

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2963
(As Passed the Senate)

1 AN ACT TO REGULATE LARGER FRATERNAL BENEFIT SOCIETIES; TO
2 DEFINE CERTAIN TERMS; TO PROVIDE FOR QUALIFICATIONS FOR
3 MEMBERSHIP; TO PROVIDE GRIEVANCE PROCEDURES; TO PROVIDE THAT
4 OFFICERS AND MEMBERS OF THE SUPREME GOVERNING BODY OR ANY
5 SUBORDINATE BODY OF A SOCIETY SHALL NOT BE PERSONALLY LIABLE FOR
6 ANY BENEFITS PROVIDED BY A SOCIETY; TO PROVIDE FOR THE
7 ORGANIZATION OF SOCIETIES; TO PROVIDE FOR CONSOLIDATIONS AND
8 MERGERS OF SOCIETIES; TO PROVIDE FOR THE CONVERSION OF LARGER
9 FRATERNAL BENEFIT SOCIETIES INTO MUTUAL OR STOCK INSURERS; TO
10 AUTHORIZE SOCIETIES TO PROVIDE CERTAIN CONTRACTUAL BENEFITS; TO
11 REQUIRE EVERY SOCIETY TO ISSUE TO EACH OWNER OF A BENEFIT CONTRACT
12 A CERTIFICATE SPECIFYING THE AMOUNT OF BENEFITS; TO REQUIRE
13 SOCIETIES TO INVEST ITS FUNDS ONLY IN SUCH INVESTMENTS AS ARE
14 AUTHORIZED BY THE LAWS OF THIS STATE FOR THE INVESTMENT OF ASSETS
15 OF LIFE INSURERS; TO PROVIDE FOR STANDARDS OF VALUATION; TO
16 REQUIRE EVERY SOCIETY TO FILE AN ANNUAL STATEMENT WITH THE
17 COMMISSIONER OF INSURANCE; TO PROVIDE FOR ANNUAL LICENSURE OF
18 SOCIETIES; TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO ISSUE
19 INJUNCTIONS OR TO LIQUIDATE DOMESTIC SOCIETIES UPON CERTAIN
20 FINDINGS AFTER INVESTIGATION; TO PROVIDE FOR THE SUSPENSION,
21 REVOCATION OR REFUSAL OF LICENSE OF FOREIGN OR ALIEN SOCIETIES
22 UPON CERTAIN FINDINGS AFTER INVESTIGATION; TO PROVIDE CERTAIN
23 CRIMINAL PENALTIES; TO EXEMPT CERTAIN SOCIETIES FROM THE
24 PROVISIONS OF THIS ACT; TO AMEND SECTIONS 83-17-15 AND 83-17-101,
25 MISSISSIPPI CODE OF 1972, TO CHANGE SECTION REFERENCES IN
26 CONFORMITY TO THIS ACT; TO AMEND SECTION 83-29-1, MISSISSIPPI CODE
27 OF 1972, TO REVISE THE DEFINITION OF FRATERNAL BENEFIT SOCIETIES
28 WHICH ARE REGULATED UNDER CHAPTER 29, MISSISSIPPI CODE OF 1972;
29 AND FOR RELATED PURPOSES.

30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

31 ARTICLE 1.

32 STRUCTURE AND PURPOSE.

33 SECTION 1. Larger fraternal benefit societies.

34 Any incorporated society, order or supreme lodge, without
35 capital stock, including one exempted under the provisions of
36 subsection (1) of Section 37 of this act whether incorporated or
37 not, conducted solely for the benefit of its members and their
38 beneficiaries and not for profit, operated on a lodge system with

39 ritualistic form of work, having more than Thirty Thousand
40 Dollars (\$30,000.00) in total annual written premium, having a
41 representative form of government, and which provides benefits in
42 accordance with this chapter, is hereby declared to be a larger
43 fraternal benefit society.

44 **SECTION 2. Lodge system.**

45 (1) A society is operating on the lodge system if it has a
46 supreme governing body and subordinate lodges into which members
47 are elected, initiated or admitted in accordance with its laws,
48 rules and ritual. Subordinate lodges shall be required by the
49 laws of the society to hold regular meetings at least once in
50 each month in furtherance of the purposes of the society.

51 (2) A society may, at its option, organize and operate
52 lodges for children under the minimum age for adult membership.
53 Membership and initiation in local lodges shall not be required
54 of such children, nor shall they have a voice or vote in the
55 management of the society.

56 **SECTION 3. Representative form of government.**

57 A society has a representative form of government when:

58 (a) It has a supreme governing body constituted in one
59 of the following ways:

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

72 directors between elections may be filled in the manner
73 prescribed by the society's laws.

74 (ii) Direct Election. The supreme governing body
75 is a board composed of persons elected by the members, either
76 directly or by their representatives in intermediate assemblies,
77 and any other persons prescribed in the society's laws. A
78 society may provide for election of the board by mail. Each term
79 of a board member may not exceed four years. Vacancies on the
80 board between elections may be filled in the manner prescribed by
81 the society's laws. Those persons elected to the board shall
82 constitute a majority in number and not less than the number of
83 votes required to amend the society's laws. A person filling the
84 unexpired term of an elected board member shall be considered to
85 be an elected member. The board shall meet at least quarterly to
86 conduct the business of the society.

87 (b) The officers of the society are elected either by
88 the supreme governing body or by the board of directors;

89 (c) Only benefit members are eligible for election to
90 the supreme governing body and the board of directors; and

91 (d) Each voting member shall have one vote; no vote
92 may be cast by proxy.

93 **SECTION 4. Terms used.**

94 Whenever used in this chapter:

95 (a) "Benefit contract" shall mean the agreement for
96 provision of benefits authorized by Section 16 of this act, as
97 that agreement is described in Section 19(1) of this act.

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

101 (c) "Certificate" shall mean the document issued as
102 written evidence of the benefit contract.

103 (d) "Commissioner" shall mean the Commissioner of
104 Insurance of this state.

105 (e) "Laws" shall mean the society's articles of
106 incorporation, constitution and bylaws, however designated.

107 (f) "Lodge" shall mean subordinate member units of the
108 society, known as camps, courts, councils, branches or by any
109 other designation.

110 (g) "Premiums" shall mean premiums, rates, dues or
111 other required contributions by whatever name known, which are
112 payable under the certificate.

113 (h) "Rules" shall mean all rules, regulations or
114 resolutions adopted by the supreme governing body or board of
115 directors which are intended to have general application to the
116 members of the society.

117 (i) "Society" shall mean larger fraternal benefit
118 society as defined in Section 1 of this act, unless otherwise
119 indicated.

120 **SECTION 5. Purposes and powers.**

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

123 (a) Providing benefits as specified in Section 16 of
124 this act; and

125 (b) Operating for one or more social, intellectual,
126 educational, charitable, benevolent, moral, fraternal, patriotic
127 or religious purposes for the benefit of its members, which may
128 also be extended to others.

129 Such purposes may be carried out directly by the society, or
130 indirectly through subsidiary corporations or affiliated
131 organizations.

