

## CHAPTER 64B

### FRATERNAL BENEFIT SOCIETIES

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#### 64B.01 FRATERNAL BENEFIT SOCIETIES.

Any incorporated society, order, or supreme lodge, without capital stock, including one exempted under section 64B.38, subdivision 1, clause (2), 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 or branch system that confines its membership to any one religious denomination, having a representative form of government, and which provides benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

**History:** 1985 c 49 s 1; 1986 c 313 s 7

**64B.02 LODGE SYSTEM.**

Subdivision 1. **Definition.** A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated, or admitted in accordance with its laws, rules, and rituals. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once every three months in furtherance of the purposes of the society.

Subd. 2. **Children's lodges.** A society may, at its option, organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges shall not be required of the children, nor shall they have a voice or vote in the management of the society.

**History:** 1985 c 49 s 2

**64B.03 REPRESENTATIVE FORM OF GOVERNMENT.**

(a) A society has a representative form of government when it has a supreme governing body constituted in one of the following ways:

(1) The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws.

(2) The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed four years, except that the commissioner has the discretion to approve completion of a term of office exceeding four years where the board member completing the term was elected pursuant to clause (1). Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society.

(b) A society has a representative form of government when the officers of the society are elected either by the supreme governing body or by the board of directors.

(c) A society has a representative form of government when only benefit members are eligible for election to the supreme governing body and the board of directors.

(d) A society has a representative form of government when each voting member shall have one vote and no vote may be cast by proxy.

**History:** 1985 c 49 s 3; 1986 c 313 s 8; 2000 c 304 s 2

**64B.04 TERMS USED.**

For the purposes of this chapter, the following terms have the meanings given them:

(a) "Benefit contract" means the agreement for provision of benefits authorized by section 64B.16, as that agreement is described in section 64B.19, subdivision 1.

(b) "Benefit member" means an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.

(c) "Certificate" means the document issued as written evidence of the benefit contract.

(d) "Commissioner" means the commissioner of commerce of the state of Minnesota or a duly appointed deputy charged with the responsibility of administering the insurance laws of the state of Minnesota.

(e) "Premiums" means premiums, rates, dues, or other required contributions by whatever name known, which are payable under the certificate.

(f) "Laws" means the society's articles of incorporation, constitution, and bylaws, however designated.

(g) "Rules" means all rules, regulations, or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.

(h) "Society" means fraternal benefit society, unless otherwise indicated.

(i) "Lodge" means subordinate member units of the society, known as camps, courts, councils, branches, or by any other designation.

**History:** 1985 c 49 s 4

#### **64B.05 PURPOSES AND POWERS.**

Subdivision 1. **Purposes.** A society shall operate for the benefit of members and their beneficiaries by:

(1) providing benefits as specified in section 64B.16; and

(2) operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, which may also be extended to others.

The purposes provided for in this subdivision may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations which are to be operated primarily for member service. The subsidiaries authorized under section 64B.12 are to be operated primarily for investment purposes.

Subd. 2. **Adoption of laws and rules.** Every society may adopt laws and rules for the government of the society, the admission of its members, and the management of its affairs. It may change, alter, add to, or amend such laws and rules and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

**History:** 1985 c 49 s 5; 1Sp1986 c 3 art 1 s 9

#### **64B.06 QUALIFICATIONS FOR MEMBERSHIP.**

Subdivision 1. **Qualifications.** A society shall specify in its laws or rules:

(1) eligibility standards for each and every class of membership, provided that if benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than age 15 and not greater than age 21;

(2) the process for admission to membership for each membership class; and

(3) the rights and privileges of each membership class, provided that only benefit members may vote on the management of the insurance affairs of the society.

Subd. 2. **Social members.** A society may also admit social members who shall have no voice or vote in the management of the insurance affairs of the society.

Subd. 3. **Membership rights.** Membership rights in the society are personal to the member and are not assignable.

**History:** 1985 c 49 s 6

#### **64B.07 LOCATION OF OFFICE, MEETINGS, COMMUNICATIONS TO MEMBERS, GRIEVANCE PROCEDURES.**

Subdivision 1. **Location of office; meetings.** The principal office of any domestic society shall be located in this state. The meetings of its supreme governing body may be held in any state, district, province, or territory where the society has at least one subordinate lodge, or in any other location as determined by the supreme governing body, and all business transacted at the meetings shall be as valid in all respects as if the meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in English.

Subd. 2. **Communications.** (a) A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. The required reports, notices, and statements shall be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

(b) Not later than June 1 of each year, a synopsis of the society's 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 or, in lieu thereof, the synopsis may be published in the society's official publication.

Subd. 3. **Grievance procedures.** A society may provide in its laws or rules for grievance or complaint procedures for members.

**History:** 1985 c 49 s 7

#### **64B.08 PERSONAL LIABILITY; INDEMNIFICATION; INSURANCE; ADVANCES.**

Subdivision 1. **No personal liability.** The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

Subd. 2. **Indemnification.** A person may be indemnified and reimbursed by a society for expenses reasonably incurred by and liabilities imposed upon the person in connection with or arising out of any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, or threat thereof, in which the person may be involved by reason of the fact that the person is or was a director, officer, employee, or agent of the society or of any firm, corporation, or organization which the person served in any capacity at the request of the society. A person shall not be so indemnified or reimbursed (1) in relation to any matter in the action, suit, or proceeding as to which the person shall finally be adjudged to be or have been guilty of

breach of a duty as a director, officer, employee, or agent of the society, or (2) in relation to any matter in the action, suit, or proceeding, or threat thereof, which has been made the subject of a compromise settlement, unless in either such case the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that the person's conduct was unlawful. The determination whether the conduct of the person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in clause (1) or (2) may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to the action, suit, or proceeding or by a court of competent jurisdiction. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to the person shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which the person may be entitled as a matter of law and shall inure to the benefit of heirs, executors, and administrators.

