendment.**—The 1959 amendment added subsection III to this section.

**Sec. 148. Prohibitions.**—No person shall engage in this state in any trade practice which is defined in sections 146 to 158, inclusive, as, or determined pursuant to sections 146 to 158, inclusive, to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. No resident of this state shall engage in any other state in any trade practice which is defined in sections 146 to 158 as, or determined pursuant to sections 146 to 158 to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. (R. S. c. 56, § 132. 1949, c. 319. 1959, c. 82, § 2.)

**Effect of amendment.**—The 1959 amendment added the last sentence to this section.

**Sec. 151. Hearings, witnesses, appearances, production of books and service of process.**—Whenever the commissioner shall have reason to believe that any such person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice defined in section 149, or that a resident of this state has been engaged or is engaging in any other state in any unfair method of competition or unfair or deceptive act or practice defined in section 149, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 14 days after the date of the service thereof.

(1959, c. 82, § 3.)

**Effect of amendment.**—The 1959 amendment added all the language after the words “section 149” the first time they appear and before the word “and” in the

first paragraph of this section. As the rest of the section was not changed by the amendment, it is not set out.

**Sec. 154. Unfair methods of competition and unfair or deceptive acts or practices which are not defined.**—Whenever the commissioner shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in section 149, or that a resident of this state engaged in the business of insurance is engaging in any other state in any method of competition or in any act or practice in the conduct of such business which is not defined in section 149, that such method of competition is unfair or that such act or practice is unfair or deceptive, and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect

and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 14 days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 151. The commissioner shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and he shall serve a copy thereof upon such person.

(1959, c. 82, § 4.)

**Effect of amendment.**—The 1959 amendment added all of the language beginning with the words “or that a resident” and ending with the words “in section 149”, in

the first sentence. As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 158-A. Regulations.**—The commissioner may adopt and amend reasonable regulations necessary to effect the purposes of sections 146 to 158. (1959, c. 80.)

### Group Life Insurance Definition.

**Sec. 164. Group life insurance defined.**—No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

**I.** A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

**A.** The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term “employees” shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors and partners of one 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 if 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.

**B.** The premium for the policy shall be paid by the policyholder, either wholly from the employer’s funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.



**C.** The policy must cover at least 10 employees at date of issue.

**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.

**II.** A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

**A.** The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable either in installments or in one sum at the end of a period not in excess of 18 months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.

**B.** The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

**C.** The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

**D.** The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments to the creditor, or \$10,000, whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan. The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness, or \$10,000, whichever is less.

**E.** The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

**III.** A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

**A.** The members eligible for insurance under the policy shall be all of the

members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

**B.** The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75% of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

**C.** The policy must cover at least 25 members at date of issue.

**D.** The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

**IV.** A policy issued to the trustees of a fund established by 2 or more employers in the same industry or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

**A.** The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. 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. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

**B.** The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both. No policy may be issued on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. The policy must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

**C.** The policy must cover at date of issue at least 100 persons and not less than an average of 5 persons per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if either the participating employers constitute at date of issue at least 60% of those employer members whose employees are not already covered for group life insurance or the total number of persons covered at date of issue exceeds 600; and the policy shall not require that, if a partici-

pating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

**D.** The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers or unions.

**V.** A policy issued to trustees of a fund established by the employer members of a trade association, which trustees shall be deemed the policyholder, to insure employees of such employers for the benefit of persons other than the association or the employers, subject to the following requirements:

**A.** The policy may be issued only if

1. the association has been in existence for at least 5 years and was formed for purposes other than obtaining insurance, and

2. the participating employers, meaning such employer members whose employees are to be insured, constitute at date of issue at least 50% of the total employers eligible to participate, unless the total number of persons covered at date of issue exceeds 600, in which event such participating employers must constitute at least 25% of such total employers, in either case omitting from consideration any employer whose employees are already covered for group life insurance.

**B.** The persons eligible for insurance under the policy shall be all of the employees of the participating employers, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the individual proprietor or partners whenever a participating employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

**C.** The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employers or funds contributed jointly by the employers and the employees. A policy on which part of the premium so payable is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees of each participating employer, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions, a policy on which no part of the premium so payable is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

**D.** The policy must cover at least 100 employees at date of issue.

**E.** The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the policyholder or the employer.

**VI.** A policy issued to an incorporated or unincorporated association of municipal employees, which association is organized and maintained in good faith for the purposes other than that of obtaining insurance and has been so organized and maintained for a period of 2 years prior to the issuance of such policy or contract, which shall be deemed the policyholder to insure members of such association for the benefit of persons other than the association or any of its officials, representatives or agents, subject to the following requirements:

**A.** The members eligible for insurance shall be all of the members of the association, or all of any class or classes thereof determined by conditions pertaining to membership in the association, or both.

**B.** The premium for the policy shall be paid by the policyholder wholly from the association's funds. No policy may be issued which does not insure all of the eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

**C.** The policy must cover at least 10 members at date of issue.

**D.** The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or the association.

**E.** The policy must provide for a reduction of coverage of a member after his retirement from active service with a municipality.

