

**ACT 174**

An Act Pertaining to Fraternal Benefit Societies Which May Conduct the Business of Insurance.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 181, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new Chapter 181-A to read as follows:

**“CHAPTER 181-A. FRATERNAL BENEFIT SOCIETIES.**

**“Section 181-800. Scope of sections 181-801 to 181-843.** The provisions of sections 181-801 to 181-843 relate only to fraternal benefit societies as hereinafter defined which desire to be authorized to pay benefits in accordance with the provisions of sections 181-801 to 181-843 after the effective

date of said sections. None of the provisions of sections 181-801 to 181-843 shall be deemed to apply to mutual benefit societies existing or exempted under the provisions of chapter 185, Revised Laws of Hawaii 1955, and any mutual benefit society existing and authorized to pay benefits pursuant to the provisions of said chapter 185 on the day before the effective date of sections 181-801 to 181-843 may continue to be so authorized and shall continue to be regulated or exempted by the provisions of said chapter 185.

**“Section 181-801. Fraternal benefit societies defined.** Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 181-842(b) of this chapter whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society. When used in this chapter the word ‘society,’ unless otherwise indicated, shall mean fraternal benefit society.

**“Section 181-802. Lodge system defined.** A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, ritual and rules, which subordinate lodges or branches shall be required by the laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system.

**“Section 181-803. Representative form of government defined.** A society shall be deemed to have a representative form of government when:

“(a) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society’s constitution and laws;

“(b) The representatives elected constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws;

“(c) The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in four calendar years;

“(d) Each insured member shall be eligible for election to act or serve as a delegate to such meeting;

“(e) The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or laws of the society;

“(f) Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body;

“(g) The officers are elected either by the supreme legislative or governing body or by the board of directors; and

“(h) The members, officers, representatives or delegates shall not vote by proxy.

**“Section 181-804. Organization.** The organization of a society shall be governed as follows :

“(a) Seven or more citizens of the United States, a majority of whom are citizens of this State, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer, competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated :

“(1) 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 ;

“(2) the purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such 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 advantages may be set forth among the purposes of the society ; and

“(3) 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 such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

“(b) Such articles of incorporation, duly certified copies of the constitution, laws, and rules, copies of all proposed forms of certificates, application 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 shall be filed with the commissioner, who may require such further information as he deems necessary. The bond with sureties approved by the commissioner shall be in such amount, not less than five thousand dollars, nor more than twenty-five thousand dollars, as required by the commissioner. 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.

“(c) No preliminary certificate granted under the provisions of this section 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 five hundred applicants hereinafter required have been secured and the organization has been completed as herein provided. 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.

“(d) 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 regular monthly premium 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 premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

“(1) actual bona fide applications for death benefits have been secured aggregating at least five hundred thousand dollars on not less than five hundred lives;

“(2) all such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

“(3) certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

“(4) ten subordinate lodges or branches have been established into which the five hundred applicants have been admitted;

“(5) 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 premiums therefor; and

“(6) it shall have been shown to the commissioner by sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least twenty-five hundred dollars, 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 premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, as herein provided, such premiums shall be returned to said applicants.

“(e) 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.

“(f) Every society shall have the power to adopt a constitution and laws or 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 laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

“(g) Nothing contained herein shall exempt the society from the provisions and requirements of sections 172-16 and 172-17, Revised Laws of Hawaii 1955.

**Section 181-805. Corporate powers retained.** Except as provided in section 181-800, any incorporated society authorized to transact business in this State at the time this chapter becomes effective 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.

**“Section 181-806. Existing voluntary associations may incorporate.** Except as provided in section 181-800, after one year from the effective date of this chapter, no unincorporated or voluntary association shall be permitted to transact business in this State as a fraternal benefit society. Any domestic voluntary association now authorized to transact business in this State may incorporate and shall receive from the commissioner a permanent certificate of incorporation as a fraternal benefit society when:

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

“(b) it has filed its articles of incorporation and has satisfied the other requirements described in section 181-804; 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.

