Chapter 740

1965 REPLACEMENT PART

Fraternal Benefit Societies

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ORGANIZATION, LICENSING AND MANAGEMENT

740.010 Fraternal benefit society defined. Any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government, and which provides for the payment of benefits in accordance with ORS 740.610 is a fraternal benefit society.

740.020 Lodge system defined. Any fraternal benefit society having a supreme governing or legislative body and subordinate lodges or branches, by whatever name known, into which members are elected, initiated and admitted in accordance with its constitution, laws, rules, regulations, and prescribed ritualistic ceremonies, which subordinate lodges or branches are required by the laws of the society to hold regular or stated meetings at least once each month, is operating on the lodge system.

740.030 Representative form of government. (1) A fraternal benefit society has a representative form of government if it provides in its constitution and laws for a supreme legislative or governing body composed of representatives elected either by the members or by delegates elected directly or indirectly by the members. The constitution may provide for additional representatives but the elective representatives must constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend the constitution and laws.

(2) Meetings of the supreme body and elections of officers, representatives or delegates shall be held as often as once in four years.

(3) The members, officers, representatives or delegates of a fraternal benefit society shall not vote by proxy.

(4) A domestic society may provide that the meetings of its supreme body may be held in any state, district, province or territory where the society has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state.

740.040 Location of office. The principal office of a domestic fraternal benefit society shall be located in this state.

740.050 Laws applicable to societies. Fraternal benefit societies are governed by this chapter and are exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state but for every other purpose, unless they are expressly made subject thereto.

740.060 Certain societies exempt from provisions of chapter. (1) This chapter does not affect or apply to:

(a) Grand or subordinate lodges of fraternal organizations which have maintained lodges in Oregon and other states for 50 years prior to January 1, 1961, exclusive of the insurance department of any such organization.

(b) Trade or craft organizations.

(2) The State Insurance Commissioner may require from any society such information as will enable him to determine whether or not such society is exempted from the provisions of this chapter.

(3) No organization which is exempted by the provisions of this section from the requirements of this chapter shall give or allow, or promise to give or allow, to any person, any compensation for procuring new members.

[Amended by 1961 c.562 §5]

740.070 Provisions inapplicable to certain forms of insurance. Any fraternal benefit society, organized and incorporated and operating within the definitions set forth in ORS 740.010 to 740.030 and prior to May 20, 1911, providing for benefits in case of death or disability resulting solely from accidents, or which obligates itself to pay sick benefits, may be licensed under the provisions of this chapter and shall have all the privileges and shall be subject to all the provisions and regulations of this chapter, except for the provisions requiring medical examinations, valuations of benefit certificates, and that the certificate specify the amount of benfits.

740.080 Societies exempt from taxation. Fraternal benefit societies licensed under this chapter are declared to be charitable and benevolent institutions and exempt from all and every state, county, district, municipal or school tax, other than taxes on real estate and office equipment.

740.090 Incorporation procedure. (1) Seven or more persons who are citizens of the United States and a majority of whom are residents of this state may form a fraternal

benefit society by making and signing, with their addresses, and acknowledging before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company already transacting business in this state as to mislead the public or lead to confusion.

(b) The purpose for which the society is formed. Lawful social, intellectual, educational, charitable, benevolent, moral or religious advantages may be set forth among the purposes, otherwise the powers may be no more liberal than are granted by this chapter.

(c) The mode in which its corporate powers are to be exercised.

(d) The names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the society until their successors are elected by the supreme legislative or governing body.

(2) The corporators shall file with the State Insurance Commissioner:

(a) The articles of incorporation.

(b) Certified copies of the constitution, laws, rules and regulations.

(c) Copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by the society.

(d) A bond in the sum of $5,000 with sureties approved by the State Insurance Commissioner conditioned upon the return of the advance payments as required by ORS 740.110.

(e) Such further information as the commissioner deems necessary.

740.100 Preliminary certificate of authority. (1) If the purposes of a fraternal benefit society stated in its articles of incorporation filed under ORS 740.090 conform to this chapter and all provisions of law have been complied with, the State Insurance Commissioner shall so certify and retain and record and file the articles and furnish the corporators a preliminary certificate authorizing the society to solicit members as provided in ORS 740.110.

(2) The preliminary certificate shall be valid for one year from its date, or for such further period not exceeding one year as may be authorized by the commissioner upon cause shown. The articles of incorporation and all proceedings thereunder shall become null and void at the expiration of the preliminary certificate unless the society has completed its organization and commenced business as provided in ORS 740.120.

740.110 Soliciting members. (1) Upon receipt of a preliminary certificate issued under ORS 740.100 a fraternal benefit society may solicit members for the purpose of completing its organization. It shall collect from each applicant for membership an amount not less than one regular monthly payment in accordance with the table of rates provided by its constitution and laws and shall issue to each applicant a receipt for the amount collected.

(2) All money so collected shall be credited to the mortuary or disability fund on account of such applicants and no part may be used for expenses. During the period of organization the advance payments shall be held in trust and, if organization is not completed within one year, returned to the applicants.