**VII.** No such policy of group life insurance may be issued to an employer, or labor union or to the trustees of a fund established in whole or in part by an employer or a labor union, which provides term insurance on any person which, together with any other term insurance under any group life insurance policy or policies issued to the employer or employers of such person or to a labor union or labor unions of which such person is a member or to the trustees of a fund or funds established in whole or in part by such employer or employers or such labor union or labor unions, exceeds \$20,000, unless 150% of the annual compensation of such person from his employer or employers exceeds \$20,000, in which event all such term insurance shall not exceed \$40,000 or 150% of such annual compensation, whichever is the lesser. (1949, c. 316. 1951, c. 102. 1955, c. 97; c. 228, §§ 1, 2. 1957, c. 154.)

**Effect of amendments.**—The first 1955 amendment made changes in former paragraph D of subsection I and the second 1955 amendment made changes in former paragraphs A and C of subsection I. The 1957 amendment rewrote this section.

**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.

**Rate of Premiums on Group Life Insurance.**

**Sec. 165-A. Rate of premiums.**—No domestic or foreign life insurance company shall be permitted to do business in this state if it hereafter delivers or issues for delivery, within this state, any policy of group life insurance on which the premium shall be less than the net premium based on the Commissioners 1941 Standard Ordinary Mortality Table with interest at 3% per annum, plus a loading computed in accordance with a formula which shall be determined by the commissioner. Anything in this chapter to the contrary notwithstanding, any group life insurance policy issued or delivered in this state may provide for readjustment of the rate of premium based on the experience thereunder, at the

end of the first year or of any subsequent year of insurance thereunder, and such readjustment may be made retroactive only for such policy year. (1957, c. 65.)

### Domestic Fraternal Beneficiary Associations.

**Secs. 171-178.** Repealed by Public Laws 1957, c. 217, § 2.

**Editor's note.**—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

### Foreign Fraternal Beneficiary Associations.

**Secs. 179-182.** Repealed by Public Laws 1957, c. 217, § 2.

**Editor's note.**—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

### Associations for Casualty Insurance.

**Sec. 183.** Repealed by Public Laws 1957, c. 217, § 2.

**Editor's note.**—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

### Licenses to Agents. Supervision.

**Secs. 184-197.** Repealed by Public Laws 1957, c. 217, § 2.

**Editor's note.**—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

### Foreign Associations for Casualty Insurance.

**Sec. 198. Foreign fraternal beneficiary associations transacting casualty insurance licensed.**—Any association organized or incorporated under the laws of another state or country as a fraternal beneficiary association and which does not conduct its business upon the lodge system with a ritualistic form of work and a representative form of government, in accordance with chapter 60-A, sections 1 to 3, and which is not subject to the statutes of this state regulating fraternal beneficiary associations, but which confines its membership to the members of some particular order, class or fraternity and which has the other qualifications required by chapter 60-A, may be licensed by the commissioner to transact the business of casualty insurance on the assessment plan and to provide for the payment of death or funeral benefits of not more than \$100 to the beneficiaries of deceased members, subject to and in accordance with the provisions of sections 199 to 201. (R. S. c. 56, § 172. 1959, c. 363, § 35.)

**Effect of amendment.**—The 1959 amendment rewrote this section.

**Sec. 199. License prerequisites; termination.**—No such association shall transact any business in this state without a license from the commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and by-laws certified by its secretary; a power of attorney to the commissioner as provided by chapter 60-A, section 30; a statement under oath of its president and secretary, in the form required by the commissioner, duly verified by an examination of its business for the preceding year, made in accordance with the provisions of chapter 60-A, section 37, which statement and examination must show that the association had at least 5,000 members in good standing at the date of

such report and that it had on that date available assets in excess of all known liabilities of not less than \$20,000; a copy of its policy and application, which must show that benefits are provided for by assessments upon or other payments by persons holding similar contracts; and a certificate of deposit from the treasurer of state; and it shall furnish the commissioner with such further information as he may deem necessary to a proper exhibit of its business and plan of working. Upon compliance with the foregoing provisions the commissioner may license such association to transact business in this state as defined until the first day of the succeeding July, and such license may thereafter be renewed annually, but in all cases to terminate on the first day of the next succeeding July. Sections 19, 28 to 30, 35, 37 and 44 of chapter 60-A and section 231 of this chapter apply to these associations. (R. S. c. 56, § 173. 1959, c. 363, § 36.)

**Effect of amendment.**—The 1959 amendment rewrote this section by changing the references contained therein.

### Whole Family Protection.

**Secs. 202-207.** Repealed by Public Laws 1957, c. 217, § 2.

**Editor's note.**—Section 3 of the repealing act provided that such act should become effective January 1, 1958. For new provisions as to fraternal benefit societies, see c. 60-A.

### Nonprofit Hospital or Medical Service Organizations.

**Sec. 247. License.**—Application for the license provided for in section 244 must be made in the form required by the commissioner and must contain the information he deems necessary. The application must be accompanied by a copy of each of the following documents:

**I.** Certificates of incorporation;

**II.** By-laws;

**III.** Proposed contracts between the corporation and participating hospitals and physicians showing the terms under which the hospital, medical or surgical service is to be furnished to subscribers;

**IV.** Contracts to be issued to subscribers showing a table of the rates to be charged and the benefits to which they are entitled;

**V.** Financial statement of the corporation, including the contributions paid or agreed to be paid to the corporation for working capital, the name of each contributor, and the terms of each contribution. The contributions must total at least \$5,000. (R. S. c. 56, § 221. 1951, c. 47, §§ 4, 5. 1959, c. 346, § 6.)