132 (2) Every society shall have the power to adopt laws and
133 rules for the government of the society, the admission of its
134 members, and the management of its affairs. It shall have the
135 power to change, alter, add to or amend such laws and rules and
136 shall have such other powers as are necessary and incidental to
137 carrying into effect the objects and purposes of the society.

138 ARTICLE 3.

139 MEMBERSHIP.

140 SECTION 6. **Qualifications for membership.**

141 (1) A society shall specify in its laws or rules:

142 (a) Eligibility standards for each and every class of
143 membership, provided that if benefits are provided on the lives
144 of children, the minimum age for adult membership shall be set at
145 not less than age fifteen (15) and not greater than age
146 twenty-one (21);

147 (b) The process for admission to membership for each
148 membership class; and

149 (c) The rights and privileges of each membership
150 class, provided that only benefit members shall have the right to
151 vote on the management of the insurance affairs of the society.

152 (2) A society may also admit social members who shall have
153 no voice or vote in the management of the insurance affairs of
154 the society.

155 (3) Membership rights in the society are personal to the
156 member and are not assignable.

157 SECTION 7. **Location of office, meetings, communications to**
158 **members, grievance procedures.**

159 (1) The principal office of any domestic society shall be
160 located in this state. The meetings of its supreme governing
161 body may be held in any state, district, province or territory
162 wherein such society has at least one subordinate lodge, or in
163 such other location as determined by the supreme governing body,
164 and all business transacted at such meetings shall be as valid in
165 all respects as if such meetings were held in this state. The
166 minutes of the proceedings of the supreme governing body and of
167 the board of directors shall be in the English language.

168 (2) (a) A society may provide in its laws for an official
169 publication in which any notice, report, or statement required by
170 law to be given to members, including notice of election, may be

171 published. Such required reports, notices and statements shall
172 be printed conspicuously in the publication. If the records of a
173 society show that two (2) or more members have the same mailing
174 address, an official publication mailed to one (1) member is
175 deemed to be mailed to all members at the same address unless a
176 member requests a separate copy.

177 (b) Not later than June 1 of each year, a synopsis of
178 the society's annual statement providing an explanation of the
179 facts concerning the condition of the society thereby disclosed
180 shall be printed and mailed to each benefit member of the society
181 or, in lieu thereof, such synopsis may be published in the
182 society's official publication.

183 (3) A society may provide in its laws or rules for
184 grievance or complaint procedures for members.

185 **SECTION 8. No personal liability.**

186 (1) The officers and members of the supreme governing body
187 or any subordinate body of a society shall not be personally
188 liable for any benefits provided by a society.

189 (2) Any person may be indemnified and reimbursed by any
190 society for expenses reasonably incurred by, and liabilities
191 imposed upon, such person in connection with or arising out of
192 any action, suit or proceeding, whether civil, criminal,
193 administrative or investigative, or threat thereof, in which the
194 person may be involved by reason of the fact that he or she is or
195 was a director, officer, employee or agent of the society or of
196 any firm, corporation or organization which he or she served in
197 any capacity at the request of the society. A person shall not
198 be so indemnified or reimbursed (a) in relation to any matter in
199 such action, suit or proceeding as to which he or she shall
200 finally be adjudged to be or have been guilty of breach of a duty
201 as a director, officer, employee or agent of the society, or (b)
202 in relation to any matter in such action, suit or proceeding, or
203 threat thereof, which has been made the subject of a compromise

204 settlement; unless in either such case the person acted in good
205 faith for a purpose the person reasonably believed to be in or
206 not opposed to the best interests of the society and, in a
207 criminal action or proceeding, in addition, had no reasonable
208 cause to believe that his or her conduct was unlawful. The
209 determination whether the conduct of such person met the standard
210 required in order to justify indemnification and reimbursement in
211 relation to any matter described in subsection (1) or (2) may
212 only be made by the supreme governing body or board of directors
213 by a majority vote of a quorum consisting of persons who were not
214 parties to such action, suit or proceeding or by a court of
215 competent jurisdiction. The termination of any action, suit or
216 proceeding by judgment, order, settlement, conviction, or upon a
217 plea of no contest, as to such person shall not in itself create
218 a conclusive presumption that the person did not meet the
219 standard of conduct required in order to justify indemnification
220 and reimbursement. The foregoing right of indemnification and
221 reimbursement shall not be exclusive of other rights to which
222 such person may be entitled as a matter of law and shall inure to
223 the benefit of his or her heirs, executors and administrators.

224 (3) A society shall have power to purchase and maintain
225 insurance on behalf of any person who is or was a director,
226 officer, employee or agent of the society, or who is or was
227 serving at the request of the society as a director, officer,
228 employee or agent of any other firm, corporation, or organization
229 against any liability asserted against such person and incurred
230 by him or her in any such capacity or arising out of his or her
231 status as such, whether or not the society would have the power
232 to indemnify the person against such liability under this
233 section.

234 (4) No director, officer, employee, member or volunteer of
235 a society serving without compensation, shall be liable, and no
236 cause of action may be brought, for damages resulting from the

237 exercise of judgment or discretion in connection with the duties
238 or responsibilities of such person for the society unless such
239 act or omission involved willful or wanton misconduct.

240 SECTION 9. Waiver.

241 The laws of the society may provide that no subordinate
242 body, nor any of its subordinate officers or members shall have
243 the power or authority to waive any of the provisions of the laws
244 of the society. Such provision shall be binding on the society
245 and every member and beneficiary of a member.

246 ARTICLE 5.

247 GOVERNANCE.

248 SECTION 10. Organization.

249 A domestic society organized on or after the effective date
250 of this chapter shall be formed as follows:

251 (a) Seven (7) or more citizens of the United States, a
252 majority of whom are citizens of this state, who desire to form a
253 fraternal benefit society, may make, sign and acknowledge before
254 some officer competent to take acknowledgment of deeds, articles
255 of incorporation, in which shall be stated:

256 (i) The proposed corporate name of the society,
257 which shall not so closely resemble the name of any society or
258 insurance company as to be misleading or confusing;

259 (ii) The purposes for which it is being formed
260 and the mode in which its corporate powers are to be exercised.
261 Such purposes shall not include more liberal powers than are
262 granted by this chapter;

263 (iii) The names and residences of the
264 incorporators and the names, residences and official titles of
265 all the officers, trustees, directors, or other persons who are
266 to have and exercise the general control of the management of the
267 affairs and funds of the society for the first year or until the
268 ensuing election at which all such officers shall be elected by
269 the supreme governing body, which election shall be held not

270 later than one (1) year from the date of issuance of the
271 permanent certificate of authority.

