

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES

SUBTITLE E. MUTUAL AND FRATERNAL COMPANIES AND RELATED ENTITIES

CHAPTER 885. FRATERNAL BENEFIT SOCIETIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 885.001. DEFINITIONS. In this chapter:

(1) "Benefit certificate" means a document issued as written evidence of a benefit contract.

(2) "Benefit contract" means an agreement for provision of benefits authorized by Section 885.301, as that agreement is described by Section 885.306.

(3) "Benefit member" means an adult designated by the laws or rules of a fraternal benefit society as a benefit member under a benefit contract.

(4) "Fraternal benefit society's laws" means a fraternal benefit society's articles of incorporation, constitution, and bylaws, however designated.

(5) "Lodge" means a subordinate member unit of a fraternal benefit society. The term includes a camp, court, council, or branch.

(6) "Premium" means a premium, a rate, dues, or another required contribution that is payable under a benefit certificate or benefit contract.

(7) "Rule" means a rule, regulation, or resolution adopted by the supreme governing body or board of directors that has general application to the members of a fraternal benefit society. Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.002. LIMITED EXEMPTION FROM INSURANCE LAWS. (a) Except as provided by this chapter, a fraternal benefit society is governed by this chapter and is exempt from all other insurance laws of this state for all purposes.

(b) A law enacted after July 1, 1913, does not apply to fraternal benefit societies unless a fraternal benefit society is expressly designated in the law.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.003. EXEMPTION FROM TAXATION. (a) A fraternal benefit society organized or holding a certificate of authority under this chapter, including the former Chapter 10 of this code and Chapter 8, Title 78, Revised Statutes, is a charitable and benevolent institution. Except as provided by Subsection (b), all funds of a fraternal benefit society described by this subsection are exempt from any state, county, district, municipal, or school tax, including an occupation tax.

(b) Real estate or office equipment used for a purpose other than a lodge purpose is subject to taxation.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.004. INAPPLICABILITY TO CERTAIN SOCIETIES. (a) Except as provided by Subsection (b), this chapter does not apply to:

(1) a grand or subordinate lodge of Masons, Odd Fellows, Knights of Pythias, or the Junior Order of the United American Mechanics;

(2) a society that limits its membership to those engaged in one or more hazardous occupations in the same or similar lines of business;

(3) a society that does not issue benefit certificates;

(4) an association of local lodges of a society engaged in business in this state on July 1, 1913, that provides:

(A) death benefits of not more than \$500 to any one individual;

(B) disability benefits of not more than \$300 in any one year to any one individual; or

(C) both death benefits described by Paragraph (A) and disability benefits described by Paragraph (B);

(5) a contract of reinsurance on a plan in this state described by Subdivision (4);

(6) a domestic society that limits its membership to the employees of:

(A) a particular municipality; or  
(B) a designated firm or corporation; or  
(7) a domestic lodge, order, or association of a purely religious, charitable, and benevolent description that does not provide:

(A) death benefits of more than \$100; or  
(B) disability benefits of more than \$150 to any one individual in any one year.

(b) This chapter applies to:

(1) the insurance department of the supreme lodge Knights of Pythias; and

(2) the beneficiary degree of insurance branch of the Junior Order of the United American Mechanics.

(c) The department may require from any society information that will permit the department to determine whether the society is exempt from this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.005. FRATERNAL BENEFIT SOCIETIES THAT PROVIDE BENEFITS RESULTING FROM ACCIDENTS ONLY. (a) A fraternal benefit society that provides benefits for death or disability resulting from accidents only and does not provide death benefits or benefits for sickness may hold a certificate of authority under this chapter if the society:

(1) was organized and incorporated before July 1, 1913; and

(2) operates as provided by Sections 885.051-885.054 and 885.062.

(b) A fraternal benefit society that holds a certificate of authority as provided by Subsection (a) may exercise all the privileges provided by and is subject to this chapter other than:

(1) provisions requiring medical examination;

(2) provisions requiring that a benefit certificate specify the amount of benefits; and

(3) provisions relating to the valuation of benefit certificates.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.006. TREATMENT OF CERTAIN GRAND LODGES. A grand lodge, by whatever name known and without regard to whether incorporated, that holds a charter from any supreme governing body and that was engaging in business in this state on July 1, 1913, as a fraternal beneficiary association under the separate jurisdiction plan is considered to be a single state organization.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER B. STRUCTURE OF FRATERNAL BENEFIT SOCIETY

Sec. 885.051. FRATERNAL BENEFIT SOCIETY DEFINED. A corporation, society, order, or voluntary association is a fraternal benefit society if it:

(1) has a lodge system and a representative form of government or limits its membership to a secret fraternity that has a lodge system and a representative form of government;

(2) is organized and operated solely for the mutual benefit of its members and their beneficiaries and not for profit;

(3) does not have capital stock; and

(4) provides for the payment of benefits in accordance with Section [885.301](#).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.052. CONTROL OF FRATERNAL BENEFIT SOCIETY. (a) In this section, "control" has the meaning described by Sections [823.005](#) and [823.151](#).

(b) Control of a fraternal benefit society must be ultimately vested in the membership as provided by this chapter. Control of a fraternal benefit society may be exercised by lodges and a supreme governing body elected under Section [885.054](#).

(c) The methods provided by this section for exercising control over a fraternal benefit society are exclusive.

(d) Chapter [823](#) applies to a fraternal benefit society. Each change in control of a fraternal benefit society must be consistent with the nature of a fraternal benefit society as specified by this section, Sections [885.051](#), [885.053](#), and [885.054](#),

and other applicable law.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.053. LODGE SYSTEM DEFINED. A fraternal benefit society is considered to be operating on the lodge system if the society:

(1) has a supreme governing body; and

(2) has lodges:

(A) into which members are admitted in accordance with the fraternal benefit society's laws, rituals, and rules; and

(B) that are required by the fraternal benefit society's laws to hold periodic meetings.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.054. REPRESENTATIVE FORM OF GOVERNMENT DEFINED. A fraternal benefit society has a representative form of government if:

(1) the society has a supreme governing body constituted as:

(A) an assembly, as described by Section 885.055;

or

(B) a board, as described by Section 885.057;

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

(3) only a benefit member is eligible to serve as a member of the supreme governing body, the board of directors, or an intermediate assembly of the society;

(4) only a benefit member may vote on the management of the society's insurance affairs;

(5) a voting member of the society has only one vote; and

(6) a voting member of the society may not cast a vote by proxy.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.055. ASSEMBLY AS SUPREME GOVERNING BODY. (a) The supreme governing body of a fraternal benefit society is an

assembly if the body is composed of:

(1) delegates elected directly by the members or at intermediate assemblies or conventions by the members or their representatives; and

(2) other delegates as prescribed by the fraternal benefit society's laws.

(b) The elected delegates to an assembly must:

(1) constitute a majority of the assembly in number; and

(2) be entitled to cast the greater of:

(A) two-thirds of the votes in the assembly; or

(B) the number of votes required to amend the fraternal benefit society's laws.

(c) A fraternal benefit society may provide for election of delegates by mail.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.056. ASSEMBLY MEETINGS; DIRECTORS. (a) An assembly that is the supreme governing body of a fraternal benefit society shall:

(1) meet at least once every four years; and

(2) elect a board of directors to conduct the business of the society between meetings of the assembly.

(b) A vacancy on the board of directors that occurs between elections may be filled in the manner prescribed by the fraternal benefit society's laws.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.057. BOARD AS SUPREME GOVERNING BODY. (a) The supreme governing body of a fraternal benefit society is a board if the body is composed of:

(1) individuals elected directly by the members or at intermediate assemblies by the members or their representatives; and

(2) other individuals as prescribed by the fraternal benefit society's laws.

(b) The individuals elected to the board must:

- (1) constitute a majority of the board in number; and
- (2) have at least the number of votes required to amend the fraternal benefit society's laws, other than laws, if any, that must be amended by direct vote of the members.

(c) A fraternal benefit society may provide for election of the board by mail.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.058. BOARD MEMBERS; MEETINGS. (a) The term of a member of a board that is the supreme governing body of a fraternal benefit society may not exceed four years.

(b) A vacancy on the board that occurs between elections may be filled in the manner prescribed by the fraternal benefit society's laws. An individual filling the unexpired term of an elected board member is considered to be an elected member.