**Effect of amendment.**—The 1959 amendment deleted the second paragraph, including subsections I-V thereof, and made minor changes in the wording of the rest of the section. The subject matter of the former second paragraph is now covered by § 247-A.

**Sec. 247-A. Issuance of license.**—The commissioner shall issue a license on payment of a fee as provided in section 314, subsection III, if the applicant meets the following requirements:

**I.** It is established to provide a bona fide nonprofit hospital or medical service plan.

**II.** The contracts between the applicant and the participating hospitals or physicians obligate each participating party to render service to which each subscriber may be entitled under the terms of the contract issued to the subscribers.

**III.** The rates charged and benefits to be provided are reasonable.

**IV.** Contributions to the working funds of the applicant are repayable only out of earned premiums in excess of operating expenses, payments to participating hospitals and physicians, and an adequate reserve required by the commissioner.

**V.** The money available for working capital must be sufficient to cover all acquisition costs and operating expenses for a reasonable time from the date of the issuance of the license. (1959, c. 346, § 7.)

**Sec. 255. Agents' licenses; fees.**

The applicant shall pay a license fee to the commissioner as provided in section 314, subsection III. (R. S. c. 56, § 229. 1951, c. 266, § 76. 1959, c. 346, § 8.)

**Effect of amendment.**—The 1959 amendment rewrote the last paragraph of this section. As the rest of the section was not affected by the amendment, it is not set out.

**Motor Vehicle Road or Tourist Service.**

**Sec. 259. Licenses; fee.**

The applicant shall pay a license fee to the commissioner as provided in section 314, subsection II. (R. S. c. 56, § 234. 1951, c. 266, § 78. 1959, c. 346, § 9.)

**Effect of amendment.**—The 1959 amendment rewrote the last paragraph of this section. As the rest of the section was not affected by the amendment, it is not set out.

**Sec. 261. Agents' licenses; fee.**

The applicant shall pay a license fee to the commissioner as provided in section 314, subsection II. (R. S. c. 56, § 236. 1951, c. 266, § 79. 1959, c. 346, § 10.)

**Effect of amendment.**—The 1959 amendment rewrote the last paragraph of this section. As the rest of the section was not affected by the amendment, it is not set out.

**Insurance Agents and Brokers.**

**Sec. 273.** Repealed by Public Laws 1959, c. 346, § 11.

**Sec. 273-A. Definitions.**—The listed terms as used in sections 273-B to 273-S are defined as follows, unless a different meaning is plainly required by the context:

“Authorized insurance company” means an insurance company licensed to transact insurance business in this state.

“Organization” means a partnership, company or corporation.

“Resident” means a person who has his domicile or his principal place of business in this state or an organization which has an established place of business in this state.

“Unauthorized insurance company” means a foreign insurance company or an association as defined in section 26 which is not licensed to transact insurance business in this state. (1959, c. 346, § 13.)

**Sec. 273-B. Types of licenses.**—The commissioner may issue the following types of licenses which must be obtained before a person or organization may perform any act authorized by them:

- I.** Resident agent's license;
- II.** Nonresident agent's license;
- III.** Resident broker's license;
- IV.** Nonresident broker's license;
- V.** Surplus line broker's license;

- VI. Resident organization agent's license;
- VII. Nonresident organization agent's license;
- VIII. Resident organization broker's license;
- IX. Nonresident organization broker's license;
- X. Adjuster's license. (1959, c. 346, § 13.)

**Sec. 273-C. Commissioner may restrict authority under license.**—The commissioner may restrict the authority of a person or organization under a license issued as provided in section 273-B, to fire, casualty, inland marine, ocean marine, fidelity, surety or other kind of insurance. (1959, c. 346, § 13.)

**Sec. 273-D. Individual license requirements.**—In order to obtain an agent's, broker's or adjuster's license, an applicant must comply with the following requirements:

**I. Application.** He must file an application with the commissioner containing his name, date of birth, place of residence, present occupation, occupation for the preceding 5 years, and any other pertinent information required by the commissioner.

**II. Age.** He must be at least 21 years of age.

**III. Residence.** He must be a resident of this state if he applies for a resident agent's or broker's license or for an adjuster's license.

**A.** An applicant for or holder of a resident agent's or broker's license may not be licensed as a resident agent or broker in any other state.

**IV. Character.** He must have good moral character.

**V. Good faith.** He must intend to hold himself out in good faith as an agent, broker or adjuster.

**VI. Examination fee.** He must pay an examination fee to the commissioner as provided in section 314, unless exempted by subsection VII.

**VII. Examination.** He must appear at the time and place designated by the commissioner to take a written examination. He must pass the examination with a grade indicating his ability to perform his duties in a satisfactory manner under the license for which he applies.

**A.** A personal examination and examination fee are not required of an applicant for an agent's license when the annual premium on each policy to be sold under the license does not exceed \$2.

**B.** A personal examination and examination fee are not required of an applicant for an agent's license only for the sale of baggage or accident insurance covering travel risks, if the applicant is employed primarily for a purpose other than the sale of insurance.

**C.** A personal examination and examination fee are not required of an applicant for an agent's license only for the sale of insurance written on the assessment basis by a domestic mutual fire insurance company.

**D.** A personal examination and examination fee are not required of an applicant for an agent's license under sections 255 and 261.

**E.** A personal examination and examination fee are not required for the renewal of a license already issued, except as provided in section 273-J.