272 (b) Such articles of incorporation, duly certified
273 copies of the society's bylaws and rules, copies of all proposed
274 forms of certificates, applications therefor, and circulars to be
275 issued by the society and a bond conditioned upon the return to
276 applicants of the advanced payments if the organization is not
277 completed within one (1) year shall be filed with the
278 commissioner, who may require such further information as the
279 commissioner deems necessary. The bond with sureties approved by
280 the commissioner shall be in such amount, not less than Three
281 Hundred Thousand Dollars (\$300,000.00), nor more than One Million
282 Five Hundred Thousand Dollars (\$1,500,000.00), as required by the
283 commissioner. All documents filed are to be in the English
284 language. If the purposes of the society conform to the
285 requirements of this chapter and all provisions of the law have
286 been complied with, the commissioner shall so certify, retain and
287 file the articles of incorporation and shall furnish the
288 incorporators a preliminary certificate of authority authorizing
289 the society to solicit members as hereinafter provided.

290 (c) No preliminary certificate of authority granted
291 under the provisions of this section shall be valid after one
292 year from its date or after such further period, not exceeding
293 one (1) year, as may be authorized by the commissioner upon cause
294 shown, unless the five hundred (500) applicants hereinafter
295 required have been secured and the organization has been
296 completed as herein provided. The charter and all other
297 proceedings thereunder shall become null and void in one (1) year
298 from the date of the preliminary certificate of authority, or at
299 the expiration of the extended period, unless the society shall
300 have completed its organization and received a certificate of
301 authority to do business as hereinafter provided.

302 (d) Upon receipt of a preliminary certificate of
303 authority from the commissioner, the society may solicit members
304 for the purpose of completing its organization, shall collect
305 from each applicant the amount of not less than one (1) regular
306 monthly premium in accordance with its table of rates, and shall
307 issue to each such applicant a receipt for the amount so
308 collected. No society shall incur any liability other than for
309 the return of such advance premium, nor issue any certificate,
310 nor pay, allow, or offer or promise to pay or allow, any benefit
311 to any person until:

312 (i) Actual bona fide applications for benefits
313 have been secured on not less than five hundred (500) applicants,
314 and any necessary evidence of insurability has been furnished to
315 and approved by the society;

316 (ii) At least ten (10) subordinate lodges have
317 been established into which the five hundred (500) applicants
318 have been admitted;

319 (iii) There has been submitted to the
320 commissioner, under oath of the president or secretary, or
321 corresponding officer of the society, a list of such applicants,
322 giving their names, addresses, date each was admitted, name and
323 number of the subordinate lodge of which each applicant is a
324 member, amount of benefits to be granted and premiums therefor;
325 and

326 (iv) It shall have been shown to the
327 commissioner, by sworn statement of the treasurer, or
328 corresponding officer of such society, that at least five hundred
329 (500) applicants have each paid in cash at least one (1) regular
330 monthly premium as herein provided, which premiums in the
331 aggregate shall amount to at least One Hundred Fifty Thousand
332 Dollars (\$150,000.00). Said advance premiums shall be held in
333 trust during the period of organization and if the society has
334 not qualified for a certificate of authority within one (1) year,

335 as herein provided, such premiums shall be returned to said
336 applicants.

337 (e) The commissioner may make such examination and
338 require such further information as the commissioner deems
339 advisable. Upon presentation of satisfactory evidence that the
340 society has complied with all the provisions of law, the
341 commissioner shall issue to the society a certificate of
342 authority to that effect and that the society is authorized to
343 transact business pursuant to the provisions of this chapter.
344 The certificate of authority shall be prima facie evidence of the
345 existence of the society at the date of such certificate. The
346 commissioner shall cause a record of such certificate of
347 authority to be made. A certified copy of such record may be
348 given in evidence with like effect as the original certificate of
349 authority.

350 (f) Any incorporated society authorized to transact
351 business in this state at the time this chapter becomes effective
352 shall not be required to reincorporate.

353 SECTION 11. **Amendments to laws.**

354 (1) A domestic society may amend its laws in accordance
355 with the provisions thereof by action of its supreme governing
356 body at any regular or special meeting thereof or, if its laws so
357 provide, by referendum. Such referendum may be held in
358 accordance with the provisions of its laws by the vote of the
359 voting members of the society, by the vote of delegates or
360 representatives of voting members or by the vote of local lodges.
361 A society may provide for voting by mail. No amendment submitted
362 for adoption by referendum shall be adopted unless, within six
363 (6) months from the date of submission thereof, a majority of the
364 members voting shall have signified their consent to such
365 amendment by one (1) of the methods herein specified.

366 (2) No amendment to the laws of any domestic society shall
367 take effect unless approved by the commissioner who shall approve

368 such amendment if the commissioner finds that it has been duly
369 adopted and is not inconsistent with any requirement of the laws
370 of this state or with the character, objects and purposes of the
371 society. Unless the commissioner shall disapprove any such
372 amendment within sixty (60) days after the filing of same, such
373 amendment shall be considered approved. The approval or
374 disapproval of the commissioner shall be forwarded in writing,
375 and mailed to the secretary or corresponding officer of the
376 society at its principal office. In case the commissioner
377 disapproves such amendment, the reasons therefor shall be stated
378 in such written notice.

379 (3) Within ninety (90) days from the approval thereof by
380 the commissioner, all such amendments, or a synopsis thereof,
381 shall be furnished to all members of the society either by mail
382 or by publication in full in the official publication of the
383 society. The affidavit of any officer of the society or of
384 anyone authorized by it to mail any amendments or synopsis
385 thereof, stating facts which show that same have been duly
386 addressed and mailed, shall be prima facie evidence that such
387 amendments or synopsis thereof, have been furnished the
388 addressee.

389 (4) Every foreign or alien society authorized to do
390 business in this state shall file with the commissioner a duly
391 certified copy of all amendments of, or additions to, its laws
392 within ninety (90) days after the enactment of same.

393 (5) Printed copies of the laws as amended, certified by the
394 secretary or corresponding officer of the society shall be prima
395 facie evidence of the legal adoption thereof.

396 SECTION 12. Institutions.

397 A society may create, maintain and operate, or may establish
398 organizations to operate, not for profit institutions to further
399 the purposes permitted by Section 5(1)(b) of this act. Such
400 institutions may furnish services free or at a reasonable charge.

401 Any real or personal property owned, held or leased by the
402 society for this purpose shall be reported in every annual
403 statement but shall not be allowed as an admitted asset of such
404 society.

405 SECTION 13. Reinsurance.

406 (1) A domestic society may, by a reinsurance agreement,
407 cede any individual risk or risks in whole or in part to an
408 insurer (other than another fraternal benefit society) having the
409 power to make such reinsurance and authorized to do business in
410 this state, or if not so authorized, one which is approved by the
411 commissioner but no such society may reinsure substantially all
412 of its insurance in force without the written permission of the
413 commissioner. It may take credit for the reserves on such ceded
414 risks to the extent reinsured, but no credit shall be allowed as
415 an admitted asset or as a deduction from liability, to a ceding
416 society for reinsurance made, ceded, renewed, or otherwise
417 becoming effective after the effective date of this chapter,
418 unless the reinsurance is payable by the assuming insurer on the
419 basis of the liability of the ceding society under the contract
420 or contracts reinsured without diminution because of the
421 insolvency of the ceding society.

422 (2) Notwithstanding subsection (1) of this section, a
423 society may reinsure the risks of another society in a
424 consolidation, merger or assumption reinsurance transaction
425 approved by the commissioner.