**“Section 181-807. Location of office and place of meeting.** The principal office of any domestic society shall be located in this State. The meetings of its supreme 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.

**“Section 181-808. Consolidations and mergers.** A domestic society may consolidate or merge with any other society by complying with the provisions of this section. To so comply, it shall file with the commissioner:

“(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 fixed by the commissioner but not earlier than December thirty-first, next preceding the date of the contract;

“(c) A certificate of such 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 sixty 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 each society either by mail or by publication in full in the official organ of each society.

If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct 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 it has been approved by the commissioner of such state or territory and a certificate of such approval filed with the commissioner of this State. Upon the consolidation or merger becoming effective as herein provided, 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. The affidavit of any officer of the society or of any one authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

**“Section 181-809. Conversion of fraternal benefit society into mutual life insurance company.** Any domestic fraternal benefit society may be converted and licensed as a mutual life insurer by compliance with all the requirements of this chapter pertaining to mutual life insurers if such plan of conversion has been approved by the commissioner. Such plan shall be prepared in writing setting forth in full the terms and conditions thereof. The board of directors shall submit such plan to the supreme legislative or governing body of such society at any regular or special meeting thereof, by giving a full, true and complete copy of such plan with the notice of such meeting. Such notice shall be given as provided in the laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of two-thirds of all members of such body shall be necessary for the approval of such agreement. No such conversion shall take effect unless and until approved by the commissioner who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

**“Section 181-810. Qualifications for membership.** A society may admit to benefit membership any person not less than fifteen years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than six months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society. Any person admitted prior to attaining the full age of twenty-one 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 has been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

**“Section 181-811. Articles of incorporation, constitution and laws and amendments.** (a) A domestic society may amend its articles of incorpora-

tion, constitution or laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its 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 submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods herein specified.

“(b) 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 sixty 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.

“(c) Within ninety 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 mail or by publication in full in the official organ of the society. 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 have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

“(d) Every foreign or alien society authorized to do business in this State shall file with the commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within ninety days after the enactment of same.

“(e) Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

**“Section 181-812. Institutions.** It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. 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 be reported in every annual statement but shall not be allowed as an admitted asset of such society. 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. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement. No society shall own or operate funeral homes or undertaking establishments.

**“Section 181-813. No personal liability.** The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

**“Section 181-814. Benefits.** “(a) A society authorized to do business in this State may provide for the payment of :

“(1) death benefits in any form ;

“(2) endowment benefits ;

“(3) annuity benefits ;

“(4) temporary or permanent disability benefits as a result of disease or accident ;

“(5) hospital, medical or nursing benefits due to sickness or bodily infirmity or accident ; and

“(6) monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of three hundred dollars ; and

“(b) Such benefits may be provided on the lives of members or upon application of a member, on the lives of the member’s family, including the member, the member’s spouse and minor children, in the same or separate certificates.

**“Section 181-815. Benefits on lives of children.** “(a) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than twenty-one years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section 181-814(a). A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

“(b) A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

**“Section 181-816. Nonforfeiture benefits, cash surrender values, certificate loans and other options.** “(a) A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued on and after the effective date of sections 181-801 to 181-843, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts or contracts of term insurance of uniform amount of fifteen years or less expiring before age sixty-six.

“(b) In the case of certificates other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of (1) over (2) as follows :

“(1) the reserve under the certificate determined on the basis specified in the certificate ; and



“(2) the sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to two and one-half per cent of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

“(c) In the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than one hundred thirty per cent of those shown by the mortality table specified in the certificate for the computation of the reserve.

“(d) In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this State applicable to life insurers issuing policies containing like insurance benefits based upon such tables.

**“Section 181-817. Beneficiaries.** “(a) The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

“(b) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of \$500.

“(c) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

**“Section 181-818. Benefits not attachable.** No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

**“Section 181-819. The contract.** “(a) 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 agreement, as of the date of issuance, 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.

