

CF 7r2653

By: Senators Astle, Hafer, and ~~Derr~~ Derr, and Ferguson

Introduced and read first time: January 30, 1997

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 1997

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Fraternal Benefit Societies**

3 FOR the purpose of altering the circumstances under which a fraternal benefit society is
4 deemed to have a representative form of government; ~~altering the purposes of a~~
5 ~~society~~; increasing the amount of a certain bond a society is required to file with the
6 Maryland Insurance Commissioner; increasing the amount of certain premiums a
7 society must collect; providing that an amendment to the laws of a society is deemed
8 approved if not disapproved by the Commissioner within a certain period of time;
9 authorizing a society to indemnify certain individuals for certain expenses and
10 liabilities under certain circumstances; authorizing a society to purchase and
11 maintain insurance on behalf of certain individuals; providing an immunity from
12 damages for certain individuals who serve a society without compensation; requiring
13 a society to specify in its laws or rules the rights and privileges of each membership
14 class; providing that membership rights in a society are personal; authorizing a
15 society to provide for grievance procedures for members in its laws or rules; altering
16 the types of benefits for which a society may provide payment; altering the manner
17 of calculating certain benefits under certain certificates; altering the manner in
18 which certain benefit certificates must be approved; clarifying that a society may not
19 provide benefits through group insurance coverages; altering the standard provision
20 requirements, and optional and prohibited provisions, for certain certificates;
21 specifying permitted and required provisions in certificates issued on the lives of
22 individuals below a society's minimum age for adult membership; authorizing a
23 society to carry out its purposes through subsidiaries and affiliates; authorizing a
24 society to reinsure the risks of another society under certain circumstances;
25 authorizing a society to establish and operate separate accounts and issue contracts
26 on a variable basis under certain circumstances; ~~providing that certain foreign or~~
27 ~~alien societies meet certain requirements for investment of funds if the societies~~
28 ~~invest their funds in accordance with certain laws~~; providing certain penalties for a

2

1 society's failure to file a certain annual statement; altering certain requirements for
 2 valuing certain certificates of a society; altering certain provisions relating to
 3 impairment of reserves that must be included in the laws of a society; altering a
 4 certain exception to the requirement that a person must obtain a certificate of
 5 qualification to act as a fraternal benefit agent in this State; ~~prohibiting recognition~~
 6 ~~of an application or petition for injunction against a domestic, foreign, or alien~~
 7 ~~society in a court under certain circumstances~~; repealing certain provisions of law
 8 relating to health and disability certificates issued by a society; defining certain
 9 terms; providing for the effective date of this Act; and generally relating to fraternal
 10 benefit societies.

11 BY repealing and reenacting, with amendments,

12 Article - Insurance
 13 Section 8-401, 8-402, ~~8-411~~, 8-412, ~~8-413~~, 8-415, 8-418 through 8-422, 8-427,
 14 8-430, 8-432, 8-433, 8-437, 8-441 through 8-444, 8-446, ~~8-449~~, and ~~8-464~~ and
 15 8-449
 16 Annotated Code of Maryland
 17 (1995 Volume and 1996 Supplement)
 18 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

19 BY repealing

20 Article - Insurance
 21 Section 8-429 and 8-434
 22 Annotated Code of Maryland
 23 (1995 Volume and 1996 Supplement)
 24 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

25 BY repealing

26 Article - Insurance
 27 Section 8-445
 28 Annotated Code of Maryland
 29 (1995 Volume and 1996 Supplement)
 30 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995, as
 31 amended by Chapter 60 of the Acts of the General Assembly of 1996)

32 BY adding to

33 Article - Insurance
 34 Section 8-429 and 8-445
 35 Annotated Code of Maryland
 36 (1995 Volume and 1996 Supplement)
 37 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

38 ~~BY adding to~~

39 ~~Article - Insurance~~
 40 ~~Section 8-445~~

3

1 ~~Annotated Code of Maryland~~
2 ~~(1995 Volume and 1996 Supplement)~~
3 ~~(As enacted by Chapter 36 of the Acts of the General Assembly of 1995)~~

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Insurance**

7 8-401.

8 (a) In this subtitle the following words have the meanings indicated.

9 (B) "BENEFIT CONTRACT" MEANS THE AGREEMENT FOR PROVISION OF
10 BENEFITS AUTHORIZED BY § 8-432 OF THIS SUBTITLE.

11 (C) "BENEFIT MEMBER" MEANS AN ADULT MEMBER WHO IS DESIGNATED BY
12 THE LAWS OR RULES OF A SOCIETY TO BE A BENEFIT MEMBER UNDER A BENEFIT
13 CONTRACT.

14 (D) "CERTIFICATE" MEANS THE DOCUMENT ISSUED AS WRITTEN EVIDENCE
15 OF A BENEFIT CONTRACT.

16 [(b)] (E) "Certificate of qualification" means a certificate of qualification issued
17 by the Commissioner to act as a fraternal benefit agent.

18 [(c)] (F) "Fraternal benefit agent" means an authorized or acknowledged agent
19 of a society that acts as an agent in soliciting, negotiating, procuring, or making life
20 insurance, health insurance, or annuity contracts.

21 (G) "LAWS" MEANS A SOCIETY'S ARTICLES OF INCORPORATION,
22 CONSTITUTION, AND BYLAWS, HOWEVER DESIGNATED.

23 (H) "LODGE" MEANS SUBORDINATE MEMBER UNITS OF A SOCIETY, KNOWN
24 AS CAMPS, COURTS, COUNCILS, BRANCHES, OR BY ANY OTHER DESIGNATION.

25 (I) "PREMIUMS" MEANS PREMIUMS, RATES, DUES, OR OTHER REQUIRED
26 CONTRIBUTIONS BY WHATEVER NAME KNOWN THAT ARE PAYABLE UNDER A
27 CERTIFICATE.

28 (J) "RULES" MEANS ALL RULES, REGULATIONS, OR RESOLUTIONS ADOPTED
29 BY THE SUPREME GOVERNING BODY OR BOARD OF DIRECTORS OF A SOCIETY
30 WHICH ARE INTENDED TO HAVE GENERAL APPLICATION TO THE MEMBERS OF THE
31 SOCIETY.

32 [(d)] (K) Unless the context requires otherwise, "society" means fraternal benefit
33 society.

34 8-402.

35 (a) (1) An incorporated society, order, or supreme lodge without capital stock is
36 deemed to be a fraternal benefit society if it:

4

- 1 (i) is conducted solely for the benefit of its members and their
2 beneficiaries;
- 3 (ii) is not conducted for profit;
- 4 (iii) is operated on a lodge system with ritualistic form of work;
- 5 (iv) has a representative form of government; and
- 6 (v) provides for benefits to be paid in accordance with this subtitle.

7 (2) An incorporated or unincorporated society, order, or supreme lodge
8 without capital stock that is exempted under § 8-404(a)(2) of this subtitle is deemed to be
9 a fraternal benefit society.

10 (b) A society is deemed to be operating on a lodge system if it operates under a
11 system by which the society:

12 (1) has a supreme legislative or governing body and subordinate lodges or
13 branches, by whatever name known;

14 (2) by its laws, requires the subordinate lodges or branches to hold regular
15 meetings at least once each month IN FURTHERANCE OF THE PURPOSES OF THE
16 SOCIETY; and

17 (3) elects, initiates, or admits members in accordance with its
18 [constitution,] laws, rituals, and rules.