426 SECTION 14. Consolidations and mergers.

427 (1) A domestic society may consolidate or merge with any
428 other society by complying with the provisions of this section.
429 It shall file with the commissioner:

430 (a) A certified copy of the written contract
431 containing in full the terms and conditions of the consolidation
432 or merger;

433 (b) A sworn statement by the president and secretary
434 or corresponding officers of each society showing the financial
435 condition thereof on a date fixed by the commissioner, but not
436 earlier than December 31 next preceding the date of the contract;

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

443 (d) Evidence that at least sixty (60) days prior to
444 the action of the supreme governing body of each society, the
445 text of the contract has been furnished to all members of each
446 society either by mail or by publication in full in the official
447 publication of each society.

448 (2) If the commissioner finds that the contract is in
449 conformity with the provisions of this section, that the
450 financial statements are correct, and that the consolidation or
451 merger is just and equitable to the members of each society, the
452 commissioner shall approve the contract and issue a certificate
453 to such effect. Upon such approval, the contract shall be in
454 full force and effect unless any society which is a party to the
455 contract is incorporated under the laws of any other state or
456 territory. In such event the consolidation or merger shall not
457 become effective unless and until it has been approved as
458 provided by the laws of such state or territory and a certificate
459 of such approval filed with the commissioner, or, if the laws of
460 such state or territory contain no such provision, then the
461 consolidation or merger shall not become effective unless and
462 until it has been approved by the Commissioner of Insurance of
463 such state or territory and a certificate of such approval filed
464 with the commissioner.

465 (3) Upon the consolidation or merger becoming effective as
466 herein provided, all the rights, franchises and interests of the
467 consolidated or merged societies in and to every species of
468 property, real, personal or mixed, and things in action thereunto
469 belonging shall be vested in the society resulting from or
470 remaining after the consolidation or merger without any other
471 instrument, except that conveyances of real property may be
472 evidenced by proper deeds, and the title to any real estate or
473 interest therein, vested under the laws of this state in any of
474 the societies consolidated or merged, shall not revert or be in
475 any way impaired by reason of the consolidation or merger, but
476 shall vest absolutely in the society resulting from or remaining
477 after such consolidation or merger.

478 (4) The affidavit of any officer of the society or of
479 anyone authorized by it to mail any notice or document, stating
480 that such notice or document has been duly addressed and mailed,
481 shall be prima facie evidence that such notice or document has
482 been furnished the addressees.

483 **SECTION 15. Conversion of fraternal benefit society into a**
484 **mutual or stock insurer.**

485 (1) Any domestic fraternal benefit society organized and
486 doing business under the laws of this state may be converted and
487 licensed as a mutual life or mutual life and disability insurance
488 company by compliance with all the requirements of Section
489 83-31-15.

490 (2) Any fraternal benefit society organized and doing
491 business under the laws of this state may be converted into a
492 stock like or stock life and disability company upon the terms
493 and conditions as follows:

494 (a) Whenever the supreme governing legislative body of
495 any fraternal benefit society incorporated under the laws of this
496 state shall, by a two-thirds (2/3) vote, determine that a change
497 or conversion from a fraternal benefit society to a regular stock

498 life or stock life and disability company shall be to the best
499 interest of the society and its members, or when a majority of
500 the members in good standing of any such domestic fraternal
501 benefit society shall in writing signify their desire for such
502 conversion, or in event the supreme governing legislative body of
503 any fraternal benefit society prior to the adoption of this
504 chapter has by proper resolution expressed its desire and purpose
505 to change or convert said society into a level premium life
506 insurance company, then in either event said fraternal benefit
507 society may adopt and file with the commissioner an amendment or
508 amendments to its articles of incorporation authorizing it to
509 change or convert from a fraternal to a domestic stock life or
510 stock life and disability company; and said amendment shall
511 become operative upon its approval by the commissioner unless a
512 later time be provided in said amendment. If the amendment is
513 approved by the commissioner, he or she shall issue a certificate
514 of approval in writing. Thereafter the company shall have legal
515 existence as a domestic stock life or stock life and disability
516 company as indicated by the amendment, may reorganize by the
517 election of a board of directors and the adoption of bylaws, and
518 proceed to transact the business of such company in accordance
519 with and subject to all laws defining the powers and providing
520 for the regulation of stock life insurance companies.

521 (b) Provided, however, that no such conversion from a
522 fraternal benefit society to a regular stock or disability
523 company shall be had unless written notice of such proposed
524 change be deposited in the United States mail, registered and
525 postage prepaid, to every member of such fraternal benefit
526 society at their last known post office address at least ninety
527 (90) days before the proposed change or conversion is to be acted
528 upon by the supreme governing body; but notice provided herein
529 councils, or state or division grand lodges composed of delegates
530 from branch councils or subordinate lodges, have by a two-thirds

531 (2/3) vote already authorized or instructed its national council
532 or supreme legislative governing body to change or convert their
533 society into a level premium life insurance or disability company
534 at the time this chapter becomes effective or when such proposed
535 change to a stock life or stock life and disability company,
536 before becoming effective, is submitted to and unanimously
537 approved by the national council or supreme governing body of
538 such fraternal society at a regular meeting of such national
539 council or supreme governing body, or a special meeting of the
540 national council or supreme governing body called by the national
541 or supreme president for the purpose of considering such
542 proposal. The national or supreme president of any such
543 fraternal benefit society may prepare in writing a ballot and, on
544 ninety days' written notice to each member, take a referendum
545 vote in writing as to any such proposed change or conversion. If
546 two-thirds (2/3) of the membership by said referendum vote
547 authorize the national council or supreme legislative governing
548 body to change or covert the society into a stock life or stock
549 life and disability company, then in that event the national
550 council or supreme legislative governing body of said society may
551 proceed to vote said change, and its action in the premises shall
552 be binding upon all members. The amendment to the charter, the
553 method of placing any surplus belonging to any such fraternal
554 benefit society to capital stock, and the method of prorating the
555 stock among membership in a way to protect the interests of all
556 policyholders and members, shall be under the jurisdiction and
557 approval of the commissioner.

558 ARTICLE 7.

559 CONTRACTUAL BENEFITS.

560 SECTION 16. **Benefits.**

561 (1) A society may provide the following contractual
562 benefits in any form:

563 (a) Death benefits;

- 564 (b) Endowment benefits;
565 (c) Annuity benefits;
566 (d) Temporary or permanent disability benefits;
567 (e) Hospital, medical or nursing benefits;
568 (f) Funeral benefits;
569 (g) Monument or tombstone benefits to the memory of
570 deceased members; and
571 (h) Such other benefits as authorized for life
572 insurers and which are not inconsistent with this chapter.

573 (2) A society shall specify in its rules those persons who
574 may be issued, or covered by, the contractual benefits in
575 subsection (1), consistent with providing benefits to members and
576 their dependents. A society may provide benefits on the lives of
577 children under the minimum age for adult membership upon
578 application of an adult person.

