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Chapter 60.

Insurance and Insurance Companies.

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The Contract of Insurance.

Sec. 1. Contract of insurance.—A contract of insurance, life excepted, is an agreement by which one party for a consideration promises to pay money or its equivalent or to do some act of value to the assured upon the destruction or injury of something in which the other party has an interest. A contract of life insurance is an agreement dependent upon human life by which one party for a consideration promises to pay money or its equivalent or to do some act of value upon the death or disability of the insured or the termination of a specified period. (R. S. c. 56, § 1. 1961, c. 211.)

Effect of amendment.—The 1961 amendment added the last sentence of this section.

The Insurance Commissioner. Powers and Duties.

Sec. 2. Commissioner, appointment, term and duties; deputy commissioners. — The insurance department, as heretofore established, includes the division of state fire prevention. The head of the department is the insurance commissioner. The insurance commissioner, as heretofore appointed and hereinafter in this chapter called "commissioner", shall be appointed by the governor with the advice and consent of the 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 his fees and moneys received by him by virtue of his office, and pay over the same to the treasurer of state forthwith. He (insurance commissioner) shall receive an annual salary of $11,500. 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, § 90. 1951, § 412, § 15. 1955, c. 473, § 15. 1957, c. 418, § 18. 1959, c. 361, § 13. 1959, c. 378, § 40. 1963, c. 379, § 1.)

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.

Chapter 361, P. L. 1959, 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.

Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, eliminated the former first sentence and added the present first three sentences.

The 1963 amendment increased the annual salary of the commissioner from $10,000 to $11,500 and carried appropriations for the fiscal years ending June 30, 1964 and 1965.

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 22, 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 shall enjoin any operation in violation of this section on complaint of the 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. 1963, c. 414, § 57.)

Effect of amendment. — The 1963 amendment deleted "in equity" near the beginning of subsection II, substituted "complaint" for "petition" in such subsection, and deleted "insurance" formerly preceding "commissioner" in such subsection.

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 appeal to the superior court in Kennebec county by filing a complaint 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. 1961, c. 317, § 181.)

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

The 1961 amendment substituted "appeal to the superior court in Kennebec county" for "file an appeal in the superior court to be holden in Kennebec county" in the third sentence of this section.

Legislative intent.—The legislature in its praiseworthy measure to protect policyholders and the public from misleading liability policies and from those capable of a construction which is unfair, intended a quantified censorship by enacting this section. American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

By this section the legislature has exercised its police power to prevent the use in this state of any perceptibly guileful or delusive or illusory policy and of any policy logically and demonstrably susceptive to an interpretation or construction inequitably thwarting or frustrating the assured or the public. American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

Purchasers of liability insurance are left uninhibited in their selective judgment of amount and kind of available insurance. American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

And are still presumed to know contents of their policies.—Policyholders must continue to be presumed, by the ordinary rules of law, to know the contents of their policies, whether the policies are read or not. American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

Authority of commissioner.—Under this section the administrative authority of the commissioner as an executive officer is restricted to requisite fact finding and to needful regulation delimited within the policy, standard, and rule affirmatively established for his guidance by the legislature. His authority is no less nor more than the legislative body has given him. American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

Section does not ordain greater coverage.—By this section the legislature has not ordained any greater coverage or any coverage at all. American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

Disapproval of commissioner must be an exercise of sound discretion. American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

Commissioner's disapproval upheld in American Fidelity Co. v. Mahoney, 157 Me. 507, 174 A. (2d) 446.

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. 10. Application for injunction against domestic company; proceedings.—If on examination the commissioner thinks that any domestic insurance company is insolvent, or that it is in such a condition as to render its further proceedings hazardous to the public or its policyholders, he shall apply to the superior court to issue an injunction restraining the company in whole or in part from proceeding further with its business. The court may thereupon, issue such temporary restraining orders, preliminary or permanent injunctions, as it thinks proper, either of which it may afterwards modify, vacate or perpetuate and may pass such orders and decrees, appoint receivers to receive the assets of the company and referees and do any other act conformable to the general rules of chancery practice which in his opinion is requisite for the safety of the public and for the best interests of all parties concerned, all of which orders and decrees it may in like manner enforce. All such proceedings shall be at once made known to the clerk of courts for the county, who shall enter them on his docket, place them on file and record them in the records of the court. The clerk's fees shall be audited and allowed by the court and paid from the assets of the company. (R. S. c. 56, § 10. 1963, c. 414, § 58.)

Effect of amendment.—Prior to the 1963 amendment, the application was made to and the injunction issued by a justice of the supreme judicial court or of the superior court instead of to or by the superior court. The amendment also deleted "either with or without notice" near the beginning of the second sentence, substituted "temporary restraining orders, preliminary or permanent injunctions" for "temporary injunction, or if on notice, such temporary or permanent injunction" in such sentence and substituted "referees" or "masters" in such sentence.

Sec. 11. Appointment of receiver of domestic life insurance company.—No proceedings for the appointment of a receiver of a domestic life insurance company, or to wind up its affairs, shall be maintained by any other person than the commissioner. If it appears to the said commissioner that the assets of such company are less than its liabilities, reckoning the net value of its policies according to the combined experience or actuaries' table of mortality, with interest at 4% a year, he shall suspend the right of such company to do business and apply to the superior court to proceed as provided in section 10. If it appears that the assets are greater than its liabilities, computed as aforesaid, such proceedings shall not be commenced or, if commenced, they shall be dismissed and the company allowed to resume the transaction of business. (R. S. c. 56, § 11. 1961, c. 317, § 182. 1963, c. 414, § 59.)

Effect of amendments.—The 1961 amendment deleted "bill in equity, or other" formerly preceding "proceedings" near the beginning of the first sentence of this section. The 1963 amendment divided the second sentence into two sentences and deleted "a justice of the supreme judicial court or of" formerly preceding "the superior court" in the present second sentence.

Sec. 12-A. Dissolution of domestic insurance company. — The commissioner shall file a complaint 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. 1963, c. 414, § 60.)

Effect of amendment.—The 1963 amendment substituted "file a complaint" for "bring a bill in equity" near the beginning of the section.

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.

Unauthorized Insurers.

Sec. 14. Service of process.—

I. Service upon commissioner. Any of the following acts in this state, effected by mail or otherwise, by an unauthorized foreign or alien insurer:

A. The issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein,

B. The solicitation of applications for such contracts,

C. The collection of premiums, membership fees, assessments or other considerations for such contracts, or

D. Any other transaction of the business of insurance, is equivalent to and shall constitute an appointment by such insurer of the commissioner and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

III. Service on person soliciting insurance, etc., for insurer. Service of process in any such action or proceeding shall in addition to the manner provided in subsection II be valid if served upon any person within this state who, in this state on behalf of such insurer, is soliciting insurance, or making, issuing or delivering any contract of insurance, or collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within 10 days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

IV. Judgment by default; complaint taken pro confesso. No plaintiff or complainant shall be entitled to a judgment by default or to have his complaint taken pro confesso under this section until the expiration of 30 days from date of the filing of the affidavit of compliance.

(1963, c. 414, §§ 61, 62.)

Effect of amendment.—The 1963 amendment deleted "insurance" formerly preceding "commissioner" in paragraph D of subsection I, deleted "suit" formerly fol-

lowing "action" in such paragraph, deleted "suit" formerly following "action" near the beginning of subsection III, substituted "complaint" for "bill" in subsection IV and deleted "the provisions of" formerly preceding "this section" in such subsection.

As the rest of the section was not affected by the amendment, only subsections I, III, and IV are set out.

Sec. 15. Defense of action.—

I. Cash, securities or bond filed; certificate of authority. Before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action or proceeding instituted against it, such unauthorized insurer shall either

A. Deposit with the clerk of the court in which such action or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or

B. Procure a certificate of authority to transact the business of insurance in this state.

II. Postponement of action. The court in any action or proceeding, in which service is made in the manner provided in section 14, subsections II or III, may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with subsection I and to defend such action.

III. Motion to dismiss a complaint or set aside service. Nothing in subsection I is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion to dismiss a complaint or to set aside service thereof made in the manner provided in section 14, subsections II or III, on the ground either

A. That such unauthorized insurer has not done any of the acts enumerated in section 14, subsection I, or

B. That the person on whom service was made pursuant to section 14, subsection III, was not doing any of the acts therein enumerated. (1949, c. 96, § 1. 1963, c. 414, § 63.)

Effect of amendment.—The 1963 amendment deleted "suit" following "action" in the opening paragraph of subsection I, near the beginning of paragraph A of subsection I, and near the beginning of subsection II. It also substituted "dismiss a complaint" for "quash a writ" in the opening paragraph of subsection III and made other minor changes throughout the section.

Unauthorized Insurers False Advertising Process Act.

Sec. 17-A. Purpose of sections 17-A to 17-E; sections to be liberally construed.—The purpose of sections 17-A to 17-E is to subject to the jurisdiction of the insurance commissioner of this state and to the jurisdiction of the courts of this state insurers not authorized to transact business in this state which place in or send into this state any false advertising designed to induce residents of this state to purchase insurance from insurers not authorized to transact business in this state. The legislature declares it is in the interest of the citizens of this state who purchase insurance from insurers which solicit insurance business in this state in the manner set forth in the preceding sentence that such insurers be subject to the provisions of sections 17-A to 17-E. In furtherance of such state interest, the legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing, exercises its power to protect its residents and also exercises powers and privileges available to the state by virtue of public law 15, 79th congress of the United States, chapter 20, 1st session, S. 340, which declares that the business of insurance and every person engaged therein shall be subject to the laws of

the several states; the authority provided herein to be in addition to any existing powers of this state.

Sections 17-A to 17-E shall be liberally construed. (1961, c. 226.)

Sec. 17-B. Definitions.—When used in sections 17-A to 17-E:

I. Commissioner. "Commissioner" shall mean the insurance commissioner of this state.

II. Unfair trade practice act. "Unfair trade practice act" shall mean the act relating to unfair methods of competition and unfair and deceptive acts and practices in the business of insurance, which consists of sections 146 to 158-A.

III. Residents. "Residents" shall mean and include persons, partnerships or corporations, domestic, alien or foreign. (1961, c. 226.)

Sec. 17-C. Notice to domiciliary insurance supervisory official and insurer that illegal practices are being engaged in by unauthorized foreign insurer.—No unauthorized foreign or alien insurer of the kind described in section 17-A shall make, issue, circulate or cause to be made, issued or circulated, to residents of this state any estimate, illustration, circular, pamphlet or letter, or cause to be made in any newspaper, magazine or other publication or over any radio or television station, any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of the unfair trade practice act, and whenever the commissioner shall have reason to believe that any such insurer is engaging in such unlawful advertising, it shall be his duty to give notice of such fact by registered mail to such insurer and to the insurance supervisory official of the domiciliary state of such insurer. For the purpose of this section, the domiciliary state of an alien insurer shall be deemed to be the state of entry or the state of the principal office in the United States. (1961, c. 226. 1963, c. 414, § 64.)

