

17:44B-1 to 17:44B-37

**LEGISLATIVE HISTORY CHECKLIST**  
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(Fraternal benefit societies)

**NJSA:** 17:44B-1 to 17:44B-37

**LAWS OF:** 1997 **CHAPTER:** 322

**BILL NO:** A2874

**SPONSOR(S):** Kramer and others

**DATE INTRODUCED:** May 1, 1997

**COMMITTEE:** **ASSEMBLY:** Insurance

**SENATE:** —

**AMENDED DURING PASSAGE:** Yes Amendments during passage denoted  
First reprint enacted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** December 18, 1997

**SENATE:** December 18, 1997

**DATE OF APPROVAL:** January 8, 1998

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** No

**FISCAL NOTE:** No

**VE TO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**  
**REPORTS:** No

**HEARINGS:** No

KBP:pp

Title 17.  
Chapter 44B.(New)  
Fraternal Benefit  
Societies  
§§1-37  
C. 17:44B-1 To  
17:44B-37  
§39 Repealer  
§40 Note

P.L. 1997, CHAPTER 322, *approved January 8, 1998*  
Assembly, No. 2874 (*First Reprint*)  
(CORRECTED COPY)

1 AN ACT concerning fraternal benefit societies, amending P.L.1987,  
2 c.293, supplementing Title 17 of the Revised Statutes and repealing  
3 P.L.1959, c.167.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) As used in this act:

9 "Benefit contract" means an agreement for provision of benefits  
10 authorized by section 16 of this act, as that agreement is described in  
11 subsection a. of section 18 of this act.

12 "Benefit member" means an adult member who is designated by the  
13 laws or rules of the society to be a benefit member under a benefit  
14 contract.

15 "Certificate" means the document issued as written evidence of a  
16 benefit contract.

17 "Commissioner" means the Commissioner of Banking and  
18 Insurance.

19 "Department" means the Department of Banking and Insurance.

20 "Laws" means the society's articles of incorporation, constitution  
21 and bylaws, however designated.

22 "Lodge" means a subordinate member unit of the society, known as  
23 a camp, court, council, branch or by any other designation.

24 "Premiums" means premiums, rates, dues or other required  
25 contributions by whatever name known, which are payable under the  
26 certificate.

27 "Rules" means all rules, regulations or resolutions adopted by the  
28 assembly or board of directors which are intended to have general  
29 application to the members of the society.

30 "Society" means fraternal benefit society, unless otherwise  
31 indicated.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Assembly AIN committee amendments adopted November 6, 1997.**

1       2. (New section) Any incorporated society, order or supreme  
2 lodge, without capital stock, including one exempted under the  
3 provisions of section 35 of this act, whether incorporated or not,  
4 conducted solely for the benefit of its members and their beneficiaries  
5 and not-for-profit, operated on a lodge system with ritualistic form of  
6 work, having a representative form of government, and which provides  
7 benefits in accordance with this act, is declared to be a fraternal benefit  
8 society.

9  
10       3. (New section) a. A society is operating on the lodge system if  
11 it has a supreme governing body and subordinate lodges into which  
12 members are elected, initiated or admitted in accordance with its laws,  
13 rules and ritual. Subordinate lodges shall be required by the laws of  
14 the society to hold regular meetings at least once in each month in  
15 furtherance of the purposes of the society.

16       b. A society may, at its option, organize and operate lodges for  
17 minors under the minimum age for adult membership. Membership  
18 and initiation in local lodges shall not be required of children, nor shall  
19 they have a voice or vote in the management of the society.

20  
21       4. (New section) A society has a representative form of  
22 government when:

23       a. ~~it~~ it<sup>1</sup> has a supreme governing body constituted in one of the  
24 following ways:

25       (1) Assembly. The supreme governing body is an assembly  
26 composed of delegates elected directly by the members or at  
27 intermediate assemblies or conventions of members or their  
28 representatives, together with other delegates as may be prescribed in  
29 the society's laws. A society may provide for election of delegates by  
30 mail. The elected delegates shall constitute a majority in number and  
31 shall not have less than 2/3 of the votes and not less than the number  
32 of votes required to amend the society's laws. The assembly shall be  
33 elected and shall meet at least once every four years and shall elect a  
34 board of directors to conduct the business of the society between  
35 meetings of the assembly. Vacancies on the board of directors  
36 between elections may be filled in the manner prescribed by the  
37 society's laws.

38       (2) Direct Election. The supreme governing body is a board  
39 composed of persons elected by the members, either directly or by  
40 their representatives in intermediate assemblies, and any other persons  
41 prescribed in the society's laws. A society may provide for election of  
42 the board by mail. Each term of a board member may not exceed four  
43 years. Vacancies on the board between elections may be filled in the  
44 manner prescribed by the society's laws. Those persons elected to the  
45 board shall constitute a majority in number and not less than the  
46 number of votes required to amend the society's laws. A person filling

1 the unexpired term of an elected board member shall be considered to  
2 be an elected member. The board shall meet at least quarterly to  
3 conduct the business of the society.

4 b. The officers of the society are elected either by the assembly or  
5 board of directors;

6 c. Only benefit members are eligible for election to the assembly or  
7 board of directors; and

8 d. Each voting member shall have one vote; no vote may be cast by  
9 proxy.

10

11 5. (New section) a. A society shall operate for the benefit of  
12 members and their beneficiaries by:

13 (1) providing benefits as specified in section 16 of this act; and

14 (2) operating for one or more social, intellectual, educational,  
15 charitable, benevolent, moral, fraternal <sup>1</sup>[, patriotic]<sup>1</sup> or religious  
16 purposes for the benefit of its members, which may also be extended  
17 to others.

18 These purposes may be carried out directly by the society, or  
19 indirectly through subsidiary corporations or affiliated organizations.

20 b. Every society shall have the power to adopt laws and rules for  
21 the government of the society, the admission of its members, and the  
22 management of its affairs. It shall have the power to change, alter, add  
23 to or amend those laws and rules and shall have those other powers as  
24 are necessary and incidental to carrying into effect the objects and  
25 purposes of the society.

26

27 6. (New section) a. A society shall specify in its laws or rules:

28 (1) eligibility standards for each and every class of membership,  
29 provided that if benefits are provided on the lives of minors, the  
30 minimum age for adult membership shall be set at not less than age 15  
31 and not greater than age 21;

32 (2) the process for admission to membership for each membership  
33 class; and

34 (3) the rights and privileges of each membership class, provided  
35 that only benefit members shall have the right to vote on the  
36 management of the insurance affairs of the society.

37 b. A society may also admit social members who shall have no  
38 voice or vote in the management of the insurance affairs of the society.

39 c. Membership rights in the society are personal to the member and  
40 are not assignable.

41

42 7. (New section) a. The principal office of any domestic society  
43 shall be located in this State. The meetings of its supreme governing  
44 body may be held in any state, district, province or territory wherein  
45 such society has at least one subordinate lodge, or in such other  
46 location as determined by the supreme governing body, and all

1 business transacted at those meetings shall be as valid in all respects  
2 as if those meetings were held in this State. The minutes of the  
3 proceedings of the assembly or board of directors shall be in the  
4 English language.

5 b. (1) A society may provide in its laws for an official publication  
6 in which any notice, report or statement required by law to be given  
7 to members, including notice of election, may be published. These  
8 required reports, notices and statements shall be printed conspicuously  
9 in the publication. If the records of a society show that two or more  
10 members have the same mailing address, an official publication mailed  
11 to one member is deemed to be mailed to all members at the same  
12 address unless a member requests a separate copy.

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

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

20

21 8. (New section) a. The officers and members of the supreme  
22 governing body or any subordinate body of a society shall not be  
23 personally liable for any benefits provided by a society.

24 b. Any person may be indemnified and reimbursed by any society  
25 for expenses reasonably incurred by, and liabilities imposed upon, that  
26 person in connection with or arising out of any action, suit or  
27 proceeding, whether civil, criminal, administrative or investigative, or  
28 threat thereof, in which the person may be involved by reason of the  
29 fact that he is or was a commissioner, officer, employee or agent of the  
30 society or of any firm, corporation or organization which he served in  
31 any capacity at the request of the society. A person shall not be  
32 indemnified or reimbursed: (1) in relation to any matter in an action,  
33 suit or proceeding which he is finally adjudged to be or have been  
34 guilty of breach of a duty as a director, officer, employee or agent of  
35 the society or (2) in relation to any matter in an action, suit or  
36 proceeding, or threat thereof, which results in a compromise  
37 settlement; unless in either case the person acted in good faith for a  
38 purpose the person reasonably believed to be in or not opposed to the  
39 best interests of the society and, in a criminal action or proceeding, in  
40 addition, had no reasonable cause to believe that his conduct was  
41 unlawful. The determination whether the conduct of that person met  
42 the standard required in order to justify indemnification and  
43 reimbursement in relation to any matter described in paragraph (1) or  
44 (2) of this subsection may only be made by the assembly or board of  
45 directors by a majority vote of a quorum consisting of persons who  
46 were not parties to that action, suit or proceeding or by a court of

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

9 c. A society shall have the power to purchase and maintain  
10 insurance on behalf of any person who is or was a director, officer,  
11 employee or agent of the society, or who is or was serving at the  
12 request of the society as a director, officer, employee or agent of any  
13 other firm, corporation or organization against any liability asserted  
14 against that person and incurred by him in that capacity or arising out  
15 of his status in that capacity whether or not the society would have the  
16 power to indemnify the person against that liability under this section.

17 d. No director, officer, employee, member or volunteer of a society  
18 serving without compensation, shall be liable, and no cause of action  
19 may be brought, for damages resulting from the exercise of judgment  
20 or discretion in connection with the duties or responsibilities of that  
21 person for the society unless the act or omission involved willful or  
22 wanton misconduct.

23

24 9. (New section) The laws of the society may provide that no  
25 subordinate body, nor any of its subordinate officers or members, shall  
26 have the power or authority to waive any of the provisions of the laws  
27 of the society. This provision shall be binding on the society and every  
28 member and beneficiary of a member.

29

30 10. (New section) A domestic society organized on or after the  
31 effective date of this act shall be formed as follows:

32 a. Seven or more citizens of the United States, a majority of whom  
33 are citizens of this State, who desire to form a fraternal benefit society,  
34 may make, sign and acknowledge, before some officer competent to  
35 take acknowledgment of deeds, articles of incorporation, in which  
36 shall be stated:

37 (1) the proposed corporate name of the society, which shall not so  
38 closely resemble the name of any society or insurance company as to  
39 be misleading or confusing;

40 (2) the purposes for which it is being formed and the mode in which  
41 its corporate powers are to be exercised. Those purposes shall not  
42 include more liberal powers than are granted by this act;

43 (3) the names and residences of the incorporators and the names,  
44 residences and official titles of all the officers, trustees, directors and  
45 other persons who are to have and exercise the general control of the  
46 management of the affairs and funds of the society for the first year or

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

5 b. The articles of incorporation, duly certified copies of the  
6 society's bylaws and rules, copies of all proposed forms of certificates,  
7 applications therefor, and circulars to be issued by the society and a  
8 bond conditioned upon the return to applicants of the advanced  
9 payments if the organization is not completed within one year shall be  
10 filed with the commissioner, who may require further information that  
11 he deems necessary. The bond with sureties approved by the  
12 commissioner shall be in an amount, not less than \$300,000 <sup>1</sup>[nor more  
13 than \$1,500,000] <sup>1</sup>, as required by the commissioner. All documents  
14 filed are to be in the English language. If the purposes of the society  
15 conform to the requirements of this act and all provisions of the law  
16 have been complied with, the commissioner shall certify, retain and file  
17 the articles of incorporation and furnish the incorporators a  
18 preliminary certificate of authority authorizing the society to solicit  
19 members pursuant to this act.

20 c. No preliminary certificate of authority granted under the  
21 provisions of this section shall be valid after one year from its date or  
22 after a further period, not exceeding one year, authorized by the  
23 commissioner upon cause shown, unless the 500 applicants required  
24 pursuant to paragraph (4) of subsection d. of this section have been  
25 secured and the organization has been completed pursuant to this  
26 section. The articles of incorporation and all other proceedings  
27 thereunder shall become null and void in one year from the date of the  
28 preliminary certificate of authority, or at the expiration of the extended  
29 period, unless the society has completed its organization and received  
30 a certificate of authority to do business pursuant to this section.

31 d. Upon receipt of a preliminary certificate of authority from the  
32 commissioner, the society may solicit members for the purpose of  
33 completing its organization, shall collect from each applicant the  
34 amount of not less than one regular monthly premium in accordance  
35 with its table of rates, and shall issue to each applicant a receipt for the  
36 amount of premium collected. No society shall incur any liability other  
37 than for the return of an advance premium, nor issue any certificate,  
38 nor pay, allow, or offer or promise to pay or allow, any benefit to any  
39 person until:

40 (1) actual bona fide applications for benefits have been secured on  
41 500 applicants and any necessary evidence of insurability has been  
42 furnished to and approved by the society;

43 (2) at least 10 subordinate lodges have been established into which  
44 the 500 applicants have been admitted;

45 (3) there has been submitted to the commissioner, under oath of the  
46 president or secretary, or corresponding officer of the society, a list of

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

5 (4) it shall have been shown to the commissioner, by sworn  
6 statement of the treasurer, or corresponding officer of the society, that  
7 500 applicants have each paid in cash at least one regular monthly  
8 premium, which premiums in the aggregate shall amount to at least  
9 \$150,000 <sup>1</sup>for each kind of business specified in N.J.S. 17B:17-3,  
10 N.J.S. 17B:17-4 or N.J.S. 17B:17-5 that the society is authorized to  
11 transact<sup>1</sup>. The advance premiums shall be held in trust during the  
12 period of organization and if the society does not qualify for a  
13 certificate of authority within one year, the premiums shall be returned  
14 to the applicants.