(c) A board shall meet at least annually to conduct the business of the fraternal benefit society.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.059. LOCATION OF MEETINGS OF SUPREME GOVERNING BODY. (a) A domestic fraternal benefit society may provide that its supreme governing body may hold meetings in any state, district, province, or territory in which the society has a lodge.

(b) All business transacted at a meeting authorized under Subsection (a) is as valid in all respects as if the meeting were held in this state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.060. FRATERNAL BENEFIT SOCIETY'S LAWS BINDING. A fraternal benefit society's laws may provide that a lodge or a subordinate officer or member of the society may not waive any provision of those laws. Those laws are binding on:

- (1) the society;
- (2) each member of the society; and
- (3) each beneficiary of a member.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.061. AMENDMENT OF FRATERNAL BENEFIT SOCIETY'S LAWS. (a) A fraternal benefit society transacting business under this chapter shall file with the department a certified copy of each amendment of the fraternal benefit society's laws not later than the 90th day after the date of enactment of the amendment.

(b) A printed copy of a fraternal benefit society's laws, as amended, that is certified by the society's secretary or corresponding officer is prima facie evidence that the laws were legally adopted.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.062. QUARTERLY LODGE MEETINGS REQUIRED. A fraternal benefit society's laws must require each lodge to hold regular meetings at least once each calendar quarter to further the society's purposes.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.063. MERGER OR TRANSFER OF MEMBERSHIP OR FUNDS.

(a) A domestic fraternal benefit society may not merge with or accept a transfer of the membership or funds of another fraternal benefit society unless:

(1) the merger or transfer is evidenced by a written contract that fully sets out the terms of the merger or transfer; and

(2) the societies file with the department:

(A) a copy of the contract;

(B) a sworn statement of the financial condition of each society by its president and secretary or corresponding officers; and

(C) a certificate of those officers, verified under oath, that the merger or transfer has been approved by a vote of two-thirds of the members of the supreme governing body of each society.

(b) On submission, the commissioner shall examine the contract, financial statements, and certificates. The commissioner shall approve the merger or transfer and issue a certificate to that effect if the commissioner determines that:



(1) the contract conforms with this section and Section 885.052(d);

(2) the financial statements are correct;

(3) the merger or transfer is just and equitable to the members of each society; and

(4) the new or surviving society complies with each requirement of a fraternal benefit society under this chapter.

(c) A contract of merger or transfer takes effect on issuance of a certificate under Subsection (b).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER C. MEMBERS

Sec. 885.101. QUALIFICATIONS FOR FRATERNAL BENEFIT SOCIETY MEMBERSHIP. (a) A fraternal benefit society shall specify in the fraternal benefit society's laws or rules:

(1) subject to Subsection (b), the eligibility standards for each membership class;

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

(3) subject to Subsection (c), the rights and privileges of each membership class.

(b) If a fraternal benefit society provides benefits on the lives of children, the minimum age for adult membership may not be less than 15 years or more than 21 years.

(c) Only a benefit member may vote on the management of the insurance affairs of a fraternal benefit society.

(d) Membership rights in a fraternal benefit society are personal to the member, and a member may not assign those rights.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.102. SOCIAL MEMBERS. A fraternal benefit society may admit social members. A social member may not vote in the management of the insurance affairs of the society.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.103. CHILDREN. (a) A fraternal benefit society

may organize and operate branches for children on whose lives the society provides insurance or annuities.

(b) A child is not required to be a member of a lodge or to be initiated in a lodge.

(c) A child may not have any voice in the management of a fraternal benefit society.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.104. GRIEVANCE OR COMPLAINT PROCEDURES. A fraternal benefit society's laws or rules may provide for grievance or complaint procedures for members.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER D. AUTHORITY TO ENGAGE IN BUSINESS

Sec. 885.151. APPLICABILITY TO CERTAIN FRATERNAL BENEFIT SOCIETIES CONTINUOUSLY AUTHORIZED TO ENGAGE IN BUSINESS. This subchapter does not apply to a fraternal benefit society authorized to engage in business in this state on June 1, 1965, as long as the society's certificate of authority or any renewal or extension of its certificate of authority continues in force.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.152. ELIGIBILITY TO PROVIDE BENEFITS. After June 1, 1965, a corporation, society, order, or voluntary association may qualify as a fraternal benefit society as defined by Section [885.051](#) for the purpose of providing for the payment of benefits as provided by Section [885.301](#) only if it:

(1) has at least 500 members and at least 10 lodges;  
and

(2) has been in continuous operation for at least the five years preceding the filing of its articles of incorporation or association as provided by Section [885.153](#).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.153. FILING OF ARTICLES OF INCORPORATION OR ASSOCIATION. A corporation, society, order, or voluntary

association eligible under Section 885.152 may qualify as a fraternal benefit society by filing with the department:

(1) certified articles of incorporation or association that set out:

(A) the name of the society;

(B) the purpose for which the society is formed;  
and

(C) the manner in which the society's corporate powers are to be exercised;

(2) certified copies of the fraternal benefit society's laws and rules;

(3) copies of all proposed forms of benefit certificates, applications for benefit certificates, and circulars to be issued by the society;

(4) a surety bond as required by Section 885.156; and

(5) additional information that the commissioner considers necessary.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.154. NAME OF FRATERNAL BENEFIT SOCIETY. The name of a fraternal benefit society may not so closely resemble the name of any society or insurance company engaging in business in this state as to mislead the public or lead to confusion.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.155. PURPOSES OF FRATERNAL BENEFIT SOCIETY. (a) The purposes for which a fraternal benefit society is organized may not include more liberal powers than are granted by this chapter. Any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious advantages may be set out among the society's purposes.

(b) A fraternal benefit society's purposes may be implemented directly by the society or indirectly through subsidiary corporations or affiliated organizations.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.156. SURETY BOND. (a) A fraternal benefit society

must file with the department a bond in an amount not less than \$300,000 and not more than \$1.5 million, as required by the commissioner, with sureties approved by the commissioner.

(b) The bond must be conditioned on the return of advance payments to applicants for benefit certificates as provided by this subchapter if the fraternal benefit society fails to qualify under this subchapter within one year.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.157. ISSUANCE OF PRELIMINARY CERTIFICATE OF AUTHORITY. If the purposes of a fraternal benefit society conform to the requirements of this chapter and all provisions of law have been complied with, the commissioner shall:

(1) certify that the society is in compliance with all provisions of law;

(2) retain and record the articles of incorporation or association; and

(3) issue to the society a preliminary certificate of authority.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.158. POWERS AND DUTIES UNDER PRELIMINARY CERTIFICATE OF AUTHORITY; QUALIFICATION. (a) On receipt of a preliminary certificate of authority from the department under Section [885.157](#), a fraternal benefit society:

(1) may solicit from its members applications for insurance benefits for the purpose of completing the society's qualification;

(2) shall collect from each applicant an amount equal to at least one regular monthly payment, in accordance with the society's table of rates as provided by the fraternal benefit society's laws; and

(3) shall issue to each applicant a receipt for the amount collected under Subdivision (2).

(b) A fraternal benefit society operating under a preliminary certificate of authority may not incur a liability other than for advance payments collected under Subsection (a)(2),

issue a benefit certificate, or pay, allow, or offer or promise to pay or allow to any person a death or disability benefit until:

(1) the society has established 10 lodges into which at least 500 applicants have been initiated;

(2) the society has received bona fide applications for death benefit certificates on at least 500 lives for at least \$2,000 each;

(3) each applicant for death benefits under Subdivision (2) has been regularly examined by a legally qualified practicing physician;

(4) a certificate of each medical examination has been filed with and approved by the chief medical examiner of the society;

(5) the society submits to the department a list of the applicants for death benefits under Subdivision (2); and

(6) the society shows to the department, by the sworn statement of its treasurer or corresponding officer, that at least 500 applicants have each paid in cash in advance at least one regular monthly payment per \$1,000 of indemnity to be provided and that the payments in the aggregate amount to at least \$150,000.

(c) The list of applicants for death benefits submitted under Subsection (b)(5) must be under oath of the fraternal benefit society's president and secretary or corresponding officers and must provide for each applicant:

(1) the applicant's name and address;

(2) the date the applicant was examined;

(3) the date the applicant was approved;

(4) the date the applicant was initiated;

(5) the name and number of the lodge of which the applicant is a member;

(6) the amount of benefits to be granted; and

(7) the rate of stated premiums.