**VIII. License fee.** He must pay the license fee to the commissioner as provided in section 314.

**IX. Agent must be authorized.** The applicant for an agent's license must be authorized by each company he is to represent.

**A.** The company must be authorized to do business in this state.

**B.** The company must file a certificate with the commissioner authorizing the applicant to act as its agent.



**X. Special requirements for surplus line brokers.** An applicant for a surplus line broker's license must also comply with special requirements:

**A.** He must be licensed as a resident agent of an authorized fire or casualty insurance company and must maintain that license while his surplus line broker's license is in effect.

**B.** He must file with the treasurer of state a bond in the penal sum of \$1,000 issued by a surety company approved by the commissioner containing the condition that the holder of the license will comply with the requirements of this chapter which pertain to him. (1959, c. 346, § 13.)

**Sec. 273-E. Organization license requirements.**—The following provisions apply to an organization agent's or broker's license:

**I. Application.** The application for the license must contain the name and location of the place of business of the organization, the name and residence of each member of a partnership or company and of each officer of a corporation, the name and residence of each person authorized to transact business for it, and any other pertinent information required by the commissioner.

**II. Place of business.** The organization must establish and maintain a place of business in this state if it applies for a resident organization agent's or broker's license.

**III. License fee.** The organization must pay the license fee to the commissioner as provided in section 314.

**IV. Content of license.** A license issued to an organization must contain its name, the location of each place of business and the name and residence of each person authorized to transact business for it.

**V. Individual qualifications.** A person authorized to transact business for the organization must comply with the requirements of section 273-D.

**VI. Employees authorized.** On request of the organization, an employee who is licensed as an agent or broker may be authorized to act for the organization and his name shall be listed in the organization license. (1959, c. 346, § 13.)

**Sec. 273-F. Examination.**—The following provisions apply to an examination for an agent's, broker's or adjuster's license:

**I. Filed.** The commissioner shall keep each examination on file for at least 6 months.

**II. Use of fees.** The examination fees shall be used to defray the expense of conducting examinations.

**III. Waiting period.** If an applicant fails to pass his first examination, he may take another with no waiting period or examination fee. If he fails to pass the 2nd or any subsequent examination, he must pay another examination fee as provided in section 314 and wait 6 months before retaking it. (1959, c. 346, § 13.)

**Sec. 273-G. License issued.**—If the applicant complies with the pertinent requirements of sections 273-D and 273-E, the commissioner shall issue him the license for which he applies.

**I. Duration of agent's license.** An agent's license remains effective until the first day of July following its date of issue.

**II. Duration of broker's license.** A broker's license remains effective for one year following its date of issue.

**III. Duration of adjuster's license.** An adjuster's license remains effective until the last day of December following its date of issue. (1959, c. 346, § 13.)

**Sec. 273-H. Temporary emergency license.**—The commissioner may issue a temporary license without examination as follows:

**I. Agent's or broker's license.** On the death, disability, termination of employment or transfer out of state of a licensed agent or broker, the commissioner may issue a temporary license to a suitable person appointed by an insurance company to act as its agent, or to a person capable of transacting the business of a broker, when the license is necessary to continue the business of the agent or broker for the protection of the public.

**II. License restricted.** A license issued under this section may be effective for not more than 6 months and may not be renewed.

**III. License fee.** The applicant for a temporary license must pay the same license fee to the commissioner as provided in section 314 for a regular license. (1959, c. 346, § 13.)

**Sec. 273-I. Exception to adjuster's license requirements.**—A license to adjust the losses of an authorized insurance company by whom he is employed or retained is not required of a resident who is a company employee, licensed insurance agent or attorney-at-law admitted to practice in this state.

**I. Commissioner notified.** An insurance company must notify the commissioner of the name and address of any person not licensed as an adjuster or agent whom it has authorized to adjust its losses, before that person may act.

**II. Commissioner may suspend license requirements.** The commissioner may suspend the adjuster's license requirements for not more than 6 months when an emergency makes it necessary for an adjuster from another state to adjust losses in this state. (1959, c. 346, § 13.)

**Sec. 273-J. Requalification of agent, broker or adjuster.**—After the elapse of 2 years from the expiration date of an agent's, broker's or adjuster's license, he must requalify under section 273-D before being relicensed. (1959, c. 346, § 13.)

**Sec. 273-K. Authority under resident agent's license.**—A person licensed as a resident agent of any authorized insurance company may act as follows:

**I. Sale of insurance.** He may solicit, sell and make binding insurance contracts within the authority granted him by the company and the scope of his license.

**II. Adjustment of losses.** He may adjust the losses of the company within the authority granted him by the company.

**III. Transfer of insurance business.** He may place business which he is licensed to solicit with an agent of another authorized insurance company which transacts the same kind of insurance business, when necessary for the adequate protection of a risk. (1959, c. 346, § 13.)

**Sec. 273-L. Authority under nonresident agent's license.**—A person licensed as a nonresident agent may represent only an authorized life insurance company. He may solicit and sell only life insurance and accident and sickness insurance and make binding contracts within the authority granted him by the company and the scope of his license.

**I. Applications through resident agent.** A nonresident agent must place all applications for insurance covering a risk in this state through a resident agent of the company.

**II. Issuance of license restricted.** A nonresident agent may not be licensed in this state unless the laws of his state of residence permit a resident of Maine to be similarly licensed. (1959, c. 346, § 13.)

