

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES
SUBTITLE E. MUTUAL AND FRATERNAL COMPANIES AND RELATED ENTITIES
CHAPTER 887. PROVISIONS APPLICABLE TO CERTAIN MUTUAL ASSESSMENT
COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 887.001. DEFINITIONS. In this chapter:

(1) "Assessment" means any money or thing of value, including premiums, paid in consideration of insurance provided by an insurance certificate.

(2) "Association" means an organization subject to this chapter.

(3) "Insurance certificate" means an insurance policy, contract of insurance, certificate of membership, or other document through which insurance is effected or evidenced.

(4) "Member" includes a certificate holder or any other insured of an association.

(5) "Membership fee" means the amount of the first assessment or assessments placed in the expense fund of an association and representing the cost of soliciting or procuring a member, as permitted by the department.

(6) "Mortuary fund" includes a mortuary fund, relief fund, claim fund, or similar fund.

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

Sec. 887.002. PURPOSE. The primary purpose of this chapter and Chapter 888 is to secure to members and the beneficiaries of members the full and prompt payment of all claims, according to the maximum benefit provided under the insurance certificate.

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

Sec. 887.003. APPLICABILITY OF CHAPTER. (a) This chapter governs:

- (1) local mutual aid associations;
- (2) statewide mutual life associations;

- (3) life, health, and accident associations;
- (4) mutual assessment life, health, and accident associations;
- (5) burial associations; and
- (6) similar entities.

(b) Except as provided by Section 887.004, this chapter applies to insurance companies and associations, whether incorporated or not:

(1) that issue policies or certificates of insurance on the lives of individuals on a mutual assessment plan or that provide health and accident benefits on a mutual assessment plan or whose funds are derived from assessments on certificate holders or members; and

(2) that are not governed by:

(A) Chapter 841, 861, 882, 883, 885, 941, or 942;

or

(B) Chapter 5, Title 78, Revised Statutes, as provided by Section 18, Chapter 40, Acts of the 41st Legislature, 1st Called Session, 1929, as amended by Section 1, Chapter 60, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929.

(c) This chapter does not apply to mutual fire insurance companies.

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

Sec. 887.004. INAPPLICABILITY TO CERTAIN ORGANIZATIONS OF MEMBERS OF RELIGIOUS DENOMINATION. This chapter does not apply to an association that:

(1) is not operated for profit;

(2) is composed only of the members of a particular religious denomination;

(3) does not provide insurance benefits in an amount greater than \$1,000 on any one individual; and

(4) does not pay any officer of the association a salary greater than \$100 a month.

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

Sec. 887.005. DEPARTMENT OF PUBLIC SAFETY EMPLOYEE MUTUAL ASSOCIATION. Notwithstanding any other provision of this chapter, a mutual association for employees of the Department of Public Safety may provide coverage and benefits to retired officers and employees of that department.

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

Sec. 887.006. CONSTRUCTION. (a) This chapter does not:

- (1) enlarge the powers or rights of any association;
- (2) enlarge the scope of an association's legal or corporate existence; or
- (3) authorize the creation of any association or corporation to engage in the business of insurance described by Section 887.003(b) if that creation is not specifically permitted by law.

(b) The laws prohibiting or limiting creation of an association and the exercise of corporate power are not affected by this chapter.

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

Sec. 887.007. DEPOSIT OF FEES. The department shall deposit a fee collected under this chapter to the credit of the Texas Department of Insurance operating account.

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

Sec. 887.008. INTERPRETATION OF CHAPTER BY COMMISSIONER. If a provision of this chapter appears obscure when applied to health, accident, or disability provisions in an insurance certificate issued by an association authorized to issue health, accident, or disability certificates, the commissioner shall interpret the provision in accordance with the expressed purpose of this chapter and looking to the full payment of claims and preserving to members the benefit of the association's protection.

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

Sec. 887.009. RULES. The commissioner may adopt reasonable rules to implement the purposes of this chapter.

SUBCHAPTER B. GENERAL POWERS AND DUTIES; OFFICERS AND DIRECTORS

Sec. 887.051. BYLAWS. (a) An association shall submit to the department a copy of the association's bylaws. The department shall examine the bylaws and approve the bylaws if they comply with this chapter. The association shall conform the bylaws to this chapter if they are not in compliance.

(b) On approval of the bylaws under Subsection (a), an association shall file with the department a copy of the bylaws certified by the president or general manager and the secretary of the association.

(c) An association's bylaws must contain all things required by this chapter and may not contain any provision in conflict with this chapter.

(d) An association's bylaws must provide for periodic and special meetings of the membership.

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

Sec. 887.052. AMENDMENT OF BYLAWS. (a) A majority of an association's members present at a regular meeting or at a meeting called for the purpose may amend the association's bylaws.

(b) An association shall mail to all members notice of any regular or special meeting at which amendments to bylaws will be considered. The notice must contain:

- (1) a complete copy of the proposed amendments; and
- (2) a fair explanation of the intent and effect of the proposed amendments.

(c) An amendment must be ratified by the association's board of directors.

(d) An association shall file with the department, in the same manner provided for filing bylaws under Section [887.051](#), an amendment adopted by the association. An amendment is not effective unless approved by the department.

(e) An association shall mail to each member a certified copy of any amendment to the association's bylaws at the next

assessment after the amendment to the bylaws is made.

(f) On adoption of an amendment to an association's bylaws that might affect the insurance rights of the association's members, the association shall immediately send a copy of the amendment by first class mail to each affected member. The burden of proof is on the association to prove that the association mailed the amendment.

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

Sec. 887.053. IMMUNITY. An officer, director, or member of an association is not individually liable because of an insurance certificate issued by the association or a claim arising from an insurance certificate.

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

Sec. 887.054. FINANCIAL OFFICER; BOND. (a) An association, by resolution entered in its minutes, shall designate an officer to be responsible for handling the association's funds. The president, secretary, or general manager of the association must certify a copy of the resolution, and the association shall file the copy with the department.

(b) Except as provided by Subsection (c) or (d), the association shall make and file a surety bond covering the officer designated under Subsection (a). The bond must:

(1) be issued by a corporate surety company authorized to issue surety bonds in this state;

(2) be satisfactory to the department and payable to the department for the use and benefit of the association;

(3) obligate the principal and surety to pay any monetary loss sustained by the association through an act of fraud, dishonesty, forgery, theft, embezzlement, or wilful misapplication by the officer, whether acting alone or with other persons, while employed as or exercising the powers of an officer designated under Subsection (a); and

(4) be in an amount of:

(A) at least \$2,500; or

(B) if the association's mortuary fund exceeds

\$2,500, an amount equal to the lesser of:

(i) the amount of the association's mortuary fund; or

(ii) \$20,000.