(d) The rate of stated premiums under Subsection (c)(7) must be sufficient to provide for meeting the obligations the fraternal benefit society has contracted to pay, when valued for death benefits on the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress, August

23, 1899, or, at the society's option, any higher standard, and for disability benefits or combined death and permanent total disability benefits by tables based on reliable experience, with an interest assumption not greater than a rate of four percent a year.

(e) A fraternal benefit society shall hold advance payments received under this section in trust during the period of completing qualification. The society shall credit the advance payments to the mortuary or disability fund on account of the applicants and may not use any part of the payments for expenses. If the society does not complete its qualification within one year, as provided by this subchapter, the society shall return the advance payments to the applicants.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.159. TERMINATION OF AUTHORITY UNDER PRELIMINARY CERTIFICATE OF AUTHORITY. (a) Unless a fraternal benefit society has qualified under this subchapter, a preliminary certificate of authority granted under Section 885.157 is void on the first anniversary of the date the certificate is issued.

(b) The department, on cause shown, may extend the period prescribed by Subsection (a). An extension may not exceed one year. Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.160. ISSUANCE OF CERTIFICATE OF AUTHORITY. (a) The department may make an examination and require information in addition to that required by Section 885.158(b) that the department considers advisable. On presentation of satisfactory evidence that a fraternal benefit society has complied with all provisions of law, the department shall issue to the society a certificate of authority.

(b) The certificate of authority issued is prima facie evidence of the qualification of the fraternal benefit society as of the date of the certificate.

(c) The department shall make a record of a certificate of authority issued under Subsection (a). A certified copy or duplicate of the department's record shall be accepted in evidence with the same effect as the original certificate.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER E. FOREIGN FRATERNAL BENEFIT SOCIETIES

Sec. 885.201. CERTIFICATE OF AUTHORITY REQUIRED. A foreign fraternal benefit society organized and engaging in business before July 1, 1913, that was not authorized to engage in business in this state as of that date may not engage in business in this state without a certificate of authority from the commissioner.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.202. ADMISSION OF FOREIGN FRATERNAL BENEFIT SOCIETY. (a) To engage in business in this state, a foreign fraternal benefit society described by Section 885.201 must:

(1) have the qualifications required of a domestic fraternal benefit society under this chapter; and

(2) have its assets invested as required by the laws of the state, territory, district, province, or country in which the society is organized.

(b) A foreign fraternal benefit society described by Section 885.201 is entitled to a certificate of authority to engage in business in this state on filing with the department:

(1) a certified copy of the society's charter or articles of association;

(2) a copy of the fraternal benefit society's laws, certified by its secretary or corresponding officer;

(3) a statement of the society's business;

(4) a certificate from the proper official in the society's home state, province, or country showing that the society is legally organized;

(5) a copy of the society's benefit contract;

(6) information showing that the society's assets are invested as required by Subsection (a)(2); and

(7) additional information the commissioner considers necessary to demonstrate the society's business and method of operation.

(c) A statement of business filed by a foreign fraternal

benefit society under Subsection (b)(3) must:

- (1) be under oath of the society's president and secretary or corresponding officers;
- (2) be in the form required by the commissioner; and
- (3) be verified by an examination made by the supervising insurance official of the society's home state or another state satisfactory to the commissioner.

(d) A benefit contract filed by a foreign fraternal benefit society under Subsection (b)(5) must show that benefits are provided for by premiums paid by persons holding similar contracts.

(e) The commissioner shall issue a certificate of authority to a foreign fraternal benefit society that complies with Subsection (b).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.203. REFUSAL TO ISSUE CERTIFICATE OF AUTHORITY TO FOREIGN FRATERNAL BENEFIT SOCIETY. (a) If the commissioner refuses to issue a certificate of authority to a foreign fraternal benefit society under Section [885.202](#), the commissioner shall:

- (1) make the refusal in writing;
- (2) file the refusal in the department's office; and
- (3) on request, provide a copy of the refusal and a statement of the commissioner's reasons for the refusal to the society's officers.

(b) The commissioner's refusal to issue a certificate of authority to a foreign fraternal benefit society for authority to engage in business in this state is reviewable by proper proceedings in a state court.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.204. NOTICE OF INTENT TO REVOKE FOREIGN FRATERNAL BENEFIT SOCIETY'S CERTIFICATE OF AUTHORITY. (a) The commissioner shall notify a foreign fraternal benefit society engaging in business under this chapter of the commissioner's determination if, following an investigation, the commissioner determines that the society:

- (1) has failed to comply with this chapter;



- (2) has exceeded its powers;
- (3) is not fulfilling its contracts in good faith; or
- (4) is engaging in business fraudulently.

(b) A notification under Subsection (a) must:

(1) state in writing the grounds of the commissioner's dissatisfaction; and

(2) require that the society, after reasonable notice and on the date stated in the notice, show cause why the society's certificate of authority should not be revoked.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.205. REVOCATION OF FOREIGN FRATERNAL BENEFIT SOCIETY'S CERTIFICATE OF AUTHORITY. (a) The commissioner may revoke a foreign fraternal benefit society's certificate of authority to engage in business in this state if, on the date stated in the notice under Section 885.204, the society:

(1) has not, to the commissioner's satisfaction, removed the commissioner's objections; or

(2) does not present good and sufficient reason why its certificate of authority should not be revoked.

(b) Section 885.203 applies to a decision by the commissioner to revoke a foreign fraternal benefit society's authority to engage in business in this state as if it were a decision to refuse to issue a certificate of authority.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.206. CONTINUANCE OF CONTRACTS FOLLOWING REVOCATION OF CERTIFICATE OF AUTHORITY. This subchapter may not be construed to prevent a foreign fraternal benefit society that has had its certificate of authority refused under former Article 10.23, Insurance Code, or a predecessor to that statute, or that has had its certificate of authority revoked, from continuing in good faith each contract made in this state during the time the society was authorized to engage in business in this state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER F. POWERS AND DUTIES OF FRATERNAL BENEFIT SOCIETY

Sec. 885.251. GENERAL POWERS. A fraternal benefit society may:

(1) make a constitution and bylaws for the government of the society, the admission of its members, the management of its affairs, and the setting and readjusting of premiums;

(2) amend its constitution and bylaws; and

(3) exercise other powers necessary and incidental to achieving its purposes.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.252. POWERS OF CERTAIN FRATERNAL BENEFIT SOCIETIES. (a) A fraternal benefit society engaged in business in this state on July 1, 1913, may exercise:

(1) each right conferred by this chapter; and

(2) if the society is incorporated, each right, power, or privilege exercised or possessed as of July 1, 1913, by the society under its charter or articles of incorporation consistent with this chapter.

(b) A fraternal benefit society engaged in business in this state on July 1, 1913, that is a voluntary association may incorporate under this chapter.

(c) A fraternal benefit society organized as of July 1, 1913, is not required to reincorporate under this chapter and may amend the society's articles of incorporation in the manner provided in the articles or the fraternal benefit society's laws. A society shall file an amendment described by this subsection with the department. The amendment becomes operative on filing unless a later time is provided in the amendment or in the fraternal benefit society's articles of incorporation or laws.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.253. PRINCIPAL OFFICE OF DOMESTIC FRATERNAL BENEFIT SOCIETY. A domestic fraternal benefit society shall have its principal office in this state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.254. IMMUNITY. (a) A director, officer, employee, member, or volunteer of a fraternal benefit society serving without compensation is not personally liable for damages resulting from an act or omission in the exercise of judgment or discretion in connection with the duties of that person for the society unless the act or omission involved wilful or wanton misconduct.

(b) This section does not limit a fraternal benefit society's direct or indirect liability.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.255. INDEMNIFICATION OR REIMBURSEMENT. (a) A fraternal benefit society may indemnify and reimburse a person for expenses reasonably incurred by, and liabilities imposed on, that person in connection with or arising out of a proceeding, whether civil, criminal, administrative, or investigative, in which the person is involved, or in connection with or arising out of a threat of a proceeding against that person, because that person is or was a director, officer, employee, or agent of:

(1) the society; or

(2) a firm, corporation, or organization with which the person served in any capacity at the request of the society.