19 (c) A society is deemed to have a representative form of government if:

20 (1) (I) the society provides in its [constitution or] laws for a supreme
21 legislative or governing body composed of:

22 [(i)] 1. representatives elected by the members of the society or by
23 delegates elected directly or indirectly by the members; and

24 [(ii)] 2. any other individuals required by the [constitution and] laws
25 of the society;

26 (II) ELECTION OF DELEGATES MAY BE ACCOMPLISHED BY MAIL;

27 [(2)] (III) the elected representatives of the society:

28 [(i)] 1. are a majority of the supreme legislative or governing body;

29 [(ii)] 2. have at least two-thirds of the votes; and

30 [(iii)] 3. have at least the number of votes required to amend the
31 [constitution and] laws of the society;

32 [(3)] (IV) at least once every 4 years:

33 [(i)] 1. the supreme legislative or governing body of the society
34 meets; and

5

1 [(ii)] 2. officers, representatives, or delegates of the society are
2 elected;

3 [(4)] (V) each insured member is eligible for election to act or serve as a
4 delegate to the meeting;

5 [(5)] (VI) the society has a board of directors that:

6 [(i)] 1. is responsible for the management of the affairs of the
7 society between meetings of the supreme legislative or governing body;

8 [(ii)] 2. is subject to control by the supreme legislative or governing
9 body;

10 [(iii)] 3. except when a vacancy is filled between meetings of the
11 supreme legislative or governing body, is elected by the supreme legislative or governing
12 body; and

13 [(iv)] 4. has powers and duties delegated by the [constitution or]
14 laws of the society;

15 [(6)] (VII) the officers of the society are elected by the supreme legislative or
16 governing body or by the board of directors; and

17 [(7)] (VIII) the members, officers, representatives, or delegates of the society
18 may not vote by proxy; OR

19 (2) (I) THE SOCIETY PROVIDES IN ITS LAWS FOR A SUPREME
20 LEGISLATIVE OR GOVERNING BODY COMPOSED OF:

21 1. A BOARD COMPOSED OF INDIVIDUALS ELECTED BY THE
22 MEMBERS, EITHER DIRECTLY OR BY THEIR REPRESENTATIVES IN INTERMEDIATE
23 ASSEMBLIES; AND

24 2. ANY OTHER INDIVIDUALS REQUIRED BY THE LAWS OF
25 THE SOCIETY;

26 (II) ELECTION OF THE BOARD MAY BE ACCOMPLISHED BY MAIL;

27 (III) THE TERM OF AN ELECTED BOARD MEMBER MAY NOT EXCEED
28 4 YEARS;

29 (IV) THE INDIVIDUALS ELECTED TO THE BOARD:

30 1. ARE A MAJORITY OF THE BOARD; AND

31 2. HAVE AT LEAST THE NUMBER OF VOTES REQUIRED TO
32 AMEND THE LAWS OF THE SOCIETY;

33 (V) VACANCIES ON THE BOARD BETWEEN ELECTIONS ARE FILLED
34 AS PRESCRIBED BY THE LAWS OF THE SOCIETY;

35 (VI) AN INDIVIDUAL FILLING THE UNEXPIRED TERM OF AN
36 ELECTED BOARD MEMBER IS CONSIDERED TO BE AN ELECTED MEMBER; AND

6

1 (VII) THE BOARD MEETS AT LEAST QUARTERLY TO CONDUCT THE
2 BUSINESS OF THE SOCIETY.

3 ~~8-411.~~

4 (a) ~~The incorporators shall sign and acknowledge the articles of incorporation.~~

5 (b) ~~The articles of incorporation shall include:~~

6 (1) ~~the purpose for which the society is being formed and the manner in~~
7 ~~which its corporate powers are to be exercised;~~

8 (2) ~~the name of the society;~~

9 (3) ~~the name, address, and state of residence of each incorporator; and~~

10 (4) ~~the name, address, residence, and official title of each officer, trustee,~~
11 ~~director, and any other individual who will have general control of the management of the~~
12 ~~affairs and funds of the society for the first year and until the first election.~~

13 (c) (1) ~~The powers set forth in the articles of incorporation may not exceed the~~
14 ~~powers granted to societies by this subtitle.~~

15 (2) ~~The purposes of a society may include any lawful social, intellectual,~~
16 ~~educational, charitable, benevolent, moral, fraternal, PATRIOTIC, or religious activity.~~

17 (d) ~~The name of a society may not be misleadingly or confusingly similar to the~~
18 ~~name of any other society or insurer.~~

19 8-412.

20 (a) The incorporators shall file with the Commissioner:

21 (1) the articles of incorporation of the society;

22 (2) certified copies of the society's [constitution,] laws[,] and rules;

23 (3) copies of all proposed:

24 (i) forms of certificates;

25 (ii) applications for certificates; and

26 (iii) circulars to be issued by the society; and

27 (4) a bond conditioned on the return to applicants of advance premiums if
28 the organization of the society is not completed within 1 year.

29 (b) The Commissioner may require any additional information that the
30 Commissioner considers necessary.

31 (c) The bond required under subsection (a) of this section must:

32 (1) be issued by a surety insurer approved by the Commissioner; and

33 (2) be in the amount required by the Commissioner, but not less than
34 [\$5,000] \$300,000 nor more than [\$25,000] \$1,500,000.

7

1 (d) Each document filed shall be in the English language.

2 ~~8-413.~~

3 ~~(a) Each society that applies on or after [July] JANUARY 1, [1968] 1998, for an~~
 4 ~~initial certificate of authority under this subtitle must have working capital of at least~~
 5 ~~\$125,000.~~

6 ~~(b) After issuance of its initial certificate of authority, a society described in~~
 7 ~~subsection (a) of this section shall maintain unencumbered assets that exceed all~~
 8 ~~liabilities by \$100,000.~~

9 8-415.

10 (a) (1) After receiving a preliminary certificate of authority from the
 11 Commissioner, a society may solicit members for the purposes of completing its
 12 organization.

13 (2) Until the society complies with the requirements of subsection (b) of this
 14 section, the society may not:

15 (i) incur any liability other than for the return of an advance
 16 premium;

17 (ii) issue any certificate; or

18 (iii) pay, allow, or offer or promise to pay or allow any death or
 19 disability benefit.

20 (b) Each society shall:

21 (1) secure bona fide applications for death benefits in an aggregate amount
 22 of at least \$500,000 on at least 500 lives;

23 (2) receive from each applicant evidence of insurability satisfactory to the
 24 society;

25 (3) have on file certificates of examination or acceptable declarations of
 26 insurability approved by the society's chief medical examiner;

27 (4) collect from each applicant the amount of at least one regular monthly
 28 premium under the society's table of rates as provided by the society's [constitution and]
 29 laws, and issue to each applicant a receipt for the amount received;

30 (5) collect premiums as provided in item (4) of this subsection in an
 31 aggregate amount of at least [\$2,500] \$150,000 and credit the premiums to the funds
 32 from which benefits are to be paid;

33 (6) establish at least ten subordinate lodges or branches into which the
 34 applicants are admitted;

35 (7) submit to the Commissioner, under the oath of the president, secretary,
 36 or an equivalent officer of the society, the name, address, date of admission, and amounts
 37 of benefits and premiums of each applicant, and the name and number of the subordinate
 38 branch of which the applicant is a member; and

8

1 (8) submit to the Commissioner, under oath of the treasurer or an
2 equivalent officer of the society, a statement that at least 500 applicants have paid the
3 premiums required by items (4) and (5) of this subsection.

4 (c) All advance premiums shall be held in trust during the period of organization
5 and, if the society has not qualified for a certificate of authority within 1 year, the
6 premiums shall be returned to the applicants.

7 8-418.

8 (a) A society may adopt and amend [a constitution and] laws to:

9 (1) govern the society;

10 (2) admit society members;

11 (3) manage society affairs; and

12 (4) fix and readjust the rates of society members.

13 (b) (1) The [constitution and] laws of the society may provide that subordinate
14 lodges or branches and their officers and members may not waive any provisions of the
15 laws [or constitution] of the society.

16 (2) A provision adopted in accordance with this subsection is binding on the
17 society and each member and beneficiary of a member.

18 (c) Except as prohibited by this subtitle, a society has any other power necessary
19 and incidental to accomplish the purposes for which it is established.

20 8-419.

21 (a) A society may amend, in accordance with their provisions, its[articles of
22 incorporation, constitution, or] laws by:

23 (1) action of its supreme legislative or governing body at a regular or special
24 meeting of the body; or

25 (2) referendum.

26 (b) (1) An amendment by referendum may be approved in accordance with the
27 [articles of incorporation, constitution, or] laws of a society, by the vote of:

28 (i) the society's voting members;

29 (ii) the delegates or representatives of the society's voting members; or

30 (iii) the society's local lodges or branches.

31 (2) An amendment may not be adopted by referendum unless, within 6
32 months after it is submitted for adoption, a majority of all the voting members of the
33 society have consented to the amendment.

34 (c) (1) An amendment to the [articles of incorporation, constitution, or] laws
35 of a society may not take effect unless the Commissioner approves.

9

1 (2) The Commissioner shall approve an amendment if the Commissioner
2 finds that the amendment was adopted properly and is not inconsistent with the laws of
3 the State or [with the articles of incorporation of] the society.

4 (3) The Commissioner's approval or disapproval shall be in writing and
5 mailed to the secretary or equivalent officer of the society at the society's principal office.

6 (4) The Commissioner shall include in a notice of disapproval a statement of
7 the reasons for the disapproval.

8 (5) UNLESS DISAPPROVED BY THE COMMISSIONER, AN AMENDMENT IS
9 DEEMED APPROVED 60 DAYS AFTER IT IS FILED WITH THE COMMISSIONER.