Subd. 3. **Insurance.** A society may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the society, or who is or was serving at the request of the society as a director, officer, employee, or agent of any other firm, corporation, or organization against any liability asserted against the person and incurred in any such capacity or arising out of the person's status as such, whether or not the society would have the power to indemnify the person against such liability under this section.

Subd. 4. **Advances.** If a person is made or threatened to be made a party to a proceeding, the person is entitled, upon written request to the society, to payment or reimbursement by the society of reasonable expenses, including attorneys' fees and disbursements, incurred by the person in advance of the final disposition of the proceeding, (1) upon receipt by the society of a written affirmation by the person of a good faith belief that the criteria for indemnification set forth in subdivision 2 and the bylaws of the society have been satisfied and a written undertaking by the person to repay all amounts so paid or reimbursed by the society, if it is ultimately determined that the criteria for indemnification have not been satisfied; and (2) after a determination that the facts then known to those making the determination would not preclude indemnification under this section. The written undertaking required by clause (1) is an unlimited general obligation of the person making it but need not be secured and shall be accepted without reference to financial ability to make the repayment.

Subd. 5. **Elimination or limitation of liability.** A director's personal liability to the society, supreme governing body, or members for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the articles. The articles shall not eliminate or limit the liability of a director:

(1) for any breach of the director's duty of loyalty to the society, the supreme governing body, or its members;

(2) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;

(3) for any transaction from which the director derived an improper personal benefit; or

(4) for any act or omission occurring prior to the date when the provision in the articles eliminating or limiting liability becomes effective.

**History:** 1985 c 49 s 8; 1986 c 444; 1987 c 33 s 1,2

**64B.09 WAIVER.**

The laws of the society may provide that no subordinate body, nor any of its subordinate officers or members, may waive any of the provisions of the laws of the society. The provision is binding on the society and every member and beneficiary of a member.

**History:** *1985 c 49 s 9*

**64B.10 ORGANIZATION.**

Subdivision 1. **Regulation.** A domestic society organized on or after August 1, 1985 shall be formed according to subdivisions 2 to 6.

Subd. 2. **Formation.** 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. These purposes shall not include more liberal powers than are granted by this chapter;

(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 governing body, which election shall be held not later than one year from the date of issuance of the permanent certificate of authority.

Subd. 3. **Filing of articles and documents.** Articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year shall be filed with the commissioner, who may require such further information as the commissioner deems necessary. The bond with sureties approved by the commissioner shall be in such amount, not less than \$300,000 nor more than \$1,500,000, as required by the commissioner. All documents filed are to be in English. 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 of authority authorizing the society to solicit members as hereinafter provided.

Subd. 4. **Initial solicitations and qualifications.** No preliminary certificate of authority granted under 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 500 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 of authority, 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.

Subd. 5. **Time for completing organization.** Upon receipt of a preliminary certificate of authority 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, and shall issue to each applicant a receipt for the amount 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 benefit to any person until:

(1) actual bona fide applications for benefits have been secured on not less than 500 applicants, and any necessary evidence of insurability has been furnished to and approved by the society;

(2) at least ten subordinate lodges have been established into which the 500 applicants have been admitted;

(3) there has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted, and premiums therefor; and

(4) it shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least \$150,000. 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, the premiums shall be returned to the applicants.

Subd. 6. **Certificate of compliance; certified copy as evidence.** The commissioner may make such examination and require such further information as the commissioner deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the commissioner shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to this chapter. The certificate of authority is prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

Subd. 7. **Corporate powers retained.** An incorporated society authorized to transact business in this state August 1, 1985 shall not be required to reincorporate.

**History:** 1985 c 49 s 10

## **64B.11 AMENDMENTS TO LAWS.**

Subdivision 1. **Amendment procedure.** A domestic society may amend its laws in accordance with the provisions thereof by action of its supreme governing body at any regular or special meeting thereof or, if its laws so provide, by referendum. The referendum may be held in accordance with the provisions of its 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. A society may provide for voting by mail. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission, a majority of the members voting shall have signified their consent to the amendment by one of the methods herein specified.

Subd. 2. **Approval of amendments.** No amendment to the laws of any domestic society shall take effect unless approved by the commissioner who shall approve the amendment if the commissioner 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 disapproves the amendment within 60 days after the filing of same, the amendment shall be considered approved. The approval or disapproval by the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case the commissioner disapproves the amendment, the reasons therefor shall be stated in the written notice.

**Subd. 3. Publication of amendments.** Within 90 days from the approval thereof by the commissioner, all 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 publication 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 the amendments or synopsis thereof, have been furnished the addressee.

**Subd. 4. Filing of amendments by foreign or alien society.** Every foreign or alien society authorized to do business in this state shall be subject to the requirements of section 72A.061, subdivision 2, as to amendments or additions to its bylaws.

**Subd. 5. Certified copies of amendments.** Printed copies of the laws as amended, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of their legal adoption.

**History:** 1985 c 49 s 11; 1987 c 337 s 86

## 64B.12 INSTITUTIONS.

A society may create, maintain, and operate, or may establish organizations to operate, not for profit institutions to further the purposes permitted by section 64B.05, subdivision 1, clause (2). The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held, or leased by the society for this purpose shall be reported in every annual statement.

**History:** 1985 c 49 s 12

## 64B.13 REINSURANCE.

(a) 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 the 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 August 1, 1985, 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.

(b) Notwithstanding the limitation in paragraph (a), a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 64B.14, or under such other circumstances as approved by the commissioner including reinsurance of an affiliated insurance company.