(b) The right of indemnification and reimbursement under Subsection (a) is not exclusive of other rights to which a person may be entitled as a matter of law and inures to the benefit of the person's devisees, legatees, heirs, and estate.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.256. INDEMNIFICATION OR REIMBURSEMENT IN RELATION TO BREACH OF DUTY PROHIBITED. (a) Except as provided by Subsection (b), a person may not be indemnified or reimbursed under Section [885.255](#) in relation to:

(1) a matter in a proceeding in which the person is finally adjudged guilty of breach of a duty as a director, officer, employee, or agent of the fraternal benefit society; or

(2) an agreement that settles:

(A) a matter in a proceeding described by

Subdivision (1); or

(B) the threat of a proceeding involving the person's alleged breach of a duty as a director, officer, employee, or agent of a fraternal benefit society.

(b) A fraternal benefit society may indemnify or reimburse a person in relation to a matter described by Subsection (a) only if the supreme governing body, the board of directors, or a court determines that:

(1) the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society; and

(2) in a criminal proceeding, the person had no reasonable cause to believe that the person's conduct was unlawful.

(c) A determination by a supreme governing body or board of directors under Subsection (b) must be made by majority vote of a quorum consisting of persons who were not parties to the proceeding under review.

(d) The termination of a proceeding by judgment, order, settlement, or conviction or on a plea of no contest does not create a conclusive presumption that a person does not meet the standard of conduct required to justify indemnification and reimbursement.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.257. INSURANCE FOR DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS. (a) A fraternal benefit society may purchase and maintain insurance on behalf of a person who is or was a director, officer, employee, or agent of the society or who is or was serving at the request of the society as a director, officer, employee, or agent of another firm, corporation, or organization against a liability asserted against that person or incurred by that person in any capacity or arising out of that person's status as a director, officer, employee, or agent of the society or the other firm, corporation, or organization.

(b) A fraternal benefit society may purchase and maintain insurance under this section regardless of whether the society has the power to indemnify or reimburse the person with respect to the covered liability under Sections [885.255](#) and [885.256](#).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.258. MANAGEMENT AND USE OF ASSETS AND FUNDS. (a) A fraternal benefit society shall hold, invest, and disburse all assets for the use and benefit of the society. A member or beneficiary may not have or acquire individual rights in the assets of a fraternal benefit society or become entitled to any apportionment or surrender of any part of a society's assets except as provided by a benefit contract.

(b) A fraternal benefit society may create, maintain, invest, disburse, and apply any special fund necessary to implement any purpose permitted by the fraternal benefit society's laws.

(c) A fraternal benefit society may create, maintain, invest, disburse, and apply an emergency surplus or other similar fund in accordance with the fraternal benefit society's laws. Unless otherwise provided by a benefit contract, a fraternal benefit society shall hold, invest, and disburse a fund created under this subsection for the use and benefit of the society. A member or beneficiary may not have or acquire individual rights in a fund created under this subsection or become entitled to any apportionment or the surrender of any part of the fund except as provided by Section [885.301](#).

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.259. SOURCE OF FUNDS. (a) A fraternal benefit society shall derive the funds from which the society pays benefits and the funds from which the society defrays its expenses from:

- (1) premiums paid by members of the society; and
- (2) accretions of those funds.

(b) A domestic or foreign fraternal benefit society may not engage in business in this state unless the society provides for stated premiums sufficient to permit meeting the obligations contracted, when valued in accordance with the reserving standards specified by this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.260. SPECIFIED PAYMENTS. (a) A fraternal benefit

society may provide in the fraternal benefit society's laws and benefit certificates for specified payments on account of the expense or general fund.

(b) A payment under this section may or may not be mingled with the general fund of the fraternal benefit society as provided by the society's constitution and bylaws.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.261. CONTROL OF FUND BY LODGE. (a) This section applies if the constitution and bylaws of the grand lodge or governing body of a fraternal benefit society:

(1) provide that all or part of the beneficiary, mortuary, or insurance fund of the society that is paid by or collected from the members of a lodge may be retained in the custody of and controlled and managed by the lodge; and

(2) designate an officer of the lodge to have custody and control of a fund described by Subdivision (1) and authority to loan or invest the fund.

(b) A lodge officer having custody and control of a fund described by Subsection (a)(1) shall execute a bond or other written instrument to be prescribed and approved in terms and amount by the commissioner to indemnify the fund against waste, depletion, or loss. The lodge officer shall file the bond or other written instrument with the department, if required to do so by the department.

(c) A fund secured as provided by Subsection (b) is exempt from this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.262. INVESTMENT OF FRATERNAL BENEFIT SOCIETY FUNDS. (a) Except as provided by Subsection (b), a fraternal benefit society may invest its funds only in securities permitted by state law for the investment of the assets of life insurance companies.

(b) A foreign fraternal benefit society authorized to or seeking to engage in the business of insurance in this state that invests its funds in accordance with the laws of the state in which

the society is incorporated is considered to meet the requirements of this chapter for the investment of funds.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.263. TREATMENT OF DEFERRED CLAIMS. (a) A deferred payment or an installment of a claim is considered to be a fixed liability on the occurrence of the contingency on which the payment or installment is to be paid. The amount of the liability is the present value of the future payment or installment at the rates of interest and mortality assumed by the fraternal benefit society for valuation.

(b) A fraternal benefit society shall maintain a fund sufficient to meet each fixed liability under Subsection (a) regardless of proposed future collections to meet the liability.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER G. BENEFITS PROVIDED BY FRATERNAL BENEFIT SOCIETIES

Sec. 885.301. TYPES OF BENEFITS PERMITTED. (a) A fraternal benefit society may provide for the payment of:

- (1) death benefits in any form;
- (2) endowment benefits;
- (3) annuity benefits;
- (4) benefits for temporary or permanent disability resulting from disease or accident;
- (5) benefits for hospital, medical, or nursing expenses resulting from sickness, bodily infirmity, or accident;
- (6) benefits for the erection of a monument or tombstone to the memory of a deceased member;
- (7) funeral benefits; and
- (8) any other benefit that may be provided by a life, accident, or health insurance company and that is:

(A) offered in compliance with a law described by Section [841.002](#) applicable to a life, accident, or health insurance company; and

(B) consistent with this chapter.

(b) A fraternal benefit society shall:

(1) specify in the fraternal benefit society's laws or rules those persons to whom a benefit certificate may be issued or who may be covered by benefits; and

(2) make the provision of those benefits consistent with the provision of benefits to members and their beneficiaries.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.091, eff. April 1, 2009.

Sec. 885.302. ISSUANCE OF BENEFIT CONTRACTS ON VARIABLE BASIS. A fraternal benefit society may, as provided by a resolution of its supreme governing body, establish and operate one or more separate accounts and issue benefit contracts on a variable basis, subject to laws regulating a life insurance company that establishes those types of accounts and issues those types of contracts. To comply with applicable federal or state laws or rules, the society may:

(1) issue on a variable basis contracts to which Sections 885.306(b) and (c) and 885.311(a) do not apply; and

(2) adopt special procedures for conducting the business and affairs of a separate account and provide special voting and other rights for a person having beneficial interests in a separate account, including special procedures and rights relating to:

(A) investment policy;

(B) investment advisory services;

(C) selection of certified public accountants;

and

(D) selection of a committee to manage the business and affairs of the account.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.303. BENEFITS FOR CHILDREN. (a) A fraternal benefit society may provide by its laws, in addition to other benefits provided for by the fraternal benefit society's laws, for insurance or annuities, or insurance and annuities, on the lives of



children of any age, on the application of an adult individual related to or interested in the child, as provided by the fraternal benefit society's laws.

(b) A life insurance benefit contract issued on the life of an individual who is younger than a fraternal benefit society's minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the benefit certificate. A fraternal benefit society may require approval of an application for membership in order to make the transfer and may provide in all other respects for control of the benefit certificate and rights, obligations, and liabilities incident and connected to the certificate. Ownership rights under the benefit certificate before a transfer must be specified in the certificate.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.304. BENEFICIARIES. (a) The owner of a benefit contract may change the beneficiary at any time in accordance with a fraternal benefit society's laws or rules unless the owner waives that right by specifically requesting in writing that the beneficiary designation be irrevocable.

(b) A fraternal benefit society may, through the fraternal benefit society's laws or rules, limit the scope of beneficiary designations and shall provide that a person whose designation as a beneficiary is revocable may not have or obtain a vested interest in the proceeds, in conformity with the benefit contract.