579 SECTION 17. Beneficiaries.

580 (1) The owner of a benefit contract shall have the right at
581 all times to change the beneficiary or beneficiaries in
582 accordance with the laws or rules of the society unless the owner
583 waives this right by specifically requesting in writing that the
584 beneficiary designation be irrevocable. A society may, through
585 its laws or rules, limit the scope of beneficiary designations
586 and shall provide that no revocable beneficiary shall have or
587 obtain any vested interest in the proceeds of any certificate
588 until the certificate has become due and payable in conformity
589 with the provisions of the benefit contract.

590 (2) A society may make provision for the payment of funeral
591 benefits to the extent of such portion of any payment under a
592 certificate as might reasonably appear to be due to any person
593 equitably entitled thereto by reason of having incurred expense
594 occasioned by the burial of the member.

595 (3) If, at the death of any person insured under a benefit
596 contract, there is no lawful beneficiary to whom the proceeds

597 shall be payable, the amount of such benefit, except to the
598 extent that funeral benefits may be paid, shall be payable to the
599 personal representative of the deceased insured, provided that if
600 the owner of the certificate is other than the insured, such
601 proceeds shall be payable to such owner.

602 SECTION 18. **Benefits not attachable.**

603 No money or other benefit, charity, relief or aid to be
604 paid, provided or rendered by any society, shall be liable to
605 attachment, garnishment or other process, or to be seized, taken,
606 appropriated or applied by any legal or equitable process or
607 operation of law to pay any debt or liability of a member or
608 beneficiary, or any other person who may have a right thereunder,
609 either before or after payment by the society.

610 SECTION 19. **The benefit contract.**

611 (1) Every society authorized to do business in this state
612 shall issue to each owner of a benefit contract a certificate
613 specifying the amount of benefits provided thereby. The
614 certificate, together with any riders or endorsements attached
615 thereto, the laws of the society, the application for membership,
616 the application for insurance and declaration of insurability, if
617 any, signed by the applicant, and all amendments to each thereof,
618 shall constitute the benefit contract, as of the date of
619 issuance, between the society and the owner, and the certificate
620 shall so state. A copy of the application for insurance and
621 declaration of insurability, if any, shall be endorsed upon or
622 attached to the certificate. All statements on the application
623 shall be representations and not warranties. Any waiver of this
624 provision shall be void.

625 (2) Any changes, additions or amendments to the laws of the
626 society duly made or enacted subsequent to the issuance of the
627 certificate, shall bind the owner and the beneficiaries, and
628 shall govern and control the benefit contract in all respects the
629 same as though such changes, additions or amendments had been

630 made prior to and were in force at the time of the application
631 for insurance, except that no change, addition or amendment shall
632 destroy or diminish benefits which the society contracted to give
633 the owner as of the date of issuance.

634 (3) Any person upon whose life a benefit contract is issued
635 prior to attaining the age of majority shall be bound by the
636 terms of the application and certificate and by all the laws and
637 rules of the society to the same extent as though the age of
638 majority had been attained at the time of application.

639 (4) A society shall provide in its laws that if its
640 reserves as to all or any class of certificates become impaired
641 its board of directors or corresponding body may require that
642 there shall be paid by the owner to the society the amount of the
643 owner's equitable proportion of such deficiency as ascertained by
644 its board, and that if the payment is not made either (a) it
645 shall stand as an indebtedness against the certificate and draw
646 interest not to exceed the rate specified for certificate loans
647 under the certificates; or (b) in lieu of or in combination with
648 (a), the owner may accept a proportionate reduction in benefits
649 under the certificate. The society may specify the manner of the
650 election and which alternative is to be presumed if no election
651 is made.

652 (5) Copies of any of the documents mentioned in this
653 section, certified by the secretary or corresponding officer of
654 the society, shall be received in evidence of the terms and
655 conditions thereof.

656 (6) No certificate shall be delivered or issued for
657 delivery in this state unless a copy of the form has been filed
658 with the commissioner in the manner provided for like policies
659 issued by life and disability insurers in this state. Every
660 life, accident and sickness, health or disability insurance
661 certificate and every annuity certificate issued on or after one
662 (1) year from the effective date of this act must be filed with

663 the commissioner and shall meet the standard contract provision
664 requirements not inconsistent with this chapter for like policies
665 issued by life and disability insurers in this state, except that
666 a society may provide for a grace period for payment of premiums
667 of one (1) full month in its certificates. The certificate shall
668 also contain a provision stating the amount of premiums which are
669 payable under the certificate and a provision reciting or setting
670 forth the substance of any sections of the society's laws or
671 rules in force at the time of issuance of the certificate which,
672 if violated, will result in the termination or reduction of
673 benefits payable under the certificate. If the laws of the
674 society provide for expulsion or suspension of a member, the
675 certificate shall also contain a provision that any member so
676 expelled or suspended, except for nonpayment of a premium or
677 within the contestable period for material misrepresentation in
678 the application for membership or insurance, shall have the
679 privilege of maintaining the certificate in force by continuing
680 payment of the required premium.

681 (7) Benefit contracts issued on the lives of persons below
682 the society's minimum age for adult membership may provide for
683 transfer of control of ownership to the insured at an age
684 specified in the certificate. A society may require approval of
685 an application for membership in order to effect this transfer,
686 and may provide in all other respects for the regulation,
687 government and control of such certificates and all rights,
688 obligations and liabilities incident thereto and connected
689 therewith. Ownership rights prior to such transfer shall be
690 specified in the certificate.

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

693 **SECTION 20. Nonforfeiture benefits, cash surrender values,**
694 **certificate loans and other options.**

695 (1) For certificates issued prior to one (1) year after the
696 effective date of this chapter, the value of every paid-up
697 nonforfeiture benefit and the amount of any cash surrender value,
698 loan or other option granted shall comply with the provisions of
699 law applicable immediately prior to the effective date of this
700 act.

701 (2) For certificates issued on or after one (1) year from
702 the effective date of this act for which reserves are computed on
703 the commissioner's 1941 Standard Ordinary Mortality Table, the
704 commissioner's 1941 Standard Industrial Table or the
705 commissioner's 1958 Standard Ordinary Mortality Table, or the
706 commissioner's 1980 Standard Mortality Table, or any more recent
707 table made applicable to life insurers, every paid-up
708 nonforfeiture benefit and the amount of any cash surrender value,
709 loan or other option granted shall not be less than the
710 corresponding amount ascertained in accordance with the laws of
711 this state applicable to life insurers issuing policies
712 containing like benefits based upon such tables.

713 ARTICLE 9.

714 FINANCIAL.

715 SECTION 21. **Investments.**

716 A society shall invest its funds only in such investments as
717 are authorized by the laws of this state for the investment of
718 assets of life insurers, and such securities shall be valued
719 accordingly to the methods used in valuing similar securities
720 held by life insurers. Any foreign or alien society permitted or
721 seeking to do business in this state which invests its funds in
722 accordance with the laws of the state, district, territory,
723 country or province in which it is incorporated, shall be held to
724 meet the requirements of this chapter for the investment of
725 funds.

