

CHAPTER 64A

FRATERNAL BENEFICIARY ASSOCIATIONS

Sec.		Sec.	
64A.01	Definitions in general.	64A.24	Children's benefits; association qualifications.
64A.02	Fraternal beneficiary association defined.	64A.25	Children's benefit certificates; requirements.
64A.03	Lodge or branch system defined.	64A.26	Children's branches.
64A.04	Representative form of government defined.	64A.27	Children's insurance; reserve requirements.
64A.05	Association defined.	64A.28	Children's certificates; adult membership.
64A.06	Domestic association defined.	64A.29	Valuations by commissioner; children's benefits.
64A.07	Foreign association defined.	64A.30	Specified expense.
64A.08	State defined.	64A.31	The contract.
64A.09	Commissioner defined.	64A.32	Annual license.
64A.10	Organization.	64A.33	Foreign associations; admission.
64A.11	Corporate powers retained.	64A.34	Foreign associations; examinations; revocation of licenses.
64A.12	Location of office.	64A.35	Expenses of examinations.
64A.13	Place of meetings.	64A.36	Service of process.
64A.14	Mergers, consolidations and reinsurance.	64A.37	Domestic associations; examination; rehabilitation; dissolution.
64A.15	Fraternal beneficiary associations may become mutual life insurance companies.	64A.39	Financial matters.
64A.16	Qualifications for membership.	64A.40	Reserve fund.
64A.17	Constitution and laws.	64A.41	Method of collection.
64A.18	Amendments to constitution.	64A.42	Extra assessments.
64A.19	Annual statement.	64A.43	Expenses.
64A.20	Benefits.	64A.44	Taxation.
64A.21	Non-forfeiture provisions, cash surrender values, certificate loans, reserves and other options.	64A.45	Certain organizations exempt.
64A.22	Beneficiaries.	64A.46	Penalties.
64A.221	Payment to welfare recipients.	64A.47	Laws applicable.
64A.23	Benefits not attachable.	64A.48	Beneficiary associations.

64A.01 DEFINITIONS IN GENERAL. Unless the language or context clearly indicates a different meaning is intended, the words, terms and phrases defined in sections 64A.02 to 64A.09 shall, for the purposes of this chapter, be given the meanings subjoined to them.

[1967 c 395 art 5 s 1]

64A.02 FRATERNAL BENEFICIARY ASSOCIATION DEFINED. Any corporation, society, order, or voluntary association without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, having a representative form of government, and having a lodge system with ritualistic form of work or a branch system that confines its membership to any one religious denomination, and which shall provide for payment of benefits in accordance with this chapter is hereby declared to be a fraternal beneficiary association.

[1967 c 395 art 5 s 2]

64A.03 LODGE OR BRANCH SYSTEM DEFINED. Any association having a supreme governing or legislative body and subordinate lodges or branches, by whatever name known, into which members shall be elected, initiated, and admitted in accordance with its constitution, laws, rules, regulations, and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by such association to hold regular or stated meetings at least once every three months, shall be deemed to be operating under the lodge system; provided, that any beneficiary society or association whose membership is confined to the members of any one religious denomination shall not be required to have ritualistic form of work or ceremonies.

[1967 c 395 art 5 s 3]

64A.04 REPRESENTATIVE FORM OF GOVERNMENT DEFINED. Any association shall be deemed to have a representative form of government when:

(1) It shall provide in its constitution and laws for a supreme legislative or governing body composed of representatives elected either by the members or by delegates elected by the members through a delegate convention system, together with such other members as may be prescribed by its constitution and laws;

(2) The elective representatives shall constitute a majority in number and shall have not less than a majority of the votes, nor less than the votes required to amend its constitution and laws;

MINNESOTA STATUTES 1978

1105

FRATERNAL BENEFICIARY ASSOCIATIONS 64A.10

(3) The meetings of the supreme or governing body and the election of officers, representatives, or delegates shall be held as often as once in four years;

(4) The members, officers, representatives or delegates of a fraternal beneficiary association shall not vote by proxy.