(c) If, at the death of an insured, a lawful beneficiary to whom the proceeds of the benefit contract are payable does not exist under the benefit contract, a fraternal benefit society shall pay the amount of the benefit under the benefit contract:

(1) to the personal representative of the insured; or

(2) if the owner of the benefit certificate is a person other than the insured, to the owner of the certificate.

(d) Subsection (c) does not apply to the extent funeral benefits may be paid under the benefit contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.305. ORGANIZATION AS BENEFICIARY. A fraternal benefit society may provide in the fraternal benefit society's laws for the issuance to its members of benefit certificates under which an association, society, or corporation that is organized and operated for religious, eleemosynary, or educational purposes is named as beneficiary.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.306. BENEFIT CERTIFICATE. (a) A fraternal benefit society may not deliver or issue for delivery in this state a benefit certificate unless the form of the certificate has been filed under Chapter 1701.

(b) Each benefit certificate issued by a fraternal benefit society must:

(1) specify the amount of benefits provided under the certificate;

(2) state the amount of premiums that are payable under the certificate; and

(3) provide that the certificate, the society's charter or articles of incorporation or, if the society is a voluntary association, the society's articles of association, the fraternal benefit society's laws, the application for membership and medical examination, signed by the applicant, and all amendments to each of those constitute the agreement between the society and the member.

(c) An amendment to a fraternal benefit society's charter, articles of incorporation or association, or laws made or enacted after the issuance of a benefit certificate:

(1) binds the member and the member's beneficiaries; and

(2) controls the agreement in all respects as if the amendment had been in force at the time of the application for membership.

(d) A life, accident, health, or disability insurance benefit certificate or annuity benefit certificate issued by a fraternal benefit society must meet the requirements applicable to similar policies issued by an insurer in this state that are not

inconsistent with this chapter as determined by rule of the commissioner.

(e) A copy of a document described by Subsection (b)(3), certified by a fraternal benefit society's secretary or corresponding officer, shall be admitted as evidence of the terms of the agreement between the society and the member.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.092, eff. April 1, 2009.

Sec. 885.307. GRACE PERIOD. A fraternal benefit society shall include in the terms of a benefit certificate a grace period of at least one month for payment of premiums.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.308. ASSIGNMENT OF LIFE INSURANCE BENEFIT CONTRACT. A fraternal benefit society may specify the terms for the assignment of a life insurance benefit contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.309. NONFORFEITURE BENEFITS. (a) The value of a nonforfeiture benefit provided under a benefit certificate issued before January 1, 2001, must comply with the law applicable to the certificate immediately before that date.

(b) The value of a nonforfeiture benefit provided under a benefit certificate issued on or after January 1, 2001, is computed as provided under:

(1) the provisions of Chapters 1105 and 1107 applicable to life insurance companies issuing policies containing similar benefits; and

(2) the applicable tables required by those chapters.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.310. ENFORCING PAYMENT OF PREMIUMS; CONTROL OF BENEFIT CERTIFICATES. A fraternal benefit society may provide for:

(1) enforcing payment of premiums;

(2) designating beneficiaries; and

(3) controlling benefit certificates and all rights, obligations, and liabilities incident to the certificates not in conflict with this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.311. DEFICIENCY PAYMENTS. (a) A fraternal benefit society shall provide in the fraternal benefit society's laws that if the society's reserves for any class of the society's benefit certificates become impaired, the society's supreme governing body or board of directors may require the certificate holders to pay the society an equitable proportion of the deficiency as determined by the governing body or board. The aggregate assessment for the impaired reserves may not exceed the total amount required to comply with Section 885.408.

(b) If a holder of a benefit certificate does not pay a fraternal benefit society the amount determined under Subsection (a), the holder, in a manner determined by the society, may elect to accept:

(1) the amount determined under Subsection (a) as an indebtedness against the certificate, with the amount drawing interest at a rate that does not exceed the rate specified for a certificate loan under a certificate that has cash value;

(2) a proportionate reduction in the benefits payable under the certificate; or

(3) a combination of the limitations on the certificate described by Subdivisions (1) and (2).

(c) A fraternal benefit society may determine a presumed election for a holder of a benefit certificate under Subsection (b) if the holder fails to make an election.

(d) Not later than the 90th day before the proposed effective date of an assessment under Subsection (a), the fraternal benefit society shall file with the department an application for approval of the assessment and a statement sworn to by the president and secretary or corresponding officers of the society. The statement must:

(1) include:

(A) the terms of the assessment, including the proposed effective date; and

(B) a narrative statement of the financial condition of the fraternal benefit society; and

(2) state that the assessment:

(A) received approval by a majority vote of the supreme governing body or board of directors of the society; and

(B) complies with the requirements of this section.

(e) After the department receives a completed application, the commissioner may approve or disapprove the application. If the commissioner does not approve or disapprove the application before the 60th day after the date the department receives the completed application, the application is considered approved. The commissioner may impose an effective date earlier than the date requested in the application if the earlier effective date is in the best interests of the certificate holders.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 762 (H.B. [1251](#)), Sec. 1, eff. September 1, 2019.

Sec. 885.312. CONTINUATION OF BENEFIT CERTIFICATE ON EXPULSION OR SUSPENSION OF MEMBER. If a fraternal benefit society's laws provide for expulsion or suspension of a member, the benefit certificate must provide that a member who is expelled or suspended may maintain the certificate in force by continuing payment of the required premium unless the expulsion or suspension:

(1) is for nonpayment of a premium; or

(2) occurs within the contestable period of the benefit contract and is for material misrepresentation in the application for membership or insurance.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.313. CONTINUATION OF BENEFIT CERTIFICATE ISSUED ON CHILD. If the membership in a fraternal benefit society of a person responsible for the support of a child on whose account a benefit

certificate has been issued terminates, the certificate may be continued for the benefit of:

(1) the child's estate, if payment of the premiums is continued; or

(2) any other person responsible for the support and maintenance of the child, if the person assumes the payment of the required premiums.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.314. RESPONSIBILITY FOR PAYMENT OF BENEFITS. (a) An officer or member of the supreme, the grand, or any subordinate body of an incorporated fraternal benefit society is not individually liable for the payment of any disability or death benefit provided for by the fraternal benefit society's laws and contracts.

(b) Benefits are payable only out of the fraternal benefit society's funds and in the manner provided by the fraternal benefit society's laws.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.315. DAMAGES FOR FAILURE TO TIMELY PAY BENEFITS. A fraternal benefit society that is liable for a loss and that does not pay benefits before the 61st day after the date of the demand for payment is liable to the holder of the benefit certificate, in addition to the amount of the loss, for damages of 12 percent of the amount of the loss and reasonable attorney's fees for the prosecution and collection of the loss.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.316. EXEMPTION OF BENEFITS. Money or another benefit or charity to be paid or provided by a fraternal benefit society, before or after payment is not subject to attachment, garnishment, or other process and may not be seized or applied by any legal or equitable process or operation of law to pay any debt or liability of a member, a beneficiary, or any other person who may have a right under the benefit contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER H. AGENTS

Sec. 885.351. AGENTS. (a) A fraternal benefit society may appoint an agent licensed by the department under Subchapter B, Chapter 4054, to sell benefits listed under Section 885.301(a) to society members.

(b) Except as provided by Section 885.352, a person may not solicit or procure benefit contracts for a fraternal benefit society unless the person is licensed as a general life, accident, and health agent or a life agent under Subchapter B, Chapter 4054.

(c) The licensing and regulation of agents for fraternal benefit societies is subject to Title 13 and other laws regulating those agents.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.222(a), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 548 (S.B. 1263), Sec. 2.08, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.093, eff. April 1, 2009.

Reenacted by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 14.011, eff. September 1, 2009.

Sec. 885.352. EXCEPTION. (a) Section 885.351(b) does not apply to an agent, representative, or member of a fraternal benefit society who devotes less than 50 percent of the person's time to the solicitation and procurement of benefit contracts for that society.

(b) For purposes of this section, a person is presumed for a calendar year to have devoted at least 50 percent of the person's time to the solicitation or procurement of benefit contracts if, in the preceding calendar year, the person solicited or procured on behalf of a fraternal benefit society:

(1) life insurance contracts that have generated, in the aggregate, more than \$20,000 of direct premiums for all lives insured;

(2) benefit contracts other than life insurance contracts that have insured the individual lives of more than 25 persons; or

(3) variable life insurance or variable annuity contracts.

