



Sen. William R. Haine

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LRB098 04895 RPM 58292 a

1 AMENDMENT TO SENATE BILL 646

2 AMENDMENT NO. _____. Amend Senate Bill 646 by replacing
3 everything after the enacting clause with the following:

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

7 (215 ILCS 5/286.1) (from Ch. 73, par. 898.1)

8 (Section scheduled to be repealed on January 1, 2017)

9 Sec. 286.1. Purposes and Powers.

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

12 (1) Providing benefits as specified in Section 297.1 of
13 this amendatory Act; and

14 (2) Operating for one or more social, intellectual,
15 educational, charitable, benevolent, moral, fraternal,
16 patriotic or religious purposes for the benefit of its

1 members, which may also be extended to others. Such
2 purposes may be carried out directly by the society or
3 indirectly through subsidiary corporations or affiliated
4 organizations.

5 (b) Every society shall have the power to adopt laws and
6 rules for the government of the society, the admission of its
7 members and the management of its affairs. It shall have the
8 power to change, alter, add to or amend such laws and rules and
9 shall have such other powers as are necessary and incidental to
10 carrying into effect the objects and purposes of the society.

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

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

16 (i) the board of directors shall have the powers
17 and perform the duties ordinarily possessed and
18 exercised by a board of directors under this Code,
19 including, but not limited to, the authority and
20 responsibility for the hiring and the discharge of a
21 president, chief executive officer, or an equivalent
22 position, except that a society that elects its
23 president, chief executive officer, or equivalent
24 position pursuant to its by-laws, as of the effective
25 date of this amendatory Act of the 98th General
26 Assembly, may continue to do so if it elects a

1 president, chief executive officer, or equivalent
2 position that meets qualifications set forth in a rule
3 adopted by the Director; and

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

7 After the effective date of this amendatory Act of the
8 98th General Assembly, a domestic society shall amend its
9 laws, as necessary, to comply with this paragraph (1) as
10 soon as reasonably practicable, but in no event later than
11 January 1, 2019.

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

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

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

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

24 (6) Each domestic society shall establish an audit
25 committee. The composition and responsibilities of the
26 audit committee shall comply with the Illinois

1 Administrative Code provisions relating to annual
2 financial reporting.

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

4 (215 ILCS 5/291.1) (from Ch. 73, par. 903.1)

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

6 Sec. 291.1. Organization. A domestic society organized on
7 or after the effective date of this amendatory Act shall be
8 formed as follows:

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

15 (1) The proposed corporate name of the society,
16 which shall not so closely resemble the name of any
17 society or insurance company already authorized to
18 transact business in this State as to be misleading or
19 confusing;

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

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

1 and

2 (4) The names and residences of the incorporators
3 and the names, residences and official titles of all
4 the officers, trustees, directors or other persons who
5 are to have and exercise the general control of the
6 management of the affairs and funds of the society for
7 the first year or until the ensuing election, at which
8 all such officers shall be elected by the supreme
9 governing body, which election shall be held not later
10 than one year from the date of issuance of the
11 permanent certificate of authority;

12 (b) Duplicate originals of the articles of
13 incorporation, certified copies of the society's bylaws
14 and rules, copies of all proposed forms of certificates,
15 applicants and rates therefor, and circulars to be issued
16 by the society and a bond conditioned upon the return to
17 applicants of the advanced payments if the organization is
18 not completed within one year shall be filed with the
19 Director, who may require such further information as the
20 Director deems necessary. The bond with sureties approved
21 by the Director shall be in such amount, not less than
22 \$300,000 nor more than \$1,500,000, as required by the
23 Director. All documents filed are to be in the English
24 language. If the Director finds that the purposes of the
25 society conform to the requirements of this amendatory Act
26 and all provisions of the law have been complied with, the

1 Director shall approve the articles of incorporation and
2 issue the incorporators a preliminary certificate of
3 authority authorizing the society to solicit members as
4 hereinafter provided;