10 (d) (1) Within 90 days after approval by the Commissioner, each amendment or
11 a synopsis of it shall be mailed by the society to each member of the society or published
12 in full in the official publication of the society.

13 (2) The affidavit of an individual authorized by the society to mail an
14 amendment or synopsis, stating that the amendment or synopsis was addressed properly
15 and mailed, is prima facie evidence that the amendment or synopsis was provided to the
16 addressee.

17 (e) A printed copy of the [constitution or] laws as amended, certified by the
18 secretary or equivalent officer of the society, is prima facie evidence of the amendment.

19 8-420.

20 (a) (1) The officers, trustees, directors, or other individuals who have general
21 control of the management of the affairs and funds of the society shall be elected by the
22 supreme legislative or governing body of the society.

23 (2) The election shall be held within 1 year after a permanent certificate of
24 authority is issued under § 8-417 of this subtitle.

25 (b) The officers of a grand, supreme, or subordinate lodge or branch of a society
26 are not personally liable for payment of a benefit provided by the society.

27 (C) (1) AN INDIVIDUAL MAY BE INDEMNIFIED AND REIMBURSED BY A
28 SOCIETY FOR EXPENSES REASONABLY INCURRED BY, AND LIABILITIES IMPOSED
29 ON, THE INDIVIDUAL IN CONNECTION WITH OR ARISING OUT OF ANY THREATENED,
30 PENDING, OR COMPLETED ACTION, SUIT, OR PROCEEDING, WHETHER CIVIL,
31 CRIMINAL, ADMINISTRATIVE, OR INVESTIGATIVE, IN WHICH THE INDIVIDUAL MAY
32 BE INVOLVED BECAUSE THE INDIVIDUAL IS OR WAS A DIRECTOR, OFFICER,
33 EMPLOYEE, OR AGENT OF THE SOCIETY OR OF ANY FIRM, CORPORATION, OR
34 ORGANIZATION IN WHICH THE INDIVIDUAL SERVED IN ANY CAPACITY AT THE
35 REQUEST OF THE SOCIETY.

36 (2) AN INDIVIDUAL MAY NOT BE INDEMNIFIED OR REIMBURSED:

37 (I) IN RELATION TO ANY MATTER IN AN ACTION, SUIT, OR
38 PROCEEDING AS TO WHICH THE INDIVIDUAL IS FINALLY ADJUDGED TO BE OR HAVE
39 BEEN GUILTY OF BREACH OF A DUTY AS A DIRECTOR, OFFICER, EMPLOYEE, OR
40 AGENT OF THE SOCIETY; OR

10

1 (II) IN RELATION TO ANY MATTER IN A THREATENED OR PENDING
2 ACTION, SUIT, OR PROCEEDING THAT HAS BEEN MADE THE SUBJECT OF A
3 COMPROMISE SETTLEMENT, UNLESS THE INDIVIDUAL:

4 1. ACTED IN GOOD FAITH FOR A PURPOSE THE INDIVIDUAL
5 REASONABLY BELIEVED TO BE IN, OR NOT OPPOSED TO, THE BEST INTERESTS OF
6 THE SOCIETY; AND

7 2. IN A CRIMINAL ACTION OR PROCEEDING, HAD NO
8 REASONABLE CAUSE TO BELIEVE THAT THE INDIVIDUAL'S CONDUCT WAS
9 UNLAWFUL.

10 (3) THE DETERMINATION OF WHETHER THE CONDUCT OF AN
11 INDIVIDUAL MET THE STANDARD REQUIRED TO JUSTIFY INDEMNIFICATION AND
12 REIMBURSEMENT IN RELATION TO ANY MATTER DESCRIBED IN PARAGRAPH (2) OF
13 THIS SUBSECTION MAY BE MADE ONLY BY:

14 (I) THE SUPREME GOVERNING BODY OR BOARD OF DIRECTORS
15 OF THE SOCIETY BY A MAJORITY VOTE OF A QUORUM THAT CONSISTS OF
16 INDIVIDUALS WHO WERE NOT PARTIES TO THE ACTION, SUIT, OR PROCEEDING; OR

17 (II) A COURT OF COMPETENT JURISDICTION.

18 (4) THE TERMINATION OF AN ACTION, SUIT, OR PROCEEDING BY
19 JUDGMENT, ORDER, SETTLEMENT, CONVICTION, OR ON A PLEA OF NO CONTEST, AS
20 TO AN INDIVIDUAL SHALL NOT IN ITSELF CREATE A CONCLUSIVE PRESUMPTION
21 THAT THE INDIVIDUAL DID NOT MEET THE STANDARD OF CONDUCT REQUIRED TO
22 JUSTIFY INDEMNIFICATION AND REIMBURSEMENT.

23 (5) THE RIGHT OF INDEMNIFICATION AND REIMBURSEMENT UNDER
24 THIS SUBSECTION SHALL NOT BE EXCLUSIVE OF OTHER RIGHTS TO WHICH AN
25 INDIVIDUAL MAY BE ENTITLED AS A MATTER OF LAW, AND SHALL INURE TO THE
26 BENEFIT OF THE INDIVIDUAL'S HEIRS, EXECUTORS, AND ADMINISTRATORS.

27 (D) A SOCIETY MAY PURCHASE AND MAINTAIN INSURANCE ON BEHALF OF
28 ANY INDIVIDUAL WHO IS OR WAS A DIRECTOR, OFFICER, EMPLOYEE, OR AGENT OF
29 THE SOCIETY, OR WHO IS OR WAS SERVING AT THE REQUEST OF THE SOCIETY AS A
30 DIRECTOR, OFFICER, EMPLOYEE, OR AGENT OF ANY OTHER FIRM, CORPORATION,
31 OR ORGANIZATION AGAINST ANY LIABILITY ASSERTED AGAINST THE INDIVIDUAL
32 AND INCURRED BY THE INDIVIDUAL IN ANY SUCH CAPACITY OR ARISING OUT OF
33 THE INDIVIDUAL'S STATUS AS SUCH, WHETHER OR NOT THE SOCIETY WOULD HAVE
34 THE POWER TO INDEMNIFY THE INDIVIDUAL AGAINST SUCH LIABILITY UNDER THIS
35 SECTION.

36 (E) NO DIRECTOR, OFFICER, EMPLOYEE, MEMBER, OR VOLUNTEER OF A
37 SOCIETY SERVING WITHOUT COMPENSATION, SHALL BE LIABLE, AND NO CAUSE OF
38 ACTION MAY BE BROUGHT, FOR DAMAGES RESULTING FROM THE EXERCISE OF
39 JUDGMENT OR DISCRETION IN CONNECTION WITH THE DUTIES OR
40 RESPONSIBILITIES OF THE INDIVIDUAL FOR THE SOCIETY UNLESS THE ACT OR
41 OMISSION INVOLVED WILLFUL OR WANTON MISCONDUCT.

11

1 8-421.

2 (a) (1) A society may admit to membership an individual who:

3 (i) is older than 14 1/2 years old; and

4 (ii) gives the society evidence of insurability acceptable to the society.

5 (2) A minor who is admitted to the society is:

6 (i) bound by the terms of the application and certificate and by the
7 laws and rules of the society; and

8 (ii) entitled to the rights and privileges of membership as though the
9 individual were an adult at the time of application.

10 (b) A society also may admit general or social members who do not have a voice
11 or vote in the management of the society's insurance affairs.

12 (c) The members of a grand, supreme, or subordinate lodge or branch of a society
13 are not personally liable for payment of a benefit provided by the society.

14 (D) A SOCIETY SHALL SPECIFY IN ITS LAWS OR RULES THE RIGHTS AND
15 PRIVILEGES OF EACH MEMBERSHIP CLASS.

16 (E) MEMBERSHIP RIGHTS IN A SOCIETY ARE PERSONAL TO THE MEMBER
17 AND NOT ASSIGNABLE.

18 8-422.

19 (a) The principal office of a domestic society shall be located in the State.

20 (b) Meetings of the supreme legislative or governing body of a society may be held
21 in any state, district, province, or territory where the society has at least five subordinate
22 branches.

23 (c) The minutes of the proceedings of the supreme legislative or governing body
24 and of the board of directors or equivalent body of a society shall be in English.

25 (D) A SOCIETY MAY PROVIDE IN ITS LAWS OR RULES FOR GRIEVANCE OR
26 COMPLAINT PROCEDURES FOR MEMBERS.

27 8-427.

28 (a) A society authorized to do insurance business in the State may provide for the
29 payment of:

30 (1) life insurance benefits;

31 (2) annuity benefits;

32 (3) health insurance benefits; [and]

33 (4) monument or tombstone benefits[, at a cost not exceeding \$300,] to the
34 memory of a deceased member of the society; AND

12

1 (5) SUCH OTHER BENEFITS AS AUTHORIZED FOR LIFE INSURERS AND
2 WHICH ARE NOT INCONSISTENT WITH THIS SUBTITLE.

