

## CHAPTER 208.

## FRATERNAL BENEFIT SOCIETIES.

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**208.01 Fraternal benefit societies defined.** (1) Any corporation, society, order or association, without capital stock, organized and carried on solely for the mutual benefit of its members or their beneficiaries and having a lodge system with ritualistic form of work and representative form of government, and which makes provision for the payment of death, disability, annuity or endowment benefits, or any combination of such benefits, is hereby declared to be a "Mutual Benefit Society," which shall be held to be synonymous with a "Fraternal Benefit Society." Domestic societies licensed to do business in this state as mutual benefit societies on May 1, 1911, shall be considered within this subsection.

(2) Any such society having a supreme governing body and subordinate lodges or branches, into which members shall be elected, initiated and admitted in accordance with its constitution, laws, rules, regulations and prescribed ritualistic ceremonies, which lodges or branches are required by its laws to hold regular meetings, shall be deemed to be operating on the lodge system.

(3) Any such society shall be deemed to have a representative form of government if it provides a supreme governing body composed of representatives elected by the members or by delegates elected by the members, together with such other members as may be prescribed by its constitution and laws: Provided the elective members shall constitute a majority and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws; and provided the meeting of the supreme governing body and the election of officers, representatives or delegates shall be held as often as once in 4 years.

(4) The directors, trustees and officers of a fraternal benefit society may be elected or re-elected for a term of office not to exceed 4 years.

**History:** 1961 c. 545.

**208.02 Proxies, mail voting.** No mutual benefit society shall permit voting by proxy, but may provide for voting by mail.

**208.03 Laws applicable.** (1) Unless express reference is made thereto, no insurance law shall apply to societies which admit to membership only persons engaged in one or more hazardous occupations in the same or similar lines of business and their immediate families and dependents; nor to an association of local lodges of a society doing business in this state on May 27, 1911, which provides death benefits not exceeding \$300 to any one person or disability benefits not exceeding \$300 in any one year to any one person or both; nor to any contracts of reinsurance on such plan; nor to domestic societies which limit their membership to the employees of a particular municipality or one designated employer and their immediate families and dependents; nor to domestic lodges, orders or

associations of a purely religious, charitable and benevolent description, which do not provide for a death benefit exceeding \$300 or for disability benefits of more than \$150 to any one person in any one year nor to firemen's associations organized for mutual aid, training of members and education in fire fighting and fire prevention. But any such order or society, except societies which admit to membership only persons engaged in one or more hazardous occupations in the same or similar lines of business and their immediate families and dependents, and firemen's associations, which has more than 500 members and provides for death or disability benefits or which issues a certificate providing for the payment of benefits shall comply with all the requirements of law relating to mutual benefit societies.

(2) No insurance law shall apply to domestic benevolent societies organized prior to and in continuous operation each year since January 1, 1935, which maintain no lodges or ritualistic organization and which operate upon the plan of collecting an assessment upon the death of a member, provided benefits paid shall not exceed \$2,000 upon the death of any member. No such society shall have a total membership of more than 2,000 members and in no event shall it increase its membership beyond that which it had in good standing on July 1, 1945. Officers of benevolent societies operating under this section shall obtain and furnish a bond of not less than \$5,000 for the faithful performance of their duties.

(3) The secretary of every such society formed under subsection (2) shall, on or before March 1 of each year, make and file with the commissioner a report of its affairs and operations during the preceding calendar year, showing: number of members of the society on July 1, 1945; number of benefit certificates issued during the year; number of assessments levied and the amount received from each assessment in each class for the year; number of losses or benefit liabilities paid; total amount paid members, beneficiaries, legal representatives and heirs; number of losses or benefit liabilities unpaid; dues on each \$1,000 annually or per capita; total amount of money received during the year, from what sources received and the disposition made of the same; number of benefit certificates lapsed during the year; number of benefit certificates in force at the beginning and end of the year and if more than one class, the number of each class; and a statement of assets on hand and the liabilities of the society as of the end of the calendar year.

(4) Section 208.162 shall not apply to any fraternal benefit society wherein the annual total dues for each member, including any assessments, do not exceed \$20 per annum and the officers of the Wisconsin unit or division are annually elected by its members and are residents of Wisconsin.