740.120 Completing organization. (1) No fraternal benefit society shall incur any liability other than for advance payments under ORS 740.110 nor issue any benefit certificate nor pay or allow, or offer or promise to pay or allow, to any person any death or disability benefit until:

(a) Bona fide applications for death benefit certificates have been secured upon at least 500 lives for at least $1,000 each and all such applicants for death benefits have been regularly examined by legally qualified practicing physicians and certificates of such examinations duly filed and approved by the chief medical examiner of the society.

(b) Ten subordinate lodges or branches have been established into which the 500 applicants have been initiated.

(c) There has been submitted to the State Insurance Commissioner, under oath of the president and secretary or corresponding officers of the society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and rate of stated periodical contributions.

(d) It is shown to the commissioner by the sworn statement of the treasurer or corresponding officer of the society that at least

500 applicants have each paid in cash at least one regular monthly payment per $1,000 of indemnity to be effected, which payments in the aggregate amount to at least $2,500.

(2) The rate of stated periodical contributions referred to in paragraph (c) of subsection (1) of this section shall be sufficient to provide for meeting the obligation contracted when valued:

(a) For death benefits, upon one of the bases permitted by ORS 740.270 and applicable to such society.

(b) For disability benefits, by tables based upon reliable experience.

(c) For permanent disability or combined death and permanent total disability benefits, by tables based upon reliable experience with an interest assumption not higher than four percent per annum.

(3) The State Insurance Commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of the law he shall issue to such society a permanent certificate of authority to that effect. Such certificate shall be prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall cause a record of the certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate.

740.130 Election of officers. Officers, directors and trustees of a newly incorporated fraternal benefit society shall be elected by the supreme legislative or governing body within one year from the date of the permanent certificate of authority.

740.140 Constitution and bylaws. (1) A domestic fraternal benefit society has the power to make and amend a constitution and bylaws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting from time to time of the rates of contribution of its members. It has such other powers as are necessary and incidental to carrying into effect its objects and purposes.

(2) Copies of amendments to a society's constitution or bylaws shall be filed with the State Insurance Commissioner.

(3) Every fraternal benefit society transacting business under this chapter shall file with the Insurance Commissioner a duly certified copy of all amendments of or additions to its constitution and laws within 90 days after the enactment of the same.

(4) Printed copies of the constitution and laws as amended, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption of the amendment.

740.150 Societies organized before 1911 recognized. (1) Any incorporated society transacting business in this state on May 20, 1911, may exercise all the rights conferred by this chapter and all the rights, powers and privileges then exercised or possessed by it under its charter or articles of incorporation not inconsistent with this chapter. Voluntary associations transacting business in this state prior to that date may incorporate under this chapter. But no society then organized is required to reincorporate.

(2) Such a society may amend its articles of incorporation from time to time in the manner provided therein or in its constitution and laws and all such amendments shall be filed with the State Insurance Commissioner and shall become operative upon such filing, unless a later time is provided in such amendments or in its articles of incorporation, constitution or laws.

740.160 Admission of foreign society; continuation of contracts after loss of license. (1) A foreign fraternal benefit society is entitled to a license to transact business within this state upon filing with the State Insurance Commissioner:

(a) A certified copy of its charter or articles of association.

(b) A copy of its constitution and laws certified by its secretary or corresponding officer.

(c) A power of attorney as required by ORS 740.170.

(d) A statement of its business under oath of its president and secretary, or corresponding officers, in the form required by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state satisfactory to the State Insurance Commissioner.

(e) A certificate from the proper official in its home state, province or country, that the society is legally organized.

(f) A copy of its contract, which must show that benefits are provided for by periodical or other payments by persons holding similar contracts.

(g) Such other information as the commissioner may deem necessary to a proper exhibit of its business and plan of working.

(2) The commissioner shall issue an applicant foreign society a license to do business in this state until April 1 succeeding the application if satisfied that:

(a) It has its assets invested as required by the laws of the state, territory, district, country or province where it is organized.

(b) It has the qualifications required of domestic societies organized under this chapter, upon a valuation by any one of the standards authorized in ORS 740.270.

(c) It provides for stated periodical contributions as great as those required by subsection (2) of ORS 740.120.

(3) If the commissioner refuses to license any society, or revokes its authority to do business in this state, he shall reduce his ruling, order or decision to writing and file the same in his office and furnish a copy thereof, together with a statement of his reasons, to the officers of the society upon request. The action of the commissioner is reviewable by proper proceedings in any court of competent jurisdiction within the state.

(4) Nothing contained in this section or ORS 740.180 shall be construed as preventing a society from continuing in good faith all contracts made in this state during the time it was legally authorized to transact business herein.

740.170 Mode of serving process on fraternal society; appointment of commissioner as attorney prerequisite to licensing. (1) Every fraternal benefit society, whether domestic or foreign, transacting business in this state shall, before being licensed, appoint in writing the State Insurance Commissioner and his successors in office to be its true and lawful attorney upon whom all legal process in any action or proceeding against it may be served. In such writing the society shall agree that any lawful process against it which is served upon the commissioner shall be of the same legal force and validity as if served upon the society and that the authority shall continue in force so long as any liability remains outstanding in this state.