15 e. The commissioner may examine, and require further information  
16 of, a society as the commissioner deems advisable. Upon presentation  
17 of satisfactory evidence that the society has complied with all the  
18 provisions of law, the commissioner shall issue to the society a  
19 certificate of authority to that effect and the society is authorized to  
20 transact business pursuant to the provisions of this act. The certificate  
21 of authority shall be prima facie evidence of the existence of the  
22 society at the date of the certificate. The commissioner shall cause a  
23 record of the certificate of authority to be made. A certified copy of  
24 that record may be given in evidence with like effect as the original  
25 certificate of authority.

26 f. Any incorporated society authorized to transact business in this  
27 State at the time this act becomes effective shall not be required to  
28 reincorporate.

29 g. No unincorporated or voluntary association shall be permitted  
30 to transact business in this State as a society.

31

32 11. (New section) a. A domestic society may amend its laws in  
33 accordance with the provisions of those laws by action of its supreme  
34 governing body at any regular or special meeting thereof or, if its laws  
35 so provide, by referendum. The referendum may be held in accordance  
36 with the provisions of its laws by the vote of the voting members of  
37 the society, by the vote of delegates or representatives of voting  
38 members or by the vote of local lodges. A society may provide for  
39 voting by mail. No amendment submitted for adoption by referendum  
40 shall be adopted unless, within six months from the date of its  
41 submission, 2/3 of the members voting shall have signified their  
42 consent to an amendment by one of the methods specified in this  
43 section.

44 b. No amendment to the laws of any domestic society shall take  
45 effect unless approved by the commissioner who shall approve the  
46 amendment if the commissioner finds that it has been duly adopted and



1 is not inconsistent with any requirement of the laws of this State or  
2 with the character, objects and purposes of the society. If the  
3 commissioner does not disapprove an amendment within 60 days after  
4 filing it, the amendment shall be considered approved. The approval  
5 or disapproval of the commissioner shall be in writing and mailed to  
6 the secretary or corresponding officer of the society at its principal  
7 office. If the commissioner disapproves an amendment, the reasons  
8 for the disapproval shall be stated in the written notice.

9 c. Within 90 days after the approval of an amendment by the  
10 commissioner, the amendment, or a synopsis thereof, shall be furnished  
11 to all members of the society either by mail or publication in full in the  
12 official publication of the society. The affidavit of any officer of the  
13 society or of anyone authorized by it to mail any amendment or  
14 synopsis of the amendment, stating facts which show that the  
15 amendment has been duly addressed and mailed, shall be prima facie  
16 evidence that the amendment or synopsis thereof, has been furnished  
17 the addressee.

18 d. Every foreign or alien society authorized to do business in this  
19 State shall file with the commissioner a duly certified copy of all  
20 amendments of, or additions to, its laws within 90 days after the  
21 enactment of same.

22 e. Printed copies of the laws as amended, certified by the secretary  
23 or corresponding officer of the society, shall be prima facie evidence  
24 of the legal adoption thereof.

25

26 12. (New section) a. A society may create, maintain and operate,  
27 or may establish organizations to operate, not-for-profit institutions to  
28 further the purposes permitted by paragraph (2) of subsection a. of  
29 section 5 of this act. These institutions may furnish services free or at  
30 a reasonable charge. Any real or personal property owned, held or  
31 leased by the society for this purpose shall be reported in every annual  
32 statement but may not be allowed as an admitted asset of the society.

33 b. No society shall own or operate funeral homes or undertaking  
34 establishments.

35

36 13. a. A domestic society may, by a reinsurance agreement, cede  
37 any individual risk or risks in whole or in part to an insurer, other than  
38 another fraternal benefit society, having the power to reinsure and  
39 authorized to do business in this State, or if not so authorized, an  
40 insurer which is approved by the commissioner, but no domestic  
41 society may reinsure substantially all of its insurance in force without  
42 the written permission of the commissioner. <sup>1</sup>[A domestic society may  
43 take credit for the reserves on ceded risks to the extent reinsured, but  
44 no credit shall be allowed as an admitted asset or as a deduction from  
45 liability, to a ceding society for reinsurance made, ceded, renewed or  
46 otherwise becoming effective after the effective date of this act, unless

1 the reinsurance is payable by the assuming insurer on the basis of the  
2 liability of the ceding society under the contract or contracts reinsured  
3 without diminution because of the insolvency of the ceding society】  
4 Credit for reinsurance shall be allowed a domestic ceding society as  
5 either an asset or a reduction from liability in accordance with P.L.  
6 1993, c. 243 (C. 17:51B-1 et seq.). A domestic society shall also  
7 comply with all requirements of law generally applicable to reinsurance  
8 ceded or assumed by life and health insurers of this State<sup>1</sup>.

9 b. Notwithstanding the limitation of subsection a. of this section,  
10 a society may reinsure the risks of another society in a consolidation  
11 or merger approved by the commissioner under section 14 of this act.  
12

13 14. (New section) a. A domestic society may consolidate or  
14 merge with any other society by complying with the provisions of this  
15 section. It shall file with the commissioner:

16 (1) a certified copy of the written contract containing in full the  
17 terms and conditions of the consolidation or merger;

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

22 (3) a certificate of the officers of the societies, duly verified by  
23 their respective oaths, that the consolidation or merger has been  
24 approved by a 2/3 vote of the supreme governing body of each society,  
25 the vote being conducted at a regular or special meeting of each  
26 supreme governing body, or, if the society's laws so permit, by mail;  
27 and

28 (4) evidence that at least 60 days prior to the action of the supreme  
29 governing body of each society, the text of the contract has been  
30 furnished to all members of each society either by mail or by  
31 publication in full in the official publication of each society.

32 b. If the commissioner finds that the contract is in conformity with  
33 the provisions of this section, that the financial statements are correct  
34 and that the consolidation or merger is just and equitable to the  
35 members of each society, the commissioner shall approve the contract  
36 and issue a certificate to that effect. Upon approval, the contract shall  
37 be in full force and effect unless any society which is a party to the  
38 contract is incorporated under the laws of any other state or territory.  
39 In that event the consolidation or merger shall not become effective  
40 unless and until it has been approved as provided by the laws of that  
41 other state or territory and a certificate of approval from that other  
42 state is filed with the commissioner of this State or, if the laws of that  
43 other state or territory contain no like provision, then the  
44 consolidation or merger shall not become effective unless and until it  
45 has been approved by the commissioner of that other state or territory  
46 and a certificate of approval from the commissioner of that other state

1 is filed with the commissioner of this State.

2 c. Upon the consolidation or merger becoming effective, all the  
3 rights, franchises and interests of the consolidated or merged societies  
4 in and to every species of property, real, personal or mixed, and things  
5 in action thereunto belonging shall be vested in the society resulting  
6 from or remaining after the consolidation or merger without any other  
7 instrument, except that conveyances of real property may be evidenced  
8 by proper deeds, and the title to any real estate or interest therein,  
9 vested under the laws of this State in any of the societies consolidated  
10 or merged, shall not revert or be in any way impaired by reason of the  
11 consolidation or merger, but shall vest absolutely in the society  
12 resulting from or remaining after the consolidation or merger.

13 d. The affidavit of any officer of the society or anyone authorized  
14 by it to mail any notice or document stating that the notice or  
15 document has been duly addressed and mailed, shall be prima facie  
16 evidence that the notice or document has been furnished the  
17 addressees.

18

19 15. (New section) a. A domestic fraternal benefit society which  
20 is organized pursuant to the provisions of this act may convert to a  
21 domestic mutual insurer by complying with the provisions of this  
22 section.

23 b. A written plan of conversion setting forth in full the terms and  
24 conditions of conversion shall be prepared by the assembly or board  
25 of directors of the society. The plan shall include:

26 (1) the purpose of the conversion;

27 (2) the effect of conversion on existing benefit contracts issued by  
28 the society;

29 (3) a business plan;

30 (4) a provision that each holder of a benefit contract of the society  
31 shall receive any rights with respect to the domestic mutual insurer as  
32 may be prescribed by the commissioner, provided that those rights  
33 shall not exceed the rights provided to policyholders of other domestic  
34 mutual insurers authorized to transact <sup>1</sup>[either] the<sup>1</sup> kind or <sup>1</sup>[both]<sup>1</sup>  
35 kinds of business specified in N.J.S. 17B:17-3 <sup>1</sup>, N.J.S. 17B:17-4<sup>1</sup> and  
36 N.J.S. 17B:17-5; and

37 (5) a provision that each member of the society shall be notified of  
38 the conversion, which notification process shall be approved by the  
39 commissioner.

40 c. The written plan of conversion provided for in subsection b. of  
41 this section shall be approved by an affirmative vote of 2/3 of all  
42 members of the supreme governing body at a regular or special  
43 meeting and then filed with the commissioner.

44 d. The commissioner shall approve or disapprove the plan. The  
45 commissioner shall approve the plan unless he finds the plan:

46 (1) is contrary to law;

1 (2) would be detrimental to the safety or soundness of the proposed  
2 domestic mutual insurer;

3 (3) prejudices the interests of the holders of benefit contracts of the  
4 society or treats them inequitably.

5 The commissioner shall set forth his decision in writing and shall  
6 state the reasons therefor. A disapproval shall be subject to judicial  
7 review.

8 e. Upon approval of the plan by the commissioner and the issuance  
9 of a certificate of authority to transact the business of insurance as a  
10 domestic mutual insurer, the society shall be deemed to be a domestic  
11 mutual insurer subject to the provisions of Title 17B of the New Jersey  
12 Statutes <sup>1</sup>, including surplus requirements, and all other applicable  
13 law<sup>1</sup>.

14 f. On and after the date of issuance of the certificate of authority,  
15 the society shall be a domestic mutual insurer, vested with all the  
16 powers and privileges of a domestic mutual insurer, and subject to all  
17 provisions of law applicable to those insurers, <sup>1</sup>including surplus  
18 requirements,<sup>1</sup> in the same manner and with the same effect as if the  
19 converted society had originally been incorporated as a domestic  
20 mutual insurer on the date of issuance of the certificate of authority,  
21 and the members of the society shall become and be members of the  
22 domestic mutual insurer.

23 g. The conversion of a society into a domestic mutual insurer shall  
24 not affect the right of any creditor or member of the society, but all  
25 rights of all persons against the society before its conversion shall  
26 continue unaffected and shall be enforced against the domestic mutual  
27 insurer in the same manner they could have been enforced against the  
28 society had its conversion not taken place; except that all rights of  
29 assessment or reduction in benefits in lieu of assessment, prescribed in  
30 the certificate of incorporation or bylaws of the society, or provided  
31 in any certificate, policy or contract of the society, shall be canceled.  
32 As used in this section, "assessment" means the right to require the  
33 payment of a sum in addition to the weekly or other periodical dues,  
34 contributions, premiums and fees required under the terms of any  
35 certificate, policy or contract; and "domestic mutual insurer" shall only  
36 include a domestic mutual insurer authorized to transact <sup>1</sup>[either] the<sup>1</sup>  
37 kind or <sup>1</sup>[both]<sup>1</sup> kinds of business specified in N.J.S. 17B:17-3 <sup>1</sup>,  
38 N.J.S. 17B:17-4<sup>1</sup> and N.J.S. 17B:17-5.

39

40 16. (New section) a. A society may provide the following  
41 contractual benefits in any form <sup>1</sup>, except in the form of group  
42 insurance<sup>1</sup>:

43 (1) death benefits;

44 (2) endowment benefits;

45 (3) annuity benefits;

46 (4) temporary or permanent disability benefits;

- 1 (5) hospital, medical or nursing benefits;  
2 (6) monument or tombstone benefits to the memory of  
3 deceased members; and  
4 (7) other benefits as authorized for life and health insurers and  
5 which are not inconsistent with this act.

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

12  
13 17. (New section) a. The owner of a benefit contract shall have  
14 the right at all times to change the beneficiary or beneficiaries in  
15 accordance with the laws or rules of the society unless the owner  
16 waives this right by specifically requesting in writing that the  
17 beneficiary designation be irrevocable. A society may, through its  
18 laws or rules, limit the scope of beneficiary designations and shall  
19 provide that no revocable beneficiary shall have or obtain any vested  
20 interest in the proceeds of any certificate until the certificate has  
21 become due and payable in conformity with the provisions of the  
22 benefit contract.

23 b. A society may make provision for the payment of funeral  
24 benefits to the extent of that portion of any payment under a certificate  
25 as reasonably appears to be due to any person equitably entitled  
26 thereto by reason of having incurred expense occasioned by the burial  
27 of the member, provided the amount paid shall not exceed the sum of  
28 \$5,000.

29 c. If, at the death of any person insured under a benefit contract,  
30 there is no lawful beneficiary to whom the proceeds shall be payable,  
31 the amount of the benefit, except to the extent that funeral benefits  
32 may be paid as provided in subsection b. of this section, shall be  
33 payable to the estate of the deceased insured, provided that if the  
34 owner of the certificate is other than the insured, the proceeds shall be  
35 payable to the owner.

36  
37 18. (New section) a. Every society authorized to do business in  
38 this State shall issue to each owner of a benefit contract a certificate  
39 specifying the amount of benefits provided by the contract. The  
40 certificate, together with any riders or endorsements attached thereto,  
41 the laws of the society, the application for membership, the application  
42 for insurance and declaration of insurability, if any, signed by the  
43 applicant, and all amendments to each document shall constitute the  
44 benefit contract, as of the date of issuance, between the society and  
45 the owner, and the certificate shall state this requirement. A copy of  
46 the application for insurance and declaration of insurability, if any,

1 shall be endorsed upon or attached to the certificate. All statements  
2 on the application shall be representations and not warranties. Any  
3 waiver of the provisions of the subsection shall be void.