**Sec. 273-M. Authority under resident and nonresident broker's licenses.**—A person licensed as a resident or nonresident broker may negotiate

insurance contracts covering risks in this state with any authorized insurance company within the scope of his license.

**I. Placement through resident agent.** A nonresident broker must place through a resident agent all insurance covering a resident of this state, property situated in this state, a risk incident to the performance or non-performance of any obligation to be performed in this state, or a risk incident to any obligation which is governed by the laws of this state though actually to be performed elsewhere, except as provided in section 52-A, subsection I.

**II. Countersigning fee.** A nonresident broker shall pay a resident agent who countersigns a fire insurance contract covering property located in this state 50% of the commission as a countersigning fee. (1959, c. 346, § 13.)

**Sec. 273-N. Authority under surplus line broker's license.**—A person licensed as a surplus line broker may negotiate insurance contracts covering fire, casualty, inland marine, ocean marine, fidelity and surety risks in this state with an unauthorized insurance company within the scope of his license.

**I. Application to commissioner.** He must make written application to the commissioner stating his reasons for desiring to insure a particular risk with an unauthorized insurance company.

**II. Permission granted.** The commissioner shall grant him permission to procure the desired insurance, if he finds that all the following conditions exist:

**A.** The desired coverage is necessary for the adequate protection of a risk in this state.

**B.** It may be written under the laws of this state by an authorized insurance company.

**C.** It is not available in any authorized insurance company.

**D.** The company named by the broker is responsible and financially sound.

**III. Financial stability.** If the commissioner finds that the company named by the broker is not responsible or financially sound, he shall notify the broker who may then submit the name of a different company.

**IV. Notice to commissioner.** Within 5 days after the risk is insured, the broker shall give written notice to the commissioner of the name of the owner, location of the property, name and location of the company issuing the policy, and any other pertinent information required by the commissioner.

**V. Records.** The broker shall keep a separate account of all the business done under his license, and the necessary records to verify that account. All the records of the broker shall be open at all times to the inspection of the commissioner or his representative.

**VI. Monthly reports.** He shall file a monthly report with the commissioner showing the amount of insurance placed for any person or organization, the location of each risk, the gross premium charged, the names of each company in which the insurance was placed, the date and term of each insurance contract issued, and any other pertinent information required by the commissioner. The report shall also show in the same detail each contract cancelled during the month covered by the report and return premium on it.

**VII. Annual report and payment of premium tax.** He shall file an annual report in January with the insurance commissioner and the treasurer of state containing a sworn statement of the gross premiums charged for insurance placed, and the gross return premiums on the insurance cancelled, during the year ending on the 31st of the preceding December. At the time of filing the report, he shall pay to the treasurer of state 2% of the difference between the gross premiums and the return premiums reported for the business transacted during the year. (1959, c. 346, § 13.)

**Sec. 273-O. Authority under organization agent's or broker's license.**—An organization agent's or broker's license entitles the organization through its representatives to act in the same manner as an individual holding the same type of license. A person named in the license is entitled to act only for and in the name of the organization.

**I. Limitation explained.** This does not prevent a person named in an organization license from also being licensed and acting in his own name. (1959, c. 346, § 13.)

**Sec. 273-P. Authority under adjuster's license.**—A person licensed as an adjuster may investigate and negotiate the settlement of claims arising under insurance contracts issued by an insurance company. (1959, c. 346, § 13.)

**Sec. 273-Q. General regulations.**—The following general regulations apply:

**I. Validity of insurance contract.** An insurance contract issued on an application solicited, received or forwarded by an unlicensed person binds the issuing company, if it is otherwise valid.

**II. Personal liability.** An insurance agent is personally liable under any insurance contract made by or through him outside the scope of his authority.

**III. License not needed.** An employee who does only clerical work in the office of an insurance agent or broker need not obtain any license.

**IV. Authority to write surety bonds restricted.** A judge of probate, register of probate, or any employee in the office of either may not write surety bonds. (1959, c. 346, § 13.)

**Sec. 273-R. Violation and penalty provisions.**—The following violation and penalty provisions apply:

**I. Acting as agent or broker without a license.** If a person solicits, receives or forwards a risk or application for insurance to any insurance company or issues, negotiates or countersigns any insurance contract without having first obtained the proper license as an agent or broker, he shall be punished by a fine of not more than \$500 or by imprisonment for not more than 90 days, or by both.

**II. Acting as adjuster without a license.** If a person adjusts a loss for any company without having first obtained an adjuster's license, unless exempted by section 273-I, he shall be punished by a fine of not more than \$500 or by imprisonment for not more than 90 days, or by both.

**III. Placing insurance in unauthorized companies.** If a surplus line broker negotiates or acts in negotiating an insurance contract with an unauthorized insurance company and fails to perform the duties required by section 273-N, or willfully or knowingly makes a false statement or affidavit in performing the duties of that section, he shall be punished by a fine of not more than \$500 or by imprisonment for not more than 90 days, or by both. (1959, c. 346, § 13.)

**Sec. 273-S. Suspension or revocation of license.**—The following provisions apply to the suspension or revocation of a license issued by the commissioner.

