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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 Fraternal Benefit Societies [10970 - 11165]** ( *Chapter 10 repealed and added by Stats. 1951, Ch. 1193.*  )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 5. Contract [11060 - 11073]** ( *Article 5 added by Stats. 1951, Ch. 1193.*  )

**11060.** Every society authorized to do business in this State shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the entire agreement between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

(*Repealed and added by Stats. 1951, Ch. 1193.*)

**11061.** All statements purporting to be made by the member shall, in the absence of fraud, be representations and not warranties. Any waiver of this provision shall be void.

(*Repealed and added by Stats. 1951, Ch. 1193.*)

**11062.** Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, but no such changes, additions or amendments shall have the effect of terminating or reducing the benefit or benefits payable under any certificate in force at the time such changes, additions or amendments become effective.

(*Repealed and added by Stats. 1951, Ch. 1193.*)

**11063.** Copies of any of the documents mentioned in Sections 11060 and 11062, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

(*Repealed and added by Stats. 1951, Ch. 1193.*)

**11064.** A society shall provide specifically in its certificates that if its reserves become impaired, its board of directors or corresponding body may require that the owner pay to the society the amount of the owner's equitable proportion of the deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificate, or if none is specified, 6 percent per annum compounded annually.

(*Amended by Stats. 1995, Ch. 166, Sec. 9. Effective January 1, 1996.*)

**11065.** Every society authorized to do business in this State shall provide in its constitution or laws that additional payments or contributions shall be required of members by the action of the board of directors or corresponding body of the society whenever they deem it necessary or proper to effectuate the carrying on of the insurance business of the society.

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

**11066.** After the effective date of the amendments to this section made during the 1995–96 Regular Session of the Legislature, no life insurance benefit certificate may be delivered or issued for delivery in this state unless a copy of the form, the application therefor, and any attached endorsements or riders have been filed with the commissioner in the same manner as policies, contracts, or certificates of life insurance issued by stock or mutual insurers. The certificate shall have a title clearly and correctly describing its form on the face and filing back and shall contain in substance the standard provisions listed below. However, the commissioner may approve any form that in his or her opinion contains provisions relating to any one or more of the following requirements that are more favorable to insured members than the one or ones required here.

(a) A provision stating the amount of premiums that are payable under the certificate, and a provision that the certificate holder shall be obligated to pay, as a condition of the continuance in force of the certificate, additional premiums imposed in accordance with the constitution or laws of the society then in force or thereafter lawfully enacted.

(b) A provision that the certificate holder is entitled to a grace of not less than a full month (or 30 days at the option of the society) in which the payment of any premium, after the first, may be made, and that during the grace period, the certificate shall continue in full force. However, the certificate may provide that in case a loss occurs during the grace period before the overdue premium is paid, the amount of the overdue premium or premiums may be deducted in any settlement under the certificate.

(c) A provision that the certificate holder shall be entitled to have the certificate reinstated at any time within three years from the date of default in payment of premiums, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, upon the production of evidence of insurability and good health satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on the premiums and indebtedness, if any, at a rate not exceeding 6 percent per annum compounded annually. However, a society may provide for a minimum interest payment of not exceeding ten cents (\$0.10) for each month's premium in arrears at the date of reinstatement, if the premiums do not exceed 12 in number.

(d) A provision that, in the event of default in payment of any premium after three full years' premiums have been paid, or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than 60 days after the due date of the premium in default, a nonforfeiture benefit on the plan stipulated in the certificate, effective as of the due date, of the value as specified in this chapter. This subdivision does not apply to pure endowment, annuity or reversionary annuity contracts, or term certificates of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the certificate, or term certificates of decreasing amount on which the granting of a nonforfeiture benefit is not required in order to comply with the minimum values specified in this chapter.

(e) A provision that one nonforfeiture benefit, as specified in the certificate, in accordance with the requirements of subdivision (d) above, shall become effective automatically unless the member elects another available nonforfeiture benefit or, if society makes available a cash surrender value, the cash surrender value, not later than 60 days after the due date of the premium in default.