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

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

17 d. A society shall provide in its laws that if its reserves as to all or  
18 any class of certificates become impaired its board of directors or  
19 assembly may require that there shall be paid by the owner to the  
20 society the amount of the owner's equitable proportion of the  
21 deficiency ascertained by its board or assembly, and that if the payment  
22 is not made either: (1) it shall stand as an indebtedness against the  
23 certificate and draw interest not to exceed the rate specified for  
24 certificate loans under the certificates; or (2) in lieu of or in  
25 combination with paragraph (1), the owner may accept a proportionate  
26 reduction in benefits under benefits under the certificate. The society  
27 may specify the manner of the election and which alternative is to be  
28 presumed if no election is made.

29 e. Copies of any of the documents mentioned in this section,  
30 certified by the secretary or corresponding officer of the society, shall  
31 be received in evidence of the terms and conditions of the contract.

32 f. No certificate shall be delivered or issued for delivery in this  
33 State unless a copy of the form has been filed with the commissioner  
34 <sup>1</sup>for approval<sup>1</sup> in the manner provided for like policies issued by life  
35 and health insurers in this State. <sup>1</sup>[A filing shall be considered  
36 approved unless disapproved within 60 days from the date of filing.]<sup>1</sup>  
37 Every life, accident, health, or disability insurance certificate and every  
38 annuity certificate issued on or after one year from the effective date  
39 of this act shall meet the standard contract provision requirements, not  
40 inconsistent with this act, for like policies issued by life and health  
41 insurers in this State <sup>1</sup>], except that a society may provide for a grace  
42 period for payment of premiums of one full month in its certificates]  
43 . Any non-complying certificate shall be deemed withdrawn one year  
44 from the effective date of this act, except that the commissioner may,  
45 for good cause shown, allow the continued use of a non-conforming  
46 certificate for an additional period not to exceed one year<sup>1</sup>. The

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

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

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

24

25 19. (New section) a. For certificates issued prior to one year after  
26 the effective date of this act, the value of every paid-up nonforfeiture  
27 benefit and the amount of any cash surrender value, loan or other  
28 option granted shall comply with the provisions of law applicable  
29 immediately prior to the effective date of this act.

30 b. For certificates issued on or after one year after the effective  
31 date of this act <sup>1</sup>[for which reserves are computed on the  
32 Commissioner's 1941 Standard Ordinary Mortality Table, the  
33 Commissioner's 1941 Standard Industrial Table or the Commissioner's  
34 1958 Standard Ordinary Mortality Table, or the Commissioner's 1980  
35 Standard Ordinary Mortality Table, or any more recent table made  
36 applicable to life insurers]<sup>1</sup>, every paid-up nonforfeiture benefits and  
37 the amount of any cash surrender value, loan or other option granted  
38 shall not be less than the corresponding amount based on the interest  
39 rate and mortality tables authorized by the laws of this State for the  
40 calculation of those benefits by life and health insurers issuing policies  
41 containing like benefits <sup>1</sup>[based upon those tables]<sup>1</sup>.

42

43 20. (New section) A society shall invest its funds only in  
44 investments that are authorized by the laws of this State for the  
45 investment of assets of domestic life insurers and subject to the  
46 limitations thereon. Any foreign or alien society permitted or seeking

1 to do business in this State which invests its funds in accordance with  
2 the laws of the State, district, territory, country or province in which  
3 it is incorporated, shall be held to meet the requirements of this section  
4 for the investment of funds.

5  
6 21. (New section) a. All assets shall be held, invested and  
7 disbursed for the use and benefit of the society and no member or  
8 beneficiary shall have or acquire individual rights therein or become  
9 entitled to any apportionment on the surrender of any part of the  
10 assets, except as provided in the benefit contract.

11 b. A society may create, maintain, invest, disburse and apply any  
12 special fund or funds necessary to carry out any purpose permitted by  
13 the laws of the society.

14 c. A society may, pursuant to resolution of its supreme governing  
15 body, establish and operate one or more separate accounts and issue  
16 <sup>1</sup>separate account<sup>1</sup> contracts <sup>1</sup>, whether or not contracts<sup>1</sup> on a variable  
17 basis, subject to the provisions of law regulating life and health  
18 insurers establishing those accounts and issuing those contracts. To  
19 the extent the society deems it necessary in order to comply with any  
20 applicable federal or State laws, or any rules or regulations issued  
21 thereunder, the society may adopt special procedures for the conduct  
22 of the business and affairs of a separate account; may, for persons  
23 having beneficial interests in an account, provide special voting and  
24 other rights, including special rights and procedures relating to  
25 investment policy, investment advisory services, selection of certified  
26 public accountants, and selection of a committee to manage the  
27 business and affairs of the account, and may issue contracts on a  
28 variable basis to which subsections b. and d. of section 18 of this act  
29 shall not apply.

30 <sup>1</sup>d. Separate accounts of foreign or alien societies are subject to  
31 approval by the department, unless the society's place of domicile has  
32 adopted a substantially similar act.<sup>1</sup>

33  
34 22. (New section) Except as otherwise provided in this act,  
35 societies shall be governed by this act and shall be exempt from all  
36 other provisions of the insurance laws of this State, not only in  
37 governmental relations with the State, but for every other purpose.  
38 No law enacted on or after the effective date of this act shall apply to  
39 societies unless they be expressly <sup>1</sup>**[designed]** designated<sup>1</sup>. No  
40 corporation or association which purports to be a fraternal  
41 organization but which does not meet the requirements in this act with  
42 respect to a fraternal benefit society shall be exempt from the other  
43 provisions of the insurance laws of this State.

44  
45 23. (New section) Every society organized or licensed under this  
46 act is declared to be a charitable and benevolent institution, and all of



1 its funds shall be exempt from all and every State, county, district,  
2 municipal and school tax, other than taxes on real estate and office  
3 equipment. <sup>1</sup>Every society organized or licensed under this act shall  
4 be subject to the assessment provided pursuant to section 8 of P.L.  
5 1983, c. 320 (C. 17:33A-8) and the apportionment provided pursuant  
6 to section 2 of P.L. 1995, c. 156 (C. 17:1C-20).<sup>1</sup>  
7

8 24. (New section) a. Standards of valuation for certificates issued  
9 prior to one year after the effective date of this act shall be those  
10 provided by the laws applicable immediately prior to the effective date  
11 of this act.

12 b. The minimum standards of valuation for certificates issued on or  
13 after one year after the effective date of this act shall be <sup>1</sup>[based on the  
14 following tables:

15 (1) for certificates of life insurance - the Commissioner's 1941  
16 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard  
17 Industrial Mortality Table, the Commissioner's 1958 Standard  
18 Ordinary Mortality Table, the Commissioner's 1980 Standard Ordinary  
19 Mortality Table or any more recent table made applicable to life  
20 insurers;

21 (2) for annuity and pure endowment certificates, for total and  
22 permanent disability benefits, for accidental death benefits and for non-  
23 cancelable accident and health benefits - such tables as are authorized  
24 for use by life and health insurers in this State.

25 These standards of valuation for certificates shall be under valuation  
26 methods and standards, including interest assumptions, in accordance  
27 with the laws of this State applicable to life and health insurers issuing  
28 policies containing like benefits.

29 c. The commissioner may, in his discretion, accept other standards  
30 for valuation if the commissioner finds that the reserves produced  
31 thereby will not be less in the aggregate than reserves computed in  
32 accordance with the minimum valuation standard prescribed in this  
33 section. The commissioner may, in his discretion, vary the standards  
34 of mortality applicable to all benefit contracts on substandard lives or  
35 other extra hazardous lives by any society authorized to do business  
36 in this State.

37 d. Any society, with the consent of the insurance supervisory  
38 official of the State of domicile of the society and under conditions, if  
39 any, which the commissioner may impose, may establish and maintain  
40 reserves on its certificates in excess of the reserves required in this  
41 section, but the contractual rights of any benefit member shall not be  
42 affected by this requirement] the same as those for life and health  
43 insurers specified in N.J.S. 17B:19-5 and N.J.S. 17B:19-8<sup>1</sup>.  
44

45 25. (New section) a. Every society transacting business in this  
46 State shall annually, on or before March 1, unless for cause shown the

1 time has been extended by the commissioner, file with the  
2 commissioner a true statement of its financial condition, transactions  
3 and affairs for the preceding calendar year and pay a filing fee  
4 established by the commissioner by regulation. The statement shall be  
5 in general form and content as approved by the National Association  
6 of Insurance Commissioners for fraternal benefit societies and as  
7 supplemented by additional information required by the commissioner.

8 b. As a part of the annual statement required by subsection a. of  
9 this section, each society shall, on or before March 1, file with the  
10 commissioner a valuation of its certificates in force on December 31  
11 last preceding, provided the commissioner may, in his discretion for  
12 cause shown, extend the time for filing the valuation for not more than  
13 two-calendar months. The valuation shall be done in accordance with  
14 the standards specified in section 24 of this act. The valuation and  
15 underlying data shall be certified by a qualified actuary or, at the  
16 expense of the society, verified by the actuary of the insurance  
17 regulatory agency of the state of domicile of the society;

18 c. A society failing to file the annual statement in the form and  
19 within the time provided by this section shall forfeit \$100 for each day  
20 during which the failure continues, and, upon notice by the  
21 commissioner to that effect, its authority to do business in this State  
22 shall cease while the failure continues.

23

24 26. (New section) Societies which are now authorized to transact  
25 business in this State, and all societies licensed on or after the effective  
26 date of this act, may continue in business until June 1 next succeeding  
27 the effective date of this act. The authority of these <sup>1</sup>domestic<sup>1</sup>  
28 societies <sup>1</sup>[and all societies licensed on or after the effective date of  
29 this act,]<sup>1</sup> may thereafter be <sup>1</sup>[renewed annually] continued by  
30 satisfying the requirements set forth in this act. The authority of  
31 existing foreign or alien societies and all foreign and alien societies  
32 licensed on or after the effective date of this act. may thereafter be  
33 renewed annually<sup>1</sup>, but in all cases <sup>1</sup>[to]<sup>1</sup> terminate on the first day of  
34 the succeeding June. However, a license that has been issued shall  
35 continue in full force and effect until the new license is issued or  
36 specifically refused. A duly certified copy or duplicate of the license  
37 shall be prima facie evidence that the licensee is a fraternal benefit  
38 society within the meaning of this act.

39

40 27. (New section) a. <sup>1</sup>[The commissioner, or any person appointed  
41 by the commissioner, may examine any domestic, foreign or alien  
42 society transacting or applying for admission to transact business in  
43 this State in the same manner as authorized for examination of  
44 domestic, foreign or alien life or health insurers. Requirements of  
45 notice and an opportunity to respond before findings are made public  
46 as provided in the laws regulating life or health insurers shall also be

1 applicable to the examination of societies.

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

6 c.] All societies shall be subject to examination by the  
7 commissioner in the same manner and subject to the same procedures  
8 as set forth in P.L.1993, c.236 (C.17:23-20 et seq.).

9 b.<sup>1</sup> A summary of the report of the commissioner and the  
10 recommendations or statements of the commissioner as may  
11 accompany the report, shall be read at the first meeting of the board  
12 of directors or corresponding body of the society following their  
13 receipt, and if directed by the commissioner, shall also be read at the  
14 first meeting of the supreme governing body of the society following  
15 their receipt. A copy of the report, recommendations and statements  
16 of the commissioner shall be furnished by the society to each member  
17 of the board of directors or assembly.

18

19 28. (New section) No foreign or alien society shall transact  
20 business in this State without a license issued by the commissioner.  
21 Any foreign or alien society desiring admission to this State shall  
22 comply substantially with the requirements and limitations of this act  
23 applicable to domestic societies. Any foreign or alien society may be  
24 licensed to transact business in this State upon filing with the  
25 commissioner:

26 a. A duly certified copy of its articles of incorporation;

27 b. A copy of its bylaws, certified by its secretary or corresponding  
28 officer;

29 c. A power of attorney to the commissioner as prescribed in  
30 section 34 of this act;

31 d. A statement of its business under oath of its president and  
32 secretary or corresponding officers in a form prescribed by the  
33 commissioner, duly verified by an examination made by the supervising  
34 insurance official of its home state, territory, province or country,  
35 satisfactory to the commissioner;

36 e. Certification from the proper official of its home state, territory,  
37 province or country that the society is legally incorporated and  
38 licensed to transact business therein;

39 f. Copies of its certificate forms;

40 g. A showing that its assets are invested in accordance with the  
41 provisions of this act;

42 h. Any other information the commissioner may deem necessary;  
43 and

44 i. Upon payment of a filing fee established by the commissioner by  
45 regulation.

46

1 29. (New section) Domestic societies shall be subject to the  
2 provision of P.L.1992, c.65 (C.17B:32-31 et seq.).

3

4 30. (New section) a. When the commissioner upon investigation  
5 finds that a foreign or alien society transacting or applying to transact  
6 business in this State:

7 (1) has exceeded its powers;

8 (2) has failed to comply with any of the provisions of this act;

9 (3) is not fulfilling its contract in good faith; or

10 (4) is conducting its business fraudulently or in a manner  
11 hazardous to its members or creditors or the public:

12 the commissioner shall notify the society in writing of the deficiency  
13 or deficiencies and state in writing the reasons for his dissatisfaction.