3 [(b) A society may provide for benefits:

4 (1) on the life of a member; or

5 (2) on application of a member, on the lives of the member's family,
6 including the member, the member's spouse, or the member's minor child, in the same or
7 a separate certificate.]

8 ~~(B) (1) A SOCIETY SHALL SPECIFY IN ITS LAWS THOSE INDIVIDUALS WHO~~
9 ~~MAY BE ISSUED, OR COVERED BY, THE CONTRACTUAL BENEFITS DESCRIBED IN~~
10 ~~SUBSECTION (A) OF THIS SECTION, CONSISTENT WITH THE PROVISION OF BENEFITS~~
11 ~~TO MEMBERS AND THEIR DEPENDENTS.~~

12 ~~(2) A SOCIETY MAY PROVIDE BENEFITS ON THE LIVES OF CHILDREN~~
13 ~~UNDER THE MINIMUM AGE FOR ADULT MEMBERSHIP ON APPLICATION OF AN~~
14 ~~ADULT.~~

15 (B) (1) A SOCIETY SHALL SPECIFY IN ITS LAWS THOSE PERSONS WHO MAY
16 RECEIVE BENEFITS THROUGH THE SOCIETY.

17 (2) (I) FOR ALL COVERAGES, THE MEMBER SHALL BE THE APPLICANT
18 OR THE INSURED.

19 (II) IF THE MEMBER IS THE APPLICANT, THERE SHALL BE A BONA
20 FIDE FAMILIAL OR OTHER DEPENDENT RELATIONSHIP BETWEEN THE MEMBER AND
21 THE INSURED OR BENEFICIARY.

22 (3) (I) EVERY SOCIETY, BY ITS LAWS, MAY LIMIT THE SCOPE OF
23 BENEFICIARIES ONLY TO THE EXTENT REQUIRED BY FEDERAL LAW GOVERNING
24 FRATERNAL BENEFIT SOCIETIES.

25 (II) THE SOCIETY MAY SPECIFY THE TERMS AND CONDITIONS ON
26 WHICH BENEFITS CERTIFICATES MAY BE ASSIGNED.

27 (C) A SOCIETY MAY NOT PROVIDE BENEFITS THROUGH GROUP INSURANCE
28 COVERAGES.

29 ~~(D)~~ (D) A member who applies for additional benefits more than 6 months after
30 becoming a benefit member shall provide additional evidence of insurability acceptable to
31 the society.

32 [8-429.

33 (a) (1) A society may grant paid-up nonforfeiture benefits, cash surrender
34 values, certificate loans, and other options as its laws allow.

35 (2) (i) A society shall grant at least one paid-up nonforfeiture benefit for
36 certificates issued by the society on or after December 31, 1963.

37 (ii) Subparagraph (i) of this paragraph does not apply to:

38 1. pure endowment contracts;

13

- 1 2. annuity contracts;
- 2 3. reversionary annuity contracts;
- 3 4. reducing term insurance contracts; or
- 4 5. contracts of term insurance of uniform amount of 15 years or
- 5 less that expire before age 66.

6 (b) (1) (i) After premiums have been paid for 3 full years, or for a lesser
7 period as provided by the contract, the value of each paid-up nonforfeiture benefit and
8 the amount of any cash surrender value, loan, or other option granted by a certificate may
9 not be less than any excess of:

- 10 1. the reserve under the certificate, determined on the basis
- 11 specified in the certificate; minus
- 12 2. the sum of any indebtedness to the society on the certificate,
- 13 including interest due and accrued, and a surrender charge equal to 2.5% of the face
- 14 amount of the certificate.

15 (ii) For insurance on the lives of children, the face amount of the
16 certificate is the ultimate face amount of the certificate if death benefits provided in the
17 certificate are graded.

18 (iii) Subparagraph (i) of this paragraph does not apply to certificates
19 for which reserves are computed on:

- 20 1. the Commissioners 1941 Standard Ordinary Mortality Table;
- 21 2. the 1941 Standard Industrial Table;
- 22 3. the Commissioners 1958 Standard Ordinary Mortality Table;
- 23 or
- 24 4. any mortality table that is authorized for use under §
- 25 5-304(b) of this article for policies issued on or after the operative date of § 15-309 [48A
- 26 § 414(k-1)] of this article.

27 (2) The term of any extended insurance benefit granted, including any
28 accompanying pure endowment, may be computed on the rates of mortality not greater
29 than 130% of those shown by the mortality table specified in the certificate for the
30 computation of the reserve, if:

- 31 (i) the certificate is issued on a substandard basis; or
- 32 (ii) the reserves for the certificate are computed on the American Men
- 33 Ultimate Table of Mortality.

34 (c) (1) Each paid-up nonforfeiture benefit and the amount of any cash
35 surrender value, loan, or other option granted under a certificate may not be less than the
36 corresponding amount ascertained under the laws of the State that apply to life insurers
37 issuing policies containing like insurance benefits based on the same tables.

14

1 (2) This subsection applies to certificates for which reserves are computed
2 on:

3 (i) the Commissioners 1941 Standard Ordinary Mortality Table;

4 (ii) the Commissioners 1941 Standard Industrial Table;

5 (iii) the Commissioners 1958 Standard Ordinary Mortality Table; or

6 (iv) any mortality table that is authorized for use under § 5-304(b) of
7 this article for policies issued on or after the operative date of § 15-309 [48A § 414(k-1)]
8 of this article.]

9 8-429.

10 (A) FOR CERTIFICATES ISSUED BEFORE JANUARY 1, 1998, THE VALUE OF
11 EVERY PAID-UP NONFORFEITURE BENEFIT AND THE AMOUNT OF ANY CASH
12 SURRENDER VALUE, LOAN OR OTHER OPTION GRANTED SHALL COMPLY WITH THE
13 PROVISIONS OF LAW APPLICABLE ON DECEMBER 31, 1997.

14 (B) (1) EACH PAID-UP NONFORFEITURE BENEFIT AND THE AMOUNT OF
15 ANY CASH SURRENDER VALUE, LOAN, OR OTHER OPTION GRANTED UNDER A
16 CERTIFICATE MAY NOT BE LESS THAN THE CORRESPONDING AMOUNT
17 ASCERTAINED UNDER THE LAWS OF THE STATE THAT APPLY TO LIFE INSURERS
18 ISSUING POLICIES CONTAINING LIKE INSURANCE BENEFITS BASED ON THE SAME
19 TABLES.

20 (2) THIS SUBSECTION APPLIES TO CERTIFICATES ISSUED ON OR AFTER
21 JANUARY 1, 1998, FOR WHICH RESERVES ARE COMPUTED ON:

22 (I) THE COMMISSIONERS 1941 STANDARD ORDINARY MORTALITY
23 TABLE;

24 (II) THE COMMISSIONERS 1941 STANDARD INDUSTRIAL TABLE;

25 (III) THE COMMISSIONERS 1958 STANDARD ORDINARY MORTALITY
26 TABLE;

27 (IV) THE COMMISSIONERS 1980 STANDARD MORTALITY TABLE; OR

28 (V) ANY MORE RECENT TABLE AUTHORIZED FOR USE UNDER §
29 5-304(B) OF THIS ARTICLE.

30 8-430.

31 (a) (1) A member of a society may change the beneficiary in a certificate at any
32 time in accordance with the [constitution,] laws[,] or rules of the society.

33 (2) By its [constitution,] laws[,] or rules, a society:

34 (i) may limit the scope of beneficiaries; and

35 (ii) shall provide that a beneficiary may not have or get a vested
36 interest in the proceeds of a certificate until the certificate becomes due and payable
37 under the insurance contract.

15

1 (b) (1) A society may provide for the payment of funeral benefits, not exceeding
2 [\$2,500] \$5,000, to the extent of that part of any payment under a certificate that
3 reasonably appears to be due to a person equitably entitled to reimbursement of expenses
4 incurred by the burial of a member.

5 (2) (I) [If]SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF
6 at the death of a member there is no lawful beneficiary to whom the insurance benefits
7 are payable, the society shall pay to the personal representative of the deceased member
8 the insurance benefits under the certificate, less any funeral benefits paid under
9 paragraph (1) of this subsection.

10 (II) IF THE OWNER OF THE CERTIFICATE IS OTHER THAN THE
11 INSURED, THE PROCEEDS SHALL BE PAYABLE TO THAT OWNER.

12 8-432.

