

# MAINE STATE LEGISLATURE

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CHAPTER 3  
ORGANIZATION AND OPERATION

Subch.	Sec.
I. General Provisions .....	501
II. Stock Companies .....	591
III. Issue of Contract by Incorporated Companies .....	651
IV. Records .....	701

SUBCHAPTER I

GENERAL PROVISIONS

Sec.
501. License required.
502. Creation of company; rights and privileges; purposes.
503. Multiple line insurance.
504. Merger of domestic mutual companies.
505. Change of purposes.
506. Dissolution of domestic mutual companies.
507. Articles of agreement; capital and guaranty fund; liability of policyholders and stockholders.
508. Organization of mutual companies; policies.
509. Amount of insurance required before policy issuance.
510. Corporate name; objection by commissioner.
511. Notice of first meeting.
512. Organization; record of proceedings; quorum.
513. Officers.
514. Approval of certificate; filing and recording.
515. Increase of capital stock; authority to transact business on increased capital.
516. Dividends; capital stock increased by amount of certificates of profits issued.
517. Office and meetings in State; directors to be citizens.
518. Change of location by mutual fire companies.
519. Capital required of stock company; assets required of mutual company; business authorized.
520. Interpretation of provisions.
521. License; requirements.
522. Deposit in trust for United States policyholders.
523. Real estate and securities held by trustees; books and accounts examined.
524. Licenses.
525. Authority of foreign insurer restricted.

Sec.

- 526. Reciprocity.
- 527. Licenses revoked for violations.
- 528. Examination by commissioner.
- 529. Extent of examination; refusal to cooperate.
- 530. Suspension.
- 531. Receivers; appointment; powers.
- 532. Insolvent company suspended; policies issued thereafter.
- 533. Appeals.
- 534. Actions against foreign companies; service; collection of judgment.
- 535. Service on agent or commissioner.
- 536. Jurisdiction of courts.
- 537. Dividends.

### § 501. License required

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 Title.

**1. 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.

**2. Injunction.** The Superior Court shall enjoin any operation in violation of this section on complaint of the commissioner or any interested person.

1963, c. 414, § 57.

**3. 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.

### § 502. Creation of company; rights and privileges; purposes

Any 10 or more persons, residents of the State, associated by such an agreement in writing as is described, with the intention of constituting a corporation for the transaction of insurance business shall, upon complying with section 514, become and

remain a corporation with all the powers, rights and privileges and be subject to all the duties, liabilities and restrictions set forth in all the general laws relating to insurance corporations. Corporations may be organized as provided, upon the stock or mutual principal for the following purposes:

**1. Fire, water, explosions.** To insure against loss or damage to property and loss of use and occupancy by fire; explosion, fire ensuing; explosion, no fire ensuing, except explosion of steam boilers and fly wheels; lightning or tempest and tornadoes on land; by water and breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, and of water pipes or against accidental injury to such sprinklers, pumps or other apparatus;

**2. Vessels; motor vehicles.** To insure vessels, freights, goods, money, effects and money lent on bottomry or respondentia against the perils of the sea and other perils usually insured against by marine insurance companies, including risks of inland navigation and transportation; to insure against loss or damage to motor vehicles, their fittings and contents, whether such vehicles are being operated or not and wherever the same may be, resulting from accident, collision or any of the perils usually insured against by marine insurance, including inland navigation and transportation;

**3. Explosion of steam boilers.** To insure against loss or damage to property of the assured, or loss or damage to the life, person or property of another for which the assured is liable, caused by the explosion of steam boilers or their connections or by the breakage or rupture of machinery or fly wheels; and against loss of use and occupancy caused thereby;

**4. Accident and sickness.** To insure any person against bodily injury or death by accident, or any person, firm or corporation against loss or damage on account of the bodily injury or death by accident of any person, for which loss or damage said person, firm or corporation is responsible and to make insurance upon the health of individuals;

**5. Glass.** To insure against breakage or damage to glass, local or in transit;

**6. Domestic animals.** To insure the owners of domestic animals against loss resulting from death or injury to the animals insured and to furnish veterinary's services;

**7. Fidelity and surety.** To guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations;

**8. Burglary and theft.** To insure against loss or damage by burglary, theft or housebreaking;

**9. Credit insurance.** To carry on the business commonly known as credit insurance or guaranty;

**10. Title insurance.** To examine titles of real estate and personal property, furnish information relative thereto and insure owners and others interested therein against loss by reason of encumbrances or defective titles;

**11. Automobiles, except fire and while transported.** To insure against loss or damage to automobiles, except loss or damage by fire or while being transported in any conveyance, either by land or water; including loss by legal liability for damage to property resulting from the maintenance and use of automobiles;

**12. Water damage, because of sprinklers, pumps.** To insure any goods or premises against loss or damage by water, caused by the breakage or leakage of sprinklers, pumps, water pipes or plumbing and its fixtures and against accidental injury from other cause than fire or lightning to such sprinklers, pumps, water pipes, plumbing and fixtures;

