

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Insurance Code is amended by changing Sections 286.1, 291.1, 294.1, 297.1, 300.1, and 315.6 and by adding Sections 295.2 and 315.9 as follows:

(215 ILCS 5/286.1) (from Ch. 73, par. 898.1)

(Section scheduled to be repealed on January 1, 2017)

Sec. 286.1. Purposes and Powers.

(a) A society shall operate for the benefit of members and their beneficiaries by:

(1) Providing benefits as specified in Section 297.1 of this amendatory Act; 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. Such 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 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.

(c) A domestic society that provides any of the benefits specified in Section 297.1 of this Code must be governed by a board of directors and managed by qualified officers subject to the following requirements:

(1) The laws of a society must provide that:

(i) the board of directors shall have the powers and perform the duties ordinarily possessed and exercised by a board of directors under this Code, including, but not limited to, the authority and responsibility for the hiring and the discharge of a president, chief executive officer, or an equivalent position, except that a society that elects its president, chief executive officer, or equivalent position pursuant to its by-laws, as of the effective date of this amendatory Act of the 98th General Assembly, may continue to do so if it elects a president, chief executive officer, or equivalent position that meets qualifications set forth in a rule adopted by the Director; and

(ii) the board of directors may remove a director for cause and replace the director with another qualified director.

After the effective date of this amendatory Act of the

98th General Assembly, a domestic society shall amend its laws, as necessary, to comply with this paragraph (1) as soon as reasonably practicable, but in no event later than January 1, 2019.

(2) A person convicted of a felony may not be a director or an officer of a domestic society.

(3) A society shall provide information regarding qualifications of board candidates to voting members prior to the time of election.

(4) Each newly elected director of a domestic society shall participate in a board training or orientation program within 6 months after their election to the board that includes information regarding board duties and responsibilities.

(5) At least annually, the board of directors shall conduct a self-assessment.

(6) Each domestic society shall establish an audit committee. The composition and responsibilities of the audit committee shall comply with the Illinois Administrative Code provisions relating to annual financial reporting.

(Source: P.A. 84-303.)

(215 ILCS 5/291.1) (from Ch. 73, par. 903.1)

(Section scheduled to be repealed on January 1, 2017)

Sec. 291.1. Organization. A domestic society organized on

or after the effective date of this amendatory 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 acknowledgement 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 already authorized to transact business in this State as to be misleading or confusing;

(2) The place where its principal office shall be located within this State;

(3) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this amendatory Act; and

(4) 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;

(b) Duplicate originals of the articles of incorporation, certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applicants and rates 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 Director, who may require such further information as the Director deems necessary. The bond with sureties approved by the Director shall be in such amount, not less than \$300,000 nor more than \$1,500,000, as required by the Director. All documents filed are to be in the English language. If the Director finds that the purposes of the society conform to the requirements of this amendatory Act and all provisions of the law have been complied with, the Director shall approve the articles of incorporation and issue the incorporators a preliminary certificate of authority authorizing the society to solicit members as hereinafter provided;

(c) No preliminary certificate of authority issued under the provisions of this Section shall be valid after one year from its date of issue or after such further

period, not exceeding one year, as may be authorized by the Director, 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 as hereinafter provided;

(d) Upon receipt of a preliminary certificate of authority from the Director, 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 such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium nor issue any certificate nor pay, allow or offer or promise to pay or allow any 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 10 subordinate lodges have been established into which the 500 applicants have been

admitted;

(3) There has been submitted to the Director, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate 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 Director, by sworn statement of the treasurer or corresponding officer of such society, that a 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. Said advance premiums shall be held in trust during the period of organization, and, if the society has not qualified for a certificate of authority within one year unless extended by the Director, as herein provided, such premiums shall be returned to said applicants; and

(5) In the case of a domestic society that is organized after the effective date of this amendatory Act of the 98th General Assembly, the society meets the following requirements:

(i) maintains a minimum surplus of \$2,000,000, or such higher amount as the Director may deem

necessary; and

(ii) meets any other requirements as determined by the Director.

(e) The Director may make such examination and require such further information as the Director deems necessary. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the Director shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to the provisions of this amendatory Act; and

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

(Source: P.A. 84-303.)

(215 ILCS 5/294.1) (from Ch. 73, par. 906.1)

(Section scheduled to be repealed on January 1, 2017)

Sec. 294.1. Reinsurance.

(a) A domestic society may enter into reinsurance transactions only in accordance with Article XI of this Code.

(b) A domestic society may reinsure the risks of another society in connection with a merger transaction with approval by the Director.

(Source: P.A. 84-303.)

(215 ILCS 5/295.2 new)

Sec. 295.2. Maintenance of solvency.

(a) In the event a domestic society has an authorized control level event described in Section 35A-25 of this Code under circumstances the Director determines will not be promptly remedied, the Director may, in addition to all other actions required or permitted by subsection (b) of Section 35A-25 of this Code, issue an order declaring the domestic society to be in hazardous condition and ordering that all steps be taken to remedy such condition pursuant to this Section.

(b) A domestic society may negotiate an agreement to transfer members, certificates, and other assets and liabilities of the society, in whole or in part, to another organization through merger, consolidation, assumption, or other means. Such transfer shall be concluded within the timeframe established by the Director and subject to approval by the Director. Such transfer agreement shall be deemed fully approved by the domestic society upon majority vote of its board of directors. Such transfer shall be effective notwithstanding the provisions of Section 295.1 of this Code or any other law or regulation or laws of the domestic society requiring another form of notice to or approval by members, which shall be superseded by this Section.

