



Sen. William R. Haine

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LRB098 19017 RPM 57120 a

1 AMENDMENT TO SENATE BILL 3404

2 AMENDMENT NO. _____. Amend Senate Bill 3404 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8 (Section scheduled to be repealed on January 1, 2017)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; and

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

26 After the effective date of this amendatory Act of the

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

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

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

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

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

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

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

23 (215 ILCS 5/291.1) (from Ch. 73, par. 903.1)

24 (Section scheduled to be repealed on January 1, 2017)

25 Sec. 291.1. Organization. A domestic society organized on

1 or after the effective date of this amendatory Act shall be
2 formed as follows:

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

9 (1) The proposed corporate name of the society,
10 which shall not so closely resemble the name of any
11 society or insurance company already authorized to
12 transact business in this State as to be misleading or
13 confusing;

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

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

21 (4) The names and residences of the incorporators
22 and the names, residences and official titles of all
23 the officers, trustees, directors or other persons who
24 are to have and exercise the general control of the
25 management of the affairs and funds of the society for
26 the first year or until the ensuing election, at which

1 all such officers shall be elected by the supreme
2 governing body, which election shall be held not later
3 than one year from the date of issuance of the
4 permanent certificate of authority;

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

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

1 period, not exceeding one year, as may be authorized by the
2 Director, upon cause shown, unless the 500 applicants
3 hereinafter required have been secured and the
4 organization has been completed as herein provided. The
5 articles of incorporation and all other proceedings
6 thereunder shall become null and void in one year from the
7 date of the preliminary certificate of authority or at the
8 expiration of the extended period, unless the society shall
9 have completed its organization and received a certificate
10 of authority to do business as hereinafter provided;

11 (d) Upon receipt of a preliminary certificate of
12 authority from the Director, the society may solicit
13 members for the purpose of completing its organization,
14 shall collect from each applicant the amount of not less
15 than one regular monthly premium in accordance with its
16 table of rates and shall issue to each such applicant a
17 receipt for the amount so collected. No society shall incur
18 any liability other than for the return of such advance
19 premium nor issue any certificate nor pay, allow or offer
20 or promise to pay or allow any benefit to any person until:

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

25 (2) At least 10 subordinate lodges have been
26 established into which the 500 applicants have been

1 admitted;

2 (3) There has been submitted to the Director, under
3 oath of the president or secretary, or corresponding
4 officer of the society, a list of such applicants,
5 giving their names, addresses, date each was admitted,
6 name and number of the subordinate lodge of which each
7 applicant is a member, amount of benefits to be granted
8 and premiums therefor; ~~and~~

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

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

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

1 necessary; and

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

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

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

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

16 (215 ILCS 5/294.1) (from Ch. 73, par. 906.1)

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

18 Sec. 294.1. Reinsurance.

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

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

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

1 (215 ILCS 5/295.2 new)

2 Sec. 295.2. Maintenance of solvency.

3 (a) In the event a domestic society has an authorized
4 control level event described in Section 35A-25 of this Code
5 under circumstances the Director determines will not be
6 promptly remedied, the Director may, in addition to all other
7 actions required or permitted by subsection (b) of Section
8 35A-25 of this Code, issue an order declaring the domestic
9 society to be in hazardous condition and ordering that all
10 steps be taken to remedy such condition pursuant to this
11 Section.

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

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

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

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

14 (215 ILCS 5/297.1) (from Ch. 73, par. 909.1)

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

16 Sec. 297.1. Benefits.

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

19 (1) Death benefits;

20 (2) Endowment benefits;

21 (3) Annuity benefits;

22 (4) Temporary or permanent disability benefits;

23 (5) Hospital, medical or nursing benefits;

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

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

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

9 (c) After the effective date of this amendatory Act of the
10 98th General Assembly, a society shall provide an applicant for
11 contractual benefits a disclosure statement that reads
12 substantially as follows:

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

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

1 or certificate or policy application, in upper case and bold
2 type or boxed.

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

4 (215 ILCS 5/300.1) (from Ch. 73, par. 912.1)

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

6 Sec. 300.1. The Benefit Contract.

7 (a) Every society authorized to do business in this State
8 shall issue to each owner of a benefit contract a certificate
9 specifying the amount of benefits provided thereby. The
10 certificate, together with any riders or endorsements attached
11 thereto, the laws of the society, the application for
12 membership, the application for insurance and declaration of
13 insurability, if any, signed by the applicant and all
14 amendments to each thereof shall constitute the benefit
15 contract, as of the date of issuance, between the society and
16 the owner, and the certificate shall so state. A copy of the
17 application for insurance and declaration of insurability, if
18 any, shall be endorsed upon or attached to the certificate. All
19 statements on the application shall be representations and not
20 warranties. Any waiver of this provision shall be void.

21 (b) Any changes, additions or amendments to the laws of the
22 society duly made or enacted subsequent to the issuance of the
23 certificate shall bind the owner and the beneficiaries and
24 shall govern and control the benefit contract in all respects
25 the same as though such changes, additions or amendments had

1 been made prior to and were in force at the time of the
2 application for insurance, except that no change, addition or
3 amendment shall destroy or diminish benefits which the society
4 contracted to give the owner as of the date of issuance.