Effect of amendment. — The 1963 amendment substituted "section 17-A" for "section 1" near the beginning of this section.

Sec. 17-D. Action by commissioner against insurer under unfair trade practice act.—If after 30 days following the giving of the notice mentioned in section 17-C such insurer has failed to cease making, issuing or circulating such false misrepresentations or causing the same to be made, issued or circulated in this state, and if the commissioner has reason to believe that a proceeding by him in respect to such matters would be to the interest of the public, and that such insurer is issuing or delivering contracts of insurance to residents of this state or collecting premiums on such contracts or doing any of the acts enumerated in section 17-E, he shall take action against such insurer under the unfair trade practice act. (1961, c. 226.)

Sec. 17-E. Service upon unauthorized insurer.—

I. Any of the following acts in this state, effected by mail or otherwise, by any such unauthorized foreign or alien insurer:

A. The issuance or delivery of contracts of insurance to residents of this state,

B. The solicitation of applications for such contracts,

C. The collection of premiums, membership fees, assessments or other considerations for such contracts, or

D. Any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the commissioner and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all statements of charges, notices and lawful process in any proceeding instituted in respect to the misrepresentations set forth

in section 17-C under the provisions of the unfair trade practice act, or in any action, suit or proceeding for the recovery of any penalty therein provided, and any such act shall be signification of its agreement that such service of statement of charges, notices or process is of the same legal force and validity as personal service of such statement of charges, notices or process in this state, upon such insurer.

II. Service of a statement of charges and notices under said unfair trade practice act shall be made by any deputy or employee of the insurance department delivering to and leaving with the commissioner or some person in apparent charge of his office, 2 copies thereof. Service of process issued by any court in any action or proceeding to collect any penalty under said act provided, shall be made by delivering and leaving with the commissioner, or some person in apparent charge of his office, 2 copies thereof. The commissioner shall forthwith cause to be mailed by registered mail one of the copies of such statement of charges, notices or process to the defendant at its last known principal place of business, and shall keep a record of all statements of charges, notices and process so served. Such service of statement of charges, notices or process shall be sufficient provided they shall have been so mailed and the defendant's receipt or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing such letter showing a compliance herewith are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as may be allowed.

III. Upon other persons. Service of statement of charges, notices and process in any such proceeding or action shall in addition to the manner provided in subsection II be valid if served upon any person within this state who on behalf of such insurer is

A. Soliciting insurance, or

B. Making, issuing or delivering any contract of insurance, or

C. Collecting or receiving in this state any premium for insurance; and a copy of such statement of charges, notices or process is sent within 10 days thereafter by registered mail by or on behalf of the commissioner to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter, the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the same showing a compliance herewith, are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as the court may allow.

IV. No cease or desist order under this section shall be entered until the expiration of 30 days from the date of the filing of the affidavit of compliance.

V. Service of process and notice under sections 17-A to 17-E shall be in addition to all other methods of service provided by law, and nothing in sections 17-A to 17-E shall limit or prohibit the right to serve any statement of charges, notices or process upon any insurer in any other manner now or hereafter permitted by law. (1961, c. 226. 1963, c. 414, §§ 65, 66.)

Effect of amendment.—The 1963 amendment deleted "suit" following "action" in the second sentence of subsection II and substituted "proceeding or action" for "proceeding, action or suit" near the beginning of subsection III.

Deposit of Securities with Treasurer of State.

Sec. 25. Proceedings when company fails.—If any company depositing securities as provided in sections 18 and 22 fails to meet its obligations to its policyholders while its securities are so on deposit, the treasurer of state shall demand of its secretary or clerk, and he shall furnish, a full and complete list of the names and residences of all policyholders and others having claims upon the company; and they shall be notified forthwith through the postoffice by the treasurer of the condition of the company; and he shall state in the notice that the securities held by him will be disposed of and the proceeds, after paying expenses, paid over in a ratable proportion upon their claims properly authenticated, and the time when such dividend will be made. Nothing in the foregoing provisions imposes any liability on the state on account of any delinquency of said treasurer. Any company which has made such deposit, or the commissioner or any creditor of such company may at any time commence a civil action in the superior court against the state and other parties properly joined therein to enforce, administer or terminate the trust created by such deposit. The process in such action shall be served on the treasurer of state and attorney general, who shall appear and answer on behalf of the state and perform such orders and decrees as the court may make therein. (R. S. c. 56, § 21. 1961, c. 317, § 183.)

Effect of amendment.—The 1961 amendment substituted "a civil action in the superior court" for "a suit in equity in the supreme judicial court or in the superior court" in the third sentence in this section and substituted "action" for "suit" in the last sentence.

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. 30-A. Insurance companies prohibited from owning or operating funeral establishments.—It shall be unlawful for any insurance company to own, manage, supervise, operate or maintain a mortuary establishment or funeral establishment. (1963, c. 159, § 1.)

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, 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 ¼ 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. 1963, c. 50.)

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.

The 1963 amendment deleted the remainder of the exception in the first sentence.

Sec. 34. Dissolution of domestic mutual insurance companies.— Whenever at any meeting of the policyholders of a domestic mutual insurance company, except life, called for the purpose by notice published once weekly on 3 successive weeks in a newspaper printed in each county of the state in which the company is chartered to operate, the last publication being at least 7 days prior to such meeting, the majority of the policyholders and shareholders present and voting, vote to dissolve such company, a complaint against the same for dissolution thereof may be filed by any officer, shareholder, member or creditor in the superior court in the county in which it has its principal place of business. Upon said complaint, notice shall be given by the clerk of courts to the attorney general and the commissioner and such notice shall be given to others as may be ordered by the court, and upon proof thereof, such proceedings may be had according to the usual course of civil actions that said corporation be dissolved and terminated. Upon proof that there are no existing liabilities against said corporation and no existing assets thereof requiring distribution among the shareholders, said court may dissolve said company without the appointment of trustees or receivers. Assets remaining after payment of the costs of dissolution, claims against the company and repayment of the guaranty capital shall be paid to the treasurer of state for the use of the state. (1951, c. 138, § 2. 1961, c. 317, § 184.)

Effect of amendment.—The 1961 amendment rewrote this section.

Sec. 42. Certificates of articles of association; approval; filed and recorded; certificate of organization.

Cited in McGray v. Barrows, 156 Me. 250, 163 A. (2d) 747.

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. Licenses.

If, upon application by said company, the commissioner shall refuse for 5 days to countermand such notice of intention not to renew said license, said company shall have the right of appeal in the same manner and effect as is provided in section 60. Upon appeal said court may, after hearing, make an order continuing the right of said company to do business in this state until final decision. If the decision of the court reverses the decision of the commissioner, the commissioner shall forthwith issue the license. (R. S. c. 56, § 44. 1963, c. 414, § 67.)

Effect of amendment.—The 1963 amendment substituted "court" for "justice" in the second and third sentences of the second paragraph.

As the first paragraph was not affected by the amendment, it is not set out.

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 ot 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 is-

sued 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. 54. License revoked for violation.—The commissioner may revoke a license of any foreign insurance company authorized to do business in this state which neglects or refuses to comply with its laws, or which violates section 49. (R. S. c. 56, § 46. 1959, c. 378, § 41.)

Effect of amendment.—P. L. 1959, c. 378, § 41, effective on its approval, January 29, 1960, eliminated a reference to § 273 at the end of this section and made other minor changes.

Sec. 58. Receivers for foreign companies; appointment; powers.—When a foreign insurance company doing business in this state is dissolved, restrained or prohibited from doing business in the place where it is incorporated, and when under section 57 the commissioner regards the proceedings advisable, he may apply to the superior court setting forth the facts, and thereupon the court may appoint a receiver or receivers to take possession of the assets of the company in this state, and collect, sell or dispose of the same as the court may decree, and divide the proceeds pro rata among such creditors in this state as prove their claims before said court before the dividend is made. The balance, if any, shall be paid to the company or its assigns. The proceedings shall conform to section 10. The receivers may maintain an action for any such assets in their own names as receivers, subject to all equities existing between the original or previous parties. (R. S. c. 56, § 50. 1963, c. 414, § 68.)

Effect of amendment.—Prior to the 1963 amendment application was made to the supreme judicial court or the superior court or any justice of either of said courts, either in term time or vacation. The amendment also divided the first sentence into two sentences, substituted "section 57" for "the provisions of the preceding section" in the first sentence, and deleted "herein provided for" near the beginning of the present third sentence.

Sec. 60. Appeal.—When the commissioner suspends the operations of a company or, on application, refuses to countermand such suspension, it may appeal to the superior court by filing a complaint therefor, and the court shall fix a time and place of hearing which may be at chambers, and cause notice thereof to be given to the commissioner. After the hearing, the court may affirm or reverse the decision of the commissioner. The decision of such court is final. (R. S. c. 56, § 52. 1961, c. 317, § 185.)

Effect of amendment.—The 1961 amendment rewrote this section, dividing it into three sentences.

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

Sec. 62. Actions against; judgment; suspension unless judgment paid within 30 days; company notified of service of process.—Any person having a claim against any foreign insurance company may bring a trustee action or any other appropriate action therefor in the courts of this state. Service made upon the commissioner or upon any duly appointed agent of the company within the state shall be deemed sufficient service upon the company and the judgment rendered therein shall bind the company as valid in every respect, whether the defendants appear or not. Unless such judgment is paid within 30 days after demand, the commissioner may, on notice and hearing of the parties, suspend the power of the company to do business in this state until it is paid and if the company or any agent thereof issues any policy in the state during such suspension, said company and agent each forfeits not exceeding $200; but any policy so issued is binding on the company in favor of the holder. Whenever lawful process against an insurance company shall be served on the commissioner, he shall forthwith notify the company of such service by letter and within a reasonable time forward a copy of the process served on him, by mail, postpaid and directed to the officers of the company. (R. S. c. 56, § 54. 1961, c. 317, § 186.)

Effect of amendment.—The 1961 amendment substituted "action" for "suit" in the first sentence of this section.

Stock Companies.

Sec. 70. Liability of stockholders, in certain cases.—If any stock company becomes insolvent before its whole capital is paid in by the stockholders, any creditor thereof, may, in a civil action against any one or more of the stockholders, whose proportion of the whole stock allowed by the charter is not paid in, recover against them in their individual capacity towards his debt, an amount not exceeding the sum due from them on their shares. (R. S. c. 56, § 62. 1961, c. 317, § 187.)

Effect of amendment.—The 1961 amendment substituted "may, in a civil action" for "may have his action on the case" and deleted "to" preceding "recover" in this section.

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 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. 82. Insurance by mutual companies regulated.—Domestic mutual fire insurance companies may make insurance on dwelling houses, stores, shops and other buildings, and on household furniture, merchandise and other property against loss or damage by fire originating in any cause other than by design on the part of the assured, and for such other purposes as are now or may be hereafter enumerated in section 30. (R. S. c. 56, § 73. 1963, c. 51.)