**13. Elevators, bicycles, except fire and lightning.** To insure against loss or damage to property arising from accidents to elevators, bicycles and vehicles, except rolling stock of railroads, from other causes than fire or lightning;

**14. Workmen's compensation.** To insure the payment of compensations and benefits under any Workmen's Compensation Law now existing or hereafter enacted in this State, or in any other state, so far as the same may be permissible under the laws thereof;

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

**16. Insects; animal diseases.** To insure against loss or damage by insects or disease to domestic animals and to farm crops or products and loss of rental value of land used in producing such crops or products;



**17. Water damage.** To insure against loss or damage, including loss of use or occupancy by water entering through leaks or openings in buildings;

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

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

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

**21. Accident insurance policy defined.** Any policy insuring against liability resulting from or incident to the ownership, maintenance or use of a vehicle or aircraft may contain a provision for payment on behalf of the injured party or for reimbursement of the insured for payment, irrespective of legal liability of the insured, of medical, hospital, surgical and disability benefits to persons injured and funeral and death benefits to dependents, beneficiaries or personal representatives of persons who are killed as the result of an automobile accident, and such provision shall not be deemed to be an accident insurance policy within the life, personal accident or health insurance provisions of the Revised Statutes.

R.S.1954, c. 60, § 30.

### § 503. Multiple line insurance

Any foreign company authorized to transact the kinds of business specified in section 502, subsections 1, 2, 4, 7, 11 or 14, may, except with respect to policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, reinsure risks of every kind and description and may write any and all kinds of insurance other than the policies and contracts hereinbefore excluded, provided it maintains a surplus to policyholders, including any guaranty capital, of a sum not less than that required of such companies by the statute or regulation of the state in which they are incorporated.

R.S.1954, c. 60, § 31.

**§ 504. Merger of domestic mutual companies**

**1. Agreement.** Any 2 or more mutual insurance companies, organized or to be organized under this Title or existing under the laws of this State, may consolidate into a single company which may be any one of said companies, or a new company organized under the laws of this State to be formed by means of such consolidation, by entering into an agreement duly authorized by a majority of the directors of the respective companies and signed by the duly authorized officers, and under the respective seals of said companies, prescribing the terms and conditions of the consolidation, the mode of carrying the same into effect, whether or not the consolidated company shall be one of the constituent companies or a new company created by such consolidation, and stating in such altered form as the circumstances of the case may require such other facts as are necessary to be set out in the certificate of organization of insurance companies organized under this Title and as are pertinent in the case of a consolidation, together with such other provisions and details as shall be deemed necessary to perfect the consolidation. Said agreement shall be acknowledged by one of the executing officers of each of the consolidating companies before an officer authorized by the laws of this State to take acknowledgments of deeds, to be the respective act, deed and agreement of each of said companies.

**2. Meeting; approval; filing.** Subject to bylaws with reference to membership in the companies, said consolidation agreement shall be submitted to the members of record of each company at a meeting thereof called separately for the purpose of taking the same into consideration, and at said meeting a vote in person or by proxy shall be taken for the adoption or rejection of said agreement, and if the votes of members of each company representing a majority of the voting power present at said meeting, on a proposal to consolidate said company with another, shall be for the adoption of said agreement, then that fact shall be certified on said agreement by the clerk or secretary of each company and the agreement so signed, acknowledged, adopted and certified, after it has been examined by the commissioner and the Attorney General and been by them certified to be properly drawn and signed and to be conformable to the Constitution and laws of this State, and within 60 days after the day of the meeting at which said consolidation agreement is adopted by the members, a copy thereof shall be filed in the office of the Secretary of State, who shall enter the date of filing thereon, and on the original agreement, certified as provided, to be kept by the consolidated

company, and shall record said copy. From the time of filing the copy of such agreement in the office of the Secretary of State, said agreement shall be taken and deemed to be the agreement and act of consolidation of the said companies and said original consolidation agreement or a certified copy thereof shall be evidence of the existence of such consolidated company and of the observance and performance of all acts and conditions necessary to have been observed and performed precedent to such consolidation.

**3. Notice.** Notice of such special meeting of members shall be made by publishing once weekly on 3 successive weeks in a newspaper printed in each county of this State in which the company is chartered to operate, the last publication to be at least 7 days prior to such meeting.

**4. Rights, duties, franchises of constituent companies.** 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. 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. 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. 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.

**5. Consolidate defined.** "Consolidate" as used in this section shall be construed to include and authorize either a merger or consolidation or both. (1955, c. 219.)

R.S.1954, c. 60, § 32; 1955, c. 219.