**History:** 1985 c 49 s 13; 2006 c 204 s 9



**64B.14 CONSOLIDATIONS AND MERGERS.**

Subdivision 1. **Requirements.** A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the commissioner:

(1) a certified copy of the written contract containing the terms and conditions of the consolidation or merger;

(2) 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 31 next preceding the date of the contract;

(3) a certificate of the officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme governing body of each society, the vote being conducted at a regular or special meeting of each such body, or, if the society's laws so permit, by mail; and

(4) evidence that at least 60 days prior to the action of the supreme 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 publication of each society.

Subd. 2. **Approval by commissioner.** If the commissioner finds that the contract is in conformity with this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, the commissioner shall approve the contract and issue a certificate to such effect. Upon 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 the event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of the state or territory and a certificate of approval filed with the commissioner of this state or, if the laws of the 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 the approval filed with the commissioner of this state.

Subd. 3. **Payment of expenses.** (a) All necessary and actual expenses and compensation incident to all the proceedings provided hereby shall be paid as provided by the contract of merger, consolidation, or reinsurance. An itemized statement of all these expenses shall be filed with the commissioner or commissioners, as the case may be, subject to approval, and when approved the same shall be binding on the parties.

(b) No brokerage or commission shall be included in the expenses and compensation or shall be paid to any person by either of the parties to the contract in connection with the negotiation therefor, or execution thereof.

(c) No compensation shall be paid to any officer or employee of either of the parties to the contract for, directly or indirectly, aiding in effecting the contract of merger, consolidation, or reinsurance.

(d) Except as fully expressed in the contract of merger, consolidation, or reinsurance, or the approved itemized statement of expenses, as approved by the commissioner or commissioners, as the case may be, no compensation shall be paid to any person and no officer or employee of the state shall receive any compensation, directly or indirectly, for in any manner aiding, promoting, or assisting in any merger, consolidation, or reinsurance.

Subd. 4. **Effect of consolidation or merger.** Upon the consolidation or merger becoming effective, all the rights, franchises, and interests of the consolidated or merged societies in and to every species of property, real, personal, or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after the consolidation or merger.

Subd. 5. **Affidavit of officer.** The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that the notice or document has been duly addressed and mailed, shall be prima facie evidence that the notice or document has been furnished the addressees.

**History:** 1985 c 49 s 14

#### **64B.15 CONVERSION OF FRATERNAL BENEFIT SOCIETY INTO MUTUAL LIFE INSURANCE COMPANY.**

A domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the financial requirements for a mutual life insurance company. A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting shall be necessary for the approval of the plan. No conversion shall take effect unless and until approved by the commissioner who may give the approval if the commissioner finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

**History:** 1985 c 49 s 15

#### **64B.16 BENEFITS.**

Subdivision 1. **Scope.** A society may provide the following contractual benefits on an individual or nongroup basis:

- (1) death benefits;
- (2) endowment benefits;
- (3) annuity benefits;
- (4) temporary or permanent disability benefits;
- (5) hospital, medical, or nursing benefits;
- (6) monument or tombstone benefits to the memory of deceased members; and
- (7) such other benefits as authorized for life insurers and which are not inconsistent with this chapter.

Subd. 2. **Persons eligible for benefits; children's benefits.** A society shall specify in its rules those persons who may be issued, or covered by, the contractual benefits in subdivision 1, consistent with

providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

Subd. 3. **Benefit authority continued.** Subdivision 1, clauses (1) to (6), continues the benefit authority provided in Minnesota Statutes 1984, chapter 64A. Subdivision 1, clause (7), provides that the current parity between the types of products that fraternal and other life insurers can provide be maintained in the future. Under this provision, any new product authorities granted to life insurers will also be available to fraternal if the new products are not inconsistent with fraternal code provisions, such as membership, and representative forms of government.

**History:** 1985 c 49 s 16

#### **64B.17 BENEFICIARIES.**

Subdivision 1. **Change; eligibility; rights.** The owner of a benefit contract may at all times change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable 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 benefit contract.

Subd. 2. **Support and other payments.** The member may at any time, by written instrument, authorize the society to provide and pay for the support, care, medical and surgical treatment, and funeral of a member and deduct the amount so paid, with legal interest, from the net reserve to the credit of the member's certificate or from the amount otherwise payable under the certificate to the beneficiary, or the member may, at any time, designate the society as beneficiary and, in such case, the society shall use this reserve or amount to the extent necessary for the purpose aforesaid.

Subd. 3. **Absence of designation.** If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds shall be payable, the amount of the benefit, except to the extent that funeral benefits may be paid, shall be payable to the personal representative of the deceased insured, provided that if the owner of the certificate is other than the insured, the proceeds shall be payable to the owner.

**History:** 1985 c 49 s 17

#### **64B.18 BENEFITS NOT ATTACHABLE.**

The cash value, proceeds, or benefits under any matured or unmatured life insurance or annuity contract issued before, on, or after June 2, 1987, by any society authorized to do business under this chapter, is exempt from attachment, garnishment, execution, or other legal process to the extent provided by section 550.37, subdivisions 10, 23, and 24.

**History:** 1985 c 49 s 18; 1987 c 337 s 87; 1987 c 384 art 1 s 3

#### **64B.19 BENEFIT CONTRACT.**

Subdivision 1. **Certificate.** Every society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached to it, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments

to each thereof, shall constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. All statements on the application shall be representations and not warranties. Any waiver of this provision shall be void.

Subd. 2. **Amendments to laws.** Any changes, additions, or amendments to the laws of the society duly made or enacted subsequent to the issuance of the certificate, shall bind the owner and the beneficiaries, and shall govern and control the benefit contract in all respects the same as though the changes, additions, or amendments had been made prior to and were in force at the time of the application for insurance, except that no change, addition, or amendment shall destroy or diminish benefits that the society contracted to give the owner as of the date of issuance.

Subd. 3. **Minor bound by certificate.** A person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the laws and rules of the society to the same extent as though the age of majority had been attained at the time of the application.