Effect of amendment.—The 1963 amendment deleted "for a term, not exceeding 7 years" formerly following "make insurance" near the beginning of this section.

Sec. 85. Assessments on premium notes and contracts of insurance; limits of liability stated.

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

(1961, c. 317, § 188.)

Effect of amendment.—The 1961 amendment substituted "counterclaim" for "set-off" in the second sentence of the second paragraph of this section. As the rest of the section was not affected by the amendment, only the second paragraph is set out.

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. 89. Lien on insured real estate.—Any fire insurance company shall have a lien against the assured, on the buildings insured and the land appurtenant thereto, for the amount at any time due on said note, to commence from the time of the recording of the same, and to continue 60 days after the expiration of the policy on which such note is given, if the company causes a certificate of its claim to such lien, signed by the secretary, to be recorded by the register of deeds for the county or district. During the pendency of such lien, an attachment of such property, in a civil action on said note in favor of the company, has priority of all other attachments or claims. Execution, when recovered, may be levied on it accordingly. (R. S. c. 56, § 81. 1963, c. 414, § 69.)

Effect of amendment.—The 1963 amendment divided this section into three sentences, deleted "as hereinafter provided" in the present first sentence, substituted "civil action" for "suit" in the present second sentence, and made other minor changes.

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.

Sec. 94. Assessments examined by court on application of parties interested; adjustment of claims, when directors neglect to make assessments.—Whenever the directions [directors] of a mutual fire insurance company or a mutual marine insurance company make an assessment or call on its members for money, or by vote determine that there exists a necessity for such assessment or call, they, or any person interested in the company as an officer, policyholder or creditor, may file in the superior court in any county, a complaint, praying the court to examine said assessment or call or to determine the necessity therefor and all matters connected therewith, and to ratify, amend or annul the assessment or call or to order that the same be made as law and justice may require. The decision on such complaint, when filed by any party except the corporation, or a receiver or the commissioner, shall rest in the discretion of the court. And whenever the directors unreasonably neglect to make an assessment or call, to satisfy an admitted or ascertained claim upon the company, any judgment creditor, or any person holding such admitted or ascertained claim or the commissioner may make the application. Upon such application, if made by the directors, or upon order of court if made by application of any other party, the directors shall set forth the claims against the company, its assets and all other facts and particulars appertaining to the matter. (R. S. c. 56, § 86. 1961, c. 317, § 189.)

Effect of amendment.—The 1961 amendment divided the former first sentence of this section into two sentences, substituted "file in the superior court" for "apply to the supreme judicial court or to the superior court" and "a complaint" for "by a petition in the nature of a bill in equity" in the present first sentence and substituted "The decision on such complaint, when filed" for "such application, when made" at the beginning of the present second sentence.

Sec. 95. Order of notice to parties interested and proceedings.—The court before which the complaint described in section 94 is filed shall order notice to all parties interested, by publication or otherwise. Upon the return thereof, the court shall proceed to examine the assessment or call, the necessity therefor and all matters connected therewith. Any parties interested may appear and be heard thereon, and all questions that may arise shall be heard and determined as in other civil actions in which equitable relief is sought. The court may refer the

apportionment or calculation to any competent person, and upon the examination may ratify, amend or annul the assessment or call, or order one to be made. In case the assessment or call is altered or amended, or one is ordered, the directors shall forthwith proceed to vote the same in legal form and the record of such vote shall be set forth in a supplemental answer. (R. S. c. 56, § 87. 1961, c. 317, § 190.)

Effect of amendment.—The 1961 amendment rewrote the former first sentence of this section, dividing it into three sentences. It also deleted "bill or" formerly preceding "answer" at the end of the section.

Sec. 98. Assessment not sufficient, collection stayed by court. — Whenever it shall appear to the court before which the complaint provided for in section 94 is pending, that the net proceeds of any assessment or call will not be sufficient to furnish substantial relief to those having claims against the company, it may decree that no assessment shall be collected. When, on application of the commissioner or any person interested, said court is of opinion that further attempts to collect an assessment then partially collected will not benefit those having claims against the company, it may stay its further collection. (R. S. c. 56, § 90. 1963, c. 414, § 70.)

Effect of amendment.—The 1963 amendment divided this section into two sentences, deleted "the presiding justice of" near the beginning of the first sentence, substituted "complaint" for "petition" in such sentence, substituted "it" for "he" in both the first and second sentences, and substituted "court" for "justice" in the second sentence.

Sec. 99. Domestic mutual fire insurance or assessment casualty companies, when insolvent or in hazardous condition. — Whenever any domestic mutual fire insurance company or assessment casualty company is found after examination to be insolvent, or is found to be in such condition that its further transaction of business will be hazardous to its policyholders, its creditors or to the public, or when it has willfully violated its charter or any law of the state, or has refused to submit its books, papers, accounts and affairs for examination, the commissioner may, the attorney general representing him, file in the superior court a complaint seeking for an order directing such corporation to show cause why the commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors or the public may require. (R. S. c. 56, § 91. 1961, c. 317, § 191.)

Effect of amendment.—The 1961 amendment substituted "file in the superior court a complaint seeking" for "apply to any justice of the supreme judicial court or of the superior court in term time or vacation" near the middle of this section.

Sec. 101. Decree of sequestration.—If on the complaint provided for in section 99, the court shall direct the commissioner to take possession of the property, conserve the assets of such corporation and conduct the business of the company, the rights of the said commissioner with reference to such corporation and its said assets shall be the same as those exercised by receivers and masters appointed by the courts for liquidation of insurance companies. (R. S. c. 56, § 93. 1961, c. 317, § 192.)

Effect of amendment.—The 1961 amendment substituted "complaint" for "application" near the beginning of this section and deleted "in chancery" following "masters" near the end thereof.

Fire Insurance.

Sec. 105. Form of standard policy.—The standard form of fire insurance policy shall be plainly printed, and no portion thereof shall be in type smaller

than 8-point, with permission to substitute for the word "company" a more accurate descriptive term for the type of insurer, and shall be as follows:

No. .....

(Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of policy)

(Space for listing amounts of insurance, rates, premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached)

Subject to Form No(s). attached hereto.

Insert form number(s) and edition date(s)

Mortgage Clause: Subject to the provisions of the mortgage clause attached hereto, loss, if any, on building items, shall be payable to:

Insert name(s) of mortgagee(s) and Mailing address(es)

Agency at

Countersignature Date

.....Agent

In Consideration of the Provisions and Stipulations herein or added hereto and of the premium above specified, this Company, for the term of ..... from ..... at noon (Standard Time) to ..... at noon (Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified, does insure ..... and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or laws regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described herein while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any

civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring (a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a ten days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation. If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and as-

certainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at the agency hereinbefore mentioned.

(Space for insertion of signatures and titles of proper officers)

(R. S. c. 56, § 97. 1947, c. 170, § 2. 1961, c. 317, §§ 193, 194; c. 328, § 1.)

Effect of amendments.—Chapter 328, P. L. 1961, effective January 1, 1962, rewrote this section without giving any recognition or effect to c. 317, P. L. 1961, which amended a former provision entitled "Reference" (now replaced by the provision entitled "Appraisal") by eliminating "in law or equity" near the end thereof and also amended the provision entitled "Suit". As to the changes made in the latter provision by c. 317, see the following paragraph in this note.

Provision entitled "Suit" amended by P. L. 1961, c. 317.—Prior to the amendment of this section by **P. L. 1961, c. 317, the next** to last provision in the policy form read as follows:

"Suit. No suit or action on this policy for the recovery of any claim shall be sustained in any court of law or equity unless commenced within two years next after inception of the loss."

Chapter 317 substituted "Civil action" for "Suit" as the title of the provision, substituted "civil action" for "suit or action" near the beginning of the provision and eliminated "of law or equity" following "court". Chapter 328, P. L. 1961, rewrote the provision to read as it appears in the section set out above.

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. 105-B. Lines numbered consecutively. — The lines of the conditions of the standard fire insurance policy shall be numbered consecutively at the option of the commissioner. (1961, c. 328, § 2.)

Effective date.—Section 3 of c. 328, P. L. 1961, adding this section, provides that the act will take effect January 1, 1962.

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 amendment made the former first sentence into three sentences, inserted the words "in excess of $1,000" in the present first sentence and substituted $1,000" for "$100" in the present second sentence.

Lien of Mortgagees on Fire Policies.

Sec. 112. Lien enforced by civil action.—If a mortgagor does not consent as provided for in section 111, the mortgagee of any real estate may, at any time within 60 days after a loss, and the mortgagee of any personal property may at any time within 30 days after a loss, enforce his lien by a civil action against the mortgagor, and the company as his trustee, in which judgment may be rendered for what is found due from said company upon the policy, notwithstanding the time of payment of the whole sum secured by the mortgage has not arrived, and which said action shall be commenced and service made on such trustee within said 60 or 30 days. (R. S. c. 56, § 105. 1963, c. 414, § 71.)

Effect of amendment.—The 1963 amendment substituted "section 111" for "the preceding section" near the beginning of this section, substituted "civil action" for "suit" near the middle of the section and substituted "action" for "suit" near the end of the section.

Sec. 113. Application of amount recovered.—The amount recovered under section 112 shall be applied first to the payment of the costs of the civil action and officer's fees on the execution and next to the payment of the amount due on the mortgage. The balance, if any, shall be retained by the company and paid to the mortgagor. If the company assumes the defense, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the action, would be. (R. S. c. 56, § 106. 1963, c. 414, § 72.)

Effect of amendment.—The 1963 amendment divided the first sentence into two sentences, deleted "the provisions of" preceding "section" in the first sentence, substituted "civil action" for "suit" in such sentence, and substituted "action" for "suit" in the third 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.

II.

A. Required provisions.

11. A provision as follows:

LEGAL ACTIONS. No civil action shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No

such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

(1955, c. 177. 1961, c. 317, § 195.)

Effect of amendments.—The 1955 amendment added subparagraph 8 to paragraph A of subsection I.

The 1961 amendment substituted "civil action" for "action at law or in equity" near the beginning of subparagraph 11 of paragraph A of subsection II.

As the rest of the section was not affected by the amendments, only subsection I and subparagraph 11 of paragraph A of subsection II are 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.

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)

C.

3. The policy must cover at date of issue at least 100 persons and not less than an average of 5 persons per employer unit, except that, in the case of credit union employees the policy must cover at least 25 persons but shall not be subject to any required average number of employees covered 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:

a. The participating employers constitute at date of issue at least 60% of those employer members whose employees are not already covered for the same or similar benefits under a plan maintained by their employer, or

b. The total number of persons covered at date of issue exceeds 600.

