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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 10. Fraternal Benefit Societies [10970 - 11165] (*Chapter 10 repealed and added by Stats. 1951, Ch. 1193.*)

ARTICLE 3. Organization [11010 - 11033] (*Article 3 added by Stats. 1951, Ch. 1193.*)

11010. Seven or more United States citizens, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign, and acknowledge articles of incorporation before an officer competent to take acknowledgment of deeds. The articles of incorporation shall state:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing.

(b) The purposes for which it is being formed, and the mode in which its corporate powers are to be exercised.

The purposes shall not include more liberal powers than are granted by this chapter, provided that any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal, or religious purposes shall be set forth among the purposes of the society.

(c) The names and residences of the incorporators, and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year, or until the ensuing election at which all officers shall be elected by the supreme legislative or governing body. The election shall be held within one year of the date of the issuance of the permanent certificate.

(Amended by Stats. 1995, Ch. 166, Sec. 2. Effective January 1, 1996.)

11011. The articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society, and a bond, conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year, such bond to be in the amount of ten thousand dollars (\$10,000) and approved by the commissioner, shall be filed with the commissioner, who may require such further information as the commissioner deems necessary. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided. Copies of the articles of incorporation shall also be filed with the Secretary of State.

(Amended by Stats. 1982, Ch. 517, Sec. 292.)

11012. No such preliminary certificate shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the commissioner, upon cause shown, unless the 500 applicants hereinafter required have been secured and the organization has been completed as provided in this article. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

(Repealed and added by Stats. 1951, Ch. 1193.)

11013. Upon receipt of a preliminary certificate from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one semiannual payment or six monthly payments, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance payment, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow any death or disability benefit to any person until:

(a) Actual bona fide applications for death benefits have been secured aggregating at least five hundred thousand dollars (\$500,000) on not less than 500 lives.

(b) All such applicants for death benefits shall have been regularly examined by qualified practicing physicians or shall have made acceptable declarations of insurability.

(c) Certificates of examinations or acceptable declarations of insurability meeting the established underwriting standards of the society have been duly filed and approved by the society.

(d) Ten subordinate lodges or branches have been established into which the 500 applicants have been admitted.

(e) There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and rates therefor.

(f) It shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one semiannual payment or six monthly payments as herein provided, which payments in the aggregate shall amount to at least five thousand dollars (\$5,000), all of which shall be credited to the fund or funds from which benefits are to be paid, and no part of which may be used for expenses. Said advance payments shall be held in trust during the period of organization and if the organization has not qualified for a certificate of authority within one year or within the extended period, as provided in Section 11012, such payments shall be returned to said applicants.

(Repealed and added by Stats. 1951, Ch. 1193.)

11014. The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

(Repealed and added by Stats. 1951, Ch. 1193.)

11015. Every such society shall have the power to make a constitution and by-laws for the government of the society, the admission of its members, the management of its affairs, and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and by-laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

(Repealed and added by Stats. 1951, Ch. 1193.)

11016. A society shall operate for the benefit of its members and their beneficiaries by:

(a) Providing benefits under Section 11041, and

(b) Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, and, if desired, for others. The society's purposes may be carried out directly by the society or indirectly through subsidiary or affiliated entities established in furtherance of the purposes of the society.

Any incorporated society authorized to transact business in this state on January 1, 1996, may thereafter exercise all the rights, powers, and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate.

(Repealed and added by Stats. 1995, Ch. 166, Sec. 4. Effective January 1, 1996.)

11017. After September 21, 1952, no unincorporated or voluntary association shall be permitted to transact business in this State as a fraternal benefit society under this chapter.

Any domestic voluntary association now authorized to transact business in this State may incorporate when:

(a) It shall have completed its conversion to an incorporated society, not later than one year after the effective date of this chapter;

(b) It has filed its articles of incorporation and has satisfied the other requirements prescribed in this article; and

(c) The commissioner shall have made such examination and procured whatever additional information he shall deem advisable.

Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing suits, claims or contracts.

(Repealed and added by Stats. 1951, Ch. 1193.)

11018. Any domestic society may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such society has at least five subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State. However, its principal office shall be located in this State.

(Repealed and added by Stats. 1951, Ch. 1193.)

11019. A domestic society shall not consolidate or merge with any other society unless it files with the commissioner the papers and evidence specified in this section and pays the sum of three hundred eighty-six dollars (\$386) to the commissioner in advance as a filing fee therefor. The papers and evidence herein required to be filed with the commissioner in that instance are:

- (a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;
- (b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date not earlier than December 31, next preceding the date of the contract;
- (c) A certificate of those officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and
- (d) Evidence that at least 60 days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of the society by being sent by mail or by being published in full in the official organ of the society and the issue containing the text of the contract being mailed to each member of the society.