[1967 c 395 art 5 s 4]

64A.05 ASSOCIATION DEFINED. The word "association" as used in sections 64A.01 to 64A.47 shall mean a fraternal beneficiary corporation, society, order, or voluntary association, as defined in section 60A.02.

[1967 c 395 art 5 s 5]

64A.06 DOMESTIC ASSOCIATION DEFINED. The words "domestic association" shall mean an association organized or incorporated under the laws of this state.

[1967 c 395 art 5 s 6]

64A.07 FOREIGN ASSOCIATION DEFINED. The words "foreign association" shall mean an association organized or incorporated under the laws of another territory, district, state, province, or country.

[1967 c 395 art 5 s 7]

64A.08 STATE DEFINED. The word "state" shall mean "state," "territory," "district," "country," or "province."

[1967 c 395 art 5 s 8]

64A.09 COMMISSIONER DEFINED. The word "commissioner" shall mean the commissioner of insurance of the state of Minnesota and, in his absence or disability, his deputy or other person duly designated to act in his place.

[1967 c 395 art 5 s 9]

64A.10 ORGANIZATION. Subdivision 1. **Formation.** Seven or more persons, citizens of the United States, and a majority of whom are citizens of this state, who desire to form a domestic association, as defined in section 60A.02, may make and sign, giving their addresses, and acknowledge before some officer competent to take acknowledgment of deeds, articles of association in which shall be stated:

(1) The proposed corporate name of the association, which shall not so closely resemble the name of any association or insurance company already transacting business in this state as to mislead the public or lead to confusion;

(2) The purpose for which it is formed, which shall not include more liberal powers than are granted by this chapter; provided, that any lawful, social, intellectual, educational, moral, or religious advantages may be set forth among the purposes of the association, and the mode in which its corporate powers are to be exercised; and

(3) The names, residences, and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control and management of the affairs and funds of the association for the first year or until the ensuing election, at which all these officers shall be elected by the supreme legislative or governing body.

Subd. 2. **Filing articles and documents.** The articles of association and duly certified copies of the constitution, laws, rules, and regulations, and copies of all proposed forms of benefit certificates, applications therefor and literature to be issued by the association, and a bond in the sum of \$5,000, with sureties approved by the commissioner, conditioned upon the return of the advance payments, as provided in this section, to applicants, if the organization is not completed within one year, or after such further period, not exceeding one year, as may be authorized by the commissioner, shall be filed with the commissioner, who may require such further information as he deems necessary, and if the purposes of the association conform to the requirements of this chapter and all provisions of law have been complied with, the commissioner shall so certify and retain and record the articles of association in a book kept for the purpose and furnish the incorporators a preliminary certificate authorizing the association to solicit members as herein provided.

Subd. 3. **Initial solicitations and qualifications.** Upon receipt of the certificate from the commissioner, the association may solicit members for the purpose of completing its organization, and shall collect from each applicant the amount of not less

than one death benefit assessment or payment, in accordance with its tables of rates, as provided by its constitution and laws, and shall issue to each applicant a receipt for the amount so collected. No association shall incur any liability other than for the advanced payments, nor issue any benefit certificate, nor pay or allow, or offer a promise to pay or allow, to any person, any death or disability benefit until:

(1) Actual bona fide applications for death benefit certificates have been secured upon at least 500 lives for at least \$1,000 each;

(2) All these applicants for death benefits shall have been regularly examined by legally qualified practicing physicians;

(3) Certificates of these examinations have been duly filed and approved by the chief medical examiner of the association;

(4) Ten subordinate lodges or branches have been established into which the 500 applicants have been initiated;

(5) There has been submitted to the commissioner, under oath of the president and secretary or corresponding officers of the association, a list of the applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of subordinate branch of which each applicant is a member, amount of benefits to be granted, and rate of regular payments or assessments;

(6) The rate of regular payments or assessments for death benefit purposes shall not be lower than those required by the National Fraternal Congress table of mortality, with interest at four percent per annum;

(7) It shall be shown to the commissioner, by sworn statement of the treasurer or corresponding officer of the association, that at least 500 applicants have each paid, in cash, at least one regular monthly payment or assessment, as herein provided, per \$1,000 of indemnity to be effected, which payments, in the aggregate, shall amount to at least \$2,500, all of which shall be credited to the mortuary or disability fund on account of these applicants, and no part of which may be used for expenses. These advanced payments shall, during the period of organization, be held in trust for and, if the organization is not completed within one year, as hereinafter provided, returned to the applicants.

