

HOUSE BILL NO. 179

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 3/6/97

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fraternal benefit societies; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 21.84 is amended by adding new sections to read:

5 **Article 1. Structure and Purpose.**

6 **Sec. 21.84.005. Representative form of government.** (a) A society has a
7 representative form of government if

8 (1) the society has a supreme governing body constituted as described
9 in (b) or (c) of this section;

10 (2) officers of the society are elected either by the supreme governing
11 body or by the board of directors;

12 (3) only benefit members are eligible for election to the supreme
13 governing body or to the board of directors; and

14 (4) a voting member has one vote, and a vote may not be cast by

1 proxy.

2 (b) The supreme governing body may be constituted in an assembly. The
3 assembly is composed of delegates elected directly by the members or at intermediate
4 assemblies or conventions of members or their representatives, together with other
5 delegates prescribed in the society's laws. A society may provide for election of
6 delegates by mail. The elected delegates shall constitute a majority of the delegates
7 entitled to vote, and they shall have neither less than two-thirds of the total votes cast,
8 nor less than the number of votes required to amend the society's laws. The assembly
9 shall be elected, shall meet at least once every four years, and shall elect a board of
10 directors to conduct the business of the society between meetings of the assembly.
11 Vacancies on the board of directors between elections may be filled in the manner
12 prescribed by the society's laws.

13 (c) The supreme governing body may be constituted in a board. The board
14 is composed of persons elected by the members, either directly or by their
15 representatives in intermediate assemblies, together with other persons prescribed in
16 the society's laws. A society may provide for election of the board by mail. A term
17 of a board member may not exceed four years. Vacancies on the board between
18 elections may be filled in the manner prescribed by the society's laws. The elected
19 board members shall constitute a majority of the number of directors entitled to vote,
20 and they shall have not less than the number of votes required to amend the society's
21 laws. A person filling the unexpired term of an elected board member shall be
22 considered to be an elected member. The board shall meet at least quarterly to
23 conduct the business of the society.

24 **Sec. 21.84.015. Purposes and powers.** (a) A society shall operate for the
25 benefit of members and their beneficiaries by (1) providing benefits as specified in
26 AS 21.84.201, and (2) operating for a social, intellectual, educational, charitable,
27 benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its
28 members, which benefits may also be extended to others. A purpose may be carried
29 out directly by the society or indirectly through subsidiary corporations or affiliated
30 organizations.

31 (b) A society may adopt and amend laws and rules for the government of the

1 society, the admission of its members, and the management of its affairs and may have
 2 other powers necessary to carrying into effect the objects and purposes of the society.

3 * **Sec. 2.** AS 21.84 is amended by adding a new section to read:

4 **Article 2. Membership.**

5 **Sec. 21.84.025. Qualifications for membership.** (a) A society shall specify
 6 in its laws or rules

7 (1) eligibility standards for each class of membership, but, if benefits
 8 are provided on the lives of children, the minimum age for adult membership shall be
 9 set at not less than 15 years of age and not more than 21 years of age;

10 (2) the process for admission to membership for each membership
 11 class; and

12 (3) the rights and privileges of each membership class; however, only
 13 benefit members may vote on the management of the insurance affairs of the society.

14 (b) A society may also admit social members, but the social members may not
 15 have a voice or vote in the management of the insurance affairs of the society.

16 (c) A society may organize and operate lodges for children under the minimum
 17 age for adult membership. Membership and initiation in local lodges may not be
 18 required of children, nor may children have a voice or vote in the management of the
 19 society.

20 (d) Membership rights in the society are personal to the member and are not
 21 assignable.

22 * **Sec. 3.** AS 21.84 is amended by adding a new section to read:

23 **Sec. 21.84.035. Location of office; meetings; communications to members;**
 24 **grievance procedures.** (a) The principal office of a domestic society must be located
 25 in this state. The meetings of the supreme governing body of a society may be held
 26 in a state, district, province, or territory in which the society has at least one
 27 subordinate lodge or in another location as determined by the supreme governing body.
 28 All business transacted at the meetings is as valid in all respects as if the meetings
 29 were held in this state. The minutes of the proceedings of the supreme governing
 30 body and of the board of directors must conform to language requirements for
 31 documents filed under AS 21.84.070.

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

8 (c) A synopsis of the society's annual statement providing an explanation of
 9 the facts concerning the condition of the society shall be printed not later than June 1
 10 of each year and mailed to each benefit member of the society or published in the
 11 society's official publication.

12 (d) A society may provide in its laws or rules for grievance or complaint
 13 procedures for members.

14 * **Sec. 4.** AS 21.84 is amended by adding a new section to read:

15 **Sec. 21.84.045. No personal liability; indemnity.** (a) The officers and
 16 members of the supreme governing body or a subordinate body of a society are not
 17 personally liable for benefits provided by a society.

18 (b) A society shall indemnify and reimburse a person for expenses reasonably
 19 incurred by, and liabilities imposed upon, that person in connection with an action,
 20 suit, or proceeding, or threat of an action, suit, or proceeding, whether civil, criminal,
 21 administrative, or investigative, in which the person is involved by reason of the fact
 22 of service in the capacity of a director, officer, employee, or agent of the society or
 23 service in any capacity in a firm, corporation, or organization at the request of the
 24 society. However, a society may not indemnify or reimburse a person in connection
 25 with a matter in an action, suit, or proceeding, or threat of an action, suit, or
 26 proceeding, that has been made the subject of a compromise settlement, or in which
 27 the person is adjudged to be guilty of breach of a duty as a director, officer, employee,
 28 or agent of the society, unless the person acted in good faith for a purpose the person
 29 reasonably believed to be in or not opposed to the best interests of the society, and,
 30 in a criminal action or proceeding, in addition, had no reasonable cause to believe that
 31 the person's conduct constituted a violation of a criminal law of this state or another

1 jurisdiction. The determination of whether the conduct of the person meets the
 2 standard required to justify indemnification and reimbursement may be made by the
 3 supreme governing body or the board of directors through a majority vote of a quorum
 4 consisting of persons who were not parties to the action, suit, or proceeding or by a
 5 court of competent jurisdiction. The termination of an action, suit, or proceeding by
 6 judgment, order, settlement, conviction, or plea of no contest as to the person does not
 7 in itself create a conclusive presumption that the person did not meet the standard of
 8 conduct required to justify indemnification and reimbursement. The right of
 9 indemnification and reimbursement is not exclusive of other rights to which a person
 10 may be entitled as a matter of law and inures to the benefit of the person's heirs,
 11 executors, and administrators.

