

**SUBSTITUTE FOR
SENATE BILL NO. 712**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 8182 (MCL 500.8182), as added by 1990 PA 1, and
by adding sections 8199b and 8199c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8182. (1) Each society authorized to do business in this
2 state shall issue to each owner of a benefit contract a certificate
3 specifying the amount of benefits provided. The certificate,
4 together with any attached riders or endorsements, the laws of the
5 society, the application for membership, the application for
6 insurance and declaration of insurability, if any, signed by the
7 applicant, and all amendments to each, shall constitute the benefit
8 contract, as of the date of issuance, between the society and the

owner, and the certificate shall state this. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. All statements on the application shall be representations and not warranties. Any waiver of this provision shall be void.

(2) Changes, additions, or amendments to the society's laws duly made or enacted subsequent to the issuance of the certificate shall bind the owner and the beneficiaries, and shall govern and control the benefit contract in all respects the same as though the changes, additions, or amendments had been made prior to and were in force at the time of the application for insurance, except that no change, addition, or amendment shall destroy or diminish benefits that the society contracted to give the owner as of the date of issuance.

(3) A person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the society's laws and rules to the same extent as though the age of majority had been attained at the time of application.

(4) A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired, its board of directors or corresponding body may require that there shall be paid by the owner to the society the amount of the owner's equitable proportion of the deficiency as ascertained by its board, and that if the payment is not made either of the following applies:

(a) It shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates.

1 (b) In lieu of or in combination with subdivision (a), the
2 owner may accept a proportionate reduction in benefits under the
3 certificate.

4 (5) The society may specify the manner of the election under
5 subsection (4) and which alternative is to be presumed if no
6 election is made. **An assessment of a proportion of a deficiency**
7 **under subsection (4) does not take effect until 90 days after the**
8 **date the director is notified of the assessment, unless the**
9 **director approves an earlier effective date. The director may**
10 **disapprove an assessment of a proportion of a deficiency under**
11 **subsection (4) if the director finds that the assessment is not**
12 **adopted in conformity with this chapter or is contrary to the**
13 **interests of the members of the society.**

14 (6) Copies of any of the documents in this section, certified
15 by the secretary or corresponding officer of the society, shall be
16 received in evidence of the terms and conditions of the document.

17 (7) A certificate shall not be delivered or issued for
18 delivery in this state unless a copy of the form has been filed
19 with the ~~commissioner~~**director** in the manner provided for like
20 policies issued by life insurers in this state. Each life,
21 accident, health, or disability insurance certificate and each
22 annuity certificate issued on or after April 1, 1991 shall meet the
23 standard contract provision requirements not inconsistent with this
24 chapter for like policies issued by life insurers in this state as
25 provided in chapters 34 and 40, except that a society may provide
26 for a grace period for payment of premiums of 1 full month in its
27 certificates. The certificates shall also contain a provision
28 stating the amount of premiums payable under the certificate and a
29 provision reciting or setting forth the substance of any sections

1 of the society's laws or rules in force at the time of issuance of
2 the certificate that, if violated, will result in the termination
3 or reduction of benefits payable under the certificate. If the laws
4 of the society provide for expulsion or suspension of a member, the
5 certificate shall also contain a provision that any member so
6 expelled or suspended, except for nonpayment of a premium or within
7 the contestable period for material misrepresentation in the
8 application for membership or insurance, shall have the privilege
9 of maintaining the certificate in force by continuing payment of
10 the required premium.

11 (8) Benefit contracts issued on the lives of persons below the
12 society's minimum age for adult membership may provide for transfer
13 of control or ownership to the insured at an age specified in the
14 certificate. A society may require approval of an application for
15 membership in order to effect this transfer, and may provide in all
16 other respects for the regulation, government, and control of the
17 certificate and all rights, obligations, and liabilities incident
18 to and connected with the certificate. Ownership rights prior to
19 the transfer shall be specified in the certificate.

20 (9) A society may specify the terms and conditions on which
21 benefit contracts may be assigned.

22 **Sec. 8199b. (1) If a domestic society has an authorized**
23 **control level event, as defined by the director, under**
24 **circumstances the director determines will not be promptly**
25 **remedied, the director, in addition to taking any other action**
26 **required or allowed by law, may issue an order declaring the**
27 **domestic society to be in a hazardous condition and may order the**
28 **society to remedy the authorized control level event. An order**
29 **issued under this subsection may include authorization to the**

1 society to negotiate an agreement to transfer, subject to
2 subsection (2), all members, certificates, and other assets and
3 liabilities of the society to another fraternal benefit society or
4 other insurer through merger, consolidation, assumption, or other
5 means.