14 The commissioner shall at once issue a written order to the society  
15 requiring that the deficiency or deficiencies which exist be corrected.

16 After that order the society shall have 30 days in which to comply with  
17 the commissioner's order for correction, and if the society fails to

18 comply, the <sup>1</sup>[commission] commissioner<sup>1</sup> shall notify the society of  
19 his findings of noncompliance and require the society to show cause

20 on a date to be named why its license should not be suspended,  
21 revoked or refused. If on that date the society does not present good

22 and sufficient reason why its authority to do business in this State  
23 should not be suspended, revoked or refused, the commissioner may

24 suspend or refuse the license of the society to do business in this State  
25 until satisfactory evidence is furnished to the commissioner that the

26 suspension or refusal should be withdrawn, or the commissioner may  
27 revoke the authority of the society to do business in this State.

28 b. Nothing contained in this section shall be taken or construed as  
29 preventing any foreign or alien society from continuing in good faith

30 all contracts made in this State during the time the society was legally  
31 authorized to transact business.

32

33 31. (New section) No application or petition for injunction against  
34 any domestic, foreign or alien society, or lodge thereof, shall be

35 recognized in any court of this State unless made by the Attorney  
36 General upon request of the commissioner.

37

38 32. (New section) <sup>1</sup>[Agents of] Individuals acting as insurance  
39 producers with respect to<sup>1</sup> societies shall be licensed in accordance  
40 with the provisions of P.L.1987, c.293 (C.17:22A-1 et seq.).

41

42 33. (New section) Every society and agent authorized to do  
43 business in this State shall be subject to the provisions of N.J.S.

44 <sup>1</sup>[17B:3B-1] 17B:30-1<sup>1</sup> et seq., relating to trade practices; provided,  
45 however, that nothing in those provisions shall be construed as

46 applying to or affecting the right of any society to determine its

1 eligibility requirements for membership, or be construed as applying  
2 to or affecting the offering of benefits exclusively to members or  
3 persons eligible for membership in the society by a subsidiary  
4 corporation or affiliated organization of the society.

5  
6 34. (New section) a. Every <sup>1</sup>foreign and alien<sup>1</sup> society authorized  
7 to do business in this State shall appoint in writing the commissioner  
8 and each successor in office to be its true and lawful attorney upon  
9 whom all lawful process in any action or proceeding against it shall be  
10 served, and shall agree in writing that any lawful process against it  
11 which is served shall be of the same legal force and validity as if served  
12 upon the society, and that the authority shall continue in force as long  
13 as any liability remains outstanding in this State. Copies of the  
14 appointment, certified by the commissioner, shall be deemed sufficient  
15 evidence of its existence and shall be admitted in evidence with the  
16 same force and effect as the original written appointment would be  
17 admitted.

18 b. Service shall only be made upon the commissioner, or if absent,  
19 upon the person in charge of the commissioner's office. It shall be  
20 made in duplicate and shall constitute sufficient service upon the  
21 society. When legal process against a society is served upon the  
22 commissioner, the commissioner shall forward one of the duplicate  
23 copies by registered mail, prepaid, directed to the secretary or  
24 corresponding officer. No service shall require a society to file its  
25 answer, pleading or defense in less than 30 days from the date of  
26 mailing the copy of the service to a society. <sup>1</sup>Legal process shall not  
27 be served upon a society except in the manner provided in this  
28 section.]<sup>1</sup>

29  
30 35. (New section) a. Nothing contained in this act shall be  
31 construed to affect or apply to:

32 (1) societies which do not provide benefits by contract;

33 (2) orders, societies or associations which admit to membership  
34 only persons engaged in one or more crafts or hazardous occupations,  
35 in the same or similar lines of business, insuring only their own  
36 members and their families, and the ladies' societies or ladies'  
37 auxiliaries to those orders, societies or associations;

38 (3) domestic societies which limit their membership to employees  
39 of a particular city or town, designated firm, business or corporation  
40 which provide for a death benefit of not more than \$400 or disability  
41 benefits of not more than \$350 to any person in any one year, or both;  
42 or

43 (4) domestic societies or associations of a purely religious,  
44 charitable or benevolent description, which provide for a death benefit  
45 of not more than \$400 or a disability benefits of not more than \$350  
46 to any one person in any one year, or both.

1       b. Any society or association described in paragraph (3) or (4) of  
2 subsection a. of this section which provides for death or disability  
3 benefits for which benefit certificates are issued, and a society or  
4 association included in paragraph (4) of subsection a. of this section  
5 which has more than 1,000 members, shall not be exempted from the  
6 provisions of this act but shall comply with all requirements of this act.

7       c. No society which, by the provisions of this section, is exempt  
8 from the requirements of this act, except any society described  
9 paragraph (2) of subsection a. of this section, shall give or allow, or  
10 promise to give or allow to any person any compensation for  
11 procuring new members.

12       d. Every society which provides for benefits in case of death or  
13 disability resulting solely from accident, and which does not obligate  
14 itself to pay natural death or sick benefits shall have all of the  
15 privileges and be subject to all the applicable provisions and  
16 regulations of this act, except that the provisions of this act relating to  
17 medical examinations, valuations of benefit certificates, and  
18 incontestability, shall not apply to that society;

19       e. The commissioner may require from any society or association,  
20 by examination or otherwise, information that will enable the  
21 commissioner to determine whether the society or association is  
22 exempt from the provisions of this act;

23       f. Societies, exempted under the provisions of this section, shall  
24 also be exempt from all other provisions of the insurance laws of this  
25 State.

26

27       36. (New section) a. Any person who:

28       (1) makes a false or fraudulent statement to the commissioner, or  
29 the department, in any report or declaration required or authorized by  
30 this act, or

31       (2) solicits membership for, or in any manner, assists in procuring  
32 membership in any fraternal benefit society which by the terms of this  
33 act is required to be but is not licensed, or

34       (3) violates any of the provisions of this act, shall be liable to a  
35 penalty not exceeding \$1,000 for the first offense and not exceeding  
36 \$2,000 for each succeeding offense.

37       b. The penalties provided in this section shall be enforced and  
38 collected in a summary manner pursuant to "the penalty enforcement  
39 law," N.J.S.2A:58-1 et seq.

40

41       37. (New section) All decisions and findings of the commissioner  
42 made under the provisions of this act shall be subject to review by  
43 proper proceedings in any court of competent jurisdiction in this State.

44

45       38. Section 3 of P.L.1987, c.293 (C.17:22A-3) is amended to read  
46 as follows:

1       3. a. No person shall act as an insurance producer or maintain or  
2 operate any office in this State for the transaction of the business of an  
3 insurance producer, or receive any commission, brokerage fee,  
4 compensation or other consideration for services rendered as an  
5 insurance producer without first obtaining a license from the  
6 commissioner granting authority for the kind of insurance transacted.  
7 No insurance company or licensee shall pay any commission,  
8 brokerage fee, compensation or other consideration to any unlicensed  
9 person for services rendered in this State as an insurance producer  
10 except for services rendered while licensed. Engaging in a single act  
11 or transaction of the business of an insurance producer, or holding  
12 oneself out to the public or a licensee as being so engaged, shall be  
13 sufficient proof of engaging in the business of an insurance producer.

14       b. The provisions of subsection a. of this section shall not apply to:

15       (1) the clerical duties of office employees nor the managerial or  
16 supervisory duties of general agents or managers who do not  
17 negotiate, solicit or effect insurance contracts;

18       (2) any regular salaried officer, employee or member of a fraternal  
19 benefit society licensed and authorized to transact business in this  
20 State pursuant to the provisions of P.L.1959, c.167 (C.17:44A-1 et  
21 seq.) or P.L. , c. (C. ) (now before the Legislature as this bill)  
22 who devotes substantially all of his services to activities other than the  
23 solicitation of fraternal insurance contracts from the public, and who  
24 receives for the solicitation of those contracts no commission or other  
25 compensation directly dependent upon the amount of business  
26 obtained; or

27       (3) any agent, representative or member of a fraternal benefit  
28 society who devotes, or intends to devote, less than 50 percent of his  
29 time to the solicitation and procurement of insurance contracts for that  
30 fraternal benefit society **[. Any]** and who receives or intends to  
31 receive any commission or other compensation directly dependent on  
32 the amount of insurance; provided that any person who in the  
33 preceding calendar year has solicited [and] or procured [life insurance]  
34 any of the following contracts of insurance on behalf of [any] a  
35 fraternal benefit society [in an amount of insurance in excess of a total  
36 of \$50,000, or, in the case of any other kind or kinds of insurance  
37 which the society writes, on the persons of more than 25 individuals  
38 and who has received or will receive a commission or other  
39 compensation therefrom, shall be] is presumed to [be devoting] have  
40 devoted, or [intending] intended to devote, 50 percent of his time to  
41 the solicitation or procurement of insurance contracts [for that  
42 society] :

43       (a) Life insurance contracts that, in the aggregate, exceed  
44 \$200,000 of coverage for all lives insured for the preceding calendar  
45 year;

46       (b) A permanent life insurance contract offering more than \$10,000

1 of coverage on an individual life;

2 (c) A term life insurance contract offering more than \$50,000 of  
3 coverage on an individual life;

4 (d) An insurance contract, other than a life insurance contract, that  
5 the fraternal benefit society may write that insures the individual lives  
6 of more than 25 persons; <sup>1</sup>[and] or<sup>1</sup>

7 (e) Any variable life insurance or variable annuity contract.

8 (cf: P.L.1994, c.157, s.1)

9

10 39. P.L.1959, c.167 (C.17:44A-1 et seq.) is repealed.

11

12 40. This act shall take effect on January 1, 1998.

13

14

15

16

17 Provides for the regulation and licensure of fraternal benefit societies  
18 for the sale of life and health insurance to members and repeals current  
19 laws therefor.



1 ~~any~~ a fraternal benefit society ~~in an amount of insurance in excess~~  
2 of a total of \$50,000, or, in the case of any other kind or kinds of  
3 insurance which the society writes, on the persons of more than 25  
4 individuals and who has received or will receive a commission or other  
5 compensation therefrom, shall be] is presumed to [be devoting] have  
6 devoted, or [intending] intended to devote, 50 percent of his time to  
7 the solicitation or procurement of insurance contracts ~~for that~~  
8 ~~society~~ ;

9 (a) Life insurance contracts that, in the aggregate, exceed  
10 \$200,000 of coverage for all lives insured for the preceding calendar  
11 year;

12 (b) A permanent life insurance contract offering more than \$10,000  
13 of coverage on an individual life;

14 (c) A term life insurance contract offering more than \$50,000 of  
15 coverage on an individual life;

16 (d) An insurance contract, other than a life insurance contract, that  
17 the fraternal benefit society may write that insures the individual lives  
18 of more than 25 persons; and

19 (e) Any variable life insurance or variable annuity contract.

20 (cf: P.L.1994, c.157, s.1)

21  
22 39. P.L.1959, c.167 (C.17:44A-1 et seq.) is repealed.

23  
24 40. This act shall take effect on January 1, 1998.

## 25 26 27 STATEMENT

28  
29 This bill provides for the regulation and licensure of fraternal  
30 benefit societies for the sale of life and health insurance to their  
31 members. The bill repeals the current law in this regard. Much of the  
32 current law in regard to fraternal benefit societies is maintained in the  
33 bill. The most important additions to current law give societies clear  
34 authority to own subsidiary corporations and to establish accounts  
35 necessary for offering variable life insurance and variable annuities.  
36 Other additions include authority to provide new products and services  
37 to their members to keep pace with any new authority granted to  
38 commercial life insurers in the future; improved provisions for juvenile  
39 contracts; allowing designation of irrevocable beneficiaries; providing  
40 for assignment of contracts; allowing use of benefit contracts for third-  
41 party insurance situations; increased bond protection during the  
42 organization period of domestic societies; raising the initial amount of  
43 premium required to start an insurance program to \$150,000; removes  
44 the \$300 limitation on tombstone benefits; increases funeral benefits  
45 from \$500 to \$5,000; provides that only the Commissioner of Banking  
46 and Insurance may bring an injunction proceeding against a society,

1 not private litigants; and applies certain commercial insurance  
2 standards to benefit contracts, such as standards for insurance  
3 contracts, unfair trade practices and privacy.

4

5

6

7

8 Provides for the regulation and licensure of fraternal benefit societies  
9 for the sale of life and health insurance to members and repeals current  
10 laws therefor.

[Passed Both Houses]

[First Reprint]

ASSEMBLY, No. 2874

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**STATE OF NEW JERSEY**

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INTRODUCED MAY 1, 1997

By Assemblymen KRAMER, Garcia, Zecker  
and Senator Inverso

1 AN ACT concerning fraternal benefit societies, amending P.L.1987,  
2 c.293, supplementing Title 17 of the Revised Statutes and repealing  
3 P.L.1959, c.167.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) As used in this act:

9 "Benefit contract" means an agreement for provision of benefits  
10 authorized by section 16 of this act, as that agreement is described in  
11 subsection a. of section 18 of this act.

12 "Benefit member" means an adult member who is designated by the  
13 laws or rules of the society to be a benefit member under a benefit  
14 contract.

15 "Certificate" means the document issued as written evidence of a  
16 benefit contract.

17 "Commissioner" means the Commissioner of Banking and  
18 Insurance.

19 "Department" means the Department of Banking and Insurance.

20 "Laws" means the society's articles of incorporation, constitution  
21 and bylaws, however designated.

22 "Lodge" means a subordinate member unit of the society, known as  
23 a camp, court, council, branch or by any other designation.

24 "Premiums" means premiums, rates, dues or other required  
25 contributions by whatever name known, which are payable under the  
26 certificate.