12 (c) A society may purchase and maintain insurance on behalf of a person who
 13 is or was a director, officer, employee, or agent of the society, or who is or was
 14 serving at the request of the society as a director, officer, employee, or agent of a firm,
 15 corporation, or organization, against a liability asserted against the person and incurred
 16 by the person arising out of that capacity, whether or not the society would have the
 17 power to indemnify the person against that liability under this section.

18 (d) A director, officer, employee, member, or volunteer of a society serving
 19 without compensation is not liable, and no cause of action may be brought against the
 20 person for damages resulting from the exercise of judgment or discretion in connection
 21 with the duties or responsibilities of the person for the society unless the act or
 22 omission involved reckless or intentional misconduct.

23 * **Sec. 5.** AS 21.84.055 is amended by adding new sections to read:

24 **Sec. 21.84.055. Waiver.** The laws of the society may provide that a
 25 subordinate body or its subordinate officers or members may not waive any provision
 26 of the laws of the society. The provision is binding on the society and every member
 27 and beneficiary of a member.

28 **Article 3. Governance.**

29 **Sec. 21.84.059. Amendments to laws.** (a) A domestic society may amend
 30 its laws in accordance with its provisions by action of its supreme governing body at
 31 a regular or special meeting or, if its laws provide, by referendum. The referendum

1 may be held in accordance with the provisions of its laws by the vote of the voting
 2 members of the society, by the vote of delegates or representatives of voting members,
 3 or by the vote of local lodges. A society may provide for voting by mail. An
 4 amendment submitted for adoption by referendum may not be adopted unless, within
 5 six months from the date of submission of the amendment, at least two-thirds of the
 6 members voting signify consent to the amendment by one of the methods specified
 7 under this subsection.

8 (b) An amendment to the laws of a domestic society may not take effect unless
 9 approved by the director. The director shall approve the amendment if the director
 10 finds that it has been legally adopted and is not inconsistent with the requirements of
 11 the laws of this state or with the character, objects, and purposes of the society.
 12 Unless the director disapproves the amendment within 60 days after it is filed, the
 13 amendment is considered approved. The approval or disapproval of the director shall
 14 be in writing and mailed to the secretary or corresponding officer of the society at its
 15 principal office. If the director disapproves the amendment, the reason for the
 16 disapproval shall be stated in the written notice.

17 (c) Within 90 days from the approval of the amendments by the director, all
 18 amendments, or a synopsis of them, shall be furnished to all members of the society,
 19 either by mail or by publication in full in the official publication of the society. The
 20 affidavit of an officer of the society or of a person authorized by the society to mail
 21 amendments, or a synopsis of them, stating facts that show that the amendments have
 22 been addressed and mailed, is prima facie evidence that the amendments, or a synopsis
 23 of them, have been furnished to the addressee.

24 (d) A foreign or alien society authorized to do business in this state shall file
 25 with the director a certified copy of all amendments of, or additions to, its laws within
 26 90 days after the enactment of them.

27 (e) Printed copies of the laws, as amended, certified by the secretary or
 28 corresponding officer of the society are prima facie evidence of the legal adoption of
 29 those laws.

30 * **Sec. 6.** AS 21.84.060 is amended to read:

31 **Sec. 21.84.060. Organization.** The organization of a domestic society

1 **organized on or after the effective date of this Act** shall be **formed** [GOVERNED]
 2 as follows: Seven or more citizens of the United States, a majority of whom are
 3 citizens of this state, who desire to form a fraternal benefit society, may make, sign,
 4 and acknowledge before some officer, competent to take acknowledgment of deeds,
 5 articles of incorporation, in which shall be stated

6 (1) the proposed corporate name of the society, which may not so
 7 closely resemble the name of any society or insurance company as to be misleading
 8 or confusing;

9 (2) the purposes for which it is being formed and the mode in which
 10 its corporate powers are to be exercised; the purposes may not include more liberal
 11 powers than are granted by this chapter [, PROVIDED THAT ANY LAWFUL
 12 SOCIAL, INTELLECTUAL, EDUCATIONAL, CHARITABLE, BENEVOLENT,
 13 MORAL, FRATERNAL, OR RELIGIOUS ADVANTAGES MAY BE SET OUT
 14 AMONG THE PURPOSES OF THE SOCIETY];

15 (3) the names and residences of the incorporators and the names,
 16 residences, and official titles of all the officers, trustees, directors, or other persons
 17 who are to have and exercise the general control of the management of the affairs and
 18 funds of the society for the first year or until the ensuing election at which all the
 19 officers shall be elected by the supreme [LEGISLATIVE OR] governing body, which
 20 election shall be held no later than one year from the date of the issuance of the
 21 permanent certificate **of authority**.

22 * **Sec. 7.** AS 21.84.070 is amended to read:

23 **Sec. 21.84.070. Filing articles and documents.** The articles of incorporation,
 24 certified copies of the **domestic society's** [CONSTITUTION,] laws and rules, copies
 25 of all proposed forms of certificates, applications, and circulars to be issued by the
 26 society, and a bond conditioned upon the return to applicants of the advanced
 27 payments if the organization is not completed within one year, shall be filed with the
 28 director, who may require further information considered necessary. The bond with
 29 sureties approved by the director shall be in an amount, not less than **\$300,000**
 30 [\$5,000] or more than **\$1,500,000** [\$25,000], required by the director. All documents
 31 filed are to be in the English language. If the purposes of the society conform to the

1 requirements of this chapter and all provisions of the law have been complied with,
 2 the director shall so certify, retain, and file the articles of incorporation [,] and furnish
 3 the incorporators a preliminary certificate **of authority** authorizing the society to solicit
 4 members as hereinafter provided.

