

HOUSE BILL NO. 651  
INTRODUCED BY HARRINGTON

IN THE HOUSE

FEBRUARY 6, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON BUSINESS & ECONOMIC DEVELOPMENT.

  FIRST READING.

MARCH 9, 1991                    COMMITTEE RECOMMEND BILL  
  DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 11, 1991                   PRINTING REPORT.

MARCH 12, 1991                   SECOND READING, DO PASS.

MARCH 13, 1991                   ENGROSSING REPORT.

MARCH 14, 1991                   THIRD READING, PASSED.  
  AYES, 96; NOES, 3.

  TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 15, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON BUSINESS & INDUSTRY.

  FIRST READING.

MARCH 26, 1991                   COMMITTEE RECOMMEND BILL BE  
  CONCURRED IN AS AMENDED. REPORT  
  ADOPTED.

MARCH 28, 1991                   SECOND READING, CONCURRED IN.

APRIL 1, 1991                    THIRD READING, CONCURRED IN.  
  AYES, 47; NOES, 1.

  RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991                    RECEIVED FROM SENATE.

  SECOND READING, AMENDMENTS  
  CONCURRED IN.

APRIL 10, 1991                   THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 651  
2 INTRODUCED BY Harrington  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
5 LAWS RELATING TO FRATERNAL BENEFIT SOCIETIES; AMENDING  
6 SECTIONS 31-2-106 AND 33-22-1703, MCA; REPEALING SECTIONS  
7 33-7-101, 33-7-102, 33-7-103, 33-7-104, 33-7-111, 33-7-112,  
8 33-7-113, 33-7-114, 33-7-115, 33-7-116, 33-7-201, 33-7-202,  
9 33-7-203, 33-7-204, 33-7-205, 33-7-206, 33-7-207, 33-7-211,  
10 33-7-212, 33-7-213, 33-7-301, 33-7-302, 33-7-303, 33-7-304,  
11 33-7-305, 33-7-401, 33-7-402, 33-7-403, 33-7-404, 33-7-405,  
12 33-7-406, 33-7-407, 33-7-501, 33-7-502, 33-7-503, 33-7-504,  
13 33-7-505, 33-7-506, 33-7-507, 33-7-508, 33-7-509, 33-7-510,  
14 33-7-511, 33-7-512, 33-7-513, 33-7-514, 33-7-515, 33-7-516,  
15 33-7-517, 33-7-518, 33-7-519, 33-7-525, AND 33-7-526, MCA;  
16 AND PROVIDING AN EFFECTIVE DATE."  
17

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Fraternal benefit societies.  
20 Any incorporated or unincorporated society, without capital  
21 stock, including a society exempted under the provisions of  
22 [section 37], that is conducted solely for the benefit of  
23 its members and their beneficiaries and not for profit, that  
24 is operated on a lodge system with ritualistic forms of  
25 work, that has a representative form of government, and that

1 provides benefits in accordance with [sections 1 through  
2 37], is a fraternal benefit society.

3 NEW SECTION. Section 2. Lodge system. (1) A society is  
4 operating on the lodge system if it has a supreme governing  
5 body and subordinate lodges into which members are elected,  
6 initiated, or admitted in accordance with its laws, rules,  
7 and ritual. Subordinate lodges must be required by the laws  
8 of the society to hold regular meetings at least once a  
9 month in furtherance of the purposes of the society.

10 (2) A society may organize and operate lodges for  
11 children under the minimum age for adult membership.  
12 Membership and initiation in local lodges may not be  
13 required of children, and children may not have a voice or  
14 vote in the management of a society.

15 NEW SECTION. Section 3. Representative form of  
16 government. (1) A society has a representative form of  
17 government if it has a supreme governing body organized as  
18 provided in subsection (2) or (3).

19 (2) (a) The supreme governing body may be an assembly  
20 composed of delegates who meet the criteria of subsection  
21 (5) and who are elected either by the members directly or at  
22 intermediate assemblies or conventions of members or their  
23 representatives, together with other delegates as may be  
24 prescribed in the society's laws. A society may provide for  
25 election of delegates by mail.



1 (b) The delegates elected must be a majority of  
 2 delegates and may not have less than a majority of the votes  
 3 and not less than the number of votes required to amend the  
 4 society's laws. The assembly must be elected and shall meet  
 5 at least once every 4 years and shall elect a board of  
 6 directors to conduct the business of the society between  
 7 meetings of the assembly.

8 (c) Vacancies on the board of directors may be filled  
 9 in the manner prescribed by the society's laws.

10 (3) (a) (i) The supreme governing body may be:

11 (A) a board composed of persons who meet the criteria  
 12 of subsection (5) and who are elected by the members, either  
 13 directly or by their representatives in intermediate  
 14 assemblies; and

15 (B) any other persons prescribed in the society's laws.

16 (ii) A society may provide for election of the board by  
 17 mail.

18 (b) The term of a board member may not exceed 4 years.  
 19 Vacancies on the board may be filled in the manner  
 20 prescribed in the society's laws.

21 (c) The persons elected to the board must be a majority  
 22 of the board and may not be less than the number of votes  
 23 required to amend the society's laws. A person filling an  
 24 unexpired term of an elected board member is considered to  
 25 be an elected board member.

1 (d) The board shall meet at least quarterly to conduct  
 2 the business of the society.

3 (4) The officers of the society must be elected either  
 4 by the assembly or by the board of directors, either of  
 5 which constitutes the supreme governing body.

6 (5) Only benefit members are eligible for election to  
 7 the assembly, the board of directors, or an intermediate  
 8 assembly.

9 (6) Each voting member shall have one vote. A vote may  
 10 not be cast by proxy.

11 NEW SECTION. **Section 4.** Definitions. As used in  
 12 [sections 1 through 37], unless the context requires  
 13 otherwise, the following definitions apply:

14 (1) "Benefit contract" means the agreement for  
 15 provision of authorized benefits described in [section 16].

16 (2) "Benefit member" means an adult member who is  
 17 designated by the laws or rules of the society to be a  
 18 benefit member under a benefit contract.

19 (3) "Certificate" means the document issued as written  
 20 evidence of the benefit contract.

21 (4) "Laws" means the society's articles of  
 22 incorporation, charter, constitution, and bylaws.

23 (5) "Lodge" means subordinate member units of the  
 24 society, known as camps, courts, councils, or branches or by  
 25 any other designation.

1 (6) "Premiums" means premiums, rates, dues, or other  
2 required contributions that are payable under the  
3 certificate.

4 (7) "Rules" means all rules, regulations, or  
5 resolutions that are adopted by the supreme governing body  
6 or board of directors and that are intended to have general  
7 application to the members of the society.

8 (8) "Society" means a fraternal benefit society  
9 described in [section 1]. The term includes an order or  
10 supreme lodge.

11 NEW SECTION. Section 5. Purposes and powers. (1) A  
12 society shall operate for the benefit of members and their  
13 beneficiaries by:

14 (a) providing benefits as provided in [section 16]; and

15 (b) providing for one or more social, intellectual,  
16 educational, charitable, benevolent, moral, fraternal,  
17 patriotic, or religious purposes, which may be extended to  
18 others. The purposes may be carried out directly by the  
19 society or indirectly through subsidiary corporations or  
20 affiliated organizations.

21 (2) A society may adopt laws and rules for the  
22 government of the society, the admission of its members, and  
23 the management of its affairs. It may amend laws and rules  
24 and exercise powers necessary and incidental to the  
25 objectives and purposes of the society.

1 NEW SECTION. Section 6. Qualification for membership.

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

3 (a) eligibility standards for each class of membership.

4 However, if benefits are provided on the lives of children,  
5 the minimum age for adult membership must be set at not less  
6 than 15 years of age and not more than 21 years of age.

7 (b) the process for admission to each membership class;  
8 and

9 (c) the rights and privileges of each membership class.  
10 However, only benefit members may vote on the management of  
11 the insurance affairs of the society.

12 (2) A society may admit social members who have no  
13 voice or vote in the management of the insurance affairs of  
14 the society.

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

17 NEW SECTION. Section 7. Location of office -- meetings  
18 -- communication to members -- grievance procedures. (1) The  
19 principal office of a domestic society must be located in  
20 this state. The meetings of its supreme governing body may  
21 be held in any state, district, province, or territory where  
22 the society has at least five subordinate lodges or in a  
23 location determined by the supreme governing body. All  
24 business transacted at meetings is valid. The minutes of the  
25 proceedings of the supreme governing body and of the board

1 of directors must be in English.

2 (2) (a) A society may provide in its laws for an  
3 official publication in which any notice, report, or  
4 statement required by law to be given to members, including  
5 notice of election, may be published. Required reports,  
6 notices, and statements must be printed conspicuously in the  
7 publication. If the records of a society show that two or  
8 more members have the same mailing address, an official  
9 publication mailed to one member is considered to be mailed  
10 to all members at the same address unless a member requests  
11 a separate copy.

12 (b) Not later than June 1 of each year, a synopsis of  
13 the society's annual statement, providing an explanation of  
14 the facts concerning the condition of the society, must be  
15 printed and mailed to each benefit member of the society, or  
16 the synopsis may be published in the society's official  
17 publication.

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

20 NEW SECTION. Section 8. No personal liability. (1) The  
21 officers and members of the supreme governing body or any  
22 subordinate body of a society are not personally liable for  
23 any benefits provided by a society.

24 (2) A person may be indemnified and reimbursed by a  
25 society for expenses reasonably incurred by and liabilities

1 imposed upon him in connection with or arising out of an  
2 action, suit, or proceeding (whether civil, criminal,  
3 administrative, or investigative) or threat thereof in which  
4 the person may be involved by reason of the fact that he is  
5 or was a director, officer, employee, or agent of the  
6 society or of a firm, corporation, or organization that he  
7 served in any capacity at the request of the society.

8 (3) (a) A person may not be indemnified or reimbursed  
9 in relation to any matter in an action, suit, or proceeding:

10 (i) in which he is finally found to be guilty of breach  
11 of a duty as a director, officer, employee, or agent of the  
12 society; or

13 (ii) that is the subject of a compromise settlement.

14 (b) A person may be indemnified or reimbursed if he  
15 acted in good faith for a purpose he reasonably believed to  
16 be in, or not opposed to, the best interests of the society.

17 (4) The determination of whether the person's conduct  
18 met the standard required in order to justify  
19 indemnification or reimbursement in relation to any matter  
20 described in subsection (3) may be made only by the supreme  
21 governing body by a majority vote of a quorum consisting of  
22 persons who were not parties to the action, suit, or  
23 proceeding or by a court of competent jurisdiction. The  
24 termination of an action, suit, or proceeding by a judgment,  
25 order, settlement, or conviction or upon a plea of no

1 contest, does not create a conclusive presumption that the  
 2 person did not meet the standard of conduct required in  
 3 order to justify indemnification or reimbursement. The right  
 4 of indemnification or reimbursement is not exclusive of  
 5 other rights to which the person may be entitled as a matter  
 6 of law, and the right inures to the benefit of his heirs,  
 7 executors, and administrators.

8 (5) A director, officer, employee, member, or volunteer  
 9 of a society who serves without compensation may not be held  
 10 liable, and a cause of action may not be brought, for  
 11 damages resulting from the exercise of judgment or  
 12 discretion in connection with the person's duties or  
 13 responsibilities for the society unless the act or omission  
 14 involved willful or wanton misconduct.

15 (6) A society may purchase and maintain liability  
 16 insurance for acts incurred in the course and scope of the  
 17 position for a person who is or was a director, officer,  
 18 employee, or agent of the society or who is or was serving  
 19 at the request of the society as a director, officer,  
 20 employee, or agent of any other firm, corporation, or  
 21 organization.

22 NEW SECTION. **Section 9. Waiver.** The laws of the  
 23 society may provide that a subordinate body or any of its  
 24 subordinate officers or members may not waive any of the  
 25 provisions of the laws of the society. The provision is

1 binding on the society and every member and beneficiary of a  
 2 member.

3 NEW SECTION. **Section 10. Organization.** A domestic  
 4 society organized on or after January 1, 1992, must be  
 5 formed as follows:

6 (1) Ten or more citizens of the United States, a  
 7 majority of whom are residents of this state, who desire to  
 8 form a fraternal benefit society, may make, sign, and  
 9 acknowledge before the commissioner of insurance, an  
 10 application for a charter that states:

11 (a) the proposed corporate name of the society, which  
 12 may not so closely resemble the name of any society or  
 13 insurance company as to be misleading or confusing;

14 (b) the purposes for which it is being formed and the  
 15 mode in which its corporate powers are to be exercised. The  
 16 purposes may not include more liberal powers than are  
 17 granted by [sections 1 through 37].

18 (c) the names and residences of the incorporators and  
 19 the names, residences, and official titles of all the  
 20 officers, trustees, directors, or other persons who are to  
 21 have and exercise the general control of the management of  
 22 the affairs and funds of the society for the first year or  
 23 until the ensuing election at which all officers are elected  
 24 by the supreme governing body. The election must be held not  
 25 later than 1 year from the date of issuance of the permanent

1 certificate of authority.

2 (2) The application for a charter, certified copies of  
3 the society's bylaws and rules, copies of all proposed forms  
4 of certificates, applications for certificates, and  
5 circulars to be issued by the society, and a bond  
6 conditioned upon the return to applicants of the advanced  
7 payments if the organization is not completed within 1 year  
8 must be filed with the commissioner, who may require further  
9 information considered necessary. The bond, with sureties  
10 approved by the commissioner, must be in an amount, not less  
11 than \$300,000 or more than \$1,500,000, required by the  
12 commissioner. All documents filed must be in English. If the  
13 purposes of the society conform to the requirements of  
14 [sections 1 through 37] and all provisions of law have been  
15 complied with, the commissioner shall certify, retain, and  
16 file the articles of incorporation and furnish to the  
17 incorporators a preliminary certificate of authority  
18 authorizing the society to solicit members.

19 (3) A preliminary certificate of authority granted  
20 under the provisions of this section is not valid after 1  
21 year from its date of issuance or after an extended period,  
22 not exceeding 1 year, as may be authorized by the  
23 commissioner upon good cause shown, unless the 500  
24 applicants required under subsection (4) have been secured  
25 and the organization has been completed. The charter and all

1 other proceedings under the charter are void 1 year from the  
2 date of issuance of the preliminary certificate of authority  
3 or at the expiration of the extended period, unless the  
4 society has completed its organization and received a  
5 certificate of authority to do business.

6 (4) Upon receipt of a preliminary certificate of  
7 authority from the commissioner, the society may solicit  
8 members for the purpose of completing its organization,  
9 shall collect from each applicant the amount of not less  
10 than one regular monthly premium in accordance with its  
11 table of rates, and shall issue to each applicant a receipt  
12 for the amount collected. A society may not incur a  
13 liability other than for the return of an advance premium,  
14 issue any certificate, or pay, allow, offer, or promise to  
15 pay or allow any benefit to a person until:

16 (a) actual applications for benefits have been secured,  
17 aggregating at least \$500,000, on not less than 500  
18 applicants, and any necessary evidence of insurability has  
19 been furnished to and approved by the society;

20 (b) at least 10 subordinate lodges have been  
21 established into which the 500 applicants have been  
22 admitted;

23 (c) there has been submitted to the commissioner, under  
24 oath of the president, secretary, or corresponding officer  
25 of the society, a list of the applicants, giving their



1 names, addresses, date each was admitted, name and number of  
 2 the subordinate lodge of which each applicant is a member,  
 3 amount of benefits to be granted, and premiums for benefits;  
 4 and

5 (d) it has been shown to the commissioner, by sworn  
 6 statement of the treasurer or the corresponding officer of  
 7 the society, that at least 500 applicants have each paid in  
 8 cash at least one regular monthly premium. The aggregate  
 9 premiums must amount to at least \$150,000. The advance  
 10 premiums must be held in trust during the period of  
 11 organization. If the society has not qualified for a  
 12 certificate of authority within 1 year, unless extended as  
 13 provided in subsection (3), the premiums must be returned to  
 14 the applicants.

15 (5) The commissioner may in his discretion require and  
 16 examine additional information he considers advisable. Upon  
 17 presentation of satisfactory evidence that the society has  
 18 complied with all the provisions of law, the commissioner  
 19 shall issue a certificate of authority to the society,  
 20 authorizing it to transact business pursuant to the  
 21 provisions of [sections 1 through 37]. The certificate of  
 22 authority is prima facie evidence of the existence of the  
 23 society at the date of the certificate. The commissioner  
 24 shall record the certificate of authority.

25 (6) A society authorized to transact business in this

1 state on January 1, 1992, is not required to reincorporate.

2 (7) An unincorporated or voluntary association may not  
 3 transact business in this state as a society. Every  
 4 voluntary association incorporated as provided in section  
 5 629(2), Chapter 286, Laws of 1959, may incur the obligations  
 6 and enjoy the benefits of a society as if it were originally  
 7 incorporated, and the corporation is considered a  
 8 continuation of the original voluntary association. The  
 9 officers must be elected and serve as provided in its  
 10 articles of incorporation. Incorporation of a voluntary  
 11 association does not affect existing suits, claims, or  
 12 contracts.

13 NEW SECTION. Section 11. Amendments to laws. (1) A  
 14 domestic society may amend its laws in accordance with its  
 15 provisions by action of its supreme governing body at any  
 16 regular or special meeting or, if its laws provide, by  
 17 referendum. The referendum may be held in accordance with  
 18 the provisions of its laws by a vote of the voting members  
 19 of the society, by a vote of delegates or representatives of  
 20 voting members, or by a vote of local lodges. A society may  
 21 provide for voting by mail. An amendment submitted by  
 22 referendum may not be adopted unless, within 6 months from  
 23 the date of submission, a majority of the members voting  
 24 have signified their consent to the amendment.

25 (2) An amendment to the laws of a domestic society does

1 not take effect unless approved by the commissioner of  
 2 insurance, who shall approve the amendment if he finds that  
 3 it has been adopted and is not inconsistent with any  
 4 requirement of the laws of this state or with the character,  
 5 objectives, and purposes of the society. Unless the  
 6 commissioner disapproves an amendment within 60 days after  
 7 its filing, the amendment is considered approved. The  
 8 approval or disapproval of the commissioner must be in  
 9 writing and mailed to the secretary or corresponding officer  
 10 of the society at its principal office. If the commissioner  
 11 disapproves an amendment, the reasons for the disapproval  
 12 must be stated in the written notice.

13 (3) Within 90 days of approval by the commissioner, all  
 14 amendments or a synopsis of the amendments must be furnished  
 15 to all members of the society, either by mail or by  
 16 publication in full in the official publication of the  
 17 society.

18 (4) A foreign or alien society authorized to do  
 19 business in this state shall file with the commissioner a  
 20 certified copy of all amendments of or additions to its laws  
 21 within 90 days after their enactment.

22 (5) Printed copies of the laws, as amended, that are  
 23 certified by the secretary or a corresponding officer of the  
 24 society are prima facie evidence of their legal adoption.

25 NEW SECTION. **Section 12.** Institutions. (1) A society

1 may create, maintain, and operate, or may establish  
 2 organizations to operate, not-for-profit institutions to  
 3 further the purposes permitted by [section 5]. The  
 4 institutions may furnish services free or at a reasonable  
 5 charge. Any real or personal property owned, held, or leased  
 6 by the society for these purposes must be reported in every  
 7 annual statement but may not be allowed as an admitted asset  
 8 of the society.

9 (2) A society may not own or operate funeral homes or  
 10 undertaking establishments.

11 NEW SECTION. **Section 13.** Reinsurance. (1) A domestic  
 12 society may, by a reinsurance agreement, cede any individual  
 13 risk or risks in whole or in part to an insurer, other than  
 14 another fraternal benefit society, having the power to make  
 15 the reinsurance and authorized to do business in this state  
 16 or, if not authorized to do business in this state, an  
 17 insurer that is approved by the commissioner of insurance. A  
 18 society may not reinsure substantially all of its insurance  
 19 in force without the written permission of the commissioner.  
 20 A society may take credit for the reserves on the ceded  
 21 risks to the extent reinsured. A credit may not be allowed  
 22 as an admitted asset or as a deduction from liability to a  
 23 ceding society for reinsurance made, ceded, renewed, or  
 24 otherwise becoming effective on or after July 1, 1992,  
 25 unless the reinsurance is payable by the assuming insurer on

1 the basis of the liability of the ceding society under the  
2 contract or contracts reinsured without diminution because  
3 of the insolvency of the ceding society.

4 (2) Notwithstanding the limitation in subsection (1), a  
5 society may reinsure the risks of another society in a  
6 consolidation or merger approved by the commissioner under  
7 [section 14].

8 NEW SECTION. **Section 14.** Consolidations and mergers.

9 (1) A domestic society may consolidate or merge with any  
10 other society by complying with the provisions of this  
11 section. The consolidated or merged society shall file with  
12 the commissioner of insurance:

13 (a) a certified copy of the written contract containing  
14 in full the terms and conditions of the consolidation or  
15 merger;

16 (b) a sworn statement by the president and secretary or  
17 corresponding officers of each society showing the financial  
18 condition of each society on a date fixed by the  
19 commissioner, but not earlier than December 31 preceding the  
20 date of the contract;

21 (c) a certificate of the officers of each society,  
22 verified by their respective oaths, that the consolidation  
23 or merger has been approved by a two-thirds vote of the  
24 supreme governing body of each society, held at a regular or  
25 special meeting of each body or, if the society's laws

1 permit, by mail; and

2 (d) evidence that at least 60 days prior to the action  
3 of the supreme governing body of each society, the text of  
4 the contract was furnished to all members of each society,  
5 either by mail or by publication in full in the official  
6 publication of each society.

7 (2) If the commissioner finds that the contract  
8 containing the terms and conditions of the proposed  
9 consolidation or merger is in conformity with this section,  
10 that the financial statements are correct, and that the  
11 consolidation or merger is just and equitable to the members  
12 of each society, the commissioner shall approve the contract  
13 and issue a certificate approving the contract.