27 "Rules" means all rules, regulations or resolutions adopted by the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AIN committee amendments adopted November 6, 1997.

1 assembly or board of directors which are intended to have general  
2 application to the members of the society.

3 "Society" means fraternal benefit society, unless otherwise  
4 indicated.

5  
6 2. (New section) Any incorporated society, order or supreme  
7 lodge, without capital stock, including one exempted under the  
8 provisions of section 35 of this act, whether incorporated or not,  
9 conducted solely for the benefit of its members and their beneficiaries  
10 and not-for-profit, operated on a lodge system with ritualistic form of  
11 work, having a representative form of government, and which provides  
12 benefits in accordance with this act, is declared to be a fraternal benefit  
13 society.

14  
15 3. (New section) a. A society is operating on the lodge system if  
16 it has a supreme governing body and subordinate lodges into which  
17 members are elected, initiated or admitted in accordance with its laws,  
18 rules and ritual. Subordinate lodges shall be required by the laws of  
19 the society to hold regular meetings at least once in each month in  
20 furtherance of the purposes of the society.

21 b. A society may, at its option, organize and operate lodges for  
22 minors under the minimum age for adult membership. Membership  
23 and initiation in local lodges shall not be required of children, nor shall  
24 they have a voice or vote in the management of the society.

25  
26 4. (New section) A society has a representative form of  
27 government when:

28 a. ~~It~~ It has a supreme governing body constituted in one of the  
29 following ways:

30 (1) Assembly. The supreme governing body is an assembly  
31 composed of delegates elected directly by the members or at  
32 intermediate assemblies or conventions of members or their  
33 representatives, together with other delegates as may be prescribed in  
34 the society's laws. A society may provide for election of delegates by  
35 mail. The elected delegates shall constitute a majority in number and  
36 shall not have less than 2/3 of the votes and not less than the number  
37 of votes required to amend the society's laws. The assembly shall be  
38 elected and shall meet at least once every four years and shall elect a  
39 board of directors to conduct the business of the society between  
40 meetings of the assembly. Vacancies on the board of directors  
41 between elections may be filled in the manner prescribed by the  
42 society's laws.

43 (2) Direct Election. The supreme governing body is a board  
44 composed of persons elected by the members, either directly or by  
45 their representatives in intermediate assemblies, and any other persons  
46 prescribed in the society's laws. A society may provide for election of

1 the board by mail. Each term of a board member may not exceed four  
2 years. Vacancies on the board between elections may be filled in the  
3 manner prescribed by the society's laws. Those persons elected to the  
4 board shall constitute a majority in number and not less than the  
5 number of votes required to amend the society's laws. A person filling  
6 the unexpired term of an elected board member shall be considered to  
7 be an elected member. The board shall meet at least quarterly to  
8 conduct the business of the society.

9 b. The officers of the society are elected either by the assembly or  
10 board of directors;

11 c. Only benefit members are eligible for election to the assembly or  
12 board of directors; and

13 d. Each voting member shall have one vote; no vote may be cast by  
14 proxy.

15

16 5. (New section) a. A society shall operate for the benefit of  
17 members and their beneficiaries by:

18 (1) providing benefits as specified in section 16 of this act; and

19 (2) operating for one or more social, intellectual, educational,  
20 charitable, benevolent, moral, fraternal <sup>1</sup>['], patriotic<sup>1</sup> or religious  
21 purposes for the benefit of its members, which may also be extended  
22 to others.

23 These purposes may be carried out directly by the society, or  
24 indirectly through subsidiary corporations or affiliated organizations.

25 b. Every society shall have the power to adopt laws and rules for  
26 the government of the society, the admission of its members, and the  
27 management of its affairs. It shall have the power to change, alter, add  
28 to or amend those laws and rules and shall have those other powers as  
29 are necessary and incidental to carrying into effect the objects and  
30 purposes of the society.

31

32 6. (New section) a. A society shall specify in its laws or rules:

33 (1) eligibility standards for each and every class of membership,  
34 provided that if benefits are provided on the lives of minors, the  
35 minimum age for adult membership shall be set at not less than age 15  
36 and not greater than age 21;

37 (2) the process for admission to membership for each membership  
38 class; and

39 (3) the rights and privileges of each membership class, provided  
40 that only benefit members shall have the right to vote on the  
41 management of the insurance affairs of the society.

42 b. A society may also admit social members who shall have no  
43 voice or vote in the management of the insurance affairs of the society.

44 c. Membership rights in the society are personal to the member and  
45 are not assignable.

1       7. (New section) a. The principal office of any domestic society  
2 shall be located in this State. The meetings of its supreme governing  
3 body may be held in any state, district, province or territory wherein  
4 such society has at least one subordinate lodge, or in such other  
5 location as determined by the supreme governing body, and all  
6 business transacted at those meetings shall be as valid in all respects  
7 as if those meetings were held in this State. The minutes of the  
8 proceedings of the assembly or board of directors shall be in the  
9 English language.

10       b. (1) A society may provide in its laws for an official publication  
11 in which any notice, report or statement required by law to be given  
12 to members, including notice of election, may be published. These  
13 required reports, notices and statements shall be printed conspicuously  
14 in the publication. If the records of a society show that two or more  
15 members have the same mailing address, an official publication mailed  
16 to one member is deemed to be mailed to all members at the same  
17 address unless a member requests a separate copy.

18       (2) Not later than June 1 of each year, a synopsis of the society's  
19 annual statement providing an explanation of the facts concerning the  
20 condition of the society disclosed in the statement shall be printed and  
21 mailed to each benefit member of the society or, in lieu thereof, the  
22 synopsis may be published in the society's official publication.

23       c. A society may provide in its laws or rules for grievance or  
24 complaint procedures for members.

25

26       8. (New section) a. The officers and members of the supreme  
27 governing body or any subordinate body of a society shall not be  
28 personally liable for any benefits provided by a society.

29       b. Any person may be indemnified and reimbursed by any society  
30 for expenses reasonably incurred by, and liabilities imposed upon, that  
31 person in connection with or arising out of any action, suit or  
32 proceeding, whether civil, criminal, administrative or investigative, or  
33 threat thereof, in which the person may be involved by reason of the  
34 fact that he is or was a commissioner, officer, employee or agent of the  
35 society or of any firm, corporation or organization which he served in  
36 any capacity at the request of the society. A person shall not be  
37 indemnified or reimbursed: (1) in relation to any matter in an action,  
38 suit or proceeding which he is finally adjudged to be or have been  
39 guilty of breach of a duty as a director, officer, employee or agent of  
40 the society or (2) in relation to any matter in an action, suit or  
41 proceeding, or threat thereof, which results in a compromise  
42 settlement; unless in either case the person acted in good faith for a  
43 purpose the person reasonably believed to be in or not opposed to the  
44 best interests of the society and, in a criminal action or proceeding, in  
45 addition, had no reasonable cause to believe that his conduct was  
46 unlawful. The determination whether the conduct of that person met

1 the standard required in order to justify indemnification and  
2 reimbursement in relation to any matter described in paragraph (1) or  
3 (2) of this subsection may only be made by the assembly or board of  
4 directors by a majority vote of a quorum consisting of persons who  
5 were not parties to that action, suit or proceeding or by a court of  
6 competent jurisdiction. The termination of any action, suit or  
7 proceeding by judgment, order, settlement, conviction, or upon a plea  
8 of no contest, as to that person shall not in itself create a conclusive  
9 presumption that the person did not meet the standard of conduct  
10 required in order to justify indemnification and reimbursement. The  
11 right of indemnification and reimbursement shall not be exclusive of  
12 other rights to which that person may be entitled as a matter of law  
13 and shall inure to the benefit of his heirs, executors and administrators.

14 c. A society shall have the power to purchase and maintain  
15 insurance on behalf of any person who is or was a director, officer,  
16 employee or agent of the society, or who is or was serving at the  
17 request of the society as a director, officer, employee or agent of any  
18 other firm, corporation or organization against any liability asserted  
19 against that person and incurred by him in that capacity or arising out  
20 of his status in that capacity whether or not the society would have the  
21 power to indemnify the person against that liability under this section.

22 d. No director, officer, employee, member or volunteer of a society  
23 serving without compensation, shall be liable, and no cause of action  
24 may be brought, for damages resulting from the exercise of judgment  
25 or discretion in connection with the duties or responsibilities of that  
26 person for the society unless the act or omission involved willful or  
27 wanton misconduct.

28

29 9. (New section) The laws of the society may provide that no  
30 subordinate body, nor any of its subordinate officers or members, shall  
31 have the power or authority to waive any of the provisions of the laws  
32 of the society. This provision shall be binding on the society and every  
33 member and beneficiary of a member.

34

35 10. (New section) A domestic society organized on or after the  
36 effective date of this act shall be formed as follows:

37 a. Seven or more citizens of the United States, a majority of whom  
38 are citizens of this State, who desire to form a fraternal benefit society,  
39 may make, sign and acknowledge, before some officer competent to  
40 take acknowledgment of deeds, articles of incorporation, in which  
41 shall be stated:

42 (1) the proposed corporate name of the society, which shall not so  
43 closely resemble the name of any society or insurance company as to  
44 be misleading or confusing;

45 (2) the purposes for which it is being formed and the mode in which  
46 its corporate powers are to be exercised. Those purposes shall not

1 include more liberal powers than are granted by this act;

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

10 b. The articles of incorporation, duly certified copies of the  
11 society's bylaws and rules, copies of all proposed forms of certificates,  
12 applications therefor, and circulars to be issued by the society and a  
13 bond conditioned upon the return to applicants of the advanced  
14 payments if the organization is not completed within one year shall be  
15 filed with the commissioner, who may require further information that  
16 he deems necessary. The bond with sureties approved by the  
17 commissioner shall be in an amount, not less than \$300,000 <sup>1</sup> [nor  
18 more than \$1,500,000] <sup>1</sup> as required by the commissioner. All  
19 documents filed are to be in the English language. If the purposes of  
20 the society conform to the requirements of this act and all provisions  
21 of the law have been complied with, the commissioner shall certify,  
22 retain and file the articles of incorporation and furnish the  
23 incorporators a preliminary certificate of authority authorizing the  
24 society to solicit members pursuant to this act.

25 c. No preliminary certificate of authority granted under the  
26 provisions of this section shall be valid after one year from its date or  
27 after a further period, not exceeding one year, authorized by the  
28 commissioner upon cause shown, unless the 500 applicants required  
29 pursuant to paragraph (4) of subsection d. of this section have been  
30 secured and the organization has been completed pursuant to this  
31 section. The articles of incorporation and all other proceedings  
32 thereunder shall become null and void in one year from the date of the  
33 preliminary certificate of authority, or at the expiration of the extended  
34 period, unless the society has completed its organization and received  
35 a certificate of authority to do business pursuant to this section.

36 d. Upon receipt of a preliminary certificate of authority from the  
37 commissioner, the society may solicit members for the purpose of  
38 completing its organization, shall collect from each applicant the  
39 amount of not less than one regular monthly premium in accordance  
40 with its table of rates, and shall issue to each applicant a receipt for the  
41 amount of premium collected. No society shall incur any liability other  
42 than for the return of an advance premium, nor issue any certificate,  
43 nor pay, allow, or offer or promise to pay or allow, any benefit to any  
44 person until:

45 (1) actual bona fide applications for benefits have been secured on  
46 500 applicants and any necessary evidence of insurability has been



1 furnished to and approved by the society;

2 (2) at least 10 subordinate lodges have been established into which  
3 the 500 applicants have been admitted;

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

10 (4) it shall have been shown to the commissioner, by sworn  
11 statement of the treasurer, or corresponding officer of the society, that  
12 500 applicants have each paid in cash at least one regular monthly  
13 premium, which premiums in the aggregate shall amount to at least  
14 \$150,000 <sup>1</sup>for each kind of business specified in N.J.S. 17B:17-3,  
15 N.J.S. 17B:17-4 or N.J.S. 17B:17-5 that the society is authorized to  
16 transact<sup>1</sup>. The advance premiums shall be held in trust during the  
17 period of organization and if the society does not qualify for a  
18 certificate of authority within one year, the premiums shall be returned  
19 to the applicants.

20 e. The commissioner may examine, and require further information  
21 of, a society as the commissioner deems advisable. Upon presentation  
22 of satisfactory evidence that the society has complied with all the  
23 provisions of law, the commissioner shall issue to the society a  
24 certificate of authority to that effect and the society is authorized to  
25 transact business pursuant to the provisions of this act. The certificate  
26 of authority shall be prima facie evidence of the existence of the  
27 society at the date of the certificate. The commissioner shall cause a  
28 record of the certificate of authority to be made. A certified copy of  
29 that record may be given in evidence with like effect as the original  
30 certificate of authority.

31 f. Any incorporated society authorized to transact business in this  
32 State at the time this act becomes effective shall not be required to  
33 reincorporate.

34 g. No unincorporated or voluntary association shall be permitted  
35 to transact business in this State as a society.

36  
37 11. (New section) a. A domestic society may amend its laws in  
38 accordance with the provisions of those laws by action of its supreme  
39 governing body at any regular or special meeting thereof or, if its laws  
40 so provide, by referendum. The referendum may be held in accordance  
41 with the provisions of its laws by the vote of the voting members of  
42 the society, by the vote of delegates or representatives of voting  
43 members or by the vote of local lodges. A society may provide for  
44 voting by mail. No amendment submitted for adoption by referendum  
45 shall be adopted unless, within six months from the date of its  
46 submission, 2/3 of the members voting shall have signified their

1 consent to an amendment by one of the methods specified in this  
2 section.