5 * **Sec. 8.** AS 21.84.080 is amended to read:

6 **Sec. 21.84.080. Time for completing organization.** A preliminary certificate
 7 **of authority** [GRANTED UNDER THIS SECTION] is not valid after one year from
 8 its date or after such further period, not exceeding one year, as may be authorized by
 9 the director upon cause shown, unless the 500 applicants hereinafter required have
 10 been secured and the organization has been completed as herein provided. The articles
 11 of incorporation and all other proceedings thereunder shall become null and void in
 12 one year from the date of the preliminary certificate **of authority**, or at the expiration
 13 of the extended period, unless the **domestic** society has completed its organization and
 14 received a certificate of authority to do business as hereinafter provided.

15 * **Sec. 9.** AS 21.84.090 is amended to read:

16 **Sec. 21.84.090. Initial solicitations and qualifications.** Upon receipt of a
 17 preliminary certificate **of authority** from the director, the **domestic** society may solicit
 18 members for the purpose of completing its organization, shall collect from each
 19 applicant the amount of not less than one regular monthly premium in accordance with
 20 its table of rates [AS PROVIDED BY ITS CONSTITUTION AND LAWS], and shall
 21 issue to each applicant a receipt for the amount collected. A **domestic** society may
 22 not incur any liability other than for the return of the advance premium, or issue any
 23 certificate, or pay, allow, or offer or promise to pay or allow, a death or health care
 24 benefit to any person until

25 (1) actual bona fide applications for [DEATH] benefits have been
 26 secured **on 500 applicants and any necessary evidence of insurability has been**
 27 **furnished to and approved by the society** [AGGREGATING AT LEAST \$500,000
 28 ON AT LEAST 500 LIVES;

29 (2) ALL APPLICANTS FOR DEATH BENEFITS HAVE
 30 FURNISHED EVIDENCE OF INSURABILITY SATISFACTORY TO THE
 31 SOCIETY];

1 (2) [(3)] certificates of examinations or acceptable declarations of
2 insurability have been filed and approved by the chief medical examiner of the society;

3 (3) [(4)] 10 subordinate lodges or branches have been established into
4 which the 500 applicants have been admitted;

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

10 (5) [(6)] it has been shown to the director, by sworn statement of the
11 treasurer, or corresponding officer of the society, that at least 500 applicants have each
12 paid in cash at least one regular monthly premium, which premiums in the aggregate
13 shall amount to at least **\$150,000** [\$2,500, ALL OF WHICH SHALL BE CREDITED
14 TO THE FUND OR FUNDS FROM WHICH BENEFITS ARE TO BE PAID AND
15 NO PART OF WHICH MAY BE USED FOR EXPENSES]; the advance premiums
16 shall be held in trust during the period of organization, and, if the society has not
17 qualified for a certificate of authority within one year, the premiums shall be returned
18 to the applicants.

19 * **Sec. 10.** AS 21.84.100 is amended to read:

20 **Sec. 21.84.100. Certificate of authority [COMPLIANCE].** The director may
21 make the examination and require further information the director considers advisable.
22 Upon presentation of satisfactory evidence that the **domestic** society has complied with
23 all the provisions of law, the director shall issue to the society a certificate **of**
24 **authority** to that effect and that the society is authorized to transact business under
25 this chapter. The certificate **of authority** shall be prima facie evidence of the
26 existence of the society at the date of the certificate. The director shall cause a record
27 of the certificate **of authority** to be made. A certified copy of the record may be
28 given in evidence with like effect as the original certificate **of authority**.

29 * **Sec. 11.** AS 21.84.120 is amended to read:

30 **Sec. 21.84.120. Corporate powers retained.** An incorporated society
31 authorized to transact business in this state on **the effective date of this Act** [JULY 1,

1 1966, MAY THEREAFTER EXERCISE ALL THE RIGHTS, POWERS, AND
 2 PRIVILEGES PRESCRIBED IN THIS CHAPTER AND IN ITS CHARTER OR
 3 ARTICLES OF INCORPORATION NOT INCONSISTENT WITH THIS CHAPTER.

4 A DOMESTIC SOCIETY] may not be required to reincorporate.

5 * **Sec. 12.** AS 21.84.170(a) is amended to read:

6 (a) It is lawful for a society to create, maintain, and operate organizations to
 7 operate not for profit institutions to further the purposes permitted by
 8 AS 21.84.015(a)(2). The institutions may provide services free or at a reasonable
 9 charge. Real or personal [CHARITABLE, BENEVOLENT, OR EDUCATIONAL
 10 INSTITUTIONS FOR THE BENEFIT OF ITS MEMBERS AND THEIR FAMILIES
 11 AND DEPENDENTS AND FOR THE BENEFIT OF CHILDREN INSURED BY THE
 12 SOCIETY. FOR THAT PURPOSE IT MAY OWN, HOLD, OR LEASE PERSONAL
 13 PROPERTY OR REAL PROPERTY LOCATED INSIDE OR OUTSIDE THIS
 14 STATE, WITH NECESSARY BUILDINGS THEREON. THE] property owned, held,
 15 or leased by the society for this purpose shall be reported in every annual statement
 16 but may not be allowed as an admitted asset of the society.

17 * **Sec. 13.** AS 21.84 is amended by adding a new section to read:

18 **Sec. 21.84.175. Reinsurance.** (a) A domestic society may, by a reinsurance
 19 agreement, cede an individual risk or risks in whole or in part to an insurer, other than
 20 another fraternal benefit society, that has the power to make reinsurance and that is
 21 authorized to do business in this state or, if not authorized, that is approved by the
 22 director. However, a society may not reinsure substantially all of its insurance in force
 23 without the written permission of the director. A society may take credit for the
 24 reserves on the ceded risks to the extent reinsured, but a credit may not be allowed as
 25 an admitted asset or a deduction from liability to a ceding society for reinsurance
 26 made, ceded, renewed, or otherwise becoming effective after the effective date of this
 27 Act unless the reinsurance is payable by the assuming insurer on the basis of the
 28 liability of the ceding society under the contract or contracts reinsured without
 29 diminution because of the insolvency of the ceding society.