Subd. 4. **Extra assessments.** A society shall provide in its 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 owner to the society the amount of the owner's equitable proportion of such deficiency as ascertained by its board, and that if the payment is not made either (1) it shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates; or (2) in lieu of or in combination with (1), the owner may accept a proportionate reduction in benefits under the certificate. The society may specify the manner of the election and which alternative is to be presumed if no election is made.

Subd. 4a. **Notice of extra assessments.** In the event that a society intends to make extra assessments, as provided in subdivision 4, it shall provide notice of the assessments it plans to make to the commissioner, and to the commissioner of its state of domicile if it is a foreign society, at least 90 days before the effective date of the assessments.

Subd. 5. **Certified copy as evidence.** 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.

Subd. 6. **Filing of certificates; contents.** No certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner in the manner provided for like policies issued by life insurers in this state. Every life, accident, health, or disability insurance certificate and every annuity certificate issued on or after one year from August 1, 1985 shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life insurers in this state, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificate shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium.

Subd. 7. **Ownership of certificates.** Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may 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. Ownership rights prior to the transfer shall be specified in the certificate.

Subd. 8. **Assignment of certificates.** A society may specify the terms and conditions on which benefit contracts may be assigned.

Subd. 9. **Payment to welfare recipients.** No society authorized to do business in this state which provides or pays for any health care benefits shall issue any certificate which contains any provision denying or reducing benefits because services are rendered to a certificate holder or beneficiary who is eligible for or receiving medical assistance pursuant to chapter 256B or services pursuant to section 252.27; 260B.331, subdivision 2; 260C.331, subdivision 2; or 393.07, subdivision 1 or 2.

Subd. 10. **Disability offset prohibited.** No certificate, contract, or other evidence of coverage entered into, issued, amended, renewed, or delivered on or after January 1, 1976, shall contain any provision offsetting, or in any other manner reducing, any benefit to a member or other beneficiary by the amount of, or in any proportion to any increase in disability benefits received or receivable under the Social Security Act, United States Code, title 42, section 301 et seq., as amended subsequent to the date of commencement of the benefit.

**History:** 1985 c 49 s 19; 1999 c 139 art 4 s 2; 2010 c 275 art 2 s 1

#### **64B.20 NONFORFEITURE BENEFITS, CASH SURRENDER VALUES, CERTIFICATE LOANS, AND OTHER OPTIONS.**

Subdivision 1. **Prior certificates.** For certificates issued prior to one year after August 1, 1985, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall comply with the provisions of law applicable immediately prior to August 1, 1985.

Subd. 2. **Future certificates.** For certificates issued on or after one year from August 1, 1985 for which reserves are computed on the Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Table, the Commissioner's 1958 Standard Ordinary Mortality Table, or the Commissioner's 1980 Standard Mortality Table, or any more recent table made applicable to life insurers, 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 laws of this state applicable to life insurers issuing policies containing like benefits based upon such tables.

**History:** 1985 c 49 s 20

#### **64B.21 INVESTMENTS.**

A society shall invest its funds only in investments authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state that 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.

**History:** 1985 c 49 s 21

**64B.22 FUNDS.**

Subdivision 1. **Assets.** 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 on the surrender of any part thereof, except as provided in the benefit contract.

Subd. 2. **Special funds.** 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 the society.

Subd. 3. **Separate accounts.** A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the provisions of law regulating life insurers establishing such accounts and issuing such contracts. To the extent the society deems it necessary in order to comply with any applicable federal or state laws, or any rules issued thereunder, the society may adopt special procedures for the conduct of the business and affairs of a separate account, may, for persons having beneficial interests therein, provide special voting and other rights, including without limitation special rights and procedures relating to investment policy, investment advisor services, selection of certified public accountants, and selection of a committee to manage the business and affairs of the account, and may issue contracts on a variable basis to which section 64B.19, subdivisions 2 and 4 shall not apply.

Subd. 4. **Authority of fraternal benefit societies clarified.** Subdivision 3 clarifies the authority of a fraternal benefit society to establish separate accounts, and to provide that the open contract and maintenance of solvency provisions may be deleted from contracts issued on a variable basis if so required to be consistent with other state or federal laws regulating variable contracts. The establishment of a separate account for variable products may be difficult to integrate into a society's existing mechanisms of representative form of government, so the statute emphasizes the care that must be taken in the decision by requiring that the supreme governing body authorize the establishment of the account.

**History:** 1985 c 49 s 22

**64B.23 EXEMPTIONS.**

Subdivision 1. **Application of chapter.** Except as herein provided, the societies shall be governed exclusively by this chapter and shall be exempt from all provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter passed shall apply to them unless they be expressly designated therein.

Subd. 2. **Domestic and foreign societies.** All provisions of this chapter, except as otherwise provided, shall be taken and construed as applying to both domestic and foreign societies.

Subd. 3. **Application of certain sections.** The provisions of sections 61A.39 to 61A.50 shall not apply to fraternal benefit societies nor shall anything therein be construed as governing or in any way regulating these societies.

**History:** 1985 c 49 s 23

**64B.24 TAXATION.**

Fraternal benefit societies are declared to be charitable institutions, and the property held and used for lodge purposes, and the funds of these societies shall be exempt from taxation under the general tax or

revenue laws of this state, except that the real estate of the society shall be taxable. Insurance premiums paid to a fraternal benefit society are exempt from the taxes imposed under chapter 297I.

**History:** 1985 c 49 s 24; 2000 c 394 art 2 s 18

#### **64B.25 VALUATION.**

Subdivision 1. **Prior certificates.** Standards of valuation for certificates issued prior to one year after August 1, 1985 shall be those provided by the laws applicable immediately prior to August 1, 1985.

