(134th General Assembly)
(Amended House Bill Number 575)

AN ACT

To amend section 3921.19 and to enact sections 3921.102 and 3921.32 of the Revised Code to modernize fraternal benefit society solvency regulation and oversight.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 3921.19 be amended and sections 3921.102 and 3921.32 of the Revised Code be enacted to read as follows:

Sec. 3921.102. (A) In the event a domestic fraternal benefit society has an authorized control level RBC as defined in section 3903.81 of the Revised Code or fails to comply with section 3921.101 of the Revised Code, the society shall present to the superintendent of insurance a plan to protect the interests of the society members not later than forty-five days following such an event. The plan shall provide for the transfer of all members, certificates, and other assets and liabilities of the society to another fraternal benefit society or other insurer through merger, consolidation, assumption, or any other means. The plan shall designate a period of time in which the transfer must be completed. Any transfer is subject to approval by the superintendent.

(B)(1) Any transfer under division (A) of this section shall constitute a novation of the transferring society's certificates effective on the date of transfer. The society shall ensure that the transfer is concluded within the time period approved by the superintendent. A transfer under division (A) of this section shall be considered fully approved by the society upon a majority vote of the society's board of directors, notwithstanding section 3921.14 of the Revised Code or any other law or regulation that requires notice to or approval by the society's members or supreme governing body. The society shall make any necessary amendments to its laws to recognize this authority of the board not later than the next meeting of the society's supreme governing body. The transferring society shall provide notice to its members of the transfer by mail or in the society's official publication not later than thirty days after the transfer is approved by the superintendent.

(2) Notwithstanding any law or regulation to the contrary and any law of the society, the board of directors of a society may, with the approval of the superintendent, suspend or modify the qualifications for membership in the society as necessary to facilitate a transfer under division (A) of this section.

(3) Upon the effective date of a transfer to an organization that is not a fraternal benefit society and in consideration for the transfer, each member of the society is considered to agree that any terms of a certificate subjecting the certificate to the laws of the society or providing for the maintenance of the society's solvency, except to the extent of any outstanding lien not released by the terms of the transfer, are null and void. The assuming organization shall endorse the certificate accordingly.

Sec. 3921.19. (A) Each fraternal benefit society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided

under the contract. The certificate, together with any riders or endorsements attached to the certificate, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments to each such document, constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

All statements made on the application are representations and not warranties. Any waiver of this provision is void.

(B) Any changes, additions, or amendments to the laws of the society 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 such 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.

(C) Any 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 of the laws and rules of the society to the same extent as though the age of majority had been attained at the time of application.

(D) 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 an assessment in the amount of the owner's equitable proportion of such deficiency as ascertained by its board, and that if the payment is not made, either of the following applies:

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

(2) In lieu of or in combination with division (D)(1) of this section, the owner may accept a proportionate reduction in benefits under the certificate.

The society may specify the manner of the election and which alternative is to be presumed if no election is made.

(E) At least ~~thirty~~ ninety days prior to imposing any ~~indebtedness~~ assessment of shares of a deficiency upon any owner as provided in division (D) of this section, the board of directors or corresponding body shall notify the superintendent of insurance in writing of the board's intent to require the ~~payment~~ assessment and a statement of the reason that request is necessary. The notice shall be confidential and not a public record under section 149.43 of the Revised Code. The society may impose the assessment following the notice period only if the assessment has been duly adopted by the board in accordance with this section and has not been disapproved by the superintendent. The superintendent may allow the assessment to be imposed at an earlier date than the date identified in the notice.

(F)(1) Certificates that are delivered or issued for delivery in this state on or after January 1, 1997, but prior to January 1, 1998, shall comply with the requirements that would have applied under the laws in effect on December 31, 1996.

(2) No certificate shall be delivered or issued for delivery in this state on or after January 1,

1998, unless a copy of the form is filed with and approved by the superintendent of insurance in accordance with the provisions of law applicable to like policies issued by life or sickness and accident insurers in this state.

(3) Each life, sickness and accident, or disability insurance certificate, and each annuity certificate, that is delivered or issued for delivery in this state on or after January 1, 1998, shall comply with the standard contract provision requirements applicable to like policies issued by life or sickness and accident insurers in this state, if those requirements are not inconsistent with this chapter. However, a society may provide in its certificates for a grace period of one full month for payment of premiums. A certificate shall also contain a provision that states the amount of premiums that is payable under the certificate and that sets forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for the expulsion or suspension of a member, the certificate shall also contain a provision stating that any member expelled or suspended, except a member expelled or suspended because of nonpayment of a premium, may maintain, other than during the contestable period for material misrepresentation in the application for membership or insurance, the certificate in force by continuing payment of the required premium.

(G) Benefit contracts issued on the lives of persons under the society's minimum age for adult membership may provide for transfer of control of ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may provide in all other respects for the regulation, government, and control of such certificates and all rights, obligations, and liabilities incident to and connected with such certificates. Ownership rights prior to such a transfer shall be specified in the certificate.

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

(I) A copy of any of the documents described in this section, if certified by the secretary or corresponding officer of the society, is prima facie evidence of the terms and conditions of the documents.

Sec. 3921.32. (A) Liquidation proceedings for a domestic fraternal benefit society shall be conducted consistent with the purposes of section 3903.02 of the Revised Code in a manner designed to conserve assets, limit liquidation expenses, and avoid any assessment of shares of a deficiency.

(B)(1) The liquidator shall attempt to transfer policies or certificates of the liquidating fraternal benefit society by way of assignment, assumption, or other means to another fraternal benefit society, whether domestic or foreign, or, if no fraternal benefit society will accept such a transfer, to another insurer. No fraternal benefit society shall be obligated to accept a transfer from a liquidating society.

(2) Upon the effective date of a transfer to an insurer that is not a fraternal benefit society and in consideration for the transfer, each member of the society and owner of a policy or certificate shall be deemed to agree to both of the following:

(a) That any terms of an insurance policy or certificate providing for the maintenance of the society's solvency or subjecting the policy or certificate to the bylaws of the society are null and void;

(b) Such other changes determined by the liquidator to be necessary to effectuate the transfer. The assuming insurer shall endorse the policy or certificate accordingly.

(3) Any transfer shall constitute a novation of the liquidating fraternal benefit society's certificates effective upon the date of transfer.

SECTION 2. That existing section 3921.19 of the Revised Code is hereby repealed.

Robert R. Cupp

Speaker _____ *of the House of Representatives.*

Matthew C. Huffman

President _____ *of the Senate.*

Passed December 14, 2022

Approved JANUARY 5, 2023

Mike DeWine

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 5TH day of JANUARY, A. D. 2023.

Secretary of State.

File No. 166 Effective Date 4/6/2023

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(Amended House Bill Number 575)

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Introduced by

Representative Cutrona

Cosponsors: Representatives Lampton, Sweeney, Upchurch, Jarrells, Cross, Baldridge, Carruthers, Grendell, Lanese, Loychik, Miller, J., Stephens, Swearingen
Senators Lang, Maharath, Hackett, Cirino

Passed by the House of Representatives,

June 1, 20 22

Passed by the Senate,

December 14, 20 22

Filed in the office of the Secretary of State at Columbus, Ohio, on the

5TH *day of* JANUARY, *A. D.* 2023

Secretary of State.

Concurred in Senate amendments, December 14, 2022.