**I. Reasons for suspension or revocation.** The commissioner shall suspend, revoke or refuse to renew the license of an agent, broker or adjuster for any of the following reasons:

**A.** Violation of any of the insurance laws of this state.

**B.** Willfully over-insuring property located in this state.

**C.** Willfully misrepresenting an insurance contract.

**D.** Dealing unjustly with or willfully deceiving a resident of this state in regard to any insurance contract.

**E.** Failure to pay over to an insurance company on request any money or property in his hands belonging to the company.

**F.** Using the license primarily for the purpose of procuring insurance contracts to indemnify him, a member of his family, or an organization in which he or a member of his family has a pecuniary interest.

**G.** Holding a resident agent's or broker's license in this and any other state at the same time.

**H.** Becoming unfit for the position in any other way.

**II. Notice and hearing.** The commissioner may suspend, revoke or refuse to renew a license only after notice and public hearing. If, after hearing, the commissioner determines that the license should be suspended, revoked or should not be renewed, he shall give the agent, broker or adjuster a 10-day written notice of that fact. In case of the suspension, revocation or non-renewal of an agent's license, the commissioner shall notify the companies which he represents of that fact at the same time the agent is notified. (1959, c. 346, § 13.)

**Sec. 273-T. Application of sections 273-A to 273-S.**—Sections 273-C to 273-K, 273-M to 273-P, 273-R and 273-S do not apply to life insurance agents. Sections 273-A, 273-B, 273-L and 273-Q apply to life insurance agents to the extent they are not contrary to sections 278 to 293. (1959, c. 346, § 13.)

**Secs. 274-276.** Repealed by Public Laws 1959, c. 346, § 11.

**Sec. 277. Coercion in the placing of insurance on real estate or personal property.**—No trustee, director, officer, agent or other employee of any person, firm, corporation, bank, loan and building association or other financial institution engaged in the business of making loans of money to the public or financing the purchase of real or personal property or the lending of money on the security of real or personal property shall directly or indirectly require that the person, firm or corporation, for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted or performed, negotiate any policy of insurance or renewal thereof covering such property through a particular insurance company or insurance agent or broker, as a condition precedent to financing the purchase of such property or to loaning money upon the security of a mortgage thereon, or as a condition prerequisite for the renewal or extension of any such loan or mortgage, or for the performance of any act in connection therewith. Any person violating the provisions of this section shall be punished by a fine of not more than \$100, or by imprisonment of not more than 60 days, or by both such fine and imprisonment; and if he holds a license from the commissioner, he shall forfeit the same. Any justice of the supreme judicial or superior court, in term time or vacation, on complaint by any person that the provisions of this section are being violated, may issue an injunction against such violation and may hold in contempt and punish therefor in case of disregard of said injunction. This section shall not prevent the exercise by any such person, firm, corporation, trustee, director, officer, agent or employee of the right to approve or disapprove for cause the insurance company to underwrite the insurance. (1951, c. 192, § 2. 1953, c. 308, § 79. 1957, c. 100.)

**Effect of amendment.** — The 1957 substituted the words "for cause" therefor amendment deleted the word "of" and in the last sentence.

### Qualifications of Life Insurance Agents.

**Sec. 281. Application for license.**

**III.** The examination and license fees provided in section 314, subsections

V and VII, apply to an applicant for a life insurance agent's license. [1949, c. 421. 1953, c. 88.] (1947, c. 162. 1949, c. 421. 1953, c. 88; c. 308, § 80. 1959, c. 346, § 14.)

**Effect of amendment.**—The 1959 amendment affected by this amendment, it is not set out. The last paragraph of this section was not rewritten.

**Sec. 282. Examination of applicant for license.—**

**I.** Each applicant for a license to act as a life insurance agent within this state shall submit to a personal written examination to determine his competence with respect to life insurance and annuity contracts and his familiarity with the pertinent provisions of the laws of this state and shall pass the same to the satisfaction of the commissioner; except that no such written examination shall be required of:

**A.** An applicant for a renewal license, unless the commissioner determines that such examination is necessary to establish the competency or trustworthiness of such individual; or unless a license had not been issued to such applicant within 2 years following the date of expiration of his previous license;

**B.** An applicant for an agent's license only for the sale of accident insurance covering travel risks as provided in section 273-D, subsection VII, paragraph B.  
(1959, c. 346, §§ 15, 16.)

**Effect of amendments.**—This section was amended twice by P. L. 1959, c. 346. Section 15 of P. L. 1959, c. 346, substituted the word "following" for the word "preceding", and the words "expiration of his previous license" for the words "filing

his application" in paragraph A of subsection I. Section 16 rewrote paragraph B of subsection I. As the rest of the section was not affected by the amendments, it is not set out.

**Sec. 287. Temporary license in case of death.**

**III.** A license issued under this section may be effective for not more than 6 months, and it may not be renewed.  
(1959, c. 346, § 17.)

**Effect of amendment.**—The 1959 amendment rewrote subsection III of this section. As the rest of the section was not

changed by the amendment, it is not set out.

**General Provisions Concerning Agents and Brokers.**

**Secs. 294-297.** Repealed by Public Laws 1959, c. 346, § 12.

**Liability Absolute When Loss Occurs.**

**Sec. 302. Liability of insurance company absolute when loss occurs.**

Cited in *Jenkins v. Hardware Mutual Casualty Co.*, 152 Me. 288, 128 A. (2d) 852.