D. A policy issued to a creditor, or to a trustee or trustees or agent designated by 2 or more creditors, which creditor, trustee, trustees or agent shall be deemed the policyholder, insuring a group of debtors of the creditor or a group of debtors of the 2 or more creditors, as the case may be, all as defined and set forth under section 164, subsection II, and under the same conditions and limitations as specified in said subsection, provided that the amount of indemnity payable with respect to any person insured thereunder shall not at any time exceed the aggregate of the periodic scheduled unpaid installments, nor the sum of $15,000, whichever is less, and provided that nothing in this paragraph shall be construed or deemed to apply to or affect disability benefit provisions in group credit life insurance policies as authorized under section 170-C, subsection IV.

(1955, c. 226. 1963, c. 194; c. 235, § 1.)

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

The first 1963 amendment inserted the exception in subparagraph 3 of paragraph C of subsection II. The second 1963 amendment added paragraph D to subsection II.

As the rest of the section was not changed, only subparagraph 3 of paragraph A, subparagraph 3 of paragraph C, and paragraph D of subsection II are set out.

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

I. Any policy or contract of insurance against death or injury resulting from accident or from accidental means which insures a group of persons conforming to the requirements of one of the following paragraphs A to G shall be

deemed a blanket accident policy. Any policy or contract which insures a group of persons conforming to the requirements of one of the following paragraphs C or E against total or partial disability, excluding such disability from accident or from accidental means, shall be deemed a blanket sickness insurance policy. Any policy or contract of insurance which combines the coverage of blanket accident insurance and of blanket sickness insurance on such a group of persons shall be deemed a blanket accident and sickness insurance policy.

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. 1963, c. 414, § 73.)

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 institution of learning" in paragraph C of subsection I.

The 1963 amendment substituted "A to G" for "A to E, inclusive" in the first sentence of the opening paragraph 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.—Any order or decision of the commissioner, issued under sections 116 to 125, shall be subject to 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 complaint 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 presentation thereof, the court shall order notice thereon. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court 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 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. (1949, c. 421. 1959, c. 317, § 30. 1961, c. 317, § 196. 1963, c. 414, § 74.)

Effect of amendments.—The 1959 amendment rewrote the last paragraph.

The 1961 amendment deleted "the provisions of" preceding "sections 116 to 125" and "review by a justice of the superior court, in term time or vacation, by" preceding "an appeal" in the first sentence of this section, substituted "complaint" for "petition" in the second sentence and substituted "presentation thereof, the court" for "filing thereof, the court in term time, or a justice thereof in vacation" in the third sentence.

The 1963 amendment deleted "or any justice thereof" in the fourth sentence of this section and also deleted "or a justice thereof" in the fifth sentence.

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. 132. Issuing of life insurance policies.

VI. Method used in computing value and benefit. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in

calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy. (1961, c. 202, § 1.)

Effect of amendment.—The 1961 amendment rewrote subsection VI of this section. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 135. Adjusted premiums.—

I. How calculated. Except as provided in the 4th paragraph of this subsection, 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, excluding any extra premiums because of impairments or special hazards, 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 uniform 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 uniform 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 uniform amount thereof for the purpose of this section shall be deemed to be the uniform 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 date of issue as the benefits under the policy, provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first 3 paragraphs of this subsection except that, for the purposes of paragraphs B, C and D, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in subsections II and III, 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 in-

surance issued on female risks, adjusted premiums and present values may be calculated according to an age of not more than 3 years younger than the actual age of the insured, and 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.

III. Industrial policies. In the case of Industrial policies issued on or 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 1961 Standard Industrial 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. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefits, the rates of mortality assumed may not be more than those shown in the Commissioners 1961 Industrial 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 September 21, 1963, any company may file with the commissioner a written notice of its election to comply with this subsection after a specified date before January 1, 1968. 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 Industrial 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, 1968. (R. S. c. 56, § 119. 1959, c. 118, § 1. 1961, c. 202, § 2. 1963, c. 119, §§ 1, 2.)

Effect of amendments.—The 1959 amendment designated all the former section 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 former fourth paragraph, added new subsection II and made minor changes in wording throughout the section.

The 1961 amendment rewrote present subsection I.

The 1963 amendment combined the first two sentences of the last paragraph of subsection I into one sentence, substituted "subsection II and III" for "subsection II" near the beginning of such paragraph, and added subsection III.

Sec. 136. Calculation of cash surrender value of certain policies in case of default.—Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in sections 133 to 135 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding section 133, additional benefits payable:

I. Death or accident. In the event of death or dismemberment by accident or accidental means,

II. Total disability. In the event of total and permanent disability,

III. Reversionary annuity. As reversionary annuity or deferred reversionary annuity benefits,

IV. Term insurance benefits. As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, sections 132 to 137 would not apply,

V. Child term insurance benefits. As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26; is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and

VI. Other policy benefits. As other policy benefits additional to life insurance and endowment benefits,

and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by sections 132 to 137, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits. (R. S. c. 56, § 120. 1961, c. 202, § 3.)

Effect of amendment.—The 1961 amendment deleted "decreasing" preceding "term insurance" in subsection IV of this section, added present subsection V, renumbered former subsection V as subsection VI and made other minor changes in the section.

Standard Valuation Law.

Sec. 138. Calculation of reserve liabilities.—The commissioner shall annually value, or cause to be valued, the reserved liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, except that in the case of an alien company, such valuation shall be limited to its United States business, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods, net level premium method or other, used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximately averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other

jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserve would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. (R. S. c. 56, § 122. 1961, c. 202, § 4.)

Effect of amendment.—The 1961 amendment added "except that in the case of an alien company, such valuation shall be limited to its United States business" following "doing business in the state" above the middle of this section.

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.

II. Standard Industrial Mortality Table. For all Industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section 135, subsection III of the standard nonforfeiture law, as amended, and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.

III. Standard Annuity Mortality Table or Annuity Mortality Table. For Individual Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

IV. Group Annuity Mortality Table. For Group Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual Annuity and Pure Endowment contracts.

V. Class (3) Disability Table. For Total and Permanent Disability Benefits in or supplementary to Ordinary policies or contracts — for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

VI. Inter-Company Double Indemnity Mortality Table. For Accidental Death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mor-

tality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

VII. Group Life Insurance Tables. For group life insurance, life insurance issued on the substandard basis and other special benefits—such table as may be approved by the commissioner. (R. S. c. 56, § 123. 1945, c. 203, § 3. 1959, c. 118, § 2. 1961, c. 202, § 5. 1963, c. 119, § 3.)

Effect of amendments.—The 1959 amendment added all of the language after "1941 Standard Ordinary Mortality Table" to subsection I of this section.

The 1961 amendment rewrote subsections III, IV, V and VI and added subsection VII.

The 1963 amendment added all of the language after "1941 Standard Industrial Mortality Table" to subsection II.

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

Sec. 140. Commissioners reserve valuation method defined. Reserves according to the commissioners reserve valuation method for:

A. Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

B. Annuity and pure endowment contracts,

C. Disability and accidental death benefits in all policies and contracts, and

D. All other benefits, except life insurance and endowment benefits in life insurance policies,

shall be calculated by a method consistent with the principles of the preceding paragraph except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums. (R. S. c. 56, § 124. 1961, c. 202, § 6.)

Effect of amendment.—The 1961 amendment substituted all of the language following "preceding" for "subsection" at the end of this section.

As the rest of the section was not affected by the amendment, only the last paragraph is 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 congress 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. 149. Unfair methods of competition and unfair or deceptive acts or practices defined.

VIII. Rebates.

C.

5. Payments made toward, or reductions in, the cost of insurance or pension benefits, by a domestic insurance company, as authorized under sections 168 and 169.

IX. Any violation of sections 160, 273-R, 273-S and 298. (R. S. c. 56, § 133. 1947, c. 14. 1949, c. 319. 1959, c. 378, § 42. 1963, c. 53, § 3.)

Effect of amendments. — The 1959 amendment, effective on its approval, January 29, 1960, rewrote subsection IX.

The 1963 amendment added subparagraph 5 to paragraph C of subsection VIII.

As the rest of the section was not affected by the amendments, only subparagraph 5 of paragraph C of subsection VIII and subsection IX are set out.

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.

The commissioner, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence and shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence or other documents which he deems relevant to the inquiry. The commissioner, upon such hearing may, and upon the request of any party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued or to testify with respect to any matter concerning which he may be lawfully interrogated, the superior court of Kennebec county or the county where such party resides, on application of the commissioner, may issue an order requiring such person to comply with such subpoena and to testify. Any failure to obey any such order of the court may be punished by the court as a contempt thereof.

(1959, c. 82, § 3. 1961, c. 317, § 197.)

Effect of amendments.—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.

The 1961 amendment divided the former last sentence of the fourth paragraph of this section into two sentences, deleted "or a justice thereof, in term time or vacation" preceding "on application" in the present fourth sentence of that paragraph and made other minor changes therein.

As the rest of the section was not affected by the amendment, only the first and fourth paragraphs are set out.

Sec. 152. Cease and desist orders.

Until the expiration of the time allowed under the first paragraph of section 153 for filing a complaint if no such complaint has been duly filed within such time or, if a complaint has been filed within such time, then until the transcript of the record in the proceeding has been filed in the superior court, the commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued or action taken by him under this section.

After the expiration of the time allowed for filing such a complaint if no such complaint has been duly filed within such time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued or action taken by him under this section whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require. (R. S. c. 56, § 136. 1949, c. 319. 1963, c. 414, § 75.)

Effect of amendment.—The 1963 amendment substituted "complaint" for "petition for review" and "petition" in the second and third paragraphs and deleted "as hereinafter provided" near the middle of the second paragraph.

As the first paragraph was not affected by the amendment, it is not set out.

Sec. 153. Judicial review of cease and desist orders.—Any person required by an order of the commissioner under section 152 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in section 149 or whose license has been suspended or revoked may obtain a review of such order or act by filing in the superior court in Kennebec county, within 30 days from the date of the service of such order, a complaint praying that the order of the commissioner be set aside. A copy of such complaint shall be forthwith served upon the commissioner, and thereupon the commissioner forthwith shall certify and file in such court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the commissioner. Upon such filing of the complaint and transcript, such court shall have jurisdiction of the proceeding and of the question determined therein, shall determine whether the filing of such complaint shall operate as a stay of such order or act of the commissioner and shall have power to make and enter upon the pleadings, evidence and proceedings set forth in such transcript a decree modifying, affirming or reversing the order or act of the commissioner, in whole or in part. The findings of the commissioner as to the facts, if supported by substantial evidence, shall be conclusive.

I. Expiration of time for filing complaint. Upon the expiration of the time allowed for filing a complaint if no such complaint has been duly filed within such time; except that the commissioner may thereafter modify or set aside his order to the extent provided in the 2nd paragraph of section 152; or

II. Final decision of court. Upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the complaint dismissed.

(1961, c. 317, § 198; c. 417, § 157. 1963, c. 414, §§ 76, 77.)