Subd. 2. **Future certificates.** The minimum standards of valuation for certificates issued on or after one year from August 1, 1985 shall be based on the following tables:

(1) For certificates of life insurance: The Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980 Standard Ordinary Mortality Table, or any more recent table made applicable to life insurers;

(2) For annuity and pure endowment certificates, total and permanent disability benefits, accidental death benefits, and noncancelable accident and health benefits: Such tables as are authorized for use by life insurers in this state.

All of the above shall be under valuation methods and standards (including interest assumptions) in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

Subd. 3. **Other standards.** The commissioner may accept other standards for valuation if the commissioner 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 vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

Subd. 4. **Excess reserves.** Any society, with the consent of the commissioner of the state of domicile of the society and under the conditions, if any, that the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any benefit member shall not be affected thereby.

**History:** 1985 c 49 s 25; 1986 c 444

#### **64B.26 REPORTS.**

Reports shall be filed in accordance with the provisions of this section.

Every society transacting business in this state shall annually, on or before the first day 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. 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.

As 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 31 last preceding. The commissioner of insurance may, for cause shown, extend the time for filing the valuation for not more than two

calendar months. The valuation shall be done in accordance with the standards specified in section 64B.25. The valuation and underlying data shall be certified by a qualified 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.

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 the neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this state shall cease while the default continues.

**History:** 1985 c 49 s 26; 1986 c 444

#### **64B.27 ANNUAL LICENSE.**

Societies that are now authorized to transact business in this state may continue this business until the first day of June next succeeding August 1, 1985. The authority of the societies and all societies hereafter licensed, may thereafter be renewed annually, subject to section 60A.13, subdivisions 1, 5, 6, and 7. However, a license so issued shall continue in full force and effect until the new license is issued or specifically refused. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

**History:** 1985 c 49 s 27; 1987 c 337 s 88

#### **64B.28 EXAMINATION OF SOCIETIES; NO ADVERSE PUBLICATIONS.**

Subdivision 1. **Procedure.** The commissioner, or any person the commissioner may appoint, may examine any domestic, foreign, or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign, or alien insurers. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers shall also be applicable to the examination of societies.

Subd. 2. **Expense.** 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.

**History:** 1985 c 49 s 28; 1986 c 444

#### **64B.29 FOREIGN OR ALIEN SOCIETY; ADMISSION.**

No foreign or alien society shall transact business in this state without a license issued by the commissioner. Any society desiring admission to this state shall comply substantially with the requirements and limitations of this chapter applicable to domestic societies. A society may be licensed to transact business in this state upon filing with the commissioner:

- (1) a duly certified copy of its articles of incorporation;
- (2) a copy of its bylaws, certified by its secretary or corresponding officer;
- (3) a power of attorney to the commissioner as prescribed in section 64B.35;

(4) 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;



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

(6) copies of its certificate forms;

(7) such other information as the commissioner may deem necessary and upon a showing that its assets are invested in accordance with the provisions of this chapter.

**History:** 1985 c 49 s 29

#### **64B.30 DOMESTIC ASSOCIATIONS; EXAMINATION; REHABILITATION; DISSOLUTION.**

Subdivision 1. **Visitation and examination.** The commissioner, or any person the commissioner may appoint, shall have the power of visitation and examination into the affairs of any domestic society. The commissioner shall conduct an examination at least as often as is required in section 60A.031, subdivision 1. The commissioner may:

(1) employ assistance for the purposes of examination and the commissioner, or any person the commissioner may appoint, shall have free access to any books, papers, and documents that relate to the business of the association; and

(2) 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 association.

Subd. 2. **Conditions.** Wherever the commissioner is satisfied that any of the conditions exist as stated in chapter 60B, the commissioner may proceed as provided therein.

Subd. 3. **Voluntary dissolution.** Upon application to the commissioner, a domestic society may request that it be dissolved and that its existence be terminated. Such application shall demonstrate that the applicant has satisfied its members' policy obligations or that it has transferred such obligations to another society, domestic or foreign, by means of assumption or bulk reinsurance or otherwise, that the applicant's supreme governing body has approved such termination and dissolution and that the application includes such other information that the commissioner requires. Any limitation in section 64B.13 related to reinsurance by a domestic society with another society shall not apply to reinsurance entered into in conjunction with the transfer of member policy obligations as a part of a voluntary dissolution. Upon the approval of the application by the commissioner, the society shall be deemed dissolved and its existence terminated upon the date set forth in the application.

**History:** 1985 c 49 s 30; 1986 c 444; 2000 c 483 s 18; 2005 c 118 s 11

#### **64B.31 SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE OF FOREIGN OR ALIEN SOCIETY.**

Subdivision 1. **Grounds for revocation.** 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,

the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for dissatisfaction. The commissioner shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After the notice the society shall have a 30-day period in which to comply with the commissioner's request for correction, and if the society fails to comply the commissioner shall notify the society of the findings of noncompliance and require the society to show cause on a date named why its license should not be suspended, revoked, or refused. If on the 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, the commissioner may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to the commissioner that the suspension or refusal should be withdrawn or the commissioner may revoke the authority of the society to do business in this state.

Subd. 2. **Continuance of contracts.** Nothing contained in this section shall be taken or construed as preventing any society from continuing in good faith all contracts made in this state during the time the society was legally authorized to transact business herein.

**History:** 1985 c 49 s 31; 1986 c 444

#### **64B.32 INJUNCTION.**

No application or petition for injunction against any domestic, foreign, or alien society, or lodge thereof, shall be recognized in any court of this state unless made by the attorney general upon request of the commissioner.

**History:** 1985 c 49 s 32

#### **64B.33 LICENSING OF AGENTS.**

Agents of societies shall be licensed in accordance with the provisions of chapters 60A and 60K regulating the licensing, revocation, suspension, or termination of license of resident and nonresident agents, except as otherwise provided in section 60K.35.