**Judgment Creditor May Have Insurance.**

**Sec. 303. Application of insurance money after final judgment; company entitled to notice of accident or injury; bill not brought until 20 days after final judgment; exceptions.**

**Section not designed to afford relief through reformation of policy.**—This section was not designed to afford an alleged

insured (judgment debtor) relief through reformation of an insurance policy and the application of benefits under the

policy as reformed. *Jenkins v. Hardware Mutual Casualty Co.*, 162 Me. 288, 128 A. (2d) 852.

**Insurer did not waive right to contest coverage** under insurance policy where it did not undertake the defense of an action against insured without reservation of the

right to contest but on the contrary, insurer's counsel raised the question of coverage on the first inspection of the declaration and thereafter took no part in the defense of action against insured. *Jenkins v. Hardware Mutual Casualty Co.*, 152 Me. 288, 128 A. (2d) 852.

### Automobile Finance Business.

**Secs. 305, 306.** Repealed by Public Laws 1957, c. 386, § 2.

**Cross reference.**—For present motor vehicle sales finance act, see c. 59, §§ 249 to 260.

sections provided in § 3 thereof that the act should become effective January 1, 1958.

**Editor's note.**—The act repealing these

### Fees Payable to Insurance Commissioner.

**Sec. 314. Commissioner's fee schedule.**—The insurance commissioner shall charge according to the fee schedule outlined in this section.

**I. Insurance company licenses.** The fees for issuing or renewing company licenses and certificates are as follows:

**A.** License to a foreign insurance company, foreign surety company or foreign fraternal beneficiary association to do business in this state, \$50.

**B.** Certificate of qualification of a domestic insurance company to act under its charter, \$50.

1. A domestic mutual fire insurance company writing only on the assessment basis need not pay this fee.

**II. Road or tourist service and agent's licenses.** The fee for issuing or renewing a license to a road or tourist service under section 259 is \$20. The fee for issuing or renewing to an agent under section 261 is \$2.

**III. Nonprofit hospital and medical service organization and agent's licenses.** The fee for issuing or renewing to a nonprofit hospital or medical service organization under section 247-A is \$20. The fee for issuing or renewing a license to an agent under section 255 is \$2.

**IV. Reciprocal contract certificate.** The fee for issuing or renewing a certificate of authority to make reciprocal contracts of indemnity under sections 236 to 243 is \$50.

**V. Agent's and broker's licenses.** The fees for issuing or renewing agent's and broker's licenses are as follows:

**A.** License to a resident agent of any insurance company, surety company or fraternal beneficiary association, \$2.

1. A resident agent of a domestic mutual fire insurance company need not pay this fee.

**B.** License to a nonresident agent, \$10.

**C.** License to a resident broker, \$25.

**D.** License to a nonresident broker, \$50.

**E.** License to an organization to act as an insurance agent, \$2 for each resident and \$10 for each nonresident named in the license.

1. An organization acting as agent of a domestic mutual fire insurance company need not pay this fee.

**F.** License to an organization to act as an insurance broker, \$25 for each resident and \$50 for each nonresident named in the license.

**G.** License to a surplus line broker, \$20.

**VI. Adjuster's license.** The fee for issuing or renewing an adjuster's license is \$2.

**VII. Examination of agents, brokers and adjusters.** The fee for examination of an agent, broker or adjuster is \$10.

**A.** The fee need not be paid for the first re-examination but must be paid for each further re-examination.

**B.** The fee is not returnable after an applicant takes the examination for which it was paid.

**C.** The fee need not be paid if exempted by section 273-D, subsection VII.

**VIII. Filing annual statement.** The fee for filing the annual statement submitted by each insurance company is \$50.

**A.** A domestic mutual fire insurance company writing only on the assessment basis need not pay this fee.

**IX. Receiving service of process.** The fee for receiving service of process in a suit against any foreign insurance company, surety company or fraternal beneficiary association or against a person making a reciprocal contract of indemnity is \$2.

**A.** This shall be paid by the plaintiff at the time of the service.

**B.** The plaintiff may recover this fee as part of the taxable costs of the suit if he prevails.

**X. Lightning rod manufacturer's and salesman's licenses.** The fee for issuing or renewing a license to a lightning rod manufacturer is \$20. The fee for issuing or renewing a license to a lightning rod salesman is \$2. (R. S. c. 56, § 272. 1945, c. 118, § 6; c. 378, § 58. 1947, c. 15, § 6. 1953, c. 299, § 2. 1957, c. 48; c. 429, § 52. 1959, c. 346, § 18.)

**Effect of amendments.** — The 1959 amendment rewrote this section. The first 1957 amendment had increased the fees and the second 1957 amendment had substituted "benefit society" for "beneficiary association" in what was then the second paragraph of the section.

**Sec. 314-A. Use of fees.**—The fees collected under section 314, subsections I and VIII, shall be used solely to defray administrative expenses for examining companies, reviewing and auditing annual statements, and regulating rates as required by this chapter. (1959, c. 346, § 19.)

**Sec. 314-B. Company to pay expense of its examination.**—An insurance company shall pay all travel expenses incurred by order of the commissioner in examining the company as required by law.

**I. Exception.** A domestic mutual insurance company which does its direct business entirely in the state need not pay any of the expenses of its examination. (1959, c. 346, § 19.)