(c) A person to whom this section applies may not solicit or procure on behalf of a fraternal benefit society an interest-sensitive life insurance contract that exceeds \$35,000 of coverage on an individual life unless the person holds the designation of fraternal insurance counselor.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.222(b), eff. Sept. 1, 2003.

Sec. 885.353. EMPLOYMENT OF CERTAIN PERSONS TO SOLICIT BUSINESS PROHIBITED. A fraternal benefit society may not employ or otherwise retain a person to solicit business if the person has had a license revoked under Chapter 4005.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.094, eff. April 1, 2009.

#### SUBCHAPTER I. REGULATION OF FRATERNAL BENEFIT SOCIETIES

Sec. 885.401. ANNUAL REPORT. (a) Each fraternal benefit society engaged in business in this state shall annually, on or before March 1:

(1) file with the department in the form required by the commissioner a statement, under oath of the society's president and secretary or corresponding officers, of:

(A) the society's condition and standing on the preceding December 31; and

(B) the society's transactions for the preceding calendar year; and

(2) provide additional information the commissioner considers necessary to demonstrate the society's business and



method of operation.

(b) The commissioner may periodically require any additional statement the commissioner considers necessary relating to a fraternal benefit society.

(c) The department or the state may use the report required under Subsection (a) in determining a fraternal benefit society's financial solvency.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.402. REPORTS OF CERTAIN GRAND LODGES. The officers of the supreme state governing body of a grand lodge considered to be a single state organization under Section 885.006 shall make each report required by this chapter. The report must include the transactions, liabilities, and assets of the state organization.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.403. VALUATION OF BENEFIT CERTIFICATES. (a) A fraternal benefit society shall include in its report under Section 885.401 a valuation of the society's benefit certificates in force on the preceding December 31. The report of valuation shall show:

(1) as contingent liabilities, the present midyear value of the promised benefits provided by the fraternal benefit society's laws under the benefit certificates subject to valuation; and

(2) as contingent assets, the present midyear value of the future net premiums provided by the fraternal benefit society's laws as the premiums are in practice actually collected.

(b) At the option of a fraternal benefit society, instead of the valuation determined under Subsections (a)(1) and (2), the valuation may show the net value of benefit certificates subject to valuation under Subsection (a). The net value, when computed in case of monthly premiums, may be the mean of the terminal values for the end of the preceding and of the current insurance years.

(c) The valuation, including the valuation of benefit certificates, must be certified by an actuary or, at the request and expense of the fraternal benefit society, verified by the actuary

of the insurance department of the society's home state.

(d) The legal minimum standard of valuation for all benefit certificates, other than benefit certificates for accident and health benefits, is computed using a mortality table and interest rate specified by Section 885.404.

(e) Each valuation report must set out clearly and fully the mortality and interest rates and the method of valuation.

(f) The report required by Section 885.401 must also include a valuation of benefit certificates in accordance with Section 885.408.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.404. MORTALITY TABLES; INTEREST RATES. (a) In valuing benefit certificates under Section 885.403, a fraternal benefit society, at the option of the society, may use:

(1) the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress, August 23, 1899;

(2) any table producing reserves in the aggregate at least as great as the reserves produced by the table described by Subdivision (1);

(3) the Commissioners 1941 Standard Ordinary Mortality Table;

(4) the Commissioners 1958 Standard Ordinary Mortality Table; or

(5) except as provided by Subsection (e), a table based on the society's own experience of at least 20 years and covering at least 100,000 lives.

(b) Notwithstanding Subsection (a), a fraternal benefit society may value the society's benefit certificates in accordance with valuation standards otherwise authorized by state law for the valuation of similar policies issued by life insurance companies.

(c) For any category of benefit certificates issued to insure a female risk, a modified net premium or present value referred to in Subchapter B, Chapter 425, may be computed according to an age not more than six years younger than the actual age of the insured.

(d) The interest assumption used with a mortality table described by Subsection (a)(1), (2), (3), or (4) may not be more than 4-1/2 percent a year. The interest assumption used with a mortality table described by Subsection (a)(5) may not be more than four percent a year.

(e) A fraternal benefit society may not use a table based on the society's own experience for a benefit certificate issued on or after January 1, 1989.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.095, eff. April 1, 2009.

Sec. 885.405. VALUATION OF AND SEPARATE FUND FOR DISABILITY BENEFITS. (a) A fraternal benefit society that provides for disability benefits shall keep the net premiums for disability benefits in a fund separate from all other benefit and expense funds and the valuation of all other business of the society.

(b) Notwithstanding Subsection (a), if a fraternal benefit society uses a combined premium table for both death and permanent total disability benefits:

(1) the valuation must be according to tables of reliable experience; and

(2) the society is not required to maintain a separation of those funds.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.406. PUBLICATION OF VALUATION AND CONDITION. A fraternal benefit society shall publish, in the society's official paper, a statement of:

(1) the valuation provided by Sections 885.403 and 885.405; and

(2) an explanation of the facts concerning the society's condition disclosed by that valuation.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.407. SOLVENCY. (a) If a fraternal benefit

society reports admissible assets greater than the society's liabilities in an amount that authorizes the commissioner to place the society under regulatory control and the commissioner reasonably believes the society's hazardous financial condition will not be promptly remedied without intervention by the department, the commissioner may order the society to promptly seek and negotiate an agreement to transfer in accordance with this section all benefit members, benefit certificates, assets, and liabilities of the society to another fraternal benefit society. A transfer under this section:

(1) may be by merger, consolidation, assumption, or otherwise;

(2) constitutes an entire novation of each benefit certificate transferred by the society in a hazardous financial condition, and the receiving society is legally and contractually responsible for each transferred certificate;

(3) must conclude before the deadline set by the commissioner;

(4) may be approved by a vote of the majority of the supreme governing body or board of directors of the society in a hazardous financial condition, notwithstanding Section [885.063\(a\)\(2\)\(C\)](#) or any provision of the society's laws to the contrary; and

(5) is subject to approval by the commissioner.

(b) Not later than the seventh day before the date the supreme governing body or board of directors of a fraternal benefit society votes on a transfer proposed under Subsection (a), the governing body or board shall provide the society's certificate holders written notice of and an opportunity to comment on the proposed transfer. If the governing body or board approves the transfer, the governing body or board shall provide the certificate holders' comments to the commissioner.

(c) The supreme governing body or board of directors of a fraternal benefit society receiving benefit certificates pursuant to a transfer under an agreement described by Subsection (a) may suspend or modify qualifications for membership in the receiving society to the extent necessary to permit the society to accept the

certificate holders of the society transferring certificates under the agreement, notwithstanding any provision of the receiving society's laws to the contrary.

(d) The commissioner may grant to a fraternal benefit society that is not authorized to engage in the business of insurance in this state the authority to service benefit certificates transferred pursuant to Subsection (a) and fulfill all obligations to the holders of the certificates. Commissioner action under this subsection does not authorize the fraternal benefit society to otherwise engage in the business of insurance in this state.

(e) A transfer under Subsection (a) may be made to an insurer that is not a fraternal benefit society if the insurer is authorized to engage in the business of insurance in this state. A holder of a certificate subject to a transfer as authorized by this subsection is deemed to agree that any term in the certificate, including a term that makes the certificate subject to the transferring society's laws or that provides for maintenance of the transferring society's solvency that is inconsistent with transfer to an insurer that is not a fraternal benefit society, is void on transfer of the certificate. The receiving insurer shall endorse on a form approved by the commissioner each benefit certificate received by a transfer made under this section to reflect any terms of the certificate voided by this subsection. A certificate holder's obligation to pay an outstanding assessment under Section [885.311](#) that is not released under the transfer agreement is not released or voided by this subsection.

(f) The commissioner may request the attorney general bring an action under Section [885.502](#) to terminate a fraternal benefit society that fails to comply with an order under this section or fails to remedy the financial condition that gave rise to the order.

(g) The powers and authority of the commissioner under this section are cumulative and in addition to all other powers and authority to remediate the financial condition of a fraternal benefit society available to the commissioner.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 762 (H.B. 1251), Sec. 2, eff. September 1, 2019.