Effect of amendments.—The first 1961 amendment deleted "in term time or vacation" preceding "within 30 days" and substituted "complaint" for "written petition" in the first sentence of this section. It also substituted "complaint" for "petition" and deleted "or justice thereof, in term time or vacation" following "such court" in the third sentence. The second 1961 amendment substituted "complaint" for "petition" near the beginning of the second sentence.

The 1963 amendment substituted "complaint" for "petition" and "petition for review" in the third sentence of the first paragraph and in subsections I and II.

As the rest of the section was not affected by the amendments, only the first paragraph and subsections I and II are 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.

If such report charges a violation of sections 146 to 158, and if such method of competition, act or practice has not been discontinued, the commissioner may, through the attorney general of this state at anytime after 30 days after the service of such report, cause a complaint to be filed in the superior court within the county wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

A transcript of the proceedings before the commissioner including all evidence taken and the report and findings shall be filed with such complaint. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner, the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(1959, c. 82, § 4. 1961, c. 317, § 199.)

Effect of amendments.—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.

The 1961 amendment substituted "complaint" for "petition" and deleted "of this state" following "superior court" in the first sentence of the second paragraph. It also substituted "complaint" for "petition" at the end of the first sentence of the third paragraph.

As the last paragraph of this section was not affected by the amendments, it is not set out.

Sec. 155. Judicial review by intervenor.—If the report of the commissioner does not charge a violation of sections 146 to 158, then any intervenor in the proceedings may, within 30 days after the service of such report, cause a complaint to be filed in the superior court in Kennebec county for a review of such report. Upon such review, the court shall have authority to issue appropriate orders and decrees in connection therewith, including, if the court finds that it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such report of the commissioner, constitutes a violation of sections 146 to 158. (1949, c. 319. 1961, c. 317, § 200.)

Effect of amendment.—The 1961 amendment substituted "complaint" for "petition" and deleted "in term time or vacation" formerly following "Kennebec county" in the first sentence of this section. It also deleted "or a justice thereof, in term time or vacation" formerly following "the court" in the second sentence.

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.)

Miscellaneous Provisions.

Sec. 159-A. Holding proceeds of policies in trust.—Any life insurance company organized under or created by the laws of this state shall have power to hold the proceeds of any policy issued by it under a trust or other agreement upon such terms and restrictions as to revocation by the policyholder and control by the beneficiaries and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as shall have been agreed to in writing by such company and the policyholder. Such company shall not be required to segregate funds so held but may hold them as a part of its general corporate assets. A foreign or alien company, when authorized by its charter or the laws of its domicile, may exercise any such powers in this state. Nothing contained in this section shall be construed to subject any such company to any other laws or requirements of this state which would not be deemed applicable in the absence of this section. (1963, c. 290.)

Sec. 160-A. Insurance companies prohibited from contracting for funerals.—It shall be unlawful for any insurance company to contract or agree with any funeral director, funeral establishment or mortuary establishments to the effect that such funeral director, funeral establishment or mortuary establishment shall conduct the funeral of any person insured by such company. Nothing herein shall prevent compliance with chapter 31, section 16, or the use of an insurance policy to provide security for the payment of a funeral. (1963, c. 159, § 2.)

Sec. 161. Life insurance contracts by or for the benefit of minors.—Any person who is not of the full age of 21 years but who is of the age, as determined by the nearest birthday, of not less than 15 years, shall be deemed competent to contract for life insurance upon the life of such minor or upon the life of any person in whom the minor has an insurable interest, for the benefit of such minor or for the benefit of the father, mother, husband, wife, brother or sister, child or children, or any grandparent of such minor, and to exercise and enjoy every right, privilege and benefit which the minor has or to which he may become entitled under any life insurance contract on the life of such minor or person in whom the minor has an insurable interest whether or not such contract was applied for by such minor, subject to the foregoing limitations as to designation of beneficiary. (R. S. c. 56, § 139. 1963, c. 258, § 1.)

Effect of amendment.—The 1963 amendment rewrote this section.

Sec. 161-A. Certain minors competent to give valid discharge for life insurance benefits.—Any minor domiciled in this state, who shall have attained the age of 18 years, shall be deemed competent to receive, and to give a full acquittance and discharge for a single sum or for periodical payments, not exceeding $1,000 in any one year, payable by a life insurance company under the maturity, death or settlement agreement provisions in effect or elected by such minor under a life insurance policy or annuity contract, provided such policy, contract or agreement shall provide for the payment or payments to such minor and provided that prior to such payment the company has not received written notice of the appointment of a duly qualified guardian of the property of such minor, but no such minor shall be deemed competent to alienate the right to such

payment or payments or to anticipate the same. This section shall not be deemed as requiring any insurance company making such payment to determine whether any other insurance company may be effecting a similar payment to the same minor. (1963, c. 258, § 2.)

Sec. 161-B. Health insurance contracts by or for the benefit of minors.—Any person domiciled in this state who is not of the full age of 21 years but who is of the age as determined by the nearest birthday of not less than 18 years, shall be deemed competent to contract for health insurance, as defined, for the benefit of and payable to such minor, and to exercise and enjoy every right, privilege and benefit provided by any such health insurance contract, and to give a full and binding acquittance and discharge for any amounts payable by the insurance company under such contract, provided that prior to such payment the company has not received written notice of the appointment of a duly qualified guardian or conservator of the property of such minor. As used in this section, "health insurance" shall include individual policies of accident and sickness insurance providing hospital, surgical, medical expense, disability income and related benefits. (1963, c. 258, § 2.)

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. Policy issued to creditor. A policy issued to a single creditor, or to a trustee or trustees or agent designated by 2 or more creditors, which creditor, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the single creditor or debtors of the 2 or more creditors, as the case may be, subject to the following requirements:

A. The debtors eligible for insurance under the policy shall be all of the debtors of the single creditor or all the debtors of the 2 or more creditors 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 $15,000, 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 $15,000, 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 participating 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. Policy issued to a credit union. A policy issued to a single credit union, or to a trustee or trustees or agent designated by 2 or more credit unions, which credit union, trustee, trustees or agent shall be deemed the policyholder, to insure members of the credit union or credit unions to the extent of each insured member's share in any such union, for the benefit of persons other than the credit union or credit unions or 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 single credit union or all of the members of the 2 or more credit unions, or all of any class or classes thereof determined by conditions pertaining to their membership in the credit union or credit unions, or both.

B. The premium for the policy shall be paid by the policy-holder, either wholly from the credit union's funds, or the credit unions' 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 insured members or by the policyholder.

VIII. Limitations. 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. 1963, c. 195, §§ 1, 2; c. 235, § 2.)

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.

The first 1963 amendment redesignated former subsection VII as present subsection VIII and inserted present subsection

VII, relating to policies issued to credit unions. The second 1963 amendment rewrote the opening paragraph of subsection II, substituted "single creditor or all the debtors of the 2 or more creditors" for "creditor" near the beginning of paragraph A of subsection II, and substituted "$15,000" for "$10,000" in the first and third sentences of paragraph D of subsection II.

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 1960 Group 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. 1961, c. 80.)

Effect of amendment.—The 1951 amendment substituted "Commissioners 1960 Group Mortality Table" for "Commissioners 1941 Standard Ordinary Mortality Table".

Pension Plans and Insurance for Employees and Agents.

Sec. 168. Pension plans of domestic companies.—Any insurance company organized under the laws of this state may pay, pursuant to the terms of a pension plan or plans or any modifications thereof, heretofore or hereafter adopted by the board of directors of such company and approved by the commissioner, the whole or any part of the cost of retirement or disability pensions for such of its officers, employees or full-time insurance agents as are specified in said plan or plans or any modifications thereof. In lieu of such pensions, and if so specified in the plan or plans, actuarially equivalent benefits may be paid to such officers, employees or full-time insurance agents or to their designated beneficiaries. (R. S. c. 56, § 142. 1949, c. 304, § 1. 1963, c. 53, § 1.)

Effect of amendment.—The 1963 amendment inserted "or plans" following "plan" three times in this section and also inserted "or full-time insurance agents" following "employees" twice.

Sec. 169. Insured benefit plans of domestic companies.—Any insurance company organized under the laws of this state may, pursuant to vote of its board of directors heretofore or hereafter made, provide for its officers, employees or full-time insurance agents, a plan or plans of life insurance, sickness, accident, hospitalization, medical, surgical and related insurance benefits, to be issued under group or individual policies, and such company may pay the cost, in whole or in part, for such insurance, or, if duly authorized by its charter and bylaws to issue such insurance, may provide such benefits directly as insurer thereof without requirement of placement through a licensed insurance agent and may provide such benefits at a rate appropriately reduced to reflect such expense savings as the company may determine to be applicable thereto. (R. S. c. 56, § 143. 1949, c. 304, § 1. 1963, c. 53, § 2.)

Effect of amendment.—The 1963 amendment rewrote this section.

Credit Life and Credit Accident and Health Insurance.

Sec. 170-A. Purpose of sections 170-A to 170-N; construction. — The purpose of sections 170-A to 170-N is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in sections 170-A to 170-N is intended to prohibit or discourage reasonable competition. Sections 170-A to 170-N shall be liberally construed. (1961, c. 221.)

Sec. 170-B. Scope; definitions.—

I. Scope. All life insurance and all accident and health insurance in connection with loans or other credit transactions shall be subject to sections 170-A to 170-N, except such insurance in connection with a loan or other credit transaction of more than 5 years duration; nor shall insurance be subject to sections 170-A to 170-N where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

II. Definitions. For the purpose of sections 170-A to 170-N:

A. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

B. "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

C. "Creditor" means the lender of money or vendor or lessor of goods, services or property, rights or privileges for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them.

D. "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

E. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

F. "Commissioner" means the insurance commissioner. (1961, c. 221.)

Sec. 170-C. Forms of credit life and credit accident and health insurance.—Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

I. Individual life. Individual policies of life insurance issued to debtors on the term plan.

II. Individual accident and health. Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance.

III. Group life. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan.

IV. Group accident and health. Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

V. Combination. A combination under subsections I and II or under III and IV. (1961, c. 221.)

Sec. 170-D. Amount of credit life and credit accident and health insurance.—

I. Credit life insurance:

A. Amount of coverage limited. The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

II. Agricultural credit commitments. Notwithstanding subsection I, paragraph A, insurance on agricultural credit transaction commitments not exceeding one year in duration may be written up to the amount of the loan commitment, on a non-decreasing or level term plan.

III. Educational credit commitments. Notwithstanding subsection I, paragraph A, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

IV. Credit accident and health insurance:

A. Coverage limited. The total amount of indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments. (1961, c. 221.)

Sec. 170-E. Term of credit life and credit accident and health insurance.—The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than 30 days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than 15 days beyond the original or revised scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 170-H. (1961, c. 221.)