**History:** 1965 c. 501.

**208.04 Members limited to one employer, reports.** A domestic mutual benefit society having more than five hundred members, and which limits its membership to employes of a designated employer, shall in lieu of the report required by section 208.31, file, annually, with the commissioner a verified report showing the number and amount of liabilities paid during the year; the total income, from what source derived and the disposition thereof; the salaries paid to officers; the number of members at the beginning and the end of the year; and the amount and character of its assets.

**208.05 Information to commissioner.** The commissioner may require from any society mentioned in section 208.03 such information as will enable him to determine whether such society is exempt from the provisions of the laws relating to insurance or to mutual benefit societies.

**208.06 Old societies.** Any mutual benefit society organized prior to May 27, 1911, and providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under this chapter, and shall have all the privileges and shall be subject to all the provisions and regulations of this chapter, except that the provisions thereof requiring medical examinations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

**208.07 What laws apply.** Unless express reference is made to this chapter or unless expressly designated, no law shall apply to any mutual benefit society.

**208.09 Admission to membership; benefits; contributions for same, reserves, change of beneficiaries.** (1) Any fraternal benefit society may admit to beneficial membership such persons under such conditions and for such benefits as its laws may prescribe, subject to the limitations prescribed under ch. 208 and may in like manner admit general or social members. Any such society may provide in its laws for the payment to its members of benefits for the disability of such members, their minor children and their spouses.

(2) (a) A fraternal benefit society may provide in its laws, in addition to other bene-

fits provided for therein, for the payment of benefits upon the lives of members, or upon application of a member, on the lives of the member's family, including the member and the member's spouse and for the payment of benefits upon the lives of children at any age upon the application of persons as the laws of the society may provide. Any such society may, at its option, organize and operate branches for such children, and 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.

(b) The contributions for such benefits below age sixteen shall be based upon the Standard Industrial Mortality Table or the English Life Table number six or the American Experience Table with Craig's Extension, with a rate of interest not exceeding four per cent, or such mortality table as may be approved by the commissioner of insurance.

(c) Any society granting such benefits shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society within the limitations prescribed in paragraph (b) of this subsection.

(d) Such society shall have power to provide for designation or change of beneficiaries, and for the regulation, government, and control of all matters connected with the granting of such benefits.

**208.10 Beneficiary.** Any member may name as his beneficiary any person permitted by the laws of such society, including his estate. Any member may change his beneficiary without the consent of such beneficiary, by complying with the laws of the society.

**208.11 Dividends.** No mutual benefit society shall issue any certificate or policy in which the accounting, apportionment and distribution of any profits, savings, earnings or surplus shall be deferred for a longer period than one year.

**208.12 Investments.** Every mutual benefit society shall invest its funds only in securities permitted for the investment of the assets of life insurance companies subject to all of the conditions and restrictions of the statutes applicable thereto, including section 201.24; but any such foreign society may invest its funds in accordance with the laws of the state in which it is incorporated; provided that not exceeding 20 per cent of the assets of any society may be invested in a building for use as its home office.

**208.13 Funds.** All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract. A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

**208.14 Fraternal benefit societies; organization.** (1) A mutual benefit society may be incorporated as provided in chapter 201. Before such society shall be licensed to transact business at least 500 persons shall have made application in writing for membership therein and each shall have made application for at least \$500 of life insurance and shall have been examined and recommended as insurable by a legally qualified physician and shall have paid the rate required for one year of insurance. No license shall be issued unless the aggregate payments for mortuary purposes amount to at least \$10,000.

(2) Any mutual benefit society organized under the laws of this state shall maintain an insured membership of at least 500 members with not less than \$250,000 of life insurance during the first year following the issue of its license and shall have at the close of the second year following the issue of its license not less than 1,000 insured members with not less than \$500,000 of life insurance and at the close of the fourth year following the issue of its license and thereafter at least 2,000 insured members with not less than \$1,000,000 of life insurance.

