

CHAPTER 322

AN ACT concerning fraternal benefit societies, amending P.L.1987, c.293, supplementing Title 17 of the Revised Statutes and repealing P.L.1959, c.167.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.17:44B-1 Definitions.

1. As used in this act:

"Benefit contract" means an agreement for provision of benefits authorized by section 16 of this act, as that agreement is described in subsection a. of section 18 of this act.

"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.

"Certificate" means the document issued as written evidence of a benefit contract.

"Commissioner" means the Commissioner of Banking and Insurance.

"Department" means the Department of Banking and Insurance.

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

"Lodge" means a subordinate member unit of the society, known as a camp, court, council, branch or by any other designation.

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

"Rules" means all rules, regulations or resolutions adopted by the assembly or board of directors which are intended to have general application to the members of the society.

"Society" means fraternal benefit society, unless otherwise indicated.

C.17:44B-2 Fraternal benefit society.

2. Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 35 of this act, 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 provides benefits in accordance with this act, is declared to be a fraternal benefit society.

C.17:44B-3 Lodge system.

3. a. 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 ritual. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once in each month in furtherance of the purposes of the society.

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

C.17:44B-4 Representative form of government for society.

4. A society has a representative form of government when:

a. It has a supreme governing body constituted in one of the following ways:

(1) Assembly. 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 2/3 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) Direct Election. 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. 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. The officers of the society are elected either by the assembly or board of directors;
- c. Only benefit members are eligible for election to the assembly or board of directors; and
- d. Each voting member shall have one vote; no vote may be cast by proxy.

C.17:44B-5 Purposes of society.

5. a. A society shall operate for the benefit of members and their beneficiaries by:

- (1) providing benefits as specified in section 16 of this act; and
- (2) operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal or religious purposes for the benefit of its members, which may also be extended to others.

These purposes may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

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

C.17:44B-6 Specification of eligibility, admission, rights, etc.

6. a. 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 minors, 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 shall have the right to vote on the management of the insurance affairs of the society.

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

c. Membership rights in the society are personal to the member and are not assignable.

C.17:44B-7 Location of principal office; reports.

7. a. 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 wherein such society has at least one subordinate lodge, or in such other location as determined by the supreme governing body, and all business transacted at those meetings shall be as valid in all respects as if those meetings were held in this State. The minutes of the proceedings of the assembly or board of directors shall be in the English language.

b. (1) 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. These 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.

(2) 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 disclosed in the statement 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.

c. A society may provide in its laws or rules for grievance or complaint procedures for members.

C.17:44B-8 Immunity of officers, members from personal liability.

8. a. 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.

b. Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by, and liabilities imposed upon, that 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 he is or was a commissioner, officer, employee or agent of the society or of any firm, corporation or organization which he served in any capacity at the request of the society. A person shall not be indemnified or reimbursed: (1) in relation to any matter in an action, suit or proceeding which he is finally 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 an action, suit or proceeding, or threat thereof, which results in a compromise settlement; unless in either 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 his conduct was unlawful. The determination whether the conduct of that person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in paragraph (1) or (2) of this subsection may only be made by the assembly or board of directors by a majority vote of a quorum consisting of persons who were not parties to that 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 that 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 right of indemnification and reimbursement shall not be exclusive of other rights to which that person may be entitled as a matter of law and shall inure to the benefit of his heirs, executors and administrators.

c. A society shall have the power to 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 that person and incurred by him in that capacity or arising out of his status in that capacity whether or not the society would have the power to indemnify the person against that liability under this section.

d. No director, officer, employee, member or volunteer of a society serving without compensation, shall be liable, and no cause of action may be brought, for damages resulting from the exercise of judgment or discretion in connection with the duties or responsibilities of that person for the society unless the act or omission involved willful or wanton misconduct.

C.17:44B-9 Waiver of society's laws by subordinates prohibited.

9. The 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 of the society. This provision shall be binding on the society and every member and beneficiary of a member.

C.17:44B-10 Formation of domestic society.