30 (b) Notwithstanding the limitation in (a) of this section, a society may reinsure
 31 the risks of another society in a consolidation or merger approved by the director under

1 AS 21.84.185.

2 * **Sec. 14.** AS 21.84 is amended by adding a new section to read:

3 **Sec. 21.84.185. Consolidations and mergers.** (a) A domestic society may
4 consolidate or merge with another society by complying with the provisions of this
5 section. It shall file with the director

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

8 (2) a sworn statement by the president and secretary or corresponding
9 officers of each society showing the financial condition of the society on a date fixed
10 by the director but not earlier than December 31 immediately preceding the date of the
11 contract;

12 (3) a certificate of the president and secretary or corresponding officers
13 of each society, verified by their respective oaths, that the consolidation or merger has
14 been approved by a two-thirds vote of the supreme governing body of each society,
15 the vote being conducted at a regular or special meeting of each body or, if the
16 society's laws so permit, by mail; and

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

21 (b) If the director finds that the contract is in conformity with the provisions
22 of this section, that the financial statements are correct, and that the consolidation or
23 merger is just and equitable to the members of each society, the director shall approve
24 the contract and issue a certificate to that effect. On approval, the contract is in full
25 force and effect unless a society that is a party to the contract is incorporated under
26 the laws of another state or territory. In that event, the consolidation or merger may
27 not become effective unless it has been approved as provided by the laws of that state
28 or territory and a certificate of that approval has been filed with the director. If the
29 laws of that state or territory contain no such provision, the consolidation or merger
30 may not become effective unless it has been approved by the director of that state or
31 territory and a certificate of that approval has been filed with the director.

1 (c) When the consolidation or merger becomes effective under this section, all
 2 the rights, franchises, interests, and things in action of the consolidated or merged
 3 societies in every type of property, real, personal, or mixed, belonging to the
 4 consolidated or merged societies are vested in the society resulting from or remaining
 5 after the consolidation or merger without another instrument, except that conveyances
 6 of real property may be evidenced by proper deeds, and the title to any real estate or
 7 interest in it, vested under the laws of this state in any of the societies consolidated or
 8 merged, shall not revert or be in any way impaired by reason of the consolidation or
 9 merger, but shall vest absolutely in the society resulting from or remaining after the
 10 consolidation or merger.

11 (d) The affidavit of an officer of the society or of a person authorized by the
 12 society to mail a notice or document stating that a notice or document has been
 13 addressed and mailed is prima facie evidence that such notice or document has been
 14 furnished to the addressees.

15 * **Sec. 15.** AS 21.84 is amended by adding a new section to read:

16 **Sec. 21.84.195. Conversion to a mutual life insurance company.** A
 17 domestic fraternal benefit society may be converted and licensed as a mutual life
 18 insurance company by compliance with the applicable requirements of AS 21.69 if the
 19 plan of conversion has been approved by the director. A plan of conversion shall be
 20 prepared in writing by the board of directors setting out the terms and conditions of
 21 conversion. The affirmative vote of two-thirds of the members of the supreme
 22 governing body at a regular or special meeting is necessary for approval of the plan.
 23 A conversion may not take effect unless and until approved by the director, who may
 24 give the approval if the director finds that the proposed change is in conformity with
 25 the requirements of law and not prejudicial to the certificate holders of the society.

26 * **Sec. 16.** AS 21.84 is amended by adding a new section to read:

27 **Article 4. Contractual Benefits.**

28 **Sec. 21.84.201. Benefits.** (a) A society may provide the following contractual
 29 benefits in any form:

- 30 (1) death benefits;
 31 (2) endowment benefits;

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

8 (b) A society shall specify in its rules those persons who may be issued, or

9 covered by, the contractual benefits described in (a) of this section consistent with

10 providing benefits to members and the members' dependents. A society may provide

11 benefits on the lives of children under the minimum age for adult membership upon

12 application of an adult person.

13 * **Sec. 17.** AS 21.84.230(a) is amended to read:

14 (a) The **owner of a benefit contract** [MEMBER] shall have the right at all

15 times to change the beneficiary or beneficiaries in accordance with the

16 [CONSTITUTION,] laws [,] or rules of the society **unless the owner waives this**

17 **right by specifically requesting in writing that the beneficiary designation be**

18 **irrevocable.** **A** [. EVERY] society, by [ITS CONSTITUTION,] laws [,] or rules, may

19 limit the scope of beneficiaries and shall provide that a beneficiary may not have or

20 obtain a vested interest in the proceeds of a certificate until the certificate has become

21 due and payable in conformity with the provisions of the **benefit** [INSURANCE]

22 contract.

23 * **Sec. 18.** AS 21.84.230(c) is amended to read:

24 (c) If, at the death of a **person insured under a benefit contract** [MEMBER],

25 there is no lawful beneficiary to whom the **proceeds** [INSURANCE BENEFITS] are

26 payable, the amount of the benefits, except to the extent that funeral benefits may be

27 paid as provided in (b) of this section, shall be payable to the **estate of the deceased**

28 **insured the same as other property not exempt, but, if the owner of the certificate**

29 **is not the insured, the amount of the benefits shall be payable to the owner**

30 [PERSONAL REPRESENTATIVE OF THE DECEASED MEMBER].

31 * **Sec. 19.** AS 21.84 is amended by adding a new section to read:

1 **Sec. 21.84.255. The benefit contract.** (a) A society authorized to do business
2 in this state shall issue to each owner of a benefit contract a certificate specifying the
3 amount of benefits provided under the contract. The certificate, together with any
4 riders or endorsements attached to it, the laws of the society, the application for
5 membership, the application for insurance, and the declaration of insurability, if any,
6 signed by the applicant, and all amendments to each constitute the benefit contract, as
7 of the date of issuance, between the society and the owner, and the certificate must so
8 state. A copy of the application for insurance and declaration of insurability, if any,
9 shall be endorsed upon or attached to the certificate. All statements on the application
10 shall be representations and not warranties. A waiver of this provision is void.