“(b) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

“(c) 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, except that no change, addition, or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

“(d) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

“(e) A society shall provide in its constitution or laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the member to the society the amount of the member's equitable proportion of such 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 five per cent per annum compounded annually.

**“Section 181-820. Life benefit certificate provisions, standard and prohibited filing of forms.** “(a) After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this State unless a copy of the form shall have been filed with the commissioner. The certificate shall contain in substance the following standard provisions or in lieu thereof, provisions which are more favorable to the member :

“(1) title on the face and filing page of the certificate clearly and correctly describing its form ;

“(2) a provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate ;

“(3) a provision that the member is entitled to a grace period of not less than a full month (or thirty days at the option of the society) in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate ;

“(4) a provision that the member shall be entitled to have the certificate reinstated at any time within three years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premium and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding six per cent per annum compounded annually ;

“(5) except in the case of pure endowment, annuity or reversionary annuity contracts reducing term insurance contracts, or contracts of term in-

insurance of uniform amount of fifteen years or less expiring before age sixty-six, 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 sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified herein. The certificate may provide, if the society's laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

"(6) a provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than sixty days after the due date of the premium in default;

"(7) a statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

"(8) a table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first twenty certificate years or during the term of the certificate whichever is shorter;

"(9) a provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two years from its date of issue except for non-payment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and 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 which grant additional insurance specifically against death by accident or accidental means, may also be accepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of two years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two years from date of reinstatement with the same exceptions as herein provided;

"(10) a provision that in case the age or sex of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age or sex has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age and sex; but if the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age and sex according to the society's promulgated rates and any extension thereof based on actuarial principles;

“(11) a provision or provisions which recite fully, or which 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; and

“(12) if the constitution or laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member’s application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

“(b) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

“(c) After one year from the effective date of sections 181-801 to 181-843, no life benefit certificate shall be delivered or issued for delivery in this State containing in substance any of the following provisions:

“(1) 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;

“(2) any provision by which the certificate shall purport to be issued or to 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; or

“(3) 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) The word ‘premiums’ as used in this chapter means premiums, rates, or other required contributions by whatever name known.

**“Section 181-821. Accident and health insurance, total and permanent disability insurance certificates and filing of forms.** 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 of accident insurance or health insurance or of any total and permanent disability insurance contract 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. 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 the pertinent sections of this chapter relating to health and accident and disability policies. Where the commissioner deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member.

**“Section 181-822. Waiver.** 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.

**“Section 181-823. Reinsurance.** A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) 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 sections 181-801 to 181-843, 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.

**“Section 181-824. Annual license.** Except as provided in section 181-800, societies which are now authorized to transact business in this State may continue such business until the first day of May next succeeding the effective date of sections 181-801 to 181-843. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding May. However, a license so issued shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the commissioner five dollars. A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

**“Section 181-825. Foreign or alien society—admission.** No foreign or alien society shall transact business in this State without a license issued by the commissioner. Any such society may be licensed to transact business in this State upon filing with the commissioner:

“(a) A duly certified copy of its charter or articles of incorporation;

“(b) A copy of its constitution and laws, certified by its secretary or corresponding officer;

“(c) A power of attorney to the commissioner as prescribed in section 181-829;

“(d) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the commissioner of this State;

“(e) A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

“(f) Copies of its certificate forms; and

“(g) Such other information as he may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this chapter. Any foreign or alien society desiring admission to this State shall have the qualifications required of domestic societies organized under this chapter.

**“Section 181-826. Injunction, liquidation and receivership of domestic society.** “(a) When the commissioner upon investigation finds that a domestic society:

- “(1) has exceeded its powers ;
- “(2) has failed to comply with any provision of this chapter ;
- “(3) is not fulfilling its contracts in good faith ;
- “(4) has a membership of less than four hundred after an existence of one year or more ; or
- “(5) is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business ;

he shall notify the society of his findings, state in writing the reason for his dissatisfaction, and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

“(b) If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts relating thereto to the attorney general who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto.