**208.15 Rates.** (1) No mutual benefit society shall be incorporated or permitted to transact business in this state unless its laws require regular payments at rates to provide for mortality and reserves not lower than those derived from the national fraternal congress mortality table, computed upon an interest assumption of 4 per cent per annum, (except that a foreign society may calculate its reserves as provided in s. 208.28 (2)), unless it elects to compute its rates and reserves upon the basis of a mortality table and interest assumption permitted for life insurance companies, nor unless it holds assets sufficient to provide for its other liabilities and its reserve liability, upon its own plan and assumptions within the foregoing limitations.

(2) The payment of any disability benefits promised or rendered by any such society that are not provided for in the rates so deduced from said table of mortality must be amply provided for in addition to the rates as herein required.

(3) Every domestic mutual benefit society shall provide in its constitution or laws that if the society's reserves as to all or any class of certificates become impaired, the board of directors or corresponding body may require that there shall be paid by the member to the society the amount of the member's equitable proportion of such deficiency as ascertained by its board, and that if the payment is not made, it shall stand as an indebtedness against the certificate and draw interest not to exceed 5% per annum compounded annually, or in lieu thereof, or in combination therewith the member may consent to an equivalent reduction in benefits.

(4) Whenever, on and after January 1, 1940, the assets of any mutual benefit society shall not equal its liabilities and its reserves on the mortality and interest basis prescribed by subsection (1) of this section, except that a foreign society may calculate its reserves as provided in subsection (2) of section 208.28, the society shall, within sixty days, provide assets equal to such liabilities and reserves and, on its failure so to do, the commissioner shall fix a time, of which written notice shall be given to the society, after which no contracts or policies shall be issued in this state by the society until its assets shall equal its liabilities and its reserves.

(5) Any society electing to compute its rates and reserves upon the basis of the commissioners 1941 standard ordinary mortality table or the commissioners 1958 standard ordinary mortality table, and an interest assumption permitted for life insurance companies, shall compute the value of benefits granted upon forfeiture or change in the contract in accordance with s. 206.181.

**History:** 1965 c. 501.

**208.16 The contract.** (1) Every society authorized to do business in this state shall issue to each benefit member a certificate or other instrument specifying the amount of benefits provided thereby. The certificate or other instrument, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate or other instrument shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate or other instrument.

(2) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

(3) Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the 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, except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance, but such exception shall not apply with respect to benefits provided under a contract for an indefinite term by a society whose members are limited to employes of a designated employer.

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

**History:** 1965 c. 501.

**208.161 Life benefit certificate provisions standard and prohibited.** On and after January 1, 1966, no life benefit certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner of insurance, and approved by him as conforming to the requirements of this section and not inconsistent with any other provisions of law applicable thereto. A certificate shall be deemed approved unless disapproved by the commissioner of insurance within 30 days from the date of such filing.

(1) The certificate shall contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

(a) Title on the face and filing page of the certificate clearly and correctly describing its form;

(b) A provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate;

(c) A provision that the member is entitled to a grace period of not less than a full month (or 30 days at the option of the society) in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before

the overdue payment is made, the amount of such overdue payments may be deducted in any settlement under the certificate;

(d) A provision that the member shall be entitled to have the certificate reinstated at any time within 3 years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding 6% per annum compounded annually;

(e) Except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of 15 years or less expiring before age 66 a provision that, in the event of default in payment of any premium after 3 full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's laws so specify or if the member so elects prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

(f) A provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than 60 days after the due date of the premium in default;

(g) A statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

(h) A table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate whichever is shorter;

(i) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of 2 years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of 2 years from date of issue. The certificate may provide, as to statements made to procure a reinstatement, that the society shall have the right to contest a reinstated certificate within a period of 2 years from date of reinstatement with the same exceptions as herein provided;

(j) A provision that in case of age or sex of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age or sex has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age and sex; but if the correct age or sex was not an insurable age or sex under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age and sex according to the society's promulgated rates and any extension thereof based on actuarial principles;

(k) A provision or provisions which recite fully, or which set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate; and

(l) If the constitution or laws of the society provide for expulsion or suspension of a member, a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

(m) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

(2) On and after January 1, 1966, no life benefit certificate shall be delivered or issued for delivery in this state containing in substance any of the following provisions:

(a) Any provision limiting the time within which any action at law or in equity may be commenced to less than 2 years after the cause of action accrues;

(b) Any provision by which the certificate purports to be issued or to take effect more than 6 months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

(c) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

(3) The word "premiums" as used in this chapter means premiums, rates or other required contributions by whatever name known.