(2) Copies of his written appointment as attorney certified by the commissioner shall be sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original.

(3) Service must be made in duplicate upon the commissioner or in his absence upon the person in charge of his office.

(4) No such service shall be valid and binding against any society when it is required thereunder to file its answer, pleading or defense in less than 30 days from the date of mailing the copy of such service to the society.

(5) When legal process against any society is served upon the commissioner he shall forthwith forward one of the duplicate copies by registered mail prepaid and directed to its secretary or corresponding officer.

(6) Legal process shall not be served upon any society except in the manner provided in this section.

740.180 Annual license. (1) Each fraternal benefit society doing business in this state must renew its license annually on or before April 1, or the authority of such societies terminates on that date; but, if application for renewal of the license has been made, the license shall continue in full force and effect until a new license is issued or specifically refused.

(2) For each annual license or renewal the society shall pay the Insurance Commissioner a fee as provided in ORS 736.130.

(3) A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

[Amended by 1965 c.610 §11]

Note: The 1965 amendment to ORS 740.180 takes effect April 1, 1966. Until then, ORS 740.180 (1961 Replacement Part) remains in effect.

740.190 [Reserved for expansion]

740.200 Benefits and expenses to be paid from members' payments only; increase in rate to meet deficiency. (1) The funds from which benefits and the expenses of the society are paid shall be derived from periodical or other payments by the members of a fraternal benefit society and accretions of such funds. Officers and members of the supreme, grand or any subordinate body of any incorporated society shall not be individually liable for the payment of any disability or death benefit provided for in the laws and agreements of the society.

(2) The laws of a society shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full and to provide for the creation and maintenance of the funds required by its laws, additional increased or extra rates of contribution shall be collected from the members to meet such

deficiency. The laws may provide that, upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five percent per annum.

740.210 Care of funds. (1) Every provision of the laws of a fraternal benefit society for payment by members of such society, in whatever form made, shall distinctly state the purpose of the same and the proportion thereof which may be used for expenses. Except as provided in subsections (2) and (3) no part of the money collected for mortuary or disability purposes or the net accretions of either or any of said funds shall be used for expenses.

(2) A society which is 100 percent solvent in respect to its whole business, according to the requirements of ORS 740.240 to 740.270, and which maintains the reserves and accretions thereon required by the American Experience Table of Mortality or the National Fraternal Congress Table of Mortality, or any higher table, may place its funds in excess of such reserves in a general fund, out of which shall be paid the benefit claims and general expenses of the society.

(3) A society may create, maintain, invest, disburse and apply an emergency, surplus or other similar fund over and above the accumulations or reserves required by its plan of insurance. Such a fund shall be held, invested and disbursed for the common benefit of all the members. No member or beneficiary may have or acquire individual rights in or be entitled to any apportionment of such a fund except as provided in the society's constitution and laws.

(4) A society providing for disability benefits shall keep the net contributions for such benefits in a fund separate and apart from all other benefit and expense funds. Where a combined contribution table is used for both death and permanent total disability benefits a separation of funds shall not be required.

740.220 Authorized investments. A domestic fraternal benefit society shall invest its funds only in securities permitted by the laws of this state for the investment of the assets of life insurance companies. A foreign society may invest its funds in accordance with the laws of the state in which it is incorporated.

740.230 Annual and supplemental statements. (1) Each fraternal benefit society transacting business in this state shall annually, on or before March 1, file with the State Insurance Commissioner, in such form as he may require, a statement under oath of its president and secretary, or corresponding officers, of its condition and standing on December 31 next preceding, and of its transactions for the year ending on that date. Each society also shall furnish such other information as the commissioner may deem necessary to a proper exhibit of its business and plan of working.

(2) The commissioner may at other times require any further statement relating to such society that he may deem necessary.

740.240 Valuation of securities. (1) A fraternal benefit society authorized to do business in this state may, in any report or valuation of its securities which it is required by law to make, value all its securities having a fixed term and rate and not in default as to principal or interest, and if amply secured, either:

(a) According to the provisions of the laws of this state in effect on May 21, 1917; or,

(b) If purchased at par, at the par value, if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made. The purchase price in no case shall be taken at a higher figure than the actual market value at the time of purchase. The State Insurance Commissioner has full discretion in determining the method of calculating values according to this rule.

(2) All other securities shall be valued according to the provisions of the law of this state in effect on May 21, 1917.

740.250 Special rules for determining financial condition. (1) Deferred payments or instalments of claims shall be considered as fixed liabilities on the happening of the contingency upon which such payments or instalments are thereafter to be paid. Such liability shall be the present value of such future payments or instalments upon the rate of interest and mortality assumed by the society for valuation, and every fraternal benefit society shall maintain a fund sufficient to meet such liability regardless of proposed future collections to meet any such liabilities.

(2) The reserves maintained by a society valuing its policies on the tabular basis, and the credits maintained by a society valuing

on the accumulation basis shall not be considered liabilities in determining legal solvency.

