

CHAPTER 501

AN ACT to repeal and recreate 208.15 (3), 208.16 and 208.17; and to create 208.03 (4), 208.15 (5), 208.161, 208.162, 208.39 and 208.40 of the statutes, relating to mutual benefit societies.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 208.03 (4) of the statutes is created to read:

208.03 (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.

SECTION 1m. 208.15 (3) of the statutes is repealed and recreated to read:

208.15 (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 percent per annum compounded annually, or in lieu thereof, or in combination therewith the member may consent to an equivalent reduction in benefits.

SECTION 2. 208.15 (5) of the statutes is created to read:

208.15 (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.

SECTION 3. 208.16 of the statutes is repealed and recreated to read:

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 employees 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.

SECTION 4. 208.161 and 208.162 of the statutes are created to read:

**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 cent 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.

**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.

SECTION 5. 208.17 of the statutes is repealed and recreated to read:

**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.

SECTION 6. 208.39 and 208.40 of the statutes are created to read:

**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.

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.

Approved December 20, 1965.

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