### § 505. Change of purposes

Any mutual insurance company organized for one or more of the purposes set forth in section 502 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 502, or make any other change or alteration in its certificate of 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 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 514. 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 commissioner and have admitted assets of not less than \$125,000 after deducting therefrom the amount by which the net investment of such company in real estate owned exceeds, if it operates on the prepaid basis, 10% of its premiums in force or, if it operates on the assessment plan, 2% of the balance of its premium notes, both as appear in such statement, or shall have a guaranty capital of not less than \$100,000 divided into shares of \$100 each, and no policy shall be issued until  $\frac{1}{4}$  at least of its guaranty capital has been paid in, in cash, and invested as provided in section 596. If a company operating under this section fails to comply with a

request of the 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 one 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. The net retention of liability on any one risk written by any company operating under this section shall not exceed 5% of its policyholders' surplus.

R.S.1954, c. 60, § 33; 1955, c. 289; 1957, c. 56; 1963, c. 50.

### § 506. Dissolution of domestic mutual 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.

R.S.1954, c. 60, § 34; 1961, c. 317, § 184.

**§ 507. Articles of agreement; capital and guaranty fund; liability of policyholders and stockholders**

The agreement described in section 502 shall set forth the fact that the subscribers thereto associate themselves with the intention to constitute a corporation, the name by which it shall be known, the class or classes of insurance for the transaction of which it is to be constituted, the plan or principle upon which its business is to be conducted, the town or city in which it is established or located, and if a stock company, the amount of its capital stock, and if a mutual company with a guaranty capital, the amount thereof. The capital stock of a stock company organized for any of the purposes mentioned shall not be less than \$100,000. A mutual company incorporated to transact any class or kind of insurance other than fire, marine or glass shall have a guaranty capital as provided in section 508 and holders of certificates of such guaranty capital shall not receive dividends in excess of 7% in any one year, and in no case unless such dividends are properly earned after determining all liability as required by the commissioner. Mutual companies may be incorporated to transact fire, marine and glass insurance and may operate in accordance with section 1454 and other laws of this State relating to such companies, provided the net retention of liability by any company on any one risk shall not exceed \$200 until its gross assets exceed \$2,000, after which its net retention of liability on every risk shall not exceed 10% of its gross assets, including the amount at any time due on its premium notes. Mutual companies which do not so limit their business may incorporate for any of the foregoing purposes but before doing any business they shall establish a guaranty fund or capital of not less than \$10,000 which may be divided into shares of not less than \$100 and certificates issued therefor. A dividend not exceeding 7% in any one calendar year may be paid from the net earnings of the company after providing for all expenses, losses, reserves and liabilities then incurred. Such guaranty fund or capital shall be invested as provided in section 596 and shall be deposited with the Treasurer of State. When the cash and other available assets of the company are exhausted such part of said fund as may be required shall, with the approval of the commissioner, be drawn and used to pay losses then due. When such fund is so drawn upon, the directors shall make good the amount so drawn by assessments upon the contingent funds or notes of the company and unless such fund is restored within 6 months from date of withdrawal, the shareholders shall be assessed in proportion to the amount of stock owned by them for the purpose of restoring said capital. Shareholders and

members of such companies shall be subject to the same provisions of law relative to their right to vote as apply respectively to shareholders in stock companies and policyholders in purely mutual companies. Said guaranty capital may be retired, by vote of the policyholders, when the surplus funds of the company over and above all liabilities, including guaranty capital, shall equal or exceed the amount of such guaranty capital, or any part of said guaranty capital may be retired, provided the amount of net surplus and guaranty fund shall not be less than \$10,000. Said guaranty capital shall be retired when the net cash assets of the company are equal to 3 times the amount of guaranty capital. Any mutual fire, marine or glass insurance company, which has established a guaranty capital as provided and has obtained applications for insurance as required by section 509, shall be authorized by the commissioner to write business and such company may take a premium note as provided in section 1454, or in lieu of said note it may charge and collect a premium in cash and by its bylaws and policies fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to and in addition to the cash premium written in his policy and in no case less than 1% of the maximum liability of the company under said policy. The total amount of the liability of the policyholder shall be plainly and legibly stated upon the filing-back of each policy. Whenever any reduction is made in the contingent liability of members, such reduction shall apply proportionally to all policies in force.

R.S.1954, c. 60, § 35.

**§ 508. Organization of mutual companies; policies**

Any mutual insurance company may be organized under sections 502 to 517 with a guaranty capital of not less than \$100,000, divided into shares of \$100 each. No policy shall be issued by such corporation until  $\frac{1}{4}$ , at least, of its guaranty capital has been paid in, in cash, and invested as provided in section 596. The remainder of the guaranty capital shall be paid in and invested as provided in section 596, in such amounts and at such times as in the opinion of the commissioner is necessary for the adequate protection of the policyholders. The holders of such guaranty capital may receive dividends for the like amount provided for the guaranty capital of mutual fire insurance companies in section 507, and said guaranty capital may be retired in the same manner as provided in said section.

R.S.1954, c. 60, § 36.

**§ 509. Amount of insurance required before policy issuance**

No policy shall be issued by a purely mutual company until applications have been made in good faith for insurance to the amount of \$50,000. No policy shall be issued by a stock company until its capital stock has been paid in, in cash, and invested as provided in section 596.

R.S.1954, c. 60, § 37.