5 (c) No preliminary certificate of authority issued
6 under the provisions of this Section shall be valid after
7 one year from its date of issue or after such further
8 period, not exceeding one year, as may be authorized by the
9 Director, upon cause shown, unless the 500 applicants
10 hereinafter required have been secured and the
11 organization has been completed as herein provided. The
12 articles of incorporation and all other proceedings
13 thereunder shall become null and void in one year from the
14 date of the preliminary certificate of authority or at the
15 expiration of the extended period, unless the society shall
16 have completed its organization and received a certificate
17 of authority to do business as hereinafter provided;

18 (d) Upon receipt of a preliminary certificate of
19 authority from the Director, the society may solicit
20 members for the purpose of completing its organization,
21 shall collect from each applicant the amount of not less
22 than one regular monthly premium in accordance with its
23 table of rates and shall issue to each such applicant a
24 receipt for the amount so collected. No society shall incur
25 any liability other than for the return of such advance
26 premium nor issue any certificate nor pay, allow or offer

1 or promise to pay or allow any benefit to any person until:

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

6 (2) At least 10 subordinate lodges have been
7 established into which the 500 applicants have been
8 admitted;

9 (3) There has been submitted to the Director, under
10 oath of the president or secretary, or corresponding
11 officer of the society, a list of such applicants,
12 giving their names, addresses, date each was admitted,
13 name and number of the subordinate lodge of which each
14 applicant is a member, amount of benefits to be granted
15 and premiums therefor; ~~and~~

16 (4) It shall have been shown to the Director, by
17 sworn statement of the treasurer or corresponding
18 officer of such society, that a least 500 applicants
19 have each paid in cash at least one regular monthly
20 premium as herein provided, which premiums in the
21 aggregate shall amount to at least \$150,000. Said
22 advance premiums shall be held in trust during the
23 period of organization, and, if the society has not
24 qualified for a certificate of authority within one
25 year unless extended by the Director, as herein
26 provided, such premiums shall be returned to said

1 applicants; and

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

6 (i) maintains a minimum surplus of \$2,000,000,
7 or such higher amount as the Director may deem
8 necessary; and

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

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

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

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

23 (215 ILCS 5/294.1) (from Ch. 73, par. 906.1)

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

25 Sec. 294.1. Reinsurance.

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

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

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

7 (215 ILCS 5/295.2 new)

8 Sec. 295.2. Maintenance of solvency.

9 (a) In the event a domestic society has an authorized
10 control level event described in Section 35A-25 of this Code
11 under circumstances the Director determines will not be
12 promptly remedied, the Director may, in addition to all other
13 actions required or permitted by subsection (b) of Section
14 35A-25 of this Code, issue an order declaring the domestic
15 society to be in hazardous condition and ordering that all
16 steps be taken to remedy such condition pursuant to this
17 Section.

18 (b) A domestic society may negotiate an agreement to
19 transfer members, certificates, and other assets and
20 liabilities of the society, in whole or in part, to another
21 organization through merger, consolidation, assumption, or
22 other means. Such transfer shall be concluded within the
23 timeframe established by the Director and subject to approval
24 by the Director. Such transfer agreement shall be deemed fully
25 approved by the domestic society upon majority vote of its

1 board of directors. Such transfer shall be effective
2 notwithstanding the provisions of Section 295.1 of this Code or
3 any other law or regulation or laws of the domestic society
4 requiring another form of notice to or approval by members,
5 which shall be superseded by this Section.

6 (c) In the event of an agreement to transfer under this
7 Section to an organization without a certificate of authority
8 in this State, the Director may grant a limited certificate of
9 authority to such organization, upon request, if the
10 organization does not apply for and obtain a certificate of
11 authority to transact business in this State. Such limited
12 certificate of authority shall grant the organization
13 authority to service the certificates following the transfer
14 and fulfill all obligations owed to certificate holders but not
15 to otherwise transact insurance business in this State.