(3) The valuation of certificates provided for in ORS 740.260 shall not be considered or regarded as a test of the financial solvency of the society, but each society shall be held to be legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities.

740.260 Annual valuation of certificates; report to commissioner and to members. (1) Each fraternal benefit society transacting business in this state shall, in addition to the annual report required by ORS 740.230, annually report to the State Insurance Commissioner a valuation of its certificates in force on December 31 preceding, excluding those issued within the year for which the report is filed in cases where the contributions for the first year in whole or in part are used for current mortality and expenses.

(2) Such report of valuation shall show, as contingent liabilities, the present mid-year value of the promised benefits provided in the constitution and laws of such society under certificates then subject to valuation, and as contingent assets, the present mid-year value of the future net contributions provided in the constitution and laws as the same are in practice actually collected. At the option of any society, in lieu of the foregoing, the valuation may show the net value of the certificates subject to valuation. Such net value, when computed in case of monthly contributions, may be the means of the terminal values for the end of the preceding and of the current insurance years.

(3) The valuation shall be certified by a competent accountant or actuary, verified by the actuary of the department of insurance of the home state of the society, and filed with the commissioner within 90 days after the submission of the annual report.

(4) A report of the valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1 of each year. In lieu thereof, the report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society.

740.270 Legal minimum standard for valuing certificates. (1) The legal minimum standard of valuation for all certificates, except for disability benefits, shall be the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress, August 23, 1899, or, at the option of the society, any higher table, or, at its option, it may use a table based upon the society's own experience of at least 20 years and covering not less than 100,000 lives, with interest assumption not more than four percent per annum.

(2) Each valuation report shall set forth clearly and fully the mortality and interest basis and the method of valuation.

(3) Any society providing for disability benefits shall value such certificates apart from the valuation of all other business of the society, except that where a combined contribution table is used by a society for both death and permanent total disability benefits the valuation shall be according to tables of reliable experience.

740.280 Accumulation basis of valuation. (1) A fraternal benefit society accepting in its laws the provisions of this section may, instead of meeting the requirements of ORS 740.260, 740.270 and 740.320, value its certificates on an accumulation basis by crediting each member with the net amount contributed for each year and with interest approximately the net rate earned, and by charging him with his share of the losses for each year, designated "cost of insurance," and carrying the balance, if any, to his credit.

(a) The charge for the cost of insurance may be according to the actual experience of the society applied to a table of mortality recognized by the law of this state and shall take into consideration the amount at risk during each year, which shall be the amount payable at death less the credit to the member. Except as specifically provided in its articles or laws or contracts, no charge shall be carried forward from the first valuation hereunder against any member for any past share of losses exceeding the contributions and credit.

(b) If, after the first valuation, any member's share of losses for any year exceeds his credit, including the contribution for the year, the contribution shall be increased to cover his share of the losses. If the credit at the time any benefit becomes payable during the lifetime of the member, including any available funds, does not equal such benefit, the contributions to be made by him or on

his behalf shall be increased by the difference. Any such excess share of losses chargeable to any member may be paid out of a fund or contributions especially created or required for such purpose.

(2) Certificates issued, rerated or readjusted on a tabular basis providing for adequate rates with adequate reserves to mature such certificates upon assumptions for mortality and interest recognized by the law of this state shall be valued on that basis. But if on the first valuation on such basis a deficiency in reserve is shown for any such certificate it shall be valued on the accumulation basis.

740.290 Protection of tabular reserves of societies also having members on accumulation basis; meeting deficiencies. (1) Whenever in any fraternal benefit society, having members upon the tabular basis and upon the accumulation basis the total of all costs of insurance provided for any year shall be insufficient to meet the actual death and disability losses for the year, the deficiency shall be met for the year from the available funds after setting aside all credits in the reserve, or from increased contributions or by an increase in the number of assessments applied to the society as a whole or to classes of members as may be specified in its laws. Savings from a lower amount of death losses may be returned in like manner.

(2) If the laws of a society so provide, the assets representing the reserves of any separate class of members may be carried separately for such class as if in an independent society, and the required reserve accumulation of such class so set apart shall not thereafter be mingled with the assets of the other classes of the society.

740.300 Societies on accumulation basis to file table comparing corresponding tabular plans; a like comparison to be furnished members. (1) Each fraternal benefit society valuing its certificates on the accumulation basis shall file with its annual report a table showing the rates paid by and the amounts carried to the credit of individual members at each age and year of entry, and showing opposite each credit:

(a) The tabular rates and the tabular reserve required; or

(b) The required reserve on a level rate equivalent to that being paid, according to the assumptions for mortality and interest recognized by the laws of this state and adopted by the society; and,

in either case:

(c) Any benefit payable at a specified age or on account of old age disability.

(2) Before July 1 annually, each member shall be furnished with a copy of such table or with a statement giving the same data for such member.

(3) No table or statement need be made or furnished when the reserves are maintained on the tabular basis.

(4) For this purpose, individual bookkeeping accounts for each member shall not be required, and all calculations may be made by actuarial methods.