726 SECTION 22. **Funds.**

727 (1) All assets shall be held, invested and disbursed for
728 the use and benefit of the society and no member or beneficiary
729 shall have or acquire individual rights therein or become
730 entitled to any apportionment on the surrender of any part
731 thereof, except as provided in the benefit contract.

732 (2) A society may create, maintain, invest, disburse and
733 apply any special fund or funds necessary to carry out any
734 purpose permitted by the laws of such society.

735 (3) A society may, pursuant to resolution of its supreme
736 governing body, establish and operate one or more separate
737 accounts and issue contracts on a variable basis, subject to the
738 provisions of law regulating life insurers establishing such
739 accounts and issuing such contracts. To the extent the society
740 deems it necessary in order to comply with any applicable federal
741 or state laws, or any rules issued thereunder, the society may
742 adopt special procedures for the conduct of the business and
743 affairs of a separate account, may, for persons having
744 beneficial interests therein, provide special voting and other
745 rights, including without limitation special rights and
746 procedures relating to investment policy, investment advisory
747 services, selection of certified public accountants, and
748 selection of a committee to manage the business and affairs of
749 the account, and may issue contracts on a variable basis to which
750 Section 19(2) and (4) of this act shall not apply.

751 SECTION 23. **Exemption from insurance laws.**

752 Except as herein provided, societies shall be governed by
753 this chapter and shall be exempt from all other provisions of the
754 insurance laws of this state, not only in governmental relations
755 with the state but for every other purpose. No law hereafter
756 enacted shall apply to them unless they be expressly designated
757 therein.

758 SECTION 24. **Taxation.**

759 Every society organized or licensed under this chapter is
760 hereby declared to be a charitable and benevolent institution,
761 and all of its funds shall be exempt from every state, county,
762 district, municipal and state tax other than license taxes as
763 defined by Section 27-15-83 and ad valorem taxes on real estate,
764 office equipment and motor vehicles.

765 ARTICLE 11.

766 REGULATION.

767 SECTION 25. **Valuation.**

768 (1) Standards of valuation for certificates issued prior to
769 one (1) year after the effective date of this act shall be those
770 provided by the laws applicable immediately prior to the
771 effective date of this act.

772 (2) The minimum standards of valuation for certificates
773 issued on or after one (1) year from the effective date of this
774 chapter shall be based on the following tables:

775 (a) For certificates of life insurance - the
776 commissioner's 1941 Standard Ordinary Mortality Table, the
777 commissioner's 1941 Standard Industrial Mortality Table, the
778 commissioner's 1958 Standard Ordinary Mortality Table, the
779 commissioner's 1980 Standard Ordinary Mortality Table, or any
780 more recent table made applicable to life insurers;

781 (b) For annuity and pure endowment certificates, for
782 total and permanent disability benefits, for accidental death
783 benefits and for noncancelable accident and health benefits -
784 such tables as are authorized for use by life insurers in this
785 state.

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

790 (3) The commissioner may, in his or her discretion, accept
791 other standards for valuation if the commissioner finds that the

792 reserves produced thereby will not be less in the aggregate than
793 reserves computed in accordance with the minimum valuation
794 standard herein prescribed. The commissioner may, in his or her
795 discretion, vary the standards of mortality applicable to all
796 benefit contracts on substandard lives or other extra hazardous
797 lives by any society authorized to do business in this state.

798 (4) Any society, with the consent of the Commissioner of
799 Insurance of the state of domicile of the society and under such
800 conditions, if any, which the commissioner may impose, may
801 establish and maintain reserves on its certificates in excess of
802 the reserves required thereunder, but the contractual rights of
803 any benefit member shall not be affected thereby.

804 SECTION 26. Annual statement.

805 (1) Every society transacting business in this state shall
806 annually, on or before March 1, unless for cause shown such time
807 has been extended by the commissioner, file with the commissioner
808 a true statement of its financial condition, transactions and
809 affairs for the preceding calendar year. The statement shall be
810 in general form and context as approved by the National
811 Association of Insurance Commissioners for fraternal benefit
812 societies and as supplemented by additional information required
813 by the commissioner.

814 (2) As part of the annual statement herein required, each
815 society shall, on or before March 1, file with the commissioner a
816 valuation of its certificates in force on December 31 last
817 preceding, provided the commissioner may, in his or her
818 discretion for cause shown, extend the time for filing such
819 valuation for not more than two (2) calendar months. Such
820 valuation shall be done in accordance with the standards
821 specified in Section 25 of this act. Such valuation and
822 underlying data shall be certified by a qualified actuary or, at
823 the expense of the society, verified by the actuary of the
824 department of insurance of the state of domicile of the society.

825 (3) A society neglecting to file the annual statement in
826 the form and within the time provided by this section may be
827 subject to a fine of One Hundred Dollars (\$100.00) for each day
828 during which such neglect continues, and its authority to do
829 business in this state may be suspended by the commissioner while
830 such default continues.

831 SECTION 27. **Annual license.**

832 Societies which are now authorized to transact business in
833 this state may continue such business until the first day of
834 March next succeeding the effective date of this chapter. The
835 authority of such societies may hereafter be renewed annually,
836 but in all cases to terminate on the first day of the succeeding
837 March. However, a license so issued shall continue in full force
838 and effect until the new license be issued or specifically
839 refused. For each such license or renewal the society shall pay
840 the commissioner the fee prescribed in Section 27-15-83. A duly
841 certified copy or duplicate of such license shall be prima facie
842 evidence that the licensee is a fraternal benefit society within
843 the meaning of this chapter.

844 SECTION 28. **Examination of societies; no adverse**
845 **publications.**

846 (1) The commissioner, or any person he or she may appoint,
847 may examine any domestic, foreign or alien society transacting or
848 applying for admission to transact business in this state in the
849 same manner as authorized for examination of domestic, foreign or
850 alien insurers. Requirements of notice and an opportunity to
851 respond before findings are made public as provided in the laws
852 regulating insurers shall also be applicable to the examination
853 of societies.

854 (2) The expense of each examination and of each valuation,
855 including compensation and actual expense of examiners, shall be
856 paid by the society examined or whose certificates are valued,
857 upon statements furnished by the Commissioner.

858 SECTION 29. **Foreign or alien society - admission.**

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

866 (a) A duly certified copy of its chapters of
867 incorporation;

868 (b) A copy of its bylaws, certified by its secretary or
869 corresponding officer;

870 (c) A power of attorney to the commissioner as
871 prescribed in Section 83-29-135;

872 (d) A statement of its business under oath of its
873 president and secretary or corresponding officers in a form
874 prescribed by the commissioner, duly verified by an examination
875 made by the supervising insurance official of its home state or
876 other state, territory, province or country, satisfactory to the
877 commissioner;

878 (e) Certification from the proper official of its home
879 state, territory, province or country that the society is legally
880 incorporated and licensed to transact business therein;

881 (f) Copies of its certificate forms; and

882 (g) Such other information as the commissioner may deem
883 necessary;

884 and upon a showing that its assets are invested in accordance
885 with the provisions of this chapter.