13 (a) (1) Each society authorized to do business in the State shall issue to each
14 member entitled to benefits a certificate that specifies the amount of benefits provided
15 under the certificate.

16 (2) The certificate, any rider or endorsement attached to the certificate, the
17 [charter, articles of incorporation, constitution, and] laws of the society, the application
18 for membership, any declaration of insurability signed by the applicant, and all
19 amendments to each of these documents constitute the agreement between the society
20 and the member as of the date of issuance of the certificate.

21 (3) The certificate shall state that the documents listed in paragraph (2) of
22 this subsection constitute the agreement between the society and the member as of the
23 date of issuance of the certificate.

24 (4) A copy of the application for membership and of any declaration of
25 insurability shall be endorsed on or attached to the certificate.

26 (b) (1) Each statement purporting to be made by [a member] AN APPLICANT
27 FOR INSURANCE is a representation and not a warranty.

28 (2) A waiver of this subsection is void.

29 (c) (1) Subject to paragraph (2) of this subsection, an amendment to the
30 [charter, articles of incorporation, constitution, or] laws made after the date of issuance
31 of the certificate:

32 (i) binds the member and each beneficiary; and

33 (ii) governs the agreement between the society and the member as
34 though the amendments were made before and were in force on the date that the member
35 applied for membership.

36 (2) An amendment does not destroy or diminish the benefits that the society
37 contracted to give the member OR OWNER as of the date of issuance of the certificate.

38 (d) A copy of a document listed in this section, certified by the secretary or
39 equivalent officer of the society, is evidence of the terms and conditions of the document.

16

1 8-433.

2 (a) (1) After December 31, [1963] 1997, a [life] benefit certificate may not be
3 delivered or issued for delivery in the State unless the form has been:

4 (i) filed with the Commissioner; and

5 (ii) approved by the Commissioner [as conforming to the
6 requirements of this section and not inconsistent with other applicable provisions of law]
7 IN THE MANNER PROVIDED FOR LIKE POLICIES ISSUED BY LIFE INSURERS IN THE
8 STATE.

9 (2) Unless disapproved by the Commissioner, a [life] benefit certificate is
10 deemed approved 60 days after the date the form is filed with the Commissioner.

11 [(b) Each life benefit certificate shall contain a title on the face and filing page of
12 the certificate clearly and correctly describing its form.]

13 (B) (1) EACH LIFE, ACCIDENT, HEALTH, OR ~~DISABILITY~~ DISABILITY
14 INSURANCE CERTIFICATE AND EACH ANNUITY CERTIFICATE ISSUED ON OR AFTER
15 JANUARY 1, 1998, SHALL MEET ~~THE STANDARD PROVISION~~ REQUIREMENTS NOT
16 INCONSISTENT WITH THIS SUBTITLE FOR LIKE POLICIES AND ANNUITIES ISSUED BY
17 LIFE INSURERS IN THE STATE.

18 [(c)] (2) Unless the [life] benefit certificate contains provisions that are more
19 favorable to the member, each [life] benefit certificate shall contain in substance each of
20 the following standard provisions:

21 [(1)] (I) a statement of:

22 [(i)] 1. the amount of rates, premiums, or other required
23 contributions, however named, that are payable by the insured under the certificate; and

24 [(ii)] 2. the member's share of a deficiency if reserves are impaired;
25 AND

26 [(2)] (II) a provision that:

27 [(i)] 1. for payment of any premium after the first, the member is
28 entitled to a grace period of not less than a full month or, at the option of the society, 30
29 days;

30 [(ii)] 2. the certificate shall continue in full force during the grace
31 period; [and]

32 [(iii)] 3. if the certificate becomes a claim during the grace period
33 before the overdue payment is made, the amount of the overdue payment may be
34 deducted in a settlement under the certificate;

35 [(3) a provision that, unless the certificate has been terminated through the
36 application of a nonforfeiture benefit, cash surrender value, or certificate loan, the
37 member is entitled to have the certificate reinstated at any time within 3 years after the
38 due date of a premium in default if the member:

17

1 (i) produces evidence of insurability satisfactory to the society; and

2 (ii) pays all overdue premiums and any other indebtedness to the
 3 society on the certificate, together with interest on those premiums and that
 4 indebtedness, at a rate not exceeding 6% per year compounded annually;

5 (4) a provision that, on proper request not later than 60 days after the due
 6 date of a premium in default, the society will grant the paid-up nonforfeiture benefit on
 7 the plan:

8 (i) as stipulated in the certificate;

9 (ii) effective as of the due date of the premium; and

10 (iii) of the value specified in § 8-429 of this subtitle;

11 (5) a provision that one paid-up nonforfeiture benefit as specified in the
 12 certificate becomes effective automatically unless the member elects another available
 13 paid-up nonforfeiture benefit within 60 days after the due date of a premium in default;

14 (6) a statement of the mortality table and rate of interest used to determine
 15 all paid-up nonforfeiture benefits and cash surrender options available under the
 16 certificate, and a brief, general description of the method used to calculate those benefits;

17 (7) a table that shows in figures the value of each paid-up nonforfeiture
 18 benefit and cash surrender option available under the certificate for each certificate
 19 anniversary during the shorter of the period covered by:

20 (i) the first 20 certificate years; and

21 (ii) the term of the certificate;

22 (8) a provision that after a certificate has been in effect during the lifetime
 23 of the member for a 2-year period after the date of issue, the certificate is incontestable
 24 except for:

25 (i) nonpayment of premiums;

26 (ii) violation of the provisions of the certificate that relate to military,
 27 aviation, or naval service; or

28 (iii) violation of the provisions that relate to suspension or expulsion as
 29 substantially set forth in the certificate;

30 (9) a provision that after a certificate has been in effect during the lifetime
 31 of the member for a 2-year period after the date of issue, the certificate is incontestable
 32 on the grounds of suicide;

33 (10) a provision that:

34 (i) if the age or sex of the member or another person is considered in
 35 determining the premium and, before final settlement under the certificate, it is found
 36 that the age or sex has been misstated and the discrepancy and premium involved have

18

1 not been adjusted, the amount payable is the amount that the premium would have
2 purchased at the correct age and sex; but

3 (ii) if the correct age was not an insurable age under the society's
4 charter or laws:

5 1. only the premiums paid to the society, less any payments
6 previously made to the member, shall be returned; or

7 2. at the option of the society, the amount payable under the
8 certificate is the amount the premium would have purchased at the correct age and sex
9 according to the society's adopted rates and any extension of those rates that is based on
10 actuarial principles;]

11 [(11)] 4. [a provision that] recites fully or sets forth the substance of all
12 sections of the [charter, constitution,] laws[,] OR rules[, or regulations] of the society
13 that are in force on the date of issuance of the certificate, the violation of which will result
14 in the termination or reduction of benefits payable under the certificate; and

15 [(12)] 5. [a provision that,] if the [constitution or] laws of the society
16 provide for expulsion or suspension, a member who is expelled or suspended has the
17 privilege of maintaining the insurance in force by continuing payment of the required
18 premium, unless the expulsion or suspension is for:

19 [(i)] A. nonpayment of a premium; or

20 [(ii)] B. a material misrepresentation in the member's application for
21 membership that is discovered within the contestable period.

22 (C) CERTIFICATES ISSUED ON THE LIVES OF INDIVIDUALS BELOW THE
23 SOCIETY'S MINIMUM AGE FOR ADULT MEMBERSHIP:

24 (1) MAY PROVIDE FOR TRANSFER OF CONTROL OF OWNERSHIP TO THE
25 INSURED AT AN AGE SPECIFIED IN THE CERTIFICATE;

26 (2) MAY REQUIRE APPROVAL OF AN APPLICATION FOR MEMBERSHIP IN
27 ORDER TO EFFECT THE TRANSFER;

28 (3) MAY PROVIDE IN ALL OTHER RESPECTS FOR THE REGULATION,
29 GOVERNMENT, AND CONTROL OF THE CERTIFICATE AND ALL RIGHTS,
30 OBLIGATIONS, AND LIABILITIES INCIDENT TO AND CONNECTED WITH THE
31 CERTIFICATE; AND

32 (4) SHALL SPECIFY OWNERSHIP RIGHTS TO THE CERTIFICATE PRIOR TO
33 ANY TRANSFER OF THE CERTIFICATE.

34 (D) A SOCIETY MAY SPECIFY THE TERMS AND CONDITIONS ON WHICH
35 BENEFIT CERTIFICATES MAY BE ASSIGNED.