**History:** 1985 c 49 s 33; 1992 c 564 art 3 s 24; 2001 c 117 art 2 s 13

#### **64B.34 UNFAIR METHODS OF COMPETITION AND UNFAIR AND DECEPTIVE ACTS AND PRACTICES.**

Every society authorized to do business in this state shall be subject to the provisions of chapter 72A relating to prohibitions and penalties in general and the regulation of trade practices; provided, however, that nothing in those provisions shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership, or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society.

**History:** 1985 c 49 s 34

#### **64B.35 SERVICE OF PROCESS.**

Subdivision 1. **Appointment of commissioner as attorney.** 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 writing that any lawful process against it which is served on the 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 the appointment, certified by the 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.

Subd. 2. **Service.** Service under this section shall be made in compliance with section 45.028, subdivision 2. No service shall require a society to file its answer, pleading, or defense in less than 30 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.

**History:** 1985 c 49 s 35; 1992 c 564 art 2 s 5

#### **64B.36 REVIEW.**

All decisions and findings of the commissioner made under the provisions of this chapter shall be subject to review by proper proceedings in any court of competent jurisdiction in this state.

**History:** 1985 c 49 s 36

#### **64B.37 PENALTIES.**

Subdivision 1. **Violations generally.** Any person violating the provisions of section 64B.14, subdivisions 2 and 3, shall be guilty of a felony; and, upon conviction, liable to a fine of not more than \$10,000, or to imprisonment for not more than five years, or to both fine and imprisonment.

Subd. 2. **False or fraudulent statements or representations.** Any person, officer, member, or examining physician, who knowingly or willfully makes any false or fraudulent statement or representation in, or with reference to, any application for membership for the purpose of obtaining money from or benefit in any society transacting business under this chapter is guilty of a misdemeanor:

(1) any person who willfully makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such society, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who willfully makes any false statement and any verified report or declaration under oath, required or authorized under this chapter, is guilty of perjury and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury;

(2) 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, or who solicits membership for or in any manner assists in procuring membership in, any such society not authorized to do business in this state, is guilty of a misdemeanor;

(3) any society, or any officer, agent, or employee thereof, neglecting, refusing to comply with, or violating, any of the provisions of this chapter, the penalty for which neglect, refusal, or violation is not specified in this section, shall be fined not more than \$1,000.

**History:** 1985 c 49 s 37; 1Sp1986 c 3 art 1 s 10; 1987 c 329 s 21; 2005 c 10 art 3 s 4

**64B.38 CERTAIN ORGANIZATIONS EXEMPT.**

Subdivision 1. **Application of chapter.** Nothing contained in this chapter shall be construed to affect or apply to:

(1) grand or subordinate lodges of Masons, Odd Fellows, Elks, or Knights of Pythias, exclusive of the insurance branch of the supreme lodge of Knights of Pythias, or to similar orders which do not issue insurance certificates;

(2) to associations which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business;

(3) to local lodges of an association which was doing business in this state at the time of the enactment of Laws 1907, chapter 345, that provide death benefits not exceeding \$600 to any one person, or disability benefits not exceeding \$600 in any one year to any one person, or both;

(4) to any contracts or reinsurance of or between such local lodges of such associations now doing business on such plan in this state;

(5) to domestic associations which limit their membership to the employees of a particular city or town, designated firm, business house, or corporation;

(6) to domestic lodges, orders, or associations of a purely religious, charitable, and benevolent description, which do not operate with a view to profit, and which do not provide for a death benefit of more than \$100, or for disability benefits of more than \$150 to any one person in any one year; or

(7) to any domestic lodge, order, or association which was incorporated under the laws of this state prior to 1917 and has been doing business in this state since incorporation and which now has less than \$4,000 in cash or in securities acceptable to the commissioner and which has agreed in its constitution or bylaws to pay \$300 as death benefits and \$200 as funeral expenses, and which does not operate with a view to profit and which shall hereafter pay no funeral expenses and pay not more than \$300 as death benefits, and shall hereafter collect from its members, at their then attained ages, regular payments or assessments not lower than those required by the National Fraternal Congress table of mortality, with interest at four percent per annum; and save and except as in this section otherwise specifically modified, limited, or qualified that any such domestic order or association which has more than 500 members, and provides for death or disability benefits, and any such domestic lodge, order, or association which issues to any person a certificate providing for the payment of benefits shall not be exempt by the provisions of this section, but shall comply with the requirements of this chapter. All foreign associations transacting business in this state shall comply with the provisions of section 64B.35.

Subd. 2. **Aid associations.** Any aid association confining its membership to one religious denomination, not operating for profit, and not charging stipulated premiums, which has been so operating in this state for more than 30 years and which pays death benefits not exceeding \$2,000 in any one case, shall not be subject to the insurance laws of this state.

Subd. 3. **Information furnished commissioner.** The commissioner may require from any association such information as will enable the commissioner to determine whether the association is exempt from the provisions of this chapter. No association which is exempt by the provisions of this section from the

requirements of this chapter shall give or allow, or promise to give or allow, to any person any compensation for procuring new members.

**History:** 1985 c 49 s 38; 1986 c 444

#### **64B.39 BENEFICIARY ASSOCIATIONS.**

Subdivision 1. **Definitions.** "Beneficiary association" means a corporation, society, or voluntary association heretofore organized and now existing and carried on for the sole benefit of its members and their families, relatives, or dependents, but not for profit, to insure the lives of its members only upon the whole life assessment plan, so-called, and in which organization admission to membership by a vote of the members or some governing body thereof, is a prerequisite to being entitled to such relief or policy of insurance, and which association sells neither endowments nor annuities.

Subd. 2. **Benefits.** Any beneficiary association may make provisions for the payment of benefits in case of sickness, or temporary or permanent physical disability, as a result of disease, accident, or age exceeding 70 years, and may also provide for the payment of funeral expenses of a member not exceeding \$250; in any case, all of these benefits to be paid, subject to compliance by its members with its constitution and bylaws, out of funds derived from assessments and dues collected from its members.