14 (3) Upon approval, the contract is in full force and  
15 effect unless a society that is a party to the contract is  
16 incorporated under the laws of any other state, district,  
17 territory, province, or country. In that event, the  
18 consolidation or merger is not effective until it is  
19 approved as provided by the laws of that state, district,  
20 territory, province, or country and a certificate of  
21 approval has been filed with the commissioner of insurance  
22 of this state.

23 (4) When the consolidation or merger becomes effective,  
24 all the rights, franchises, and interests of the  
25 consolidated or merged societies in and to every type of

1 property, real, personal, or mixed, and things in action  
 2 pertaining to the property are vested in the society  
 3 resulting from or remaining after the consolidation or  
 4 merger without any other instrument, except that conveyances  
 5 of real property may be evidenced by deeds. The title to any  
 6 real property or interest in real property vested under the  
 7 laws of this state in any of the societies consolidated or  
 8 merged may not revert or be impaired by reason of the  
 9 consolidation or merger, but the title vests in the society  
 10 resulting from or remaining after the consolidation or  
 11 merger.

12 (5) The affidavit of any officer of the society or of  
 13 anyone authorized by the society to mail a notice or  
 14 document, stating that the notice or document has been  
 15 addressed and mailed, is prima facie evidence that the  
 16 notice or document has been furnished to the addressees.

17 NEW SECTION. Section 15. Conversion of a society into  
 18 a mutual life insurance company. A domestic society may be  
 19 converted and licensed as a mutual life insurance company by  
 20 compliance with all the applicable requirements of Title 33  
 21 if the plan of conversion has been approved by the  
 22 commissioner of insurance. The board of directors shall  
 23 prepare a written plan of conversion that sets forth in full  
 24 the terms and conditions of conversion. An affirmative vote  
 25 of two-thirds of all members of the supreme governing body

1 at a regular or special meeting is necessary for the  
 2 approval of the plan. A conversion may not take effect  
 3 unless approved by the commissioner, who may approve the  
 4 conversion if he finds that the proposed change is in  
 5 conformity with the requirements of law and not prejudicial  
 6 to the certificate holders of the society.

7 NEW SECTION. Section 16. Benefits. (1) A society may  
 8 provide the following contractual benefits in any form:

- 9 (a) death benefits;
- 10 (b) endowment benefits;
- 11 (c) annuity benefits;
- 12 (d) temporary or permanent disability benefits;
- 13 (e) hospital, medical, or nursing benefits;
- 14 (f) monument or tombstone benefits to the memory of  
 15 deceased members; and

16 (g) other benefits authorized for life insurers that  
 17 are not inconsistent with [sections 1 through 37].

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

24 NEW SECTION. Section 17. Beneficiaries. (1) The owner  
 25 of a benefit contract may change the beneficiary or

1 beneficiaries in accordance with the laws or rules of the  
 2 society unless the owner waives this right by specifically  
 3 requesting in writing that the beneficiary designation be  
 4 irrevocable. A society may, through its laws or rules, limit  
 5 the scope of beneficiary designations and shall provide that  
 6 a revocable beneficiary may not have or obtain a vested  
 7 interest in the proceeds of a certificate until the  
 8 certificate becomes due and payable under the provisions of  
 9 the benefit contract.

10 (2) A society may make provision for the payment of  
 11 funeral benefits of up to \$500 under a certificate due to a  
 12 person entitled to payment for the burial of a member.

13 (3) If, at the death of any person insured under a  
 14 benefit contract, there is no lawful beneficiary to whom the  
 15 proceeds are payable, the amount of the benefit, except to  
 16 the extent that funeral benefits may be paid as provided in  
 17 subsection (2), is payable to the estate of the deceased. If  
 18 the owner of the certificate is a person other than the  
 19 insured, the proceeds are payable to the owner.

20 NEW SECTION. **Section 18. Benefits not attachable.**  
 21 Money or other benefits, charity, relief, or aid to be paid,  
 22 provided, or rendered by a society is not liable to  
 23 attachment, garnishment, or other process and may not be  
 24 seized, taken, appropriated, or applied by any legal or  
 25 equitable process or operation of law to pay any debt or

1 liability of a member, a beneficiary, or any other person  
 2 who may have a right to the benefit, either before or after  
 3 payment by the society.

4 NEW SECTION. **Section 19. Benefit contract.** (1) A  
 5 society authorized to do business in this state shall issue  
 6 to the owner of a benefit contract a certificate specifying  
 7 the amount of benefits provided. The certificate must state  
 8 that the certificate, together with any attached riders or  
 9 endorsements, the laws of the society, the application for  
 10 membership, the application for insurance and declaration of  
 11 insurability, if any, signed by the applicant, and all  
 12 amendments to each, constitutes the benefit contract, as of  
 13 the date of issuance, between the society and the owner. A  
 14 copy of the application for insurance and declaration of  
 15 insurability, if any, must be endorsed upon or attached to  
 16 the certificate. All statements on the application must be  
 17 representations and not warranties. Any waiver of this  
 18 provision is void.

19 (2) Any changes, additions, or amendments to the laws  
 20 of the society made or enacted after the issuance of the  
 21 certificate bind the owner and the beneficiaries and control  
 22 the benefit contract in all respects as if the changes,  
 23 additions, or amendments were in force at the time of the  
 24 application for insurance. However, a change, addition, or  
 25 amendment does not destroy or diminish benefits that the

1 society contracted to give the owner as of the date of  
2 issuance.

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

9 (4) A society shall provide in its laws that if its  
10 reserves for one or more classes of certificates become  
11 impaired, its board of directors or corresponding body may  
12 require that the owner of a certificate pay to the society  
13 the amount of the owner's equitable proportion of the  
14 deficiency as ascertained by its board and that if the  
15 payment is not made either:

16 (a) it is an indebtedness against the certificate and  
17 draws interest not to exceed the rate specified for  
18 certificate loans under the certificates; or

19 (b) in lieu of or in combination with the provisions of  
20 subsection (4)(a), the owner of the certificate may accept a  
21 proportionate reduction in benefits under the certificate.

22 (5) The society may specify the manner of election and  
23 which alternative under subsection (4) is to be presumed if  
24 no election is made.

25 (6) Copies of any of the documents mentioned in this

1 section, certified by the secretary or corresponding officer  
2 of the society, must be received in evidence concerning the  
3 terms and conditions of the documents.

4 (7) A certificate may not be delivered or issued for  
5 delivery in this state unless a copy of the form has been  
6 filed with the commissioner of insurance in the manner  
7 provided for policies issued by life and disability insurers  
8 in this state. Certificates issued prior to 1 year after  
9 July 1, 1992, must conform to the requirements provided by  
10 the laws applicable immediately prior to July 1, 1992. A  
11 life, disability, or annuity certificate issued on or after  
12 1 year from July 1, 1992, must meet the standard contract  
13 provision requirements not inconsistent with [sections 1  
14 through 37] for policies issued by life and disability  
15 insurers in this state, except that a society may provide in  
16 its certificates for a grace period of 1 month for payment  
17 of premiums. The certificate must contain a provision  
18 stating the amount of premiums payable under the certificate  
19 and a provision reciting or setting forth the substance of  
20 any sections of the society's laws or rules in force at the  
21 time of issuance of the certificate that, if violated, will  
22 result in the termination or reduction of benefits payable  
23 under the certificate. If the laws of the society provide  
24 for the expulsion or suspension of a member, the certificate  
25 must contain a provision that a member expelled or

1 suspended, except for nonpayment of a premium or within the  
2 contestable period for material misrepresentation in the  
3 application for membership or insurance, has the privilege  
4 of maintaining the certificate in force by continuing  
5 payment of the required premium.

6 (8) Benefit contracts issued on the lives of persons  
7 below the society's minimum age for adult membership may  
8 provide for transfer of control of ownership to the insured  
9 at an age specified in the certificate. A society may  
10 require approval of an application for membership in order  
11 to effect this transfer, and it may provide in all other  
12 respects for the regulation, government, and control of the  
13 certificates and all rights, obligations, and liabilities  
14 incident to and connected with the transfer. Ownership  
15 rights prior to the transfer must be specified in the  
16 certificate.

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

19 NEW SECTION. Section 20. Nonforfeiture benefits, cash  
20 surrender values, certificate loans, and other options. For  
21 certificates issued prior to 1 year after July 1, 1992, the  
22 value of every paid-up nonforfeiture benefit and the amount  
23 of any cash surrender value, loan, or other option granted  
24 must comply with the provisions of law applicable  
25 immediately prior to July 1, 1992.

1 NEW SECTION. Section 21. Investments. (1) A society  
2 may invest its funds only in investments authorized by the  
3 laws of this state for the investment of assets of life  
4 insurers. A foreign or alien society that is permitted or  
5 seeking to do business in this state and that invests its  
6 funds in accordance with the laws of the state, district,  
7 territory, province, or country where it is incorporated  
8 meets the requirements of this section for the investment of  
9 funds.

10 (2) Every paid-up nonforfeiture benefit and the amount  
11 of any cash surrender value, loan, or other option granted  
12 in certificates issued on or after 1 year from July 1, 1992,  
13 for which reserves are computed on the commissioner of  
14 insurance's 1941 standard ordinary mortality table, the  
15 commissioner's 1941 standard industrial mortality table, the  
16 commissioner's 1958 standard ordinary mortality table, the  
17 commissioner's 1980 standard ordinary mortality table, or  
18 any more recent table made applicable to life insurers may  
19 not be less than the corresponding amount applicable to life  
20 insurers issuing policies containing similar benefits based  
21 upon the tables.

22 NEW SECTION. Section 22. Funds. (1) All assets must be  
23 held, invested, and disbursed for the use and benefit of the  
24 society, and a member or beneficiary may not have or acquire  
25 individual rights in assets or become entitled to any

1 apportionment on the surrender of any part of the assets  
2 except as provided in the benefit contract.

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

6 (3) Pursuant to a resolution of its supreme governing  
7 body, a society may establish and operate one or more  
8 separate accounts and issue contracts on a variable basis,  
9 subject to the provisions of law regulating life insurers  
10 establishing similar accounts and issuing similar contracts.  
11 To the extent the society considers it necessary in order to  
12 comply with any applicable federal or state laws or any  
13 rules issued under those laws, the society may adopt special  
14 procedures for administering a separate account and may, for  
15 persons having beneficial interests in a separate account,  
16 provide special voting and other rights, including without  
17 limitation special rights and procedures relating to  
18 investment policy, investment advisory services, selection  
19 of certified public accountants, and selection of a  
20 committee to manage the business and affairs of the account.  
21 A society may issue contracts on a variable basis to which  
22 the provisions of [section 19(2) and (4)] do not apply.

23 NEW SECTION. Section 23. Taxation. A society organized  
24 or licensed under [sections 1 through 37] is a charitable  
25 and benevolent institution, and all of its funds are exempt

1 from all state, county, district, municipal, and school  
2 taxes other than taxes on real estate and office equipment.

3 NEW SECTION. Section 24. Valuation. (1) Standards of  
4 valuation for certificates issued prior to 1 year after July  
5 1, 1992, must be those provided by the laws applicable  
6 immediately prior to July 1, 1992.

7 (2) (a) The minimum standards of valuation for  
8 certificates issued on or after 1 year from July 1, 1992,  
9 must be based on the following tables:

10 (i) for certificates of life insurance--the  
11 commissioner of insurance's 1941 standard ordinary mortality  
12 table, the commissioner's 1941 standard industrial mortality  
13 table, the commissioner's 1958 standard ordinary mortality  
14 table, the commissioner's 1980 standard ordinary mortality  
15 table, or any more recent table made applicable to life  
16 insurers;

17 (ii) for annuity and pure endowment certificates, for  
18 total and permanent disability benefits, for accidental  
19 death benefits and for noncancelable accident and health  
20 benefits--the tables authorized for use by life insurers in  
21 this state.

22 (b) All of the certificates must be valued under  
23 valuation methods and standards, including interest  
24 assumptions, that are in accordance with the laws of this  
25 state applicable to life insurers that issue policies



1 containing similar benefits.

2 (3) The commissioner may accept other standards for  
3 valuation if he finds that the reserves produced by the  
4 valuation will not be less in the aggregate than reserves  
5 computed in accordance with the minimum valuation standard  
6 prescribed in this section. The commissioner may vary the  
7 standards of mortality applicable to all benefit contracts  
8 on substandard lives or other extrahazardous lives by a  
9 society authorized to do business in this state.

10 (4) A society, with the consent of the commissioner of  
11 insurance of the state of domicile of the society and under  
12 conditions, if any, that the commissioner may impose, may  
13 establish and maintain reserves on its certificates in  
14 excess of required reserves, but the contractual rights of a  
15 benefit member may not be affected by the excess reserves.

16 NEW SECTION. Section 25. Reports -- fee. Reports must  
17 be filed in accordance with the provisions of this section.

18 (1) On or before March 1 of each year, unless for cause  
19 shown the time has been extended by the commissioner of  
20 insurance, a society that transacts business in this state  
21 shall file with the commissioner of insurance a statement of  
22 its financial condition, transactions, and affairs for the  
23 preceding calendar year and pay a filing fee of \$25. The  
24 statement must be in the general form and context approved  
25 by the national association of insurance commissioners for

1 fraternal benefit societies and as supplemented by  
2 additional information required by the commissioner.

3 (2) As part of the annual statement, each society  
4 shall, on or before March 1, file with the commissioner a  
5 valuation of its certificates in force on the preceding  
6 December 31. The commissioner may, for cause shown, extend  
7 for not more than 2 calendar months the time for filing the  
8 valuation. The valuation must be done in accordance with the  
9 standards specified in [section 24]. The valuation and  
10 underlying data must be certified by a qualified actuary or,  
11 at the expense of the society, verified by the actuary of  
12 the department of insurance of the state of domicile of the  
13 society.

14 (3) A society that fails to file the annual statement  
15 in the form and within the time provided by this section  
16 shall forfeit \$100 for each day during which the failure  
17 continues, and, upon notice by the commissioner to that  
18 effect, its authority to do business in this state ceases  
19 while the default continues.

20 NEW SECTION. Section 26. Annual certificate -- fees.

21 (1) A society may not insure a risk in this state unless it  
22 holds a certificate of authority issued to it by the  
23 commissioner of insurance.

24 (2) A society's certificate of authority continues in  
25 force as long as the society is entitled to it under

1 [sections 1 through 37] and until suspended, revoked, or  
 2 otherwise terminated. However, continuance of the  
 3 certificate by the society is conditioned upon payment  
 4 before May 15 of each year of a continuation fee of \$10. The  
 5 fee must be deposited by the commissioner of insurance with  
 6 the state treasurer to the credit of the state general fund.

7 (3) If a society does not continue its certificate of  
 8 authority in accordance with subsection (2), its certificate  
 9 of authority expires at midnight on the May 31 following its  
 10 failure to continue it in force. In that case, the  
 11 commissioner shall promptly notify the society of the  
 12 impending expiration of its certificate of authority.

13 (4) The commissioner may reinstate a certificate of  
 14 authority that a society has inadvertently permitted to  
 15 expire, after the society has fully cured all failures that  
 16 resulted in the expiration and upon payment by the society  
 17 of a \$25 fee for reinstatement in addition to the  
 18 continuation fee provided for in subsection (2). If a  
 19 certificate is not reinstated, the commissioner may grant a  
 20 society another certificate of authority only after the  
 21 society files an application for a certificate of authority  
 22 and meets all other requirements for an original certificate  
 23 of authority in this state.

24 (5) The commissioner may amend a certificate of  
 25 authority at any time to conform to changes in a society's

1 charter of insuring powers.

2 (6) A certified copy or duplicate of a certificate of  
 3 authority is prima facie evidence that the society is a  
 4 fraternal benefit society within the meaning of [sections 1  
 5 through 37].

6 NEW SECTION. **Section 27. Examination of societies.** (1)

7 The commissioner of insurance or any person he may appoint  
 8 may examine any domestic, foreign, or alien society  
 9 transacting or applying for admission to transact business  
 10 in this state in the same manner as authorized for  
 11 examination of domestic, foreign, or alien insurers.  
 12 Requirements of notice and an opportunity to respond before  
 13 findings are made public, as provided in the laws regulating  
 14 insurers, are applicable to the examination of societies.

15 (2) The expense of each examination and of each  
 16 valuation, including compensation and actual expenses of  
 17 examiners, must be paid by the society examined or whose  
 18 certificates are valued, upon statements furnished by the  
 19 commissioner.

20 NEW SECTION. **Section 28. Foreign or alien society --**

21 **admission.** (1) A foreign or alien society may not transact  
 22 business in this state without a license issued by the  
 23 commissioner of insurance. A foreign or alien society  
 24 desiring admission to this state shall comply substantially  
 25 with the requirements and limitations of [sections 1 through

1 37] applicable to domestic societies. A society may be  
2 licensed to transact business in this state upon filing with  
3 the commissioner:

- 4 (a) a certified copy of its articles of incorporation;  
5 (b) a copy of its bylaws, certified by its secretary or  
6 corresponding officer;  
7 (c) a written appointment of the commissioner to be the  
8 society's agent, as prescribed in [section 34];  
9 (d) a statement of its business, under oath of its  
10 president and secretary or corresponding officers, in a form  
11 prescribed by the commissioner, verified by an examination  
12 made by the supervising insurance official of its home state  
13 or other state, district, territory, province, or country  
14 satisfactory to the commissioner of this state;  
15 (e) certification from the proper official of its home  
16 state, district, territory, province, or country that the  
17 society is legally incorporated and licensed to transact  
18 business in that jurisdiction;  
19 (f) copies of its certificate forms; and  
20 (g) other information the commissioner considers  
21 necessary.
- 22 (2) A foreign or alien society applying for authority  
23 to transact business in this state must have the  
24 qualifications required of domestic societies organized  
25 under [sections 1 through 37].

1 NEW SECTION. **Section 29.** Injunction -- liquidation --  
2 receivership of domestic society. (1) The commissioner of  
3 insurance shall notify a domestic society of a deficiency or  
4 deficiencies and state in writing the reasons for his  
5 dissatisfaction, whenever the commissioner, upon  
6 investigation, finds that the society:  
7 (a) has exceeded its powers;  
8 (b) has failed to comply with any provision of  
9 [sections 1 through 37];  
10 (c) is not fulfilling its contracts in good faith;  
11 (d) has a membership of less than 400 after an  
12 existence of 1 year or more; or  
13 (e) is conducting business fraudulently or in a manner  
14 hazardous to its members, creditors, the public, or the  
15 business.

16 (2) Whenever a deficiency or deficiencies are found,  
17 the commissioner shall issue to the society a written notice  
18 that requires the deficiency or deficiencies to be  
19 corrected. The society shall within 30 days comply with the  
20 commissioner's request for correction. If the society fails  
21 to comply, the commissioner shall notify the society of the  
22 noncompliance and require the society to show cause by a  
23 stated date why it should not be enjoined from transacting  
24 business until the violation complained of is corrected or  
25 why an action in quo warranto should not be commenced

1 against the society.

2 (3) If the society does not present sufficient reasons  
3 why it should not be enjoined from transacting business or  
4 why the quo warranto action should not be commenced, the  
5 commissioner may present the facts relating to his  
6 determination to the attorney general who shall, if he finds  
7 that the circumstances warrant, commence an action to enjoin  
8 the society from transacting business or an action in quo  
9 warranto.

10 (4) The court shall notify the officers of the society  
11 of a hearing. If after a hearing it appears that the society  
12 should be enjoined or liquidated or that a receiver should  
13 be appointed, the court shall enter the necessary order. A  
14 society enjoined from transacting business may not do  
15 business until:

16 (a) the commissioner finds that the violation  
17 complained of has been corrected;

18 (b) the costs of the action have been paid by the  
19 society if the court finds that the society was in default  
20 as charged;

21 (c) the court has dissolved its injunction; and

22 (d) the commissioner has reinstated the certificate of  
23 authority.

24 (5) If the court orders the society liquidated, it is  
25 enjoined from transacting any further business. The receiver

1 of the society shall proceed at once to take possession of  
2 the books, papers, money, and other assets of the society  
3 and, under the direction of the court, proceed to close the  
4 affairs of the society and distribute its funds to those  
5 entitled to the funds.

6 (6) An action under this section may not be recognized  
7 in any court of this state unless brought by the attorney  
8 general upon request of the commissioner. The court shall  
9 appoint the commissioner as the receiver for a domestic  
10 society.

11 (7) The provisions of this section relating to hearing  
12 by the commissioner, action by the attorney general at the  
13 request of the commissioner, hearing by the court,  
14 injunction, and receivership apply to a society that  
15 voluntarily decides to discontinue business.

16 NEW SECTION. **Section 30.** Suspension, revocation, or  
17 refusal of license of foreign or alien society. (1) The  
18 commissioner of insurance shall notify a foreign or alien  
19 society of a deficiency or deficiencies and state in writing  
20 the reasons for his dissatisfaction, whenever the  
21 commissioner, upon investigation, finds that the society  
22 transacting or applying to transact business in this state:

23 (a) has exceeded its powers;

24 (b) has failed to comply with any of the provisions of  
25 [sections 1 through 37];

1 (c) is not fulfilling its contracts in good faith; or  
 2 (d) is conducting its business fraudulently or in a  
 3 manner hazardous to its members, creditors, or the public.

4 (2) Whenever a deficiency or deficiencies are found,  
 5 the commissioner shall issue to the society a written notice  
 6 that requires the deficiency or deficiencies to be  
 7 corrected. The society shall within 30 days comply with the  
 8 commissioner's request for correction. If the society fails  
 9 to comply, the commissioner shall notify the society of the  
 10 noncompliance and require the society to show cause by a  
 11 stated date why its authority to do business in this state  
 12 should not be suspended, revoked, or refused.

13 (3) If the society does not present sufficient reason  
 14 why its authority to do business in this state should not be  
 15 suspended, revoked, or refused, the commissioner may:

16 (a) suspend or refuse the authority of the society to  
 17 do business in this state until satisfactory evidence is  
 18 furnished to the commissioner that the suspension or refusal  
 19 should be withdrawn; or

20 (b) revoke the authority of the society to do business  
 21 in this state.