36 [(d) A life benefit certificate may contain the following provisions:

37 (1) a provision that default will not occur if premiums are paid under an
38 arrangement for an automatic premium loan as set forth in the certificate, if:

19

1 (i) the society's laws so allow; or

2 (ii) the member elects to apply the automatic premium loan before the
3 grace period of an overdue premium expires;

4 (2) a supplemental provision that relates to benefits in the event of
5 temporary or permanent disability or hospitalization and a provision that grants
6 additional insurance specifically against death by accident or accidental means may also
7 be excepted from the incontestability provision of subsection (c)(8) of this section; and

8 (3) a provision that, subject to subsections (c)(8) and (d)(2) of this section,
9 with regard to statements made to procure reinstatement, the society has the right to
10 contest a reinstated certificate within 2 years after the date of reinstatement.

11 (e) Any provision or part of a provision required by subsection (c) of this section
12 may be omitted from a life benefit certificate to the extent it is inapplicable because of
13 the plan of insurance or because the certificate is an annuity certificate.

14 (f) After December 31, 1963, a life benefit certificate may not be delivered or
15 issued for delivery in the State if the certificate contains in substance any of the following
16 provisions:

17 (1) a provision that limits the time within which an action may be
18 commenced to less than 3 years after the cause of action accrues;

19 (2) a provision in which the certificate purports to be issued or to take effect
20 more than 6 months before the original application for the certificate was made, except in
21 case of transfer from one form of certificate to another by which the member is to receive
22 credit for any reserve accumulation under the form of certificate from which the transfer
23 is made; or

24 (3) a provision for forfeiture of the certificate for failure to repay a loan on
25 the certificate or to pay interest on the loan while the total indebtedness, including
26 interest, is less than the loan value of the certificate.]

27 8-437.

28 (a) A society may create, maintain, and operate charitable, benevolent, or
29 educational institutions for the benefit of:

30 (1) society members;

31 (2) families and dependents of society members; and

32 (3) children insured by the society.

33 (b) (1) For the purposes of an institution authorized by subsection (a) of this
34 section, a society may own, hold, or lease personal or real property inside or outside the
35 State.

36 (2) The property shall be reported in each annual statement of the society,
37 but may not be allowed as an admitted asset of the society.

20

1 (c) (1) Subject to paragraph (2) of this subsection, a society may charge a
 2 reasonable fee for maintenance, treatment, and proper attendance in an institution
 3 authorized by subsection (a) of this section.

4 (2) A society may not operate an institution authorized under subsection (a)
 5 of this section for profit.

6 (d) A society may not own or operate a funeral home or undertaking
 7 establishment.

8 (e) A society shall maintain a separate accounting for any income and
 9 disbursements under this section and report them in its annual statement.

10 (F) THE PURPOSES OF A SOCIETY AS SPECIFIED IN ITS LAWS, AND AS
 11 PROVIDED IN THIS SECTION AND § 8-411(C)(2) OF THIS SUBTITLE, MAY BE CARRIED
 12 OUT ~~DIRECTLY BY THE SOCIETY OR INDIRECTLY THROUGH SUBSIDIARY~~
 13 ~~CORPORATIONS OR AFFILIATED ORGANIZATIONS.;~~

14 (1) DIRECTLY BY THE SOCIETY; OR

15 (2) INDIRECTLY:

16 (I) WITH RESPECT TO ACTIVITIES REGULATED BY THE
 17 INSURANCE COMMISSIONER, THROUGH A SUBSIDIARY OR AFFILIATE OPERATING
 18 UNDER A CERTIFICATE OF AUTHORITY, CERTIFICATE OF QUALIFICATION, OR
 19 OTHER LICENSE ISSUED BY THE COMMISSIONER; AND

20 (II) FOR ALL OTHER ACTIVITIES, THROUGH SUBSIDIARY
 21 CORPORATIONS AND AFFILIATED ORGANIZATIONS.

22 8-441.

23 (a) Subject to subsection (b) of this section, a domestic society may cede wholly or
 24 partly any individual risk by reinsurance agreement to an insurer that:

25 (1) is not a fraternal benefit society;

26 (2) has the power to make reinsurance; and

27 (3) is authorized to do insurance business in the State or is approved by the
 28 Commissioner.

29 (b) A domestic society may not reinsure substantially all of its insurance in force
 30 without the written permission of the Commissioner.

31 (c) (1) Except as provided in paragraph (2) of this subsection, a ceding
 32 domestic society may take credit for the reserves on risks ceded under this section to the
 33 extent reinsured.

34 (2) A ceding domestic society may not be allowed credit, as an admitted
 35 asset or as a deduction from liability, for reinsurance made, ceded, renewed, or that
 36 otherwise became effective after December 31, 1963, unless the reinsurance is payable by
 37 the assuming insurer on the basis of the liability of the ceding society under the contracts
 38 reinsured without diminution because of the insolvency of the ceding society.

21

1 (D) NOTWITHSTANDING THE LIMITATIONS IN THIS SECTION, A SOCIETY MAY
2 REINSURE THE RISKS OF ANOTHER SOCIETY IN A CONSOLIDATION OR MERGER
3 APPROVED BY THE COMMISSIONER UNDER § 8-438 OF THIS SUBTITLE.

4 8-442.

5 (a) (1) All assets of a society shall be held, invested, and disbursed for the use
6 and benefit of the society.

7 (2) A society member or beneficiary of a member does not have and may not
8 acquire individual rights in the assets of the society and is not entitled to any
9 apportionment or the surrender of any part of the assets except as provided in the
10 insurance contract.

11 (b) A society may create, maintain, invest, disburse, and apply special funds as
12 necessary to carry out any purpose allowed by the laws of the society.

13 (c) (1) This subsection applies only to a society with admitted assets that are
14 less than the sum of its accrued liabilities and reserves under all of its certificates when
15 valued according to standards required for certificates issued after December 31, 1963.

16 (2) A society described in paragraph (1) of this subsection shall state
17 distinctly, in each law of the society regarding payments by members, the purpose of the
18 payments and the proportion of the payments that may be used for expenses.

19 (3) A society described in paragraph (1) of this subsection may not use any
20 money collected for mortuary or disability purposes, or its net earnings, for expenses.

21 (D) (1) A SOCIETY, PURSUANT TO RESOLUTION OF ITS SUPREME
22 GOVERNING BODY, MAY ESTABLISH AND OPERATE ONE OR MORE SEPARATE
23 ACCOUNTS AND ISSUE CONTRACTS ON A VARIABLE BASIS, SUBJECT TO THE
24 PROVISIONS OF LAW REGULATING LIFE INSURERS ESTABLISHING SUCH ACCOUNTS
25 AND ISSUING SUCH CONTRACTS.

26 (2) TO THE EXTENT THE SOCIETY CONSIDERS IT NECESSARY IN ORDER
27 TO COMPLY WITH ANY APPLICABLE FEDERAL OR STATE LAWS, OR ANY RULES
28 ISSUED UNDER APPLICABLE FEDERAL OR STATE LAWS, THE SOCIETY:

29 (I) MAY ADOPT SPECIAL PROCEDURES FOR THE CONDUCT OF THE
30 BUSINESS AND AFFAIRS OF A SEPARATE ACCOUNT;

31 (II) FOR PERSONS HAVING BENEFICIAL INTERESTS IN AN
32 ACCOUNT, MAY PROVIDE SPECIAL VOTING AND OTHER RIGHTS, INCLUDING
33 SPECIAL RIGHTS AND PROCEDURES RELATING TO INVESTMENT POLICY,
34 INVESTMENT ADVISORY SERVICES, SELECTION OF CERTIFIED PUBLIC
35 ACCOUNTANTS, AND SELECTION OF A COMMITTEE TO MANAGE THE BUSINESS AND
36 AFFAIRS OF THE ACCOUNT; AND

37 (III) MAY ISSUE CONTRACTS ON A VARIABLE BASIS TO WHICH §§
38 8-432(C) AND 8-446 OF THIS SUBTITLE SHALL NOT APPLY.

22

1 8-443.

2 ~~(A) A FOR THE PURPOSE OF COMPLIANCE WITH STANDARDS SET OUT IN THIS~~
3 ~~ARTICLE REGARDING REQUIRED RESERVES AND REQUIRED SURPLUS. A~~ society
4 shall invest its funds only in investments that are authorized by, and subject to the
5 limitations of, the laws of the State for the investment of assets of life insurers under Title
6 5 of this article.

7 ~~(B) ANY FOREIGN OR ALIEN SOCIETY PERMITTED OR SEEKING TO DO~~
8 ~~BUSINESS IN THE STATE WHICH INVESTS ITS FUNDS IN ACCORDANCE WITH THE~~
9 ~~LAWS OF THE STATE, DISTRICT, TERRITORY, COUNTRY, OR PROVINCE IN WHICH IT~~
10 ~~IS INCORPORATED, SHALL BE HELD TO MEET THE REQUIREMENTS OF THIS SECTION~~
11 ~~FOR THE INVESTMENT OF FUNDS.~~

12 8-444.