886 SECTION 30. **Injunction - liquidation - receivership of**
887 **domestic society**

888 (1) When the commissioner upon investigation finds that a
889 domestic society:

890 (a) Has exceeded its powers;

891 (b) Has failed to comply with any provision of this
892 chapter;

893 (c) Is not fulfilling its contracts in good faith;

894 (d) Has a membership of less than four hundred (400)
895 after an existence of one (1) year or more; or

896 (e) Is conducting business fraudulently or in a
897 manner hazardous to its members, creditors or the public;
898 the commissioner shall notify the society of such deficiency or
899 deficiencies and state in writing the reasons for his or her
900 dissatisfaction. The commissioner shall simultaneously issue a
901 written notice to the society requiring that the deficiency or
902 deficiencies which exist be corrected. After such notice the
903 society shall have a thirty-day period in which to comply with
904 the commissioner's request for correction, and if the society
905 fails to comply, the commissioner shall take such action as is
906 necessary and appropriate under Chapter 24 of Title 83.

907 (2) The commissioner may take such action as is necessary
908 and appropriate under this section as respects a domestic society
909 which shall voluntarily determine to discontinue business.

910 **SECTION 31. Suspension, revocation or refusal of license of**
911 **foreign or alien society.**

912 (1) When the commissioner upon investigation finds that a
913 foreign or alien society transacting or applying to transact
914 business in this state:

915 (a) Has exceeded its powers;

916 (b) Has failed to comply with any of the provisions of
917 this chapter;

918 (c) Is not fulfilling its contracts in good faith; or

919 (d) Is conducting its business fraudulently or in a
920 manner hazardous to its members or creditors or the public;
921 the commissioner shall notify the society of such deficiency or
922 deficiencies and state in writing the reasons for his or her
923 dissatisfaction. The commissioner shall at once issue a written

924 notice to the society requiring that the deficiency or
925 deficiencies which exist are corrected. After such notice the
926 society shall have a thirty-day period in which to comply with
927 the commissioner's request for correction, and if the society
928 fails to comply the commissioner shall notify the society of such
929 findings of noncompliance and require the society to show cause
930 on a date named why its license should not be suspended, revoked
931 or refused. If on such date the society does not present good
932 and sufficient reason why its authority to do business in this
933 state should not be suspended, revoked or refused, the
934 commissioner may suspend or refuse the license of the society to
935 do business in this state until satisfactory evidence is
936 furnished to the commissioner that such suspension or refusal
937 should be withdrawn or the commissioner may revoke the authority
938 of the society to do business in this state.

939 (2) Nothing contained in this section shall be taken or
940 construed as preventing any such society from continuing in good
941 faith all contracts made in this state during the time such
942 society was legally authorized to transact business herein.

943 **SECTION 32. Injunction.**

944 No application for injunction against or proceeding for the
945 dissolution of or the appointment of a receiver for any domestic
946 society, or lodge thereof, or against any foreign or alien
947 society, shall be entertained in any court of this state unless
948 made by the Attorney General or the commissioner.

949 **SECTION 33. Licensing of agents.**

950 (1) Agents of societies shall be licensed in accordance
951 with the provisions of Chapter 17 of Title 83.

952 (2) No examination or license shall be required of any
953 regular salaried officer, employee or member of a licensed
954 society who devotes substantially all of his or her services to
955 activities other than the solicitation of fraternal insurance
956 contracts from the public, and who receives for the solicitation

957 of such contracts no commission or other compensation directly
958 dependent upon the amount of business obtained.

959 SECTION 34. **Unfair methods of competition and unfair and**
960 **deceptive acts and practices.**

961 Every society authorized to do business in this state shall
962 be subject to the provisions Chapter 5 of Title 83 relating to
963 unfair practices; provided, however, that nothing therein shall
964 be construed as applying to or affecting the right of any society
965 to determine its eligibility requirements for membership, or be
966 construed as applying to or affecting the offering of benefits
967 exclusively to members or persons eligible for membership in the
968 society by a subsidiary corporation or affiliated organization of
969 the society.

970 ARTICLE 13.

971 MISCELLANEOUS PROVISIONS.

972 SECTION 35. **Service of process.**

973 (1) Every society authorized to do business in this state
974 shall appoint in writing the commissioner and each successor in
975 office to be its true and lawful attorney upon whom all lawful
976 process in any action or proceeding against it shall be served,
977 and shall agree in such writing that any lawful process against
978 it which is served on such attorney shall be of the same legal
979 force and validity as if served upon the society, and that the
980 authority shall continue in force so long as any liability
981 remains outstanding in this state. Copies of such appointment,
982 certified by the commissioner, shall be deemed sufficient
983 evidence thereof and shall be admitted in evidence with the same
984 force and effect as the original thereof might be admitted.

985 (2) Service shall only be made upon the commissioner, or if
986 absent, upon the person in charge of his or her office. It shall
987 be made in duplicate and shall constitute sufficient service upon
988 the society. When legal process against a society is served upon
989 the commissioner, he shall forthwith forward thirty (30) of the

990 duplicate copies by registered mail, prepaid, directed to the
991 secretary or corresponding officer. No such service shall
992 require a society to file its answer, pleading or defense in less
993 than thirty (30) days from the date of mailing the copy of the
994 service to a society. Legal process shall not be served upon a
995 society except in the manner herein provided.

996 (3) At the time of serving any process upon the
997 commissioner, the plaintiff or complainant in the action shall
998 pay to the commissioner a fee of Four Dollars (\$4.00).

999 SECTION 36. Penalties.

1000 (1) A person who shall knowingly or willfully make any
1001 false or fraudulent statement or representation in or relating to
1002 any application for membership or for the purpose of obtaining
1003 money from or a benefit in any society, shall be guilty of a
1004 misdemeanor and upon conviction thereof be fined not less than
1005 One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
1006 (\$500.00), or imprisonment in the county jail not less than
1007 thirty (30) days nor more than one (1) year, or both, in the
1008 discretion of the court.

1009 (2) Any person who shall willfully make a false or
1010 fraudulent statement in any verified report or declaration under
1011 oath required or authorized by this chapter, or of any material
1012 fact or thing contained in a sworn statement concerning the death
1013 or disability of an insured for the purpose of procuring payment
1014 of a benefit named in the certificate, shall be guilty of perjury
1015 and shall be subject to the penalties therefor prescribed by law.

1016 (3) Any person who solicits membership for, or in any
1017 manner assists in procuring membership in, any society not
1018 licensed to do business in this state shall upon conviction
1019 thereof be fined not less than Fifty Dollars (\$50.00) nor more
1020 than Two Hundred Dollars (\$200.00).

1021 (4) Any person guilty of a willful violation of, or neglect
1022 or refusal to comply with, the provisions of this chapter for

1023 which a penalty is not otherwise prescribed shall upon conviction
1024 thereof be fined not exceeding Two Hundred Dollars (\$200.00).