22 (4) Nothing in this section may be construed as  
 23 preventing any society from continuing in good faith all  
 24 contracts made in this state during the time the society was  
 25 legally authorized to transact business in this state.

1 NEW SECTION. **Section 31.** Injunction. An application or  
 2 petition for injunction against any domestic, foreign, or  
 3 alien society or lodge of a society may not be recognized in  
 4 any court of this state unless made by the attorney general  
 5 upon request of the commissioner of insurance.

6 NEW SECTION. **Section 32.** Producer licensing. (1) A  
 7 society's insurance producer must be considered to an be  
 8 insurance producer and is subject to the same licensing  
 9 requirements as insurance producers under Title 33, chapter  
 10 17, except that an examination is not required of an  
 11 individual who is licensed in this state as an insurance  
 12 producer for a society as to the kind of insurance to be  
 13 transacted on or before October 1, 1981, and who continues  
 14 to be licensed as an insurance producer.

15 (2) A society doing business in this state may not pay  
 16 to a person who is not a licensed insurance producer of the  
 17 society any commission or other compensation for any  
 18 services in obtaining in this state any new contract of  
 19 life, accident, or health insurance or any new annuity  
 20 contract.

21 NEW SECTION. **Section 33.** Unfair methods of competition  
 22 and unfair or deceptive acts and practices. A society  
 23 authorized to do business in this state and its insurance  
 24 producers are subject to the provisions of [sections 1  
 25 through 37] that relate to unfair or deceptive trade

1 practices. However, nothing in [sections 1 through 37] may  
 2 be construed as applying to or affecting the right of a  
 3 society to determine its eligibility requirements for  
 4 membership or be construed as applying to or affecting the  
 5 offering of benefits exclusively to members or persons  
 6 eligible for membership in the society by a subsidiary  
 7 corporation or affiliated organization of the society.

8 NEW SECTION. Section 34. Commissioner as agent --  
 9 service of process -- procedure -- fee. (1) A society  
 10 authorized to do business in this state shall appoint in  
 11 writing the commissioner of insurance as its agent upon whom  
 12 all lawful process in any action or proceeding against it  
 13 must be served. The society shall agree in writing that any  
 14 lawful process against it that is served on the commissioner  
 15 is of the same legal force and validity as if it had been  
 16 served upon the society. The appointment continues in force  
 17 as long as any liability remains outstanding in this state.  
 18 Copies of the appointment, certified by the commissioner,  
 19 may be admitted in evidence.

20 (2) Service may be made only upon the commissioner or,  
 21 if absent, upon the person in charge of the commissioner's  
 22 office. Service must be made in duplicate and constitutes  
 23 service upon the society. When legal process against a  
 24 society is served upon the commissioner, the commissioner  
 25 shall forward one of the duplicate copies by certified mail

1 to the secretary or corresponding officer of the society.  
 2 The service may not require a society to file its answer,  
 3 pleading, or defense in less than 30 days from the date of  
 4 mailing the copy of the service to the society.

5 (3) Legal process may not be served upon a society  
 6 except in the manner provided in this section.

7 (4) At the time of serving any process upon the  
 8 commissioner, the plaintiff or complainant in the action  
 9 shall pay to the commissioner a fee of \$2.

10 NEW SECTION. Section 35. Review. All decisions and  
 11 findings of the commissioner of insurance made under the  
 12 provisions of [sections 1 through 37] are subject to review  
 13 by the court in accordance with the provisions of 33-1-711.

14 NEW SECTION. Section 36. Penalties. (1) A person who  
 15 makes a false or fraudulent statement in or relating to an  
 16 application for membership or for the purpose of obtaining  
 17 money from a benefit in any society is guilty of a  
 18 misdemeanor.

19 (2) A person who solicits membership for, or in any  
 20 manner assists in procuring membership in, any society not  
 21 authorized to transact business in this state is subject to  
 22 an administrative fine, imposed by the commissioner of  
 23 insurance, of not less than \$25 or more than \$500 for each  
 24 violation.

25 (3) A person convicted of a willful violation of, or

1 neglect or refusal to comply with, any provision of  
2 [sections 1 through 37] for which a penalty is not otherwise  
3 prescribed shall be punished by a fine of not more than  
4 \$1,000 for each violation and not more than \$10,000 for all  
5 related violations.

6 NEW SECTION. Section 37. Exemption of certain  
7 societies. (1) Nothing in [sections 1 through 37] may be  
8 construed to affect or apply to:

9 (a) grand or subordinate lodges of societies, orders,  
10 or associations doing business in this state on July 1,  
11 1992, that provide benefits exclusively through local or  
12 subordinate lodges;

13 (b) (i) orders, societies, or associations that admit  
14 to membership only persons engaged in one or more crafts or  
15 hazardous occupations or in the same or similar lines of  
16 business and that insure only their own members and their  
17 families; and

18 (ii) the ladies' societies or ladies' auxiliaries to  
19 such orders, societies, or associations;

20 (c) domestic societies that limit their membership to  
21 employees of a particular city or town, designated firm,  
22 business house, or corporation and that provide for a death  
23 benefit of not more than \$400 or disability benefits of not  
24 more than \$350 to any person in any 1 year, or both; or

25 (d) domestic societies or associations of a purely

1 religious, charitable, or benevolent description, which  
2 provide for a death benefit of not more than \$400 or for  
3 disability benefits of not more than \$350 to a person in any  
4 1 year, or both.

5 (2) A society or association described in subsections  
6 (1)(c) or (1)(d) that provides for death or disability  
7 benefits for which benefit certificates are issued and a  
8 society or association included in subsection (1)(d) that  
9 has more than 1,000 members are not exempt from the  
10 provisions of [sections 1 through 37].

11 (3) A society that is exempt under this section from  
12 the requirements of [sections 1 through 37], except a  
13 society described in subsection (1)(b), may not give or  
14 allow or promise to give or allow to any person any  
15 compensation for procuring new members.

16 (4) A society that provides for benefits in case of  
17 death or disability resulting solely from accident and that  
18 does not obligate itself to pay natural death or sick  
19 benefits has all of the privileges and is subject to all the  
20 applicable provisions and regulations of [sections 1 through  
21 37] except the provisions of [sections 1 through 37] that  
22 relate to medical examination, valuations of benefit  
23 certificates, and incontestability.

24 (5) The commissioner may require from a society or  
25 association, by examination or otherwise, any information

1 that will enable the commissioner to determine whether the  
2 society or association is exempt from the provisions of  
3 [sections 1 through 37].

4 (6) A society that is exempt under the provisions of  
5 this section is also exempt from all other provisions of the  
6 insurance laws of this state.

7 **Section 38.** Section 31-2-106, MCA, is amended to read:

8 "31-2-106. Exempt property -- bankruptcy proceeding. No  
9 individual may exempt from the property of the estate in any  
10 bankruptcy proceeding the property specified in 11 U.S.C.  
11 522(d). An individual may exempt from the property of the  
12 estate in any bankruptcy proceeding:

13 (1) that property exempt from execution of judgment as  
14 provided in 19-3-105, 19-4-706, 19-5-704, 19-6-705,  
15 19-7-705, 19-8-805, 19-9-1006, 19-10-504, 19-11-612,  
16 19-13-1004, 19-21-212, Title 25, chapter 13, part 6,  
17 33-7-511 [section 18], 33-15-512 through 33-15-514,  
18 35-10-502, 39-51-3105, 39-71-743, 39-73-110, 53-2-607,  
19 53-9-129, Title 70, chapter 32, and 80-2-245;

20 (2) the individual's right to receive unemployment  
21 compensation and unemployment benefits; and

22 (3) the individual's right to receive benefits from or  
23 interest in a private or governmental retirement, pension,  
24 stock bonus, profit-sharing, annuity, or similar plan or  
25 contract on account of illness, disability, death, age, or

1 length of service, excluding that portion of contributions  
2 made by the individual within 1 year before the filing of  
3 the petition in bankruptcy which exceeds 15% of the  
4 individual's gross income for that 1-year period, unless:

5 (a) the plan or contract was established by or under  
6 the auspices of an insider that employed the individual at  
7 the time the individual's rights under the plan or contract  
8 arose;

9 (b) the benefit is paid on account of age or length of  
10 service; and

11 (c) the plan or contract does not qualify under section  
12 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue  
13 Code of 1954 (26 U.S.C. 401(a), 403(b), 408, or 409)."

14 **Section 39.** Section 33-22-1703, MCA, is amended to  
15 read:

16 "33-22-1703. Definitions. As used in this part, the  
17 following definitions apply:

18 (1) "Emergency services" means services provided after  
19 suffering an accidental bodily injury or the sudden onset of  
20 a medical condition manifesting itself by acute symptoms of  
21 sufficient severity (including severe pain) that without  
22 immediate medical attention the subscriber or insured could  
23 reasonably expect that:

24 (a) his health would be in serious jeopardy;

25 (b) his bodily functions would be seriously impaired;



1 or

2 (c) a bodily organ or part would be seriously damaged.

3 (2) "Health benefit plan" means the health insurance  
4 policy or subscriber arrangement between the insured or  
5 subscriber and the health care insurer that defines the  
6 covered services and benefit levels available.

7 (3) "Health care insurer" means:

8 (a) an insurer that provides disability insurance as  
9 defined in 33-1-207;

10 (b) a health service corporation as defined in  
11 33-30-101;

12 (c) a health maintenance organization as defined in  
13 33-31-102;

14 (d) a fraternal benefit society as ~~defined~~ described in  
15 ~~33-7-102~~ [section 1];

16 (e) an administrator as defined in 33-17-102; or

17 (f) any other entity regulated by the commissioner that  
18 provides health coverage.

19 (4) "Health care services" means health care services  
20 or products rendered or sold by a provider within the scope  
21 of the provider's license or legal authorization or services  
22 provided under Title 33, chapter 22, part 7.

23 (5) "Insured" means an individual entitled to  
24 reimbursement for expenses of health care services under a  
25 policy or subscriber contract issued or administered by an

1 insurer.

2 (6) "Preferred provider" means a provider or group of  
3 providers who have contracted to provide specified health  
4 care services.

5 (7) "Preferred provider agreement" means a contract  
6 between or on behalf of a health care insurer and a  
7 preferred provider.

8 (8) "Provider" means an individual or entity licensed  
9 or legally authorized to provide health care services or  
10 services covered within Title 33, chapter 22, part 7.

11 (9) "Subscriber" means a certificate holder or other  
12 person on whose behalf the health care insurer is providing  
13 or paying for health care coverage."

14 NEW SECTION. Section 40. Repealer. Sections 33-7-101,  
15 33-7-102, 33-7-103, 33-7-104, 33-7-111, 33-7-112, 33-7-113,  
16 33-7-114, 33-7-115, 33-7-116, 33-7-201, 33-7-202, 33-7-203,  
17 33-7-204, 33-7-205, 33-7-206, 33-7-207, 33-7-211, 33-7-212,  
18 33-7-213, 33-7-301, 33-7-302, 33-7-303, 33-7-304, 33-7-305,  
19 33-7-401, 33-7-402, 33-7-403, 33-7-404, 33-7-405, 33-7-406,  
20 33-7-407, 33-7-501, 33-7-502, 33-7-503, 33-7-504, 33-7-505,  
21 33-7-506, 33-7-507, 33-7-508, 33-7-509, 33-7-510, 33-7-511,  
22 33-7-512, 33-7-513, 33-7-514, 33-7-515, 33-7-516, 33-7-517,  
23 33-7-518, 33-7-519, 33-7-525, and 33-7-526, MCA, are  
24 repealed.

25 NEW SECTION. Section 41. Severability. If a part of

LC 1438/01

1 [this act] is invalid, all valid parts that are severable  
2 from the invalid part remain in effect. If a part of [this  
3 act] is invalid in one or more of its applications, the part  
4 remains in effect in all valid applications that are  
5 severable from the invalid applications.

6 NEW SECTION. **Section 42.** **Effective date.** [This act] is  
7 effective January 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0651, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill would generally revise the laws relating to fraternal benefits societies.

ASSUMPTIONS:


1. Fees paid by fraternal benefit societies to the Insurance Program in the State Auditor's Office remain the same under this bill.
2. No additional staff or increases in resources will be required by the State Auditor's Office as a result of this bill.


FISCAL IMPACT:

None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None

  
ROD SUNDSTED, BUDGET DIRECTOR      2-9-91  
Office of Budget and Program Planning      DATE

  
DAN W. HARRINGTON, PRIMARY SPONSOR      2/12/91  
Fiscal Note for HB0651, as introduced      DATE  
HB 651

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

1 HOUSE BILL NO. 651  
 2 INTRODUCED BY HARRINGTON  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 5 LAWS RELATING TO FRATERNAL BENEFIT SOCIETIES; AMENDING  
 6 SECTIONS 31-2-106 AND 33-22-1703, MCA; REPEALING SECTIONS  
 7 33-7-101, 33-7-102, 33-7-103, 33-7-104, 33-7-111, 33-7-112,  
 8 33-7-113, 33-7-114, 33-7-115, 33-7-116, 33-7-201, 33-7-202,  
 9 33-7-203, 33-7-204, 33-7-205, 33-7-206, 33-7-207, 33-7-211,  
 10 33-7-212, 33-7-213, 33-7-301, 33-7-302, 33-7-303, 33-7-304,  
 11 33-7-305, 33-7-401, 33-7-402, 33-7-403, 33-7-404, 33-7-405,  
 12 33-7-406, 33-7-407, 33-7-501, 33-7-502, 33-7-503, 33-7-504,  
 13 33-7-505, 33-7-506, 33-7-507, 33-7-508, 33-7-509, 33-7-510,  
 14 33-7-511, 33-7-512, 33-7-513, 33-7-514, 33-7-515, 33-7-516,  
 15 33-7-517, 33-7-518, AND 33-7-519, ~~33-7-525, AND 33-7-526~~  
 16 MCA; AND PROVIDING AN EFFECTIVE DATE."

17  
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 19 NEW SECTION. Section 1. Fraternal benefit societies.  
 20 Any incorporated or unincorporated society, ORDER, OR  
 21 SUPREME LODGE, without capital stock, including a society  
 22 exempted under the provisions of [section 37 38(1)(B)], that  
 23 is conducted solely for the benefit of its members and their  
 24 beneficiaries and not for profit, that is operated on a  
 25 lodge system with ritualistic forms of work, that has a

1 representative form of government, and that provides  
 2 benefits in accordance with [sections 1 through 37 38], is a  
 3 fraternal benefit society.

4 NEW SECTION. Section 2. Lodge system. (1) A society is  
 5 operating on the lodge system if it has a supreme governing  
 6 body and subordinate lodges into which members are elected,  
 7 initiated, or admitted in accordance with its laws, rules,  
 8 and ritual. Subordinate lodges must be required by the laws  
 9 of the society to hold regular meetings at least once a  
 10 month in furtherance of the purposes of the society.

11 (2) A society may organize and operate lodges for  
 12 children under the minimum age for adult membership.  
 13 Membership and initiation in local lodges may not be  
 14 required of children, and children may not have a voice or  
 15 vote in the management of a society.

16 NEW SECTION. Section 3. Representative form of  
 17 government. (1) A society has a representative form of  
 18 government if it has a supreme governing body organized as  
 19 provided in subsection (2) or (3).

20 (2) (a) The supreme governing body may be an assembly  
 21 composed of delegates who meet the criteria of subsection  
 22 (5) and who are elected either by the members directly or at  
 23 intermediate assemblies or conventions of members or their  
 24 representatives, together with other delegates as may be  
 25 prescribed in the society's laws. A society may provide for



1 election of delegates by mail.

2 (b) The delegates elected must be a majority of  
3 delegates and may not have less than a majority of the votes  
4 and not less than the number of votes required to amend the  
5 society's laws. The assembly must be elected and shall meet  
6 at least once every 4 years and shall elect a board of  
7 directors to conduct the business of the society between  
8 meetings of the assembly.

9 (c) Vacancies on the board of directors may be filled  
10 in the manner prescribed by the society's laws.

11 (3) (a) (i) The supreme governing body may be:

12 (A) a board composed of persons who meet the criteria  
13 of subsection (5) and who are elected by the members, either  
14 directly or by their representatives in intermediate  
15 assemblies; and

16 (B) any other persons prescribed in the society's laws.

17 (ii) A society may provide for election of the board by  
18 mail.

19 (b) The term of a board member may not exceed 4 years.  
20 Vacancies on the board may be filled in the manner  
21 prescribed in the society's laws.

22 (c) The persons elected to the board must be a majority  
23 of the board and may not be less than the number of votes  
24 required to amend the society's laws. A person filling an  
25 unexpired term of an elected board member is considered to

1 be an elected board member.

2 (d) The board shall meet at least quarterly to conduct  
3 the business of the society.

4 (4) The officers of the society must be elected either  
5 by the assembly or by the board of directors, either of  
6 which constitutes the supreme governing body.

7 (5) Only benefit members are eligible for election to  
8 the assembly, the board of directors, or an intermediate  
9 assembly.

10 (6) Each voting member shall have one vote. A vote may  
11 not be cast by proxy.

12 **NEW SECTION. Section 4. Definitions.** As used in  
13 [sections 1 through 37 38], unless the context requires  
14 otherwise, the following definitions apply:

15 (1) "Benefit contract" means the agreement for  
16 provision of authorized benefits described in [section 16].

17 (2) "Benefit member" means an adult member who is  
18 designated by the laws or rules of the society to be a  
19 benefit member under a benefit contract.

20 (3) "Certificate" means the document issued as written  
21 evidence of the benefit contract.

22 (4) "Laws" means the society's articles of  
23 incorporation, charter, constitution, and bylaws.

24 (5) "Lodge" means subordinate member units of the  
25 society, known as camps, courts, councils, or branches or by

1 any other designation.

2 (6) "Premiums" means premiums, rates, dues, or other  
3 required contributions that are payable under the  
4 certificate.

5 (7) "Rules" means all rules, regulations, or  
6 resolutions that are adopted by the supreme governing body  
7 or board of directors and that are intended to have general  
8 application to the members of the society.

9 (8) "Society" means a fraternal benefit society  
10 described in [section 1]. The term includes an order or  
11 supreme lodge.

12 NEW SECTION. Section 5. Purposes and powers. (1) A  
13 society shall operate for the benefit of members and their  
14 beneficiaries by:

15 (a) providing benefits as provided in [section 16]; and  
16 (b) providing for one or more social, intellectual,  
17 educational, charitable, benevolent, moral, fraternal,  
18 patriotic, or religious purposes, which may be extended to  
19 others. The purposes may be carried out directly by the  
20 society or indirectly through subsidiary corporations or  
21 affiliated organizations.

22 (2) A society may adopt laws and rules for the  
23 government of the society, the admission of its members, and  
24 the management of its affairs. It may amend laws and rules  
25 and exercise powers necessary and incidental to the

1 objectives and purposes of the society.

2 NEW SECTION. Section 6. Qualification for membership.

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

4 (a) eligibility standards for each class of membership.  
5 However, if benefits are provided on the lives of children,  
6 the minimum age for adult membership must be set at not less  
7 than 15 years of age and not more than 21 years of age.

8 (b) the process for admission to each membership class;  
9 and

10 (c) the rights and privileges of each membership class.  
11 However, only benefit members may vote on the management of  
12 the insurance affairs of the society.

13 (2) A society may admit social members who have no  
14 voice or vote in the management of the insurance affairs of  
15 the society.

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

18 NEW SECTION. Section 7. Location of office -- meetings  
19 -- communication to members -- grievance procedures. (1) The  
20 principal office of a domestic society must be located in  
21 this state. The meetings of its supreme governing body may  
22 be held in any state, district, province, or territory where  
23 the society has at least five subordinate lodges or in a  
24 location determined by the supreme governing body. All  
25 business transacted at meetings is valid. The minutes of the

1 proceedings of the supreme governing body and of the board  
2 of directors must be in English.

3 (2) (a) A society may provide in its laws for an  
4 official publication in which any notice, report, or  
5 statement required by law to be given to members, including  
6 notice of election, may be published. Required reports,  
7 notices, and statements must be printed conspicuously in the  
8 publication. If the records of a society show that two or  
9 more members have the same mailing address, an official  
10 publication mailed to one member is considered to be mailed  
11 to all members at the same address unless a member requests  
12 a separate copy.

13 (b) Not later than June 1 of each year, a synopsis of  
14 the society's annual statement, providing an explanation of  
15 the facts concerning the condition of the society, must be  
16 printed and mailed to each benefit member of the society, or  
17 the synopsis may be published in the society's official  
18 publication.

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

21 NEW SECTION. **Section 8. No personal liability.** (1) The  
22 officers and members of the supreme governing body or any  
23 subordinate body of a society are not personally liable for  
24 any benefits provided by a society.

25 (2) A person may be indemnified and reimbursed by a

1 society for expenses reasonably incurred by and liabilities  
2 imposed upon him in connection with or arising out of an  
3 action, suit, or proceeding (whether civil, criminal,  
4 administrative, or investigative) or threat thereof in which  
5 the person may be involved by reason of the fact that he is  
6 or was a director, officer, employee, or agent of the  
7 society or of a firm, corporation, or organization that he  
8 served in any capacity at the request of the society.

9 (3) (a) A person may not be indemnified or reimbursed  
10 in relation to any matter in an action, suit, or proceeding:

11 (i) in which he is finally found to be guilty of breach  
12 of a duty as a director, officer, employee, or agent of the  
13 society; or

14 (ii) that is the subject of a compromise settlement.

15 (b) A person may be indemnified or reimbursed if he  
16 acted in good faith for a purpose he reasonably believed to  
17 be in, or not opposed to, the best interests of the society  
18 AND, IN A CRIMINAL ACTION OR PROCEEDING, IN ADDITION, HAD NO  
19 REASONABLE CAUSE TO BELIEVE THAT HIS CONDUCT WAS UNLAWFUL.