11 (b) Except as provided in AS 21.84.320(d)(3), changes, additions, or
12 amendments to the laws of the society enacted subsequent to the issuance of the
13 certificate shall bind the owner and the beneficiaries and shall govern and control the
14 benefit contract in all respects as though the changes, additions, or amendments were
15 made before and were in force at the time of the application for insurance, except that
16 a change, addition, or amendment may not destroy or diminish benefits that the society
17 contracted to give the owner as of the date of issuance.

18 (c) A person upon whose life a benefit contract is issued before the person
19 attains the age of majority is bound by the terms of the application and certificate and
20 by all the laws and rules of the society to the same extent as though the age of
21 majority were attained at the time of application.

22 (d) Except as provided in AS 21.84.320(d)(3), a society shall provide in its
23 laws that if the society's reserves as to a class of certificates become impaired, the
24 society's board of directors or corresponding body may require that the owner shall
25 pay to the society the amount of the owner's equitable proportion of the deficiency as
26 determined by its board and that, if the payment is not made, (1) the amount shall
27 stand as an indebtedness against the certificate and shall draw interest not to exceed
28 the rate specified for certificate loans under the certificates, or (2) in place of or in
29 combination with the provisions of (1) this subsection, the owner may accept a
30 proportionate reduction in benefits under the certificate. The society may specify the
31 manner of the election and the alternative that is to be presumed if no election is

1 made.

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

5 (f) A certificate may not be delivered or issued for delivery in this state unless
6 a copy of the form has been filed with the director in the manner provided for similar
7 policies issued by life and health insurers in this state. A filing is considered approved
8 unless disapproved within 60 days after the date of filing. A life, accident, health, or
9 disability insurance certificate and an annuity certificate issued on or after one year
10 after the effective date of this Act must meet the standard contract provision
11 requirements not inconsistent with this chapter for similar policies issued by life and
12 health insurers in this state, except that a society may provide in a certificate for a
13 grace period for payment of premiums of one full month. The certificate must also
14 contain a provision stating the amount of premiums that are payable under the
15 certificate and a provision reciting or setting out the substance of sections of the
16 society's laws or rules in force at the time of issuance of the certificate that, if
17 violated, will result in the termination or reduction of benefits payable under the
18 certificate. If the laws of the society provide for expulsion or suspension of a member,
19 the certificate must also contain a provision that any member expelled or suspended,
20 except for nonpayment of a premium or within the contestable period for material
21 misrepresentation in the application for membership or insurance, is entitled to
22 maintain the certificate in force by continuing payment of the required premium.

23 (g) A benefit contract issued on the life of a person below the society's
24 minimum age for adult membership may provide for transfer of control of ownership
25 to the insured at an age specified in the certificate. A society may require approval
26 of an application for membership in order to effect this transfer and may provide in
27 all other respects for the regulation, government, and control of those certificates and
28 all rights, obligations, and liabilities incident to and connected with those certificates.
29 Ownership rights before transfer shall be specified in the certificate.

30 (h) A society may specify the terms and conditions on which benefit contracts
31 may be assigned.

1 (d) A society may, under a resolution of its supreme governing body, establish
 2 and operate one or more separate accounts and issue contracts on a variable basis,
 3 subject to laws regulating life and health insurers establishing those accounts and
 4 issuing those contracts. To the extent the society considers it necessary in order to
 5 comply with applicable federal or state law, or any rule made under applicable federal
 6 or state law, the society may

7 (1) adopt special procedures for the conduct of the business and affairs
 8 of a separate account;

9 (2) for persons having beneficial interests in the account, provide
 10 special voting and other rights, including special rights and procedures relating to
 11 investment policy, investment advisory services, selection of certified public
 12 accountants, and selection of a committee to manage the business and affairs of the
 13 account; and

14 (3) issue contracts on a variable basis to which AS 21.84.255(b) and
 15 (d) do not apply.

16 * **Sec. 24.** AS 21.84 is amended by adding a new section to read:

17 **Sec. 21.84.335. Applicability of other code provisions.** (a) Except as
 18 provided in this section, societies are governed by this chapter and are exempt from
 19 all other provisions of the insurance laws of this state for all purposes, including
 20 governmental relations with the state.

21 (b) In addition to the provisions of this chapter, the following provisions of
 22 this title apply to fraternal benefit societies to the extent applicable and not in conflict
 23 with the express provisions of this chapter and the reasonable implications of this
 24 chapter:

25 (1) AS 21.03;

26 (2) AS 21.06;

27 (3) AS 21.09.050;

28 (4) AS 21.09.100;

29 (5) AS 21.09.200;

30 (6) AS 21.09.205;

31 (7) AS 21.18;

- 1 (8) AS 21.21;
 2 (9) AS 21.27;
 3 (10) AS 21.33;
 4 (11) AS 21.36;
 5 (12) AS 21.42.290;
 6 (13) AS 21.42.355;
 7 (14) AS 21.53;
 8 (15) AS 21.69.370;
 9 (16) AS 21.69.640;
 10 (17) AS 21.78; and
 11 (18) AS 21.89.060.

12 * **Sec. 25.** AS 21.84 is amended by adding a new section to read:

13 **Article 6. Regulation.**

14 **Sec. 21.84.455. Valuation.** (a) Standards of valuation for certificates issued
 15 before one year after the effective date of this Act shall be those provided by the laws
 16 applicable immediately before the effective date of this Act.

17 (b) The minimum standards of valuation for certificates issued on or after one
 18 year after the effective date of this Act shall be based on the following tables, which
 19 shall be under valuation methods and standards, including interest assumptions, in
 20 accordance with the laws of this state applicable to life and health insurers issuing
 21 policies containing similar benefits:

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

27 (2) for annuity and pure endowment certificates, for total and
 28 permanent disability benefits, for accidental death benefits, and for noncancellable
 29 accident and health benefits, the tables authorized for use by life and health insurers
 30 in this state.