(c) In the event of an agreement to transfer under this Section to an organization without a certificate of authority

in this State, the Director may grant a limited certificate of authority to such organization, upon request, if the organization does not apply for and obtain a certificate of authority to transact business in this State. Such limited certificate of authority shall grant the organization authority to service the certificates following the transfer and fulfill all obligations owed to certificate holders but not to otherwise transact insurance business in this State.

(d) The board of directors of a domestic society may suspend or modify its qualifications for membership as necessary or appropriate to facilitate an agreement to transfer under this Section, notwithstanding the laws of the society, or any other law or regulation to the contrary.

(215 ILCS 5/297.1) (from Ch. 73, par. 909.1)

(Section scheduled to be repealed on January 1, 2017)

Sec. 297.1. Benefits.

(a) A society may provide the following contractual benefits in any form:

- (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 amendatory Act.

(b) A society shall specify in its rules those persons who may be issued, or covered by, the contractual benefits in subsection (a), 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.

(c) After the effective date of this amendatory Act of the 98th General Assembly, a society shall provide an applicant for contractual benefits a disclosure statement that reads substantially as follows:

".(name of the society) is licensed to do business in the State of Illinois as a fraternal benefit society. As such, it is not included in the Illinois Life and Health Guaranty Association (otherwise known as the Guaranty Association). This means that fraternal benefit societies cannot be assessed for the insolvency of other life insurers or other fraternal benefit societies. By law, a fraternal benefit society is responsible for its own solvency. If there is an impairment of reserves, a certificate holder may be assessed a proportionate share of the impairment. This process is described in the certificate issued by the society."

The statement must appear immediately above the applicant's signature on the society's membership application

or certificate or policy application, in uppercase and bold type or boxed.

(Source: P.A. 84-303.)

(215 ILCS 5/300.1) (from Ch. 73, par. 912.1)

(Section scheduled to be repealed on January 1, 2017)

Sec. 300.1. The Benefit Contract.

(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 thereby. 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 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.

(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 such 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 and its certificates 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 an assessment in 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. However, in no event may an assessment obligation be forgiven, credited, or repaid by whatever means or however labeled by the society in lieu of collection or reduction in benefits, unless provided to all society members and approved in writing by the Director, except that the forgiveness or repayment of any assessments issued by

a society that remain outstanding as of the date of this amendatory Act of the 98th General Assembly may be forgiven or repaid by any manner or plan certified by an independent actuary and filed with the Director to make reasonable and adequate provision for the forgiveness or repayment of the assessment to all society members. Notwithstanding the foregoing, a society may fully repay, credit, or forgive an assessment from the date of death of any life insured under a certificate so long as the plan to forgive or repay the assessment is certified by an independent actuary and filed with the Director to make reasonable and adequate provision for the forgiveness or repayment of the assessment to all assessed society members as a result of the death. The society may specify the manner of the election and which alternative is to be presumed if no election is made. No such assessment shall take effect unless a 30-day notification has been provided to the Director, who shall have the ability to disapprove the assessment only if the Director finds that such assessment is not in the best interests of the benefit members of the domestic society. Disapproval by the Director shall be made within 30 days after receipt of notice and shall be in writing and mailed to the domestic society. If the Director disapproves the assessment, the reasons therefore shall be stated in the written notice.

(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 thereof.

(f) No certificate shall be delivered or issued for delivery in this State unless a copy of the form has been filed with the Director 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 the effective date of this amendatory Act shall meet the standard contract provision requirements not inconsistent with this amendatory Act 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.

(g) 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 respect for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith. Ownership rights prior to such transfer shall be specified in the certificate.

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

(Source: P.A. 84-303.)

(215 ILCS 5/315.6) (from Ch. 73, par. 927.6)

(Section scheduled to be repealed on January 1, 2017)

Sec. 315.6. Application of other Code provisions. Unless otherwise provided in this amendatory Act, every fraternal benefit society shall be governed by this amendatory 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, except for those provisions specified in this amendatory Act and except as follows:

(a) Sections 1, 2, 2.1, 3.1, 117, 118, 132, 132.1, 132.2, 132.3, 132.4, 132.5, 132.6, 132.7, 133, 134, 136,

138, 139, 140, 141, 141.01, 141.1, 141.2, 141.3, 143, 143c, 144.1, 147, 148, 149, 150, 151, 152, 153, 154.5, 154.6, 154.7, 154.8, 155, 155.04, 155.05, 155.06, 155.07, 155.08 and 408 of this Code; and

(b) Articles VIII 1/2, XII, XII 1/2, XIII, XXIV, and XXVIII of this Code.

(Source: P.A. 88-364; 89-97, eff. 7-7-95.)

(215 ILCS 5/315.9 new)

Sec. 315.9. Voluntary dissolution. Upon application to the Director, a domestic society may request that it be dissolved and that its existence be terminated. The application shall demonstrate that the applicant has satisfied its members' certificate obligations or that it has transferred such obligations to another organization, domestic or foreign, by means of assumption or bulk reinsurance or otherwise, and that the domestic society's supreme governing body has approved the termination and dissolution. The application shall contain any other information required by the Director. Any limitation related to reinsurance by a domestic society shall not apply to reinsurance entered into in conjunction with the transfer of members' certificate obligations as a part of a voluntary dissolution. Upon approval of the application by the Director, the domestic society shall be deemed dissolved and its existence terminated as of the date set forth in the application.