10. A domestic society organized on or after the effective date of this act shall be formed 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. Those purposes shall not include more liberal powers than are granted by this act;

(3) the names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors and 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 the officers are 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.

b. The 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 further information that he deems necessary. The bond with sureties approved by the commissioner shall be in an amount, not less than \$300,000, 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 act and all provisions of the law have been complied with, the commissioner shall certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members pursuant to this act.

c. No preliminary certificate of authority granted under the provisions of this section shall be valid after one year from its date or after a further period, not exceeding one year, authorized by the commissioner upon cause shown, unless the 500 applicants required pursuant to paragraph (4) of subsection d. of this section have been secured and the organization has been completed pursuant to this section. 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 has completed its organization and received a certificate of authority to do business pursuant to this section.

d. 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 of premium collected. No society shall incur any liability other than for the return of an 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 500 applicants and any necessary evidence of insurability has been furnished to and approved by the society;

(2) at least 10 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 the society, that 500 applicants have each paid in cash at least one regular monthly premium, which premiums in the aggregate shall amount to at least \$150,000 for each kind of business specified in N.J.S. 17B:17-3, N.J.S. 17B:17-4 or N.J.S. 17B:17-5 that the society is authorized to transact. The advance premiums shall be held in trust during the period of organization and if the society does not qualify for a certificate of authority within one year, the premiums shall be returned to the applicants.

e. The commissioner may examine, and require further information of, a society 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 the society is authorized to transact business pursuant to the provisions of this act. The certificate of authority shall be 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 that record may be given in evidence with like effect as the original certificate of authority.

f. Any incorporated society authorized to transact business in this State at the time this act becomes effective shall not be required to reincorporate.

g. No unincorporated or voluntary association shall be permitted to transact business in this

State as a society.

C.17:44B-11 Amendment of laws of domestic society.

11. a. A domestic society may amend its laws in accordance with the provisions of those laws 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 its submission, 2/3 of the members voting shall have signified their consent to an amendment by one of the methods specified in this section.

b. 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. If the commissioner does not disapprove an amendment within 60 days after filing it, the 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. If the commissioner disapproves an amendment, the reasons for the disapproval shall be stated in the written notice.

c. Within 90 days after the approval of an amendment by the commissioner, the amendment, or a synopsis thereof, shall be furnished to all members of the society either by mail or 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 amendment or synopsis of the amendment, stating facts which show that the amendment has been duly addressed and mailed, shall be prima facie evidence that the amendment or synopsis thereof, has 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 laws within 90 days after the enactment of same.

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

C.17:44B-12 Establishment of not-for-profit institutions.

12. a. A society may create, maintain and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by paragraph (2) of subsection a. of section 5 of this act. These 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 but may not be allowed as an admitted asset of the society.

b. No society shall own or operate funeral homes or undertaking establishments.

C.17:44B-13 Reinsurance agreement to cede risks.

13. 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 reinsure and authorized to do business in this State, or if not so authorized, an insurer which is approved by the commissioner, but no domestic society may reinsure substantially all of its insurance in force without the written permission of the commissioner. Credit for reinsurance shall be allowed a domestic ceding society as either an asset or a reduction from liability in accordance with P.L.1993, c.243 (C.17:51B-1 et seq.). A domestic society shall also comply with all requirements of law generally applicable to reinsurance ceded or assumed by life and health insurers of this State.

b. Notwithstanding the limitation of subsection a. of this section, a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 14 of this act.

C.17:44B-14 Consolidation, merger.

14. a. 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 in full 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 of the domestic society 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 of the societies, duly verified by their respective oaths, that the consolidation or merger has been approved by a 2/3 vote of the supreme governing body of each society, the vote being conducted at a regular or special meeting of each supreme governing 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.

b. 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, the commissioner shall approve the contract and issue a certificate to that 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 that event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of that other state or territory and a certificate of approval from that other state is filed with the commissioner of this State or, if the laws of that other state or territory contain no like provision, then the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of that other state or territory and a certificate of approval from the commissioner of that other state is filed with the commissioner of this State.

c. 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.

d. The affidavit of any officer of the society or 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.