13 (a) Each society transacting insurance business in the State shall:

14 (1) file with the Commissioner an annual statement as provided in § 4-116
15 of this article;

16 (2) pay to the Commissioner a fee of \$25 for filing the annual statement;
17 and

18 (3) prepare a synopsis of the annual statement that explains the condition of
19 the society as disclosed by the annual statement.

20 (b) On or before June 1 of each year the synopsis required by subsection (a)(3) of
21 this section shall be:

22 (1) printed and mailed to each benefit member of the society; or

23 (2) published in the society's official publication.

24 (C) (1) A SOCIETY THAT FAILS TO FILE THE ANNUAL STATEMENT
25 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL PAY A PENALTY OF \$100
26 EACH DAY UNTIL THE ANNUAL STATEMENT IS FILED.

27 (2) IN ADDITION TO THE PENALTY PROVIDED IN PARAGRAPH (1) OF
28 THIS SUBSECTION, THE COMMISSIONER, AFTER NOTICE TO THE SOCIETY, SHALL
29 SUSPEND THE SOCIETY'S AUTHORITY TO DO BUSINESS IN THE STATE UNTIL THE
30 ANNUAL STATEMENT IS FILED.

31 [8-445.

32 (a) (1) As part of the annual statement required by § 8-444 of this subtitle, on
33 or before March 1 of each year, each society shall file with the Commissioner a valuation
34 of its certificates in force on December 31 of the immediately preceding year.

35 (2) For cause shown, the Commissioner may extend the time for filing the
36 valuation until not later than May 1.

37 (3) Except as provided in paragraph (4) of this subsection, the valuation
38 required under this section shall show, as reserve liabilities, the difference between:

23

1 (i) the present midyear value of the promised benefits provided in the
2 certificates of the society in force; and

3 (ii) the present midyear value of the future net premiums as they are
4 actually collected, not including:

5 1. any value for the right to make extra assessments; or

6 2. any amount by which the present midyear value of future net
7 premiums exceeds the present midyear value of promised benefits on individual
8 certificates.

9 (4) At the option of the society, instead of using the valuation method
10 described in paragraph (3) of this subsection, the valuation may show the net tabular
11 value that:

12 (i) for certificates issued on or before December 31, 1963, is
13 determined in accordance with the law applicable on or before December 31, 1963; and

14 (ii) for certificates issued after December 31, 1963, may not be less
15 than the reserves determined according to the Commissioners' reserve valuation method
16 described in subsection (b) of this section.

17 (5) (i) If the premium charged is less than the tabular net premium
18 according to the basis of valuation used, an additional reserve equal to the present value
19 of the deficiency in the premiums shall be set up and maintained as a liability.

20 (ii) The reserve liabilities shall be adjusted properly if the midyear or
21 tabular values are not appropriate.

22 (b) (1) In this subsection, "guaranteed benefits" means future guaranteed life
23 insurance and endowment benefits.

24 (2) For the life insurance and endowment benefits of a certificate that
25 provides for a uniform amount of insurance and requires the payment of uniform
26 premiums, the reserve according to the Commissioners' reserve valuation method shall be
27 the amount, if any, that the present value, at the date of valuation, of the guaranteed
28 benefits under the certificate exceeds the present value, at the date of valuation, of any
29 future modified net premiums for the certificate, as determined under paragraph (3) of
30 this subsection.

31 (3) (i) For purposes of this subsection, the modified net premiums for a
32 certificate equal a uniform percentage of the respective contract premiums for the
33 guaranteed benefits under the certificate calculated so that the present value, at the date
34 of issue of the certificate, of the sum of all modified net premiums equals the sum of:

35 1. the present value, at the date of issue, of the guaranteed
36 benefits under the certificate; and

37 2. the amount by which the net level annual premium
38 determined under paragraph (3) of this subsection exceeds a net 1-year term premium
39 for the guaranteed benefits provided for in the first certificate year.

24

1 (ii) 1. Except as provided in sub-subparagraph 2 of this paragraph,
 2 the net level annual premium to be used in the calculation in this paragraph equals a
 3 fraction:

4 A. the numerator of which is the present value, at the date of
 5 issue, of the guaranteed benefits provided for after the first certificate year; and

6 B. the denominator of which is the present value, at the date of
 7 issue, of an annuity of one per year payable on the first and each subsequent anniversary
 8 of the certificate on which a premium falls due.

9 2. The net level annual premium determined under this
 10 subparagraph may not exceed the net level annual premium on the 19-year premium
 11 whole life plan for insurance of the same amount at an age 1 year higher than the age at
 12 issue of the certificate for which the reserve is calculated under this subsection.

13 (c) (1) This subsection applies to:

14 (i) life insurance benefits that provide for varying amounts of benefits
 15 or require the payment of varying premiums;

16 (ii) annuity and pure endowment benefits;

17 (iii) disability and accidental death benefits in all certificates and
 18 contracts; and

19 (iv) all other benefits except life insurance and endowment benefits.

20 (2) For a benefit to which this subsection applies, the reserve according to
 21 the Commissioners' reserve valuation method shall be calculated by a method consistent
 22 with the principles of subsection (b) of this section.

23 (d) The present value of deferred payments due under incurred claims or matured
 24 certificates is deemed a liability of the society and shall be computed on mortality and
 25 interest standards prescribed in subsections (f) and (g) of this section.

26 (e) The valuation and underlying data shall be certified by a competent actuary
 27 or, at the expense of the society, verified by the actuary of the insurance department of
 28 the society's domiciliary state.

29 (f) The minimum standard of valuation for certificates issued on or before
 30 December 31, 1963:

31 (1) shall be the minimum standard provided by the law applicable on
 32 December 31, 1963; and

33 (2) may not be lower than the standard used in the calculation of rates for
 34 the certificates.

35 (g) The minimum standard of valuation for certificates issued after December 31,
 36 1963, is:

37 (1) interest at 3.5% per year; and

25

1 (2) the applicable tables in subsections (h) through (l) of this section.

2 (h) (1) For a certificate of life insurance, the applicable table for the minimum
 3 standard for the valuation of the certificate is:

4 (i) the American Men Ultimate Table of Mortality, with Bowerman's
 5 or Davis' Extension; or

6 (ii) with the consent of the Commissioner:

7 1. the Commissioners 1941 Standard Ordinary Mortality Table;

8 2. the Commissioners 1941 Standard Industrial Mortality Table;

9 or

10 3. the Commissioners 1958 Standard Ordinary Mortality Table.

11 (2) Any differential based on sex shall reflect actuarial expectancies and
 12 shall be subject to approval by the Commissioner.

13 (i) For an annuity and pure endowment certificate, excluding any disability and
 14 accidental death benefits in the certificate, the applicable table for the minimum standard
 15 for the valuation of the certificate is:

16 (1) the 1937 Standard Annuity Mortality Table;

17 (2) the Annuity Mortality Table for 1949, Ultimate; or

18 (3) a modification of a table specified in item (1) or (2) of this subsection,
 19 approved by the Commissioner.

20 (j) (1) For total and permanent disability benefits in or supplementary to a life
 21 insurance certificate, the applicable table for the minimum standard for the valuation of
 22 the certificate is:

23 (i) Hunter's Disability Table;

24 (ii) the Class (3) Disability Table (1926) modified to conform to the
 25 contractual waiting period; or

26 (iii) the tables of Period 2 disablement rates and the 1930 to 1950
 27 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard
 28 to the type of benefit.

29 (2) For active lives, the table used under this subsection shall be combined
 30 with a mortality table allowed for calculating the reserves for life insurance certificates.

31 (k) (1) For accidental death benefits in or supplementary to a life insurance
 32 certificate, the applicable table for the minimum standard for the valuation of the
 33 certificate is:

34 (i) the Intercompany Double Indemnity Mortality Table; or

35 (ii) the 1959 Accidental Death Benefits Table.

26

1 (2) The table used under this subsection shall be combined with a mortality
2 table allowed for calculating the reserves for life insurance certificates.

3 (1) For noncancellable accident and health benefits, the applicable table for the
4 minimum standard for the valuation of the certificate is:

5 (1) the Class (3) Disability Table (1926) with conference modifications; or

6 (2) with the consent of the Commissioner, tables based on the society's own
7 experience.