**§ 510. Corporate name; objection by commissioner**

Any name not previously in use by an existing corporation or company may be adopted, provided one or more of the words "insurance," "surety," "fidelity," "casualty," "bonding" or "fire" constitute a part of such title. The word "mutual" shall appear in the title of all companies operating on the mutual plan. The commissioner may refuse his certificate until the adoption of a different name if, in his judgment, the name adopted too closely resembles the name of an existing corporation or company or is likely to mislead the public.

R.S.1954, c. 60, § 38.

**§ 511. Notice of first meeting**

The first meeting for the purpose of an organization shall be called by a notice signed by one or more of the subscribers to such agreement, stating the time, place and purpose thereof, a copy of which notice shall 7 days at least before the day appointed be given to each subscriber, left at his usual place of business or residence or deposited in the post office, prepaid and addressed to him at his usual place of business or residence. Such notice shall be proved by affidavit of the person giving it.

R.S.1954, c. 60, § 39.

**§ 512. Organization; record of proceedings; quorum**

At the first meeting mentioned in section 511, including any adjournment thereof, an organization shall be effected by the choice by ballot of a temporary clerk, who shall be sworn to the faithful discharge of his duties, by the adoption of bylaws consistent with the Constitution and laws of the State, and by the election in the manner provided by law of directors and such other officers as the bylaws require, but at such first meeting no person shall be a director who has not subscribed to the articles of association. The temporary clerk shall record the proceedings until



and including the qualification of the secretary of the corporation by his being sworn. No organization shall be effected at any such meeting or its adjournment, unless a majority of the subscribers to the articles of agreement and association are present and vote.

R.S.1954, c. 60, § 40.

**§ 513. Officers**

The directors chosen under section 512 shall elect a president, a secretary and other officers which under the bylaws they are authorized to choose.

R.S.1954, c. 60, § 41.

**§ 514. Approval of certificate; filing and recording**

The president, secretary and a majority of the directors shall forthwith make, sign and swear to a certificate setting forth a copy of the articles of association, with the names of the subscribers thereto, the date of the first meeting and of any adjournment thereof, and shall submit such certificate and the records of the corporation to the inspection of the commissioner, who shall examine the same, and may require such other evidence as he may deem necessary. The commissioner, if it appears that the requirements of sections 512 and 513 have been complied with, shall certify that fact and his approval of the certificate by indorsement thereon. Such certificate shall thereupon be filed in the office of the Secretary of State by said officers, and upon being paid by them the fees or duties required by law, the secretary shall cause the same, with the indorsement thereon, to be recorded and shall thereupon issue to said corporation a certificate in the following form:

“STATE OF MAINE.

“Be it known, that whereas” (names of subscribers to the association) “have associated themselves with the intention of forming a corporation, under the name of . . . . ., for the purpose” (here the purpose declared in the articles of association shall be inserted,) “with a capital stock of \$. . . . ., and have complied with the provisions of the statutes of the State in such case made and provided, as appear from the certificate of the president, secretary and directors of said corporation, duly approved by the Insurance Commissioner and recorded in this office: Now, therefore, I, . . . . ., Secretary of the State of Maine, hereby certify that” [subscribers’ names] “their as-

sociates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of the . . . . . company, with all the powers, rights and privileges, and subject to the duties, liabilities and restrictions which by law appertain thereto. Witness my official signature, hereunto subscribed, and the seal of the State of Maine hereunto affixed, this . . . . . day of . . . . ., A. D. 19. . . . .” (In case of purely mutual companies, so much as relates to capital stock shall be omitted.)

The Secretary of State shall sign the same, and cause the seal of the State to be thereto affixed, and such certificate shall have the force and effect of a special charter and be conclusive evidence of the organization and establishment of such corporation. Said certificate shall be duly recorded in the office of the Secretary of State, and a duly authenticated copy of such record may be used in evidence, with like effect as the original certificate.

R.S.1954, c. 60, § 42.

**§ 515. 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 Title 13, section 201, such certificate so approved shall be filed with the Secretary of State. Thereupon the company shall be authorized to transact business upon the capital so increased and the commissioner shall issue his certificate to that effect. 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.1954, c. 60, § 43; 1959, c. 220, § 2.

**§ 516. Dividends; capital stock increased by amount of certificates of profits issued**

Any stock insurance company organized under the laws of this State may declare cash dividends on their capital stock. Any such company may issue, pro rata to its stockholders, certificates of such portion of its profits and income as the directors from time to time determine, not including therein any portion of the premium money of risks not terminated, and after providing for all expenses, losses and liabilities then incurred. The capital stock of such company shall be increased by the amount of the certificates of stock so issued. Whenever any increase of capital stock is made by any insurance company under section 515, a certificate thereof shall be filed with the commissioner, who shall certify to the amount of the capital stock of the company so increased, as provided in said section.

R.S.1954, c. 60, § 44.