C.17:44B-15 Conversion to domestic mutual insurer.

15. a. A domestic fraternal benefit society which is organized pursuant to the provisions of this act may convert to a domestic mutual insurer by complying with the provisions of this section.

b. A written plan of conversion setting forth in full the terms and conditions of conversion shall be prepared by the assembly or board of directors of the society. The plan shall include:

(1) the purpose of the conversion;

(2) the effect of conversion on existing benefit contracts issued by the society;

(3) a business plan;

(4) a provision that each holder of a benefit contract of the society shall receive any rights with respect to the domestic mutual insurer as may be prescribed by the commissioner, provided that those rights shall not exceed the rights provided to policyholders of other domestic mutual insurers authorized to transact the kind or kinds of business specified in N.J.S. 17B:17-3, N.J.S. 17B:17-4 and N.J.S. 17B:17-5; and

(5) a provision that each member of the society shall be notified of the conversion, which notification process shall be approved by the commissioner.

c. The written plan of conversion provided for in subsection b. of this section shall be

approved by an affirmative vote of 2/3 of all members of the supreme governing body at a regular or special meeting and then filed with the commissioner.

d. The commissioner shall approve or disapprove the plan. The commissioner shall approve the plan unless he finds the plan:

- (1) is contrary to law;
- (2) would be detrimental to the safety or soundness of the proposed domestic mutual insurer;
- (3) prejudices the interests of the holders of benefit contracts of the society or treats them inequitably.

The commissioner shall set forth his decision in writing and shall state the reasons therefor. A disapproval shall be subject to judicial review.

e. Upon approval of the plan by the commissioner and the issuance of a certificate of authority to transact the business of insurance as a domestic mutual insurer, the society shall be deemed to be a domestic mutual insurer subject to the provisions of Title 17B of the New Jersey Statutes, including surplus requirements, and all other applicable law.

f. On and after the date of issuance of the certificate of authority, the society shall be a domestic mutual insurer, vested with all the powers and privileges of a domestic mutual insurer, and subject to all provisions of law applicable to those insurers, including surplus requirements, in the same manner and with the same effect as if the converted society had originally been incorporated as a domestic mutual insurer on the date of issuance of the certificate of authority, and the members of the society shall become and be members of the domestic mutual insurer.

g. The conversion of a society into a domestic mutual insurer shall not affect the right of any creditor or member of the society, but all rights of all persons against the society before its conversion shall continue unaffected and shall be enforced against the domestic mutual insurer in the same manner they could have been enforced against the society had its conversion not taken place; except that all rights of assessment or reduction in benefits in lieu of assessment, prescribed in the certificate of incorporation or bylaws of the society, or provided in any certificate, policy or contract of the society, shall be canceled. As used in this section, "assessment" means the right to require the payment of a sum in addition to the weekly or other periodical dues, contributions, premiums and fees required under the terms of any certificate, policy or contract; and "domestic mutual insurer" shall only include a domestic mutual insurer authorized to transact the kind or kinds of business specified in N.J.S. 17B:17-3, N.J.S. 17B:17-4 and N.J.S. 17B:17-5.

C.17:44B-16 Provision of contractual benefits.

16. a. A society may provide the following contractual benefits in any form, except in the form of group insurance:

- (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) other benefits as authorized for life and health insurers and which are not inconsistent with this act.

b. A society shall specify in its rules those persons who may be issued, or covered by, the contractual benefits in subsection a. of this section, consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of minors under the minimum age for adult membership upon application of an adult person.

C.17:44B-17 Right to change beneficiary.

17. a. The owner of a benefit contract shall have the right at all times to 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.

b. A society may make provision for the payment of funeral benefits to the extent of that portion of any payment under a certificate as reasonably appears to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the amount paid shall not exceed the sum of \$5,000.

c. 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 as provided in subsection b. of this section, shall be payable to the estate 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.

C.17:44B-18 Issuance of certificate specifying amount of benefits.

