

Senate Bill No. 191

CHAPTER 166

An act to amend Sections 10970, 10991, 11010, 11026, 11041, 11043, 11044, 11064, 11066, 11122, and 11137 of, to add Section 11122.1 to, and to repeal and add Section 11016 of, the Insurance Code, relating to fraternal benefit societies.

[Approved by Governor July 22, 1995. Filed with
Secretary of State July 24, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 191, Russell. Fraternal benefit societies.

A fraternal benefit society can be organized under existing law if it meets certain requirements related to its purposes, business activity, internal organization, and member participation. A fraternal benefit society can provide life and disability insurance to its members, subject to specified exceptions.

This bill would revise various provisions governing the organization and powers of a fraternal benefit society. The revisions would affect, among other provisions, the meetings, purposes, voting requirements, available benefits, actuarial tables, beneficiary designations, filing requirements, and powers of a fraternal benefit society.

The people of the State of California do enact as follows:

SECTION 1. Section 10970 of the Insurance Code is amended to read:

10970. Fraternal benefit societies shall be governed by this chapter and shall be exempt from all other provisions of this code, except:

(a) Those provisions prior to Division 1 entitled "General Provisions."

(b) Sections 880, 881, 10112, 10114, 10117, 10118, 10119, 10120, 10171, 10172, and 10191.

(c) Article 15 (commencing with Section 1070) and Article 17 (commencing with Section 1100) of Chapter 1 of Part 2 of Division 1.

(d) Those provisions specifically referred to in this chapter to the extent made necessary by such reference.

A statute relating to insurance shall not apply to them, unless they are expressly designated therein.

SEC. 1.5. Section 10991 of the Insurance Code is amended to read:



10991. A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated, or admitted in accordance with its constitution, laws, and ritual, which subordinate lodges or branches shall be required by the laws of the society to hold regular meetings at least once a month in furtherance of the purposes of the society, shall be deemed to be operating on the lodge system.

SEC. 2. Section 11010 of the Insurance Code is amended to read:

11010. Seven or more United States citizens, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign, and acknowledge articles of incorporation before an officer competent to take acknowledgment of deeds. The articles of incorporation shall state:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing.

(b) The purposes for which it is being formed, and the mode in which its corporate powers are to be exercised.

The purposes shall not include more liberal powers than are granted by this chapter, provided that any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal, or religious purposes shall be set forth among the purposes of the society.

(c) The names and residences of the incorporators, and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year, or until the ensuing election at which all officers shall be elected by the supreme legislative or governing body. The election shall be held within one year of the date of the issuance of the permanent certificate.

SEC. 3. Section 11016 of the Insurance Code is repealed.

SEC. 4. Section 11016 is added to the Insurance Code, to read:

11016. A society shall operate for the benefit of its members and their beneficiaries by:

(a) Providing benefits under Section 11041, and

(b) Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, and, if desired, for others. The society's purposes may be carried out directly by the society or indirectly through subsidiary or affiliated entities established in furtherance of the purposes of the society.

Any incorporated society authorized to transact business in this state on January 1, 1996, may thereafter exercise all the rights, powers, and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate.

SEC. 5. Section 11026 of the Insurance Code is amended to read:



11026. A domestic society may amend its articles of incorporation, constitution, or laws, in accordance with the provisions thereof, by action of its supreme legislative or governing body at any regular or special meeting. If the articles of incorporation, constitution, or laws so provide, amendment may be made by referendum. A referendum may be held in accordance with the provisions of the society's articles of incorporation, constitution, or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of the amendment's submission, a majority of the members of the society have signified their consent to the amendment by one of the methods herein specified.

SEC. 6. Section 11041 of the Insurance Code is amended to read:

11041. An admitted society may, by the issuance of certificates, provide for payment to its members of insurance benefits contained within the following classes:

(a) All forms of life insurance, as defined in Section 101, except group insurance and funeral insurance as defined in Section 10240.

(b) All forms of disability insurance, as defined in Section 106, except group insurance.

Except as otherwise provided in this chapter, benefits may be paid in any manner compatible with their nature.

Any benefits authorized in this section, or combinations thereof, may be provided in the same or separate certificates.