Sec. 170-F. Provisions of policies and certificates of insurance; delivery or disclosure to debtors.—

I. Policy or certificate delivered. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

II. Contents of policy or certificate. Each individual policy or group certificate of credit life insurance, or credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor, the premium or amount of payment, if a separate identifiable charge is made, by the debtor separately for credit life insurance and credit accident and health insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

III. When delivered. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

IV. Application or notice of proposed insurance. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the premium or amount of payment by the debtor, if a separate identifiable charge is made, separately for credit life insurance and credit accident and health insurance, the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 170-E.

V. Risk not accepted. If the named insurer does not accept the risk, the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance, an appropriate refund shall be made. (1961, c. 221.)

Sec. 170-G. Filing, approval and withdrawal of forms; appeal.—
I. Forms filed. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner.

II. Approval of forms. The commissioner shall within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance laws or of any regulation promulgated thereunder. In determining whether to disapprove any such form or premium rates, the commissioner shall give due consideration to past and prospective loss experience and mortality or morbidity rates, based on

an appropriate mortality or morbidity table, and claim adjustment expenses, general administrative expenses, including handling cost for return premiums, commissions to agents, cost and compensation to the creditor, branch and field expenses and other acquisition costs, federal, state and local taxes, profit to the insurer, reasonable underwriting judgment, and any and all other factors and trends demonstrated to be relevant. The insurer may support these factors by statistical information, experience, actuarial computations and estimates certified by an executive officer of the insurer, and the commissioner shall give due consideration to such supporting data.

III. Notice of disapproval; waiting period. If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider shall be issued or used until the expiration of 30 days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

IV. Approval withdrawn. The commissioner may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in subsection II. The written notice of such hearing shall state the reason for the proposed withdrawal.

V. Use unlawful after approval withdrawn. It is unlawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

VI. Group policy filing. If a group policy of credit life insurance or credit accident and health insurance has been delivered in this state before the effective date of sections 170-A to 170-N, or has been or is delivered in another state before or after they become effective, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in section 170-F, subsections II and IV and such forms shall be approved by the commissioner if they conform with the requirements specified in said subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner. The premium rate in effect on existing group policies may be continued until the first policy anniversary date following the date sections 170-A to 170-N become effective.

VII. Appeal. Any order or final determination of the commissioner under this section is subject to appeal as provided in section 350. (1961, c. 221.)

Sec. 170-H. Premium rates; refunds; accounts credited when insurance not issued.—

I. Rates filed. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.

II. Refund. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto. The commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

III. Accounts credited where insurance not issued. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of in-

surance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

IV. Premium rate observed. The amount charged to a debtor for any credit life or credit health and accident insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined. (1961, c. 221.)

Sec. 170-I. Issuance of policies; collection of premiums. — All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this state only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner. The premium or cost of such insurance when issued through any creditor shall not be deemed interest, or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any benefit or return or other gain or advantage to the creditor arising out of the sale or provision of such insurance shall not be deemed a violation of any other law, general or special, of the state of Maine. The insurance premium or other identifiable charge for such insurance may be collected from the insured or included in the finance charge or principal of any loan or other credit transaction at the time such transaction is completed. (1961, c. 221.)

Sec. 170-J. Claims.—

I. Claims reported. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

II. Claims paid. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

III. Creditor may not adjust claims. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; provided that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer. (1961, c. 221.)

Sec. 170-K. Existing insurance; choice of insurer.—When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state. (1961, c. 221.)

Sec. 170-L. Enforcement of sections 170-A to 170-N. — The commissioner may, after notice and hearing issue such regulations as he deems appropriate for the supervision of sections 170-A to 170-N. Whenever the commissioner finds that there has been a violation of sections 170-A to 170-N or any regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered

by a court of competent jurisdiction. Sections 170-E to 170-H shall not be operative until 90 days after the effective date of this act, and the commissioner in his discretion may extend by not more than an additional 90 days the initial period within which said sections shall not be operative. (1961, c. 221.)

Sec. 170-M. Appeal from order of commissioner. — Any party to the proceedings affected by an order of the commissioner is entitled to appeal by following the procedure set forth in section 350. (1961, c. 221.)

Sec. 170-N. Penalties.—In addition to any other penalty provided by law, any person, firm or corporation which violates an order of the commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of Maine a sum not to exceed $250 which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed $1,000. The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in section 170-M. (1961, c. 221.)

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 benefit societies transacting casualty insurance licensed.—Any association organized or incorporated under the laws of another state or country as a fraternal benefit society 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 benefit societies, 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 sections 199 to 201. (R. S. c. 56, § 172. 1959, c. 363, § 35; c. 378, § 43.)

Effect of amendments.—Chapter 363, P. L. 1959, rewrote this section. Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, substituted the designation "benefit society" for "beneficiary association" in the section and eliminated "the provisions of" immediately preceding "sections 199 to 201" near the end of the 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.

Casualty Insurance on Assessment Plan.

Sec. 223. Contract defined; business carried on only by duly organized corporation. — Every contract whereby a benefit is to accrue to the party or parties named therein upon the accidental death only, or the physical disability from accident or sickness of a person, which benefit is in any degree or manner conditioned upon the collection of an assessment upon persons holding similar contracts, shall be deemed a contract of casualty insurance on the assessment plan, and the business involving the issuance of such contracts shall be carried on in this state only by duly organized corporations which shall be subject to the provisions and requirements of this section and sections 224 to 235. Nothing herein contained shall be construed as applicable to fraternal benefit societies conducting their business in accordance with the laws of this state. (R. S. c. 56, § 197. 1959, c. 378, § 44.)

Effect of amendment.—The 1959 amendment, effective upon its approval, January 29, 1960, divided the section into two sentences, substituted "this section and sections 224 and 235" for "this and the 12 following sections" at the end of the present first sentence and substituted "benefit societies" for "beneficiary associations" in the present second sentence.

Sec. 225. Business conducted fraudulently; corporation closed; receiver, dissolution.—When the commissioner, on investigation, is satisfied that any corporation transacting the business of casualty insurance on the assessment plan in this state under this chapter has exceeded its powers, failed to comply with any law or is conducting business fraudulently, he shall report the facts to the attorney general, who shall thereupon apply to the superior court for an injunction restraining such corporation from the further prosecution of business. The said court upon hearing the matter may issue such injunction or decree the removal of any officer and substitute a suitable person to serve in his stead until a successor is duly chosen, and may make such other order and decrees as the interest of the corporation and the public may require. Whenever any domestic corporation transacting the business of casualty insurance on the assessment plan shall, after an existence of one year or more, have a membership of less than 300, the commissioner may present the facts in relation to the same to the superior court. The said court shall thereupon notify the officers of such corporation of a hearing and unless it shall then appear that some special and good reason exists why the corporation should not be closed, some person shall be appointed receiver of such corporation, and shall proceed at once to take possession of the books, papers, moneys and other assets of the corporation and shall forthwith, under the direction of the court, proceed to close the affairs of such corporation and to distribute to those entitled thereto its funds. For this service the receiver may be allowed out of any funds in possession of the corporation, or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the corporation shall be finally closed, the court may decree a dissolution of the same. (R. S. c. 56, § 199. 1963, c. 414, § 78.)

Effect of amendment.—The 1963 amendment divided the first and second sentences each into two sentences, deleted "the provisions of" preceding "this chapter" in the first sentence, deleted "provision of" following "any" and preceding "law" in such sentence, deleted "a justice of the supreme judicial court or of" preceding "the superior court" in such sentence, substituted "court" for "justice" in the present second and fourth sentences, and deleted "any justice of the supreme judicial court or of" preceding "the superior court" at the end of the present third sentence.

Sec. 228. Duty of commissioner; satisfaction of judgments. — The commissioner shall annually, in February, certify to the treasurer of state the minimum amount of reserve fund required to be kept on deposit in the state treasury by each corporation doing business on the asssessment plan under the provisions of this chapter. If said corporation shall neglect for 60 days to satisfy any judgment against it, in any court in this state, then the said treasurer shall convert into money any of said securities and forthwith satisfy such judgment, and said corporation shall not transact any further business until said deposit is restored. When any such corporation shall discontinue business, the superior court may appoint a receiver or agent to administer any unexhausted portion of such fund which shall be used, less compensation not to exceed 5% as such court may allow the receiver or agent; 1st, in the payment of accrued indemnity claims upon certificates or policies or if insufficient to pay such claims in full, they shall be paid pro rata; 2nd, if a balance remains after the payment of such claims, such balance shall be distributed to the holders of certificates then in force, pro rata, in proportion to the total payments by each policyholder after first paying all expenses incident to such distribution. If, upon the 31st day of December of any

year, the reserve fund of any such corporation is found to be less than the amount of 1 assessment or periodical call upon all the members thereof, said corporation shall, within 1 year thereafter, collect from its members a sum sufficient to bring said reserve fund up to 1 assessment or periodical call upon all its members and deposit the amount with the treasurer of state to the credit of said fund. (R. S. c. 56, § 202. 1963, c. 414, § 79.)

Effect of amendment.—The 1963 amendment deleted "any justice of the supreme judicial court or of" and "or justice" near the beginning of the third sentence.

Sec. 229. Authorization of foreign corporations; authority to do business in the state granted, renewed and revoked.—Any corporation organized under authority of another state or government to issue policies or certificates of casualty insurance on the assessment plan, as a condition precedent to the transaction of business in this state, shall deposit with the commissioner a certified copy of its charter; a statement under oath, of its president and secretary, in the form by the commissioner required, of its business for the preceding year; a certificate, under oath, of its president and secretary, that it has the ability to pay and for the 12 months preceding has paid the maximum amount named in its policies or certificates in full; a certificate from the proper authority in its home state that corporations of this state, engaged according to the provisions of this chapter in casualty insurance on the assessment plan, are legally entitled to do business in such state; a copy of its policy or certificate and application, which must show that benefits are provided for by assessment upon policy or certificate holders; evidence satisfactory to the commissioner that the corporation accumulates a fund, equal at all times in amount to not less than the proceeds of 1 assessment or periodical call on all policy or certificate holders thereof, that such accumulation is permitted by the law of its incorporation, and is a trust for the benefit of policy or certificate holders and is securely invested; provided that no such company shall be hereafter authorized, unless such company shall have a guaranty fund or capital or net cash assets equal to the amount required of domestic companies incorporated after the 12th day of July 1913. Every such corporation and agent of such corporation shall comply with sections 57 and 273-B. The commissioner may thereupon issue or renew the authority of such corporation to do business in this state and such authority to the corporation and its agents shall be revoked whenever the commissioner, on investigation, is satisfied that such corporation is not paying the maximum amount named in its policies or certificates in full or has violated the provisions of section 231, and the commissioner shall enforce the provisions of section 57. Upon such revocation the commissioner shall cause notice thereof to be published in the state paper and no new business shall be thereafter done by said corporation or its agents in this state. (R. S. c. 56, § 203. 1959, c. 378, § 45.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, substituted "273-B" for "273 and 274" at the end of the second sentence.