8 (m) The Commissioner may:

9 (1) accept other standards for valuation if the Commissioner finds that the
10 reserves produced by those other standards will not be less in the aggregate than reserves
11 computed in accordance with the minimum valuation standard prescribed in this section;

12 (2) vary the standards of mortality applicable to all certificates of insurance
13 on substandard lives or other extra-hazardous lives by any society authorized to do
14 business in the State; and

15 (3) require additional reserves as necessary on account of the certificates
16 whenever the mortality experience under all certificates valued on the same mortality
17 table exceeds the expected mortality according to the table for a period of 3 consecutive
18 years.

19 (n) (1) With the consent of the insurance supervisory official of the state of
20 domicile of the society, and subject to any conditions the official may impose, a society
21 may establish and maintain reserves on its certificates that exceed the reserves required
22 under this section.

23 (2) The contractual rights of any insured member may not be affected by a
24 society establishing and maintaining reserves under paragraph (1) of this subsection.

25 (o) Instead of the provisions set forth in this section, with the approval of the
26 Commissioner, a society may use the standards for valuation authorized by §§ 5-303
27 through 5-312 of this article.]

28 8-445.

29 (A) STANDARDS OF VALUATION FOR CERTIFICATES ISSUED BEFORE
30 JANUARY 1, 1998, SHALL BE THOSE PROVIDED BY THE LAWS APPLICABLE ON
31 DECEMBER 31, 1997.

32 (B) (1) THE MINIMUM STANDARDS OF VALUATION FOR CERTIFICATES
33 ISSUED ON OR AFTER JANUARY 1, 1998, SHALL BE BASED ON THE FOLLOWING
34 TABLES:

35 (I) FOR CERTIFICATES OF LIFE INSURANCE:

36 1. THE COMMISSIONERS 1941 STANDARD ORDINARY
37 MORTALITY TABLE;

28

1 (2) if the [member] OWNER does not pay the [member's] OWNER'S share
2 of the deficiency, that share [is]:

3 (I) SHALL STAND AS an indebtedness against the [member's]
4 certificate and is subject to interest not exceeding [5% per year compounded annually]
5 THE RATE SPECIFIED FOR CERTIFICATE LOANS UNDER THE CERTIFICATE; OR

6 (II) INSTEAD OF OR IN COMBINATION WITH ITEM (I) OF THIS
7 PARAGRAPH, THE OWNER OF THE CERTIFICATE MAY ACCEPT A PROPORTIONATE
8 REDUCTION IN BENEFITS UNDER THE CERTIFICATE.

9 (B) THE SOCIETY MAY SPECIFY THE MANNER OF THE ELECTION AND WHICH
10 ALTERNATIVE IS TO BE PRESUMED IF NO ELECTION IS MADE.

11 8-449.

12 (a) Except as otherwise provided in this section, a person must obtain a certificate
13 of qualification issued under Part V of this subtitle before the person acts as a fraternal
14 benefit agent in the State.

15 (b) Subsection (a) of this section does not apply to a regular salaried officer or
16 employee of a licensed society who:

17 (1) devotes substantially all of the officer's or employee's services to
18 activities other than soliciting insurance contracts; and

19 (2) does not receive, for soliciting insurance contracts, a commission or
20 other compensation that is directly dependent on the amount of business obtained.

21 (c) (1) Subsection (a) of this section does not apply to a fraternal benefit agent
22 or representative of a society that devotes, or intends to devote, less than 50% of the
23 person's time to soliciting and procuring insurance contracts for the society.

24 (2) For the purposes of paragraph (1) of this subsection, a person is
25 presumed to be devoting, or intending to devote, 50% or more of the person's time to
26 soliciting or procuring insurance contracts for a society if, in the preceding calendar year,
27 the person has solicited and procured:

28 [(i) life insurance contracts on behalf of the society in an amount of
29 insurance exceeding \$50,000; or

30 (ii) any kind of insurance on the persons of more than 25 individuals
31 for which the person has received or will receive a commission or other compensation.]

32 (I) LIFE INSURANCE CONTRACTS THAT, IN THE AGGREGATE,
33 EXCEED \$200,000 OF COVERAGE FOR ALL LIVES INSURED FOR THE PRECEDING
34 CALENDAR YEAR;

35 (II) A PERMANENT LIFE INSURANCE CONTRACT OFFERING MORE
36 THAN \$10,000 OF COVERAGE ON AN INDIVIDUAL LIFE;

37 (III) A TERM LIFE INSURANCE CONTRACT OFFERING MORE THAN
38 \$50,000 OF COVERAGE ON AN INDIVIDUAL LIFE;

29

1 (IV) ANY INSURANCE CONTRACTS OTHER THAN LIFE THAT THE
2 SOCIETY MAY WRITE THAT INSURE THE ~~INDIVIDUAL~~ LIVES OF MORE THAN 25
3 INDIVIDUALS; OR

4 (V) ANY VARIABLE LIFE INSURANCE OR VARIABLE ANNUITY
5 CONTRACT.

6 ~~8-464.~~

7 (a) ~~The Commissioner shall take action under subsection (b) of this section if, on~~
8 ~~investigation, the Commissioner finds that a domestic society:~~

9 (1) ~~has exceeded its powers;~~

10 (2) ~~has failed to comply with this subtitle;~~

11 (3) ~~is not fulfilling its contracts in good faith;~~

12 (4) ~~has a membership of less than 400 after an existence of 1 year or more;~~

13 (5) ~~is conducting its insurance business fraudulently; or~~

14 (6) ~~is conducting its insurance business in a manner hazardous to its~~
15 ~~members, creditors, the public, or the business.~~

16 (b) ~~If the Commissioner makes a finding under subsection (a) of this section, the~~
17 ~~Commissioner shall:~~

18 (1) ~~notify the society of the finding;~~

19 (2) ~~state in writing the reasons for dissatisfaction; and~~

20 (3) ~~require the society to show cause on or before a specified date why:~~

21 (i) ~~the society should not be enjoined from conducting any insurance~~
22 ~~business until the violation has been corrected; or~~

23 (ii) ~~an action seeking a mandatory injunction should not be~~
24 ~~commenced against the society.~~

25 (c) (1) ~~If, on or before the date specified in the notice, the society does not~~
26 ~~present good and sufficient reason why it should not be enjoined from conducting~~
27 ~~insurance business or why an action seeking a mandatory injunction should not be~~
28 ~~commenced, the Commissioner may present the facts relating to the violation to the~~
29 ~~Attorney General.~~

30 (2) ~~On request of the Commissioner, the Attorney General may commence:~~

31 (i) ~~an action to enjoin the society from conducting insurance business;~~
32 ~~or~~

33 (ii) ~~an action seeking a mandatory injunction.~~

34 (3) ~~The court shall schedule a hearing and notify the officers of the society~~
35 ~~of the hearing.~~

1 ~~(4) If, after a full hearing, the court finds that a violation has occurred~~
2 ~~under subsection (a) of this section, the court shall pass an order:~~

3 ~~(i) enjoining the society from conducting insurance business;~~

4 ~~(ii) liquidating the society; or~~

5 ~~(iii) appointing the Commissioner as receiver of the society.~~

6 ~~(d) A society enjoined from conducting insurance business under this section may~~
7 ~~not conduct insurance business until:~~

8 ~~(1) the Commissioner finds that the violation has been corrected;~~

9 ~~(2) the costs of the action have been paid by the society, if the court finds~~
10 ~~that the society was in default;~~

11 ~~(3) the court has dissolved the injunction; and~~

12 ~~(4) the Commissioner has reinstated the society's certificate of authority.~~

13 ~~(e) If a court orders a society to be liquidated:~~

14 ~~(1) the society may not conduct any further insurance business; and~~

15 ~~(2) the receiver of the society immediately shall:~~

16 ~~(i) take possession of the books, papers, money, and other assets of~~
17 ~~the society; and~~

18 ~~(ii) close the affairs of the society and distribute its funds to those~~
19 ~~entitled to the funds under the direction of the court.~~

20 ~~(f) This section also applies to a society that voluntarily determines to discontinue~~
21 ~~business.~~

22 ~~(G) AN APPLICATION OR PETITION FOR INJUNCTION AGAINST A DOMESTIC,~~
23 ~~FOREIGN, OR ALIEN SOCIETY, OR A LODGE OF A DOMESTIC, FOREIGN, OR ALIEN~~
24 ~~SOCIETY, SHALL NOT BE RECOGNIZED IN ANY COURT OF THE STATE UNLESS MADE~~
25 ~~BY THE ATTORNEY GENERAL ON REQUEST OF THE COMMISSIONER.~~

26 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-434 of Article
27 - Insurance of the Annotated Code of Maryland be repealed.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 January 1, 1998.