A society shall specify in its laws or rules those persons who may receive benefits or be covered by benefits through the society. For all coverages, the member shall be the applicant or the insured provided that if the member is the applicant, there shall be a bona fide familial or other dependent relationship between the member and the insured or beneficiary. Every society, by its constitution, laws, or rules, may limit the scope of beneficiaries only to the extent required by federal law governing fraternal benefit societies. The society may specify the terms and conditions on which benefit certificates may be assigned.

SEC. 7. Section 11043 of the Insurance Code is amended to read:

11043. A society may grant nonforfeiture benefits, cash surrender values, certificate loans, and other options as its laws may permit.

In the case of certificates issued after September 21, 1952, other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the 1941 Standard Industrial Table, the Commissioners 1958 Standard Ordinary Mortality Table, the Commissioners 1980 Standard Ordinary Mortality Table, or any more recent table approved by the commissioner that applies to life insurers, the value of any nonforfeiture benefit granted and the



amount of any cash surrender value granted shall not be less than the excess, if any, of (a) over (b) as follows:

(a) The reserve under the certificate determined on the basis specified in the certificate; and

(b) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge of not more than 2 1/2 percent of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

However, in the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than 130 percent of those shown by the mortality table specified in the certificate for the computation of the reserve.

In the case of certificates issued after September 21, 1952, for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the 1941 Standard Industrial Table, the Commissioners 1958 Standard Ordinary Mortality Table, the Commissioners 1980 Standard Ordinary Mortality Table, or any more recent table approved by the commissioner that applies to life insurers, the value of any nonforfeiture benefit granted and the amount of any cash surrender value granted shall not be less than the corresponding amount ascertained in accordance with the provisions of Sections 10161, 10162, 10163, 10163.1, 10163.2, 10164, 10164.1, and 10165 applicable to life insurance companies.

SEC. 8. Section 11044 of the Insurance Code is amended to read:

11044. No beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract. The owner of a certificate shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws, or rules of the society, unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. Every society, by its constitution, laws, or rules, may limit the scope of beneficiaries only to the extent required by federal law governing fraternal benefit societies.

SEC. 9. Section 11064 of the Insurance Code is amended to read:

11064. A society shall provide specifically in its certificates that if its reserves become impaired, its board of directors or corresponding body may require that the owner pay to the society the amount of the owner's equitable proportion of the deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the certificate and draw interest not to exceed



the rate specified for certificate loans under the certificate, or if none is specified, 6 percent per annum compounded annually.

SEC. 10. Section 11066 of the Insurance Code is amended to read:

11066. After the effective date of the amendments to this section made during the 1995–96 Regular Session of the Legislature, no life insurance benefit certificate may be delivered or issued for delivery in this state unless a copy of the form, the application therefor, and any attached endorsements or riders have been filed with the commissioner in the same manner as policies, contracts, or certificates of life insurance issued by stock or mutual insurers. The certificate shall have a title clearly and correctly describing its form on the face and filing back and shall contain in substance the standard provisions listed below. However, the commissioner may approve any form that in his or her opinion contains provisions relating to any one or more of the following requirements that are more favorable to insured members than the one or ones required here.

(a) A provision stating the amount of premiums that are payable under the certificate, and a provision that the certificate holder shall be obligated to pay, as a condition of the continuance in force of the certificate, additional premiums imposed in accordance with the constitution or laws of the society then in force or thereafter lawfully enacted.

(b) A provision that the certificate holder is entitled to a grace 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, and that during the grace period, the certificate shall continue in full force. However, the certificate may provide that in case a loss occurs during the grace period before the overdue premium is paid, the amount of the overdue premium or premiums may be deducted in any settlement under the certificate.

(c) A provision that the certificate holder shall be entitled to have the certificate reinstated at any time within three years from the date of default in payment of premiums, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, upon the production of evidence of insurability and good health 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 the premiums and indebtedness, if any, at a rate not exceeding 6 percent per annum compounded annually. However, a society may provide for a minimum interest payment of not exceeding ten cents (\$0.10) for each month's premium in arrears at the date of reinstatement, if the premiums do not exceed 12 in number.