“(c) The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

“(d) No society so enjoined shall have the authority to do business until :

“(1) the commissioner finds that the violation complained of has been corrected ;

“(2) the costs of such action shall have been paid by the society if the court finds that the society was in default as charged ;

“(3) the court has dissolved its injunction ; and

“(4) the commissioner has reinstated the certificate of authority.

“(e) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

“(f) No action under this section shall be recognized in any court of this State unless brought by the attorney general upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as such receiver.

“(g) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

**“Section 181-827. Suspension, revocation or refusal of license of foreign or alien society.** “(a) When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this State :

“(1) has exceeded its powers ;

“(2) has failed to comply with any of the provisions of this chapter ;

“(3) is not fulfilling its contracts in good faith ; or

“(4) is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public; he shall notify the society of his findings, state in writing the reasons for his dissatisfaction and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not present good and sufficient reason, why its authority to do business in this State should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this State until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this State.

“(b) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this State during the time such society was legally authorized to transact business herein.

“**Section 181-828. Licensing of agents.** Agents of societies shall be licensed in accordance with the provisions of this section.

“(a) Insurance agent defined. The term ‘insurance agent’ as used in this section means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term ‘insurance agent’ shall not include:

“(1) any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

“(2) any agent or representative of a society who devotes, or intends to devote, less than fifty per cent of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars, or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than twenty-five individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, fifty per cent of his time to the solicitation or procurement of insurance contracts for such society.

“(b) License required. Any person who in this State acts as insurance agent for a society without having authority so to do by virtue of a license issued and in force pursuant to the provisions of this section shall, except as provided in paragraph (a), be guilty of a misdemeanor.

“(c) Payment of commissions forbidden. No society doing business in this State shall pay any commission or other compensation to any person for any services in obtaining in this State any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed insurance agent of such society and except an agent exempted under subsection (a) (2) of this section.

“(d) Prerequisites, issuance and renewal of insurance agents’ licenses.

“(1) the commissioner may issue a license to any person who has paid an annual license fee of \$5.00 and who has complied with the requirements of this section, authorizing such licensee to act as an insurance agent on be-

half of any society named in such license which is authorized to do business in this State.

“(2) before any insurance agent’s license shall be issued there shall be on file in the office of the commissioner the following documents :

“(i) a written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe ; and

“(ii) a certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

“(3) no written or other examination shall be required of any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent.

“(4) the commissioner may refuse to issue or renew any insurance agent’s license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

“(5) every license issued pursuant to this section, and every renewal thereof, shall expire on December thirty-first of the even-numbered calendar year following the calendar year in which such license or renewal license was issued.

“(6) if the application for a renewal license shall have been filed with the commissioner on or before December thirty-first of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless same shall be revoked or suspended, until the issuance by the commissioner of the renewal license or until the expiration of five days after he shall have refused to renew such license and shall have served written notice of such refusal on the applicant. If the application shall, within thirty days after such notice is given, notify the commissioner in writing of his request for a hearing on such refusal, the commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, reinstate such license.

“(7) any such renewal license of an insurance agent may be issued upon the application of the society named in the existing license. Such application shall be in the form or forms prescribed by the commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the commissioner may, after reasonable notice to any such society, require that any or all agents of such society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of such licenses, as hereinbefore spe-



cified, and he may also require that each such application shall be accompanied by the certificate specified in item (2) (ii) of paragraph (d) of this section.

“(e) Notice of termination of appointment of insurance agent. Every society doing business in this State shall, upon the termination of the appointment of any insurance agent licensed to represent it in this State, forthwith file with the commissioner a statement, in such form as he may prescribe, of the facts relative to such termination and the cause thereof. Every statement made pursuant to this section shall be deemed a privileged communication.

“(f) Revocation or suspension of insurance agent’s license.

“(1) The commissioner may revoke or may suspend for such period as he may determine, any insurance agent’s license if, after notice and hearing as specified in this section, he determines that the licensee has:

“(i) violated any provision of, or any obligation imposed by, this section, or has violated any law in the course of his dealings as agent;

“(ii) made a material misstatement in the application for such license;

“(iii) been guilty of fraudulent or dishonest practices;

“(iv) demonstrated his incompetency or untrustworthiness to act as an insurance agent; or

“(v) been guilty of rebating as defined by the laws of this State applicable to life insurance companies.