740.310 Transfer from accumulation to tabular plan. Any member of a fraternal benefit society whose certificate is valued on the accumulation plan may transfer to any plan adopted by the society with net rates on which tabular reserves are maintained and on such transfer shall be entitled to make such application of his credit as provided in the laws of the society.

740.320 Deficiency shown by 1917 valuation not to be exceeded; separation of funds of new members of deficient society. (1) If the valuation of the certificate of a fraternal benefit society on December 31, 1917, in the manner provided in ORS 740.260 and 740.270 showed that the present value of future net contributions together with the admitted assets was less than the present value of the promised benefits and accrued liabilities, the society must maintain a financial condition at each triennial valuation no less favorable in respect to the degree of deficiency than shown in the valuation of 1917.

(2) If at any triennial valuation such society does not show at least the same condition, the State Insurance Commissioner shall direct that it reattain its 1917 condition. If the next succeeding triennial valuation after the receipt of such direction shows that the society has failed to attain the condition required the commissioner may, in the absence of good cause shown for such failure, institute proceedings for the dissolution of such society in accordance with ORS 740.350, or in case of a foreign society its license may be revoked in the manner provided in ORS 740.360.

(3) Any society shown by any triennial

valuation not to have maintained the condition required by this section shall, within two years thereafter, make such improvement as to show a percentage of deficiency not greater than as of December 31, 1917, or thereafter, as to all new members admitted, be subject, so far as stated rates of contributions are concerned, to the provisions of ORS 740.120 applicable in the organization of new societies. The net mortuary or beneficiary contributions and funds for such new members shall be kept separate and apart from the other funds of the society. If the required improvement is not shown by the succeeding triennial valuation, then the new members may be placed in a separate class and their certificates valued as an independent society in respect to contributions and funds.

740.330 Examination of societies. (1) The State Insurance Commissioner, or any person he may appoint, may examine any fraternal benefit society transacting or applying for admission to transact business in this state. The commissioner may employ assistants, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society, and may summon and qualify as witness under oath and examine its officers, agents and employes and other persons in relation to the affairs, transactions and condition of the society.

(2) In the case of a foreign society the commissioner may accept in lieu of such examination the examination of the insurance department of the state, territory, district, province or country where such society is organized.

(3) Domestic societies shall be examined at least once each three years.

(4) The actual expenses of examiners making any examination shall be paid by the society upon statement furnished by the commissioner.

(5) If any foreign society or its officers refuse to submit to an examination or to comply with the provisions of this section, the authority of such society to write new business in this state shall be suspended or license refused until satisfactory evidence is furnished the commissioner relating to the condition and affairs of the society. During such suspension the society shall not write new business in this state.

(6) Pending, during or after an examination or investigation of any society, either domestic or foreign, the commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society, until a copy thereof has been served upon such society, at its home office, nor until such society has been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

740.340 Expiration of domestic society's authority for failure to do business or to have 400 members. If any domestic fraternal benefit society discontinues business for a period of one year or has less than 400 members its charter shall become null and void.

740.350 Suit to wind up domestic society; only Attorney General to institute certain proceedings. (1) When after examination the State Insurance Commissioner is satisfied that any domestic fraternal benefit society has failed to comply with any provisions of this chapter, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently, or whenever any domestic society after an existence of one year or more has a membership of less than 400, or determines to discontinue business, the commissioner may present the facts relating thereto to the Attorney General, who shall, if he deems the circumstances warrant, commence an action against the society under ORS 30.580.

(2) Upon commencement of an action authorized by subsection (1) of this section the court shall notify the officers of the society of a hearing and if it then appears that the society should be closed, enjoin it from carrying on any further business and appoint some person as receiver.

(3) The receiver shall proceed at once to take possession of the books, papers, moneys and other assets of the society and shall forthwith, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto.

(4) No such proceedings shall be commenced by the Attorney General against any society until after notice has been duly served on the chief executive officers of the society and a reasonable opportunity given

to it, on a date to be named in said notice, to show cause why such proceedings should not be commenced.

(5) No application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any domestic society or branch thereof shall be entertained by any court in this state unless made by the Attorney General.

740.360 Revocation of license of foreign society. When the State Insurance Commissioner on investigation is satisfied that any foreign fraternal benefit society transacting business under this chapter has exceeded its powers, or has failed to comply with any provisions of this chapter, or is conducting business fraudulently, or is not carrying out its contracts in good faith, he shall notify the society of his findings, and state in writing the grounds of his dissatisfaction, and after reasonable notice require the society, on a date named, to show cause why its license should not be revoked. If on the date named in the notice such objections have not been removed to the satisfaction of the commissioner, or the society does not present good and sufficient reasons why its authority to transact business in this state should not at that time be revoked, he may revoke the authority of the society to continue business in this state. All decisions and findings of the commissioner made under this section may be reviewed as provided in ORS 740.160.

740.370 to 740.500 [Reserved for expansion]

MERGERS; CONVERSION INTO STOCK OR MUTUAL COMPANY

740.510 Merger of domestic societies. (1) A domestic fraternal benefit society may merge with or accept the transfer of the membership or funds of another society or a domestic company engaged in the business of life and disability insurance by filing with the State Insurance Commissioner:

(a) The written contract setting out in full the terms and conditions of the merger or transfer.