**History:** 1965 c. 501.

**208.162 Accident and health insurance and total and permanent disability insurance certificates.** No domestic, foreign or alien society authorized to do business in this state shall issue or deliver in this state any certificate or other evidence of any contract of accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, has been filed with the commissioner of insurance, and approved by him as conforming to reasonable rules and regulations made by him and as not inconsistent with any other provisions of law applicable thereto. The commissioner of insurance shall, within a reasonable time after the filing of any such form, notify the society filing the same either of his approval or of his disapproval of such form. The commissioner of insurance may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the members than the ones so required. The commissioner of insurance shall have power to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to the provisions of s. 204.31 (1) to (9). Where the commissioner of insurance deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. Any filing made hereunder shall be deemed approved unless disapproved within 30 days from the date of such filing.

**History:** 1965 c. 501.

**208.17 Benefits not attachable.** No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or 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 by the society.

**History:** 1965 c. 501.

**208.18 Nonreserve society.** A mutual benefit society may be organized for the transaction of business on a plan set forth in the contract which provides for sufficient contributions by each member in each year to pay his share of the actual death claims of the year through the collection of assessments graded according to the National Fraternal Congress Mortality Table, or to any other mortality table recognized by law, without any reserve, or with such reserve as may accumulate from overpayments of individual members, in which case each member shall each year be informed of his credit and of the charge of his cost of insurance.

**208.19 Classes of members.** Any domestic mutual benefit society may establish and maintain two or more separate classes of members subject to the conditions and restrictions following and to such as may be prescribed in its articles or by-laws. The proceeds of assessments (other than for expense purposes) and the apportioned funds or reserves maintained for each class shall be kept separate from other funds, and all claims on certificates held by members in any class shall be paid only from funds belonging to such class; provided that transfers of gains from interest or investments, or of savings in mortality, or of gains from forfeitures, may be made between classes of members as au-

thorized in the by-laws; and provided that for the purpose of apportioning death losses to the various classes, the mortality may be merged as authorized in the by-laws. Pursuant to the by-laws any member may be permitted to transfer from a lower to a higher rate class and to have transferred with him to such other class such part of any accumulated funds held for such member. No such classification shall be rescinded or discontinued. The foregoing conditions and restrictions shall not apply to classes established prior to June 27, 1915, nor to accident insurance.

**208.20 Old societies, special license.** (1) Any mutual benefit society having members residing in this state on the first day of May, 1911, shall, without complying with the requirements of sections 208.15 to 208.19 but upon complying with the other requirements of law be entitled to transact insurance with such members and with members who shall come into this state after having become such members.

(2) If such society shall not comply with the requirements of said sections it shall not solicit, receive or accept new members in this state until it shall have received the license of the commissioner therefor, issued after examination by him, and due proof is filed with him that such society has incorporated into its charter, articles or by-laws a provision that from such date new members will be solicited, received or accepted within this state only according to the provisions of said sections, and that the amount of funds necessary to meet the reserve liability on each policy or certificate of such new members shall be kept separate from other funds in trust for each such member, and shall be used only for the purpose of maintaining such reserve and maturing such policies or certificates, and that a policy or certificate shall be issued to each member reciting the foregoing conditions and specifying the premium, and that assessments, if any, shall be levied only in the manner and for the specific purposes therein enumerated.

(3) When such society shall in all respects as to all its members have complied with the requirements of said sections it shall no longer be required to keep such funds separate as required by subsection (2).

**208.21 Licensing of agents.** (1) Agents of mutual benefit societies shall be licensed in accordance with the procedure for licensing life insurance agents under s. 206.41, except that the examination requirements of said section shall not apply to any agent who is an agent of such a society immediately prior to October 2, 1963.