(c) Instead of the bond required by Subsection (b), the officer designated under Subsection (a) may deposit with the department cash or securities approved by the department in the amount and subject to the conditions applicable to the bond.

(d) Except as provided by Subsection (e), this section does not apply to a local mutual aid association that was operating on May 12, 1939, and has never:

(1) had a total membership of more than 1,000 members;

(2) charged more than \$1 each for annual dues and assessments; and

(3) charged more than \$2.50 for membership fees.

(e) An association to which Subsection (d) applies must file with the department a bond in the amount of \$1,000, conditioned as provided for a bond under Subsection (b).

(f) Successive recoveries may be made on a bond under this section until the amount of the bond is exhausted.

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

Sec. 887.055. BOND REQUIREMENTS FOR CERTAIN PERSONS. (a) In addition to the bond required by Section [887.054](#) and any other bond required by law, an association shall obtain a separate or blanket surety bond covering each other person who may have access to the association's mortuary funds. The bond must:

(1) be issued by a surety authorized by the department to engage in business in this state;

(2) be payable to the department for the use and benefit of the association;

(3) obligate the principal and surety to pay any monetary loss sustained by the association through an act of fraud, dishonesty, forgery, theft, embezzlement, or wilful misapplication by a covered person, whether acting alone or with other persons; and

(4) be in an amount determined by the department of at

least \$1,000 but not more than \$5,000.

(b) Successive recoveries may be made on a bond under this section until the amount of the bond is exhausted.

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

Sec. 887.056. RECOVERY ON BOND. (a) On receipt of information that an officer of an association has violated the terms of a bond under Section 887.054 or 887.055, the department shall demand from the officer a written explanation of the charge.

(b) If after an explanation under Subsection (a) the department is not satisfied regarding the existing facts in controversy, the department shall:

(1) notify the officer to appear in Travis County, not earlier than the 11th day or later than the 16th day after service of notice, with any records and other information the department considers proper; and

(2) conduct an examination into the charge against the officer.

(c) If after an examination under Subsection (b) the department is satisfied that the officer violated the terms of the bond, the department shall:

(1) immediately notify the company executing the bond;

(2) prepare a written statement covering the facts; and

(3) deliver the statement to the attorney general.

(d) On receipt of a statement under Subsection (c), the attorney general shall investigate the charges. If the attorney general is satisfied that the officer violated the terms of the bond, the attorney general shall:

(1) enforce the liability against the cash or securities provided as surety by the officer; or

(2) in the name of the commissioner, file suit in Travis County on the bond for the benefit of the bond's beneficiaries against the officer as principal and the sureties for the recovery of:

(A) any amounts due by the officer; and

(B) all costs of the suit.

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

Sec. 887.057. DEPOSIT. (a) An association shall, through the department, deposit with the comptroller an amount equal to the largest risk assumed by the association on any one life or individual.

(b) A deposit under this section must be cash or convertible securities subject to approval by the department.

(c) A deposit is liable for the payment of any final judgment against the association and is subject to garnishment after a final judgment against the association.

(d) An association shall immediately replenish a deposit under this section if the deposit is impounded or depleted. If the association fails to immediately replenish the deposit on demand by the department, the department may consider the association insolvent and take appropriate action.

(e) An association may not state in an advertisement, in a letter, in literature, or otherwise that it has made a deposit with the department as required by law, unless the association also states fully:

(1) the purpose of the deposit;

(2) the conditions under which the deposit is made;

and

(3) the exact amount and character of the deposit.

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

Sec. 887.058. CHANGE OF ASSOCIATION'S NAME. An association may change its name by amending the association's charter if:

(1) the association submits the proposed amendment to the department for approval; and

(2) the department does not determine that the proposed name is confusing and misleading to the public.

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

Sec. 887.059. BOOKS AND RECORDS. (a) An association shall keep the association's books and records in a form and manner that:

(1) accurately reflects the condition of the

association or the facts essential to the association's faithful and effective operation; and

(2) is acceptable to the department.

(b) The association shall adopt forms or systems that are acceptable to the department and will most effectively serve the purpose described by Subsection (a)(1).

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

Sec. 887.060. ANNUAL STATEMENT. (a) Not later than April 1 of each year, an association shall file with the department a sworn statement of the association's condition on the preceding December 31.

(b) A statement under this section must be on a form provided by the department for that purpose and include a complete account of:

(1) the association's real and contingent assets;

(2) the association's liabilities; and

(3) income to and disbursements from the association's mortuary and expense funds during the year.

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

Sec. 887.061. REPORT ON CONDITION OF ASSOCIATION. The department may require from an association written reports on the condition of the association at any time the department considers advisable. The department may require that a report be verified by the oath of a responsible officer of the association.

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

Sec. 887.062. EXAMINATION. The following provisions apply to an association:

(1) Subchapter A, Chapter 86; and

(2) 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.103, eff. April 1, 2009.

Sec. 887.063. ADMITTED ASSETS. An association may include among its admitted assets, within the assets of the expense fund only, any asset designated as a net asset under Section [841.004](#).
Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 887.064. DIVIDENDS. If the amount of an association's mortuary fund exceeds the amount of reserves required by Subchapter I, the association may pay dividends from the fund to its certificate holders. The amount of the dividends and the method of distribution of the dividends must be:

- (1) equitable and nondiscriminatory; and
- (2) approved by the department before payment.

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

Sec. 887.065. MERGER. (a) An association may not merge with another association without the advance approval of the department.

(b) The department may grant approval under Subsection (a) only after the department:

- (1) completely investigates the facts; and
- (2) determines that the proposed merger is to the advantage of the members.

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

SUBCHAPTER C. AUTHORITY TO ENGAGE IN BUSINESS

Sec. 887.101. CERTIFICATE OF AUTHORITY REQUIRED. (a) Except as provided by Section [887.102](#), the department shall require an association or person to hold a certificate of authority issued by the department before the association or person may engage in the business of insurance in this state.

(b) If an association or person writes insurance without a certificate of authority issued under Subsection (a), the department shall notify the attorney general. The attorney general shall institute proceedings in the district court of Travis County to restrain the association or person from writing insurance

without a certificate of authority.