20 (4) The determination of whether the person's conduct  
21 met the standard required in order to justify  
22 indemnification or reimbursement in relation to any matter  
23 described in subsection (3) may be made only by the supreme  
24 governing body OR BOARD OF DIRECTORS by a majority vote of a  
25 quorum consisting of persons who were not parties to the

1 action, suit, or proceeding or by a court of competent  
 2 jurisdiction. The termination of an action, suit, or  
 3 proceeding by a judgment, order, settlement, or conviction  
 4 or upon a plea of no contest, does not create a conclusive  
 5 presumption that the person did not meet the standard of  
 6 conduct required in order to justify indemnification or  
 7 reimbursement. The right of indemnification or reimbursement  
 8 is not exclusive of other rights to which the person may be  
 9 entitled as a matter of law, and the right inures to the  
 10 benefit of his heirs, executors, and administrators.

11 (5) A director, officer, employee, member, or volunteer  
 12 of a society who serves without compensation may not be held  
 13 liable, and a cause of action may not be brought, for  
 14 damages resulting from the exercise of judgment or  
 15 discretion in connection with the person's duties or  
 16 responsibilities for the society unless the act or omission  
 17 involved willful or wanton misconduct.

18 (6) A society may purchase and maintain liability  
 19 insurance for acts incurred in the course and scope of the  
 20 position for a person who is or was a director, officer,  
 21 employee, or agent of the society or who is or was serving  
 22 at the request of the society as a director, officer,  
 23 employee, or agent of any other firm, corporation, or  
 24 organization.

25 NEW SECTION. **Section 9.** Waiver. The laws of the

1 society may provide that a subordinate body or any of its  
 2 subordinate officers or members may not waive any of the  
 3 provisions of the laws of the society. The provision is  
 4 binding on the society and every member and beneficiary of a  
 5 member.

6 NEW SECTION. **Section 10.** Organization. A domestic  
 7 society organized on or after January 1, 1992, must be  
 8 formed as follows:

9 (1) Ten or more citizens of the United States, a  
 10 majority of whom are residents of this state, who desire to  
 11 form a fraternal benefit society, may make, sign, and  
 12 acknowledge before ~~the commissioner of insurance~~ A NOTARY  
 13 PUBLIC, an application for a charter that states:

14 (a) the proposed corporate name of the society, which  
 15 may not so closely resemble the name of any society or  
 16 insurance company as to be misleading or confusing;

17 (b) the purposes for which it is being formed and the  
 18 mode in which its corporate powers are to be exercised. The  
 19 purposes may not include more liberal powers than are  
 20 granted by [sections 1 through 37 38].

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



1 until the ensuing election at which all officers are elected  
2 by the supreme governing body. The election must be held not  
3 later than 1 year from the date of issuance of the permanent  
4 certificate of authority.

5 (2) The application for a---charter ARTICLES OF  
6 INCORPORATION, certified copies of the society's bylaws and  
7 rules, copies of all proposed forms of certificates,  
8 applications for certificates, and circulars to be issued by  
9 the society, and a bond conditioned upon the return to  
10 applicants of the advanced payments if the organization is  
11 not completed within 1 year must be filed with the  
12 commissioner, who may require further information considered  
13 necessary. The bond, with sureties approved by the  
14 commissioner, must be in an amount, not less than \$300,000  
15 or more than \$1,500,000, required by the commissioner. All  
16 documents filed must be in English. If the purposes of the  
17 society conform to the requirements of [sections 1 through  
18 37 38] and all provisions of law have been complied with,  
19 the commissioner shall certify, retain, and file the  
20 articles of incorporation and furnish to the incorporators a  
21 preliminary certificate of authority authorizing the society  
22 to solicit members.

23 (3) A preliminary certificate of authority granted  
24 under the provisions of this section is not valid after 1  
25 year from its date of issuance or after an extended period,

1 not exceeding 1 year, as may be authorized by the  
2 commissioner upon good cause shown, unless the 500  
3 applicants required under subsection (4) have been secured  
4 and the organization has been completed. The charter and all  
5 other proceedings under the charter are void 1 year from the  
6 date of issuance of the preliminary certificate of authority  
7 or at the expiration of the extended period, unless the  
8 society has completed its organization and received a  
9 certificate of authority to do business.

10 (4) Upon receipt of a preliminary certificate of  
11 authority from the commissioner, the society may solicit  
12 members for the purpose of completing its organization,  
13 shall collect from each applicant the amount of not less  
14 than one regular monthly premium in accordance with its  
15 table of rates, and shall issue to each applicant a receipt  
16 for the amount collected. A society may not incur a  
17 liability other than for the return of an advance premium,  
18 issue any certificate, or pay, allow, offer, or promise to  
19 pay or allow any benefit to a person until:

20 (a) actual applications for benefits have been secured,  
21 aggregating at least \$500,000, on not less than 500  
22 applicants, and any necessary evidence of insurability has  
23 been furnished to and approved by the society;

24 (b) at least 10 subordinate lodges have been  
25 established into which the 500 applicants have been

1 admitted;

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

9 (d) it has been shown to the commissioner, by sworn  
 10 statement of the treasurer or the corresponding officer of  
 11 the society, that at least 500 applicants have each paid in  
 12 cash at least one regular monthly premium. The aggregate  
 13 premiums must amount to at least \$150,000. The advance  
 14 premiums must be held in trust during the period of  
 15 organization. If the society has not qualified for a  
 16 certificate of authority within 1 year, unless extended as  
 17 provided in subsection (3), the premiums must be returned to  
 18 the applicants.

19 (5) The commissioner may in his discretion require and  
 20 examine additional information he considers advisable. Upon  
 21 presentation of satisfactory evidence that the society has  
 22 complied with all the provisions of law, the commissioner  
 23 shall issue a certificate of authority to the society,  
 24 authorizing it to transact business pursuant to the  
 25 provisions of [sections 1 through 37 38]. The certificate of

1 authority is prima facie evidence of the existence of the  
 2 society at the date of the certificate. The commissioner  
 3 shall record the certificate of authority.

4 (6) A society authorized to transact business in this  
 5 state on January 1, 1992, is not required to reincorporate.

6 (7) An unincorporated or voluntary association may not  
 7 transact business in this state as a society. Every  
 8 voluntary association incorporated as provided in section  
 9 629(2), Chapter 286, Laws of 1959, may incur the obligations  
 10 and enjoy the benefits of a society as if it were originally  
 11 incorporated, and the corporation is considered a  
 12 continuation of the original voluntary association. The  
 13 officers must be elected and serve as provided in its  
 14 articles of incorporation. Incorporation of a voluntary  
 15 association does not affect existing suits, claims, or  
 16 contracts.

17 NEW SECTION. **Section 11. Amendments to laws.** (1) A  
 18 domestic society may amend its laws in accordance with ~~its~~  
 19 THE provisions OF ITS LAWS by action of its supreme  
 20 governing body at any regular or special meeting or, if its  
 21 laws provide, by referendum. The referendum may be held in  
 22 accordance with the provisions of its laws by a vote of the  
 23 voting members of the society, by a vote of delegates or  
 24 representatives of voting members, or by a vote of local  
 25 lodges. A society may provide for voting by mail. An

1 amendment submitted by referendum may not be adopted unless,  
2 within 6 months from the date of submission, a majority of  
3 the members voting have signified their consent to the  
4 amendment.

5 (2) An amendment to the laws of a domestic society does  
6 not take effect unless approved by the commissioner of  
7 insurance, who shall approve the amendment if he finds that  
8 it has been adopted and is not inconsistent with any  
9 requirement of the laws of this state or with the character,  
10 objectives, and purposes of the society. Unless the  
11 commissioner disapproves an amendment within 60 days after  
12 its filing, the amendment is considered approved. The  
13 approval or disapproval of the commissioner must be in  
14 writing and mailed to the secretary or corresponding officer  
15 of the society at its principal office. If the commissioner  
16 disapproves an amendment, the reasons for the disapproval  
17 must be stated in the written notice.

18 (3) Within 90 days of approval by the commissioner, all  
19 amendments or a synopsis of the amendments must be furnished  
20 to all members of the society, either by mail or by  
21 publication in full in the official publication of the  
22 society.

23 (4) A foreign or alien society authorized to do  
24 business in this state shall file with the commissioner a  
25 certified copy of all amendments of or additions to its laws

1 within 90 days after their enactment.

2 (5) Printed copies of the laws, as amended, that are  
3 certified by the secretary or a corresponding officer of the  
4 society are prima facie evidence of their legal adoption.

5 NEW SECTION. **Section 12.** Institutions. (1) A society  
6 may create, maintain, and operate, or may establish  
7 organizations to operate, not-for-profit institutions to  
8 further the purposes permitted by [section 5(1)(B)]. The  
9 institutions may furnish services free or at a reasonable  
10 charge. Any real or personal property owned, held, or leased  
11 by the society for these purposes must be reported in every  
12 annual statement but may not be allowed as an admitted asset  
13 of the society.

14 (2) A society may not own or operate funeral homes or  
15 undertaking establishments.

16 NEW SECTION. **Section 13.** Reinsurance. (1) A domestic  
17 society may, by a reinsurance agreement, cede any individual  
18 risk or risks in whole or in part to an insurer, other than  
19 another fraternal benefit society, having the power to make  
20 the reinsurance and authorized to do business in this state  
21 or, if not authorized to do business in this state, an  
22 insurer that is approved by the commissioner of insurance. A  
23 society may not reinsure substantially all of its insurance  
24 in force without the written permission of the commissioner.  
25 A society may take credit for the reserves on the ceded

1 risks to the extent reinsured. A credit may not be allowed  
 2 as an admitted asset or as a deduction from liability to a  
 3 ceding society for reinsurance made, ceded, renewed, or  
 4 otherwise becoming effective on or after July 1, 1992,  
 5 unless the reinsurance is payable by the assuming insurer on  
 6 the basis of the liability of the ceding society under the  
 7 contract or contracts reinsured without diminution because  
 8 of the insolvency of the ceding society.

9 (2) Notwithstanding the limitation in subsection (1), a  
 10 society may reinsure the risks of another society in a  
 11 consolidation or merger approved by the commissioner under  
 12 [section 14].

13 **NEW SECTION. Section 14. Consolidations and mergers.**

14 (1) A domestic society may consolidate or merge with any  
 15 other society by complying with the provisions of this  
 16 section. The consolidated or merged society shall file with  
 17 the commissioner of insurance:

18 (a) a certified copy of the written contract containing  
 19 in full the terms and conditions of the consolidation or  
 20 merger;

21 (b) a sworn statement by the president and secretary or  
 22 corresponding officers of each society showing the financial  
 23 condition of each society on a date fixed by the  
 24 commissioner, but not earlier than December 31 preceding the  
 25 date of the contract;

1 (c) a certificate of the officers of each society,  
 2 verified by their respective oaths, that the consolidation  
 3 or merger has been approved by a two-thirds vote of the  
 4 supreme governing body of each society, held at a regular or  
 5 special meeting of each body or, if the society's laws  
 6 permit, by mail; and

7 (d) evidence that at least 60 days prior to the action  
 8 of the supreme governing body of each society, the text of  
 9 the contract was furnished to all members of each society,  
 10 either by mail or by publication in full in the official  
 11 publication of each society.

12 (2) If the commissioner finds that the contract  
 13 containing the terms and conditions of the proposed  
 14 consolidation or merger is in conformity with this section,  
 15 that the financial statements are correct, and that the  
 16 consolidation or merger is just and equitable to the members  
 17 of each society, the commissioner shall approve the contract  
 18 and issue a certificate approving the contract.

19 (3) Upon approval, the contract is in full force and  
 20 effect unless a society that is a party to the contract is  
 21 incorporated under the laws of any other state, district,  
 22 territory, province, or country. In that event, the  
 23 consolidation or merger is not effective until it is  
 24 approved as provided by the laws of that state, district,  
 25 territory, province, or country and a certificate of

1 approval has been filed with the commissioner of insurance  
2 of this state.

3 (4) When the consolidation or merger becomes effective,  
4 all the rights, franchises, and interests of the  
5 consolidated or merged societies in and to every type of  
6 property, real, personal, or mixed, and things in action  
7 pertaining to the property are vested in the society  
8 resulting from or remaining after the consolidation or  
9 merger without any other instrument, except that conveyances  
10 of real property may be evidenced by deeds. The title to any  
11 real property or interest in real property vested under the  
12 laws of this state in any of the societies consolidated or  
13 merged may not revert or be impaired by reason of the  
14 consolidation or merger, but the title vests in the society  
15 resulting from or remaining after the consolidation or  
16 merger.

17 (5) The affidavit of any officer of the society or of  
18 anyone authorized by the society to mail a notice or  
19 document, stating that the notice or document has been  
20 addressed and mailed, is prima facie evidence that the  
21 notice or document has been furnished to the addressees.

22 NEW SECTION. Section 15. Conversion of a society into  
23 a mutual life insurance company. A domestic society may be  
24 converted and licensed as a mutual life insurance company by  
25 compliance with all the applicable requirements of Title 33

1 if the plan of conversion has been approved by the  
2 commissioner of insurance. The board of directors shall  
3 prepare a written plan of conversion that sets forth in full  
4 the terms and conditions of conversion. An affirmative vote  
5 of two-thirds of all members of the supreme governing body  
6 at a regular or special meeting is necessary for the  
7 approval of the plan. A conversion may not take effect  
8 unless approved by the commissioner, who may approve the  
9 conversion if he finds that the proposed change is in  
10 conformity with the requirements of law and not prejudicial  
11 to the certificate holders of the society.

12 NEW SECTION. Section 16. Benefits. (1) A society may  
13 provide the following contractual benefits in any form:

- 14 (a) death benefits;  
15 (b) endowment benefits;  
16 (c) annuity benefits;  
17 (d) temporary or permanent disability benefits;  
18 (e) hospital, medical, or nursing benefits;  
19 (f) monument or tombstone benefits to the memory of  
20 deceased members; and  
21 (g) other benefits authorized for life insurers that  
22 are not inconsistent with [sections 1 through 37 38].  
23 (2) A society shall specify in its rules those persons  
24 who may be issued or covered by the contractual benefits in  
25 subsection (1), consistent with providing benefits to

1 members and their dependents. A society may provide benefits  
2 on the lives of children under the minimum age for adult  
3 membership upon application of an adult person.

4 NEW SECTION. Section 17. Beneficiaries. (1) The owner  
5 of a benefit contract may change the beneficiary or  
6 beneficiaries in accordance with the laws or rules of the  
7 society unless the owner waives this right by specifically  
8 requesting in writing that the beneficiary designation be  
9 irrevocable. A society may, through its laws or rules, limit  
10 the scope of beneficiary designations and shall provide that  
11 a revocable beneficiary may not have or obtain a vested  
12 interest in the proceeds of a certificate until the  
13 certificate becomes due and payable under the provisions of  
14 the benefit contract.

15 (2) A society may make provision for the payment of  
16 funeral benefits of up to \$500 under a certificate due to a  
17 person EQUITABLY entitled to payment for the burial of a  
18 member.

19 (3) If, at the death of any person insured under a  
20 benefit contract, there is no lawful beneficiary to whom the  
21 proceeds are payable, the amount of the benefit, except to  
22 the extent that funeral benefits may be paid as provided in  
23 subsection (2), is payable to the estate of the deceased. If  
24 the owner of the certificate is a person other than the  
25 insured, the proceeds are payable to the owner.

1 NEW SECTION. Section 18. Benefits not attachable.  
2 Money or other benefits, charity, relief, or aid to be paid,  
3 provided, or rendered by a society is not liable to  
4 attachment, garnishment, or other process and may not be  
5 seized, taken, appropriated, or applied by any legal or  
6 equitable process or operation of law to pay any debt or  
7 liability of a member, a beneficiary, or any other person  
8 who may have a right to the benefit, either before or after  
9 payment by the society.

10 NEW SECTION. Section 19. Benefit contract. (1) A  
11 society authorized to do business in this state shall issue  
12 to the owner of a benefit contract a certificate specifying  
13 the amount of benefits provided. The certificate must state  
14 that the certificate, together with any attached riders or  
15 endorsements, the laws of the society, the application for  
16 membership, the application for insurance and declaration of  
17 insurability, if any, signed by the applicant, and all  
18 amendments to each, constitutes the benefit contract, as of  
19 the date of issuance, between the society and the owner. A  
20 copy of the application for insurance and declaration of  
21 insurability, if any, must be endorsed upon or attached to  
22 the certificate. All statements on the application must be  
23 representations and not warranties. Any waiver of this  
24 provision is void.

25 (2) Any changes, additions, or amendments to the laws

1 of the society made or enacted after the issuance of the  
 2 certificate bind the owner and the beneficiaries and control  
 3 the benefit contract in all respects as if the changes,  
 4 additions, or amendments were in force at the time of the  
 5 application for insurance. However, a change, addition, or  
 6 amendment does not destroy or diminish benefits that the  
 7 society contracted to give the owner as of the date of  
 8 issuance.

9 (3) A person upon whose life a benefit contract is  
 10 issued before attaining the age of majority is bound by the  
 11 terms of the application and certificate and by all the laws  
 12 and rules of the society to the same extent as though the  
 13 age of majority had been attained at the time of  
 14 application.

15 (4) A society shall provide in its laws that if its  
 16 reserves for one or more classes of certificates become  
 17 impaired, its board of directors or corresponding body may  
 18 require that the owner of a certificate pay to the society  
 19 the amount of the owner's equitable proportion of the  
 20 deficiency as ascertained by its board and that if the  
 21 payment is not made either:

22 (a) it is an indebtedness against the certificate and  
 23 draws interest not to exceed the rate specified for  
 24 certificate loans under the certificates; or

25 (b) in lieu of or in combination with the provisions of

1 subsection (4)(a), the owner of the certificate may accept a  
 2 proportionate reduction in benefits under the certificate.

3 (5) The society may specify the manner of election and  
 4 which alternative under subsection (4) is to be presumed if  
 5 no election is made.

6 (6) Copies of any of the documents mentioned in this  
 7 section, certified by the secretary or corresponding officer  
 8 of the society, must be received in evidence concerning the  
 9 terms and conditions of the documents.

10 (7) A certificate may not be delivered or issued for  
 11 delivery in this state unless a copy of the form has been  
 12 filed with the commissioner of insurance in the manner  
 13 provided for policies issued by life and disability insurers  
 14 in this state. Certificates issued prior to ~~1-year-after~~  
 15 July 1, ~~1992~~ 1993, must conform to the requirements provided  
 16 by the laws applicable immediately prior to July 1, 1992. A  
 17 life, disability, or annuity certificate issued on or after  
 18 ~~1-year-from~~ July 1, ~~1992~~ 1993, must meet the standard  
 19 contract provision requirements not inconsistent with  
 20 [sections 1 through 37 ~~38~~] for policies issued by life and  
 21 disability insurers in this state, except that a society may  
 22 provide in its certificates for a grace period of 1 month  
 23 for payment of premiums. The certificate must contain a  
 24 provision stating the amount of premiums payable under the  
 25 certificate and a provision reciting or setting forth the

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

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

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

25 NEW SECTION. **Section 20.** Nonforfeiture benefits, cash

1 surrender values, certificate loans, and other options. (1)  
 2 For certificates issued prior to ~~1-year-after~~ July 1, ~~1992~~  
 3 1993, the value of every paid-up nonforfeiture benefit and  
 4 the amount of any cash surrender value, loan, or other  
 5 option granted must comply with the provisions of law  
 6 applicable immediately prior to July 1, 1992.

7 (2) FOR CERTIFICATES ISSUED ON OR AFTER JULY 1, 1993,  
 8 FOR WHICH RESERVES ARE COMPUTED ON THE COMMISSIONER OF  
 9 INSURANCE'S 1941 STANDARD ORDINARY MORTALITY TABLE, THE  
 10 COMMISSIONER'S 1941 STANDARD INDUSTRIAL MORTALITY TABLE, THE  
 11 COMMISSIONER'S 1958 STANDARD ORDINARY MORTALITY TABLE, THE  
 12 COMMISSIONER'S 1980 STANDARD MORTALITY TABLE, OR ANY MORE  
 13 RECENT TABLE MADE APPLICABLE TO LIFE INSURERS, EVERY PAID-UP  
 14 NONFORFEITURE BENEFIT AND THE AMOUNT OF ANY CASH SURRENDER  
 15 VALUE, LOAN, OR OTHER OPTION GRANTED MAY NOT BE LESS THAN  
 16 THE CORRESPONDING AMOUNT ASCERTAINED IN ACCORDANCE WITH THE  
 17 LAWS OF THIS STATE APPLICABLE TO LIFE INSURERS ISSUING  
 18 POLICIES CONTAINING SIMILAR BENEFITS BASED UPON THE TABLES.

19 NEW SECTION. **Section 21.** Investments. (1) A society  
 20 may invest its funds only in investments authorized by the  
 21 laws of this state for the investment of assets of life  
 22 insurers. A foreign or alien society that is permitted or  
 23 seeking to do business in this state and that invests its  
 24 funds in accordance with the laws of the state, district,  
 25 territory, province, or country where it is incorporated



1 meets the requirements of this section for the investment of  
2 funds.

3 ~~(2) Every paid-up nonforfeiture benefit and the amount  
4 of any cash surrender value, loan, or other option granted  
5 in certificates issued on or after 1 year from July 17, 1992,  
6 for which reserves are computed on the commissioner of  
7 insurance's 1941 standard ordinary mortality table, the  
8 commissioner's 1941 standard industrial mortality table, the  
9 commissioner's 1958 standard ordinary mortality table, or  
10 commissioner's 1986 standard ordinary mortality table, or  
11 any more recent table made applicable to life insurers, may  
12 not be less than the corresponding amount applicable to life  
13 insurers issuing policies containing similar benefits based  
14 upon the tables.~~

15 NEW SECTION. Section 22. Funds. (1) All assets must be  
16 held, invested, and disbursed for the use and benefit of the  
17 society, and a member or beneficiary may not have or acquire  
18 individual rights in assets or become entitled to any  
19 apportionment on the surrender of any part of the assets  
20 except as provided in the benefit contract.