**§ 517. Office and meetings in State; directors to be citizens**

All insurance companies incorporated and organized under the laws of this State shall have their principal place of business in some city or town in the State and a majority of the directors shall be citizens of the State. The meetings of the directors shall be held in the State.

R.S.1954, c. 60, § 45.

**§ 518. Change of location by mutual fire companies**

A mutual fire insurance company organized under the laws of this State, at any legal meeting of its policyholders, of which all policyholders of record shall have been given notice as provided, may change the location of its principal place of business from one city or town to another in this State. A copy of so much of the proceedings of such meeting as relates to such change of location certified by the secretary of said company shall be returned to the office of the commissioner for his approval within 30 days after adjournment of such meeting, and when so approved, shall forthwith be filed by the company in the office of the Secretary of State for record. The date of filing shall be entered on the record thereof, and when said copy, bearing the approval of the commissioner, is so filed, the location shall be deemed to be changed. A notice in writing of the time and place of such meeting, stating the fact that a change of location will be considered, mailed to all

policyholders of record, postage prepaid, to their last known post-office address at least 30 days prior to the date of said meeting, shall constitute notice as required.

R.S.1954, c. 60, § 46.

**§ 519. Capital required of stock company; assets required of mutual company; business authorized**

No foreign fire or marine insurance company shall be admitted to do business in the State unless it has a bona fide, paid-up, unimpaired capital, if a stock company, of at least \$200,000, well invested in or secured by real estate, bonds, stocks or securities other than names alone; or if a mutual company, net cash assets to the amount aforesaid; or if a mutual company doing fire insurance only, that it possesses net cash assets of not less than \$50,000 and contingent assets of not less than \$300,000, or net cash assets of not less than \$75,000 with contingent assets of not less than \$150,000, or net cash assets equal to its total liabilities and contingent assets of not less than \$100,000, provided such capital and assets, other than contingent, are well invested and immediately available for the payment of losses in this State and that it insures on any single hazard an amount no larger than  $\frac{1}{10}$  of its net assets. In addition to fire and marine insurance a stock or mutual company may be authorized to transact inland marine, tornado and sprinkler insurance and insurance upon automobiles or damage caused thereby, and for loss of use and occupancy by fire or other cause. Mutual fire insurance companies incorporated under the laws of other states, which insure only factories or mills or property connected with such factories or mills, may be authorized to transact business in this State. No life, casualty, accident, health, liability, plate glass, steam boiler or fly wheel, burglary and theft or sprinkler insurance company shall be admitted to do business in the State unless it has a bona fide, paid-up, unimpaired capital, if a stock company, of at least \$100,000, well invested in or secured by real estate, bonds, stocks or securities other than names alone; or if a mutual company, net cash assets to the amount aforesaid. After July 9, 1943 any foreign mutual fire insurance company admitted to do business in this State in accordance with the requirements of this Title shall be allowed to write a nonassessable policy if its cash surplus to policyholders is kept and maintained in excess of \$200,000, as determined by the commissioner in accordance with this Title. If such a company, after qualifying to issue nonassessable policies, shall fail to maintain such a surplus, it shall cease to issue a non-

Ch. 3 ORGANIZATION AND OPERATION 24 § 521

assessable policy until it has again met and maintained such a surplus for a period of one year.

R.S.1954, c. 60, § 47.

§ 520. Interpretation of provisions

Sections 519, 1452 and 1454 shall not be construed as limiting any rights existing on July 9, 1943 of any mutual companies, other than mutual fire insurance companies, to issue nonassessable policies.

R.S.1954, c. 60, § 48.

§ 521. License; requirements

No foreign insurance company shall transact any insurance business in the State, unless it first obtains a license from the commissioner. Before receiving such license, it shall furnish the commissioner with:

1. **Copy of charter and bylaws.** A certified copy of its charter and bylaws;

2. **Statement of financial condition.** A statement, under oath, signed by its president or secretary, showing its financial condition according to a form supplied by the commissioner who shall have authority to examine or cause to be examined such company. In lieu of such examination, the commissioner may accept the certificate of the insurance commissioner or superintendent or director of insurance of the state where such company was incorporated as to its financial standing and condition, provided such certificate is predicated on an examination completed within the 12 months immediately prior to date of request for admission by such company to do business in this State. Evidence satisfactory to the commissioner shall be presented to establish that the condition of the company and its methods of operation are not such as would render its operation hazardous to the public or its policyholders in this State;

3. **Power of attorney.** A power of attorney appointing the commissioner to be the true and lawful attorney of such company in and for this State, upon whom all lawful process in an action or proceeding against the company may be served with the same effect as if the company existed in this State. Said power of attorney shall stipulate and agree on the part of the company, that any lawful process against the company which is served on said attorney shall be the same in legal force and validity as if served

on the company, and that the authority shall continue in force irrevocable so long as any liability remains outstanding against the company in this State. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of said commissioner and copies certified by him shall be received in evidence in all courts of this State. Upon receiving the papers enumerated, the commissioner may, if he deems it advisable, grant a license authorizing the company to do insurance business in this State by constituted agents resident therein subject to its laws, until the first day of the next July, and annually thereafter such license may be renewed so long as he regards the company as responsible and safe, but in all cases to terminate on the first day of the succeeding July.