(b) A sworn statement of the financial condition of each of the contracting organizations by its president and secretary or corresponding officers.

(c) A certificate of such officers, duly verified under oath, of each of the contracting organizations that the merger or transfer has been approved by a vote of two-thirds of the members of the supreme legislative or governing body of each of the contracting organizations.

(2) Upon submission of the contract, financial statements and certificates the commissioner shall examine them, and, if he finds the financial statements to be correct and the contract to be in conformity with the provisions of this section, and that the merger or transfer is just and equitable to the members, stockholders and policyholders of each of the contracting organizations, he shall approve the merger or transfer, issue his certificate to that effect and thereupon the contract of merger or transfer shall be of full force and effect.

(3) In case the contract is not approved, the fact of its submission and its contents shall not be disclosed by the commissioner. [Amended by 1955 c.327 §1]

740.520 Conversion of society organized prior to 1905 to stock or mutual corporation. (1) A domestic fraternal benefit society incorporated prior to January 1, 1905, and doing business under the laws of this state on June 5, 1931, may, with the approval and under regulations to be promulgated by the Corporation Commissioner, enter into agreements and contracts to sell and dispose of, without cost to the society, bonds, stocks or other negotiable instruments for the purpose of qualifying under the laws of this state as a mutual or stock corporation.

(2) When bona fide agreements have been entered into for the sale of sufficient stock or other securities to qualify such society as a mutual or stock corporation, then the society may be converted into a mutual or capital stock corporation, under such provisions, rules and regulations as the State Insurance Commissioner provides, to the end that the rights of each certificate holder in the society is protected as provided in his contract or certificate.

(3) When converted into a mutual corporation, the corporation may, after it has acquired a net surplus of not less than $50,000, issue policies on the level rate basis according to the American Experience Table of Mortality at three and one-half percent.

740.530 Procedure for conversion to mutual insurance corporation. (1) Any domestic fraternal benefit society organized or operating under this chapter may, upon a two-thirds vote of its supreme legislative and governing body, amend its articles of incorporation and laws if already incorporated or if not incorporated may incorporate.

in such manner as to transform itself into a mutual life insurance corporation with the name by which it is already known or another name as its supreme legislative and governing body shall determine.

(2) The proposed plan for reorganization or reincorporation shall be submitted to and must be approved by the State Insurance Commissioner.

(3) The commissioner shall issue a certificate of authority to transact business in this state as a mutual life insurance corporation to an applicant society which is in a solvent condition and has fully complied with the laws of this state.

740.540 Status of converted corporation and its officials. (1) A converted corporation and its officials incur the obligations and enjoy the rights, powers and privileges of a mutual insurance corporation writing the same kinds of insurance.

(2) The converted corporation is a continuation of the original organization, and the officers thereof shall serve through their respective terms as provided in the original articles and laws. Their successors shall be elected and serve as the laws of this state and the articles of incorporation and bylaws of the converted corporation provide.

(3) The conversion shall not affect existing suits, rights or contracts.

(4) The converted corporation and its officials have the power to transact business of the same nature transacted before conversion, as well as the powers conferred by this section and contemplated by the amended articles of incorporation, in order to protect and perform rights and contracts existing before conversion.

(5) All new business shall be written as a mutual life insurance company.

(6) The various kinds of insurance carried by a converted corporation shall be governed by the law respectively applicable thereto, and the State Insurance Commissioner shall exercise the powers and discharge the duties concerning the converted corporation that are applicable to companies organized or operating in this state and writing insurance or issuing policies of the same class.

740.550 Fund for payment of benefits under preconversion certificates. (1) All assets, other than general or expense fund assets, belonging to any fraternal benefit society converted under ORS 740.530 prior to conversion or arising or accruing from benefit certificates issued prior to conversion, shall be used only for the benefit of the holders of such benefit certificates and their beneficiaries.

(2) If at the time of conversion or at any time thereafter it appears to the State Insurance Commissioner that the present value of the contributions to be received from the holders of such benefit certificates, together with all assets, other than general or expense fund assets, owned by the corporation that have been accumulated from payments made by members holding such certificates, are not equal to the present value of the benefits thus promised to be paid, including all matured liabilities on any such benefit certificates, then the converted corporation shall establish, provide for and maintain a fund, which, with said present value of contributions and assets, will equal the present value of said benefits together with all matured liabilities. This fund shall be used for the payment of matured liabilities arising on said benefit certificates when other assets applicable thereto are exhausted.

740.560 Transfer of preconversion members to mutual plan. (1) Members in good standing in any fraternal benefit society prior to conversion have the right after conversion to transfer their insurance to the mutual life plan without further medical examination for the same or a less amount at legal reserve or level premium rates.

(2) The interest in the assets of the corporation of any person transferring his insurance, as determined by the board of directors, trustees or corresponding body, shall be transferred to and be a part of the assets of the corporation on the legal reserve or level premium plan.