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

24 (3) Pursuant to a resolution of its supreme governing  
25 body, a society may establish and operate one or more

1 separate accounts and issue contracts on a variable basis,  
2 subject to the provisions of law regulating life insurers  
3 establishing similar accounts and issuing similar contracts.  
4 To the extent the society considers it necessary in order to  
5 comply with any applicable federal or state laws or any  
6 rules issued under those laws, the society may adopt special  
7 procedures for administering a separate account and may, for  
8 persons having beneficial interests in a separate account,  
9 provide special voting and other rights, including without  
10 limitation special rights and procedures relating to  
11 investment policy, investment advisory services, selection  
12 of certified public accountants, and selection of a  
13 committee to manage the business and affairs of the account.  
14 A society may issue contracts on a variable basis to which  
15 the provisions of [section 19(2) and (4)] do not apply.

16 NEW SECTION. SECTION 23. SCOPE -- PROVISIONS  
17 APPLICABLE. (1) EXCEPT AS PROVIDED IN SUBSECTION (2),  
18 SOCIETIES ARE GOVERNED BY [SECTIONS 1 THROUGH 38] AND ARE  
19 EXEMPT FROM ALL OTHER PROVISIONS OF THE INSURANCE LAWS OF  
20 THIS STATE, NOT ONLY IN GOVERNMENTAL RELATIONS WITH THE  
21 STATE BUT FOR EVERY OTHER PURPOSE. THE PROVISIONS OF A LAW  
22 ENACTED AFTER JANUARY 1, 1992, DO NOT APPLY TO FRATERNAL  
23 BENEFIT SOCIETIES UNLESS EXPRESSLY MADE APPLICABLE BY THE  
24 PROVISIONS OF THE LAW.

25 (2) IN ADDITION TO THE PROVISIONS OF [SECTIONS 1

1 THROUGH 38], THE PROVISIONS OF CHAPTER 1, PARTS 1 THROUGH 4  
 2 AND 7; 33-2-104; 33-2-107; 33-2-112; CHAPTER 2, PART 12;  
 3 33-3-308; 33-15-502; AND CHAPTERS 17, 18, 20, AND 22 APPLY  
 4 TO FRATERNAL BENEFIT SOCIETIES TO THE EXTENT APPLICABLE AND  
 5 TO THE EXTENT NOT IN CONFLICT WITH THE PROVISIONS OF  
 6 [SECTIONS 1 THROUGH 38] AND THE REASONABLE IMPLICATIONS OF  
 7 [SECTIONS 1 THROUGH 38].

8 NEW SECTION. Section 24. Taxation. A society organized  
 9 or licensed under [sections 1 through 37 38] is a charitable  
 10 and benevolent institution, and all of its funds are exempt  
 11 from all state, county, district, municipal, and school  
 12 taxes other than taxes on real estate and office equipment.

13 NEW SECTION. Section 25. Valuation. (1) Standards of  
 14 valuation for certificates issued prior to ~~1-year-after~~ July  
 15 1, 1992 1993, must be those provided by the laws applicable  
 16 immediately prior to July 1, 1992.

17 (2) (a) The minimum standards of valuation for  
 18 certificates issued on or after ~~1-year--from~~ July 1, 1992  
 19 1993, must be based on the following tables:

20 (i) for certificates of life insurance--the  
 21 commissioner of insurance's 1941 standard ordinary mortality  
 22 table, the commissioner's 1941 standard industrial mortality  
 23 table, the commissioner's 1958 standard ordinary mortality  
 24 table, the commissioner's 1980 standard ordinary mortality  
 25 table, or any more recent table made applicable to life

1 insurers;

2 (ii) for annuity and pure endowment certificates, for  
 3 total and permanent disability benefits, for accidental  
 4 death benefits and for noncancelable accident and health  
 5 benefits--the tables authorized for use by life insurers in  
 6 this state.

7 (b) All of the certificates must be valued under  
 8 valuation methods and standards, including interest  
 9 assumptions, that are in accordance with the laws of this  
 10 state applicable to life insurers that issue policies  
 11 containing similar benefits.

12 (3) The commissioner may accept other standards for  
 13 valuation if he finds that the reserves produced by the  
 14 valuation will not be less in the aggregate than reserves  
 15 computed in accordance with the minimum valuation standard  
 16 prescribed in this section. The commissioner may vary the  
 17 standards of mortality applicable to all benefit contracts  
 18 on substandard lives or other extrahazardous lives by a  
 19 society authorized to do business in this state.

20 (4) A society, with the consent of the commissioner of  
 21 insurance of the state of domicile of the society and under  
 22 conditions, if any, that the commissioner may impose, may  
 23 establish and maintain reserves on its certificates in  
 24 excess of required reserves, but the contractual rights of a  
 25 benefit member may not be affected by the excess reserves.

1       **NEW SECTION. Section 26. Reports -- fee.** Reports must  
2 be filed in accordance with the provisions of this section.

3       (1) On or before March 1 of each year, unless for cause  
4 shown the time has been extended by the commissioner of  
5 insurance, a society that transacts business in this state  
6 shall file with the commissioner of insurance a statement of  
7 its financial condition, transactions, and affairs for the  
8 preceding calendar year and pay a filing fee of \$25. The  
9 statement must be in the general form and context approved  
10 by the national association of insurance commissioners for  
11 fraternal benefit societies and as supplemented by  
12 additional information required by the commissioner.

13       (2) As part of the annual statement, each society  
14 shall, on or before March 1, file with the commissioner a  
15 valuation of its certificates in force on the preceding  
16 December 31. The commissioner may, for cause shown, extend  
17 for not more than 2 calendar months the time for filing the  
18 valuation. The valuation must be done in accordance with the  
19 standards specified in [section 24 25]. The valuation and  
20 underlying data must be certified by a qualified actuary or,  
21 at the expense of the society, verified by the actuary of  
22 the department of insurance of the state of domicile of the  
23 society.

24       (3) A society that fails to file the annual statement  
25 in the form and within the time provided by this section

1 shall forfeit \$100 for each day during which the failure  
2 continues, and, upon notice by the commissioner to that  
3 effect, its authority to do business in this state ceases  
4 while the default continues.

5       **NEW SECTION. Section 27. Annual certificate -- fees.**

6       (1) A society may not insure a risk in this state unless it  
7 holds a certificate of authority issued to it by the  
8 commissioner of insurance.

9       (2) A society's certificate of authority continues in  
10 force as long as the society is entitled to it under  
11 [sections 1 through 37 38] and until suspended, revoked, or  
12 otherwise terminated. However, continuance of the  
13 certificate by the society is conditioned upon payment  
14 before May 15 of each year of a continuation fee of \$10. The  
15 fee must be deposited by the commissioner of insurance with  
16 the state treasurer to the credit of the state general fund.

17       (3) If a society does not continue its certificate of  
18 authority in accordance with subsection (2), its certificate  
19 of authority expires at midnight on the May 31 following its  
20 failure to continue it in force. In that case, the  
21 commissioner shall promptly notify the society of the  
22 impending expiration of its certificate of authority.

23       (4) The commissioner may reinstate a certificate of  
24 authority that a society has inadvertently permitted to  
25 expire, after the society has fully cured all failures that

1 resulted in the expiration and upon payment by the society  
 2 of a \$25 fee for reinstatement in addition to the  
 3 continuation fee provided for in subsection (2). If a  
 4 certificate is not reinstated, the commissioner may grant a  
 5 society another certificate of authority only after the  
 6 society files an application for a certificate of authority  
 7 and meets all other requirements for an original certificate  
 8 of authority in this state.

9 (5) The commissioner may amend a certificate of  
 10 authority at any time to conform to changes in a society's  
 11 charter of insuring powers.

12 (6) A certified copy or duplicate of a certificate of  
 13 authority is prima facie evidence that the society is a  
 14 fraternal benefit society within the meaning of [sections 1  
 15 through 37 38].

16 NEW SECTION. Section 28. Examination of societies. (1)

17 The commissioner of insurance or any person he may appoint  
 18 may examine any domestic, foreign, or alien society  
 19 transacting or applying for admission to transact business  
 20 in this state in the same manner as authorized for  
 21 examination of domestic, foreign, or alien insurers.  
 22 Requirements of notice and an opportunity to respond before  
 23 findings are made public, as provided in the laws regulating  
 24 insurers, are applicable to the examination of societies.

25 (2) The expense of each examination and of each

1 valuation, including compensation and actual expenses of  
 2 examiners, must be paid by the society examined or whose  
 3 certificates are valued, upon statements furnished by the  
 4 commissioner.

5 NEW SECTION. Section 29. Foreign or alien society --

6 admission. (1) A foreign or alien society may not transact  
 7 business in this state without a license issued by the  
 8 commissioner of insurance. A foreign or alien society  
 9 desiring admission to this state shall comply substantially  
 10 with the requirements and limitations of [sections 1 through  
 11 37 38] applicable to domestic societies. A society may be  
 12 licensed to transact business in this state upon filing with  
 13 the commissioner:

14 (a) a certified copy of its articles of incorporation;

15 (b) a copy of its bylaws, certified by its secretary or  
 16 corresponding officer;

17 (c) a written appointment of the commissioner to be the  
 18 society's agent, as prescribed in [section 34 35];

19 (d) a statement of its business, under oath of its  
 20 president and secretary or corresponding officers, in a form  
 21 prescribed by the commissioner, verified by an examination  
 22 made by the supervising insurance official of its home state  
 23 or other state, district, territory, province, or country  
 24 satisfactory to the commissioner of this state;

25 (e) certification from the proper official of its home

1 state, district, territory, province, or country that the  
2 society is legally incorporated and licensed to transact  
3 business in that jurisdiction;

4 (f) copies of its certificate forms; and  
5 (g) other information the commissioner considers  
6 necessary.

7 (2) A foreign or alien society applying for authority  
8 to transact business in this state must have the  
9 qualifications required of domestic societies organized  
10 under [sections 1 through 37 38].

11 **NEW SECTION. Section 30. Injunction -- liquidation --**  
12 **receivership of domestic society.** (1) The commissioner of  
13 insurance shall notify a domestic society of a deficiency or  
14 deficiencies and state in writing the reasons for his  
15 dissatisfaction, whenever the commissioner, upon  
16 investigation, finds that the society:

- 17 (a) has exceeded its powers;
- 18 (b) has failed to comply with any provision of
- 19 [sections 1 through 37 38];
- 20 (c) is not fulfilling its contracts in good faith;
- 21 (d) has a membership of less than 400 after an
- 22 existence of 1 year or more; or
- 23 (e) is conducting business fraudulently or in a manner
- 24 hazardous to its members, creditors, the public, or the
- 25 business.

1 (2) Whenever a deficiency or deficiencies are found,  
2 the commissioner shall issue to the society a written notice  
3 that requires the deficiency or deficiencies to be  
4 corrected. The society shall within 30 days comply with the  
5 commissioner's request for correction. If the society fails  
6 to comply, the commissioner shall notify the society of the  
7 noncompliance and require the society to show cause by a  
8 stated date why it should not be enjoined from transacting  
9 business until the violation complained of is corrected or  
10 why an action in quo warranto should not be commenced  
11 against the society.

12 (3) If the society does not present sufficient reasons  
13 why it should not be enjoined from transacting business or  
14 why the quo warranto action should not be commenced, the  
15 commissioner may present the facts relating to his  
16 determination to the attorney general who shall, if he finds  
17 that the circumstances warrant, commence an action to enjoin  
18 the society from transacting business or an action in quo  
19 warranto.

20 (4) The court shall notify the officers of the society  
21 of a hearing. If after a hearing it appears that the society  
22 should be enjoined or liquidated or that a receiver should  
23 be appointed, the court shall enter the necessary order. A  
24 society enjoined from transacting business may not do  
25 business until:

1 (a) the commissioner finds that the violation  
2 complained of has been corrected;

3 (b) the costs of the action have been paid by the  
4 society if the court finds that the society was in default  
5 as charged;

6 (c) the court has dissolved its injunction; and

7 (d) the commissioner has reinstated the certificate of  
8 authority.

9 (5) If the court orders the society liquidated, it is  
10 enjoined from transacting any further business. The receiver  
11 of the society shall proceed at once to take possession of  
12 the books, papers, money, and other assets of the society  
13 and, under the direction of the court, proceed to close the  
14 affairs of the society and distribute its funds to those  
15 entitled to the funds.

16 (6) An action under this section may not be recognized  
17 in any court of this state unless brought by the attorney  
18 general upon request of the commissioner. The court shall  
19 appoint the commissioner as the receiver for a domestic  
20 society.

21 (7) The provisions of this section relating to hearing  
22 by the commissioner, action by the attorney general at the  
23 request of the commissioner, hearing by the court,  
24 injunction, and receivership apply to a society that  
25 voluntarily decides to discontinue business.

1 NEW SECTION. **Section 31. Suspension, revocation, or**  
2 **refusal of license of foreign or alien society.** (1) The  
3 commissioner of insurance shall notify a foreign or alien  
4 society of a deficiency or deficiencies and state in writing  
5 the reasons for his dissatisfaction, whenever the  
6 commissioner, upon investigation, finds that the society  
7 transacting or applying to transact business in this state:

8 (a) has exceeded its powers;

9 (b) has failed to comply with any of the provisions of  
10 [sections 1 through 37 ~~38~~];

11 (c) is not fulfilling its contracts in good faith; or

12 (d) is conducting its business fraudulently or in a  
13 manner hazardous to its members, creditors, or the public.

14 (2) Whenever a deficiency or deficiencies are found,  
15 the commissioner shall issue to the society a written notice  
16 that requires the deficiency or deficiencies to be  
17 corrected. The society shall within 30 days comply with the  
18 commissioner's request for correction. If the society fails  
19 to comply, the commissioner shall notify the society of the  
20 noncompliance and require the society to show cause by a  
21 stated date why its authority to do business in this state  
22 should not be suspended, revoked, or refused.

23 (3) If the society does not present sufficient reason  
24 why its authority to do business in this state should not be  
25 suspended, revoked, or refused, the commissioner may:

1 (a) suspend or refuse the authority of the society to  
 2 do business in this state until satisfactory evidence is  
 3 furnished to the commissioner that the suspension or refusal  
 4 should be withdrawn; or

5 (b) revoke the authority of the society to do business  
 6 in this state.

7 (4) Nothing in this section may be construed as  
 8 preventing any society from continuing in good faith all  
 9 contracts made in this state during the time the society was  
 10 legally authorized to transact business in this state.

11 NEW SECTION. Section 32. Injunction. An application or  
 12 petition for injunction against any domestic, foreign, or  
 13 alien society or lodge of a society may not be recognized in  
 14 any court of this state unless made by the attorney general  
 15 upon request of the commissioner of insurance.

16 NEW SECTION. Section 33. Producer licensing. (1) A  
 17 society's insurance producer must be considered to an be  
 18 insurance producer and is subject to the same licensing  
 19 requirements as insurance producers under Title 33, chapter  
 20 17, except that an examination is not required of an  
 21 individual who is licensed in this state as an insurance  
 22 producer for a society as to the kind of insurance to be  
 23 transacted on or before October 1, 1981, and who continues  
 24 to be licensed as an insurance producer.

25 (2) A society doing business in this state may not pay

1 to a person who is not a licensed insurance producer of the  
 2 society any commission or other compensation for any  
 3 services in obtaining in this state any new contract of  
 4 life, accident, or health insurance or any new annuity  
 5 contract.

6 NEW SECTION. Section 34. Unfair methods of competition  
 7 and unfair or deceptive acts and practices. A society  
 8 authorized to do business in this state and its insurance  
 9 producers are subject to the provisions of ~~{sections--i~~  
 10 ~~through--37}~~ CHAPTER 18 that relate to unfair or deceptive  
 11 trade practices. However, nothing in ~~{sections-i-through-37}~~  
 12 CHAPTER 18 may be construed as applying to or affecting the  
 13 right of a society to determine its eligibility requirements  
 14 for membership or be construed as applying to or affecting  
 15 the offering of benefits exclusively to members or persons  
 16 eligible for membership in the society by a subsidiary  
 17 corporation or affiliated organization of the society.

18 NEW SECTION. Section 35. Commissioner as agent --  
 19 service of process -- procedure -- fee. (1) A society  
 20 authorized to do business in this state shall appoint in  
 21 writing the commissioner of insurance as its agent upon whom  
 22 all lawful process in any action or proceeding against it  
 23 must be served. The society shall agree in writing that any  
 24 lawful process against it that is served on the commissioner  
 25 is of the same legal force and validity as if it had been

1 served upon the society. The appointment continues in force  
 2 as long as any liability remains outstanding in this state.  
 3 Copies of the appointment, certified by the commissioner,  
 4 may be admitted in evidence.

5 (2) Service may be made only upon the commissioner or,  
 6 if absent, upon the person in charge of the commissioner's  
 7 office. Service must be made in duplicate and constitutes  
 8 service upon the society. When legal process against a  
 9 society is served upon the commissioner, the commissioner  
 10 shall forward one of the duplicate copies by certified mail  
 11 to the secretary or corresponding officer of the society.  
 12 The service may not require a society to file its answer,  
 13 pleading, or defense in less than 30 days from the date of  
 14 mailing the copy of the service to the society.

15 (3) Legal process may not be served upon a society  
 16 except in the manner provided in this section.

17 (4) At the time of serving any process upon the  
 18 commissioner, the plaintiff or complainant in the action  
 19 shall pay to the commissioner a fee of \$2.

20 NEW SECTION. Section 36. Review. All decisions and  
 21 findings of the commissioner of insurance made under the  
 22 provisions of [sections 1 through 37 38] are subject to  
 23 review by the court in accordance with the provisions of  
 24 33-1-711.

25 NEW SECTION. Section 37. Penalties. (1) A person who

1 makes a false or fraudulent statement in or relating to an  
 2 application for membership or for the purpose of obtaining  
 3 money from a benefit in any society is guilty of a  
 4 misdemeanor.

5 (2) A person who solicits membership for, or in any  
 6 manner assists in procuring membership in, any society not  
 7 authorized to transact business in this state is subject to  
 8 an administrative fine, imposed by the commissioner of  
 9 insurance, of not less than \$25 or more than \$500 for each  
 10 violation.

11 (3) A person convicted of a willful violation of, or  
 12 neglect or refusal to comply with, any provision of  
 13 [sections 1 through 37 38] for which a penalty is not  
 14 otherwise prescribed shall be punished by a fine of not more  
 15 than \$1,000 for each violation and not more than \$10,000 for  
 16 all related violations.

17 NEW SECTION. Section 38. Exemption of certain  
 18 societies. (1) Nothing in [sections 1 through 37 38] may be  
 19 construed to affect or apply to:

20 (a) grand or subordinate lodges of societies, orders,  
 21 or associations doing business in this state on July 1,  
 22 1992, that provide benefits exclusively through local or  
 23 subordinate lodges;

24 (b) (i) orders, societies, or associations that admit  
 25 to membership only persons engaged in one or more crafts or



1 hazardous occupations or in the same or similar lines of  
 2 business and that insure only their own members and their  
 3 families; and

4 (ii) the ladies' societies or ladies' auxiliaries to  
 5 such orders, societies, or associations;

6 (c) domestic societies that limit their membership to  
 7 employees of a particular city or town, designated firm,  
 8 business house, or corporation and that provide for a death  
 9 benefit of not more than \$400 or disability benefits of not  
 10 more than \$350 to any person in any 1 year, or both; or

11 (d) domestic societies or associations of a purely  
 12 religious, charitable, or benevolent description, which  
 13 provide for a death benefit of not more than \$400 or for  
 14 disability benefits of not more than \$350 to a person in any  
 15 1 year, or both.

16 (2) A society or association described in subsections  
 17 (1)(c) or (1)(d) that provides for death or disability  
 18 benefits for which benefit certificates are issued and a  
 19 society or association included in subsection (1)(d) that  
 20 has more than 1,000 members are not exempt from the  
 21 provisions of [sections 1 through 37 38].

22 (3) A society that is exempt under this section from  
 23 the requirements of [sections 1 through 37 38], except a  
 24 society described in subsection (1)(b), may not give or  
 25 allow or promise to give or allow to any person any

1 compensation for procuring new members.

2 (4) A society that provides for benefits in case of  
 3 death or disability resulting solely from accident and that  
 4 does not obligate itself to pay natural death or sick  
 5 benefits has all of the privileges and is subject to all the  
 6 applicable provisions and regulations of [sections 1 through  
 7 37 38] except the provisions of [sections 1 through 37 38]  
 8 that relate to medical examination, valuations of benefit  
 9 certificates, and incontestability.

10 (5) The commissioner may require from a society or  
 11 association, by examination or otherwise, any information  
 12 that will enable the commissioner to determine whether the  
 13 society or association is exempt from the provisions of  
 14 [sections 1 through 37 38].

15 (6) A society that is exempt under the provisions of  
 16 this section is also exempt from all other provisions of the  
 17 insurance laws of this state.

18 **Section 39.** Section 31-2-106, MCA, is amended to read:

19 **\*31-2-106. Exempt property -- bankruptcy proceeding.** No  
 20 individual may exempt from the property of the estate in any  
 21 bankruptcy proceeding the property specified in 11 U.S.C.  
 22 522(d). An individual may exempt from the property of the  
 23 estate in any bankruptcy proceeding:

24 (1) that property exempt from execution of judgment as  
 25 provided in 19-3-105, 19-4-706, 19-5-704, 19-6-705,

1 19-7-705, 19-8-805, 19-9-1006, 19-10-504, 19-11-612,  
2 19-13-1004, 19-21-212, Title 25, chapter 13, part 6,  
3 33-7-511 [section 18], 33-15-512 through 33-15-514,  
4 35-10-502, 39-51-3105, 39-71-743, 39-73-110, 53-2-607,  
5 53-9-129, Title 70, chapter 32, and 80-2-245;

6 (2) the individual's right to receive unemployment  
7 compensation and unemployment benefits; and

8 (3) the individual's right to receive benefits from or  
9 interest in a private or governmental retirement, pension,  
10 stock bonus, profit-sharing, annuity, or similar plan or  
11 contract on account of illness, disability, death, age, or  
12 length of service, excluding that portion of contributions  
13 made by the individual within 1 year before the filing of  
14 the petition in bankruptcy which exceeds 15% of the  
15 individual's gross income for that 1-year period, unless:

16 (a) the plan or contract was established by or under  
17 the auspices of an insider that employed the individual at  
18 the time the individual's rights under the plan or contract  
19 arose;

20 (b) the benefit is paid on account of age or length of  
21 service; and

22 (c) the plan or contract does not qualify under section  
23 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue  
24 Code of 1954 (26 U.S.C. 401(a), 403(b), 408, or 409)."