Subd. 3. **Eligible beneficiaries.** Payments of death benefits shall be made only to the families, heirs, blood relatives, adopted children, fiance or fiancée of the member, or persons dependent upon the member, or, when the certificate of membership may so provide, the executor or administrator of the estate of the member in trust for the person or persons above mentioned as may be designated in the certificate. Any member who, by reason of old age, or other disability, is dependent for support, in whole or in part, upon another, whether or not such other stands in the above relationship to the member, may, with the consent of the association, and under regulations it prescribes, designate the person upon whom the member is so dependent as a beneficiary under the certificate; and, in that case, the death benefits shall be paid according to this designation.

Subd. 4. **Reserve; taxation.** Every association may create and maintain a reserve fund for that purpose and shall be held to be an institution of public charity, and shall be exempt from payment of any taxes for state, county, or municipal purposes, except that the real estate of the association shall be taxed as other real estate in the state.

Subd. 5. **Law applicable.** The beneficiary society or association shall be governed by the provisions of this chapter not inconsistent with this section and be excluded from all provisions of the insurance laws of this state to the same extent as fraternal benefit societies.

**History:** 1985 c 49 s 39; 1986 c 444; 1992 c 564 art 1 s 54

#### **64B.40 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 64B.40 to 64B.48, the terms defined in this section have the meanings given them.

Subd. 2. **Adjusted risk-based capital report.** "Adjusted risk-based capital report" means a risk-based capital report that has been adjusted by the commissioner according to section 64B.41, subdivision 3.

Subd. 3. **Corrective order.** "Corrective order" means an order issued by the commissioner specifying corrective actions that the commissioner has determined are required.

Subd. 4. **NAIC.** "NAIC" means the National Association of Insurance Commissioners.

Subd. 5. **Negative trend.** "Negative trend" means, with respect to a society, negative trend over a period of time, as determined according to the "trend test calculation" included in the risk-based capital instructions.

Subd. 6. **Risk-based capital instructions.** "Risk-based capital instructions" means the risk-based capital report including risk-based capital instructions adopted by the NAIC, as those risk-based instructions may be amended by the NAIC from time to time according to the procedures adopted by the NAIC.

Subd. 7. **Risk-based capital level.** "Risk-based capital level" means a fraternal action level risk-based capital or fraternal authorized control level risk-based capital where:

(1) "fraternal action level risk-based capital" means the product of 2.0 and its authorized control level risk-based capital; and

(2) "fraternal authorized control level risk-based capital" means the number determined under the risk-based capital formula according to the risk-based capital instructions.

Subd. 8. **Risk-based capital plan.** "Risk-based capital plan" means a comprehensive financial plan containing the elements specified in section 64B.42. If the commissioner rejects the risk-based capital plan, and it is revised by the society, with or without the commissioner's recommendation, the plan must be called the "revised risk-based capital plan."

Subd. 9. **Risk-based capital report.** "Risk-based capital report" means the report required in section 64B.41.

Subd. 10. **Society.** "Society" means a fraternal benefit society that is admitted to do business in this state under this chapter.

Subd. 11. **Total adjusted capital.** "Total adjusted capital" means the sum of:

(1) a society's statutory capital and surplus as determined in accordance with statutory accounting applicable to the annual statement required to be filed under section 60A.13; and

(2) other items, if any, as the risk-based capital instructions may provide.

**History:** 2010 c 275 art 2 s 2

#### **64B.41 RISK-BASED CAPITAL REPORTS.**

Subdivision 1. **General requirements.** Every society shall, on or before each March 1, prepare and submit to the commissioner a report of its risk-based capital levels as of the end of the calendar year just ended, in a form and containing the information required by the risk-based capital instructions. In addition, every society shall file its risk-based capital report with the NAIC according to the risk-based capital instructions.

Subd. 2. **Specific requirements.** A society's risk-based capital must be determined according to the formula set forth in the risk-based capital instructions. The formula must take into account, and may adjust for the covariance between:

(1) the risk with respect to the society's assets;

(2) the risk of adverse insurance experience with respect to the society's liabilities and obligations;

(3) the interest rate risk with respect to the society's business; and

(4) all other business risks and other relevant risks set forth in the risk-based capital instructions;

determined in each case by applying the factors in the manner set forth in the risk-based capital instructions.

Subd. 3. **Adjusted risk-based capital report.** If a society files a risk-based capital report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the risk-based capital report to correct the inaccuracy and shall notify the society of the adjustment. The notice must contain a statement of the reason for the adjustment. A risk-based capital report as so adjusted is referred to as an "adjusted risk-based capital report."

**History:** 2010 c 275 art 2 s 3

#### **64B.42 FRATERNAL ACTION LEVEL EVENT.**

Subdivision 1. **Definition.** "Fraternal action level event" means, with respect to a society, any of the following events:

(1) the filing of a risk-based capital report by the society that indicates that:

(i) the society's total adjusted capital is greater than or equal to its fraternal authorized control level risk-based capital but less than its fraternal action level risk-based capital; or

(ii) the society's total adjusted capital is greater than or equal to its fraternal action level risk-based capital but less than the product of its fraternal authorized control level risk-based capital and 2.5 and has a negative trend;

(2) the notification by the commissioner to a society of an adjusted risk-based capital report that indicates an event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;

(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates an event in clause (1), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge; or

(4) the failure of the society to file a risk-based capital report by March 1, unless the society has provided an explanation for the failure that is satisfactory to the commissioner and has cured the failure within ten days after March 1.