31 (c) The director may, in the director's discretion, accept other standards for

1 valuation if the director finds that the reserves produced under those standards will not
 2 be less in the aggregate than reserves computed in accordance with the minimum
 3 valuation standard presented in this section. The director may, in the director's
 4 discretion, vary the standards of mortality applicable to benefit contracts on
 5 substandard lives or other extrahazardous lives by any society authorized to do
 6 business in this state.

7 (d) A society, with the consent of the insurance supervisory official of the state
 8 of domicile of the society and under conditions that the director may impose, may
 9 establish and maintain reserves on its certificates in excess of the reserves required, but
 10 the contractual rights of any benefit member shall not be affected.

11 * **Sec. 26.** AS 21.84 is amended by adding a new section to read:

12 **Sec. 21.84.465. Reports.** (a) Reports shall be filed in accordance with the
 13 provisions of this section.

14 (b) A society transacting business in this state shall annually, on or before
 15 March 2, unless the time has been extended by the director for cause shown, file with
 16 the director a true statement of the society's financial conditions, transactions, and
 17 affairs for the preceding calendar year and pay the applicable fee under AS 21.06.250.
 18 The statement shall be in the general form and content approved by the National
 19 Association of Insurance Commissioners for fraternal benefit societies and
 20 supplemented by additional information required by the director.

21 (c) As a part of the annual statement required by this section, each society
 22 shall, on or before March 1, file with the director a valuation of the society's
 23 certificates in force on the preceding December 31, but the director may, in the
 24 director's discretion, for cause shown, extend the time for filing the valuation for not
 25 more than two calendar months. The valuation shall be done in accordance with the
 26 standards specified in AS 21.84.455. The valuation and underlying data shall be
 27 certified by a qualified actuary or, at the expense of the society, verified by the actuary
 28 of the insurance regulatory agency of the state of domicile of the society.

29 (d) If a society fails to file the annual statement in the form and within the
 30 time provided by this section, the society shall forfeit \$100 for each day that the
 31 neglect continues, and, upon notice by the director to that effect, the society's authority

1 to do business in this state shall cease while the default continues.

2 (e) A synopsis of its annual statement providing an explanation of the facts
3 concerning the condition of the society shall be either printed and mailed to each
4 benefit member of the society not later than June 1 of each year or published in the
5 society's official publication.

6 (f) The director may require a society to file quarterly financial statements.
7 If quarterly financial statements are required, the statements must follow for a given
8 quarter the reporting specified in the quarterly financial statement blank form and
9 instructions most recently approved by the National Association of Insurance
10 Commissioners.

11 * **Sec. 27.** AS 21.84 is amended by adding a new section to read:

12 **Sec. 21.84.475. License.** Societies that are authorized to transact business in
13 this state on the effective date of this Act, and societies licensed after the effective date
14 of this Act and before July 1 immediately following the effective date of this Act, may
15 continue the business through June 30 immediately following the effective date of this
16 Act. The authority of those societies and all other societies licensed after the effective
17 date of this Act may be renewed annually, but, in all cases, terminates on the first day
18 of the succeeding July. However, a license issued continues in full force and effect
19 until the new license is issued or specifically refused. For each license or renewal, the
20 society shall pay a fee set under AS 21.06.250. A certified copy or duplicate of the
21 license shall be prima facie evidence that the licensee is a fraternal benefit society
22 under this chapter.

23 * **Sec. 28.** AS 21.84 is amended by adding a new section to read:

24 **Sec. 21.84.485. Examination of societies.** The director may examine a society
25 in the manner authorized for an insurer under AS 21.06.120 - 21.06.230. The
26 requirements, procedures, authorization, and process for examinations authorized under
27 this section shall be the same as for an insurer.

28 * **Sec. 29.** AS 21.84 is amended by adding a new section to read:

29 **Sec. 21.84.495. Foreign or alien society; admission.** A foreign or alien
30 society may not transact business in this state without a license issued by the director.
31 A foreign or alien society desiring admission to this state shall comply with the

1 requirements and limitations of this chapter applicable to domestic societies. The
 2 society may be licensed to transact business in this state upon filing with the director

3 (1) a certified copy of its articles of incorporation;

4 (2) a copy of its bylaws, certified by its secretary or corresponding
 5 officer;

6 (3) a power of attorney to the director as prescribed in AS 21.84.625;

7 (4) a statement of its business under oath of its president and secretary
 8 or corresponding officers in a form prescribed by the director, verified by an
 9 examination made by the supervising insurance official of its home state or other state,
 10 territory, province, or country, satisfactory to the director;

11 (5) certification from the proper official of its home state, territory,
 12 province, or country that the society is legally incorporated and licensed to transact
 13 business therein;

14 (6) copies of its certificate forms;

15 (7) information showing that its assets are invested in accordance with
 16 the provisions of this chapter; and

17 (8) other information the director may consider necessary.

18 * **Sec. 30.** AS 21.84 is amended by adding a new section to read:

19 **Sec. 21.84.535. Suspension, revocation, or refusal of license of foreign or**
 20 **alien society.** (a) When the director, upon investigation, finds that a foreign or alien
 21 society transacting or applying to transact business in this state (1) has exceeded its
 22 powers, (2) has failed to comply with a provision of this chapter, (3) is not fulfilling
 23 its contracts in good faith, or (4) is conducting its business fraudulently or in a manner
 24 hazardous to its members or creditors or the public, the director shall notify the society
 25 in writing of the deficiency or deficiencies and state in writing the reasons for the
 26 director's dissatisfaction. The director shall immediately issue a written order to the
 27 society requiring that the deficiency or deficiencies be corrected. After receipt of the
 28 order, the society shall have 30 days to comply with the director's order for correction.
 29 If the society fails to comply, the director shall notify the society of the findings of
 30 noncompliance and require the society to show cause on a date to be named why its
 31 license should not be suspended, revoked, or refused. If, on that date, the society does

1 not present good and sufficient reason why its authority to do business in this state
 2 should not be suspended, revoked, or refused, the director may suspend or refuse the
 3 license of the society to do business in this state until satisfactory evidence is furnished
 4 to the director that the suspension or refusal should be withdrawn, or the director may
 5 revoke the authority of the society to do business in this state.