740.570 Standards of valuation for converted corporations. Any fraternal benefit society converted to transact a mutual life insurance business as provided in ORS 740.530 shall value its benefit certificate according to the standards of valuation provided for fraternal benefit societies in this chapter, and its legal reserve or level premium policies according to the standards of valuation provided in ORS chapter 739.

740.580 Apportionment of expenses of converted corporation. The expense of operation and maintenance of a corporation con-

verted under ORS 740.530 shall be apportioned between those holding benefit certificates issued before conversion and those holding policies issued after conversion, as may be determined from time to time by the board of directors, trustees or corresponding body.

740.590 to 740.600 [Reserved for expansion]

INSURANCE PLANS, CERTIFICATES AND BENEFICIARIES

740.610 Insurance plans required and authorized. (1) A fraternal benefit society shall provide for the payment of death benefits, and may provide:

(a) For the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age; provided the payment of benefits for disability on account of old age shall not commence under age 65.

(b) For monuments or tombstones to the memory of its deceased members.

(c) For the payment of funeral benfits.

(2) A society may give a member when permanently disabled or on attaining the age of 65 all or such portion of the face value of his certificate as the laws of the society may provide.

(3) A society may issue benefit certificates for a term of years less than the whole of life which are payable upon the death or disability of the member occuring within the term for which the benefit certificate is issued.

(4) A society that has readjusted its rates of contributions may, as to contracts affected by the readjustment, upon written application of the member, accept a part of the periodical contributions in cash and charge the remainder, not exceeding one-half of the periodical contribution, against the certificate with interest payable or compounded annually at a rate not lower than four percent per annum.

(5) A society that shows by the annual valuation provided for in ORS 740.260 that it is accumulating and maintaining a reserve not lower than the usual reserve computed by the American Experience Table and four percent interest may grant to its members extended and paid-up protection or such withdrawal equities as its constitution and laws may provide. Such grants shall in no case exceed in value the portion of the reserve to the credit of the members to whom they are made.

740.620 Who may be insured. (1) Except as provided in ORS 740.710, a fraternal benefit society may admit to beneficial membership in accordance with its laws any person not less than 16 and not more than 65 years of age whose application has been supervised and approved by the medical department of the society.

(2) A beneficiary member of such society who applies for a certificate providing for disability benefits need not be required to pass a medical examination therefor.

(3) Nothing herein contained shall prevent a society from accepting general or social members at any age in accordance with its laws.

740.630 Designation and change of beneficiary; heirs take if no beneficiary. (1) A member of a fraternal benefit society may designate as his beneficiary himself or his estate or any person or corporation other than the society or he may provide that the benefits be paid for a purpose set forth in the laws of the society.

(2) Unless a member has waived the right to change his beneficiary he may from time to time have the designated beneficiary changed in accordance with the provisions of his certificate and the laws, rules or regulations of the society. No beneficiary shall have or obtain any vested interest in a benefit until it has become due and payable upon the death of the member.

(3) A society may by its laws limit the choice of beneficiaries to stated classes.

(4) If a member dies leaving no designated beneficiary all benefits remaining unpaid under the provisions of his certificate shall be paid to his heirs at law.

740.640 Benefits exempt from execution. No money or other benefits, charity or relief or aid paid, provided or rendered by any fraternal benefit society is liable to execution or other process or is to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary or any other person who may have a right thereunder, either before or after payment.

740.650 Required provisions; laws incorporated in certificate. (1) Every certificate issued by a fraternal benefit society shall specify the amount of benefit provided

thereby and shall provide that the certificate, the charter or articles of incorporation, or, if a voluntary association the articles of association, the constitution and laws of the society and the application for membership and medical examination signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the society and the member.

(2) Copies of the documents constituting the agreement certified by the secretary of the society or corresponding officer shall be received as evidence of the terms and conditions thereof.

(3) Any changes, additions or amendments to the charter or articles of incorporation, or articles of association if a voluntary association, constitution or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership.

740.660 No waiver of society's laws. The constitution and laws of a fraternal benefit society may provide that no subordinate body, nor any of its subordinate officers or members, shall have the power or authority to waive any of the provisions of the laws and constitution of the society, and the same shall be binding on the society and each and every member thereof and on all beneficiaries of members.

740.670 Incontestability; statements as representations. (1) Certificates issued by a fraternal benefit society shall be incontestable after they have been in force for two years during the lifetime of the insured except for nonpayment of dues or assessments or for violations of the conditions of the society.

(2) All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties.

740.680 to 740.700 [Reserved for expansion]

JUVENILE INSURANCE

740.710 Juvenile insurance and branches authorized. (1) A fraternal benefit society authorized to do business in this state may provide in its laws, in addition to other benefits provided for therein, for insurance, annuities, or for insurance and annuities, upon the lives of children at any age, upon the application of some adult person related to or interested in the child, as the laws of such society may provide.

(2) Any such society may, at its option, organize and operate branches for such children. Membership in local lodges and initiation therein shall not be required of such children nor shall they have any voice in the management of the society.