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

10 (d) A society shall provide in its laws and its
11 certificates that, if its reserves as to all or any class of
12 certificates become impaired, its board of directors or
13 corresponding body may require that there shall be paid by the
14 owner to the society an assessment in the amount of the owner's
15 equitable proportion of such deficiency as ascertained by its
16 board, and that, if the payment is not made, either (1) it
17 shall stand as an indebtedness against the certificate and draw
18 interest not to exceed the rate specified for certificate loans
19 under the certificates; or (2) in lieu of or in combination
20 with (1), the owner may accept a proportionate reduction in
21 benefits under the certificate. However, in no event may an
22 assessment obligation be forgiven by the society in lieu of
23 collection or reduction in benefits. The society may specify
24 the manner of the election and which alternative is to be
25 presumed if no election is made. No such assessment shall take
26 effect unless a 30-day notification has been provided to the

1 Director, who shall have the ability to disapprove the
2 assessment only if the Director finds that such assessment is
3 not in the best interests of the benefit members of the
4 domestic society. Disapproval by the Director shall be made
5 within 30 days after receipt of notice and shall be in writing
6 and mailed to the domestic society. If the Director disapproves
7 the assessment, the reasons therefore shall be stated in the
8 written notice.

9 (e) Copies of any of the documents mentioned in this
10 Section, certified by the secretary or corresponding officer of
11 the society, shall be received in evidence of the terms and
12 conditions thereof.

13 (f) No certificate shall be delivered or issued for
14 delivery in this State unless a copy of the form has been filed
15 with the Director in the manner provided for like policies
16 issued by life insurers in this State. Every life, accident,
17 health or disability insurance certificate and every annuity
18 certificate issued on or after one year from the effective date
19 of this amendatory Act shall meet the standard contract
20 provision requirements not inconsistent with this amendatory
21 Act for like policies issued by life insurers in this State
22 except that a society may provide for a grace period for
23 payment of premiums of one full month in its certificates. The
24 certificate shall also contain a provision stating the amount
25 of premiums which are payable under the certificate and a
26 provision reciting or setting forth the substance of any

1 sections of the society's laws or rules in force at the time of
2 issuance of the certificate which, if violated, will result in
3 the termination or reduction of benefits payable under the
4 certificate. If the laws of the society provide for expulsion
5 or suspension of a member, the certificate shall also contain a
6 provision that any member so expelled or suspended, except for
7 nonpayment of a premium or within the contestable period for
8 material misrepresentation in the application for membership
9 or insurance, shall have the privilege of maintaining the
10 certificate in force by continuing payment of the required
11 premium.

12 (g) Benefit contracts issued on the lives of persons below
13 the society's minimum age for adult membership may provide for
14 transfer of control or ownership to the insured at an age
15 specified in the certificate. A society may require approval of
16 an application for membership in order to effect this transfer
17 and may provide in all other respect for the regulation,
18 government and control of such certificates and all rights,
19 obligations and liabilities incident thereto and connected
20 therewith. Ownership rights prior to such transfer shall be
21 specified in the certificate.

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

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

25 (215 ILCS 5/315.6) (from Ch. 73, par. 927.6)

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

2 Sec. 315.6. Application of other Code provisions. Unless
3 otherwise provided in this amendatory Act, every fraternal
4 benefit society shall be governed by this amendatory Act and
5 shall be exempt from all other provisions of the insurance laws
6 of this State not only in governmental relations with the State
7 but for every other purpose, except for those provisions
8 specified in this amendatory Act and except as follows:

9 (a) Sections 1, 2, 2.1, 3.1, 117, 118, 132, 132.1,
10 132.2, 132.3, 132.4, 132.5, 132.6, 132.7, 133, 134, 136,
11 138, 139, 140, 141, 141.01, 141.1, 141.2, 141.3, 143, 143c,
12 144.1, 147, 148, 149, 150, 151, 152, 153, 154.5, 154.6,
13 154.7, 154.8, 155, 155.04, 155.05, 155.06, 155.07, 155.08
14 and 408 of this Code; and

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

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

18 (215 ILCS 5/315.9 new)

19 Sec. 315.9. Voluntary dissolution. Upon application to the
20 Director, a domestic society may request that it be dissolved
21 and that its existence be terminated. The application shall
22 demonstrate that the applicant has satisfied its members'
23 certificate obligations or that it has transferred such
24 obligations to another organization, domestic or foreign, by
25 means of assumption or bulk reinsurance or otherwise, and that

1 the domestic society's supreme governing body has approved the
2 termination and dissolution. The application shall contain any
3 other information required by the Director. Any limitation
4 related to reinsurance by a domestic society shall not apply to
5 reinsurance entered into in conjunction with the transfer of
6 members' certificate obligations as a part of a voluntary
7 dissolution. Upon approval of the application by the Director,
8 the domestic society shall be deemed dissolved and its
9 existence terminated as of the date set forth in the
10 application."