Reciprocal Contracts of Indemnity.

Sec. 236. Contracts of indemnity; declaration filed by attorneys or agents.—The making of contracts between individuals, firms or corporations, providing indemnity among themselves from casualty or other contingencies or from loss or damage to their own property, shall constitute the business of insurance. Section 49, subsection III, requiring companies to do insurance business in this state by constituted agents resident herein subject to its laws, and sections 273-B, 273-D and 273-R, relating to insurance agents and brokers, shall not apply to the attorney in fact of a reciprocal or interinsurance exchange nor to the traveling salaried home office representatives of such exchanges operating on a salary basis and receiving no commissions, but any reciprocal or interinsurance exchange that operates under the agency system in

this state and appoints agents on a commission basis shall be subject to and conform to the sections hereinabove mentioned. Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred. Where such contracts are exchanged through an attorney, agent or other representative acting for such individuals, firms or corporations, the said attorney, agent or other representative shall file with the commissioner a declaration in writing, verified by the oath of such attorney, agent or other representative, setting forth:

(1959, c. 378, § 46.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29, 1960, divided the former first sentence into two sentences, substituted "273-B, 273-D and 273-R" for "273 to 297" in the present second sentence and made other minor changes in the two sentences.

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

Sec. 237. Actions; service of process.—Concurrently with the filing of the declaration provided for by the terms of section 236, the attorney shall file with the commissioner an instrument in writing, executed by him for said subscribers, agreeing that upon the issuance of the certificate of authority provided for in section 243, in all civil actions in this state arising out of such policies, contracts or agreements, action may be brought in the county or state in which the property insured is situated, that service of process may be made on the commissioner, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney and that the authority of such instrument shall continue in force irrevocable so long as any liability remains outstanding in this state against subscribers. Three copies of such process shall be served and the commisioner shall file 1 copy, forward 1 copy to said attorney and return 1 copy with his admission of service. Said attorney, agent or other representative is authorized to file the above-mentioned instrument appointing the commissioner to receive service of process, which instrument shall be binding upon all the subscribers. (R. S. c. 56, § 211. 1963, c. 414, § 80.)

Effect of amendment.—The 1963 amendment substituted "section 236" for "the preceding section" near the beginning of this section and substituted "civil actions" for "suits" near the middle of the first sentence.

Nonprofit Hospital or Medical Service Organizations.

Sec. 244. Scope.—Any corporation organized under special act of the legislature, or under chapter 54 for the purpose of establishing, maintaining and operating a nonprofit hospital service plan whereby hospital care is to be provided by a hospital, or a group of hospitals, with which such corporation has a contract for such purpose, or such corporation as may establish, maintain and operate a nonprofit medical service plan whereby medical or surgical or optometric service or expense indemnity is provided to such persons or groups of persons as shall become subscribers to such plan under contracts with said corporation, may be licensed by the commissioner on the terms and conditions provided for in sections 245 to 257. (R. S. c. 56, § 218. 1951, c. 47, § 1. 1963, c. 281, § 4.)

Effect of amendment.—The 1963 amendment inserted "or optometric."

Sec. 245. Incorporation.—The articles of incorporation, and amendments thereto, of every corporation organized under the provisions of sections 244 to

257, inclusive, shall be submitted to the commissioner, whose approval thereof shall be indorsed thereon before the same are filed with the secretary of state.

There shall be not less than 7 directors and at least a majority of the directors of such corporation must be at all times administrators, corporators, trustees or members of the clinical staff of the hospital or hospitals which have contracted with such corporation to render hospital service to the subscribers and the physicians and optometrists who have contracted with such corporation to render medical, surgical, obstetrical, optometric or related professional service to the subscribers. (R. S. c. 56, § 219. 1951, c. 47, § 2. 1963, c. 281, § 5.)

Effect of amendment. — The 1963 amendment inserted "and optometrists" and "optometric" in the second paragraph.

Sec. 246. Contracts.—Such corporation mentioned in section 244 may enter into contracts for the rendering of hospital service to the subscribers only with hospitals approved by the departments of health and welfare of the several states. All contracts for hospital service issued by such corporation shall constitute direct obligations of the hospital or hospitals with which such corporation has contracted for hospital care. Contracts issued under the medical service plan shall provide that the private physician-patient relationship shall exist between the patient and physician, that the patient shall have a free choice of any physician or optometrist able and willing to perform medical or optometric service and may provide for medical expense indemnity, all of which shall be based upon definite agreements covering medical or surgical care provided through duly licensed physicians. All contracts for medical, surgical, optometric, obstetrical and related professional service issued by such corporation shall constitute a direct obligation of any physician or optometrist with which such corporation has contracted for professional services, said obligation being to the subscriber accepted for service. Any such physician or optometrist shall be free to refuse service for appropriate professional reasons. Nothing in this section shall be construed to prohibit reciprocal arrangements for the exchange of hospital, medical or surgical service between nonprofit hospital and medical service plans. (R. S. c. 56, § 220. 1951, c. 47, § 3. 1963, c. 281, § 6.)

Effect of amendment.—The 1963 amendment made this section applicable to optometrists and optometric services.

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. Proposed contracts between the corporation and participating hospitals and physicians or optometrists showing the terms under which the hospital, medical or surgical or optometric 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. 1963, c. 281, § 7.)

Effect of amendments. — 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.

The 1963 amendment made subsection III applicable to optometrists and optometric services.

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. Contracts. The contracts between the applicant and the participating hospitals or physicians or optometrists 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. 1963, c. 281, § 8.)

Effect of amendment. — The 1963 amendment inserted "or optometrists" in subsection II.

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 Emergency.

Sec. 271. Jurisdiction of courts.—During any emergency insurance period as described in sections 264 and 265, the commissioner is authorized to issue such directions, rules or orders as in his discretion the circumstances may warrant, and any justice of the supreme judicial or superior courts shall have full jurisdiction to enforce sections 264 to 272 by appropriate decrees. (R. S. c. 56, § 247. 1961, c. 317, § 201.)

Effect of amendment.—The 1961 amendment deleted "the provisions of" preceding "sections 264 to 272" near the end of this section and also deleted "in equity" at the end of the section.

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.

VII-A. Educational requirement. An applicant who is required to take a written examination must have completed the educational requirement prescribed by either paragraph A or B within the 2 years next prior to the date his application for a license is filed with the commissioner.

A. Required courses of instruction. He must have completed successfully such courses of instruction in insurance as may be required and approved by the commissioner. Such courses may be either in attendance at or under the supervision and direction of or by correspondence with an educational institution or insurance company approved by the commissioner.

B. Experience. He must have had 6 months of responsible duties as a substantially full-time employee of an insurance agent or broker, or of an insurance company, its manager, general agent or representative in the fire, casualty and surety business.

C. Affidavit required. Where an applicant's educational requirement consists of employment as prescribed by paragraph B, he must submit an affidavit by his employer stating his period of employment, that it was substantially full-time, and the nature of the duties performed by him.

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. Nonresident agent's 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.

XI. 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; c. 378, § 47. 1961, c. 319, § 1.)

Effect of amendments.—Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, added present subsection X and redesignated former subsection X as subsection XI.

The 1961 amendment, effective on January 1, 1962, added subsection VII-A to this section.

Sec. 273-D-1. Examination advisory board.—The commissioner shall appoint an advisory board of 5 members to make recommendations with respect to the scope, type and conduct of written examinations and the examination schedule.

I. Qualification of members. The members of the board must be residents of the state who are experienced in the fire, casualty or surety business, 2 of whom shall be representatives of the agents of fire, casualty and surety companies, one of whom shall be a representative of the domestic mutual insurance companies excluding life insurance companies, one of whom shall be the representative of other companies authorized to do a fire, casualty or surety business in the state and one of whom shall represent the public.

II. Term of office. Each member holds office for 3 years, but initial appointments must be made as follows: 2 for 3 years, 2 for 2 years and one for one year.

III. Compensation. The members of the board shall serve without pay, but the commissioner may authorize their reimbursement for travel expenses when attending board meetings. (1961, c. 319, § 2.)

Effective date.—Section 4 of c. 319, P. L. 1961, adding this section, provided that the act will take effect on January 1, 1962.

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, but the educational requirements for brokers or agents once fulfilled need not be repeated. (1959, c. 346, § 13. 1961, c. 319, § 3.)

Effect of amendment.—The 1961 amendment, effective on January 1, 1962, added "but the educational requirements for brokers or agents once fulfilled need not be repeated" at the end of this section.

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 an authorized insurance company and the Maine insurance commissioner may accept, in lieu of an examination, the certificate of the insurance department of the nonresident agent's home state for the type or types of insurance to be sold by such nonresident agent. The examination fee shall be paid with the application for such licenses in all instances.

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. Repealed by Public Laws 1959, c. 378, § 48. (1959, c. 346, § 13; c. 378, § 48. 1963, c. 174.)

Effect of amendments.—Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, repealed subsection II, restricting issuance of the license.

The 1963 amendment rewrote the first paragraph of this section, which formerly provided that a nonresident agent might solicit and sell insurance and make contracts within the authority granted him by the company and the scope of his license.

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, or the refusal to renew, 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; c. 378, § 49.)

Effect of amendment.—Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, added ", or the refusal to renew," in the first sentence.

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.

The superior court, on complaint by any person that this section is 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. 1963, c. 414, § 81.)

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

The 1963 amendment deleted "Any justice of the supreme judicial or" and added "The" at the beginning of the next to last sentence, deleted "in term time or vacation" in such sentence, deleted "the provisions of" in such sentence, and substituted "is" for "are" in such 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 rewrote the last paragraph of this section. As the rest of the section was not affected by this amendment, it is not set out.

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.

Rights of Assignees.

Sec. 301. Action by assignee of policy.—The assignee of any policy, the assignment of which has been assented to by the insurance company or its agent, may sue the company on the policy in his own name, and all sums due thereon may be recovered in such action, subject to any defense existing against the original party. The assignees so suing shall hold the judgment or its proceeds subject to the claims and equities of any other parties interested therein. (R. S. c. 56, § 260. 1961, c. 317, § 202.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted "action" for "suit" in the present first sentence.

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; complaint not brought until 20 days after final judgment; exceptions. — Whenever any person, administrator, executor, guardian, firm or corporation recovers a final judgment against any other person, firm or corporation for any loss or damage specified in section 302, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment by bringing a civil action, in his own name, against the insuring company to reach and apply said insurance money, provided when the right of action accrued, the judgment debtor was insured against said liability and that before the recovery of said judgment the insuring company had had notice of such accident, injury or damage. The insuring company shall have the right to invoke the defenses described in this section in said proceedings. None of the provisions of this paragraph and section 302 shall apply:

I. Motor vehicle operated illegally or by one under age. When the automobile, motor vehicle or truck is being operated by any person contrary to law as to age or by any person under the age of 16 years where no statute restricts the age; or

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

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

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

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

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

No civil action shall be brought against an insurance company to reach and apply said insurance money until 20 days shall have elapsed from the time of the rendition of the final judgment against the judgment debtors. (R. S. c. 56, § 262. 1961, c. 317, § 203.)