25 **Section 40.** Section 33-22-1703, MCA, is amended to

1 read:

2 "33-22-1703. Definitions. As used in this part, the  
3 following definitions apply:

4 (1) "Emergency services" means services provided after  
5 suffering an accidental bodily injury or the sudden onset of  
6 a medical condition manifesting itself by acute symptoms of  
7 sufficient severity (including severe pain) that without  
8 immediate medical attention the subscriber or insured could  
9 reasonably expect that:

10 (a) his health would be in serious jeopardy;

11 (b) his bodily functions would be seriously impaired;

12 or

13 (c) a bodily organ or part would be seriously damaged.

14 (2) "Health benefit plan" means the health insurance  
15 policy or subscriber arrangement between the insured or  
16 subscriber and the health care insurer that defines the  
17 covered services and benefit levels available.

18 (3) "Health care insurer" means:

19 (a) an insurer that provides disability insurance as  
20 defined in 33-1-207;

21 (b) a health service corporation as defined in  
22 33-30-101;

23 (c) a health maintenance organization as defined in  
24 33-31-102;

25 (d) a fraternal benefit society as defined described in

1 ~~33-7-102~~ [section 1];

2 (e) an administrator as defined in 33-17-102; or

3 (f) any other entity regulated by the commissioner that  
4 provides health coverage.

5 (4) "Health care services" means health care services  
6 or products rendered or sold by a provider within the scope  
7 of the provider's license or legal authorization or services  
8 provided under Title 33, chapter 22, part 7.

9 (5) "Insured" means an individual entitled to  
10 reimbursement for expenses of health care services under a  
11 policy or subscriber contract issued or administered by an  
12 insurer.

13 (6) "Preferred provider" means a provider or group of  
14 providers who have contracted to provide specified health  
15 care services.

16 (7) "Preferred provider agreement" means a contract  
17 between or on behalf of a health care insurer and a  
18 preferred provider.

19 (8) "Provider" means an individual or entity licensed  
20 or legally authorized to provide health care services or  
21 services covered within Title 33, chapter 22, part 7.

22 (9) "Subscriber" means a certificate holder or other  
23 person on whose behalf the health care insurer is providing  
24 or paying for health care coverage."

25 NEW SECTION. Section 41. Repealer. Sections 33-7-101,

1 33-7-102, 33-7-103, 33-7-104, 33-7-111, 33-7-112, 33-7-113,  
2 33-7-114, 33-7-115, 33-7-116, 33-7-201, 33-7-202, 33-7-203,  
3 33-7-204, 33-7-205, 33-7-206, 33-7-207, 33-7-211, 33-7-212,  
4 33-7-213, 33-7-301, 33-7-302, 33-7-303, 33-7-304, 33-7-305,  
5 33-7-401, 33-7-402, 33-7-403, 33-7-404, 33-7-405, 33-7-406,  
6 33-7-407, 33-7-501, 33-7-502, 33-7-503, 33-7-504, 33-7-505,  
7 33-7-506, 33-7-507, 33-7-508, 33-7-509, 33-7-510, 33-7-511,  
8 33-7-512, 33-7-513, 33-7-514, 33-7-515, 33-7-516, 33-7-517,  
9 33-7-518, AND 33-7-519, ~~33-7-525--and-33-7-526~~ MCA, are  
10 repealed.

11 NEW SECTION. Section 42. Severability. If a part of  
12 [this act] is invalid, all valid parts that are severable  
13 from the invalid part remain in effect. If a part of [this  
14 act] is invalid in one or more of its applications, the part  
15 remains in effect in all valid applications that are  
16 severable from the invalid applications.

17 NEW SECTION. SECTION 43. CODIFICATION INSTRUCTION.  
18 [SECTIONS 1 THROUGH 38] ARE INTENDED TO BE CODIFIED AS AN  
19 INTEGRAL PART OF TITLE 33, AND THE PROVISIONS OF TITLE 33  
20 APPLY TO [SECTIONS 1 THROUGH 38].

21 NEW SECTION. Section 44. Effective date. [This act] is  
22 effective January 1, 1992.

-End-

1 HOUSE BILL NO. 651

2 INTRODUCED BY HARRINGTON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
5 LAWS RELATING TO FRATERNAL BENEFIT SOCIETIES; AMENDING  
6 SECTIONS 31-2-106 AND 33-22-1703, MCA; REPEALING SECTIONS  
7 33-7-101, 33-7-102, 33-7-103, 33-7-104, 33-7-111, 33-7-112,  
8 33-7-113, 33-7-114, 33-7-115, 33-7-116, 33-7-201, 33-7-202,  
9 33-7-203, 33-7-204, 33-7-205, 33-7-206, 33-7-207, 33-7-211,  
10 33-7-212, 33-7-213, 33-7-301, 33-7-302, 33-7-303, 33-7-304,  
11 33-7-305, 33-7-401, 33-7-402, 33-7-403, 33-7-404, 33-7-405,  
12 33-7-406, 33-7-407, 33-7-501, 33-7-502, 33-7-503, 33-7-504,  
13 33-7-505, 33-7-506, 33-7-507, 33-7-508, 33-7-509, 33-7-510,  
14 33-7-511, 33-7-512, 33-7-513, 33-7-514, 33-7-515, 33-7-516,  
15 33-7-517, 33-7-518, AND 33-7-519, ~~33-7-525, AND 33-7-526~~  
16 MCA; AND PROVIDING AN EFFECTIVE DATE."

17

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. **Section 1. Fraternal benefit societies.**

20 Any incorporated or unincorporated society, ORDER, OR  
21 SUPREME LODGE, without capital stock, including a society  
22 exempted under the provisions of [section ~~37~~ 38(1)(B)], that  
23 is conducted solely for the benefit of its members and their  
24 beneficiaries and not for profit, that is operated on a  
25 lodge system with ritualistic forms of work, that has a

There are no changes in this bill,  
and will not be reprinted. Please  
refer to yellow copy for complete  
text.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 26, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 651 (third reading copy -- blue), respectfully report that House Bill No. 651 be amended and as so amended be concurred in:

1. Page 10, line 13.

Strike: "a charter"

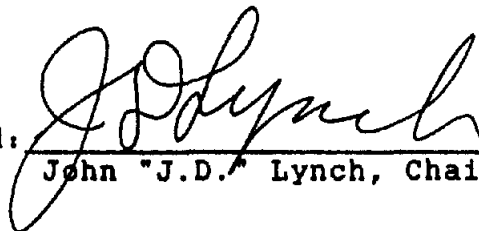
Insert: "articles of incorporation"

2. Page 29, line 2.

Strike: "12"

Insert: "13"

Signed:



John "J.D." Lynch, Chairman

*AM 3-26-91*  
Amd. Coord.

\_\_\_\_\_  
Sec. of Senate

SENATE  
HB 651

## 1 HOUSE BILL NO. 651

2 INTRODUCED BY HARRINGTON

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
5 LAWS RELATING TO FRATERNAL BENEFIT SOCIETIES; AMENDING  
6 SECTIONS 31-2-106 AND 33-22-1703, MCA; REPEALING SECTIONS  
7 33-7-101, 33-7-102, 33-7-103, 33-7-104, 33-7-111, 33-7-112,  
8 33-7-113, 33-7-114, 33-7-115, 33-7-116, 33-7-201, 33-7-202,  
9 33-7-203, 33-7-204, 33-7-205, 33-7-206, 33-7-207, 33-7-211,  
10 33-7-212, 33-7-213, 33-7-301, 33-7-302, 33-7-303, 33-7-304,  
11 33-7-305, 33-7-401, 33-7-402, 33-7-403, 33-7-404, 33-7-405,  
12 33-7-406, 33-7-407, 33-7-501, 33-7-502, 33-7-503, 33-7-504,  
13 33-7-505, 33-7-506, 33-7-507, 33-7-508, 33-7-509, 33-7-510,  
14 33-7-511, 33-7-512, 33-7-513, 33-7-514, 33-7-515, 33-7-516,  
15 33-7-517, 33-7-518, AND 33-7-519, ~~33-7-525, ANB-33-7-526~~  
16 MCA; AND PROVIDING AN EFFECTIVE DATE."

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:19 NEW SECTION. Section 1. Fraternal benefit societies.

20 Any incorporated or unincorporated society, ORDER, OR  
21 SUPREME LODGE, without capital stock, including a society  
22 exempted under the provisions of [section 37 38(1)(B)], that  
23 is conducted solely for the benefit of its members and their  
24 beneficiaries and not for profit, that is operated on a  
25 lodge system with ritualistic forms of work, that has a

1 representative form of government, and that provides  
2 benefits in accordance with [sections 1 through 37 38], is a  
3 fraternal benefit society.

4 NEW SECTION. Section 2. Lodge system. (1) A society is  
5 operating on the lodge system if it has a supreme governing  
6 body and subordinate lodges into which members are elected,  
7 initiated, or admitted in accordance with its laws, rules,  
8 and ritual. Subordinate lodges must be required by the laws  
9 of the society to hold regular meetings at least once a  
10 month in furtherance of the purposes of the society.

11 (2) A society may organize and operate lodges for  
12 children under the minimum age for adult membership.  
13 Membership and initiation in local lodges may not be  
14 required of children, and children may not have a voice or  
15 vote in the management of a society.

16 NEW SECTION. Section 3. Representative form of  
17 government. (1) A society has a representative form of  
18 government if it has a supreme governing body organized as  
19 provided in subsection (2) or (3).

20 (2) (a) The supreme governing body may be an assembly  
21 composed of delegates who meet the criteria of subsection  
22 (5) and who are elected either by the members directly or at  
23 intermediate assemblies or conventions of members or their  
24 representatives, together with other delegates as may be  
25 prescribed in the society's laws. A society may provide for

1 election of delegates by mail.

2 (b) The delegates elected must be a majority of  
3 delegates and may not have less than a majority of the votes  
4 and not less than the number of votes required to amend the  
5 society's laws. The assembly must be elected and shall meet  
6 at least once every 4 years and shall elect a board of  
7 directors to conduct the business of the society between  
8 meetings of the assembly.

9 (c) Vacancies on the board of directors may be filled  
10 in the manner prescribed by the society's laws.

11 (3) (a) (i) The supreme governing body may be:

12 (A) a board composed of persons who meet the criteria  
13 of subsection (5) and who are elected by the members, either  
14 directly or by their representatives in intermediate  
15 assemblies; and

16 (B) any other persons prescribed in the society's laws.

17 (ii) A society may provide for election of the board by  
18 mail.

19 (b) The term of a board member may not exceed 4 years.  
20 Vacancies on the board may be filled in the manner  
21 prescribed in the society's laws.

22 (c) The persons elected to the board must be a majority  
23 of the board and may not be less than the number of votes  
24 required to amend the society's laws. A person filling an  
25 unexpired term of an elected board member is considered to

1 be an elected board member.

2 (d) The board shall meet at least quarterly to conduct  
3 the business of the society.

4 (4) The officers of the society must be elected either  
5 by the assembly or by the board of directors, either of  
6 which constitutes the supreme governing body.

7 (5) Only benefit members are eligible for election to  
8 the assembly, the board of directors, or an intermediate  
9 assembly.

10 (6) Each voting member shall have one vote. A vote may  
11 not be cast by proxy.

12 NEW SECTION. **Section 4. Definitions.** As used in  
13 [sections 1 through 37 38], unless the context requires  
14 otherwise, the following definitions apply:

15 (1) "Benefit contract" means the agreement for  
16 provision of authorized benefits described in [section 16].

17 (2) "Benefit member" means an adult member who is  
18 designated by the laws or rules of the society to be a  
19 benefit member under a benefit contract.

20 (3) "Certificate" means the document issued as written  
21 evidence of the benefit contract.

22 (4) "Laws" means the society's articles of  
23 incorporation, charter, constitution, and bylaws.

24 (5) "Lodge" means subordinate member units of the  
25 society, known as camps, courts, councils, or branches or by

1 any other designation.

2 (6) "Premiums" means premiums, rates, dues, or other  
3 required contributions that are payable under the  
4 certificate.

5 (7) "Rules" means all rules, regulations, or  
6 resolutions that are adopted by the supreme governing body  
7 or board of directors and that are intended to have general  
8 application to the members of the society.

9 (8) "Society" means a fraternal benefit society  
10 described in [section 1]. The term includes an order or  
11 supreme lodge.

12 **NEW SECTION. Section 5. Purposes and powers.** (1) A  
13 society shall operate for the benefit of members and their  
14 beneficiaries by:

15 (a) providing benefits as provided in [section 16]; and

16 (b) providing for one or more social, intellectual,  
17 educational, charitable, benevolent, moral, fraternal,  
18 patriotic, or religious purposes, which may be extended to  
19 others. The purposes may be carried out directly by the  
20 society or indirectly through subsidiary corporations or  
21 affiliated organizations.

22 (2) A society may adopt laws and rules for the  
23 government of the society, the admission of its members, and  
24 the management of its affairs. It may amend laws and rules  
25 and exercise powers necessary and incidental to the

1 objectives and purposes of the society.

2 **NEW SECTION. Section 6. Qualification for membership.**

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

4 (a) eligibility standards for each class of membership.  
5 However, if benefits are provided on the lives of children,  
6 the minimum age for adult membership must be set at not less  
7 than 15 years of age and not more than 21 years of age.

8 (b) the process for admission to each membership class;  
9 and

10 (c) the rights and privileges of each membership class.  
11 However, only benefit members may vote on the management of  
12 the insurance affairs of the society.

13 (2) A society may admit social members who have no  
14 voice or vote in the management of the insurance affairs of  
15 the society.

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

18 **NEW SECTION. Section 7. Location of office -- meetings**

19 -- communication to members -- grievance procedures. (1) The  
20 principal office of a domestic society must be located in  
21 this state. The meetings of its supreme governing body may  
22 be held in any state, district, province, or territory where  
23 the society has at least five subordinate lodges or in a  
24 location determined by the supreme governing body. All  
25 business transacted at meetings is valid. The minutes of the



1 proceedings of the supreme governing body and of the board  
2 of directors must be in English.

3 (2) (a) A society may provide in its laws for an  
4 official publication in which any notice, report, or  
5 statement required by law to be given to members, including  
6 notice of election, may be published. Required reports,  
7 notices, and statements must be printed conspicuously in the  
8 publication. If the records of a society show that two or  
9 more members have the same mailing address, an official  
10 publication mailed to one member is considered to be mailed  
11 to all members at the same address unless a member requests  
12 a separate copy.

13 (b) Not later than June 1 of each year, a synopsis of  
14 the society's annual statement, providing an explanation of  
15 the facts concerning the condition of the society, must be  
16 printed and mailed to each benefit member of the society, or  
17 the synopsis may be published in the society's official  
18 publication.

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

21 NEW SECTION. Section 8. No personal liability. (1) The  
22 officers and members of the supreme governing body or any  
23 subordinate body of a society are not personally liable for  
24 any benefits provided by a society.

25 (2) A person may be indemnified and reimbursed by a

1 society for expenses reasonably incurred by and liabilities  
2 imposed upon him in connection with or arising out of an  
3 action, suit, or proceeding (whether civil, criminal,  
4 administrative, or investigative) or threat thereof in which  
5 the person may be involved by reason of the fact that he is  
6 or was a director, officer, employee, or agent of the  
7 society or of a firm, corporation, or organization that he  
8 served in any capacity at the request of the society.

9 (3) (a) A person may not be indemnified or reimbursed  
10 in relation to any matter in an action, suit, or proceeding:

11 (i) in which he is finally found to be guilty of breach  
12 of a duty as a director, officer, employee, or agent of the  
13 society; or

14 (ii) that is the subject of a compromise settlement.

15 (b) A person may be indemnified or reimbursed if he  
16 acted in good faith for a purpose he reasonably believed to  
17 be in, or not opposed to, the best interests of the society  
18 AND, IN A CRIMINAL ACTION OR PROCEEDING, IN ADDITION, HAD NO  
19 REASONABLE CAUSE TO BELIEVE THAT HIS CONDUCT WAS UNLAWFUL.

20 (4) The determination of whether the person's conduct  
21 met the standard required in order to justify  
22 indemnification or reimbursement in relation to any matter  
23 described in subsection (3) may be made only by the supreme  
24 governing body OR BOARD OF DIRECTORS by a majority vote of a  
25 quorum consisting of persons who were not parties to the

1 action, suit, or proceeding or by a court of competent  
 2 jurisdiction. The termination of an action, suit, or  
 3 proceeding by a judgment, order, settlement, or conviction  
 4 or upon a plea of no contest, does not create a conclusive  
 5 presumption that the person did not meet the standard of  
 6 conduct required in order to justify indemnification or  
 7 reimbursement. The right of indemnification or reimbursement  
 8 is not exclusive of other rights to which the person may be  
 9 entitled as a matter of law, and the right inures to the  
 10 benefit of his heirs, executors, and administrators.

11 (5) A director, officer, employee, member, or volunteer  
 12 of a society who serves without compensation may not be held  
 13 liable, and a cause of action may not be brought, for  
 14 damages resulting from the exercise of judgment or  
 15 discretion in connection with the person's duties or  
 16 responsibilities for the society unless the act or omission  
 17 involved willful or wanton misconduct.

18 (6) A society may purchase and maintain liability  
 19 insurance for acts incurred in the course and scope of the  
 20 position for a person who is or was a director, officer,  
 21 employee, or agent of the society or who is or was serving  
 22 at the request of the society as a director, officer,  
 23 employee, or agent of any other firm, corporation, or  
 24 organization.

25 NEW SECTION. **Section 9.** waiver. The laws of the

1 society may provide that a subordinate body or any of its  
 2 subordinate officers or members may not waive any of the  
 3 provisions of the laws of the society. The provision is  
 4 binding on the society and every member and beneficiary of a  
 5 member.

6 NEW SECTION. **Section 10.** Organization. A domestic  
 7 society organized on or after January 1, 1992, must be  
 8 formed as follows:

9 (1) Ten or more citizens of the United States, a  
 10 majority of whom are residents of this state, who desire to  
 11 form a fraternal benefit society, may make, sign, and  
 12 acknowledge before ~~the commissioner of insurance~~ A NOTARY  
 13 PUBLIC, an application for ~~a charter~~ ARTICLES OF  
 14 INCORPORATION that states:

15 (a) the proposed corporate name of the society, which  
 16 may not so closely resemble the name of any society or  
 17 insurance company as to be misleading or confusing;

18 (b) the purposes for which it is being formed and the  
 19 mode in which its corporate powers are to be exercised. The  
 20 purposes may not include more liberal powers than are  
 21 granted by [sections 1 through 37 38].

22 (c) the names and residences of the incorporators and  
 23 the names, residences, and official titles of all the  
 24 officers, trustees, directors, or other persons who are to  
 25 have and exercise the general control of the management of

1 the affairs and funds of the society for the first year or  
 2 until the ensuing election at which all officers are elected  
 3 by the supreme governing body. The election must be held not  
 4 later than 1 year from the date of issuance of the permanent  
 5 certificate of authority.

6 (2) The application for a---charter ARTICLES OF  
 7 INCORPORATION, certified copies of the society's bylaws and  
 8 rules, copies of all proposed forms of certificates,  
 9 applications for certificates, and circulars to be issued by  
 10 the society, and a bond conditioned upon the return to  
 11 applicants of the advanced payments if the organization is  
 12 not completed within 1 year must be filed with the  
 13 commissioner, who may require further information considered  
 14 necessary. The bond, with sureties approved by the  
 15 commissioner, must be in an amount, not less than \$300,000  
 16 or more than \$1,500,000, required by the commissioner. All  
 17 documents filed must be in English. If the purposes of the  
 18 society conform to the requirements of [sections 1 through  
 19 37 38] and all provisions of law have been complied with,  
 20 the commissioner shall certify, retain, and file the  
 21 articles of incorporation and furnish to the incorporators a  
 22 preliminary certificate of authority authorizing the society  
 23 to solicit members.

24 (3) A preliminary certificate of authority granted  
 25 under the provisions of this section is not valid after 1

1 year from its date of issuance or after an extended period,  
 2 not exceeding 1 year, as may be authorized by the  
 3 commissioner upon good cause shown, unless the 500  
 4 applicants required under subsection (4) have been secured  
 5 and the organization has been completed. The charter and all  
 6 other proceedings under the charter are void 1 year from the  
 7 date of issuance of the preliminary certificate of authority  
 8 or at the expiration of the extended period, unless the  
 9 society has completed its organization and received a  
 10 certificate of authority to do business.

11 (4) Upon receipt of a preliminary certificate of  
 12 authority from the commissioner, 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 applicant a receipt  
 17 for the amount collected. A society may not incur a  
 18 liability other than for the return of an advance premium,  
 19 issue any certificate, or pay, allow, offer, or promise to  
 20 pay or allow any benefit to a person until:

21 (a) actual applications for benefits have been secured,  
 22 aggregating at least \$500,000, on not less than 500  
 23 applicants, and any necessary evidence of insurability has  
 24 been furnished to and approved by the society;

25 (b) at least 10 subordinate lodges have been

1 established into which the 500 applicants have been  
2 admitted;

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

10 (d) it has been shown to the commissioner, by sworn  
11 statement of the treasurer or the corresponding officer of  
12 the society, that at least 500 applicants have each paid in  
13 cash at least one regular monthly premium. The aggregate  
14 premiums must amount to at least \$150,000. The advance  
15 premiums must be held in trust during the period of  
16 organization. If the society has not qualified for a  
17 certificate of authority within 1 year, unless extended as  
18 provided in subsection (3), the premiums must be returned to  
19 the applicants.