1025 SECTION 37. Exemption of certain societies.

1026 (1) Nothing contained in this chapter shall be so construed
1027 as to affect or apply to grand or subordinate lodges of Masons,
1028 Odd Fellows, or Knights of Pythias exclusive of the insurance
1029 department of the supreme lodge Knights of Pythias, and the
1030 Junior Order of United American Mechanics exclusive of
1031 beneficiary degree or insurance branch of the National Council
1032 Junior Order United American Mechanics, or societies which admit
1033 to membership only persons engaged in one or more hazardous
1034 occupation in the same or similar lines of business. The
1035 Commissioner of Insurance may require from any society such
1036 information as will enable him to determine whether such society
1037 is exempt from the provisions of this chapter.

1038 (2) Any larger fraternal benefit society heretofore
1039 organized and incorporated and operating within the definition
1040 set forth in Section 1 of this act providing benefits in case of
1041 death or disability resulting solely from accidents, but which
1042 does not obligate itself to pay death or sick benefits, may be
1043 licensed under the provisions of this chapter, and shall have all
1044 the privileges and shall be subject to all the provisions and
1045 regulations of this chapter, except that the provisions of this
1046 chapter as to valuations of benefit certificates shall not apply
1047 to such society.

1048 (3) The commissioner may require from any society or
1049 association, by examination or otherwise, such information as
1050 will enable the commissioner to determine whether such society or
1051 association is exempt from the provisions of this chapter.

1052 (4) Societies exempted under the provisions of this section
1053 shall also be exempt from all other provisions of the insurance
1054 laws of this state.

1055 SECTION 38. Review.

1056 All decisions and findings of the commissioner made under
1057 the provisions of this chapter shall be subject to review as set
1058 forth in Section 83-6-41 or otherwise in Title 83 as respects the
1059 particular subject matter involved.

1060 SECTION 39. Severability.

1061 If any provision of this chapter or the application of such
1062 provision to any circumstance is held invalid, the remainder of
1063 the chapter or the application of the provision to other
1064 circumstances, shall not be affected thereby.

1065 SECTION 40. Section 83-17-15, Mississippi Code of 1972, is
1066 amended as follows:

1067 83-17-15. Sections 83-17-7 through 83-17-15 shall apply to
1068 all insurance companies operating under the insurance laws of
1069 Mississippi, including stock companies. However, the cited
1070 sections shall not apply to reciprocal exchanges, mutual, or
1071 interinsurance companies. Said sections shall not apply to
1072 fraternal societies as defined by Section 83-29-1 and larger
1073 fraternal benefit societies as defined in Section 1 of Senate Bill
1074 No. 2963, 2001 Regular Session.

1075 SECTION 41. Section 83-17-101, Mississippi Code of 1972, is
1076 amended as follows:

1077 83-17-101. Whenever used in this article, certain terms
1078 shall be defined as follows:

1079 (a) The term "agent" shall include all individuals,
1080 partnerships, and any corporation, who act in any manner, directly
1081 or indirectly, as such in the solicitation of, negotiation for, or
1082 procurement or making of a contract of life, health or accident
1083 insurance, or making of an annuity contract, and includes hospital
1084 service association agents; except that the term "agent" shall not
1085 include any regular salaried officer or employee of a licensed
1086 insurer or of a licensed insurance agent who does not solicit or
1087 accept from the public applications for any such contract. A
1088 regular salaried officer or employee of an insurer authorized to

1089 do business in this state shall not be deemed to be an "agent" by
1090 reason of rendering assistance to or on behalf of a licensed
1091 insurance agent, provided that such salaried officer or employee
1092 devotes substantially all of his time to activities other than the
1093 solicitation of applications for life, health or accident
1094 insurance or annuity contracts and receives no commission or other
1095 compensation directly dependent upon the amount of business
1096 obtained. The possessor of an insurable interest in any risk or
1097 subject of insurance shall not be deemed an agent by reason of
1098 procuring or maintaining, or agreeing to procure or maintain,
1099 insurance extending to such interests, together with the interest
1100 or interests of others in such risk or subject of insurance,
1101 however the cost may be borne.

1102 (b) The term "inactive agent" shall mean an individual
1103 who is retired, disabled or has not obtained from the Commissioner
1104 of Insurance a current continuous certificate. An inactive agent
1105 shall not solicit new business or service existing business, but
1106 may receive renewal commissions.

1107 (c) The term "supervising general agent" as used in
1108 this article refers to and includes any person, partnership,
1109 association or corporation, having authority to serve as trustees,
1110 managers or administrators, except attorneys at law, for such
1111 licensed insurance companies or their insureds in the handling of
1112 insurance programs underwritten by such licensed insurance
1113 companies, or in which they may be participating.

1114 (d) The term "insurance contract" shall mean any
1115 contract or policy affecting life, health or accident insurance or
1116 any annuity contract on behalf of any company or insurer engaged
1117 in the business of writing life, health or accident insurance or
1118 annuity contracts.

1119 (e) The term "excess risk" shall mean all or any
1120 portion of a life, health or accident insurance risk or contract
1121 of annuity for which application is made to an agent and which

1122 exceeds the amount of insurance or annuity which will be provided
1123 by the insurer for which such agent is licensed.

1124 (f) The term "rejected risk" shall mean a life, health
1125 or accident insurance risk or annuity contract for which
1126 application has been made to an agent and which insurance or
1127 annuity contract is declined by the insurer for which such agent
1128 is licensed.

1129 (g) The term "commissioner" shall mean the Commissioner
1130 of Insurance of the State of Mississippi.

1131 (h) The terms "company" and "insurer" shall mean a
1132 corporation, association, hospital and/or medical service
1133 association, exchange, order or society writing life, health and
1134 accident and/or hospital insurance or annuity contracts, but shall
1135 not include fraternal societies as defined in Section 83-29-1 and
1136 larger fraternal benefit societies as defined in Section 1 of
1137 Senate Bill No. 2963, 2001 Regular Session.

1138 (i) The term "person" shall mean any individual,
1139 partnership or corporation incorporated pursuant to Sections
1140 79-10-1 through 79-10-117, being the Mississippi Professional
1141 Corporation Act, and Sections 79-29-901 through 79-29-933, being
1142 the Mississippi Limited Liability Company Act, except as otherwise
1143 limited by Section 83-17-105.

1144 SECTION 42. Section 83-29-1, Mississippi Code of 1972, is
1145 amended as follows:

1146 83-29-1. Any corporation, society, order, or voluntary
1147 association without capital stock, organized and carried on solely
1148 for the mutual benefit of its members and their beneficiaries and
1149 not for profit, and having less than Thirty Thousand Dollars
1150 (\$30,000.00) in total annual written premium, having a lodge
1151 system and representative form of government, or which limits its
1152 membership to a secret fraternity having a lodge system and
1153 representative form of government, and which shall make provision

1154 for the payment of benefits in accordance with Section 83-29-9 is
1155 hereby declared to be a fraternal benefit society.

1156 SECTION 43. Sections 1 through 39 of this act shall be
1157 codified as a separate chapter within Title 83, Mississippi Code
1158 of 1972.

1159 SECTION 44. This act shall take effect and be in force from
1160 and after July 1, 2001.