18. a. 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 by the contract. The certificate, together with any riders or endorsements attached thereto, 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 document shall constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall state this requirement. 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 the provisions of the subsection shall be void.

b. 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 which the society contracted to give the owner as of the date of issuance.

c. Any 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 application.

d. 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 assembly may require that there shall be paid by the owner to the society the amount of the owner's equitable proportion of the deficiency ascertained by its board or assembly, 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 paragraph (1), the owner may accept a proportionate reduction in benefits under 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.

e. 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 of the contract.

f. No certificate shall be delivered or issued for delivery in this State unless a copy of the form has been filed with the commissioner for approval in the manner provided for like policies issued by life and health insurers in this State. Every life, accident, health, or disability insurance certificate and every annuity certificate issued on or after one year from the effective date of this act shall meet the standard contract provision requirements, not inconsistent with this act, for like policies issued by life and health insurers in this State. Any non-complying certificate shall be deemed withdrawn one year from the effective date of this act, except that the commissioner may, for good cause shown, allow the continued use of a non-conforming certificate for an additional period not to exceed one year. 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 section 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 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.

g. Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control of 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 those certificates and all rights, obligations and liabilities incident thereto and connected therewith. Ownership rights prior to the transfer shall be specified in the certificate.

h. A society may specify the terms and conditions on which benefit contracts may be assigned.

C.17:44B-19 Certificates issued in 1998, compliance with prior law; after 1998 requirements.

19. a. For certificates issued prior to one year after the effective date of this act, 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 the effective date of this act.

b. For certificates issued on or after one year after the effective date of this act, every paid-up nonforfeiture benefits and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount based on the interest rate and mortality tables authorized by the laws of this State for the calculation of those benefits by life and health insurers issuing policies containing like benefits.

C.17:44B-20 Investment of funds of society.

20. A society shall invest its funds only in investments that are authorized by the laws of this State for the investment of assets of domestic life insurers 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.

C.17:44B-21 Holding investment, disbursement of assets.

21. 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 on the surrender of any part of the assets, except as provided in the benefit 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 the society.

c. A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue separate account contracts, whether or not contracts on a variable basis, subject to the provisions of law regulating life and health insurers establishing those accounts and issuing those contracts. To the extent the society deems it necessary in order to comply with any applicable federal or State laws, or any rules or regulations 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 in an account, provide special voting and other rights, including special rights and procedures relating to investment policy, investment advisory 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 subsections b. and d. of section 18 of this act shall not apply.

d. Separate accounts of foreign or alien societies are subject to approval by the department,

unless the society's place of domicile has adopted a substantially similar act.

C.17:44B-22 Societies governed by act.

22. Except as otherwise provided in this act, societies shall be governed by this act 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 enacted on or after the effective date of this act shall apply to societies unless they be expressly designated. No corporation or association which purports to be a fraternal organization but which does not meet the requirements in this act with respect to a fraternal benefit society shall be exempt from the other provisions of the insurance laws of this State.

C.17:44B-23 Society declared charitable, benevolent institution.

23. Every society organized or licensed under this act is declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every State, county, district, municipal and school tax, other than taxes on real estate and office equipment. Every society organized or licensed under this act shall be subject to the assessment provided pursuant to section 8 of P.L.1983, c.320 (C.17:33A-8) and the apportionment provided pursuant to section 2 of P.L.1995, c.156 (C.17:1C-20).

C.17:44B-24 Standards of valuation for certification.

24. a. Standards of valuation for certificates issued prior to one year after the effective date of this act shall be those provided by the laws applicable immediately prior to the effective date of this act.

b. The minimum standards of valuation for certificates issued on or after one year after the effective date of this act shall be the same as those for life and health insurers specified in N.J.S. 17B:19-5 and N.J.S. 17B:19-8.

C.17:44B-25 Filing of annual statement.