3 b. No amendment to the laws of any domestic society shall take  
4 effect unless approved by the commissioner who shall approve the  
5 amendment if the commissioner finds that it has been duly adopted and  
6 is not inconsistent with any requirement of the laws of this State or  
7 with the character, objects and purposes of the society. If the  
8 commissioner does not disapprove an amendment within 60 days after  
9 filing it, the amendment shall be considered approved. The approval  
10 or disapproval of the commissioner shall be in writing and mailed to  
11 the secretary or corresponding officer of the society at its principal  
12 office. If the commissioner disapproves an amendment, the reasons  
13 for the disapproval shall be stated in the written notice.

14 c. Within 90 days after the approval of an amendment by the  
15 commissioner, the amendment, or a synopsis thereof, shall be furnished  
16 to all members of the society either by mail or publication in full in the  
17 official publication of the society. The affidavit of any officer of the  
18 society or of anyone authorized by it to mail any amendment or  
19 synopsis of the amendment, stating facts which show that the  
20 amendment has been duly addressed and mailed, shall be prima facie  
21 evidence that the amendment or synopsis thereof, has been furnished  
22 the addressee.

23 d. Every foreign or alien society authorized to do business in this  
24 State shall file with the commissioner a duly certified copy of all  
25 amendments of, or additions to, its laws within 90 days after the  
26 enactment of same.

27 e. Printed copies of the laws as amended, certified by the secretary  
28 or corresponding officer of the society, shall be prima facie evidence  
29 of the legal adoption thereof.

30

31 12. (New section) a. A society may create, maintain and operate,  
32 or may establish organizations to operate, not-for-profit institutions to  
33 further the purposes permitted by paragraph (2) of subsection a. of  
34 section 5 of this act. These institutions may furnish services free or at  
35 a reasonable charge. Any real or personal property owned, held or  
36 leased by the society for this purpose shall be reported in every annual  
37 statement but may not be allowed as an admitted asset of the society.

38 b. No society shall own or operate funeral homes or undertaking  
39 establishments.

40

41 13. a. A domestic society may, by a reinsurance agreement, cede  
42 any individual risk or risks in whole or in part to an insurer, other than  
43 another fraternal benefit society, having the power to reinsure and  
44 authorized to do business in this State, or if not so authorized, an  
45 insurer which is approved by the commissioner, but no domestic  
46 society may reinsure substantially all of its insurance in force without

1 the written permission of the commissioner. <sup>1</sup> [A domestic society  
2 may take credit for the reserves on ceded risks to the extent reinsured,  
3 but no credit shall be allowed as an admitted asset or as a deduction  
4 from liability, to a ceding society for reinsurance made, ceded,  
5 renewed or otherwise becoming effective after the effective date of  
6 this act, unless the reinsurance is payable by the assuming insurer on  
7 the basis of the liability of the ceding society under the contract or  
8 contracts reinsured without diminution because of the insolvency of  
9 the ceding society] Credit for reinsurance shall be allowed a domestic  
10 ceding society as either an asset or a reduction from liability in  
11 accordance with P.L. 1993, c. 243 (C. 17:51B-1 et seq.). A domestic  
12 society shall also comply with all requirements of law generally  
13 applicable to reinsurance ceded or assumed by life and health insurers  
14 of this State<sup>1</sup>.

15 b. Notwithstanding the limitation of subsection a. of this section,  
16 a society may reinsure the risks of another society in a consolidation  
17 or merger approved by the commissioner under section 14 of this act.  
18

19 14. (New section) a. A domestic society may consolidate or  
20 merge with any other society by complying with the provisions of this  
21 section. It shall file with the commissioner:

22 (1) a certified copy of the written contract containing in full the  
23 terms and conditions of the consolidation or merger;

24 (2) a sworn statement by the president and secretary, or  
25 corresponding officers of each society, showing the financial condition  
26 of the domestic society on a date fixed by the commissioner but not  
27 earlier than December 31, next preceding the date of the contract;

28 (3) a certificate of the officers of the societies, duly verified by  
29 their respective oaths, that the consolidation or merger has been  
30 approved by a 2/3 vote of the supreme governing body of each society,  
31 the vote being conducted at a regular or special meeting of each  
32 supreme governing body, or, if the society's laws so permit, by mail;  
33 and

34 (4) evidence that at least 60 days prior to the action of the supreme  
35 governing body of each society, the text of the contract has been  
36 furnished to all members of each society either by mail or by  
37 publication in full in the official publication of each society.

38 b. If the commissioner finds that the contract is in conformity with  
39 the provisions of this section, that the financial statements are correct  
40 and that the consolidation or merger is just and equitable to the  
41 members of each society, the commissioner shall approve the contract  
42 and issue a certificate to that effect. Upon approval, the contract shall  
43 be in full force and effect unless any society which is a party to the  
44 contract is incorporated under the laws of any other state or territory.  
45 In that event the consolidation or merger shall not become effective  
46 unless and until it has been approved as provided by the laws of that

1 other state or territory and a certificate of approval from that other  
2 state is filed with the commissioner of this State or, if the laws of that  
3 other state or territory contain no like provision, then the  
4 consolidation or merger shall not become effective unless and until it  
5 has been approved by the commissioner of that other state or territory  
6 and a certificate of approval from the commissioner of that other state  
7 is filed with the commissioner of this State.

8 c. Upon the consolidation or merger becoming effective, all the  
9 rights, franchises and interests of the consolidated or merged societies  
10 in and to every species of property, real, personal or mixed, and things  
11 in action thereunto belonging shall be vested in the society resulting  
12 from or remaining after the consolidation or merger without any other  
13 instrument, except that conveyances of real property may be evidenced  
14 by proper deeds, and the title to any real estate or interest therein,  
15 vested under the laws of this State in any of the societies consolidated  
16 or merged, shall not revert or be in any way impaired by reason of the  
17 consolidation or merger, but shall vest absolutely in the society  
18 resulting from or remaining after the consolidation or merger.

19 d. The affidavit of any officer of the society or anyone authorized  
20 by it to mail any notice or document stating that the notice or  
21 document has been duly addressed and mailed, shall be prima facie  
22 evidence that the notice or document has been furnished the  
23 addressees.

24  
25 15. (New section) a. A domestic fraternal benefit society which  
26 is organized pursuant to the provisions of this act may convert to a  
27 domestic mutual insurer by complying with the provisions of this  
28 section.

29 b. A written plan of conversion setting forth in full the terms and  
30 conditions of conversion shall be prepared by the assembly or board  
31 of directors of the society. The plan shall include:

32 (1) the purpose of the conversion;

33 (2) the effect of conversion on existing benefit contracts issued by  
34 the society;

35 (3) a business plan;

36 (4) a provision that each holder of a benefit contract of the society  
37 shall receive any rights with respect to the domestic mutual insurer as  
38 may be prescribed by the commissioner, provided that those rights  
39 shall not exceed the rights provided to policyholders of other domestic  
40 mutual insurers authorized to transact <sup>1</sup>~~either~~ the<sup>1</sup> kind or <sup>1</sup>~~both~~<sup>1</sup>  
41 kinds of business specified in N.J.S. 17B:17-3 <sup>1</sup>, N.J.S. 17B:17-4<sup>1</sup> and  
42 N.J.S. 17B:17-5; and

43 (5) a provision that each member of the society shall be notified of  
44 the conversion, which notification process shall be approved by the  
45 commissioner.

46 c. The written plan of conversion provided for in subsection b. of

1 this section shall be approved by an affirmative vote of 2/3 of all  
2 members of the supreme governing body at a regular or special  
3 meeting and then filed with the commissioner.

4 d. The commissioner shall approve or disapprove the plan. The  
5 commissioner shall approve the plan unless he finds the plan:

6 (1) is contrary to law;

7 (2) would be detrimental to the safety or soundness of the proposed  
8 domestic mutual insurer;

9 (3) prejudices the interests of the holders of benefit contracts of the  
10 society or treats them inequitably.

11 The commissioner shall set forth his decision in writing and shall  
12 state the reasons therefor. A disapproval shall be subject to judicial  
13 review.

14 e. Upon approval of the plan by the commissioner and the issuance  
15 of a certificate of authority to transact the business of insurance as a  
16 domestic mutual insurer, the society shall be deemed to be a domestic  
17 mutual insurer subject to the provisions of Title 17B of the New Jersey  
18 Statutes <sup>1</sup>, including surplus requirements, and all other applicable  
19 law<sup>1</sup>.

20 f. On and after the date of issuance of the certificate of authority,  
21 the society shall be a domestic mutual insurer, vested with all the  
22 powers and privileges of a domestic mutual insurer, and subject to all  
23 provisions of law applicable to those insurers, <sup>1</sup>including surplus  
24 requirements,<sup>1</sup> in the same manner and with the same effect as if the  
25 converted society had originally been incorporated as a domestic  
26 mutual insurer on the date of issuance of the certificate of authority,  
27 and the members of the society shall become and be members of the  
28 domestic mutual insurer.

29 g. The conversion of a society into a domestic mutual insurer shall  
30 not affect the right of any creditor or member of the society, but all  
31 rights of all persons against the society before its conversion shall  
32 continue unaffected and shall be enforced against the domestic mutual  
33 insurer in the same manner they could have been enforced against the  
34 society had its conversion not taken place; except that all rights of  
35 assessment or reduction in benefits in lieu of assessment, prescribed in  
36 the certificate of incorporation or bylaws of the society, or provided  
37 in any certificate, policy or contract of the society, shall be canceled.  
38 As used in this section, "assessment" means the right to require the  
39 payment of a sum in addition to the weekly or other periodical dues,  
40 contributions, premiums and fees required under the terms of any  
41 certificate, policy or contract; and "domestic mutual insurer" shall only  
42 include a domestic mutual insurer authorized to transact <sup>1</sup>**【either】** the<sup>1</sup>  
43 kind or <sup>1</sup>**【both】**<sup>1</sup> kinds of business specified in N.J.S. 17B:17-3 <sup>1</sup>  
44 N.J.S. 17B:17-4<sup>1</sup> and N.J.S. 17B:17-5.

45

46 16. (New section) a. A society may provide the following

1 contractual benefits in any form <sup>1</sup>, except in the form of group  
2 insurance<sup>1</sup>:

- 3 (1) death benefits;
- 4 (2) endowment benefits;
- 5 (3) annuity benefits;
- 6 (4) temporary or permanent disability benefits;
- 7 (5) hospital, medical or nursing benefits;
- 8 (6) monument or tombstone benefits to the memory of
- 9 deceased members; and
- 10 (7) other benefits as authorized for life and health insurers and
- 11 which are not inconsistent with this act.

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

18

19 17. (New section) a. The owner of a benefit contract shall have  
20 the right at all times to change the beneficiary or beneficiaries in  
21 accordance with the laws or rules of the society unless the owner  
22 waives this right by specifically requesting in writing that the  
23 beneficiary designation be irrevocable. A society may, through its  
24 laws or rules, limit the scope of beneficiary designations and shall  
25 provide that no revocable beneficiary shall have or obtain any vested  
26 interest in the proceeds of any certificate until the certificate has  
27 become due and payable in conformity with the provisions of the  
28 benefit contract.

29 b. A society may make provision for the payment of funeral  
30 benefits to the extent of that portion of any payment under a certificate  
31 as reasonably appears to be due to any person equitably entitled  
32 thereto by reason of having incurred expense occasioned by the burial  
33 of the member, provided the amount paid shall not exceed the sum of  
34 \$5,000.

35 c. If, at the death of any person insured under a benefit contract,  
36 there is no lawful beneficiary to whom the proceeds shall be payable,  
37 the amount of the benefit, except to the extent that funeral benefits  
38 may be paid as provided in subsection b. of this section, shall be  
39 payable to the estate of the deceased insured, provided that if the  
40 owner of the certificate is other than the insured, the proceeds shall be  
41 payable to the owner.

42

43 18. (New section) a. Every society authorized to do business in  
44 this State shall issue to each owner of a benefit contract a certificate  
45 specifying the amount of benefits provided by the contract. The  
46 certificate, together with any riders or endorsements attached thereto,

1 the laws of the society, the application for membership, the application  
2 for insurance and declaration of insurability, if any, signed by the  
3 applicant, and all amendments to each document shall constitute the  
4 benefit contract, as of the date of issuance, between the society and  
5 the owner, and the certificate shall state this requirement. A copy of  
6 the application for insurance and declaration of insurability, if any,  
7 shall be endorsed upon or attached to the certificate. All statements  
8 on the application shall be representations and not warranties. Any  
9 waiver of the provisions of the subsection shall be void.

10 b. Any changes, additions or amendments to the laws of the society  
11 duly made or enacted subsequent to the issuance of the certificate,  
12 shall bind the owner and the beneficiaries, and shall govern and control  
13 the benefit contract in all respects the same as though the changes,  
14 additions or amendments had been made prior to and were in force at  
15 the time of the application for insurance, except that no change,  
16 addition or amendment shall destroy or diminish benefits which the  
17 society contracted to give the owner as of the date of issuance.

18 c. Any person upon whose life a benefit contract is issued prior to  
19 attaining the age of majority shall be bound by the terms of the  
20 application and certificate and by all the laws and rules of the society  
21 to the same extent as though the age of majority had been attained at  
22 the time of application.

23 d. A society shall provide in its laws that if its reserves as to all or  
24 any class of certificates become impaired its board of directors or  
25 assembly may require that there shall be paid by the owner to the  
26 society the amount of the owner's equitable proportion of the  
27 deficiency ascertained by its board or assembly, and that if the payment  
28 is not made either: (1) it shall stand as an indebtedness against the  
29 certificate and draw interest not to exceed the rate specified for  
30 certificate loans under the certificates; or (2) in lieu of or in  
31 combination with paragraph (1), the owner may accept a proportionate  
32 reduction in benefits under benefits under the certificate. The society  
33 may specify the manner of the election and which alternative is to be  
34 presumed if no election is made.