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

Sec. 887.102. EXEMPT ASSOCIATION; PERMIT. (a) An association is not required to hold a certificate of authority under Section 887.101 if the association:

(1) limits its membership to:

(A) the employees and the families of employees of a particular designated firm, corporation, or individual; or

(B) borrowers of a federal agency in this state and members of the borrower's immediate family who are living with the borrower and are not engaged in nonfarm work for their chief income;

(2) has been in existence for at least five years;

(3) is not operated for profit; and

(4) does not pay commissions.

(b) An association exempt under this section shall:

(1) make annual reports to the department, on forms provided for that purpose, showing the financial condition of the association, receipts and expenditures of the association, and any other facts required by the department; and

(2) obtain from the department a permit to engage in the business of insurance.

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

Sec. 887.103. REFUSAL OF CERTIFICATE OF AUTHORITY OR PERMIT. (a) An association may not continue to engage in the business of insurance in this state if the commissioner notifies the association in writing of the commissioner's refusal to issue a certificate of authority or a permit.

(b) Not later than the 60th day after the date notice is received under Subsection (a), an association may file suit to review the commissioner's action in accordance with Subchapter D, Chapter 36.

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

Sec. 887.104. REFUSAL OR REMOVAL FOR UNWORTHINESS OF PUBLIC

TRUST. (a) The department may not issue a certificate of authority to an association if the department determines that an officer, employee, or member of the board of directors of the association is unworthy of the trust or confidence of the public.

(b) On issuance of a certificate of authority to an association, the commissioner shall order the removal of an officer, employee, or director of the association if the officer, employee, or director is found unworthy of the trust or confidence of the public.

(c) If the association does not remove an officer, employee, or director as required by an order issued under Subsection (b), the commissioner shall:

- (1) revoke the certificate of authority; and
- (2) treat the association as insolvent.

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

SUBCHAPTER D. MEMBERS

Sec. 887.151. CLASSES OF MEMBERS. (a) An association's constitution and bylaws shall state the number of members to be admitted in a class of the association.

(b) An association shall keep the accounts of the classes' mortuary assessments separate. The association may not use the funds of a class to pay claims for any other class.

(c) Not later than six months after the date a class of members is created, an association must build the class up to the required membership to pay claims in full. Until the required membership level is reached, the insurance certificates for the class may not provide for a benefit greater than \$500, unless the association has sufficient funds to lawfully make the full payment of benefits.

(d) Creation of any new class is subject to advance approval of the department.

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

Sec. 887.152. QUALIFYING MEMBERSHIP IN ASSOCIATION. (a) An individual must qualify under an association's bylaws to become

a member of the association.

(b) An association must maintain the qualifying membership at all times. If an association fails to maintain the qualifying membership, the commissioner shall treat the association as insolvent.

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

Sec. 887.153. VOTING RIGHTS OF MEMBERS. An association shall permit each member of the association to vote at any periodic meeting or special meeting of the members.

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

Sec. 887.154. MEMBERSHIP RECORDS. An association shall keep:

(1) a complete and correct roster of the association's members, with proper statistical records for determining by age or some other method the proper cost of insurance;

(2) accurate records of classes of memberships; and

(3) records of amounts of assessments paid by each member and by each class that show:

(A) how the funds are distributed between mortuary and expense funds for each class; and

(B) the amounts paid out of the funds of the whole membership or each class in death claims or other benefits.

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

Sec. 887.155. TRANSFER OF MEMBERSHIP OR MERGER OF CLASSES.

(a) Without advance approval of the department, an association may not:

(1) transfer any part or class of membership or all membership to another association; or

(2) merge classes or transfer a member from one class to another in the association.

(b) The department may grant approval under Subsection (a) only after the department:

(1) completely investigates the facts; and

(2) determines that the proposed merger or transfer is

to the advantage of the members or classes affected by the merger or transfer.

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

SUBCHAPTER E. POWERS AND DUTIES RELATING TO INSURANCE AND COVERAGES

Sec. 887.201. LIMIT ON LIFE INSURANCE. An association may not insure an individual life for more than \$5,000.

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

Sec. 887.202. STIPULATED PREMIUM PLAN; DEDUCTION OF UNPAID PREMIUM BALANCE. (a) An association may issue an insurance certificate on a stipulated premium plan that provides for the insured to pay regular premiums weekly, monthly, quarterly, semiannually, or annually, as determined by the insured.

(b) An association may issue an insurance certificate that provides that on the maturity of benefits payable under the certificate any balance of premium for the certificate year remaining unpaid is deducted from the benefits payable.

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

Sec. 887.203. ISSUANCE OF LIFE INSURANCE POLICY BY CERTAIN ASSOCIATIONS. (a) A local mutual aid association or statewide mutual assessment company that has a mortuary fund and expense fund with a combined value of at least \$100,000 greater than the liabilities of the combined funds may issue a life insurance policy in the same manner as a company organized under Chapter 841.

(b) An insurance policy issued as provided by Subsection (a):

(1) may not insure an individual life for more than \$5,000;

(2) must be reserved as required for a company organized under Chapter 841; and

(3) may be issued only on an endowment or limited pay basis.

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

Sec. 887.204. RENEWAL OR REINSTATEMENT OF INSURANCE CERTIFICATE. (a) If an insurance certificate terminates for any reason and the association's rules provide that a reinstated certificate is regarded as a new certificate, an application for reinstatement must state in at least 10-point type that:

(1) the same rules that apply to the original certificate apply to the reinstated certificate; and

(2) the association may invalidate the certificate within the contestable period for a false statement regarding the applicant's health or physical condition or another matter material to the risk.

(b) On reinstatement of an insurance certificate, an association shall send to the certificate holder by first class mail a copy of the application for reinstatement. The burden of proof is on the association to prove that the association mailed the application.

(c) If a renewal insurance certificate is issued after termination of an insurance certificate, the association shall attach to the renewal insurance certificate a copy of the application for reinstatement. The application is part of the renewal insurance certificate.

(d) If an association renews or reinstates an insurance certificate after termination of the certificate, the association shall divide the reinstated member's payments between the funds in the same percentage as is required of regular payments in the association's bylaws, except that if the period between termination and reinstatement is nine months or longer, the association may:

(1) charge a reinstatement fee not greater than the membership fee; and

(2) place the fee in the expense fund.

(e) A renewal or reinstatement certificate may not be contestable for any cause except nonpayment of assessments for a period longer than six months from the date of renewal or reinstatement, except that if the renewal or reinstatement occurs within the certificate's original two-year contestable period, the contestable period may be extended for six months from the date it would have originally expired.

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

Sec. 887.205. LIFE INSURANCE CERTIFICATE BENEFICIARIES.