(Amended by Stats. 2017, Ch. 534, Sec. 65. (AB 1699) Effective January 1, 2018.)

11020. If the commissioner finds that such contract is in conformity with the provisions of this chapter, that the financial statements are correct, that under it the interests of the certificate holders of the parties are properly protected and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the commissioner of this State or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until the supervising insurance official of such state or territory has advised the commissioner that he has no objection to such consolidation or merger.

(Repealed and added by Stats. 1951, Ch. 1193.)

11021. Upon the consolidation or merger becoming effective, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this State in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

(Repealed and added by Stats. 1951, Ch. 1193.)

11022. The affidavit of any officer of the society or of any one authorized by it to mail any notice or document, stating facts which show that same has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

(Repealed and added by Stats. 1951, Ch. 1193.)

11023. A society may admit to benefit membership any person not less than 15 years of age at nearest birthday who has been examined by a legally qualified physician, and whose examination has been supervised and approved in accordance with the laws of the society, or who has made declaration of insurability acceptable to the society in accordance with its established underwriting standards. Any such member who shall apply for additional benefits more than six months after becoming a benefit member shall pass an additional medical examination or make an additional declaration of insurability as required by the society.

(Repealed and added by Stats. 1951, Ch. 1193.)

11024. Any person admitted to benefit membership in such society prior to attaining the full age of 21 years shall be bound by the terms of the application and certificate and by all the laws and rules of the society, and shall be entitled to all the rights and privileges of membership therein, to the same extent as though the age of majority had been attained at the time of application.

(Repealed and added by Stats. 1951, Ch. 1193.)

11025. A society may accept general or social members who shall have no voice or vote in the management of its insurance affairs.
(Repealed and added by Stats. 1951, Ch. 1193.)

11026. A domestic society may amend its articles of incorporation, constitution, or laws, in accordance with the provisions thereof, by action of its supreme legislative or governing body at any regular or special meeting. If the articles of incorporation, constitution, or laws so provide, amendment may be made by referendum. A referendum may be held in accordance with the provisions of the society's articles of incorporation, constitution, or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of the amendment's submission, a majority of the members of the society have signified their consent to the amendment by one of the methods herein specified.

(Amended by Stats. 1995, Ch. 166, Sec. 5. Effective January 1, 1996.)

11027. No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the commissioner who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this State or with the character, objects and purposes of the society. Unless the commissioner shall disapprove any such amendment within 60 days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves such amendment, the reasons therefor shall be stated in such written notice.

(Added by Stats. 1951, Ch. 1193.)

11028. Within 90 days from the approval thereof by the commissioner, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by being published in the official organ of the society or by being sent by mail. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same has been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof have been furnished the addressee.

(Added by Stats. 1951, Ch. 1193.)

11029. Every foreign society transacting business under this chapter shall file with the commissioner a duly certified copy of all amendments of, or additions to, its constitution and laws within 90 days after the enactment of the same.

(Added by Stats. 1951, Ch. 1193.)

11030. Printed copies of the constitution or laws of any domestic or foreign society as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

(Added by Stats. 1951, Ch. 1193.)

11031. A society may create, maintain and operate hospitals, asylums, homes, sanitariums or other charitable or benevolent institutions for the benefit of its sick, disabled, aged or distressed members and their families and dependents in accordance with the provisions of its laws; and for such purpose it may own, hold or lease personal property or real property located within or without this State, with necessary buildings thereon. Such property shall not be deemed an admitted asset of the society.

(Added by Stats. 1951, Ch. 1193.)

11032. Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefor, but no such institution shall be operated for profit. Excepting a society relieved of the requirement of maintaining a separation of funds pursuant to the provisions of Section 11120, no part of the cost or expense of creating, maintaining or operating such institution shall be defrayed or paid out of the mortuary, sick or disability funds of a society. The society shall maintain a separate accounting of any disbursements under this section and report them in its annual statement. No society shall own or operate funeral homes or undertaking establishments.

(Added by Stats. 1951, Ch. 1193.)

11033. A society maintaining special funds of the nature set forth in Section 11122 may make payments from such funds to its members compatible with the type thereof; provided that, if such payments are of such a nature that they could constitute benefits within the classes of insurance set forth in Section 11041, the society making such payments may not:

- (a) Make any separate charge therefor;
- (b) Issue any certificate, policy or other document promising such payments;

(c) Provide in its constitution, by-laws or any other document that such payments may be received by any member of such society as a matter of right; nor

(d) Advertise such payments as insurance or as payments to which the member has any right.

No such special funds shall be an admitted asset of the society in excess of the amount of the liabilities of such special fund. The society shall maintain a separate accounting of any disbursements under this section and report them in its annual statement.

(Added by Stats. 1951, Ch. 1193.)