R.S.1954, c. 60, § 49.

**§ 522. Deposit in trust for United States policyholders**

No foreign insurance company incorporated or associated under the laws of any government or state, other than the United States or one of the United States, shall be licensed to do business in this State until, besides complying with the law relating to the admission of companies of other states, it has made a deposit with the Treasurer of this State or with the financial officer or insurance commissioner of some one of the other states of the United States, of a sum not less than the capital or assets required of like companies organized under the laws of other states to entitle them to admission to this State. Such deposit must be in exclusive trust for the benefit and security of all the company's policyholders and creditors in the United States and may be in securities under the same restrictions as the investments of companies of other states.

R.S.1954, c. 60, § 50.

**§ 523. Real estate and securities held by trustees; books and accounts examined**

All real estate, securities and assets of any such company in the United States shall be held by trustees who are citizens thereof, for the benefit of all its creditors in the United States. These trustees shall be appointed by such company, and a certified copy of the vote by which they are appointed and of the deed of trust shall be filed in the office of the commissioner, and he may examine such trustees or the agents of such company under oath, and its assets, books and accounts in the same manner as he may

**Ch. 3 ORGANIZATION AND OPERATION 24 § 525**

examine the officers, agents, books and accounts of any company authorized to do insurance business in the State.

R.S.1954, c. 60, § 51.

**§ 524. Licenses**

When a foreign insurance company shall have complied with sections 519 to 523 and the commissioner is satisfied that it is solvent in the United States, he may issue to it a license to transact business in this State and may, except as otherwise provided, renew the licenses of the company and agents on the first day of July, annually, so long as he finds the company solvent. The commissioner shall not refuse to renew the license of any foreign insurance company doing business in this State unless the commissioner shall have, on or before the first day of June, notified said company in writing by registered mail, at its principal office in the United States, of his intention not to renew its license, together with a detailed statement of his reasons therefor.

If, upon application by said company, the commissioner shall refuse for 5 days to countermand such notice of intention not to renew said license, said company shall have the right of appeal in the same manner and effect as is provided in section 533. 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.1954, c. 60, § 52; 1963, c. 414, § 67.

**§ 525. 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.

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

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

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

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

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

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

**F.** A contract of group insurance of a type permitted by this Title issued to a nonresident policyholder, and any insurance certificate applicable to it.

1959, c. 346, § 4.

### § 526. Reciprocity

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.1954, c. 60, § 53; 1957, c. 299.

### § 527. Licenses revoked for violations

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 521.

R.S.1954, c. 60, § 54; 1959, c. 378, § 41.



**§ 528. Examination by commissioner**

The commissioner, whenever he deems it necessary for the protection of policyholders, shall visit and examine any insurance company, doing business by agencies in this State, but not incorporated therein. He may employ necessary assistants. In relation to the affairs of any company incorporated by or organized under the laws of any of the United States, it shall be optional with said commissioner to accept the certificate of the insurance commissioner or superintendent of the state where said company was organized as to its standing and condition, or to proceed to investigate its affairs as provided.

R.S.1954, c. 60, § 55.

**§ 529. Extent of examination; refusal to cooperate**

For the purposes set forth in section 528, the commissioner or any person whom he may empower shall have free access to all the books and papers of any insurance company doing business in the State, and may examine under oath its officers or agents relative to its business and condition. If any such company, its officers or agents refuse to submit to such examination or to comply with any provision of this Title in relation thereto, the authority of such company to do business in the State shall be revoked until satisfactory proof is furnished to the commissioner that the company is in a sound and solvent condition.

R.S.1954, c. 60, § 56.

**§ 530. Suspension**

When the commissioner thinks that any licensed foreign insurance company is in failing condition or unsafe, he may suspend its right to do business in this State until such disability is removed. If the company or any of its agents, after such suspension and notice thereof to such agent or the injunction mentioned in section 60, issues any new policies, such agent or company forfeits not exceeding \$200. To enable the commissioner to act in the premises, he may require of such company a full statement of all its affairs bearing upon its responsibility, in the form prescribed by him.

R.S.1954, c. 60, § 57.

**§ 531. Receivers; 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 530 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 60. 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.1954, c. 60, § 58; 1963, c. 414, § 68.

**§ 532. Insolvent company suspended; policies issued thereafter**

When the commissioner learns that the net cash funds of any foreign life insurance company doing business in this State are not equal to its liabilities, including the net value of its policies according to the combined experience or actuaries' table of mortality, with interest at 4% a year, he shall give notice to such company and its agents to cease issuing policies within the State. He may buy and use the life valuation tables adopted by the insurance department of Massachusetts for all purposes of valuation. When he is satisfied that the funds of such company have become equal to its liabilities, valuing its policies as aforesaid, he shall give notice to such company and agents that its business may be resumed. If any officer or agent, after such notice of suspension is given, issues any new policy in behalf of such company, he forfeits for each offense not more than \$300. The delivery of a policy in the State by mail or otherwise shall be deemed an issuing of such policy.