(a) An association may pay death benefits only to:

- (1) a member's spouse;
- (2) a member's relative by blood to the fourth degree or by marriage to the third degree;
- (3) a person actually dependent on the member;
- (4) a creditor, estate, or other person with an insurable interest; or
- (5) a purely charitable or religious institution.

(b) A beneficiary of a life insurance certificate forfeits the beneficiary's interest in the certificate if the beneficiary is the principal or an accomplice in wilfully bringing about the death of the insured. The nearest relative of the insured is entitled to the proceeds of an insurance certificate forfeited under this subsection.

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

Sec. 887.206. PAYMENT OF CLAIM; PROOF OF CLAIM. (a) An association shall pay each claim under an insurance certificate in full not later than the 60th day after the date of receipt of due proof of claim.

(b) Written notice of a claim given to an association is considered due proof of claim if the association does not provide the claimant with the forms usually provided for filing claims before the 16th day after the date notice is received.

(c) If an association is unable to pay a valid claim in full within the time prescribed by Subsection (a), the commissioner shall treat the association as insolvent.

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

Sec. 887.207. EXCEPTION TO FULL PAYMENT REQUIREMENT: ASSESSMENT-AS-NEEDED ASSOCIATIONS. (a) Section [887.206](#) does not apply to a class organized before May 12, 1939, and operating on the postmortem or assessment-as-needed plan on that date.

(b) An association with a postmortem or

assessment-as-needed class to which Subsection (a) applies may continue to operate on the plan only if:

(1) the class has a sufficient membership at the assessment rate charged to produce for the mortuary fund at least 50 percent of the maximum value of the largest certificate in the class; and

(2) the association receives the amount required by Subdivision (1).

(c) If the membership of a class is sufficient in number to pay more than 50 percent but less than 100 percent of the maximum value of the largest certificate in the class, an officer of the association shall print on each assessment notice the percentage of the maximum value of the certificate actually paid on the last claim for death benefits in the class.

(d) If the amount realized on an assessment is not sufficient to pay 50 percent of the maximum amount of promised benefits as shown on the certificate, the commissioner shall treat the association as insolvent.

(e) Any benefits paid by an association operating on a postmortem or assessment-as-needed basis are dependent on the amount realized from assessments on the membership. Each of the association's insurance certificates must state:

(1) that any benefits paid are dependent on the amount realized from assessments on the membership; and

(2) the certificate's maximum payment.

(f) An association or a class in an association organized after May 12, 1939, may not operate on the postmortem or assessment-as-needed plan.

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

Sec. 887.208. CONTESTED CLAIMS. (a) An association may not contest a claim:

(1) only for delay or for a capitious or inconsequential reason; or

(2) to force settlement at less than full payment.

(b) An association shall notify a claimant of the association's intent to deny liability on a claim not later than the

60th day after the date the association receives due proof of claim.

(c) An association that does not notify a claimant as provided by Subsection (b) is presumed as a matter of law to have accepted liability on the claim.

(d) The commissioner shall revoke the certificate of authority of any association the commissioner finds is operating fraudulently or improperly contesting claims.

(e) An association shall report to the department the costs of contests in the annual statement under Section 887.060. The report must be verified by an officer of the association.

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

Sec. 887.209. VENUE. An action brought against an association that grows out of or is based on any right of claim or loss or proceeds due, arising from or predicated on any claim for benefits under an insurance certificate issued by the association, may be brought in:

(1) the county where the certificate holder or beneficiary instituting the action resides; or

(2) the county of the principal office of the association.

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

Sec. 887.210. REINSURANCE. (a) An association may enter into a reinsurance agreement with a legal reserve company that:

(1) is authorized to write life, health, and accident insurance in this state; and

(2) has capital or surplus of at least \$100,000.

(b) A reinsurance agreement under this section is subject to the commissioner's approval.

(c) An association may not pay more out from its mortuary fund for reinsurance under this section than is received at the time of reinsurance by the mortuary fund on the insurance certificates or members reinsured.

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

SUBCHAPTER F. CONTENTS OF APPLICATIONS AND INSURANCE CERTIFICATES

Sec. 887.251. GENERAL REQUIREMENTS FOR INSURANCE CERTIFICATE AND APPLICATION FORMS; INCONTESTABILITY. (a) An insurance certificate issued by an association must include:

(1) any condition of the certificate, including any portion of the bylaws of the association that affects the insurance rights of the parties in any material way; and

(2) a statement that the certificate is issued subject to:

(A) the association's constitution and bylaws; and

(B) any amendments to the constitution and bylaws approved by the commissioner.

(b) An insurance certificate must provide that a certificate in force for two years becomes incontestable, except for nonpayment of dues or assessments, on the second anniversary of the date of issuance, if the insured does not die before that date.

(c) An insurance certificate issued by an association or an application for the certificate may not contain language or be in a form that misleads the certificate holder or applicant about the kind of insurance provided under the certificate.

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

Sec. 887.252. APPLICATION FOR INSURANCE CERTIFICATE. (a) An application for an insurance certificate issued by an association must be signed by the applicant. If the applicant is a minor, the application may be signed by a parent or guardian.

(b) The application for an insurance certificate that provides that a misstatement relating to the applicant's health or physical condition may void the certificate within the contestable period must state that provision in language approved by the commissioner. The statement must be in at least 10-point type.

(c) An association shall attach to an insurance certificate a copy of the application for the certificate. The application is part of the insurance certificate.

(d) In the absence of fraud, each statement in an application for an insurance certificate is regarded as a

representation and not a warranty.

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

Sec. 887.253. LIFE INSURANCE CERTIFICATE FORMS. (a) A life insurance certificate issued by an association must include:

(1) on the front page of the certificate, a definitive statement of the amount of the death benefit to be paid; and

(2) a plain statement of the circumstances or conditions under which the benefit is to be paid.

(b) A life insurance certificate must provide that if the age of the insured is misstated, the amount of insurance is the amount that the premium paid would have purchased if the age had been stated correctly, based on rates in effect when the insured dies.

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

Sec. 887.254. HEALTH AND ACCIDENT INSURANCE CERTIFICATE FORMS. An insurance certificate issued by an association must include a plain statement of each health, accident, or other benefit under the certificate and the terms under which each benefit is paid.

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

Sec. 887.255. LIFE INSURANCE BENEFIT REDUCTIONS AND EXCLUSIONS. (a) An association may, with the commissioner's approval, issue an insurance certificate that provides for:

(1) reduced benefits if the insured:

(A) dies or is injured while engaged in:

(i) military, naval, or aerial service or aerial flight during peace or war; or

(ii) a hazardous occupation specified in the certificate;

(B) dies by the insured's own hand, regardless of whether the insured was sane or insane; or

(C) dies or is injured by mob violence or legal execution; or

(2) reduced or excluded benefits for sickness from

certain causes specified in the certificate.