6 (2) A transfer under subsection (1) constitutes a novation of
7 the transferring society's certificates that is effective on the
8 date of transfer. The society shall ensure the transfer is
9 concluded within the time agreed to by the director and subject to
10 the approval by the director. A transfer agreement under subsection
11 (1) is considered to be fully approved by the domestic society upon
12 a majority vote of the society's board of directors,
13 notwithstanding section 8177 and any other law, regulation, or rule
14 that requires notice to or approval by the society's members or
15 supreme governing body. Any law of a society requiring notice to or
16 approval by the society's members or supreme governing body is
17 suspended by this section. The transferring society shall provide
18 notice to its members of the transfer by mail or in the society's
19 official publication not later than 30 days after the transfer is
20 approved by the director.

21 (3) If the society seeks to make a transfer under subsection
22 (1) to an organization that does not have a certificate of
23 authority in this state, the director may grant the organization a
24 limited certificate of authority to service the existing
25 certificates and fulfill all obligations owed to certificate
26 holders following the transfer but not to otherwise transact
27 insurance business in this state.

28 (4) By order of the director and notwithstanding any law or
29 rule to the contrary and any laws of the society, the board of

1 directors of the society may suspend or modify the qualifications
2 for membership in the society as necessary to facilitate a transfer
3 under subsection (1).

4 (5) On the effective date of a transfer to an organization
5 that is not a fraternal benefit society and in consideration for
6 the transfer, each member of the society is considered to agree
7 that any terms of a certificate subjecting the certificate to the
8 laws of the society or providing for the maintenance of the
9 society's solvency, except to the extent of any outstanding lien
10 not released by the terms of the transfer, are void and the
11 assuming organization shall endorse the certificate accordingly.

12 Sec. 8199c. (1) Any of the following qualify as grounds for
13 rehabilitation under section 8112(a) or liquidation under section
14 8117(a) or (b):

15 (a) Failure by a domestic society to comply with an order of
16 the director under section 8199b.

17 (b) Failure by a domestic society to remedy within the time
18 specified by the director a hazardous condition as determined by
19 the director under section 8199b.

20 (2) Rehabilitation under section 8112(a) is presumed to be
21 futile, unless the director reasonably believes that rehabilitation
22 has a high probability of returning the society to long-term
23 viability or will facilitate a transfer to another fraternal
24 benefit society or insurer.

25 (3) Notwithstanding section 8182(4), after the director files
26 a petition for liquidation of a society under section 8117, the
27 society shall not assess payment of shares of a deficiency under
28 section 8182(4) unless the director determines that the assessment
29 is for the purpose of satisfying the obligations of the society to

1 Class 1 or Class 2 creditors described in section 8142(1)(a) and
2 (b). The society shall not make an assessment for the purpose of
3 any deficiency related to other claims including those described in
4 section 8142(1)(c), (d), (e), (f), (g), (h), or (i).

5 (4) Liquidation proceedings under section 8117 for a society
6 must be conducted consistent with the purposes of section 8101 in a
7 manner designed to conserve assets, limit liquidation expenses, and
8 avoid any assessment of shares of a deficiency.

9 (5) The liquidator of a society shall attempt to transfer
10 policies or certificates of the liquidating society under section
11 8121(1)(h) by way of assignment, assumption, or other means to a
12 qualified fraternal benefit society, either domestic or foreign,
13 or, if no qualified fraternal benefit society will accept the
14 transfer, to an insurer authorized to transact life insurance
15 business in this state. In determining whether a fraternal benefit
16 society or insurer is qualified to accept a transfer under this
17 subsection, the liquidator shall consider the solvency of the
18 fraternal benefit society or other insurer among other things. A
19 qualified fraternal benefit society or insurer is not obligated to
20 accept a transfer under this subsection. On the effective date of a
21 transfer under this subsection to an insurer that is not a
22 fraternal benefit society and in consideration for the transfer,
23 each member of the society and owner of a policy or certificate
24 being transferred is considered to agree that any terms of the
25 insurance policy or certificate that provide for the maintenance of
26 the society's solvency or that subject the policy or certificate to
27 the policies of the society are void and to agree to any other
28 changes to terms of the policy or certificate that are determined
29 by the liquidator to be necessary to effectuate the transfer. The

1 insurer accepting transfer shall endorse the policy or certificate
2 accordingly. Any transfer under this subsection is a novation of
3 the policy or certificate that is effective on the date of
4 transfer.