35 e. Copies of any of the documents mentioned in this section,  
36 certified by the secretary or corresponding officer of the society, shall  
37 be received in evidence of the terms and conditions of the contract.

38 f. No certificate shall be delivered or issued for delivery in this  
39 State unless a copy of the form has been filed with the commissioner  
40 <sup>1</sup>for approval<sup>1</sup> in the manner provided for like policies issued by life  
41 and health insurers in this State. <sup>1</sup>【A filing shall be considered  
42 approved unless disapproved within 60 days from the date of filing.】<sup>1</sup>  
43 Every life, accident, health, or disability insurance certificate and every  
44 annuity certificate issued on or after one year from the effective date  
45 of this act shall meet the standard contract provision requirements, not  
46 inconsistent with this act, for like policies issued by life and health

1 insurers in this State <sup>1</sup>], except that a society may provide for a grace  
2 period for payment of premiums of one full month in its certificates]  
3 . Any non-complying certificate shall be deemed withdrawn one year  
4 from the effective date of this act, except that the commissioner may,  
5 for good cause shown, allow the continued use of a non-conforming  
6 certificate for an additional period not to exceed one year<sup>1</sup>. The  
7 certificate shall also contain a provision stating the amount of  
8 premiums which are payable under the certificate and a provision  
9 reciting or setting forth the substance of any section of the society's  
10 laws or rules in force at the time of issuance of the certificate which,  
11 if violated, will result in the termination or reduction of benefits  
12 payable under the certificate. If the laws of the society provide for  
13 expulsion or suspension of a member, the certificate shall also contain  
14 a provision that any member expelled or suspended, except for  
15 nonpayment of a premium or within the contestable period for material  
16 misrepresentation in the application for membership or insurance, shall  
17 have the privilege of maintaining the certificate in force by continuing  
18 payment of the required premium.

19 g. Benefit contracts issued on the lives of persons below the  
20 society's minimum age for adult membership may provide for transfer  
21 of control of ownership to the insured at an age specified in the  
22 certificate. A society may require approval of an application for  
23 membership in order to effect this transfer, and may provide in all  
24 other respects for the regulation, government and control of those  
25 certificates and all rights, obligations and liabilities incident thereto  
26 and connected therewith. Ownership rights prior to the transfer shall  
27 be specified in the certificate.

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

30

31 19. (New section) a. For certificates issued prior to one year after  
32 the effective date of this act, the value of every paid-up nonforfeiture  
33 benefit and the amount of any cash surrender value, loan or other  
34 option granted shall comply with the provisions of law applicable  
35 immediately prior to the effective date of this act.

36 b. For certificates issued on or after one year after the effective  
37 date of this act <sup>1</sup>], for which reserves are computed on the  
38 Commissioner's 1941 Standard Ordinary Mortality Table, the  
39 Commissioner's 1941 Standard Industrial Table or the Commissioner's  
40 1958 Standard Ordinary Mortality Table, or the Commissioner's 1980  
41 Standard Ordinary Mortality Table, or any more recent table made  
42 applicable to life insurers]<sup>1</sup>, every paid-up nonforfeiture benefits and  
43 the amount of any cash surrender value, loan or other option granted  
44 shall not be less than the corresponding amount based on the interest  
45 rate and mortality tables authorized by the laws of this State for the  
46 calculation of those benefits by life and health insurers issuing policies



1 containing like benefits <sup>1</sup> **【based upon those tables】**<sup>1</sup>.

2

3 20. (New section) A society shall invest its funds only in  
4 investments that are authorized by the laws of this State for the  
5 investment of assets of domestic life insurers and subject to the  
6 limitations thereon. Any foreign or alien society permitted or seeking  
7 to do business in this State which invests its funds in accordance with  
8 the laws of the State, district, territory, country or province in which  
9 it is incorporated, shall be held to meet the requirements of this section  
10 for the investment of funds.

11

12 21. (New section) a. All assets shall be held, invested and  
13 disbursed for the use and benefit of the society and no member or  
14 beneficiary shall have or acquire individual rights therein or become  
15 entitled to any apportionment on the surrender of any part of the  
16 assets, except as provided in the benefit contract.

17 b. A society may create, maintain, invest, disburse and apply any  
18 special fund or funds necessary to carry out any purpose permitted by  
19 the laws of the society.

20 c. A society may, pursuant to resolution of its supreme governing  
21 body, establish and operate one or more separate accounts and issue  
22 <sup>1</sup>separate account<sup>1</sup> contracts <sup>1</sup>, whether or not contracts<sup>1</sup> on a variable  
23 basis, subject to the provisions of law regulating life and health  
24 insurers establishing those accounts and issuing those contracts. To  
25 the extent the society deems it necessary in order to comply with any  
26 applicable federal or State laws, or any rules or regulations issued  
27 thereunder, the society may adopt special procedures for the conduct  
28 of the business and affairs of a separate account; may, for persons  
29 having beneficial interests in an account, provide special voting and  
30 other rights, including special rights and procedures relating to  
31 investment policy, investment advisory services, selection of certified  
32 public accountants, and selection of a committee to manage the  
33 business and affairs of the account, and may issue contracts on a  
34 variable basis to which subsections b. and d. of section 18 of this act  
35 shall not apply.

36 <sup>1</sup>d. Separate accounts of foreign or alien societies are subject to  
37 approval by the department, unless the society's place of domicile has  
38 adopted a substantially similar act.<sup>1</sup>

39

40 22. (New section) Except as otherwise provided in this act,  
41 societies shall be governed by this act and shall be exempt from all  
42 other provisions of the insurance laws of this State, not only in  
43 governmental relations with the State, but for every other purpose.  
44 No law enacted on or after the effective date of this act shall apply to  
45 societies unless they be expressly <sup>1</sup>**【designed】** designated <sup>1</sup>. No  
46 corporation or association which purports to be a fraternal

1 organization but which does not meet the requirements in this act with  
2 respect to a fraternal benefit society shall be exempt from the other  
3 provisions of the insurance laws of this State.

4  
5 23. (New section) Every society organized or licensed under this  
6 act is declared to be a charitable and benevolent institution, and all of  
7 its funds shall be exempt from all and every State, county, district,  
8 municipal and school tax, other than taxes on real estate and office  
9 equipment. <sup>1</sup>Every society organized or licensed under this act shall  
10 be subject to the assessment provided pursuant to section 8 of P.L.  
11 1983, c. 320 (C. 17:33A-8) and the apportionment provided pursuant  
12 to section 2 of P.L. 1995, c. 156 (C. 17:1C-20).<sup>1</sup>

13  
14 24. (New section) a. Standards of valuation for certificates issued  
15 prior to one year after the effective date of this act shall be those  
16 provided by the laws applicable immediately prior to the effective date  
17 of this act.

18 b. The minimum standards of valuation for certificates issued on or  
19 after one year after the effective date of this act shall be <sup>1</sup>based on  
20 the following tables:

21 (1) for certificates of life insurance - the Commissioner's 1941  
22 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard  
23 Industrial Mortality Table, the Commissioner's 1958 Standard  
24 Ordinary Mortality Table, the Commissioner's 1980 Standard Ordinary  
25 Mortality Table or any more recent table made applicable to life  
26 insurers;

27 (2) for annuity and pure endowment certificates, for total and  
28 permanent disability benefits, for accidental death benefits and for non-  
29 cancelable accident and health benefits - such tables as are authorized  
30 for use by life and health insurers in this State.

31 These standards of valuation for certificates shall be under valuation  
32 methods and standards, including interest assumptions, in accordance  
33 with the laws of this State applicable to life and health insurers issuing  
34 policies containing like benefits.

35 c. The commissioner may, in his discretion, accept other standards  
36 for valuation if the commissioner finds that the reserves produced  
37 thereby will not be less in the aggregate than reserves computed in  
38 accordance with the minimum valuation standard prescribed in this  
39 section. The commissioner may, in his discretion, vary the standards  
40 of mortality applicable to all benefit contracts on substandard lives or  
41 other extra hazardous lives by any society authorized to do business  
42 in this State.

43 d. Any society, with the consent of the insurance supervisory  
44 official of the State of domicile of the society and under conditions, if  
45 any, which the commissioner may impose, may establish and maintain  
46 reserves on its certificates in excess of the reserves required in this

1 section, but the contractual rights of any benefit member shall not be  
2 affected by this requirement] the same as those for life and health  
3 insurers specified in N.J.S. 17B:19-5 and N.J.S. 17B:19-8<sup>1</sup>.

4  
5 25. (New section) a. Every society transacting business in this  
6 State shall annually, on or before March 1, unless for cause shown the  
7 time has been extended by the commissioner, file with the  
8 commissioner a true statement of its financial condition, transactions  
9 and affairs for the preceding calendar year and pay a filing fee  
10 established by the commissioner by regulation. The statement shall be  
11 in general form and content as approved by the National Association  
12 of Insurance Commissioners for fraternal benefit societies and as  
13 supplemented by additional information required by the commissioner.

14 b. As a part of the annual statement required by subsection a. of  
15 this section, each society shall, on or before March 1, file with the  
16 commissioner a valuation of its certificates in force on December 31  
17 last preceding, provided the commissioner may, in his discretion for  
18 cause shown, extend the time for filing the valuation for not more than  
19 two-calendar months. The valuation shall be done in accordance with  
20 the standards specified in section 24 of this act. The valuation and  
21 underlying data shall be certified by a qualified actuary or, at the  
22 expense of the society, verified by the actuary of the insurance  
23 regulatory agency of the state of domicile of the society;

24 c. A society failing to file the annual statement in the form and  
25 within the time provided by this section shall forfeit \$100 for each day  
26 during which the failure continues, and, upon notice by the  
27 commissioner to that effect, its authority to do business in this State  
28 shall cease while the failure continues.

29  
30 26. (New section) Societies which are now authorized to transact  
31 business in this State, and all societies licensed on or after the effective  
32 date of this act, may continue in business until June 1 next succeeding  
33 the effective date of this act. The authority of these <sup>1</sup>domestic<sup>1</sup>  
34 societies <sup>1</sup>[and all societies licensed on or after the effective date of  
35 this act,]<sup>1</sup> may thereafter be <sup>1</sup>[renewed annually] continued by  
36 satisfying the requirements set forth in this act. The authority of  
37 existing foreign or alien societies and all foreign and alien societies  
38 licensed on or after the effective date of this act, may thereafter be  
39 renewed annually<sup>1</sup>, but in all cases <sup>1</sup>[to]<sup>1</sup> terminate on the first day  
40 of the succeeding June. However, a license that has been issued shall  
41 continue in full force and effect until the new license is issued or  
42 specifically refused. A duly certified copy or duplicate of the license  
43 shall be prima facie evidence that the licensee is a fraternal benefit  
44 society within the meaning of this act.

45  
46 27. (New section) a. <sup>1</sup>[The commissioner, or any person

1 appointed by the commissioner, may examine any domestic, foreign or  
2 alien society transacting or applying for admission to transact business  
3 in this State in the same manner as authorized for examination of  
4 domestic, foreign or alien life or health insurers. Requirements of  
5 notice and an opportunity to respond before findings are made public  
6 as provided in the laws regulating life or health insurers shall also be  
7 applicable to the examination of societies.

8 b. The expense of each examination and of each valuation,  
9 including compensation and actual expense of examiners, shall be paid  
10 by the society examined or whose certificates are valued, upon  
11 statements furnished by the commissioner.

12 c. All societies shall be subject to examination by the  
13 commissioner in the same manner and subject to the same procedures  
14 as set forth in P.L.1993, c.236 (C.17:23-20 et seq.).

15 b.<sup>1</sup> A summary of the report of the commissioner and the  
16 recommendations or statements of the commissioner as may  
17 accompany the report, shall be read at the first meeting of the board  
18 of directors or corresponding body of the society following their  
19 receipt, and if directed by the commissioner, shall also be read at the  
20 first meeting of the supreme governing body of the society following  
21 their receipt. A copy of the report, recommendations and statements  
22 of the commissioner shall be furnished by the society to each member  
23 of the board of directors or assembly.

24

25 28. (New section) No foreign or alien society shall transact  
26 business in this State without a license issued by the commissioner.  
27 Any foreign or alien society desiring admission to this State shall  
28 comply substantially with the requirements and limitations of this act  
29 applicable to domestic societies. Any foreign or alien society may be  
30 licensed to transact business in this State upon filing with the  
31 commissioner:

32 a. A duly certified copy of its articles of incorporation;

33 b. A copy of its bylaws, certified by its secretary or corresponding  
34 officer;

35 c. A power of attorney to the commissioner as prescribed in  
36 section 34 of this act;

37 d. A statement of its business under oath of its president and  
38 secretary or corresponding officers in a form prescribed by the  
39 commissioner, duly verified by an examination made by the supervising  
40 insurance official of its home state, territory, province or country,  
41 satisfactory to the commissioner;

42 e. Certification from the proper official of its home state, territory,  
43 province or country that the society is legally incorporated and  
44 licensed to transact business therein;

45 f. Copies of its certificate forms;

46 g. A showing that its assets are invested in accordance with the

1 provisions of this act;

2 h. Any other information the commissioner may deem necessary;  
3 and

4 i. Upon payment of a filing fee established by the commissioner by  
5 regulation.

6

7 29. (New section) Domestic societies shall be subject to the  
8 provision of P.L.1992, c.65 (C.17B:32-31 et seq.).