(b) The front page of an insurance certificate must call attention to any reduction or exclusion of benefits provided by the certificate. The circumstances or conditions under which the reduction or exclusion applies must be stated plainly in the certificate.

(c) If an insurance certificate that provides natural death benefits contains a provision for reducing the greatest death benefit provided by the certificate for a specified insured for a reason other than a reason specified by Subsection (a):

(1) the reduced death benefit for the insured must at all times when the reduction is in effect equal or exceed 120 percent of the total premium paid on that certificate by the insured; and

(2) the reduction must end before the fifth anniversary of the date the certificate is issued.

(d) Subsection (c) does not apply to a life insurance certificate on which the reduction of the death benefit does not apply at the time of the death of the specified insured.

(e) If a life insurance certificate provides for an increase of the initial amount of the death benefit for a specified insured one or more times during the first five years of the certificate, the amount of the death benefit for the insured must at all times during the period of the increasing benefit equal at least 120 percent of the premiums paid on that certificate by the insured during the period of the increase.

(f) Subsection (e) does not apply to a life insurance certificate that has been in force for more than five years from the date the certificate was issued.

(g) Subsections (c)-(f) do not apply to a family group life insurance certificate described by Section [887.402](#).

(h) This section does not apply to health and accident insurance policies.

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

Sec. 887.256. FORM APPROVAL. (a) The commissioner shall approve the form and language of an insurance certificate before

the certificate is used by an association. The commissioner shall, in cooperation with the several associations, ensure that the certificate forms are as uniform as feasible. Forms for all associations are not required to be uniform.

(b) An insurance certificate form used by an association after May 12, 1939, must comply with this chapter and with any other laws regulating the association.

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

SUBCHAPTER G. ASSESSMENTS AND REVENUE

Sec. 887.301. ASSESSMENTS REQUIRED. (a) An association shall levy regular and periodic assessments on its membership in amounts and at intervals necessary to:

(1) meet the reasonable operating expenses of the association; and

(2) allow the association to pay in full any claims arising under its insurance certificates.

(b) An association may also levy an assessment for surplus funds.

(c) An association shall specify the purpose of an assessment.

(d) An assessment on a life insurance certificate issued after May 21, 1965, insuring the life of one or more individuals must be:

(1) in accordance with the reserve standard adopted by the association and approved by the commissioner, except that an association may use the 1956 Chamberlain Reserve Table with interest not to exceed 3-1/2 percent a year; and

(2) in an amount sufficient to deposit in the mortuary fund an amount at least equal to the renewal net premiums computed in accordance with the reserve standard adopted by the association and approved by the commissioner.

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

Sec. 887.302. AUTHORITY TO INCREASE ASSESSMENT RATES ON CERTAIN INSURANCE CERTIFICATES. (a) An association's board of

directors may by resolution increase assessment rates on life insurance certificates in force up to the rate on an attained age basis in accordance with the 1956 Chamberlain Reserve Table, with interest at 3-1/2 percent a year, or any other reasonable, equitable, or necessary increase. The board may also adjust assessment rates on accident, health, and hospitalization insurance certificates in force.

(b) An assessment rate increase or adjustment under this section on insurance certificates in force applies to all classes of the same or similar certificates.

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

Sec. 887.303. APPROVAL REQUIRED FOR CERTAIN RATE INCREASES. An association may not implement a rate increase on insurance certificates in force before the commissioner approves the rate increase as complying with this chapter.

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

Sec. 887.304. LIMIT ON RATE INCREASES. Notwithstanding any other provision of this chapter, on a life insurance certificate issued after May 21, 1965, an association may not during any consecutive five-year period increase the rate to more than double the rate charged the insured at the time of the rate increase.

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

Sec. 887.305. EXPENSE LOADING ON CERTAIN INSURANCE CERTIFICATES. If an association increases a life insurance assessment rate at any age other than at age of issue, the expense loading on the new assessments may not, on 50 years of age or greater, exceed 25 percent of the gross assessment charged, unless an additional expense loading is approved by the commissioner as reasonable and necessary.

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

Sec. 887.306. ASSESSMENT-AS-NEEDED ASSOCIATIONS: PAYMENTS ON CERTAIN INSURANCE CERTIFICATES. (a) This section applies only to an association operating on an assessment-as-needed basis.

(b) If the members' payments on insurance certificates issued and in force before May 12, 1939, or on the reinsurance or renewals of those certificates, are not sufficient to pay matured death and disability claims in the maximum amount stated in the certificates and to provide for the creation and maintenance of the funds required by the association's bylaws, the association may, with the commissioner's approval and after proper hearing before the commissioner, provide for meeting the deficiency by additional, increased, or extra rates of payment.

(c) The association may give the members the option of agreeing to reduced maximum benefits or making increased payments. Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 887.307. REVENUE OF ASSOCIATION; DEPOSIT. (a) The revenue of an association must be derived from:

- (1) membership fees; and
- (2) assessments.

(b) Not later than the fifth day after the date an association collects revenue, the association shall deposit the revenue in a state or national bank.

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

Sec. 887.308. SUSPENSION OF MEMBER FOR NONPAYMENT. Before suspending a member from membership for nonpayment of assessments or membership fees, an association shall send notice to the member by first class mail stating the final date of payment.

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

Sec. 887.309. FAILURE TO COMPLY WITH CERTAIN COMMISSIONER ORDERS. If an association refuses to comply with an order of the commissioner regarding rates or assessments under this chapter, the commissioner shall treat the association as insolvent.

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

SUBCHAPTER H. MORTUARY AND EXPENSE FUNDS

Sec. 887.351. MORTUARY AND EXPENSE FUNDS. An association's

bylaws must provide for the method and procedure for allocating assessments between the association's mortuary and expense funds. Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 887.352. LIMITS ON USE OF FUNDS. An association may spend or invest money from a mortuary fund or expense fund only as provided for each fund by this subchapter. Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 887.353. DIVISION OF FUNDS: CERTAIN LIFE INSURANCE CERTIFICATES. (a) This section applies to a life insurance certificate insuring the life of one or more individuals issued:

- (1) after December 31, 1965; or
- (2) before December 31, 1965, and on which the assessment rate has been increased based on an age other than age on the date the certificate was issued.

(b) To the extent consistent with this subchapter, an association shall divide collected assessments into at least two funds.

