

No. 356, S.]

[Published May 27, 1911.]

CHAPTER 216.

AN ACT to create section 1956, subsection 3, 10, and 11 of section 1957, subsections 15, 16, and 17 of section 1958, and subsections 22, 24, 25, 27, 28, and 30 of section 1959; to rename sections 1955c, 1955g, 1955i, and 1955k, to be respectively subsection 5 of section 1957, and subsections 23, 26, and 29 of section 1959; and to repeal sections 1955b, 1955d, 1955e, 1955f, 1955h, 1955j, 1955l, 1955m, 1955n, and 1978x, relating to fraternal benefit or mutual benefit societies.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There are added to the statutes three new sections to read: Section 1956. 1. Any corporation, society, order, or voluntary aid association, without capital stock, organized and carried on solely for the mutual benefit of its members or their beneficiaries, and having lodge system with ritualistic form of work and representative form of government, and which makes provision for the payment of death or disability benefits, or for both, is hereby declared to be a "fraternal benefit society," which shall be held to be synonymous with a "mutual benefit society." Domestic societies licensed to do business in this state as fraternal benefit societies on the first day of May, 1911, shall be considered within this subsection.

(Am. 1911, c. 664, s. 27.)

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

3. a. Any such society shall be deemed to have a representative form of government when it shall provide 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, together with such other members as may be prescribed by its constitution and laws: (1) Provided that the elective members shall constitute a majority in number, and have not less

than two-thirds of the votes nor less than the votes required to amend its constitution and laws; and (2) Provided, further, that the meeting of the supreme or governing body and the election of officers, representatives, or delegates shall be held as often as once in four years.

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

c. Provision may be made for voting by mail.

4. Unless express reference is made to this subsection, no law now in force or hereby or hereafter enacted shall include or apply to: a. Societies which limit their membership to any one hazardous occupation.

b. Nor to an association of local lodges of a society now doing business in this state which provides: (1) death benefits not exceeding three hundred dollars to any one person; (2) disability benefits not exceeding three hundred dollars in any one year to any one person; (3) or both.

c. Nor to any contracts of re-insurance business on such plan in this state.

d. Nor to domestic societies which limit their membership to the employees of: (1) a particular city or town; (2) a designated firm, business house, or corporation.

e. Nor to domestic lodges, orders, or associations of a purely religious, charitable, and benevolent description, which do not provide: (1) for a death benefit of more than one hundred dollars; (2) or for disability benefits of more than one hundred and fifty dollars to any one person in any one year.

5. But, (a) any such domestic order or society which, (1) has more than five hundred members, (2) and provides for death or disability benefits; (b) and any such domestic lodge, order, or society which issues to any person a certificate providing for the payment of benefits: shall not be exempt by the provisions of this section, but shall comply with all the requirements of the law relating to fraternal benefit societies.

6. The commissioner of insurance may require from any society such information as will enable him to determine whether such society is exempt from the provisions of this act.

(Am. 1911, c. 664, s. 27.)

7. No society shall be exempt by the provisions of subsection 4 of this section if it shall give or allow, or promise to give or allow, to any person any compensation for procuring new members.

8. Any fraternal benefit society, heretofore organized and incorporated and operating within the definition set forth in sub-

sections 1, 2, and 3 of this section, (a) providing for benefits in case of death or disability resulting solely from accidents, (b) but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of the law relating to fraternal benefit societies and shall have all the privileges and shall be subject to all the provisions and regulations of such law, except that the provisions of such law requiring medical examinations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

9. Unless express reference is made to this subsection or unless expressly designated therein, no law now in force or hereafter enacted, shall apply to any fraternal benefit society or mutual benefit society.

10. The word "assessment," as used in any law applicable to any fraternal benefit society, shall mean that the usual method employed by any organization within such provisions to meet its death losses is by assessments upon its surviving members, or that the amount estimated or required to meet such losses shall not be limited to a fixed sum. The word "organization," as so used, shall mean all such fraternal benefit societies.

SECTION 1957. 3. a. No fraternal benefit society shall admit to beneficial membership any person less than sixteen or more than sixty years of age.

b. Nor until he has been examined by a legally qualified physician and such examination has been supervised and approved in accordance with the laws of the society.

c. Any person who shall apply for a certificate providing for disability benefits only, need not be required to pass a medical examination therefor.

d. General or social members may be accepted at other ages than herein specified.