R.S.1954, c. 60, § 59.

**§ 533. Appeals**

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 there-

for, 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.1954, c. 60, § 60; 1961, c. 317, § 185.

**§ 534. Actions against foreign companies; service; collection of judgment**

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.1954, c. 60, § 62; 1961, c. 317, § 186.

**§ 535. Service on agent or commissioner**

All notices and processes which, under any law, bylaw or a policy, any person has occasion to give or serve on any such company, may be given to or served on its agent or on the commissioner, as provided in section 534, with like effect as if given or served on the principal. Such agents and the agents of all domestic companies shall be regarded as in the place of the company in all respects regarding any insurance effected by them. The company is bound by their knowledge of the risk and of all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known by the company and waived by it as if noted in the policy.

R.S.1954, c. 60, § 63.

**§ 536. Jurisdiction of courts**

No conditions, stipulations or agreements shall deprive the courts of this State of jurisdiction of actions against foreign insurance companies or associations, nor limit the time for commencing actions against such companies or associations to a period of less than 2 years from the time when the cause of action accrues.

R.S.1954, c. 60, § 64.

**§ 537. Dividends**

Any dividend due from a foreign mutual fire insurance company under a policy of insurance issued by it shall be payable at the place of business of its duly commissioned agent in this State 7 days subsequent to a demand for the payment thereof made by the assured or by his authorized representative. Upon failure to so make such payment, an action therefor may be maintained.

R.S.1954, c. 60, § 65.

## SUBCHAPTER II

## STOCK COMPANIES

Sec.

- 591. Secretary and other officers.
- 592. Manner of calling meetings.
- 593. Capital.
- 594. Reduction of capital stock.
- 595. Liability of stockholders in certain cases.
- 596. Capital and assets invested.
- 597. Loans on respondentia or bottomry.
- 598. Property insurable; limit of risk.
- 599. Signing of policies.
- 600. Companies not to trade.
- 601. Dividends.
- 602. Loss of capital.
- 603. Marine companies may divide certain profits.
- 604. Triennial statements.
- 605. No insurance after loss of capital.
- 606. Applicability to mutual companies.

**§ 591. Secretary and other officers**

Every stock company or its directors, as often as once a year shall, by ballot, elect a secretary, who shall be the clerk of the company and be sworn to the faithful discharge of his duty.

**Ch. 3 ORGANIZATION AND OPERATION 24 § 594**

Besides other duties required by the bylaws of the company, he shall keep a true record of all the votes of the stockholders and of the directors, and a true list of the stockholders and of the number of shares held by each, and record every transfer of shares in a book kept for the purpose. The directors may appoint such other officers as they think necessary.

R.S.1954, c. 60, § 66.

**§ 592. Manner of calling meetings**

The secretary shall call special meetings of a stock company, besides any meeting for which the bylaws provide, to be held at the time and place, and for the purposes required in writing, by the proprietors of  $\frac{1}{5}$  of the capital stock. If the bylaws of such company prescribe no mode of calling such meeting, it may be notified in the manner prescribed in the act of incorporation for calling the first meeting.

R.S.1954, c. 60, § 67.

**§ 593. Capital**

No insurance company shall be incorporated with a capital of less than \$100,000, to be paid in at the periods and in the proportions required by the charter.

R.S.1954, c. 60, § 68.

**§ 594. Reduction of capital stock**

Whenever, after setting aside an amount equal to 50% of the premiums in force or the actual unearned portions of such premiums for fire risks; and for marine risks, 50% of the amount of premiums written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other marine risks not terminated; the net assets of any insurance company with a specific capital do not amount to more than  $\frac{3}{4}$  of its capital stock, the company shall restore its capital to the legal amount. Whenever the capital stock of any insurance company is impaired, it may, by a majority vote of the stock, at a meeting of the stockholders legally called, reduce its capital by canceling its shares pro rata to the number thereof, or it may reduce the par value of its shares; but no such company shall reduce its capital stock more than 20% thereof nor to a sum less than \$100,000.

R.S.1954, c. 60, § 69.

**§ 595. 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.1954, c. 60, § 70; 1961, c. 317, § 187.

**§ 596. 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 Title 9, chapter 51, 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.1954, c. 60, § 71; 1957, c. 397, § 38.

**§ 597. Loans on respondentia or bottomry**

Stock companies may loan to citizens of the State any portion not exceeding  $\frac{1}{2}$  of its capital stock, on respondentia or bottomry; but not unless at least  $\frac{3}{4}$  of all the directors agree to such loan and enter their consent thereto at large on the records of the corporation, to be laid before the stockholders at their next meeting.

R.S.1954, c. 60, § 72.

**§ 598. Property insurable; 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 ex-

ceeding 10% of its paid-up capital and surplus. 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.1954, c. 60, § 73; 1955, c. 250.