“(2) The revocation or suspension of any insurance agent’s license shall terminate forthwith the license of such agent. No individual whose license has been revoked shall be entitled to obtain any insurance agent’s license under the provisions of this section for a period of one year after such revocation or, if such revocation be judicially reviewed, for one year after the final determination thereof affirming the action of the commissioner in revoking such license.

“**Section 181-829. Service of process.** “(a) Every society authorized to do business in this State shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this State. Copies of such appointment, certified by said commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

“(b) Service shall only be made upon the commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of \$2.00.

**“Section 181-830. Injunction.** No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this State unless made by the attorney general upon request of the commissioner.

**“Section 181-831. Review.** All decisions and findings of the commissioner made under the provisions of sections 181-801 to 181-843 shall be subject to review by proper proceedings in any court of competent jurisdiction in this State.

**“Section 181-832. Funds.** “(a) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

“(b) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

“(c) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from the effective date of this chapter, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

**“Section 181-833. Investments.** A society shall invest its funds only in such investments as are authorized by the laws of this State for the investment of assets of life insurance companies and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this State which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

**“Section 181-834. Reports and valuations.** Reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

“(a) Every society transacting business in this State shall annually, on or before the first of March, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of \$5.00 for filing same. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

“(b) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

“(c) As a part of the annual statement herein required, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December thirty-first last preceding provided, the commissioner may, in his discretion for cause shown, extend the time

for filing such valuation for not more than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this chapter shall be determined in accordance with the provisions of law applicable prior to the effective date of this chapter and as to certificates issued on or after one year from the effective date of this chapter shall not be less than the reserves determined according to the Commissioners' Reserve Valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

"(d) Reserves according to the Commissioners' Reserve Valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of item (1) over item (2), as follows:

"(1) a net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per cent per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate; and

"(2) a net one-year term premium for such benefits provided for in the first certificate year.

"(e) Reserves according to the Commissioners' Reserve Valuation method for life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, annuity and pure endowment benefits, disability and accidental death benefits in all certificates and contracts, and all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of this subsection.

"(f) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in the following subsection.

“(g) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the Department of Insurance of the state of domicile of the society.

“(h) The minimum standards of valuation for certificates issued prior to one year from the effective date of this chapter shall be those provided by the law applicable immediately prior to the effective date of this chapter but not lower than the standards used in the calculating of rates for such certificates.

“(i) the minimum standard of valuation for certificates issued after one year from the effective date of this chapter shall be three and one-half per cent interest and the following tables :

“(1) for certificates of life insurance—American Men Ultimate Table of Mortality, with Bowerman’s or Davis’ Extension thereof or with the consent of the commissioner, the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, using actual age of the insured for male risks and an age not more than three years younger than the actual age of the insured for female risks ;

“(2) for annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates—the 1937 Standard Annuity Mortality Table or the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner ;

“(3) for total and permanent disability benefits in or supplementary to life insurance certificates—Hunter’s Disability Table or the Class III Disability Table (1926) modified to conform to the contractual waiting period, or the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries with due regard to the type of benefit. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance certificates ;

“(4) for accidental death benefits in or supplementary to life insurance certificates—the Inter-Company Double Indemnity Mortality Table or the 1959 Accidental Death Benefits Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates ; and

“(5) for non-cancellable accident and health benefits—the Class III Disability Table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society’s own experience.

“(j) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this State. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

“(k) Any society, with the consent of the commissioner of the state of domicile of the society and under such conditions, if any, which he may

impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

“(1) A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which such neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this State shall cease while such default continues.