Subd. 2. **Commissioner's duties.** In the event of a fraternal action level event, the commissioner shall:

(1) require the society to prepare and submit a risk-based capital plan, or, if applicable, a revised risk-based capital plan that:

(i) identifies the conditions that contribute to the fraternal action level event;

(ii) contains proposals of corrective actions that the society intends to take and would be expected to result in the elimination of the fraternal action level event;

(iii) provides projections of the society's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the

proposed corrective actions, including projected statutory balance sheets, income statements, and cash flow statements. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(iv) identifies the key assumptions impacting the society's projections and the sensitivity of the projections to the assumptions; and

(v) identifies the quality of, and problems associated with, the society's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case;

(2) examine or analyze as the commissioner considers necessary the assets, liabilities, and operations of the society including reviewing its risk-based capital plan or revised risk-based capital plan; and

(3) subsequent to the examination or analysis, issue a corrective order specifying the corrective actions the commissioner determines are required.

**Subd. 3. Corrective action.** In determining corrective actions, the commissioner may take into account factors considered relevant with respect to the society based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the society, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan must be submitted:

(1) within 45 days after the occurrence of the fraternal action level event;

(2) if the society challenges an adjusted risk-based capital report pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge; or

(3) if the society challenges a revised risk-based capital plan pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge.

**Subd. 4. Examination and review.** The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the society's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the society; and formulate the corrective order with respect to the society. The fees, costs, and expenses relating to consultants must be borne by the affected society or other party as directed by the commissioner.

**History:** 2010 c 275 art 2 s 4

#### **64B.43 FRATERNAL AUTHORIZED CONTROL LEVEL EVENT.**

**Subdivision 1. Definition.** "Fraternal authorized control level event" means any of the following events:

(1) the filing of a risk-based capital report by the society that indicates that the society's total adjusted capital is less than its fraternal authorized control level risk-based capital;

(2) the notification by the commissioner to the society of an adjusted risk-based capital report that indicates the event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;



(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates the event in clause (1), notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge;

(4) the failure of the society to respond, in a manner satisfactory to the commissioner, to a corrective order, provided the society has not challenged the corrective order under section 64B.44;

(5) if the society has challenged a corrective order under section 64B.44 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the society to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner;

(6) the failure of the society to submit a risk-based capital plan to the commissioner within the time period in section 64B.42;

(7) notification by the commissioner to the society that:

(i) the risk-based capital plan or revised risk-based capital plan submitted by the society is, in the judgment of the commissioner, unsatisfactory; and

(ii) the society has not challenged the determination under section 64B.44;

(8) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge;

(9) notification by the commissioner to the society that the society has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the society to eliminate the fraternal action level event according to its risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification, provided the society has not challenged the determination under section 64B.44; or

(10) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under clause (9), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge.

**Subd. 2. Commissioner's duties.** In the event of a fraternal authorized control level event with respect to a society, the commissioner shall:

(1) take the actions required under section 64B.42 regarding a society with respect to which a fraternal action level event has occurred; or

(2) if the commissioner considers it to be in the best interests of the certificate holders of the society, require the society to take one or more of the following actions:

(i) merge or otherwise consolidate with another willing authorized society;

(ii) cede any individual risk or risks, in whole or in part, to a willing society or life insurer;

(iii) suspend the issuance of new business; and

(iv) discontinue its insurance operations; or

(3) take the actions necessary to cause the society to be placed under regulatory control under chapter 60B. In the event the commissioner takes these actions, the fraternal authorized control level event is considered sufficient grounds for the commissioner to take action under chapter 60B, and the commissioner has the rights, powers, and duties with respect to the society set forth in chapter 60B. In the event the commissioner takes actions under this clause pursuant to an adjusted risk-based capital report, the society is entitled to the protections afforded to societies under section 60B.11 pertaining to summary proceedings.

**History:** 2010 c 275 art 2 s 5

#### **64B.44 HEARINGS.**

Upon notification to a society by the commissioner:

(1) that the risk-based capital report is being adjusted by the commissioner;

(2) that the society's risk-based capital plan or revised risk-based capital plan is unsatisfactory, and that the notification constitutes a fraternal action level event or fraternal authorized control level event with respect to the society;

(3) that the society has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has substantial adverse effect on the ability of the society to eliminate the fraternal action level event with respect to the society according to its risk-based capital plan or revised risk-based capital plan; or

(4) that a corrective order will be issued with respect to the society;

the society has the right to a contested case hearing conducted in accordance with chapter 14, on a record, at which the society may challenge a determination or action by the commissioner. The society shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under clause (1), (2), (3), or (4). Upon receipt of the society's request for a hearing, the commissioner shall set a date for the hearing no less than ten nor more than 30 days after the date of the society's request.

**History:** 2010 c 275 art 2 s 6

#### **64B.45 PROHIBITION ON ANNOUNCEMENTS.**

Except as otherwise required under sections 64B.40 to 64B.48, the making, publishing, dissemination, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk-based capital levels of a society, or of any component derived in the calculation, by a society, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is prohibited.

**History:** 2010 c 275 art 2 s 7

#### **64B.46 SUPPLEMENTAL PROVISIONS.**

Sections 64B.40 to 64B.48 are supplemental to other laws of this state and do not preclude or limit other powers or duties of the commissioner under those laws, including, but not limited to, chapters 60B and 60G.

**History:** 2010 c 275 art 2 s 8

**64B.47 IMMUNITY.**

There is no liability on the part of, and no cause of action arises against, the commissioner or the Department of Commerce or its employees or agents for an action taken by them in the performance of their powers and duties under sections 64B.40 to 64B.48.

**History:** *2010 c 275 art 2 s 9*

**64B.48 NOTICES.**

All notices by the commissioner to a society that may result in regulatory action under sections 64B.40 to 64B.48 are effective upon dispatch if transmitted by registered or certified mail, or, in the case of other transmission, are effective upon the society's receipt of the notice.

**History:** *2010 c 275 art 2 s 10*