(c) An association shall deposit in a mortuary fund a portion of the association's assessments at least equal to the renewal net premium computed at the age of issue or some other advanced age in accordance with the reserve standard adopted by the association. The association may pay from the mortuary fund only:

- (1) fund claims under insurance certificates;
- (2) dividends to certificate holders as provided by Section 887.064; and
- (3) any other expenditures permitted by law.

(d) An association shall deposit in an expense fund the remaining portion of the assessments not deposited under Subsection (c). The association may pay expenses from the expense fund.

(e) This section does not apply to an association operating on an assessment-as-needed basis.

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

Sec. 887.354. DIVISION OF FUNDS: ACCIDENT AND HEALTH INSURANCE CERTIFICATES AND CERTAIN LIFE INSURANCE CERTIFICATES.

(a) This section applies to:

(1) a life insurance certificate in force on December 31, 1965, to which Section 887.353 does not apply; and

(2) an accident, health, or hospitalization insurance certificate.

(b) An association shall deposit in a mortuary fund an amount equal to at least 60 percent of the association's assessments, not including membership fees.

(c) An association shall deposit in an expense fund:

(1) membership fees; and

(2) the remaining portion of the assessments not deposited under Subsection (b).

(d) This section does not apply to an association operating on an assessment-as-needed basis.

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

Sec. 887.355. DIVISION OF FUNDS: CERTAIN LIFE INSURANCE CERTIFICATES WITH NO RATE INCREASE. (a) This section applies to a life insurance certificate in force on December 31, 1965, on which the assessment rate has not been increased.

(b) An association may:

(1) deposit in a mortuary fund at least the net renewal premium, based on the reserve table adopted by the association; and

(2) deposit in an expense fund the remaining portion of the premium.

(c) This section does not apply to an association operating on an assessment-as-needed basis.

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

Sec. 887.356. DIVISION OF FUNDS: ASSESSMENT-AS-NEEDED ASSOCIATIONS. (a) An association operating on an assessment-as-needed basis shall divide collected assessments into at least:

(1) a mortuary fund; and

(2) an expense fund.

(b) An association under this section shall deposit into a mortuary fund an amount equal to at least 60 percent of the

association's assessments, not including membership fees.
Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 887.357. INVESTMENT OF FUNDS. (a) An association may invest money from a mortuary fund only in securities and investments that are a legal investment for the reserve funds of a domestic life, accident, and health insurance company operating under Chapter 841.

(b) An association may invest money from an expense fund only in securities and investments that are a legal investment for the surplus funds of a domestic life, accident, and health insurance company operating under Chapter 841.

(c) An association may invest surplus funds belonging to the association only in securities that are a legal investment for the surplus funds of a domestic life, accident, and health insurance company operating under Chapter 841.

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

Sec. 887.358. PAYMENT OF TAXES ON MORTUARY FUND INCOME. An association may pay from a mortuary fund any taxes that are assessed against income on the fund and required to be paid by the association.

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

Sec. 887.359. PAYMENT OF REINSURANCE PREMIUM. An association may pay from a mortuary fund the premiums for any reinsurance under Section 887.210.

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

Sec. 887.360. COST OF DEFENDING CONTESTED CLAIMS. An association authorized to write accident, health, or hospitalization insurance may pay the reasonable costs of defending a contested claim on an accident, health, or hospitalization insurance certificate from the mortuary fund of the association if:

- (1) the expenditure is approved by the commissioner;
- and
- (2) the association has the reserves required by

Subchapter I.

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

SUBCHAPTER I. RESERVES

Sec. 887.401. RESERVES ON INDIVIDUAL LIFE INSURANCE CERTIFICATES. (a) An association shall reserve an individual life insurance certificate insuring one or more persons at individual premiums for each person as provided by this section.

(b) An association shall maintain reserves on each of its individual life insurance certificates in accordance with the reserve standard adopted by the association and approved by the commissioner. The standard must provide reserves that in the aggregate are at least equal to the reserve amounts computed using the 1956 Chamberlain Reserve Table with interest not to exceed 3-1/2 percent a year. An association may use the 1956 Chamberlain Reserve Table with interest not to exceed 3-1/2 percent a year.

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

Sec. 887.402. RESERVES ON FAMILY GROUP LIFE INSURANCE CERTIFICATES. (a) An association shall reserve a family group life insurance certificate on which the association charges a group premium that is not reduced on the death of an insured as provided by this section.

(b) An association shall maintain reserves on each of its family group life insurance certificates using one of the following methods:

(1) the reserves must be equal to the reserves that would be required under Section 887.401 on individual life insurance certificates on the lives of the two oldest living members of the family group, with the amount of insurance for those two members determined assuming that the elder of the two will die first;

(2) the reserves must be equal to the reserves required under Section 887.401 on individual life insurance certificates on the lives of the living members of the family group, with the amount of insurance for each member of the family group

determined assuming that each member will die first; or

(3) any other table or method of computing reserves approved in advance by the commissioner.

(c) An association may select the method to be used to compute the reserves under Subsection (b).

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

Sec. 887.403. ISSUE YEAR AND ISSUE AGE IN CERTAIN INSURANCE CERTIFICATES. (a) In this section, "gross premium" means the renewal net premium plus any expense loading designated by the association or as otherwise regulated by this chapter.

(b) For an individual or family group life insurance certificate in force on December 31, 1965, or an individual or family group life insurance certificate with a rate increase effective after December 31, 1965, the reserves may be computed as if:

(1) the issue year is the last calendar year that the gross premium computed using the reserve table and interest rate adopted by the association at the insured's age in that calendar year is equal to or less than the premium rate charged by the association on the reserved certificate; and

(2) the issue age is the insured's age in the calendar year under Subdivision (1).

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

Sec. 887.404. RESERVES ON ACCIDENT, HEALTH, AND HOSPITALIZATION INSURANCE CERTIFICATES. An association shall maintain reserves on each of its accident, health, and hospitalization insurance certificates in the manner required of a company authorized to issue that type of coverage under Chapter [841](#).

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

Sec. 887.405. COMPUTATION OF RESERVE LIABILITY. (a) Each year, an association shall compute its reserve liability on all outstanding insurance certificates.

(b) To make the computation, an association:

(1) shall use the net premium basis in accordance with the reserve table and interest rate adopted by the association and approved by the commissioner; and

(2) may use group methods and approximate averages for fractions of a year.

(c) The reserve liability may be computed on not more than a one-year preliminary term.

(d) As soon as practical each year, the commissioner shall compute or cause to be computed the reserve liability of each association. To make the computation, the commissioner may use group methods and approximate averages for fractions of a year.