6 (b) Nothing in this section shall be construed to prevent the society from
 7 continuing in good faith all contracts made in this state during the time the society was
 8 legally authorized to transact business in this state.

9 * **Sec. 31.** AS 21.84 is amended by adding a new section to read:

10 **Sec. 21.84.565. Licensing of agents.** (a) Agents of societies shall be licensed
 11 in accordance with the provisions of AS 21.27.

12 (b) An examination or license may not be required of a regular salaried officer,
 13 employee, or member of a licensed society who devotes substantially all the person's
 14 services to activities other than the solicitation of fraternal insurance contracts from the
 15 public and who receives for the solicitation of fraternal insurance contracts no
 16 commission or other compensation directly dependent upon the amount of business
 17 obtained.

18 * **Sec. 32.** AS 21.84 is amended by adding a new section to read:

19 **Sec. 21.84.575. Unfair methods of competition and unfair and deceptive**
 20 **acts and practices.** A society and an agent authorized to do business in this state are
 21 subject to the provisions of AS 21.36; however, nothing in those provisions shall be
 22 construed as applying to or affecting

23 (1) the right of a society to determine its eligibility requirements for
 24 membership; or

25 (2) the offering of benefits exclusively to members or persons eligible
 26 for membership in the society by a subsidiary corporation or affiliated organization of
 27 the society.

28 * **Sec. 33.** AS 21.84 is amended by adding new sections to read:

29 **Article 7. Miscellaneous.**

30 **Sec. 21.84.625. Service of process.** (a) A society authorized to do business
 31 in this state shall appoint in writing the director and the director's successors in office

1 to be its true and lawful attorney upon whom all lawful process in an action or
2 proceeding against it shall be served. The society shall agree in writing that any
3 lawful process against it that is served on the appointed attorney is of the same legal
4 force and validity as if served on the society and that the authority continues in force
5 so long as any liability remains outstanding in this state. Copies of the appointment,
6 certified by the director, are sufficient evidence of the appointment and shall be
7 admitted in evidence with the same force and effect as the original.

8 (b) Service may only be made on the director or, if the director is absent, upon
9 the person in charge of the director's office. Service shall be made in duplicate and
10 shall constitute sufficient service on the society. When legal process against a society
11 is served on the director, the director shall immediately forward one of the duplicate
12 copies by registered mail, prepaid, to the secretary or corresponding officer. Legal
13 process shall not be served on a society except in the manner provided in this section.
14 At the time of serving a process on the director, the plaintiff or complainant in the
15 action shall pay to the director a fee set under AS 21.06.250.

16 (c) A society shall respond to the service of process as provided in the Alaska
17 Rules of Civil Procedure.

18 **Sec. 21.84.650. Penalties.** (a) A person who knowingly makes a false or
19 fraudulent statement or representation in or with reference to an application for
20 membership, or for the purpose of obtaining money from or a benefit in a society, is
21 guilty of a misdemeanor and is punishable by a fine of not more than \$2,500 and is
22 liable for a civil penalty of three times the amount received by the violator as
23 compensation or commission. A civil penalty may be sued for and recovered by the
24 aggrieved person or society for the person's or society's own use and benefit.

25 (b) A person who makes a false sworn statement in a report or declaration
26 required or authorized by this chapter or in a statement concerning the death or
27 disability of an insured for the purpose of obtaining payment of a benefit named in the
28 certificate and who does not believe the statement to be true is guilty of perjury and,
29 upon conviction, is subject to the penalties prescribed by law for perjury under
30 AS 11.56.200.

31 (c) A person who solicits membership for, or in any manner assists in

1 procuring membership in, a society not licensed to do business in this state is guilty
2 of a violation and, upon conviction, is punishable by a fine of not less than \$50 or
3 more than \$200.

4 (d) A person who knowingly engages in conduct that constitutes a violation
5 of the provisions of this chapter for which a penalty is not otherwise prescribed is
6 guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than
7 \$2,500.

8 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

9 **Sec. 21.84.675. Review.** Decisions and findings of the director made under
10 the provisions of this chapter are subject to review by proceedings in a court of
11 competent jurisdiction in this state.

12 **Sec. 21.84.700. Exemption of certain societies.** (a) Nothing contained in this
13 chapter shall be construed to affect or apply to

14 (1) grand or subordinate lodges of societies, orders, or associations
15 doing business in this state that provide benefits exclusively through local or
16 subordinate lodges;

17 (2) societies, orders, or associations that admit to membership only
18 persons engaged in one or more crafts or hazardous occupations, in the same or similar
19 lines of business, and that insure only members and families of the society, order, or
20 association, and the ladies' societies or ladies' auxiliaries of the societies, orders, or
21 associations;

22 (3) domestic societies that limit their membership to employees of a
23 particular city or town, designated firm, business house, or corporation and that
24 provide for death benefits of not more than \$400 or health care benefits of not more
25 than \$350 to a person in one year, or both; or

26 (4) domestic societies or associations of a purely religious, charitable,
27 or benevolent description that provide for death benefits of not more than \$350 or
28 health care benefits of not more than \$350 to a person in one year, or both.

29 (b) A society or association described in (a)(3) or (4) of this section that
30 provides for death or health care benefits for which benefit certificates are issued and
31 a society or association described in (a)(4) of this section that has more than 1,000

1 members are not exempt from the provisions of this chapter but shall comply with the
2 requirements of this chapter.

3 (c) A society that, by the provisions of this section, is exempt from the
4 requirements of this chapter, except a society described in (a)(2) of this section, may
5 not give or allow or promise to give or allow to a person compensation for procuring
6 new members.

7 (d) A society that provides benefits for health care or death resulting solely
8 from accident and that does not obligate itself to pay natural death or health care
9 benefits has all of the privileges and is subject to all the applicable provisions and
10 regulations of this chapter, except that the provisions of this chapter relating to medical
11 examination, evaluations of benefit certificates, and incontestability do not apply to the
12 society.