“**Section 181-835. Examination of domestic societies.** The commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society and he shall make such examination at least once in every three years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. The minutes of the proceedings of the supreme legislative or governing body and of the board of directors or corresponding body of a society shall be in the English language. In making any such examination the commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society. A summary of the report of the commissioner and such recommendations or statements of the commissioner as may accompany such report, shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed so to do by the commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the commissioner shall be furnished by the society to each member of such board of directors or other governing body. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

“**Section 181-836. Examination of foreign and alien societies.** The commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this State. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may in his discretion accept, in lieu of such examination, the examination of the insurance department of the state, territory, district, province or country where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the commissioner.

“**Section 181-837. No adverse publications.** Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such finan-

cial statement, report or finding and to make such showing in connection therewith as it may desire.

**“Section 181-838. Misrepresentation.** No person shall cause or permit to be made, issued or circulated in any form:

“(a) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this State, or the financial condition of any society;

“(b) Any false or misleading estimate or statement concerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract; or

“(c) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete if it does not compare in detail:

“(1) the gross rates, and the gross rates less any dividend or other reduction allowed at the date of the comparison; and

“(2) any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured; or if it omits from consideration:

“(3) any benefit or value provided in the contract;

“(4) any differences as to amount or period or rates; or

“(5) any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

“(d) In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

“(e) Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or both fine and imprisonment and shall in addition, be liable for a civil penalty in the amount of three times the sum received by such violator as compensation or commission, which penalty may be sued for and recovered by any person or society aggrieved for his or its own use and benefit in accordance with the provisions of civil practice.

**“Section 181-839. Discrimination and rebates.** “(a) No society doing business in this State shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes.

“(b) No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, any valuable consideration or inducement to, or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on,

or any valuable consideration or inducement not specified in the contract of insurance.

**“Section 181-840. Taxation.** Every association or society organized and operating under this chapter shall be, from the time of such organization, exempt from every state, county and municipal tax, except real property taxes and unemployment compensation taxes; provided, that nothing in this section shall be deemed to exempt such association or society from liability to withhold such taxes payable by its employees and pay the same to the proper collection officers, and to keep such records and make such returns and reports, as may be required in the case of other corporations, associations or societies similarly exempt from the taxes hereinabove first mentioned; provided further, that the exemption hereby granted as to general excise taxes under Chapter 117, Revised Laws of Hawaii 1955, as amended, shall not apply to any activity the primary purpose of which is to produce income.

**“Section 181-841. Exemptions.** Except as herein provided, societies shall be governed by the provisions of sections 181-801 to 181-843 and shall be exempt from all other provisions of the insurance laws of this State, not only in governmental relations with the State, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

**“Section 181-842. Exemption of certain societies.** Nothing contained in sections 181-801 to 181-843 shall be so construed as to affect or apply to:

“(a) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;

“(b) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ladies’ societies or ladies’ auxiliaries to such orders, societies or associations;

“(c) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both; or

“(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.

“(e) Any such society or association described in paragraphs (c) or (d) of this section which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (d) of this section which has more than one thousand members, shall not be exempted from the provisions of sections 181-801 to 181-843 but shall comply with all requirements thereof.

“(f) No society which, by the provisions of this section, is exempt from the requirements of sections 181-801 to 181-843, except any society described in paragraph (b) of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

“(g) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to

pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of sections 181-801 to 181-843 except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

“(h) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of sections 181-801 to 181-843.

**“Section 181-843. Penalties.**

“(a) Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be fined not less than \$100 nor more than \$500 or imprisonment in the county jail not less than thirty days nor more than one year, or both.

“(b) Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by sections 181-801 to 181-843, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

“(c) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this State shall upon conviction be fined not less than \$50 nor more than \$200.

“(d) Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of sections 181-801 to 181-843 for which a penalty is not otherwise prescribed, shall upon conviction, be subject to a fine of not more than \$200.

**“Section 181-844. Severability.** If any provision of this chapter or the application of such provision to any circumstance is held invalid, the remainder of the chapter or the application of the provision to other circumstances, shall not be affected thereby.”

SECTION 2. This Act shall take effect upon its approval.

(Approved July 10, 1961.) S.B. 922.

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