740.720 Power to provide for enforcement of contributions, designation of beneficiaries and regulation of insurance. A fraternal benefit society writing juvenile insurance shall have full power to provide for means of enforcing payment of contributions, designation of beneficiaries and changing such designations, and in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith, not at variance with the provisions of ORS 740.710 to 740.740.

740.730 Required reserves and rates. (1) A fraternal benefit society issuing juvenile benefit certificates shall maintain on all such certificates the reserve required by the standard mortality and interest tables adopted by the society for computing contributions.

(2) The contributions to be made upon such certificates shall be based upon the Standard Industrial Mortality Table, three and one-half percent or the English Life Table Number 6, or such other mortality and interest table as may be approved by the State Insurance Commissioner.

740.740 Provision for payments on account of expense or general fund. A fraternal benefit society writing juvenile insurance may provide in its laws or in such certificates for payments on account of the expense or general fund. Such payments shall or shall not be mingled with the general fund of the society as its laws may provide.

740.750 [Repealed by 1957 c.258 §1]

740.760 [Repealed by 1957 c.258 §1]

740.770 to 740.800 [Reserved for expansion]

GROUP INSURANCE

740.810 Prerequisites to issuance of group insurance. Any fraternal benefit society authorized to do business in this state

may provide in its laws, in addition to other benefits provided for therein, for the issuance of group benefit certificates if on the date upon which it enters upon such business it has organized and thereafter maintains with adequate reserves, a class of members carrying certificates providing for the payment of death benefits, at rates of contribution sufficient to provide for meeting such mortuary obligations when valued for death benefits upon the basis of either:

(1) The National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress, August 23, 1899.

(2) A table based upon the society's own experience of at least 20 years, covering not less than 100,000 lives, with an interest assumption of not more than four percent per annum.

(3) Any higher standard.

740.820 Group insurance plans. (1) Group benefit certificates may provide for the payment of benefits in the event of the death, or death and disability of:

(a) Persons engaged in a common enterprise or employment.

(b) The employes of any employer to whom or at whose request such certificate may be issued.

(2) Group certificates may be issued with or without medical examination and without limitation as to age.

(3) The society shall organize such persons or employes into a lodge or lodges with officers selected in the same manner as officers of other lodges and subject to the provisions of the laws of the society.

(4) Not less than 50 persons may be admitted to membership under one group without medical examination.

740.830 Beneficiaries. The beneficiary or beneficiaries of each person or employe included within the terms of any group benefit certificate, to whom a death benefit may be paid on the death of such person or employe, shall be designated and such designation may be changed from time to time, in accordance with the laws of the society. No beneficiary shall have or claim any vested interest in the benefit until it has become due and payable upon the death of such person or employe.

740.840 Who may make payments; percentage of employes required in certain groups. (1) The monthly or other payments to be made to the society on or for any such group may be made by the employer, or by the employer and employes jointly, or as provided in the contract.

(2) When such payments are made by the employer and the employes jointly and the benefits under any such group certificate are offered to all eligible employes of an employer, not less than 75 percent of the employes must be included under the group certificate.

740.850 Provisions permitted in certificates of societies doing business in several states. (1) A group certificate, when issued in this state by any society not organized under the laws of this state, may contain, when issued, any provision required by the laws of the state, territory or district of the United States, or of the country under which the society is organized.

(2) Group certificates issued in other states or countries by societies organized in this state may contain any provision required by the laws of the state, territory, district or country in which they are issued.

740.860 Individual members in group lodge. Other persons may, if so provided in the laws of a society, become members of a lodge organized under ORS 740.820 subsequent to its organization and be initiated into and hold membership in such lodge, and individual benefit certificates may be issued to them. Such lodges shall in all other respects be subject to the laws of the society.

740.870 Discontinuance of group or individual membership. If any group certificate is canceled, discontinued, or not renewed, or if any individual member of a group ceases to be a member of the group, the members of such group or any such individual member may be permitted to continue membership in the society for the same amount of protection at the required rate of monthly or other payments and in all other respects as provided in the laws of the society.

740.880 to 740.980 [Reserved for expansion]

PENALTIES

740.990 Offenses and penalties. (1) Any person, officer, member or examining physician of any fraternal benefit society authorized to do business under ORS 740.010 to 740.360, 740.510, 740.520 and 740.610 to 740.670 who knowingly or wilfully makes

any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any society transacting business under such sections, upon conviction thereof, shall be punished by a fine of not less than $100 nor more than $500 or by imprisonment in the county jail for not less than 30 days nor more than one year, or both.

(2) Any person who wilfully makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such society for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who wilfully makes any false statement in any verified report or declaration under oath required or authorized by such sections shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

(3) Any person who solicits membership for, or in any manner assists in procuring membership in any fraternal benefit society not authorized to do business in this state, upon conviction thereof, shall be punished by a fine of not less than $50 nor more than $200.

(4) Any society, or any officer, agent or employe thereof, neglecting or refusing to comply with, or violating any of the provisions of such sections, the penalty for which neglect, refusal or violation is not specified in this section, shall be fined not exceeding $200 upon conviction thereof.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 15, 1965.

Sam R. Haley
Legislative Counsel