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

Sec. 887.406. INCREASE OF RESERVES. (a) If an association does not have in its mortuary fund the reserves required by this subchapter, the association's board of directors by appropriate action shall increase assessment rates on insurance certificates in force by advancing the age of each insured from the age at the date the certificate is issued or from the age previously advanced or otherwise equitably or reasonably adjust assessment rates to correct the reserve inadequacy. The board shall take that action not later than the 30th day after the date the reserves are computed.

(b) An association may make an assessment rate adjustment under Subsection (a) at any time if it appears that a reserve inadequacy will exist as of December 31 of the year in which the rate adjustment is made.

(c) The commissioner shall order an association to comply with this chapter.

(d) If the board of directors does not comply with Subsection (a), the commissioner shall treat the association as insolvent.

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

Sec. 887.407. NONAPPLICABILITY TO ASSESSMENT-AS-NEEDED ASSOCIATIONS. This subchapter does not apply to an association operating on an assessment-as-needed basis.

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

SUBCHAPTER J. CONVERSION TO LEGAL RESERVE INSURANCE COMPANY

Sec. 887.451. AUTHORIZATION TO CONVERT OR REINSURE. Subject to the requirements of this subchapter, an association may convert or reinsure itself to a legal reserve insurance company operating under Chapter 882.

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

Sec. 887.452. PROPOSAL FOR CONVERSION OR REINSURANCE. An association's board of directors may determine by majority vote to submit a proposed conversion or reinsurance under Section 887.451 to the members of the association. Before the proposed conversion or reinsurance may be submitted to the members, the board must prepare detailed plans for the conversion or reinsurance and submit the plans to the commissioner.

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

Sec. 887.453. MEMBERS MEETING; NOTICE. (a) On receipt of the commissioner's written approval of proposed plans under Section 887.452 or of the plans as amended to meet the commissioner's requirements in accordance with Chapter 882, an association's board of directors or an officer of the association authorized by its bylaws to call a meeting of its members shall:

(1) call a meeting of the association's members for voting on ratification of the proposed conversion or reinsurance; and

(2) mail to each member of the association:

(A) a copy of the proposed plans; and

(B) a notice of the meeting.

(b) The meeting may not be held before the 16th day after the date the notice is mailed under Subsection (a)(2).

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

Sec. 887.454. MEMBERS MEETING; PROCEDURES. (a) In a meeting called under Section 887.453, a member may vote in person,

by proxy, or by mail.

(b) All votes must be cast by ballot. A majority vote of the members participating in the election is required to ratify the conversion or reinsurance.

(c) The person presiding at the meeting shall supervise and direct the procedure of the meeting and appoint an adequate number of inspectors to conduct the voting.

(d) Under rules adopted by the commissioner, the inspectors may determine all questions concerning the qualifications of the voters and the verification, canvassing, and validity of the ballots. The inspectors shall certify the result of the election to the commissioner and to the association.

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

Sec. 887.455. COMPLETION AND LEGAL EFFECT OF CONVERSION OR REINSURANCE. (a) An association's conversion or reinsurance is complete when the association has:

(1) complied with all laws regulating the incorporation of a mutual legal reserve insurance company; and

(2) received from the commissioner its charter and certificate of authority to engage in business as a mutual insurance company.

(b) An association that converts or reinsures to a mutual legal reserve insurance company:

(1) is considered by law to have each right, privilege, power, or authority of any other mutual legal reserve company;

(2) is considered by law to be a continuation of the business of the association; and

(3) succeeds to and is invested with:

(A) each right or privilege of the former association that is not inconsistent with Chapter 882;

(B) each franchise or other interest of the former association; and

(C) all property of the former association, including debts due on any account and all choses in action.

(c) On conversion or reinsurance of an association to a

mutual legal reserve insurance company, the title to any real estate by deed or otherwise vested in the former association vests in the company, and the title is not in any way impaired because of the conversion or reinsurance.

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

Sec. 887.456. CONTINUING OBLIGATIONS OF CONVERTED OR REINSURED ASSOCIATION. (a) The standing of each claim against an association that converts or reinsures under this subchapter must be preserved unimpaired under the reorganized company or the company reinsuring the membership of the association.

(b) Each debt, liability, and duty of a converted or reinsured association attaches to the reorganized company or the company reinsuring the membership of the association and may be enforced against it to the same extent as if the debt or liability had been incurred or contracted by the company, except that a reorganized company or reinsuring company may alter a liability created under the terms of an insurance certificate outstanding at the date of conversion or reinsurance in accordance with the plan approved by the commissioner under this subchapter.

(c) Notwithstanding Subsection (b), the company may not alter the renewability or noncancellability of an insurance certificate issued before the date of conversion or reinsurance.

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

Sec. 887.457. DISBURSEMENT OF MORTUARY FUND. (a) The mortuary fund belonging to an association that converts or reinsures under this subchapter is the property of the reorganized company or the company reinsuring the membership of the former association. Money in the mortuary fund may be disbursed to:

(1) pay a valid claim outstanding and arising after the date of conversion or reinsurance from an insurance policy issued by the company to the association's members under an approved plan;

(2) establish the legal reserve on new insurance policies issued by the company to the association's members under an approved plan; or

(3) pay the appropriate actuarial portion of the mortuary fund to a member of the association who refuses to accept a new insurance policy offered by the company.

(b) A member must request payment under Subsection (a)(3) not later than the 60th day after the date of the conversion or reinsurance.

(c) The effective date of a mutual legal reserve company's insurance policy may be the effective date of the reinsurance contract. On conversion, 10 percent of the mortuary fund credit allocated to each policy may be credited to the contingency reserve fund of the company for the benefit of the policyholders. The balance of the mortuary fund credit may be applied as:

(1) a reserve credit to permit the company's policy to be backdated to the earliest date the reserve credit allows; or

(2) an annuity to reduce the required premium either for a given term or for the whole of life.

(d) A company may not change the manner in which a mortuary fund credit is applied under Subsections (c)(1) and (2) without the prior approval of the commissioner.

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

SUBCHAPTER K. CONVERSION TO STOCK LEGAL RESERVE LIFE INSURANCE COMPANY

Sec. 887.501. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a local mutual aid association or statewide mutual assessment company or association engaging in business in this state on January 1, 1955.

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

Sec. 887.502. AUTHORIZATION TO CONVERT. An association may convert to a stock legal reserve life insurance company if the association:

(1) has at least \$100,000 in the association's mortuary fund at the time of conversion; and

(2) except as provided by Section [887.508](#), possesses:

(A) capital in an amount equal to at least

\$700,000 cash; and

(B) surplus in an amount equal to at least \$700,000 cash.