10. Every 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; provided that any foreign society permitted or seeking to do business in this state, which invests its funds in accordance with the laws of the state in which it is incorporated, shall be held to meet the requirements of this act for the investment of funds; and provided that a part thereof not exceeding twenty per centum of its assets, may be invested in a building for use and occupancy by the society as its home office.

11. a. 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.

b. No part of the money collected for mortuary or disability purposes, or to mature the policies, or of the net accretions thereto, shall be used for expenses.

c. Savings on mortality may be used to pay the expenses of medical examinations and inspections of risks.

SECTION 1958. 15. a. No fraternal benefit society shall transact any business herein without a license from the commissioner of insurance.

b. Societies which are now or shall be hereafter authorized to transact business in this state may continue such business until the first day of April next succeeding the taking effect of this section, or the granting of such license, and the authority of such societies may thereafter be renewed annually to terminate on the first day of the succeeding April, provided that the license shall continue in force and effect until the new license be issued or specifically refused.

c. A certified copy of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of section 1956.

d. Such license shall be subject to revocation by the commissioner for violation of law, or whenever such society shall fail to file with him a copy of any form of its contract before it shall be issued or delivered in this state, or shall, in soliciting business, by the use or circulation of any printed matter or advertisement, or otherwise, misrepresent its condition or contracts.

e. No license shall be issued to any society, hereafter organized or applying for admission, having a name so similar to the name of any society theretofore licensed in this state as to mislead the public.

f. Nothing in this or any other section of the statutes, shall be construed as preventing any such society from continuing in good faith all contracts issued or delivered in this state during the time such society was legally authorized to transact business herein; provided, such society shall, so long as any contract remains in force in this state, make such annual reports as required by law during the year previous to the last year of its being licensed, or at its option as thereafter required by law.

16. a. Any foreign fraternal benefit society which is not now authorized to transact business in this state, may be licensed to transact business in this state, upon an examination by or under the direction of the commissioner of insurance of this state, which shall verify and be made after the filing with him of:

(1) a duly certified copy of its charter or articles of association;

(2) a copy of its by-laws and of any other constitution and laws, certified by its secretary or corresponding officer;

(3) a power of attorney to the commissioner as herein provided;

(4) a certificate from the proper official in its home state, province, or country that the society is legally organized and licensed to transact business therein;

(5) a copy of each of its contracts which must each show that benefits are provided for by periodical or other payments by persons holding similar contracts;

(6) a statement of its business under oath of its president and secretary or corresponding officers, in the form required by the commissioner, showing that it complies with all the provisions of law relating to like domestic societies;

(7) such other information as he may deem necessary to a proper exhibit of its business and plan of working;

(8) a statement signed by its president and secretary, or corresponding officers, including a copy of a resolution of its board of directors or other governing body, authorizing the same:

(a) that it will annually file, as long as any contracts issued or delivered in this state remain in force therein, its annual report as required by subsection 15 of this section, and

(b) that it will accept a license which shall immediately terminate upon its removal, or making an application to remove to any court of the United States, any action or proceeding begun in any court of this state, upon any such contract or upon any business or transaction had in this state.

17. a. Every society, whether domestic or foreign, not heretofore having done so, shall before being licensed, by an instrument in writing duly authorized and executed, appoint the commissioner of insurance and his successors its true and lawful attorney upon whom all legal process in any action or proceeding against it shall be served, and therein agree that any lawful process against it, which may be served upon such attorney, shall be of the same force and validity as if served upon

the society, and that this authority shall continue in force irrevocably so long as any liability of the society remains outstanding in this state.

b. The service of such process shall be made by leaving the same, in duplicate, in the hands or office of the commissioner.

c. One of the duplicates of such instruments, certified by the commissioner as having been served upon him, shall be deemed sufficient evidence thereof, and service upon such attorney shall be deemed service upon the principal.

d. When legal process is served upon the commissioner as attorney for any society, he shall forthwith forward one of the duplicate copies of process served on him to its secretary, or corresponding officer, or to such other person as may have been previously designated by the society by written notice filed in the office of the commissioner.

e. As a condition of valid and effective service and of the duty of the commissioner in the premises, the plaintiff in each such process shall pay to the commissioner, at the time of service thereof, the sum of two dollars, which the said plaintiff shall recover as taxable costs, if he prevails in the suit.

f. The commissioner shall keep a record of all such processes, which shall show the day and hour of service.

g. Legal process shall not be served upon any such society except in the manner and upon the attorney provided herein.

h. Any society so served shall have thirty days from the date of such service in which to serve its answer, pleading, or defense.