### **Fire, Marine and Inland Marine Insurance Rate Regulation.**

#### **Sec. 318. Rate filings.**—

**I.** An insurer shall file, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, any manual, minimum, class rate, rating schedule or rating plan and any other rating rule and every modification of any of the foregoing which it proposes to use. Every such filing shall state the effective date thereof and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of the provisions of sections 315 to 330, inclusive, he may require such insurer to furnish the information upon which it supports such filing. Any filing may be supported by the experience, or judgment if experience is not available, of the insurer



or rating organization making the filing, the experience of other insurers or rating organizations or any other factors which the insurer or rating organization deems relevant. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(1959, c. 153, § 1.)

**Effect of amendment.**—The 1959 amendment added the words “if experience is not available” after the word “judgment” and before the word “of” in the next to last

sentence in subsection I of this section. As the rest of the section was not affected by the amendment, it is not set out.

### **Sec. 330. Hearing procedure and appeal.**

#### **III.**

An appeal may be taken to the law court as in other actions. (1947, c. 275, 1959, c. 317, § 31.)

**Effect of amendment.**—The 1959 amendment rewrote the last paragraph of subsection III of this section. As the rest of the section was not affected by the amendment, it is not set out.

**Effective date and applicability of Public Laws 1959, c. 317.** — Section 420, chapter 317, Public Laws 1959, provides as follows: “This act shall become effective December 1, 1959. It shall apply to all actions brought

after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail.”

## **Casualty and Surety Insurance Rate Regulation.**

### **Sec. 334. Rate filings.—**

**I.** An insurer shall file any manual of classifications, rules and rates, any rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of sections 331 to 347, inclusive, he may require such insurer to furnish the information upon which it supports such filing. Any filing may be supported by:

**A.** The experience, or judgment if experience is not available, of the insurer or rating organization making the filing,  
(1959, c. 153, § 2.)

**Effect of amendment.**—The 1959 amendment added the words “if experience is not available” after the word “judgment” and before the word “of” in paragraph A of

subsection I. As the rest of the section was not affected by the amendment, it is not set out.

### **Sec. 345. Assigned risks.**

The use of uniform rates for automobile assigned risks is permitted. (1947, c. 274, 1959, c. 115.)

**Effect of amendment.**—The 1959 amendment added the above paragraph as the last paragraph to this section. As the rest

of the section was not affected by the amendment, it is not set out.

### **Sec. 347. Hearing procedure and appeal.**

**III.** Any order or decision of the commissioner shall be subject to review by a justice of the superior court in term time or vacation by an appeal taken within 15 days after the date of such order or decision to the superior court held in and for the county of Kennebec at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by petition to which such party shall annex the order or decision of the commissioner and the

record upon which such order or decision is based and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court in term time or a justice thereof in vacation shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court or a justice thereof may modify, affirm or reverse the order or decision of the commissioner in whole or in part in accordance with law and the weight of the evidence. The court or a justice thereof shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any such order or decision of the commissioner pending the final determination of the appeal and may impose such terms and conditions as may be deemed proper.

An appeal may be taken to the law court as in other actions. (1947, c. 274. 1959, c. 317, § 32.)

**Effect of amendment.**—The 1959 amendment rewrote the last paragraph of subsection III of this section. As the rest of the section was not affected by the amend-

ment, it is not set out.

**Effective date of 1959 amendment.**—See note to § 330.

### Penalties.

**Sec. 353. General penalty provisions.**—The following general penalty provisions apply to this chapter:

**I. Individual penalty.** If a person fails or refuses to perform a duty required by this chapter for which no penalty has been provided, he shall be punished by a fine of not more than \$100 or by imprisonment for not more than 10 days, or by both. If a person performs an act prohibited by this chapter for which no penalty has been provided, he shall be punished by a fine of not more than \$100 or by imprisonment for not more than 10 days, or by both.

**II. Organization penalty.** If an organization of any type fails or refuses to perform a duty required by this chapter for which no penalty has been provided it shall be punished by a fine of not more than \$250. If an organization performs an act prohibited by this chapter for which no penalty has been provided, it shall be punished by a fine of not more than \$250.

**A.** Any member of the organization who authorizes or participates in any act or omission in violation of this subsection shall be punished by a fine of not more than \$250 or by imprisonment for not more than 30 days, or by both. (1959, c. 346, § 20.)

### Records.

**Sec. 354. Records confidential.**—Certain records of the insurance department are confidential according to the following provisions:

**I. Complaint files.** Records and correspondence concerning a complaint against a person or organization for violation of the insurance laws or fire prevention laws.

**II. Investigation files.** Records and correspondence concerning investigations made by the department are confidential.

**III. Rate filings.** A rate filing and its supporting data are confidential until the filing becomes effective.

**IV. Policy forms and endorsement forms.** Policy forms and endorsement forms are confidential until they become effective.

**V. Admission files.** Records and correspondence concerning the admission of an insurance company to transact insurance business in this state are confidential until the company has been licensed.

**VI. Company examination reports.** The report of the examination of an

insurance company is confidential until it has been distributed by the company to the states in which it is licensed. The supplementary report concerning company management issued by the examiners with each report of examination is confidential.

**VII. License files.** Information of a personal nature concerning the licensing of agents, brokers and adjusters is confidential. (1959, c. 223, § 5.)

**Sec. 355. Records subject to subpoena.**—All records and correspondence of the insurance department are subject to subpoena by a court of competent jurisdiction. (1959, c. 223, § 5.)

## Chapter 60-A.

### Fraternal Benefit Societies.

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

**Sec. 1. Fraternal benefit societies 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. (1957, c. 217, § 1.)

**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;