**§ 599. Signing of policies**

All policies of insurance shall be signed by either the chairman of the board, the president, a vice-president, an assistant vice-president or any 2 of the directors and countersigned by either the treasurer, an assistant treasurer, the secretary or assistant secretary, and they shall be binding upon the company as if executed under its corporate seal.

R.S.1954, c. 60, § 74.

**§ 600. Companies not to trade**

Stock companies shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise or commodities.

R.S.1954, c. 60, § 75.

**§ 601. Dividends**

The directors, at such times as their charter or bylaws prescribe, shall make dividends of so much of the profits of the company as they think advisable, but moneys received and notes taken for premiums on risks, which are undetermined at the time of making such dividends, shall not be part of said profits.

R.S.1954, c. 60, § 76.

**§ 602. Loss of capital**

After diminution of the capital stock by losses, depreciation or otherwise, no dividend shall be made until such diminution is supplied by actual funds or the value is restored.

R.S.1954, c. 60, § 77.

**§ 603. Marine companies may divide certain profits**

Any marine insurance company may, by bylaws or votes duly passed for that purpose, divide among the stockholders thereof and the persons insured therein, in proportion to the stock owned by such stockholders and to the amount of premiums

paid by the insured on risks terminated, all the clear profits of the company above 6% a year on its capital stock. Before such division is made, all arrearages of dividends to stockholders required to make up their annual dividends equal to 6% a year shall first be paid.

R.S.1954, c. 60, § 78.

#### **§ 604. Triennial statements**

Once in every 3 years, and oftener if required by the stockholders, the directors shall lay before them at a meeting an exact and particular statement of the affairs of the company, showing their profits, if any, after deducting losses and dividends.

R.S.1954, c. 60, § 79.

#### **§ 605. No insurance after loss of capital**

If the company sustains losses to an amount equal to its capital stock, and the president or directors, after knowing the same, make any new or further insurance, the estates of all who made such insurance or who consent thereto shall be jointly and severally liable for the amount of any loss which occurs under such insurance.

R.S.1954, c. 60, § 80.

#### **§ 606. Applicability to mutual companies**

The provisions in the sections relating to the amount of capital stock to be owned by any insurance company, and the division of the same into shares, and dividends of profit thereon, and other provisions incidental to the nature of its fund, and such of said provisions as relate to the liability of directors or stockholders in case of deficiency of capital, and the regulations concerning the business of any such company contained in sections 597 and 598 are not applicable to mutual fire insurance companies; but the other provisions are binding on such companies, so far as is consistent with their charters.

R.S.1954, c. 60, § 81.



## SUBCHAPTER III

## ISSUE OF CONTRACT BY INCORPORATED COMPANIES

Sec.

651. Incorporation required; Lloyd's.

652. Directors; tenure; vacancies.

653. Classes of directors; term of office; vacancies.

**§ 651. Incorporation required; Lloyd's**

The business involving the issuance of insurance contracts in this State shall be carried on only by duly incorporated insurance companies. All incorporated insurance companies may exercise the powers and are subject to the duties and liabilities contained herein and in Title 13 so far as consistent with their charters. Associations of individuals now formed or which may hereafter be formed, upon the plan known as Lloyd's, for the purpose of transacting marine insurance business, may exercise all rights, powers and privileges granted under the laws of this State.

R.S.1954, c. 60, § 26.

**§ 652. Directors; tenure; vacancies**

The business of incorporated insurance companies shall be managed by not less than 7 directors, who shall be chosen by the stockholders at the time and place and in the manner provided in their bylaws. They shall be stockholders and hold their offices for one year and until others are chosen and qualified in their stead. Vacancies may be filled at a meeting called for the purpose. In elections and other business, stockholders have one vote for each share. The directors shall choose one of their number president.

R.S.1954, c. 60, § 27.

**§ 653. Classes of directors; term of office; vacancies**

All insurance companies, stock or mutual, established in the State may, by their bylaws, divide their directors into 2 or 3 classes, to hold their office for 2 or 3 years, according to the number of classes and until others are chosen in their stead. At the first election after such classification, the company shall designate the term for which each director is elected, in such manner

that one class shall thereafter go out of office annually. Vacancies shall be filled for the remainder of the term of the class in which they occur. The repeal of such bylaws shall not affect the term of the directors then in office, but all directors elected before such repeal shall hold office until the expiration of the term for which they were originally elected.

R.S.1954, c. 60, § 28.

#### SUBCHAPTER IV

#### RECORDS

Sec.

701. Records confidential.

702. Subpoena of records.

#### § 701. Records confidential

Certain records of the Insurance Department are confidential according to the following provisions:

**1. 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.

1961, c. 207, § 1.

**2. 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.

1961, c. 207, § 2.

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

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

**5. 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.

**6. 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.

**7. 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.

**§ 702. Subpoena of records**

All records and correspondence of the Insurance Department are subject to subpoena by a court of competent jurisdiction.

1959, c. 223, § 5.