(2) In this section "agent" means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that "agent" shall not include:

(a) Any regular salaried officer or employe of a licensed society who devotes substantially all of his services to activities other than the solicitation of insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) Any agent or representative of a society who devotes, or intends to devote, less than 50 per cent of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of \$50,000, or, in the case of any other kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, 50 per cent of his time to the solicitation or procurement of insurance contracts for such society.

**History:** 1963 c. 344.

**208.23 Amendment of articles.** The articles of organization of any mutual benefit society may be amended as prescribed herein, any provisions contained in the articles of organization notwithstanding. In case of any society having subordinate lodges or other divisions, after the proposed amendment has been filed with the department of insurance and a copy thereof with notice of the manner and the time and place of voting has been mailed to each member at least 30 days prior to the time for voting, the vote on such amendment may be taken at the usual meeting places of such lodges or other divisions, and the results returned and canvassed in such manner as the board of directors or other governing officers may prescribe in such notice. The time and place of voting may be specified by referring to a stated meeting of such subordinate lodge or other division in such manner as to fully inform the members. An amendment may be adopted by a vote of a majority of the members voting thereon.

**208.24 License necessary.** (1) No mutual benefit society shall transact any business without a license from the commissioner. Such license and any renewal thereof shall

terminate on the first day of the succeeding April, provided that the license shall continue in force and effect until the new license is issued or specifically refused.

(2) Such license shall be prima facie evidence that the licensee is a mutual benefit society. No license shall be issued to any society having a name so similar to the name of any society theretofore licensed as to mislead the public.

(3) Any such society may continue all contracts issued or delivered in this state during the time such society was legally authorized to transact business here; provided, such society shall, so long as any contract remains in force, make such annual reports as are required during the year previous to the last year of its being licensed, or at its option as thereafter required by law.

**208.25 Admission of foreign societies.** Any foreign mutual benefit society may be licensed to transact business in this state, upon an examination by the commissioner, which shall 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 or country that the society is legally organized and licensed to transact business therein;
- (5) Each of its forms of contracts which must each show that benefits are provided for by periodical or other payments by persons holding such 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; and
- (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; that it will file its annual report as required by section 208.31.

**208.26 Service on societies.** (1) 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.

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

(3) 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.

(4) 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.

(5) 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 fee required by s. 200.13 (18), which the said plaintiff shall recover as taxable costs, if he prevails in the suit.

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

**History:** 1961 c. 562.

**208.27 Trusts and agreements as to proceeds of insurance.** Any mutual benefit society doing business in this state may hold the proceeds of any certificate issued by it under a trust or other agreement upon such terms and restrictions as to revocation by the member and control by the beneficiary and with such exemptions from the claims of creditors of the beneficiary as shall have been agreed to in writing by such society and the member. The society may hold said proceeds as a part of its mortuary fund assets. To be held in like manner, such society may receive and collect payments in advance upon

policies issued by it in such amounts and upon such conditions, including the right of the member to withdraw unused portions thereof, as shall have been agreed to in writing by such society and the member.

**208.28 Benefit societies; annual report, valuation.** (1) As a part of its annual statement every mutual benefit society shall report a valuation of its certificates in force as of the end of each year. 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. The time for filing such valuation may be extended by the commissioner not exceeding ninety days.

(2) The legal minimum standard of valuation for all certificates of life or endowment insurance shall be the national fraternal congress table of mortality, or at the option of the society, any higher table or any table authorized by s. 206.20 or 206.201 for such benefits, or a table based upon the society's own experience of at least 20 years and covering not less than 100,000 lives. Contracts for annuity or pure endowment benefits, for total and permanent disability benefits in or supplementary to ordinary contracts, or for accidental death benefits in or supplementary to ordinary contracts shall be valued in accordance with s. 206.201 (2) (c), (e) and (f). Interest assumptions shall not be more than  $3\frac{1}{2}$  per cent per annum. Each report shall set forth fully the mortality and interest basis and the method of valuation.

(3) Any society providing for disability benefits shall keep the net contributions for such benefits separate and apart from all other 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 experience approved by the commissioner, and in such case a separation of the funds shall not be required.

(4) Each society shall be held to be legally solvent so long as the admitted assets are equal to its reserve and other liabilities.