13 (e) The director may require a society or association to provide, by
14 examination or otherwise, information that will enable the director to determine
15 whether the society or association is exempt from the provisions of this chapter.

16 (f) Societies that are exempt from the provisions of this chapter under the
17 provisions of this section shall also be exempt from all other provisions of the
18 insurance laws of this state.

19 * **Sec. 34.** AS 21.84.900 is amended to read:

20 **Sec. 21.84.900. Definitions.** In this chapter,

21 (1) "fraternal benefit society" means an incorporated society, order, or
22 supreme lodge, without capital stock, including one exempted under
23 AS 21.84.700(a)(2) [AS 21.84.020(a)], whether incorporated or not, **that is** conducted
24 solely for the benefit of its members and their beneficiaries and not for profit, **that is**
25 operated on a lodge system with ritualistic form of work, **that has** [HAVING] a
26 representative form of government, and that makes provision for the payment of
27 benefits under this chapter;

28 (2) "lodge system" means a society having a supreme [LEGISLATIVE
29 OR] governing body and subordinate lodges [OR BRANCHES BY WHATEVER
30 NAME KNOWN,] into which members are elected, initiated, or admitted under its
31 [CONSTITUTION,] laws, ritual, and rules; subordinate lodges [OR BRANCHES] are

1 required by **the laws** [LAW] of the society to hold regular meetings at least once in
 2 each month **in furtherance of the purposes of the society;**

3 (3) "premiums" means rates, **dues**, or other required contribution by
 4 whatever name known **that are payable under the certificate;**

5 (4) ["REPRESENTATIVE FORM OF GOVERNMENT" MEANS A
 6 SOCIETY IN WHICH

7 (A) THERE IS PROVISION IN ITS CONSTITUTION OR
 8 LAWS FOR A SUPREME LEGISLATIVE OR GOVERNING BODY,
 9 COMPOSED OF REPRESENTATIVES ELECTED EITHER BY THE
 10 MEMBERS OR BY DELEGATES ELECTED DIRECTLY OR INDIRECTLY
 11 BY THE MEMBERS, TOGETHER WITH OTHER MEMBERS OF THE
 12 BODY PRESCRIBED BY THE SOCIETY'S CONSTITUTION AND LAWS;

13 (B) THE REPRESENTATIVES ELECTED CONSTITUTE A
 14 MAJORITY IN NUMBER AND HAVE NOT LESS THAN TWO-THIRDS OF
 15 THE VOTES OR LESS THAN THE VOTES REQUIRED TO AMEND ITS
 16 CONSTITUTION AND LAWS;

17 (C) THE MEETINGS OF THE SUPREME LEGISLATIVE OR
 18 GOVERNING BODY AND THE ELECTION OF OFFICERS,
 19 REPRESENTATIVES, OR DELEGATES ARE HELD AS OFTEN AS ONCE
 20 IN FOUR CALENDAR YEARS;

21 (D) THE SOCIETY HAS A BOARD OF DIRECTORS
 22 CHARGED WITH THE RESPONSIBILITY FOR MANAGING ITS AFFAIRS
 23 IN THE INTERIM BETWEEN MEETINGS OF ITS SUPREME
 24 LEGISLATIVE OR GOVERNING BODY, SUBJECT TO CONTROL BY
 25 THE BODY AND HAVING POWERS AND DUTIES DELEGATED TO IT
 26 IN THE CONSTITUTION OR LAWS OF THE SOCIETY;

27 (E) THE BOARD OF DIRECTORS IS ELECTED BY THE
 28 SUPREME LEGISLATIVE OR GOVERNING BODY, EXCEPT IN CASE OF
 29 FILLING A VACANCY IN THE INTERIM BETWEEN MEETINGS OF THE
 30 BODY;

31 (F) THE OFFICERS ARE ELECTED EITHER BY THE

1 SUPREME LEGISLATIVE OR GOVERNING BODY OR BY THE BOARD
2 OF DIRECTORS; AND

3 (G) THE MEMBERS, OFFICERS, REPRESENTATIVES, OR
4 DELEGATES MAY NOT VOTE BY PROXY;

5 (5)] "society," unless otherwise indicated, means a fraternal benefit
6 society;

7 * **Sec. 35.** AS 21.84.900 is amended by adding new paragraphs to read:

8 (5) "alien society" means a society formed under the laws other than
9 those of the United States of America, its states, territories, or the District of
10 Columbia;

11 (6) "benefit contract" means the agreement for provision of benefits
12 authorized by AS 21.84.201, as that agreement is described in AS 21.84.255(a);

13 (7) "benefit member" means an adult member who is designated by the
14 laws or rules of the society to be a benefit member under a benefit contract;

15 (8) "certificate" means the document issued as written evidence of the
16 benefit contract;

17 (9) "domestic society" means a society formed under the laws of this
18 state;

19 (10) "foreign society" means a society formed under the laws of
20 another state, a territory belonging to the United States of America, or the District of
21 Columbia;

22 (11) "laws" means the society's articles of incorporation, constitution,
23 and bylaws, however designated;

24 (12) "lodge" means subordinate member units of the society known as
25 camps, courts, councils, branches, or another designation;

26 (13) "rules" means all rules, regulations, or resolutions adopted by the
27 supreme governing body or board of directors that are intended to have general
28 application to the members of the society.

29 * **Sec. 36.** AS 21.84.010, 21.84.020, 21.84.030, 21.84.040, 21.84.050, 21.84.110,
30 21.84.130(b), 21.84.130(c), 21.84.140, 21.84.150, 21.84.160, 21.84.170(b), 21.84.180,
31 21.84.190, 21.84.200, 21.84.210, 21.84.220, 21.84.250, 21.84.260, 21.84.270, 21.84.280,

1 21.84.300, 21.84.310, 21.84.320(c), 21.84.330, 21.84.340, 21.84.350, 21.84.360, 21.84.370,
2 21.84.380, 21.84.390, 21.84.470, 21.84.480, 21.84.490, 21.84.500, 21.84.510, 21.84.520,
3 21.84.550, and 21.84.590 are repealed.

4 * **Sec. 37.** This Act takes effect January 1, 1998.