(d) A provision that, in the event of default in payment of any premium after three 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 nonforfeiture benefit on the plan stipulated in the certificate, effective as of the due date, of the value as specified in this chapter. This subdivision does not apply to pure endowment, annuity or reversionary annuity contracts, or term certificates of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the certificate, or term certificates of decreasing amount on which the granting of a nonforfeiture benefit is not required in order to comply with the minimum values specified in this chapter.

(e) A provision that one nonforfeiture benefit, as specified in the certificate, in accordance with the requirements of subdivision (d) above, shall become effective automatically unless the member elects another available nonforfeiture benefit or, if society makes available a cash surrender value, the cash surrender value, not later than 60 days after the due date of the premium in default.

(f) A statement of the mortality table and rate of interest used in determining all nonforfeiture benefits and cash surrender values available under the certificate. After September 21, 1954, a brief general statement of the method used in calculating the benefits and values available under the certificate on any certificate anniversary beyond the last anniversary for which the benefits and values are consecutively shown in the certificate. The statement shall be accompanied by an explanation of the manner in which the benefits and values are altered by the existence of paid-up additions credited to the certificate or by any indebtedness to the society on the certificate.

(g) A table showing in figures every nonforfeiture benefit and cash surrender value 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, the benefits and values to be calculated upon the assumption that there are no dividends or paid-up additions credited to the certificate and that there is no indebtedness to the society on account of or secured by the certificate.

(h) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue except for nonpayment of premiums, risks limited or not assumed, violation of the provisions of the certificate relating to military, aviation, or naval service, or 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 that 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 insured for a period of two years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society has the right to contest a reinstated certificate within a period of two years from date of reinstatement with the same exceptions as provided here.

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

(j) A provision or provisions that recite fully, or that 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.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the certificate. The word "premiums" as used in this section means premiums, rates, or other required contributions by whatever name known.

SEC. 11. Section 11122 of the Insurance Code is amended to read:

11122. Any society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of the society. The funds may include hospital and help, sanitarium, home, thrift, pension for the society's employees, patriotic, educational and relief funds, in accordance with the society's laws.

SEC. 12. Section 11122.1 is added to the Insurance Code, to read:

11122.1. A society may, if authorized by a resolution of its supreme legislative or governing body, establish and operate one or more separate accounts and issue contracts on a variable basis to persons as specified in Section 11041, subject to compliance with the applicable laws. To the extent a society finds it necessary to comply with federal or state law, or regulations issued under state or federal law, a society may do the following:

(a) Adopt special procedures for conducting the business of the separate account.



(b) Provide special voting and other rights for a person with a beneficial interest in the special account, including, but not limited to, rights and procedures relating to investment policy, investment advisory services, selecting certified public accountants, and selecting a committee to manage the account.

(c) Issue contracts on a variable basis that are exempted from the requirements of Sections 11062, 11064, and 11065.

SEC. 13. Section 11137 of the Insurance Code is amended to read:

11137. Whenever the commissioner finds from any financial statement or valuation report made to him or her by any society authorized to do business in this state or from a filed report on examination of any such society that the admitted assets of the society are less than the sum of its required reserves and accrued liabilities, the commissioner shall determine the amount of that deficiency and shall issue a written requisition to the society to remove, repair, or make good that deficiency within such period as he or she shall designate, not less than 30 days nor more than six months from the service of the requisition, except that if the commissioner believes the interests of the certificate holders of such society will best be served by extending the period of time beyond six months, he or she may do so for such period or periods of time as he or she in his or her discretion deems best. The commissioner may also by official order prohibit the society, while that deficiency exists, from issuing any new contracts of insurance in this state, and in case of a domestic society, from issuing any new contracts in this state or elsewhere. If the society fails or is unable to make good the deficiency within the time specified in the order, the commissioner shall proceed against the society under the provisions of Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 on the ground that its further transaction of business will be hazardous to its certificate holders, its creditors, or the public. In the case of a foreign society the commissioner may also, or in lieu of that proceeding, revoke its certificate of authority to do business in this state or refuse to issue a renewal certificate of authority.