Sec. 885.408. RESERVES FOR ACCIDENT AND HEALTH INSURANCE.

(a) A fraternal benefit society shall establish reserves for the types of coverage specified by Sections 885.301(a)(4) and (5) in the same manner and to the same extent as required for a company organized under Chapter 841.

(b) Sections 425.203-425.228 apply to reserve investments for a domestic fraternal benefit society.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.096, eff. April 1, 2009.

Sec. 885.409. REPORTING OF RESERVES. The report of a fraternal benefit society under Section 885.401 must show as a liability the reserves required by this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.410. EXAMINATION OF DOMESTIC FRATERNAL BENEFIT SOCIETIES. A domestic fraternal benefit society is subject to:

- (1) Subchapter A, Chapter 86;
- (2) Subchapter A, Chapter 401; and
- (3) Sections 401.051, 401.052, 401.054-401.062, 401.151, 401.152, 401.155, and 401.156.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.097, eff. April 1, 2009.

Sec. 885.411. EXAMINATION OF FOREIGN FRATERNAL BENEFIT SOCIETIES. (a) The commissioner or a person appointed by the commissioner may examine a foreign fraternal benefit society transacting or applying for admission to engage in business in this state. The commissioner may employ assistants for this purpose.

(b) The commissioner or a person appointed by the

commissioner to examine a foreign fraternal benefit society:

(1) is entitled to free access to all books, papers, and documents that relate to the business of the society; and

(2) may summon, qualify as witnesses under oath, and examine the society's officers, agents, and employees and other persons in relation to the affairs, transactions, and conditions of the society.

(c) Instead of an examination under this section, the commissioner may accept the examination of the insurance department of the state, territory, district, province, or country in which a foreign fraternal benefit society is organized.

(d) If a foreign fraternal benefit society or the society's officers refuse to permit an examination under this section or to comply with the provisions of law relating to an examination, the commissioner shall suspend the society's authority to write new business in this state or refuse the society's application for a certificate of authority. A suspension or refusal under this subsection continues until the commissioner receives satisfactory evidence relating to the condition and affairs of the society. A foreign fraternal benefit society may not write any new business in this state during a suspension under this subsection.

(e) A foreign fraternal benefit society is subject to the provisions of Subchapter A, Chapter 86, and Sections 401.051, 401.052, 401.054-401.062, 401.151, 401.152, 401.155, and 401.156 that apply to an insurer that is not organized under the laws of this state but is authorized to engage in business in this state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.098, eff. April 1, 2009.

Sec. 885.412. ADVERSE PUBLICATION PROHIBITED. (a) Pending, during, or after an examination or investigation of a fraternal benefit society, the commissioner may not make public a financial statement, report, or finding, or permit a financial statement, report, or finding affecting the status, standing, or rights of the society to become public, until:

(1) the commissioner serves a copy of the statement, report, or finding on the society at its home office; and

(2) the society has been provided a reasonable opportunity to:

(A) answer the statement, report, or finding; and

(B) make a showing in connection with the statement, report, or finding as the society desires.

(b) This section does not apply to a proceeding involving a fraternal benefit society instituted by the commissioner or the state, including an administrative hearing, a proceeding under Chapter 441 or 443, or a court proceeding.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.099, eff. April 1, 2009.

Sec. 885.413. FEES. The department shall deposit fees collected under this chapter to the credit of the Texas Department of Insurance operating account. Sections 201.001 and 201.002 apply to fees collected under this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.100, eff. April 1, 2009.

Sec. 885.414. REMEDIES NOT EXCLUSIVE. (a) This chapter does not prevent or limit any action by or remedy available to the department or the state under Chapter 441 or 443 or other applicable law.

(b) In addition to any other provision of law relating to disciplinary action regarding a fraternal benefit society, Chapter 82 applies to a fraternal benefit society.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.101, eff. April 1, 2009.



SUBCHAPTER J. CONVERSION OF FRATERNAL BENEFIT SOCIETY

Sec. 885.451. CONVERSION OF FRATERNAL BENEFIT SOCIETY TO MUTUAL OR STOCK COMPANY. (a) Subject to Subsection (b), a fraternal benefit society engaging in business in this state may convert to a mutual life insurance company or incorporated stock company by complying with this subchapter.

(b) A fraternal benefit society may not convert to a mutual life insurance company or incorporated stock company except on terms that, in the commissioner's opinion, will fully protect the rights and interests of the society's members and holders of benefit certificates.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.452. MEETING OF LODGE REPRESENTATIVES; NOTICE.

(a) The governing body of a fraternal benefit society that proposes converting to a mutual life insurance company or incorporated stock company shall call a meeting of lodge representatives. The meeting may not be held before the 90th day after the date the meeting is called.

(b) Not later than the 40th day before the date of the meeting, the fraternal benefit society shall mail to each society member or holder of a benefit certificate, at the member's or holder's mailing address as shown by the society's records, and to each lodge:

- (1) notice of the meeting; and
- (2) a general plan of the proposed conversion.

(c) Not later than the 20th day after the date of receipt of the notice, each lodge shall meet in a regular or called session to act on the proposal and choose a representative to the governing body for the state, if the society operates in more than one state.

(d) The lodge representatives chosen under Subsection (c) shall meet and choose the requisite number of representatives to which the state is entitled to the supreme or grand lodge, if that body is located in this state.

(e) A fraternal benefit society shall submit the plan of the

proposed conversion to the commissioner, and the commissioner must approve the plan, before the society may submit the plan to the society's members, holders of benefit certificates, and lodges.  
Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.453. RESOLUTION TO CONVERT; ADDITIONAL REQUIREMENTS. (a) As provided by the notice under Section 885.452 and after convening the supreme governing body of the fraternal benefit society, the lodge representatives shall vote on whether to adopt a resolution authorizing the conversion of the society to a mutual life insurance company or incorporated stock company. To take effect, the resolution must be approved by lodge representatives of lodges that constitute at least 60 percent of the total membership of the fraternal benefit society.

(b) The resolution authorizing the conversion must:

(1) set out or ratify a certificate of incorporation amending the fraternal benefit society's charter; and

(2) state:

(A) the society's name;

(B) the name of the new company by which the society will be known;

(C) the object of the company;

(D) the location of the company's principal office;

(E) the names of the principal officers of the company, who serve until their successors are elected and qualified; and

(F) the period, if any, of the duration of the company.

(c) If the fraternal benefit society is converting to a mutual life insurance company:

(1) the resolution authorizing the conversion must also state the amount of the unencumbered surplus;

(2) the amount and form of the unencumbered surplus must comply with Sections 882.055, 882.301(a), 882.302, 882.304, and 882.404; and

(3) the conversion must comply with Sections

882.056(a) and (b), 882.057, 882.058, 882.059, and 882.101.

(d) If the fraternal benefit society is converting to an incorporated stock company:

(1) the resolution authorizing the conversion must also state:

(A) the amount of the surplus, the amount of capital stock authorized, and the number of shares into which the capital stock is divided; and

(B) the amount of capital stock to be immediately paid in;

(2) the amounts and form of the surplus and capital must comply with Sections 841.054, 841.055, 841.056, 841.057, 841.204, 841.205, 841.301, and 841.302; and

(3) the conversion must comply with Sections 841.058, 841.059(a)(1), 841.060, 841.061, 841.062, and 841.063.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.454. CONVERSION DOCUMENTS. (a) A fraternal benefit society that converts to a mutual life insurance company or incorporated stock company shall file with the department:

(1) the certificate of incorporation as adopted or amended; and

(2) a report of the meeting of lodge representatives, certified by the presiding officers under the corporate seal of the fraternal benefit society.

(b) The certificate of incorporation must be incorporated in the charter of the proposed company.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.455. SALE OF STOCK OF CONVERTED FRATERNAL BENEFIT SOCIETY. (a) If a fraternal benefit society converts to an incorporated stock company, each holder of a benefit certificate or other member of the society has a preference right to subscribe for the proportion of the total capital stock offered for sale that the amount of the member's insurance bears to the society's total insurance in force at the time the society's supreme governing body authorizes the conversion. The right provided by this subsection

expires on the 90th day after the date the society's supreme governing body authorizes the conversion.