(5) A report of such valuation and an explanation of the condition of the society thereby disclosed shall be printed and mailed by the society to each beneficiary member not later than the first of July of each year, or, in lieu thereof, such report and explanation may be published in the society's official paper and the issue containing the same mailed to each beneficiary member.

(6) This section shall not apply to any foreign society issuing no certificate in excess of \$500 and licensed before January 1, 1911.

**History:** 1963 c. 266.

**208.29 Benefit societies, valuations.** (1) (a) In lieu of the valuation requirements of section 208.28, any society accepting the provisions of this section may value its certificates on an accumulation basis, by crediting each member with the net amount contributed for each year and with interest at approximately the net rate earned, and by charging him with his share of the losses for each year.

(b) The charge 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.

(c) Except as specifically provided in its articles or laws or contracts, no charge shall be carried forward from the first valuation against any member for any past share of losses exceeding the contributions and credit.

(d) 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 the excess.

(e) Any such excess chargeable to any member may be paid out of a fund or contributions especially required for such purpose.

(2) Any member 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.

(3) Certificates issued, rerated or readjusted on a 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 such basis, herein designated the "Tabular Basis;" provided that if on the first valuation a deficiency in reserve shall be shown for any such certificate, it shall be valued on the accumulation basis.

(4) Whenever in any 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 insuffi-

cient to meet the actual death and disability losses for the year the deficiency shall be met 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 as may be specified in its laws.

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

(6) A table showing the credits to individual members for each age and year of entry, and showing opposite each credit the tabular reserve required on the whole life or other plan of insurance specified in the contract, according to assumptions for mortality and interest recognized by the laws of this state and adopted by the society, shall be filed by the society with each annual report and also be furnished to each member before July first of each year.

(7) In lieu of the statement required by subsection (6) there may be furnished to each member within the same time a statement giving the credit for such member and giving the tabular reserve and level rate required for a transfer carrying out the plan of insurance specified in the contract. No table or statement need be made or furnished where the reserves are maintained on the tabular basis.

(8) Bookkeeping accounts for each member shall not be required and all calculations may be made by actuarial methods.

(9) This section shall not prevent the maintenance of such surplus over and above the credits on the accumulation basis and the reserves on the tabular basis as the society may provide pursuant to its laws; nor give to the individual member any right or claim to any such reserve or credit other than in the manner expressed in the contract and its laws; nor make any such reserve or credits a liability in determining the legal solvency of the society.

**208.31 Annual report.** Every mutual benefit society shall annually file with the commissioner an alphabetical list of representatives in this state as of December 31 and their addresses together with a schedule showing the basis of compensation of such representatives. Such list shall be on a form provided by the commissioner and shall be submitted prior to March 1, following, as a supplement to the report of the society's affairs required by s. 201.50.

**History:** 1961 c. 562.

**208.32 Visitorial power.** (1) The commissioner or any person he may appoint shall have the power of visitation and examination into the affairs of any domestic or foreign mutual benefit society; and shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and swear and examine its officers, agents and employes 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, and the examination shall be made at least once in three years.

(2) The commissioner may in lieu of examining such foreign society accept the examination of the insurance department of the state or country where such society is organized.

(3) The commissioner shall, at the request of any such society, make an examination thereof and furnish a certificate of the result, showing all its assets, how invested, and such other particulars as may be deemed necessary to show its character and condition; and the necessary expense of the said examination shall be paid by it.

(4) Pending or after an examination or investigation of any such society the commissioner shall not make public 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.

**208.33 Revocation of license; review of orders.** (1) When the commissioner upon investigation is satisfied that any mutual benefit society has exceeded its powers, or has failed to comply with any provision of law, or is soliciting business by the use or circulation of any matter or advertisement misrepresenting its contracts or conditions, or is otherwise conducting business fraudulently, or in any way hazardous to its members, creditors or the public, or is not carrying out its contracts in good faith, or shall fail to file with

him a copy of any form of contract before it shall be issued or delivered in this state, he shall notify the society of his findings relative thereto, and upon reasonable notice, require said society, on a date named, to show cause why its license should not be refused or revoked. If on the date named in said notice such objections have not been removed to the satisfaction of the commissioner, or if the society does not present good and sufficient reasons why its authority to transact business in this state should not at that time be refused or revoked, he may refuse to renew or may revoke the authority of the society to continue business in this state. All decisions and orders of the commissioner relating to mutual benefit societies may be reviewed as provided in chapter 227.