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

21 (215 ILCS 5/297.1) (from Ch. 73, par. 909.1)

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

23 Sec. 297.1. Benefits.

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

1 (1) Death benefits;

2 (2) Endowment benefits;

3 (3) Annuity benefits;

4 (4) Temporary or permanent disability benefits;

5 (5) Hospital, medical or nursing benefits;

6 (6) Monument or tombstone benefits to the memory of
7 deceased members; and

8 (7) Such other benefits as authorized for life insurers
9 and which are not inconsistent with this amendatory Act.

10 (b) A society shall specify in its rules those persons who
11 may be issued, or covered by, the contractual benefits in
12 subsection (a), consistent with providing benefits to members
13 and their dependents. A society may provide benefits on the
14 lives of children under the minimum age for adult membership
15 upon application of an adult person.

16 (c) After the effective date of this amendatory Act of the
17 98th General Assembly, a society shall provide an applicant for
18 contractual benefits a disclosure statement that reads
19 substantially as follows:

20 ".(name of the society) is licensed to do
21 business in the State of Illinois as a fraternal benefit
22 society. As such, it is not included in the Illinois Life
23 and Health Guaranty Association (otherwise known as the
24 Guaranty Association). This means that fraternal benefit
25 societies cannot be assessed for the insolvency of other
26 life insurers or other fraternal benefit societies. By law,

1 a fraternal benefit society is responsible for its own
2 solvency. If there is an impairment of reserves, a
3 certificate holder may be assessed a proportionate share of
4 the impairment. This process is described in the
5 certificate issued by the society."

6 The statement must appear immediately above the
7 applicant's signature on the society's membership application
8 or certificate or policy application, in upper case and bold
9 type or boxed.

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

11 (215 ILCS 5/300.1) (from Ch. 73, par. 912.1)

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

13 Sec. 300.1. The Benefit Contract.

14 (a) Every society authorized to do business in this State
15 shall issue to each owner of a benefit contract a certificate
16 specifying the amount of benefits provided thereby. The
17 certificate, together with any riders or endorsements attached
18 thereto, the laws of the society, the application for
19 membership, the application for insurance and declaration of
20 insurability, if any, signed by the applicant and all
21 amendments to each thereof shall constitute the benefit
22 contract, as of the date of issuance, between the society and
23 the owner, and the certificate shall so state. A copy of the
24 application for insurance and declaration of insurability, if
25 any, shall be endorsed upon or attached to the certificate. All

1 statements on the application shall be representations and not
2 warranties. Any waiver of this provision shall be void.

3 (b) Any changes, additions or amendments to the laws of the
4 society duly made or enacted subsequent to the issuance of the
5 certificate shall bind the owner and the beneficiaries and
6 shall govern and control the benefit contract in all respects
7 the same as though such changes, additions or amendments had
8 been made prior to and were in force at the time of the
9 application for insurance, except that no change, addition or
10 amendment shall destroy or diminish benefits which the society
11 contracted to give the owner as of the date of issuance.

12 (c) Any person upon whose life a benefit contract is issued
13 prior to attaining the age of majority shall be bound by the
14 terms of the application and certificate and by all the laws
15 and rules of the society to the same extent as though the age
16 of majority had been attained at the time of application.

17 (d) A society shall provide in its laws and its
18 certificates that, if its reserves as to all or any class of
19 certificates become impaired, its board of directors or
20 corresponding body may require that there shall be paid by the
21 owner to the society an assessment in the amount of the owner's
22 equitable proportion of such deficiency as ascertained by its
23 board, and that, if the payment is not made, either (1) it
24 shall stand as an indebtedness against the certificate and draw
25 interest not to exceed the rate specified for certificate loans
26 under the certificates; or (2) in lieu of or in combination