25. a. Every society transacting business in this State shall annually, on or before March 1, unless for cause shown the 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 filing fee established by the commissioner by regulation. The statement shall be in general form and content as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner;

b. As a part of the annual statement required by subsection a. of this section, each society shall, on or before March 1, file with the commissioner a valuation of its certificates in force on December 31 last preceding, provided the commissioner may, in his discretion 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 24 of this act. 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 insurance regulatory agency of the state of domicile of the society;

c. A society failing 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 failure continues, and, upon notice by the commissioner to that effect, its authority to do business in this State shall cease while the failure continues.

C.17:44B-26 Authority to transact business, compliance with requirements of this act.

26. Societies which are now authorized to transact business in this State, and all societies licensed on or after the effective date of this act, may continue in business until June 1 next succeeding the effective date of this act. The authority of these domestic societies may thereafter be continued by satisfying the requirements set forth in this act. The authority of existing foreign or alien societies and all foreign and alien societies licensed on or after the effective date of this act, may thereafter be renewed annually, but in all cases terminate on the first day of the succeeding June. However, a license that has been 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 shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this act.

C.17:44B-27 Societies subject to examination.

27. a. All societies shall be subject to examination by the commissioner in the same manner and subject to the same procedures as set forth in P.L.1993, c.236 (C.17:23-20 et seq.).

b. A summary of the report of the commissioner and the recommendations or statements of the commissioner as may accompany the report, shall be read at the first meeting of the board of directors or corresponding body of the society following their receipt, and if directed by the commissioner, shall also be read at the first meeting of the supreme governing body of the society following their receipt. A copy of the report, recommendations and statements of the commissioner shall be furnished by the society to each member of the board of directors or assembly.

C.17:44B-28 Licensing of foreign, alien society.

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

- a. A duly certified copy of its articles of incorporation;
- b. A copy of its bylaws, certified by its secretary or corresponding officer;
- c. A power of attorney to the commissioner as prescribed in section 34 of this act;
- 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, territory, province or country, satisfactory to the commissioner;
- e. 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;
- f. Copies of its certificate forms;
- g. A showing that its assets are invested in accordance with the provisions of this act;
- h. Any other information the commissioner may deem necessary; and
- i. Upon payment of a filing fee established by the commissioner by regulation.

C.17:44B-29 Domestic societies subject to C.17B:32-31 et seq.

29. Domestic societies shall be subject to the provisions of P.L.1992, c.65 (C.17B:32-31 et seq.).

C.17:44B-30 Deficiencies, notice of; corrections; remedies.

30. 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 act;
- (3) is not fulfilling its contract 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 in writing of the deficiency or deficiencies and state in writing the reasons for his dissatisfaction. The commissioner shall at once issue a written order to the society requiring that the deficiency or deficiencies which exist be corrected. After that order the society shall have 30 days in which to comply with the commissioner's order for correction, and if the society fails to comply, the commissioner shall notify the society of his findings of noncompliance and require the society to show cause on a date to be named why its license should not be suspended, revoked or refused. If on that 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.

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

C.17:44B-31 Application, petition for injunction by State.

31. 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.

C.17:44B-32 Licensure of individual insurance producers.

32. Individuals acting as insurance producers with respect to societies shall be licensed in accordance with the provisions of P.L.1987, c.293 (C.17:22A-1 et seq.).

C.17:44B-33. Societies, agents subject to N.J.S.17B:30-1 et seq.

33. Every society and agent authorized to do business in this State shall be subject to the provisions of N.J.S.17B:30-1 et seq., relating to 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.

C.17:44B-34 Appointment of commissioner as attorney for foreign society.

34. a. Every foreign and alien 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 shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force as long as any liability remains outstanding in this State. Copies of the appointment, certified by the commissioner, shall be deemed sufficient evidence of its existence and shall be admitted in evidence with the same force and effect as the original written appointment would be admitted.

b. Service shall only be made upon the commissioner, or if absent, upon the person in charge of the commissioner's 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, the commissioner shall forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. 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.

C.17:44B-35 Nonapplicability of act.