(2) Upon failure of a foreign mutual benefit society to maintain the number of members or amount of insurance in force required by section 208.14, the commissioner shall revoke the license of the society to transact business in this state and upon failure of a domestic mutual benefit society to maintain the required number of members or amount of insurance the commissioner shall proceed against it in the manner prescribed in section 200.08.

**208.34 Revocation of license, costs.** The commissioner shall revoke the license of any society which fails to comply with the requirements of law; and all necessary expenses incurred by him and by the attorney-general in enforcing such requirements or in prosecuting violations thereof shall be paid out of the general fund, on being certified to the secretary of state that they were actually and necessarily incurred for the purpose stated.

**208.35 Tax exempt, special assessments, filing fees.** Every mutual benefit society shall be exempt from all state, county, district, municipal and school taxes or fees, except the fees as required by s. 200.13 (25), but shall be required to pay all taxes and special assessments on its real estate and office equipment, except as provided in s. 70.11 (4) and (8).

**History:** 1961 c. 562.

**208.36 Acting as agent of fraternal order.** Any person who shall act or aid in any manner in transacting, in this state, the business of or with any fraternal or beneficiary corporation, society, order or association for the relief of members or beneficiaries and furnishing life or casualty insurance upon the indemnity plan, in placing risks or effecting insurance therein, collecting dues or assessments therefor, or in any other manner, after the license of any such corporation, society, order or association has been revoked and while it is without authority to do business in this state, or while an injunction prohibiting any such organization from doing business in this state is in force, shall be fined not less than \$25 nor more than \$200, or imprisoned in the county jail not less than 30 days nor more than one year, or both.

**208.37 Same subject.** Any person who shall, in any manner, solicit, advise, aid or procure or aid in soliciting, advising, assisting or procuring any person to become a member of any assessment plan, corporation, society, order or association conducted for mortuary, endowment, sick, accident or permanent disability benefit or any other kind or plan of assessment insurance, which corporation, society, order or association is not authorized to transact business in this state, or who shall accept, collect, receive or be instrumental in the collection or transmission of any admission fees, assessments, dues or payments of any kind whatever on account of any such insurance or benefit certificate in any such corporation, society, order or association shall be punished by a fine of not less than \$50 nor more than \$300, or by imprisonment in the county jail not less than 60 days nor more than one year, or by both such fine and imprisonment.

**208.38 Fraud in obtaining membership.** Any person who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership or in or with reference to any documentary or other proof for the purpose of obtaining membership in or benefit from any such corporation, society, order or association as is mentioned in s. 208.36, for himself or any other person, shall be fined in a sum not less than \$100 nor more than \$1,000, or be imprisoned in the county jail not less than 3 months nor more than one year, or both; and any certificate of membership or policy so secured shall be absolutely void.

**208.39 Conversion of fraternal benefit society into mutual life insurance company.** Any domestic fraternal benefit society (on a solvent basis according to a recognized table of mortality acceptable to the commissioner of insurance) may be converted and licensed as a mutual life insurance company, if such plan of conversion has been approved by the commissioner of insurance. Such plan shall be prepared in writing setting forth in full the terms and conditions thereof. The board of directors shall submit such

plan to the supreme legislative or governing body of such society at any regular or special meeting thereof, by giving a full, true and complete copy of such plan with the notice of such meeting. Such notice shall be given as provided in the laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of two-thirds of all members of such body shall be necessary for the approval of such agreement. No such conversion shall take effect unless and until approved by the commissioner of insurance who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

**History:** 1965 c. 501.

**208.40 Consolidations and mergers.** A domestic society may consolidate or merge with any other society by complying with the provisions of this section.

(1) It shall file with the commissioner of insurance:

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

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

(c) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and

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

(2) If the commissioner of insurance finds that the contract is in conformity with this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the commissioner of insurance of this state or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of insurance of such state or territory and a certificate of such approval filed with the commissioner of insurance of this state.

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

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

**History:** 1965 c. 501.