Effect of amendment.—The 1961 amendment divided the former first sentence of this section into two sentences, substituted "section 302" for "the preceding section",

substituted "civil action" for "bill in equity" and made other minor changes in the present first sentence. It also deleted "equity" near the end of the present second sentence, substituted "section 302" for "the preceding section" in the present third sentence and substituted "civil action" for "bill in equity" in the last paragraph.

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.

Editor's note.—The act repealing these sections provided in § 3 thereof that the act should become effective January 1, 1958.

Sale of Lightning Rods.

Sec. 312. Holder of guarantee agreement may bring suit on bond. —The holder of any guarantee agreement issued under section 308 may bring a civil action in the name of the commissioner upon the bond provided by said section and have the same procedure and remedies thereon as in the case of official bond of sheriffs, but the amount of damages need not be first ascertained. Whenever legal process against such manufacturer is served upon the commissioner, he shall take such action as is provided in the case of the service of legal process against foreign insurance companies. (R. S. c. 56, § 270. 1963, c. 414, § 82.)

Effect of amendment.—The 1963 amendment deleted "the provisions of" preceding "section" near the beginning of this section and substituted "a civil action" for "suit" in the first sentence.

Recovery of Fines. Jurisdiction of Courts.

Sec. 313. Recovery of fines; jurisdiction of courts.—Penalties for violation of any law of the state relating to insurance may be recovered in a civil action in the name and to the use of the state or enforced by indictment. The county attorney for the county where the penalties are incurred shall prosecute therefor at the direction of the commissioner or may prosecute therefor on complaint made to him by any citizen. Prosecutions may be commenced by complaint and warrant before any district court judge, as in the case of other offenses not within the final jurisdiction of such judge. (R. S., c. 56, § 271. 1961, c. 317, § 204. 1963, c. 402, § 97.)

Effect of amendments. — The 1961 amendment substituted "a civil action" for "an action of debt" in the first sentence of this section.

The 1963 amendment substituted "district court judge" for "municipal judge or trial justice" in the last sentence and eliminated "or justice" formerly appearing at the end of that sentence.

Application of 1963 amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

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 benefit society 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 a license 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 benefit society, $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 or fraternal benefit society 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 civil action against any foreign insurance company, surety company or fraternal benefit society 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 action 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 salesmen 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; c. 378, § 50. 1961, c. 184, §§ 5-8; c. 417, § 158.)

Effect of amendments.—Chapter 346, P. L. 1959, 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. Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, added "a license" in the first sentence of subsection III.

Chapter 184, P. L. 1961, effective on its approval, April 7, 1961, substituted "benefit society" for "beneficiary association" in paragraph A of subsection I, in paragraph A of subsection V and in subsection IX. It also inserted "or fraternal benefit society" following "company" in the first sentence of subsection VIII. Chapter 417, P. L. 1961, substituted "civil action" for "suit" in the opening paragraph of subsection IX and substituted "action" for "suit" in paragraph B of such subsection.

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. 320. Rating organizations.—

I.

Licenses issued pursuant to this section shall remain in effect until the first

day of the next July and annually thereafter such license may be renewed but in all cases to terminate on the first day of the succeeding July. The fee for said license and for each annual renewal thereof shall be $50 and shall be subject to the same provisions regarding license fees as set forth by section 314. (1963, c. 52.)

Effect of amendment.—The 1963 amendment substituted "$50" for "$30" in the second sentence of the fourth paragraph of subsection I and made other minor changes in such paragraph.

As the rest of this section was not affected by the amendment, only the fourth paragraph of subsection I is set out.

Sec. 327. Rate administration.

VI. Chief insurance examiner. The commissioner may appoint, subject to the personnel law, a chief insurance examiner who has the qualifications of a senior examiner as prescribed by the manual of the national association of insurance commissioners' examination practice and procedure. (1947, c. 275. 1963, c. 166.)

Effect of amendment.—The 1963 amendment added subsection VI.

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

Sec. 330. Hearing procedure and appeal.

III. Any order or decision of the commissioner shall be subject to review by the superior court 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 complaint 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 shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court 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 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. 275. 1959, c. 317, § 31. 1961, c. 317, § 205. 1963, c. 414, § 83.)

Effect of amendments.—The 1959 amendment rewrote the last paragraph of subsection III of this section.

The 1961 amendment substituted "the superior court" for "a justice of the superior court in term time or vacation" in the first sentence of subsection III, substituted "complaint" for "petition" in the second sentence of such subsection, and deleted "in term time or a justice thereof in vacation" following "the court" in the third sentence of such subsection.

The 1963 amendment deleted "or a justice thereof" following "court" in the fourth and fifth sentences of subsection III.

As the rest of the section was not affected by the amendments, only subsection III is 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 rat-

ing 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.

Every insurer undertaking to transact in this state the business of automobile and motor vehicle bodily injury and property damage liability insurance and every rating organization which files rates for such insurance shall cooperate in the preparation and submission of a plan for the equitable apportionment among insurers of applicants for insurance who are in good faith entitled to, but who are unable to procure through ordinary methods, such insurance. The plan shall provide:

I. Distribution of risks. Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise and their assignment to insurers;

II. Rates. Rates and rate modifications applicable to such risks which shall not be excessive, inadequate or unfairly discriminatory;

III. Liability. The limits of liability which the insurer shall be required to assume;

IV. Hearings; appeal. A method whereby applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the commissioner.

The plan shall be filed in writing with the commissioner. The commissioner shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsections I, II, III and IV. The plan, unless sooner approved in writing, shall be on file for a waiting period of 30 days before it becomes effective. The plan shall be deemed approved unless disapproved by the commissioner within the waiting period.

Subsequent to the waiting period, the commissioner may disapprove the plan on the ground that it does not meet the requirements set forth in subsections I, II, III and IV, but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected, specifying the matters to be considered at such hearing, and only by an order specifying in what respect he finds that the plan fails to meet such requirements, and stating when within a reasonable period thereafter the plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in said order. Amendments to the plan shall be prepared, filed and reviewed in the same manner as herein provided with respect to the original plan.

If no plan meeting the standards set forth in subsections I, II, III and IV is submitted to the commissioner by January 1, 1962, or within the period stated in any order disapproving an existing plan he shall, if necessary to carry out the purpose of this section after hearing, prepare and promulgate a plan meeting such requirements. When the plan or amendments thereto have been ap-

proved or promulgated, no insurer shall thereafter issue a policy of automobile and motor vehicle bodily injury and property damage liability insurance or undertake to transact such business in this state unless such insurer shall participate in such an approved or promulgated plan.

If, after hearing, the commissioner finds that any activity or practice of any insurer or rating organization in connection with the operation of the plan is unfair or unreasonable or otherwise inconsistent with this section, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this section and requiring the discontinuance of such activity or practice. (1947, c. 274. 1959, c. 115. 1961, c. 139.)

Effect of amendments.—The 1959 amendment added a paragraph to this section permitting the use of uniform rates for automobile assigned risks.

The 1961 amendment deleted the paragraph added by the 1959 amendment and added the five paragraphs above set out at the end of the section.

As the present first paragraph was not affected by the amendments, 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 the superior court 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 complaint 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 shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court 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 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. 1961, c. 317, § 206. 1963, c. 414, § 84.)

Effect of amendments.—The 1959 amendment rewrote the last paragraph of subsection III of this section.

The 1961 amendment substituted "the superior court" for "a justice of the superior court in term time or vacation" in the first sentence of subsection III, substituted "complaint" for "petition" in the second sentence of such subsection and deleted "in term time or a justice thereof in vacation" following "the court" in the third sentence thereof.

The 1963 amendment deleted "or a justice thereof" following "court" in the third and fourth sentences of subsection III.

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

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

Hearings.

Sec. 350. Appeal. — Any person aggrieved by an order of the commissioner or by any rule or regulation promulgated by the commissioner may appeal therefrom to the superior court. Such appeal shall be taken within 30 days, unless a shorter or different time is specified in a particular statute, but the commissioner or person conducting the hearing may for cause shown allow a longer time. The appellant shall file with the court a complaint, setting forth the ground for appeal, and the court shall fix time and place for hearing and cause notice thereof to be given the commission and other interested parties. The appeal shall be heard on legal evidence, and after such hearing the court

may affirm, modify or reverse the decision of the commissioner, and shall remand the cause to the commissioner for further proceedings in accordance with the court decree. (1953, c. 380. 1961, c. 317, § 207.)

Effect of amendment.—The 1961 amendment deleted "a justice of the supreme judicial court or" preceding "the superior court" near the end of the first sentence of this section, substituted "file with the court a complaint" for "present to a justice of either of the above courts a petition, in term time or vacation" in the third sentence, substituted "the court" for "such justice" in that sentence, deleted "as in equity" at the end of that sentence and substituted "court" for "justice" in the fourth sentence.

Sec. 352. Commissioner's orders, how enforced. — Whoever, without reasonable excuse, fails to appear when summoned as a witness, or refuses to answer a lawful and pertinent question, or refuses to produce a book or writing when directed to do so by the person lawfully conducting a hearing or investigation, or deports himself in a disrespectful or disorderly manner at such inquiry, or obstructs the proceedings by any means, whether or not he be in the presence of the person lawfully conducting the inquiry, or willfully neglects or refuses to obey any lawful order of the person conducting the inquiry is guilty of contempt and may be dealt with as follows: The commissioner, or other person lawfully conducting the inquiry, may address to the superior court a complaint, setting forth under oath the facts constituting the contempt and asking for an order returnable in not less than 2 nor more than 5 days, directing the alleged contemner to show cause before the court, why he should not be punished for contempt. Upon the return of such order, the court shall examine under oath the alleged contemner and the alleged contemner shall be given an opportunity to be heard. If the court shall determine that the respondent has committed any alleged contempt, the court may punish the offender as if the contempt had occurred in an action arising in or pending in said court. (1953, c. 380. 1963, c. 414, § 85.)

Effect of amendment.—The 1963 amendment divided this section into three sentences, deleted "a justice of the supreme judicial court or" preceding "the superior court" in the first sentence, substituted "complaint" for "petition" in such sentence, substituted "the court" for "the justice who signed the order, or before any other justice of the supreme judicial court or superior court to whom the order may be made returnable" near the end of such sentence, substituted "court" for "justice before whom the matter shall come for hearing" in the present second sentence, and substituted "court" for "justice" twice in the present third sentence.

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 beeen 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 are confidential.

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

A. Files released. The commissioner may release investigation files of a nonpersonal nature, if there is no pending criminal prosecution or disciplinary action by the department.

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. 1961, c. 207, §§ 1, 2.)

Effect of amendment.—The 1961 amendment added "are confidential" at the end of subsection I of this section and added paragraph A to subsection II.

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

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

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

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