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

Sec. 887.503. APPROVAL BY MEMBERSHIP. An association may convert under this subchapter only if the association's membership votes to approve the conversion at a meeting called for that purpose.

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

Sec. 887.504. AMENDMENT OF CHARTER OR ARTICLES OF ASSOCIATION REQUIRED. On authorization under Section 887.503, the board of directors and officers of the association shall amend the association's charter or articles of association to comply with Sections 841.051, 841.052, and 841.053.

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

Sec. 887.505. EXCHANGE OF INSURANCE CERTIFICATES; RESERVES. (a) An association that converts to a stock legal reserve life insurance company shall exchange each insurance certificate in force on the date of the conversion for a legal reserve policy as provided by Section 887.457.

(b) On the exchange of mutual assessment insurance certificates for legal reserve policies as provided by Subsection (a), an association shall establish and maintain the reserves required for a company organized under Chapter 841 for legal reserve policies.

(c) After the reserves are established, the association's capital must remain unimpaired and in an amount equal to at least \$700,000.

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

Sec. 887.506. COMPLETION OF CONVERSION. An association becomes a stock legal reserve life insurance company on:

- (1) compliance with this subchapter; and
- (2) approval by the commissioner.

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

Sec. 887.507. LEGAL EFFECT OF CONVERSION. Except as provided by this subchapter, an association that converts to a stock legal reserve life insurance company under this subchapter is subject to Chapter 841.

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

Sec. 887.508. EXEMPTION FROM CAPITAL AND SURPLUS REQUIREMENTS. (a) An association is exempt from the capital and surplus requirements of Section 887.502(2) if the association:

(1) possesses capital in an amount equal to at least \$100,000 and unencumbered surplus in an amount equal to at least \$100,000; and

(2) converted to a stock legal reserve life insurance company before September 1, 1999.

(b) An association that is exempt under Subsection (a) and that converts on or after September 1, 1989, shall immediately increase its capital and surplus to amounts that satisfy Section 887.502(2) on:

(1) a change of control of at least 50 percent of the voting securities of the converted company; or

(2) if the converted company or the holding company that controls the converted company, if any, is not controlled by voting securities, a change of at least 50 percent of the ownership of the converted company or its holding company.

(c) For purposes of Subsection (b), a transfer of ownership because of death, regardless of whether the decedent died testate or intestate, is not considered a change of control of a converted company or its holding company if ownership is transferred only to one or more individuals, each of whom would have been an heir of the decedent had the decedent died intestate.

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

Sec. 887.509. LIMITS ON OPERATION OF CONVERTED ASSOCIATION. Unless the association increases the association's capital and surplus to the minimum capital and surplus required for the

organization of a stock legal reserve life insurance company under Chapter 841, an association that converts to a stock legal reserve life insurance company under this subchapter may not:

(1) operate in a territory as to which the association was not authorized under the converted association's previous charter or articles of association;

(2) insure a life for more than \$5,000 in event of death; or

(3) declare or pay cash dividends.

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

Sec. 887.510. INCREASE OF CAPITAL AND SURPLUS REQUIRED.

(a) An association that converts to a stock legal reserve life insurance company under this subchapter shall, not later than the 10th anniversary of the date of conversion, increase its capital and surplus to the minimum capital and surplus required for a stock legal reserve life insurance company organized under Chapter 841.

(b) The commissioner shall revoke a converted association's certificate of authority to engage in the business of insurance if the association does not comply with Subsection (a).

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

SUBCHAPTER L. GENERAL FINANCIAL REGULATION

Sec. 887.551. HAZARDOUS FINANCIAL CONDITION, SUPERVISION, CONSERVATORSHIP, AND LIQUIDATION. The following provisions apply to an association engaged in the business of insurance in this state:

(1) Subchapter A, Chapter 404;

(2) Chapter 441; and

(3) Chapter 443.

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.104, eff. April 1, 2009.

SUBCHAPTER O. PENALTIES

Sec. 887.701. UNLAWFUL CONVERSION; CRIMINAL PENALTY. (a) A director, officer, agent, employee, attorney at law, or attorney in fact of an association commits an offense if the person:

(1) fraudulently takes, misapplies, or converts to the person's own use any money, property, or other item of value belonging to the association or coming into the person's custody, control, or possession by virtue of the person's office, agency, or employment;

(2) conceals any item described by Subdivision (1) with the intent to take, misapply, or convert the item to the person's own use; or

(3) pays or delivers any item described by Subdivision (1) to any other person, knowing that the other person is not entitled to receive the item.

(b) An offense under this section is punishable by imprisonment in the Texas Department of Criminal Justice for a term of not more than 10 years or less than 2 years.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.123, eff. September 1, 2009.

Sec. 887.702. DIVERSION OF SPECIAL FUNDS; CRIMINAL PENALTY. (a) A director, officer, agent, employee, attorney at law, or attorney in fact of an association commits an offense if the person wilfully borrows, withholds, or diverts from its purpose all or part of a special fund that:

(1) belongs to or is under the management and control of an association; and

(2) is designated by law or by rule of the commissioner for a specific use.

(b) An offense under this section is punishable by imprisonment in the Texas Department of Criminal Justice for a term of not more than 10 years or less than 2 years.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.124, eff. September 1, 2009.

Sec. 887.703. APPROPRIATION OF MONEY; CRIMINAL PENALTY.

(a) An officer or employee of a mutual accident insurance company commits an offense if the person uses or appropriates, or knowingly permits the use or appropriation by another of, any money belonging to the company in a manner not provided for by the law authorizing the organization of the company.

(b) An offense under this section is punishable by imprisonment in the Texas Department of Criminal Justice for a term of not more than 10 years or less than 2 years.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.125, eff. September 1, 2009.

Sec. 887.704. VIOLATION OF COMMISSIONER ORDER; CRIMINAL PENALTY. (a) A director, officer, agent, employee, attorney at law, or attorney in fact of an association commits an offense if the person wilfully fails to comply with a lawful order of the commissioner.

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

- (1) a fine not to exceed \$500;
- (2) confinement in jail for a term not to exceed six months; or
- (3) both the fine and confinement.

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

Sec. 887.705. OTHER VIOLATIONS; CRIMINAL PENALTY. (a) A director, officer, agent, employee, attorney at law, or attorney in fact of an association or other person commits an offense if the person violates a provision of this chapter other than Section 887.701, 887.702, 887.703, or 887.704.

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

- (1) a fine not to exceed \$500;
- (2) confinement in jail for a term not to exceed six

months; or

(3) both the fine and confinement.

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