9

10 30. (New section) a. When the commissioner upon investigation  
11 finds that a foreign or alien society transacting or applying to transact  
12 business in this State:

13 (1) has exceeded its powers;

14 (2) has failed to comply with any of the provisions of this act;

15 (3) is not fulfilling its contract in good faith; or

16 (4) is conducting its business fraudulently or in a manner

17 hazardous to its members or creditors or the public:

18 the commissioner shall notify the society in writing of the deficiency

19 or deficiencies and state in writing the reasons for his dissatisfaction.

20 The commissioner shall at once issue a written order to the society

21 requiring that the deficiency or deficiencies which exist be corrected.

22 After that order the society shall have 30 days in which to comply with

23 the commissioner's order for correction, and if the society fails to

24 comply, the <sup>1</sup>~~commissioner~~ commissioner<sup>1</sup> shall notify the society of

25 his findings of noncompliance and require the society to show cause

26 on a date to be named why its license should not be suspended,

27 revoked or refused. If on that date the society does not present good

28 and sufficient reason why its authority to do business in this State

29 should not be suspended, revoked or refused, the commissioner may

30 suspend or refuse the license of the society to do business in this State

31 until satisfactory evidence is furnished to the commissioner that the

32 suspension or refusal should be withdrawn, or the commissioner may

33 revoke the authority of the society to do business in this State.

34 b. Nothing contained in this section shall be taken or construed as

35 preventing any foreign or alien society from continuing in good faith

36 all contracts made in this State during the time the society was legally

37 authorized to transact business.

38

39 31. (New section) No application or petition for injunction against

40 any domestic, foreign or alien society, or lodge thereof, shall be

41 recognized in any court of this State unless made by the Attorney

42 General upon request of the commissioner.

43

44 32. (New section) <sup>1</sup>~~Agents of~~ Individuals acting as insurance

45 producers with respect to<sup>1</sup> societies shall be licensed in accordance

46 with the provisions of P.L.1987, c.293 (C.17:22A-1 et seq.).

1 33. (New section) Every society and agent authorized to do  
2 business in this State shall be subject to the provisions of N.J.S.  
3 ~~'[17B:3B-1] 17B:30-1'~~ et seq., relating to trade practices; provided,  
4 however, that nothing in those provisions shall be construed as  
5 applying to or affecting the right of any society to determine its  
6 eligibility requirements for membership, or be construed as applying  
7 to or affecting the offering of benefits exclusively to members or  
8 persons eligible for membership in the society by a subsidiary  
9 corporation or affiliated organization of the society.

10  
11 34. (New section) a. Every 'foreign and alien' society authorized  
12 to do business in this State shall appoint in writing the commissioner  
13 and each successor in office to be its true and lawful attorney upon  
14 whom all lawful process in any action or proceeding against it shall be  
15 served, and shall agree in writing that any lawful process against it  
16 which is served shall be of the same legal force and validity as if served  
17 upon the society, and that the authority shall continue in force as long  
18 as any liability remains outstanding in this State. Copies of the  
19 appointment, certified by the commissioner, shall be deemed sufficient  
20 evidence of its existence and shall be admitted in evidence with the  
21 same force and effect as the original written appointment would be  
22 admitted.

23 b. Service shall only be made upon the commissioner, or if absent,  
24 upon the person in charge of the commissioner's office. It shall be  
25 made in duplicate and shall constitute sufficient service upon the  
26 society. When legal process against a society is served upon the  
27 commissioner, the commissioner shall forward one of the duplicate  
28 copies by registered mail, prepaid, directed to the secretary or  
29 corresponding officer. No service shall require a society to file its  
30 answer, pleading or defense in less than 30 days from the date of  
31 mailing the copy of the service to a society. ~~'[Legal process shall not  
32 be served upon a society except in the manner provided in this  
33 section.]'~~

34  
35 35. (New section) a. Nothing contained in this act shall be  
36 construed to affect or apply to:

37 (1) societies which do not provide benefits by contract;

38 (2) orders, societies or associations which admit to membership  
39 only persons engaged in one or more crafts or hazardous occupations,  
40 in the same or similar lines of business, insuring only their own  
41 members and their families, and the ladies' societies or ladies'  
42 auxiliaries to those orders, societies or associations;

43 (3) domestic societies which limit their membership to employees  
44 of a particular city or town, designated firm, business or corporation  
45 which provide for a death benefit of not more than \$400 or disability  
46 benefits of not more than \$350 to any person in any one year, or both;

1 or

2 (4) domestic societies or associations of a purely religious,  
3 charitable or benevolent description, which provide for a death benefit  
4 of not more than \$400 or a disability benefits of not more than \$350  
5 to any one person in any one year, or both.

6 b. Any society or association described in paragraph (3) or (4) of  
7 subsection a. of this section which provides for death or disability  
8 benefits for which benefit certificates are issued, and a society or  
9 association included in paragraph (4) of subsection a. of this section  
10 which has more than 1,000 members, shall not be exempted from the  
11 provisions of this act but shall comply with all requirements of this act.

12 c. No society which, by the provisions of this section, is exempt  
13 from the requirements of this act, except any society described  
14 paragraph (2) of subsection a. of this section, shall give or allow, or  
15 promise to give or allow to any person any compensation for  
16 procuring new members.

17 d. Every society which provides for benefits in case of death or  
18 disability resulting solely from accident, and which does not obligate  
19 itself to pay natural death or sick benefits shall have all of the  
20 privileges and be subject to all the applicable provisions and  
21 regulations of this act, except that the provisions of this act relating to  
22 medical examinations, valuations of benefit certificates, and  
23 incontestability, shall not apply to that society;

24 e. The commissioner may require from any society or association,  
25 by examination or otherwise, information that will enable the  
26 commissioner to determine whether the society or association is  
27 exempt from the provisions of this act;

28 f. Societies, exempted under the provisions of this section, shall  
29 also be exempt from all other provisions of the insurance laws of this  
30 State.

31

32 36. (New section) a. Any person who:

33 (1) makes a false or fraudulent statement to the commissioner, or  
34 the department, in any report or declaration required or authorized by  
35 this act, or

36 (2) solicits membership for, or in any manner, assists in procuring  
37 membership in any fraternal benefit society which by the terms of this  
38 act is required to be but is not licensed, or

39 (3) violates any of the provisions of this act, shall be liable to a  
40 penalty not exceeding \$1,000 for the first offense and not exceeding  
41 \$2,000 for each succeeding offense.

42 b. The penalties provided in this section shall be enforced and  
43 collected in a summary manner pursuant to "the penalty enforcement  
44 law," N.J.S.2A:58-1 et seq.

45

46 37. (New section) All decisions and findings of the commissioner

1 made under the provisions of this act shall be subject to review by  
2 proper proceedings in any court of competent jurisdiction in this State.

3

4 38. Section 3 of P.L.1987, c.293 (C.17:22A-3) is amended to read  
5 as follows:

6 3. a. No person shall act as an insurance producer or maintain or  
7 operate any office in this State for the transaction of the business of an  
8 insurance producer, or receive any commission, brokerage fee,  
9 compensation or other consideration for services rendered as an  
10 insurance producer without first obtaining a license from the  
11 commissioner granting authority for the kind of insurance transacted.  
12 No insurance company or licensee shall pay any commission,  
13 brokerage fee, compensation or other consideration to any unlicensed  
14 person for services rendered in this State as an insurance producer  
15 except for services rendered while licensed. Engaging in a single act  
16 or transaction of the business of an insurance producer, or holding  
17 oneself out to the public or a licensee as being so engaged, shall be  
18 sufficient proof of engaging in the business of an insurance producer.

19 b. The provisions of subsection a. of this section shall not apply to:

20 (1) the clerical duties of office employees nor the managerial or  
21 supervisory duties of general agents or managers who do not  
22 negotiate, solicit or effect insurance contracts;

23 (2) any regular salaried officer, employee or member of a fraternal  
24 benefit society licensed and authorized to transact business in this  
25 State pursuant to the provisions of P.L.1959, c.167 (C.17:44A-1 et  
26 seq.) or P.L. , c. (C. ) (now before the Legislature as this bill)  
27 who devotes substantially all of his services to activities other than the  
28 solicitation of fraternal insurance contracts from the public, and who  
29 receives for the solicitation of those contracts no commission or other  
30 compensation directly dependent upon the amount of business  
31 obtained; or

32 (3) any agent, representative or member of a fraternal benefit  
33 society who devotes, or intends to devote, less than 50 percent of his  
34 time to the solicitation and procurement of insurance contracts for that  
35 fraternal benefit society [**. Any**] and who receives or intends to  
36 receive any commission or other compensation directly dependent on  
37 the amount of insurance; provided that any person who in the  
38 preceding calendar year has solicited [and] or procured [life  
39 insurance] any of the following contracts of insurance on behalf of  
40 [**any**] a fraternal benefit society [**in an amount of insurance in excess**  
41 **of a total of \$50,000, or, in the case of any other kind or kinds of**  
42 **insurance which the society writes, on the persons of more than 25**  
43 **individuals and who has received or will receive a commission or other**  
44 **compensation therefrom, shall be] is presumed to [be devoting] have**  
45 devoted, or [intending] intended to devote, 50 percent of his time to  
46 the solicitation or procurement of insurance contracts [**for that**



1 society ] :

2 (a) Life insurance contracts that, in the aggregate, exceed  
3 \$200,000 of coverage for all lives insured for the preceding calendar  
4 year:

5 (b) A permanent life insurance contract offering more than \$10,000  
6 of coverage on an individual life:

7 (c) A term life insurance contract offering more than \$50,000 of  
8 coverage on an individual life:

9 (d) An insurance contract, other than a life insurance contract, that  
10 the fraternal benefit society may write that insures the individual lives  
11 of more than 25 persons: '[and] or'

12 (e) Any variable life insurance or variable annuity contract.  
13 (cf: P.L.1994, c.157, s.1)

14

15 39. P.L.1959, c.167 (C.17:44A-1 et seq.) is repealed.

16

17 40. This act shall take effect on January 1, 1998.

18

19

20

21

22 Provides for the regulation and licensure of fraternal benefit societies  
23 for the sale of life and health insurance to members and repeals current  
24 laws therefor.

# ASSEMBLY INSURANCE COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2874

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 6, 1997

The Assembly Insurance Committee reports favorably and with committee amendments Assembly Bill No. 2874.

This bill provides for the regulation and licensure of fraternal benefit societies for the sale of annuities and life and health insurance to their members. The bill repeals the current law in this regard. Much of the current law in regard to fraternal benefit societies is maintained in the bill. The most important additions to current law give societies clear authority to own subsidiary corporations and to establish accounts necessary for offering variable life insurance and variable annuities. Other additions include authority to provide new products and services to their members to keep pace with any new authority granted to commercial life insurers in the future; improved provisions for juvenile contracts; allowing designation of irrevocable beneficiaries; providing for assignment of contracts; allowing use of benefit contracts for third-party insurance situations; increased bond protection during the organization period of domestic societies (The commissioner is to establish the amount of the bond which amount cannot be less than \$300,000.); raising the initial amount of premium required to start an insurance program to \$150,000 for each kind of insurance business (health, life or annuity) that a society is authorized to transact; removes the \$300 limitation on tombstone benefits; increases funeral benefits from \$500 to \$5,000; provides that only the Commissioner of Banking and Insurance may bring an injunction proceeding against a society, not private litigants; providing for assessing fraternal benefit societies for their share of the cost of operating the Insurance Division in the Department of Banking and Insurance; applies the rehabilitation and liquidation law concerning life and health insurers to societies; and applies certain commercial insurance standards to benefit contracts, such as standards for insurance contracts, unfair trade practices and privacy.

As under current law, fraternal benefit societies are: prohibited from issuing group policies; exempt from State, county, district, municipal and school taxes, other than taxes on real estate and office equipment; and allowed to operate not-for-profit subsidiaries to carry

out their social or religious function but no society may own or operate funeral homes or undertaking establishments.

It is the understanding of the committee that fraternal benefit societies engaged in the sale of individual health insurance policies in this State would be subject to the provisions of the "Individual Health Insurance Reform Act," P.L.1992, c.161 (C.17B:27A-2 et seq.).

The committee amendments to the bill:

- a. Delete "patriotic" from the list of purposes for a society;
- b. Delete the cap on the amount of the bond the commissioner can require of a fraternal benefit society;
- c. Clarify that the aggregate premium amount of \$150,000 applies to each type of business that the society is authorized to transact;
- d. Provide that credit for reinsurance is allowed as a asset or reduction from liability;
- e. Apply insurer surplus requirements to a society that converts to a mutual insurer;
- f. Clarify that societies may not provide group insurance;
- g. Eliminate the permissive provision providing a one month grace period for premium payments;
- h. Provide that existing non-conforming certificates would be deemed withdrawn one year following enactment of this bill, unless the commissioner, for good cause shown, allows its continued use for a period not to exceed one year;
- i. Eliminate unnecessary and confusing references to specific mortality tables;
- j. Provide for adequate regulatory oversight of separate accounts in this State in the event that a particular society's home state does not;
- k. Clarify that societies are subject to assessment for the Division of Insurance Fraud Prevention and the special purpose apportionment to support the financial oversight functions of the Division of Insurance in the Department of Banking and Insurance;
- l. Delete unnecessary language concerning minimum standards of valuation for certificates;
- m. Clarify that only foreign and alien societies need to renew their licenses annually;
- n. Make societies subject to the same financial examination procedures as life and health insurers; and
- o. Clarify that the requirement for appointment of the commissioner for the service of process applies only to foreign and alien societies.