SECTION 1959. 22. a. As a part of its annual statement every fraternal benefit society shall report a valuation of its certificates in force as of the end of each year, beginning with December 31, 1912.

b. such valuation shall be certified by a competent accountant or actuary, or at the request and expense of the society, verified by the actuary of the department of insurance of the home state of the society.

c. The time for filing such valuation may be extended by the commissioner not exceeding ninety days.

d. The legal minimum standard of valuation for all certificates, except for disability benefits, shall be the National Fraternal Congress table of mortality specified by law, or at the option of the society, any higher table or any table authorized by section 1950, or, at its option, it may use a table based upon the society's own experience of at least twenty years and covering not less than one hundred thousand lives with an in-

terest assumption of not more than four per centum per annum, whichever mortality table is adopted.

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

f. Any 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 and the valuation of all other business of the society; provided 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 approved by the commissioner of insurance, and in such case a separation of the funds shall not be required.

g. The valuation herein provided for 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.

h. Beginning with the year 1914 a report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed by the society to each beneficiary member of the society not later than the first of each year, or, in lieu thereof, such 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.

i. This subsection shall not apply to any foreign society issuing certificates in a sum not exceeding five hundred dollars and licensed in this state before January 1, 1911.

(Am. 1911, c. 664, s. 27.)

24. The commissioner of insurance, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic or foreign society. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all the books, papers, and documents that relate to the business of the society and may summon and qualify as witnesses under oath and examine its officers, agents, and employees or other persons in relation to the affairs, transactions, and condition of the society. The expense of such examination shall be paid by the society examined, upon statement furnished by the commissioner of insurance, and the examination shall be made at least once in three years.

25. The commissioner of insurance may, in his discretion, in lieu of examining such foreign society, accept the examination of the insurance department of the state, territory, district, province, or country where such society is organized.

27. Pending, during, or after an examination or investigation of any such society, either domestic or foreign, the commissioner of insurance 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 shall have been served upon such society, at its home office, nor until such society shall have 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.

28. When the commissioner of insurance on investigation is satisfied that any foreign society transacting business under this act has exceeded its powers, or has failed to comply with any provisions of this act 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 said society, on a date named, to show cause why its license should not be revoked. If on the date named in said notice such objections have not been removed to the satisfaction of the said 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 orders of the commissioner of insurance relating to fraternal benefit societies may be reviewed as provided for the review of orders relating to insurance companies.

(Am. 1911, c. 664, s. 27.)

30. Every fraternal benefit society organized or licensed in this state shall be exempt from all and every state, county, district, municipal, and school taxes or fees, but shall be required to pay all taxes and special assessments on its real estate and office equipment, and the same fees for filing its articles or amendments and annual report and for certified copies, as provided by section 1972.

SECTION 2. Sections 1955c, 1955g, 1955i, and 1955k of the statutes are renumbered and made respectively subsection 5 of

section 1957, and subsections 23, 26, and 29 of section 1959 of the statutes.

SECTION 3. Sections 1955b, 1955d, 1955e, 1955f, 1955h, 1955j, 1955l, 1955m, 1955n, and 1978x are repealed.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved May 26, 1911.

No. 24, S.]

[Published May 31, 1911

CHAPTER 217.

AN ACT to validate and confirm franchises and indeterminate permits in certain cases.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. No franchise heretofore surrendered by any corporation of this state in the manner and within the time provided by section 1797m—77, and no indeterminate permit based thereon, shall be declared invalid by reason of any defect, irregularity, or invalidity in such franchise whatsoever, provided that such franchises shall not have been obtained by fraud, bribery, or corrupt practices; that when such franchise was granted no officer of the municipality granting the same was directly or indirectly interested in such franchise or in the corporation obtaining same; and that the corporation having the same shall have prior to the surrendering of said franchise in good faith purchased or constructed any street or interurban railway, water works, gas or electric light plant, or other public utility or any part thereof by such franchise authorized; and subject to the foregoing exceptions, every such franchise and permit is hereby legalized and confirmed.

(Am. 1911, c. 664, s. 28.)

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved May 29, 1911.

No. 144, S.]

[Published May 31, 1911.

CHAPTER 218.

AN ACT to amend section 4713 of the statutes, relating to appointment and compensation of counsel for indigent defendants in criminal actions and proceedings.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 4713 of the statutes is amended to read: Section 4713. The courts of record of the state of Wisconsin, hav-