20 (5) The commissioner may in his discretion require and  
21 examine additional information he considers advisable. Upon  
22 presentation of satisfactory evidence that the society has  
23 complied with all the provisions of law, the commissioner  
24 shall issue a certificate of authority to the society,  
25 authorizing it to transact business pursuant to the

1 provisions of [sections 1 through 37 38]. The certificate of  
2 authority is prima facie evidence of the existence of the  
3 society at the date of the certificate. The commissioner  
4 shall record the certificate of authority.

5 (6) A society authorized to transact business in this  
6 state on January 1, 1992, is not required to reincorporate.

7 (7) An unincorporated or voluntary association may not  
8 transact business in this state as a society. Every  
9 voluntary association incorporated as provided in section  
10 629(2), Chapter 286, Laws of 1959, may incur the obligations  
11 and enjoy the benefits of a society as if it were originally  
12 incorporated, and the corporation is considered a  
13 continuation of the original voluntary association. The  
14 officers must be elected and serve as provided in its  
15 articles of incorporation. Incorporation of a voluntary  
16 association does not affect existing suits, claims, or  
17 contracts.

18 NEW SECTION. **Section 11. Amendments to laws.** (1) A  
19 domestic society may amend its laws in accordance with ~~its~~  
20 THE provisions OF ITS LAWS by action of its supreme  
21 governing body at any regular or special meeting or, if its  
22 laws provide, by referendum. The referendum may be held in  
23 accordance with the provisions of its laws by a vote of the  
24 voting members of the society, by a vote of delegates or  
25 representatives of voting members, or by a vote of local

1 lodges. A society may provide for voting by mail. An  
 2 amendment submitted by referendum may not be adopted unless,  
 3 within 6 months from the date of submission, a majority of  
 4 the members voting have signified their consent to the  
 5 amendment.

6 (2) An amendment to the laws of a domestic society does  
 7 not take effect unless approved by the commissioner of  
 8 insurance, who shall approve the amendment if he finds that  
 9 it has been adopted and is not inconsistent with any  
 10 requirement of the laws of this state or with the character,  
 11 objectives, and purposes of the society. Unless the  
 12 commissioner disapproves an amendment within 60 days after  
 13 its filing, the amendment is considered approved. The  
 14 approval or disapproval of the commissioner must be in  
 15 writing and mailed to the secretary or corresponding officer  
 16 of the society at its principal office. If the commissioner  
 17 disapproves an amendment, the reasons for the disapproval  
 18 must be stated in the written notice.

19 (3) Within 90 days of approval by the commissioner, all  
 20 amendments or a synopsis of the amendments must be furnished  
 21 to all members of the society, either by mail or by  
 22 publication in full in the official publication of the  
 23 society.

24 (4) A foreign or alien society authorized to do  
 25 business in this state shall file with the commissioner a

1 certified copy of all amendments of or additions to its laws  
 2 within 90 days after their enactment.

3 (5) Printed copies of the laws, as amended, that are  
 4 certified by the secretary or a corresponding officer of the  
 5 society are prima facie evidence of their legal adoption.

6 NEW SECTION. **Section 12. Institutions.** (1) A society  
 7 may create, maintain, and operate, or may establish  
 8 organizations to operate, not-for-profit institutions to  
 9 further the purposes permitted by [section 5(1)(B)]. The  
 10 institutions may furnish services free or at a reasonable  
 11 charge. Any real or personal property owned, held, or leased  
 12 by the society for these purposes must be reported in every  
 13 annual statement but may not be allowed as an admitted asset  
 14 of the society.

15 (2) A society may not own or operate funeral homes or  
 16 undertaking establishments.

17 NEW SECTION. **Section 13. Reinsurance.** (1) A domestic  
 18 society may, by a reinsurance agreement, cede any individual  
 19 risk or risks in whole or in part to an insurer, other than  
 20 another fraternal benefit society, having the power to make  
 21 the reinsurance and authorized to do business in this state  
 22 or, if not authorized to do business in this state, an  
 23 insurer that is approved by the commissioner of insurance. A  
 24 society may not reinsure substantially all of its insurance  
 25 in force without the written permission of the commissioner.

1 A society may take credit for the reserves on the ceded  
 2 risks to the extent reinsured. A credit may not be allowed  
 3 as an admitted asset or as a deduction from liability to a  
 4 ceding society for reinsurance made, ceded, renewed, or  
 5 otherwise becoming effective on or after July 1, 1992,  
 6 unless the reinsurance is payable by the assuming insurer on  
 7 the basis of the liability of the ceding society under the  
 8 contract or contracts reinsured without diminution because  
 9 of the insolvency of the ceding society.

10 (2) Notwithstanding the limitation in subsection (1), a  
 11 society may reinsure the risks of another society in a  
 12 consolidation or merger approved by the commissioner under  
 13 [section 14].

14 NEW SECTION. **Section 14. Consolidations and mergers.**

15 (1) A domestic society may consolidate or merge with any  
 16 other society by complying with the provisions of this  
 17 section. The consolidated or merged society shall file with  
 18 the commissioner of insurance:

19 (a) a certified copy of the written contract containing  
 20 in full the terms and conditions of the consolidation or  
 21 merger;

22 (b) a sworn statement by the president and secretary or  
 23 corresponding officers of each society showing the financial  
 24 condition of each society on a date fixed by the  
 25 commissioner, but not earlier than December 31 preceding the

1 date of the contract;

2 (c) a certificate of the officers of each society,  
 3 verified by their respective oaths, that the consolidation  
 4 or merger has been approved by a two-thirds vote of the  
 5 supreme governing body of each society, held at a regular or  
 6 special meeting of each body or, if the society's laws  
 7 permit, by mail; and

8 (d) evidence that at least 60 days prior to the action  
 9 of the supreme governing body of each society, the text of  
 10 the contract was furnished to all members of each society,  
 11 either by mail or by publication in full in the official  
 12 publication of each society.

13 (2) If the commissioner finds that the contract  
 14 containing the terms and conditions of the proposed  
 15 consolidation or merger is in conformity with this section,  
 16 that the financial statements are correct, and that the  
 17 consolidation or merger is just and equitable to the members  
 18 of each society, the commissioner shall approve the contract  
 19 and issue a certificate approving the contract.

20 (3) Upon approval, the contract is in full force and  
 21 effect unless a society that is a party to the contract is  
 22 incorporated under the laws of any other state, district,  
 23 territory, province, or country. In that event, the  
 24 consolidation or merger is not effective until it is  
 25 approved as provided by the laws of that state, district,

1 territory, province, or country and a certificate of  
2 approval has been filed with the commissioner of insurance  
3 of this state.

4 (4) When the consolidation or merger becomes effective,  
5 all the rights, franchises, and interests of the  
6 consolidated or merged societies in and to every type of  
7 property, real, personal, or mixed, and things in action  
8 pertaining to the property are vested in the society  
9 resulting from or remaining after the consolidation or  
10 merger without any other instrument, except that conveyances  
11 of real property may be evidenced by deeds. The title to any  
12 real property or interest in real property vested under the  
13 laws of this state in any of the societies consolidated or  
14 merged may not revert or be impaired by reason of the  
15 consolidation or merger, but the title vests in the society  
16 resulting from or remaining after the consolidation or  
17 merger.

18 (5) The affidavit of any officer of the society or of  
19 anyone authorized by the society to mail a notice or  
20 document, stating that the notice or document has been  
21 addressed and mailed, is prima facie evidence that the  
22 notice or document has been furnished to the addressees.

23 **NEW SECTION. Section 15. Conversion of a society into**  
24 **a mutual life insurance company.** A domestic society may be  
25 converted and licensed as a mutual life insurance company by

1 compliance with all the applicable requirements of Title 33  
2 if the plan of conversion has been approved by the  
3 commissioner of insurance. The board of directors shall  
4 prepare a written plan of conversion that sets forth in full  
5 the terms and conditions of conversion. An affirmative vote  
6 of two-thirds of all members of the supreme governing body  
7 at a regular or special meeting is necessary for the  
8 approval of the plan. A conversion may not take effect  
9 unless approved by the commissioner, who may approve the  
10 conversion if he finds that the proposed change is in  
11 conformity with the requirements of law and not prejudicial  
12 to the certificate holders of the society.

13 **NEW SECTION. Section 16. Benefits.** (1) A society may  
14 provide the following contractual benefits in any form:

- 15 (a) death benefits;
- 16 (b) endowment benefits;
- 17 (c) annuity benefits;
- 18 (d) temporary or permanent disability benefits;
- 19 (e) hospital, medical, or nursing benefits;
- 20 (f) monument or tombstone benefits to the memory of
- 21 deceased members; and
- 22 (g) other benefits authorized for life insurers that
- 23 are not inconsistent with [sections 1 through 37 18].

24 (2) A society shall specify in its rules those persons  
25 who may be issued or covered by the contractual benefits in

1 subsection (1), consistent with providing benefits to  
 2 members and their dependents. A society may provide benefits  
 3 on the lives of children under the minimum age for adult  
 4 membership upon application of an adult person.

5 NEW SECTION. Section 17. Beneficiaries. (1) The owner  
 6 of a benefit contract may change the beneficiary or  
 7 beneficiaries in accordance with the laws or rules of the  
 8 society unless the owner waives this right by specifically  
 9 requesting in writing that the beneficiary designation be  
 10 irrevocable. A society may, through its laws or rules, limit  
 11 the scope of beneficiary designations and shall provide that  
 12 a revocable beneficiary may not have or obtain a vested  
 13 interest in the proceeds of a certificate until the  
 14 certificate becomes due and payable under the provisions of  
 15 the benefit contract.

16 (2) A society may make provision for the payment of  
 17 funeral benefits of up to \$500 under a certificate due to a  
 18 person EQUITABLY entitled to payment for the burial of a  
 19 member.

20 (3) If, at the death of any person insured under a  
 21 benefit contract, there is no lawful beneficiary to whom the  
 22 proceeds are payable, the amount of the benefit, except to  
 23 the extent that funeral benefits may be paid as provided in  
 24 subsection (2), is payable to the estate of the deceased. If  
 25 the owner of the certificate is a person other than the

1 insured, the proceeds are payable to the owner.

2 NEW SECTION. Section 18. Benefits not attachable.  
 3 Money or other benefits, charity, relief, or aid to be paid,  
 4 provided, or rendered by a society is not liable to  
 5 attachment, garnishment, or other process and may not be  
 6 seized, taken, appropriated, or applied by any legal or  
 7 equitable process or operation of law to pay any debt or  
 8 liability of a member, a beneficiary, or any other person  
 9 who may have a right to the benefit, either before or after  
 10 payment by the society.

11 NEW SECTION. Section 19. Benefit contract. (1) A  
 12 society authorized to do business in this state shall issue  
 13 to the owner of a benefit contract a certificate specifying  
 14 the amount of benefits provided. The certificate must state  
 15 that the certificate, together with any attached riders or  
 16 endorsements, the laws of the society, the application for  
 17 membership, the application for insurance and declaration of  
 18 insurability, if any, signed by the applicant, and all  
 19 amendments to each, constitutes the benefit contract, as of  
 20 the date of issuance, between the society and the owner. A  
 21 copy of the application for insurance and declaration of  
 22 insurability, if any, must be endorsed upon or attached to  
 23 the certificate. All statements on the application must be  
 24 representations and not warranties. Any waiver of this  
 25 provision is void.



1 (2) Any changes, additions, or amendments to the laws  
 2 of the society made or enacted after the issuance of the  
 3 certificate bind the owner and the beneficiaries and control  
 4 the benefit contract in all respects as if the changes,  
 5 additions, or amendments were in force at the time of the  
 6 application for insurance. However, a change, addition, or  
 7 amendment does not destroy or diminish benefits that the  
 8 society contracted to give the owner as of the date of  
 9 issuance.

10 (3) A person upon whose life a benefit contract is  
 11 issued before attaining the age of majority is bound by the  
 12 terms of the application and certificate and by all the laws  
 13 and rules of the society to the same extent as though the  
 14 age of majority had been attained at the time of  
 15 application.

16 (4) A society shall provide in its laws that if its  
 17 reserves for one or more classes of certificates become  
 18 impaired, its board of directors or corresponding body may  
 19 require that the owner of a certificate pay to the society  
 20 the amount of the owner's equitable proportion of the  
 21 deficiency as ascertained by its board and that if the  
 22 payment is not made either:

23 (a) it is an indebtedness against the certificate and  
 24 draws interest not to exceed the rate specified for  
 25 certificate loans under the certificates; or

1 (b) in lieu of or in combination with the provisions of  
 2 subsection (4)(a), the owner of the certificate may accept a  
 3 proportionate reduction in benefits under the certificate.

4 (5) The society may specify the manner of election and  
 5 which alternative under subsection (4) is to be presumed if  
 6 no election is made.

7 (6) Copies of any of the documents mentioned in this  
 8 section, certified by the secretary or corresponding officer  
 9 of the society, must be received in evidence concerning the  
 10 terms and conditions of the documents.

11 (7) A certificate may not be delivered or issued for  
 12 delivery in this state unless a copy of the form has been  
 13 filed with the commissioner of insurance in the manner  
 14 provided for policies issued by life and disability insurers  
 15 in this state. Certificates issued prior to ~~1--year--~~after  
 16 July 1, 1992 1993, must conform to the requirements provided  
 17 by the laws applicable immediately prior to July 1, 1992. A  
 18 life, disability, or annuity certificate issued on or after  
 19 ~~1--year--~~from July 1, 1992 1993, must meet the standard  
 20 contract provision requirements not inconsistent with  
 21 [sections 1 through 37 38] for policies issued by life and  
 22 disability insurers in this state, except that a society may  
 23 provide in its certificates for a grace period of 1 month  
 24 for payment of premiums. The certificate must contain a  
 25 provision stating the amount of premiums payable under the

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

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

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

1 NEW SECTION. Section 20. Nonforfeiture benefits, cash  
 2 surrender values, certificate loans, and other options. (1)  
 3 For certificates issued prior to ~~1-year-after~~ July 1, ~~1992~~  
 4 1993, the value of every paid-up nonforfeiture benefit and  
 5 the amount of any cash surrender value, loan, or other  
 6 option granted must comply with the provisions of law  
 7 applicable immediately prior to July 1, 1992.

8 (2) FOR CERTIFICATES ISSUED ON OR AFTER JULY 1, 1993,  
 9 FOR WHICH RESERVES ARE COMPUTED ON THE COMMISSIONER OF  
 10 INSURANCE'S 1941 STANDARD ORDINARY MORTALITY TABLE, THE  
 11 COMMISSIONER'S 1941 STANDARD INDUSTRIAL MORTALITY TABLE, THE  
 12 COMMISSIONER'S 1958 STANDARD ORDINARY MORTALITY TABLE, THE  
 13 COMMISSIONER'S 1980 STANDARD MORTALITY TABLE, OR ANY MORE  
 14 RECENT TABLE MADE APPLICABLE TO LIFE INSURERS, EVERY PAID-UP  
 15 NONFORFEITURE BENEFIT AND THE AMOUNT OF ANY CASH SURRENDER  
 16 VALUE, LOAN, OR OTHER OPTION GRANTED MAY NOT BE LESS THAN  
 17 THE CORRESPONDING AMOUNT ASCERTAINED IN ACCORDANCE WITH THE  
 18 LAWS OF THIS STATE APPLICABLE TO LIFE INSURERS ISSUING  
 19 POLICIES CONTAINING SIMILAR BENEFITS BASED UPON THE TABLES.

20 NEW SECTION. Section 21. Investments. (1) A society  
 21 may invest its funds only in investments authorized by the  
 22 laws of this state for the investment of assets of life  
 23 insurers. A foreign or alien society that is permitted or  
 24 seeking to do business in this state and that invests its  
 25 funds in accordance with the laws of the state, district,

1 territory, province, or country where it is incorporated  
 2 meets the requirements of this section for the investment of  
 3 funds.

4 ~~(2) Every paid-up nonforfeiture benefit and the amount  
 5 of any cash surrender value, loan, or other option granted  
 6 in certificates issued on or after 1 year from July 17, 1992,  
 7 for which reserves are computed on the commissioner of  
 8 insurance's 1941 standard ordinary mortality table, the  
 9 commissioner's 1941 standard industrial mortality table, the  
 10 commissioner's 1958 standard ordinary mortality table, the  
 11 commissioner's 1980 standard ordinary mortality table, or  
 12 any more recent table made applicable to life insurers may  
 13 not be less than the corresponding amount applicable to life  
 14 insurers issuing policies containing similar benefits based  
 15 upon the tables.~~

16 NEW SECTION. Section 22. Funds. (1) All assets must be  
 17 held, invested, and disbursed for the use and benefit of the  
 18 society, and a member or beneficiary may not have or acquire  
 19 individual rights in assets or become entitled to any  
 20 apportionment on the surrender of any part of the assets  
 21 except as provided in the benefit contract.

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

25 (3) Pursuant to a resolution of its supreme governing

1 body, a society may establish and operate one or more  
 2 separate accounts and issue contracts on a variable basis,  
 3 subject to the provisions of law regulating life insurers  
 4 establishing similar accounts and issuing similar contracts.  
 5 To the extent the society considers it necessary in order to  
 6 comply with any applicable federal or state laws or any  
 7 rules issued under those laws, the society may adopt special  
 8 procedures for administering a separate account and may, for  
 9 persons having beneficial interests in a separate account,  
 10 provide special voting and other rights, including without  
 11 limitation special rights and procedures relating to  
 12 investment policy, investment advisory services, selection  
 13 of certified public accountants, and selection of a  
 14 committee to manage the business and affairs of the account.  
 15 A society may issue contracts on a variable basis to which  
 16 the provisions of [section 19(2) and (4)] do not apply.

17 NEW SECTION. SECTION 23. SCOPE -- PROVISIONS  
 18 APPLICABLE. (1) EXCEPT AS PROVIDED IN SUBSECTION (2),  
 19 SOCIETIES ARE GOVERNED BY [SECTIONS 1 THROUGH 38] AND ARE  
 20 EXEMPT FROM ALL OTHER PROVISIONS OF THE INSURANCE LAWS OF  
 21 THIS STATE, NOT ONLY IN GOVERNMENTAL RELATIONS WITH THE  
 22 STATE BUT FOR EVERY OTHER PURPOSE. THE PROVISIONS OF A LAW  
 23 ENACTED AFTER JANUARY 1, 1992, DO NOT APPLY TO FRATERNAL  
 24 BENEFIT SOCIETIES UNLESS EXPRESSLY MADE APPLICABLE BY THE  
 25 PROVISIONS OF THE LAW.

1 (2) IN ADDITION TO THE PROVISIONS OF [SECTIONS 1  
 2 THROUGH 38], THE PROVISIONS OF CHAPTER 1, PARTS 1 THROUGH 4  
 3 AND 7; 33-2-104; 33-2-107; 33-2-112; CHAPTER 2, PART 12 13;  
 4 33-3-308; 33-15-502; AND CHAPTERS 17, 18, 20, AND 22 APPLY  
 5 TO PRATERAL BENEFIT SOCIETIES TO THE EXTENT APPLICABLE AND  
 6 TO THE EXTENT NOT IN CONFLICT WITH THE PROVISIONS OF  
 7 [SECTIONS 1 THROUGH 38] AND THE REASONABLE IMPLICATIONS OF  
 8 [SECTIONS 1 THROUGH 38].

9 NEW SECTION. Section 24. Taxation. A society organized  
 10 or licensed under [sections 1 through 37 38] is a charitable  
 11 and benevolent institution, and all of its funds are exempt  
 12 from all state, county, district, municipal, and school  
 13 taxes other than taxes on real estate and office equipment.

14 NEW SECTION. Section 25. valuation. (1) Standards of  
 15 valuation for certificates issued prior to ~~1-year-after~~ July  
 16 1, ~~1992~~ 1993, must be those provided by the laws applicable  
 17 immediately prior to July 1, 1992.

18 (2) (a) The minimum standards of valuation for  
 19 certificates issued on or after ~~1-year-from~~ July 1, 1992  
 20 1993, must be based on the following tables:

21 (i) for certificates of life insurance--the  
 22 commissioner of insurance's 1941 standard ordinary mortality  
 23 table, the commissioner's 1941 standard industrial mortality  
 24 table, the commissioner's 1958 standard ordinary mortality  
 25 table, the commissioner's 1980 standard ordinary mortality

1 table, or any more recent table made applicable to life  
 2 insurers;

3 (ii) for annuity and pure endowment certificates, for  
 4 total and permanent disability benefits, for accidental  
 5 death benefits and for noncancelable accident and health  
 6 benefits--the tables authorized for use by life insurers in  
 7 this state.

8 (b) All of the certificates must be valued under  
 9 valuation methods and standards, including interest  
 10 assumptions, that are in accordance with the laws of this  
 11 state applicable to life insurers that issue policies  
 12 containing similar benefits.

13 (3) The commissioner may accept other standards for  
 14 valuation if he finds that the reserves produced by the  
 15 valuation will not be less in the aggregate than reserves  
 16 computed in accordance with the minimum valuation standard  
 17 prescribed in this section. The commissioner may vary the  
 18 standards of mortality applicable to all benefit contracts  
 19 on substandard lives or other extrahazardous lives by a  
 20 society authorized to do business in this state.

21 (4) A society, with the consent of the commissioner of  
 22 insurance of the state of domicile of the society and under  
 23 conditions, if any, that the commissioner may impose, may  
 24 establish and maintain reserves on its certificates in  
 25 excess of required reserves, but the contractual rights of a

1 benefit member may not be affected by the excess reserves.