(f) A statement of the mortality table and rate of interest used in determining all nonforfeiture benefits and cash surrender values available under the certificate. After September 21, 1954, a brief general statement of the method used in calculating the benefits and values available under the certificate on any certificate anniversary beyond the last anniversary for which the benefits and values are consecutively shown in the certificate. The statement shall be accompanied by an explanation of the manner in which the benefits and values are altered by the existence of paid-up additions credited to the certificate or by any indebtedness to the society on the certificate.

(g) A table showing in figures every nonforfeiture benefit and cash surrender value available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate, whichever is shorter, the benefits and values to be calculated upon the assumption that there are no dividends or paid-up additions credited to the certificate and that there is no indebtedness to the society on account of or secured by the certificate.

(h) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue except for nonpayment of premiums, risks limited or not assumed, violation of the provisions of the certificate relating to military, aviation, or naval service, or violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions that grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the insured for a period of two years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society has the right to contest a reinstated certificate within a period of two years from date of reinstatement with the same exceptions as provided here.

(i) A provision that if it shall be found at any time before final settlement under the certificate that the age or sex of the insured (or the age or sex of any other person, if considered in determining the premium) has been misstated, and the discrepancy and the premium payment involved have not been adjusted, the amount payable under the certificate shall be such as the premium would have purchased at the correct age and sex. However, if the correct age was not an insurable age under the society's charter, constitution, or bylaws, only the premiums paid to the society, less any payments previously made to the member, shall be returned. Alternatively, at the option of the society, the amount payable under the certificate shall be that which the premiums would have

purchased at the correct age and sex according to the society's promulgated rates and any extension thereof based upon actuarial principles.

(j) A provision or provisions that recite fully, or that set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the certificate. The word "premiums" as used in this section means premiums, rates, or other required contributions by whatever name known.

*(Amended by Stats. 1995, Ch. 166, Sec. 10. Effective January 1, 1996.)*

**11067.** After September 21, 1952, no life insurance benefit certificate shall be delivered or issued for delivery in this State containing in substance any of the following provisions:

(a) Any provision limiting the time within which any action at law or in equity may be commenced to less than 18 months after the cause of action shall accrue.

(b) Any provision by which the certificate shall purport to be issued or take effect more than six months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made.

(c) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

(d) Any provision whereby the suspension or expulsion of the member, or change of occupation, or any other violation of the terms and conditions of the contract shall result in the loss or reduction of the cash surrender value or other withdrawal equity, if any, available by the terms of such certificate.

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

**11068.** After September 21, 1954, no life insurance benefit certificate shall be delivered or issued for delivery in this State containing in substance any provision limiting the time within which any action at law or in equity may be commenced to less than two years after the cause of action shall accrue.

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

**11069.** No domestic, foreign or alien society authorized to do business in this State shall issue or deliver in this State any certificate or other evidence of any contract for temporary or permanent disability benefits as a result of disease or accident, or for hospital, medical or nursing benefits, unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the commissioner and approved by him as conforming to reasonable rules and regulations from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. The commissioner shall, within a reasonable time after the filing of any such form, notify the society filing the same either of his approval or of his disapproval of such form. The commissioner may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the insured members than the one or ones so required. The action of the commissioner in disapproving any such form shall be subject to judicial review. Pursuant to the foregoing provisions, the commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to the provisions of this code relating to similar contracts issued by other insurers. Where the commissioner deems inapplicable, either in part or in their entirety, the provisions of this code relating to similar contracts issued by other insurers, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. All rules and regulations made, altered or superseded by the commissioner pursuant to the authority granted in this section shall be in accordance with Chapter 4 of Part 1, Division 3, Title 2 of the Government Code.

*(Amended by Stats. 1953, Ch. 46.)*

**11070.** After September 21, 1954, no action at law or in equity shall be had or maintained on any certificate or contract issued by a society unless commenced within two years after the cause of action shall accrue.

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

**11071.** The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

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

**11072.** A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer having the power to make such reinsurance and authorized to do business in this State, or if not so authorized, one which is approved by the commissioner; but no such society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this chapter, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

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

**11073.** If the contract of a society entered into, amended, or renewed in this state on or after the effective date of this section provides in any manner for coverage for an employee and a covered spouse dependent upon such employee, the contract shall not provide for coverage under conditions less favorable for employees than coverage provided for covered spouses dependent upon the employees.

*(Added by Stats. 1976, Ch. 59.)*