35. a. Nothing contained in this act shall be construed to affect or apply to:

(1) societies which do not provide benefits by contract;

(2) 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, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to those orders, societies or associations;

(3) domestic societies which limit their membership to employees of a particular city or town, designated firm, business or corporation which provide for a death benefit of not more than \$400 or disability benefits of not more than \$350 to any person in any one year, or both; or

(4) domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than \$400 or a disability benefit of not more than \$350 to any one person in any one year, or both.

b. Any society or association described in paragraph (3) or (4) of subsection a. of this

section which provides for death or disability benefits for which benefit certificates are issued, and a society or association included in paragraph (4) of subsection a. of this section which has more than 1,000 members, shall not be exempted from the provisions of this act but shall comply with all requirements of this act.

c. No society which, by the provisions of this section, is exempt from the requirements of this act, except any society described in paragraph (2) of subsection a. of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

d. 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 this act, except that the provisions of this act relating to medical examinations, valuations of benefit certificates, and incontestability, shall not apply to that society.

e. The commissioner may require from any society or association, by examination or otherwise, information that will enable the commissioner to determine whether the society or association is exempt from the provisions of this act.

f. Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this State.

C.17:44B-36 Violations, penalties.

36. a. Any person who:

(1) makes a false or fraudulent statement to the commissioner, or the department, in any report or declaration required or authorized by this act, or

(2) solicits membership for, or in any manner, assists in procuring membership in any fraternal benefit society which by the terms of this act is required to be but is not licensed, or

(3) violates any of the provisions of this act, shall be liable to a penalty not exceeding \$1,000 for the first offense and not exceeding \$2,000 for each succeeding offense.

b. The penalties provided in this section shall be enforced and collected in a summary manner pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

C.17:44B-37 Decisions, findings subject to review.

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

38. Section 3 of P.L.1987, c.293 (C.17:22A-3) is amended to read as follows:

C.17:22A-3 Licenses required; nonapplicability of provisions.

3. a. No person shall act as an insurance producer or maintain or operate any office in this State for the transaction of the business of an insurance producer, or receive any commission, brokerage fee, compensation or other consideration for services rendered as an insurance producer without first obtaining a license from the commissioner granting authority for the kind of insurance transacted. No insurance company or licensee shall pay any commission, brokerage fee, compensation or other consideration to any unlicensed person for services rendered in this State as an insurance producer except for services rendered while licensed. Engaging in a single act or transaction of the business of an insurance producer, or holding oneself out to the public or a licensee as being so engaged, shall be sufficient proof of engaging in the business of an insurance producer.

b. The provisions of subsection a. of this section shall not apply to:

(1) the clerical duties of office employees nor the managerial or supervisory duties of general agents or managers who do not negotiate, solicit or effect insurance contracts;

(2) any regular salaried officer, employee or member of a fraternal benefit society licensed and authorized to transact business in this State pursuant to the provisions of P.L.1959, c.167 (C.17:44A-1 et seq.) or P.L.1997, c.322 (C.17:44B-1 et al.) 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 those contracts no commission or other compensation

directly dependent upon the amount of business obtained; or

(3) any agent, representative or member of a fraternal benefit society who devotes, or intends to devote, less than 50 percent of his time to the solicitation and procurement of insurance contracts for that fraternal benefit society and who receives or intends to receive any commission or other compensation directly dependent on the amount of insurance; provided that any person who in the preceding calendar year has solicited or procured any of the following contracts of insurance on behalf of a fraternal benefit society is presumed to have devoted, or intended to devote, 50 percent of his time to the solicitation or procurement of insurance contracts:

(a) Life insurance contracts that, in the aggregate, exceed \$200,000 of coverage for all lives insured for the preceding calendar year;

(b) A permanent life insurance contract offering more than \$10,000 of coverage on an individual life;

(c) A term life insurance contract offering more than \$50,000 of coverage on an individual life;

(d) An insurance contract, other than a life insurance contract, that the fraternal benefit society may write that insures the individual lives of more than 25 persons; or (e) Any variable life insurance or variable annuity contract.

Repealer.

39 P.L.1959, c.167 (C.17:44A-1 et seq.) is repealed.

40. This act shall take effect on January 1, 1998.

Approved January 8, 1998.