(b) Before an incorporated stock company that is converted from a fraternal benefit society may offer any stock for public sale, the society's membership has a preference right to purchase the stock. A member may not subscribe for or purchase more than:

(1) 25 percent of the capital stock of the new company;

or

(2) 10 percent of the capital stock of the new company, if there are other members applying in writing to purchase stock whose subscriptions are not filled.

(c) If the membership of a converted fraternal benefit society has not subscribed for the total capital stock authorized, the new company may permit others who were not society members at the time of the conversion to subscribe for stock and hold equal rights in the ownership of the stock.

(d) Not later than the 10th day after the date a fraternal benefit society approves a resolution authorizing the society to convert to an incorporated stock company, the society shall notify each holder of a benefit certificate or other member of:

(1) the member's right to subscribe for and purchase the stock of the incorporated stock company;

(2) the amount of stock for which the member is entitled to subscribe; and

(3) all other terms of the subscription and purchase.

(e) The notice required under Subsection (d) must be in a form approved by the department. Proof of depositing a letter addressed to each holder of a benefit certificate or other member providing the notice in the approved form is considered proof of compliance with the requirements of Subsection (d) and this subsection.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.456. LEGAL EFFECT OF CONVERSION TO MUTUAL LIFE INSURANCE COMPANY. A fraternal benefit society that converts to a mutual life insurance company is subject to Chapter 882.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.457. COMPLETION AND LEGAL EFFECT OF CONVERSION TO STOCK COMPANY. (a) The conversion of a fraternal benefit society to an incorporated stock company is complete when the society has:

(1) complied with this subchapter and other state law regulating the incorporation of a life insurance company; and

(2) received from the commissioner its charter or certificate of authority to transact business as an incorporated stock company.

(b) A fraternal benefit society that converts to an incorporated stock company:

(1) is considered by law to have each right, privilege, power, or authority of any other stock corporation organized for engaging in the business of life insurance in this state;

(2) is subject to laws applicable to a stock corporation organized under Chapter 841 for engaging in the business of life insurance in this state;

(3) is considered by law to be a continuation of the business of the fraternal benefit society on the formation of the new company or amendment of its former charter; and

(4) succeeds to and is invested with each right, privilege, or franchise and all property of the former society, including debts due on any account and all choses in action.

(c) On conversion of a fraternal benefit society to an incorporated stock company, the title to any real estate by deed or otherwise vested in the society vests in the company, and the title is not in any way impaired because of the conversion.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.458. CONTINUING OBLIGATIONS OF CONVERTED FRATERNAL BENEFIT SOCIETY. (a) The rights of each member, holder of a benefit certificate, or creditor and the standing of each claim against a fraternal benefit society that converts under this subchapter must be preserved unimpaired under the new corporation.

(b) Each debt, liability, and duty of a converted fraternal benefit society attaches to the new corporation and may be enforced

against it to the same extent as if the debt or liability had been incurred or contracted by the new corporation.

(c) Each outstanding benefit certificate issued by a converted fraternal benefit society is a valid obligation of the new corporation without the issuance of a new certificate.

(d) A new corporation formed from a converted fraternal benefit society is obligated to perform each obligation owing by the society to a holder of a benefit certificate issued by the society. The holder may enforce a benefit certificate against the new corporation to the same extent as if the certificate had been issued by the new corporation after conversion.

(e) A pending suit in which a converted fraternal benefit society was a party is not affected by the conversion and may be prosecuted by or against the new corporation as if the conversion had not taken place.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.459. NAME OF CONVERTED FRATERNAL BENEFIT SOCIETY. The name of a mutual life insurance company or incorporated stock company to which a fraternal benefit society converts:

(1) must, if possible, be a continuation of the society's name; and

(2) may not, if the new company's name is changed from the society's name, be:

(A) the same as that of any other company engaging in business in this state; or

(B) a name similar to that of any other company engaging in business in this state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.460. PRINCIPAL OFFICE OF CONVERTED FRATERNAL BENEFIT SOCIETY. The principal office of a mutual life insurance company or incorporated stock company created by the conversion of a fraternal benefit society under this subchapter must be located in this state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.461. SOCIAL OR CHARITABLE CLUBS FORMED BY MEMBERS OF CONVERTED FRATERNAL BENEFIT SOCIETY. The members of a converted fraternal benefit society or the policyholders in the new corporation may form local clubs for social and charitable purposes. A club formed under this section:

(1) may not be connected with the management of the corporation; and

(2) does not affect the corporation's liability or the insurance in effect.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER K. TERMINATION OF FRATERNAL BENEFIT SOCIETY

Sec. 885.501. DISCONTINUATION OF BUSINESS BY DOMESTIC FRATERNAL BENEFIT SOCIETY. A domestic fraternal benefit society's certificate of authority becomes void if the society:

(1) discontinues business for a period of one year; or

(2) has fewer than 400 members holding benefit certificates.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.502. INITIATION OF PROCEEDINGS FOR TERMINATION OF DOMESTIC FRATERNAL BENEFIT SOCIETY. (a) The commissioner may advise the attorney general of the commissioner's determination if:

(1) after examining a domestic fraternal benefit society, the commissioner determines that the society:

(A) has failed to comply with any provision of this chapter;

(B) is exceeding its powers;

(C) is not fulfilling its contracts in good faith; or

(D) is engaging in business fraudulently; or

(2) the commissioner determines that a domestic fraternal benefit society:

(A) has, after its first year of existence, had fewer than 400 members; or

(B) has discontinued business.

(b) The attorney general shall bring an action in quo warranto against the fraternal benefit society if the attorney general determines that circumstances warrant the action.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.503. ISSUANCE OF INJUNCTION AND APPOINTMENT OF RECEIVER. (a) If it appears on the trial of an action brought under Section 885.502(b) that the fraternal benefit society should be closed, the court shall:

(1) enjoin the society from engaging in further business; and

(2) appoint a receiver for the society.

(b) A receiver appointed under Subsection (a)(2) shall:

(1) immediately take possession of the books, papers, money, and other assets of the fraternal benefit society; and

(2) promptly, under the court's direction, proceed to close the society's affairs and distribute its funds to the persons entitled to those funds.

(c) A court in this state may not hear an application for an injunction against or proceedings for the dissolution of or the appointment of a receiver for a domestic fraternal benefit society or lodge unless the attorney general makes the application or brings the proceedings.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER O. CRIMINAL PENALTIES

Sec. 885.701. FALSE STATEMENTS; CRIMINAL PENALTY. (a) A person commits an offense if the person wilfully makes a false or fraudulent statement or representation:

(1) in or with reference to an application for membership in a fraternal benefit society authorized to engage in business in this state; or

(2) for the purpose of obtaining money from or benefits in a fraternal benefit society transacting business under this chapter.

(b) An offense under this section is a misdemeanor



punishable by:

(1) a fine of not less than \$100 or more than \$500;

(2) confinement in jail for not less than 30 days or more than one year; or

(3) both the fine and confinement.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.702. SOLICITING MEMBERSHIP IN UNAUTHORIZED FRATERNAL BENEFIT SOCIETY; CRIMINAL PENALTY. (a) A person commits an offense if the person solicits membership for or in any manner assists in procuring membership in a fraternal benefit society that is not authorized to transact business in this state.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.703. SOLICITING MEMBERSHIP IN LODGE OF UNAUTHORIZED FRATERNAL BENEFIT SOCIETY; CRIMINAL PENALTY. (a) A person commits an offense if the person solicits for or organizes a lodge of a fraternal benefit society without first obtaining from the commissioner a certificate of authority that entitles the society to engage in business in this state.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$100 or more than \$250;

(2) confinement in jail for not less than three months or more than six months; or

(3) both a fine and confinement.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.704. EXCEPTION TO SOLICITATION OFFENSES. Sections [885.702](#) and [885.703](#) do not:

(1) prohibit a member of an existing lodge from soliciting a person to become a member of the lodge; or

(2) apply to a member of a lodge who participates in, directs, or conducts the organization or establishment of a lodge within the limits of the county in which the person resides or of

the person's lodge district.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.705. GENERAL CRIMINAL PENALTY. (a) An officer, agent, or employee of a domestic fraternal benefit society commits an offense if the person neglects, refuses to comply with, or violates any provision of the laws of this state governing domestic fraternal benefit societies.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 885.706. OTHER PENALTIES. Notwithstanding Section [885.705](#), if another section of this chapter provides a penalty for a violation of the section, the penalty provided in the other section prevails.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.