2 NEW SECTION. Section 26. Reports -- fee. Reports must  
3 be filed in accordance with the provisions of this section.

4 (1) On or before March 1 of each year, unless for cause  
5 shown the time has been extended by the commissioner of  
6 insurance, a society that transacts business in this state  
7 shall file with the commissioner of insurance a statement of  
8 its financial condition, transactions, and affairs for the  
9 preceding calendar year and pay a filing fee of \$25. The  
10 statement must be in the general form and context approved  
11 by the national association of insurance commissioners for  
12 fraternal benefit societies and as supplemented by  
13 additional information required by the commissioner.

14 (2) As part of the annual statement, each society  
15 shall, on or before March 1, file with the commissioner a  
16 valuation of its certificates in force on the preceding  
17 December 31. The commissioner may, for cause shown, extend  
18 for not more than 2 calendar months the time for filing the  
19 valuation. The valuation must be done in accordance with the  
20 standards specified in [section 24 25]. The valuation and  
21 underlying data must be certified by a qualified actuary or,  
22 at the expense of the society, verified by the actuary of  
23 the department of insurance of the state of domicile of the  
24 society.

25 (3) A society that fails to file the annual statement

1 in the form and within the time provided by this section  
2 shall forfeit \$100 for each day during which the failure  
3 continues, and, upon notice by the commissioner to that  
4 effect, its authority to do business in this state ceases  
5 while the default continues.

6 NEW SECTION. Section 27. Annual certificate -- fees.

7 (1) A society may not insure a risk in this state unless it  
8 holds a certificate of authority issued to it by the  
9 commissioner of insurance.

10 (2) A society's certificate of authority continues in  
11 force as long as the society is entitled to it under  
12 [sections 1 through 37 38] and until suspended, revoked, or  
13 otherwise terminated. However, continuance of the  
14 certificate by the society is conditioned upon payment  
15 before May 15 of each year of a continuation fee of \$10. The  
16 fee must be deposited by the commissioner of insurance with  
17 the state treasurer to the credit of the state general fund.

18 (3) If a society does not continue its certificate of  
19 authority in accordance with subsection (2), its certificate  
20 of authority expires at midnight on the May 31 following its  
21 failure to continue it in force. In that case, the  
22 commissioner shall promptly notify the society of the  
23 impending expiration of its certificate of authority.

24 (4) The commissioner may reinstate a certificate of  
25 authority that a society has inadvertently permitted to

1 expire, after the society has fully cured all failures that  
 2 resulted in the expiration and upon payment by the society  
 3 of a \$25 fee for reinstatement in addition to the  
 4 continuation fee provided for in subsection (2). If a  
 5 certificate is not reinstated, the commissioner may grant a  
 6 society another certificate of authority only after the  
 7 society files an application for a certificate of authority  
 8 and meets all other requirements for an original certificate  
 9 of authority in this state.

10 (5) The commissioner may amend a certificate of  
 11 authority at any time to conform to changes in a society's  
 12 charter of insuring powers.

13 (6) A certified copy or duplicate of a certificate of  
 14 authority is prima facie evidence that the society is a  
 15 fraternal benefit society within the meaning of [sections 1  
 16 through 37 38].

17 **NEW SECTION. Section 28. Examination of societies.** (1)  
 18 The commissioner of insurance or any person he may appoint  
 19 may examine any domestic, foreign, or alien society  
 20 transacting or applying for admission to transact business  
 21 in this state in the same manner as authorized for  
 22 examination of domestic, foreign, or alien insurers.  
 23 Requirements of notice and an opportunity to respond before  
 24 findings are made public, as provided in the laws regulating  
 25 insurers, are applicable to the examination of societies.

1 (2) The expense of each examination and of each  
 2 valuation, including compensation and actual expenses of  
 3 examiners, must be paid by the society examined or whose  
 4 certificates are valued, upon statements furnished by the  
 5 commissioner.

6 **NEW SECTION. Section 29. Foreign or alien society --**  
 7 **admission.** (1) A foreign or alien society may not transact  
 8 business in this state without a license issued by the  
 9 commissioner of insurance. A foreign or alien society  
 10 desiring admission to this state shall comply substantially  
 11 with the requirements and limitations of [sections 1 through  
 12 37 38] applicable to domestic societies. A society may be  
 13 licensed to transact business in this state upon filing with  
 14 the commissioner:

15 (a) a certified copy of its articles of incorporation;  
 16 (b) a copy of its bylaws, certified by its secretary or  
 17 corresponding officer;

18 (c) a written appointment of the commissioner to be the  
 19 society's agent, as prescribed in [section 34 35];

20 (d) a statement of its business, under oath of its  
 21 president and secretary or corresponding officers, in a form  
 22 prescribed by the commissioner, verified by an examination  
 23 made by the supervising insurance official of its home state  
 24 or other state, district, territory, province, or country  
 25 satisfactory to the commissioner of this state;

1 (e) certification from the proper official of its home  
 2 state, district, territory, province, or country that the  
 3 society is legally incorporated and licensed to transact  
 4 business in that jurisdiction;

5 (f) copies of its certificate forms; and  
 6 (g) other information the commissioner considers  
 7 necessary.

8 (2) A foreign or alien society applying for authority  
 9 to transact business in this state must have the  
 10 qualifications required of domestic societies organized  
 11 under [sections 1 through 37 38].

12 **NEW SECTION. Section 30. Injunction -- liquidation --**  
 13 **receivership of domestic society.** (1) The commissioner of  
 14 insurance shall notify a domestic society of a deficiency or  
 15 deficiencies and state in writing the reasons for his  
 16 dissatisfaction, whenever the commissioner, upon  
 17 investigation, finds that the society:

- 18 (a) has exceeded its powers;
- 19 (b) has failed to comply with any provision of
- 20 [sections 1 through 37 38];
- 21 (c) is not fulfilling its contracts in good faith;
- 22 (d) has a membership of less than 400 after an
- 23 existence of 1 year or more; or
- 24 (e) is conducting business fraudulently or in a manner
- 25 hazardous to its members, creditors, the public, or the

1 business.

2 (2) Whenever a deficiency or deficiencies are found,  
 3 the commissioner shall issue to the society a written notice  
 4 that requires the deficiency or deficiencies to be  
 5 corrected. The society shall within 30 days comply with the  
 6 commissioner's request for correction. If the society fails  
 7 to comply, the commissioner shall notify the society of the  
 8 noncompliance and require the society to show cause by a  
 9 stated date why it should not be enjoined from transacting  
 10 business until the violation complained of is corrected or  
 11 why an action in quo warranto should not be commenced  
 12 against the society.

13 (3) If the society does not present sufficient reasons  
 14 why it should not be enjoined from transacting business or  
 15 why the quo warranto action should not be commenced, the  
 16 commissioner may present the facts relating to his  
 17 determination to the attorney general who shall, if he finds  
 18 that the circumstances warrant, commence an action to enjoin  
 19 the society from transacting business or an action in quo  
 20 warranto.

21 (4) The court shall notify the officers of the society  
 22 of a hearing. If after a hearing it appears that the society  
 23 should be enjoined or liquidated or that a receiver should  
 24 be appointed, the court shall enter the necessary order. A  
 25 society enjoined from transacting business may not do

1 business until:

2 (a) the commissioner finds that the violation  
3 complained of has been corrected;

4 (b) the costs of the action have been paid by the  
5 society if the court finds that the society was in default  
6 as charged;

7 (c) the court has dissolved its injunction; and

8 (d) the commissioner has reinstated the certificate of  
9 authority.

10 (5) If the court orders the society liquidated, it is  
11 enjoined from transacting any further business. The receiver  
12 of the society shall proceed at once to take possession of  
13 the books, papers, money, and other assets of the society  
14 and, under the direction of the court, proceed to close the  
15 affairs of the society and distribute its funds to those  
16 entitled to the funds.

17 (6) An action under this section may not be recognized  
18 in any court of this state unless brought by the attorney  
19 general upon request of the commissioner. The court shall  
20 appoint the commissioner as the receiver for a domestic  
21 society.

22 (7) The provisions of this section relating to hearing  
23 by the commissioner, action by the attorney general at the  
24 request of the commissioner, hearing by the court,  
25 injunction, and receivership apply to a society that

1 voluntarily decides to discontinue business.

2 NEW SECTION. Section 31. Suspension, revocation, or  
3 refusal of license of foreign or alien society. (1) The  
4 commissioner of insurance shall notify a foreign or alien  
5 society of a deficiency or deficiencies and state in writing  
6 the reasons for his dissatisfaction, whenever the  
7 commissioner, upon investigation, finds that the society  
8 transacting or applying to transact business in this state:

9 (a) has exceeded its powers;

10 (b) has failed to comply with any of the provisions of  
11 [sections 1 through 37 38];

12 (c) is not fulfilling its contracts in good faith; or

13 (d) is conducting its business fraudulently or in a  
14 manner hazardous to its members, creditors, or the public.

15 (2) Whenever a deficiency or deficiencies are found,  
16 the commissioner shall issue to the society a written notice  
17 that requires the deficiency or deficiencies to be  
18 corrected. The society shall within 30 days comply with the  
19 commissioner's request for correction. If the society fails  
20 to comply, the commissioner shall notify the society of the  
21 noncompliance and require the society to show cause by a  
22 stated date why its authority to do business in this state  
23 should not be suspended, revoked, or refused.

24 (3) If the society does not present sufficient reason  
25 why its authority to do business in this state should not be



1 suspended, revoked, or refused, the commissioner may:

2 (a) suspend or refuse the authority of the society to  
3 do business in this state until satisfactory evidence is  
4 furnished to the commissioner that the suspension or refusal  
5 should be withdrawn; or

6 (b) revoke the authority of the society to do business  
7 in this state.

8 (4) Nothing in this section may be construed as  
9 preventing any society from continuing in good faith all  
10 contracts made in this state during the time the society was  
11 legally authorized to transact business in this state.

12 NEW SECTION. Section 32. Injunction. An application or  
13 petition for injunction against any domestic, foreign, or  
14 alien society or lodge of a society may not be recognized in  
15 any court of this state unless made by the attorney general  
16 upon request of the commissioner of insurance.

17 NEW SECTION. Section 33. Producer licensing. (1) A  
18 society's insurance producer must be considered to an be  
19 insurance producer and is subject to the same licensing  
20 requirements as insurance producers under Title 33, chapter  
21 17, except that an examination is not required of an  
22 individual who is licensed in this state as an insurance  
23 producer for a society as to the kind of insurance to be  
24 transacted on or before October 1, 1981, and who continues  
25 to be licensed as an insurance producer.

1 (2) A society doing business in this state may not pay  
2 to a person who is not a licensed insurance producer of the  
3 society any commission or other compensation for any  
4 services in obtaining in this state any new contract of  
5 life, accident, or health insurance or any new annuity  
6 contract.

7 NEW SECTION. Section 34. Unfair methods of competition  
8 and unfair or deceptive acts and practices. A society  
9 authorized to do business in this state and its insurance  
10 producers are subject to the provisions of ~~sections 1 through 37~~  
11 CHAPTER 18 that relate to unfair or deceptive  
12 trade practices. However, nothing in ~~sections 1 through 37~~  
13 CHAPTER 18 may be construed as applying to or affecting the  
14 right of a society to determine its eligibility requirements  
15 for membership or be construed as applying to or affecting  
16 the offering of benefits exclusively to members or persons  
17 eligible for membership in the society by a subsidiary  
18 corporation or affiliated organization of the society.

19 NEW SECTION. Section 35. Commissioner as agent --  
20 service of process -- procedure -- fee. (1) A society  
21 authorized to do business in this state shall appoint in  
22 writing the commissioner of insurance as its agent upon whom  
23 all lawful process in any action or proceeding against it  
24 must be served. The society shall agree in writing that any  
25 lawful process against it that is served on the commissioner

1 is of the same legal force and validity as if it had been  
 2 served upon the society. The appointment continues in force  
 3 as long as any liability remains outstanding in this state.  
 4 Copies of the appointment, certified by the commissioner,  
 5 may be admitted in evidence.

6 (2) Service may be made only upon the commissioner or,  
 7 if absent, upon the person in charge of the commissioner's  
 8 office. Service must be made in duplicate and constitutes  
 9 service upon the society. When legal process against a  
 10 society is served upon the commissioner, the commissioner  
 11 shall forward one of the duplicate copies by certified mail  
 12 to the secretary or corresponding officer of the society.  
 13 The service may not require a society to file its answer,  
 14 pleading, or defense in less than 30 days from the date of  
 15 mailing the copy of the service to the society.

16 (3) Legal process may not be served upon a society  
 17 except in the manner provided in this section.

18 (4) At the time of serving any process upon the  
 19 commissioner, the plaintiff or complainant in the action  
 20 shall pay to the commissioner a fee of \$2.

21 NEW SECTION. Section 36. Review. All decisions and  
 22 findings of the commissioner of insurance made under the  
 23 provisions of [sections 1 through 37 38] are subject to  
 24 review by the court in accordance with the provisions of  
 25 33-1-711.

1 NEW SECTION. Section 37. Penalties. (1) A person who  
 2 makes a false or fraudulent statement in or relating to an  
 3 application for membership or for the purpose of obtaining  
 4 money from a benefit in any society is guilty of a  
 5 misdemeanor.

6 (2) A person who solicits membership for, or in any  
 7 manner assists in procuring membership in, any society not  
 8 authorized to transact business in this state is subject to  
 9 an administrative fine, imposed by the commissioner of  
 10 insurance, of not less than \$25 or more than \$500 for each  
 11 violation.

12 (3) A person convicted of a willful violation of, or  
 13 neglect or refusal to comply with, any provision of  
 14 [sections 1 through 37 38] for which a penalty is not  
 15 otherwise prescribed shall be punished by a fine of not more  
 16 than \$1,000 for each violation and not more than \$10,000 for  
 17 all related violations.

18 NEW SECTION. Section 38. Exemption of certain  
 19 societies. (1) Nothing in [sections 1 through 37 38] may be  
 20 construed to affect or apply to:

21 (a) grand or subordinate lodges of societies, orders,  
 22 or associations doing business in this state on July 1,  
 23 1992, that provide benefits exclusively through local or  
 24 subordinate lodges;

25 (b) (i) orders, societies, or associations that admit

1 to membership only persons engaged in one or more crafts or  
 2 hazardous occupations or in the same or similar lines of  
 3 business and that insure only their own members and their  
 4 families; and

5 (ii) the ladies' societies or ladies' auxiliaries to  
 6 such orders, societies, or associations;

7 (c) domestic societies that limit their membership to  
 8 employees of a particular city or town, designated firm,  
 9 business house, or corporation and that provide for a death  
 10 benefit of not more than \$400 or disability benefits of not  
 11 more than \$350 to any person in any 1 year, or both; or

12 (d) domestic societies or associations of a purely  
 13 religious, charitable, or benevolent description, which  
 14 provide for a death benefit of not more than \$400 or for  
 15 disability benefits of not more than \$350 to a person in any  
 16 1 year, or both.

17 (2) A society or association described in subsections  
 18 (1)(c) or (1)(d) that provides for death or disability  
 19 benefits for which benefit certificates are issued and a  
 20 society or association included in subsection (1)(d) that  
 21 has more than 1,000 members are not exempt from the  
 22 provisions of [sections 1 through 37 38].

23 (3) A society that is exempt under this section from  
 24 the requirements of [sections 1 through 37 38], except a  
 25 society described in subsection (1)(b), may not give or

1 allow or promise to give or allow to any person any  
 2 compensation for procuring new members.

3 (4) A society that provides for benefits in case of  
 4 death or disability resulting solely from accident and that  
 5 does not obligate itself to pay natural death or sick  
 6 benefits has all of the privileges and is subject to all the  
 7 applicable provisions and regulations of [sections 1 through  
 8 37 38] except the provisions of [sections 1 through 37 38]  
 9 that relate to medical examination, valuations of benefit  
 10 certificates, and incontestability.

11 (5) The commissioner may require from a society or  
 12 association, by examination or otherwise, any information  
 13 that will enable the commissioner to determine whether the  
 14 society or association is exempt from the provisions of  
 15 [sections 1 through 37 38].

16 (6) A society that is exempt under the provisions of  
 17 this section is also exempt from all other provisions of the  
 18 insurance laws of this state.

19 **Section 39.** Section 31-2-106, MCA, is amended to read:

20 "31-2-106. Exempt property -- bankruptcy proceeding. No  
 21 individual may exempt from the property of the estate in any  
 22 bankruptcy proceeding the property specified in 11 U.S.C.  
 23 522(d). An individual may exempt from the property of the  
 24 estate in any bankruptcy proceeding:

25 (1) that property exempt from execution of judgment as

1 provided in 19-3-105, 19-4-706, 19-5-704, 19-6-705,  
 2 19-7-705, 19-8-805, 19-9-1006, 19-10-504, 19-11-612,  
 3 19-13-1004, 19-21-212, Title 25, chapter 13, part 6,  
 4 33-7-511 [section 18], 33-15-512 through 33-15-514,  
 5 35-10-502, 39-51-3105, 39-71-743, 39-73-110, 53-2-607,  
 6 53-9-129, Title 70, chapter 32, and 80-2-245;

7 (2) the individual's right to receive unemployment  
 8 compensation and unemployment benefits; and

9 (3) the individual's right to receive benefits from or  
 10 interest in a private or governmental retirement, pension,  
 11 stock bonus, profit-sharing, annuity, or similar plan or  
 12 contract on account of illness, disability, death, age, or  
 13 length of service, excluding that portion of contributions  
 14 made by the individual within 1 year before the filing of  
 15 the petition in bankruptcy which exceeds 15% of the  
 16 individual's gross income for that 1-year period, unless:

17 (a) the plan or contract was established by or under  
 18 the auspices of an insider that employed the individual at  
 19 the time the individual's rights under the plan or contract  
 20 arose;

21 (b) the benefit is paid on account of age or length of  
 22 service; and

23 (c) the plan or contract does not qualify under section  
 24 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue  
 25 Code of 1954 (26 U.S.C. 401(a), 403(b), 408, or 409)."

1 **Section 40.** Section 33-22-1703, MCA, is amended to  
 2 read:

3 **"33-22-1703. Definitions.** As used in this part, the  
 4 following definitions apply:

5 (1) "Emergency services" means services provided after  
 6 suffering an accidental bodily injury or the sudden onset of  
 7 a medical condition manifesting itself by acute symptoms of  
 8 sufficient severity (including severe pain) that without  
 9 immediate medical attention the subscriber or insured could  
 10 reasonably expect that:

11 (a) his health would be in serious jeopardy;

12 (b) his bodily functions would be seriously impaired;

13 or

14 (c) a bodily organ or part would be seriously damaged.

15 (2) "Health benefit plan" means the health insurance  
 16 policy or subscriber arrangement between the insured or  
 17 subscriber and the health care insurer that defines the  
 18 covered services and benefit levels available.

19 (3) "Health care insurer" means:

20 (a) an insurer that provides disability insurance as  
 21 defined in 33-1-207;

22 (b) a health service corporation as defined in  
 23 33-30-101;

24 (c) a health maintenance organization as defined in  
 25 33-31-102;

1 (d) a fraternal benefit society as defined described in  
2 33-7-102 [section 1];

3 (e) an administrator as defined in 33-17-102; or

4 (f) any other entity regulated by the commissioner that  
5 provides health coverage.

6 (4) "Health care services" means health care services  
7 or products rendered or sold by a provider within the scope  
8 of the provider's license or legal authorization or services  
9 provided under Title 33, chapter 22, part 7.

10 (5) "Insured" means an individual entitled to  
11 reimbursement for expenses of health care services under a  
12 policy or subscriber contract issued or administered by an  
13 insurer.

14 (6) "Preferred provider" means a provider or group of  
15 providers who have contracted to provide specified health  
16 care services.

17 (7) "Preferred provider agreement" means a contract  
18 between or on behalf of a health care insurer and a  
19 preferred provider.

20 (8) "Provider" means an individual or entity licensed  
21 or legally authorized to provide health care services or  
22 services covered within Title 33, chapter 22, part 7.

23 (9) "Subscriber" means a certificate holder or other  
24 person on whose behalf the health care insurer is providing  
25 or paying for health care coverage."

1 NEW SECTION. Section 41. Repealer. Sections 33-7-101,  
2 33-7-102, 33-7-103, 33-7-104, 33-7-111, 33-7-112, 33-7-113,  
3 33-7-114, 33-7-115, 33-7-116, 33-7-201, 33-7-202, 33-7-203,  
4 33-7-204, 33-7-205, 33-7-206, 33-7-207, 33-7-211, 33-7-212,  
5 33-7-213, 33-7-301, 33-7-302, 33-7-303, 33-7-304, 33-7-305,  
6 33-7-401, 33-7-402, 33-7-403, 33-7-404, 33-7-405, 33-7-406,  
7 33-7-407, 33-7-501, 33-7-502, 33-7-503, 33-7-504, 33-7-505,  
8 33-7-506, 33-7-507, 33-7-508, 33-7-509, 33-7-510, 33-7-511,  
9 33-7-512, 33-7-513, 33-7-514, 33-7-515, 33-7-516, 33-7-517,  
10 33-7-518, AND 33-7-519, ~~33-7-525,--and--33-7-526,~~ MCA, are  
11 repealed.

12 NEW SECTION. Section 42. Severability. If a part of  
13 [this act] is invalid, all valid parts that are severable  
14 from the invalid part remain in effect. If a part of [this  
15 act] is invalid in one or more of its applications, the part  
16 remains in effect in all valid applications that are  
17 severable from the invalid applications.

18 NEW SECTION. SECTION 43. CODIFICATION INSTRUCTION.  
19 [SECTIONS 1 THROUGH 38] ARE INTENDED TO BE CODIFIED AS AN  
20 INTEGRAL PART OF TITLE 33, AND THE PROVISIONS OF TITLE 33  
21 APPLY TO [SECTIONS 1 THROUGH 38].

22 NEW SECTION. Section 44. Effective date. [This act] is  
23 effective January 1, 1992.

-End-