1 with (1), the owner may accept a proportionate reduction in
2 benefits under the certificate. However, in no event may an
3 assessment obligation be forgiven, credited, or repaid by
4 whatever means or however labeled by the society in lieu of
5 collection or reduction in benefits, unless provided to all
6 society members and approved in writing by the Director, except
7 that the forgiveness or repayment of any assessments issued by
8 a society that remain outstanding as of the date of this
9 amendatory Act of the 98th General Assembly may be forgiven or
10 repaid by any manner or plan certified by an independent
11 actuary and filed with the Director to make reasonable and
12 adequate provision for the forgiveness or repayment of the
13 assessment to all society members. The society may specify the
14 manner of the election and which alternative is to be presumed
15 if no election is made. No such assessment shall take effect
16 unless a 30-day notification has been provided to the Director,
17 who shall have the ability to disapprove the assessment only if
18 the Director finds that such assessment is not in the best
19 interests of the benefit members of the domestic society.
20 Disapproval by the Director shall be made within 30 days after
21 receipt of notice and shall be in writing and mailed to the
22 domestic society. If the Director disapproves the assessment,
23 the reasons therefore shall be stated in the written notice.

24 (e) Copies of any of the documents mentioned in this
25 Section, certified by the secretary or corresponding officer of
26 the society, shall be received in evidence of the terms and

1 conditions thereof.

2 (f) No certificate shall be delivered or issued for
3 delivery in this State unless a copy of the form has been filed
4 with the Director in the manner provided for like policies
5 issued by life insurers in this State. Every life, accident,
6 health or disability insurance certificate and every annuity
7 certificate issued on or after one year from the effective date
8 of this amendatory Act shall meet the standard contract
9 provision requirements not inconsistent with this amendatory
10 Act for like policies issued by life insurers in this State
11 except that a society may provide for a grace period for
12 payment of premiums of one full month in its certificates. The
13 certificate shall also contain a provision stating the amount
14 of premiums which are payable under the certificate and a
15 provision reciting or setting forth the substance of any
16 sections of the society's laws or rules in force at the time of
17 issuance of the certificate which, if violated, will result in
18 the termination or reduction of benefits payable under the
19 certificate. If the laws of the society provide for expulsion
20 or suspension of a member, the certificate shall also contain a
21 provision that any member so expelled or suspended, except for
22 nonpayment of a premium or within the contestable period for
23 material misrepresentation in the application for membership
24 or insurance, shall have the privilege of maintaining the
25 certificate in force by continuing payment of the required
26 premium.

1 (g) Benefit contracts issued on the lives of persons below
2 the society's minimum age for adult membership may provide for
3 transfer of control or ownership to the insured at an age
4 specified in the certificate. A society may require approval of
5 an application for membership in order to effect this transfer
6 and may provide in all other respect for the regulation,
7 government and control of such certificates and all rights,
8 obligations and liabilities incident thereto and connected
9 therewith. Ownership rights prior to such transfer shall be
10 specified in the certificate.

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

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

14 (215 ILCS 5/315.6) (from Ch. 73, par. 927.6)

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

16 Sec. 315.6. Application of other Code provisions. Unless
17 otherwise provided in this amendatory Act, every fraternal
18 benefit society shall be governed by this amendatory Act and
19 shall be exempt from all other provisions of the insurance laws
20 of this State not only in governmental relations with the State
21 but for every other purpose, except for those provisions
22 specified in this amendatory Act and except as follows:

23 (a) Sections 1, 2, 2.1, 3.1, 117, 118, 132, 132.1,
24 132.2, 132.3, 132.4, 132.5, 132.6, 132.7, 133, 134, 136,
25 138, 139, 140, 141, 141.01, 141.1, 141.2, 141.3, 143, 143c,

1 144.1, 147, 148, 149, 150, 151, 152, 153, 154.5, 154.6,
2 154.7, 154.8, 155, 155.04, 155.05, 155.06, 155.07, 155.08
3 and 408 of this Code; and

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

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

7 (215 ILCS 5/315.9 new)

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