Subd. 4. Time for completing organization. No preliminary certificate granted under the provisions of this section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the 500 applicants herein required have been secured and the organization has been completed, as herein provided, and the articles of association and all proceedings thereunder shall become null and void in one year from the date of the preliminary certificate or at the expiration of the extended period, unless the association shall have completed its organization and commenced business as herein provided. When any domestic association shall have discontinued business for the period of one year, its charter shall become null and void.

Subd. 5. Certificate of compliance; certified copy as evidence. The commissioner may make such examination and require such further information as he deems advisable and, upon presentation of satisfactory evidence that the association has complied with all the provisions of the law, he shall issue to the association a certificate to that effect. These certificates shall be prima facie evidence of the existence of the association at the date of the certificate. The commissioner shall cause a record of the certificate to be made and a certified copy of this record may be given in evidence with like effect as the original certificate.

[1967 c 395 art 5 s 10]

64A.11 CORPORATE POWERS RETAINED. Any domestic association authorized to transact business in this state on May 12, 1967, may thereafter exercise all the rights, powers and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic association shall not be required to reincorporate, nor shall it be required to adopt the rates prescribed therein for new associations, in order to avail itself of the privileges thereof, and any such association may amend its articles of association, from time to time, in the manner provided therein, or in its constitution or laws, and all the amendments shall be filed with the commissioner and become operative upon such filing unless a

MINNESOTA STATUTES 1978

1107

FRATERNAL BENEFICIARY ASSOCIATIONS 64A.14

later time be provided in the amendments, or in its articles of association, constitution, or laws.

[1967 c 395 art 5 s 11]

64A.12 LOCATION OF OFFICE. The principal office of any domestic association shall be located in this state.

[1967 c 395 art 5 s 12]

64A.13 PLACE OF MEETINGS. Any domestic association may provide that the meetings of its legislative or governing body may be held in any state, district, province, or territory wherein the association has subordinate branches, and all business transacted at these meetings shall be as valid in all respects as if the meetings were held in this state.

[1967 c 395 art 5 s 13]

64A.14 MERGERS, CONSOLIDATIONS AND REINSURANCE. Subdivision 1. **Requirements.** No association organized under the laws of this state to do the business of life, accident, or health insurance shall consolidate or merge with any other beneficiary association, or reinsure its insurance risks, or any part thereof, with any other association, or assume or reinsure the whole, or any portion, of the risks of any other association, except as herein provided:

(1) No association, or subordinate body thereof, shall merge, consolidate with, or be reinsured by, any company or association not licensed to transact business as an association.

(2) Any association organized under the laws of this state having an insurance membership in good standing at the time of merger, consolidation, or reinsurance of not more than 5,000 members, and which has been engaged in business for more than 15 years prior to such time, may merge or consolidate with, or be reinsured by, any life insurance company organized under the laws of this state.

(3) This section shall not limit the reinsurance of individual certificates as provided in subdivision 5 of section 64A.31.

Subd. 2. Procedure and approval by commissioner. When any association shall propose to merge or consolidate its business, or to enter into any contract of reinsurance, or to assume or reinsure the whole or any portion of the risks of any other association, it shall:

(1) Submit, after giving 30 days written notice by mail to all policyholders stating the object of the meeting, the proposed contract in writing, setting forth the terms and conditions of the proposed merger, consolidation or reinsurance, to the legislative or governing bodies of each of the parties to the contract;

(2) Obtain approval by a two-thirds vote by the legislative or governing bodies; and

(3) The contract, as so approved, shall be submitted to the commissioner for his approval, and the parties to the contract shall, at the same time, submit a sworn statement showing the financial condition of each of the associations as of the thirty-first day of December preceding the date of the contract. The commissioner may, in his discretion, require such financial statement to be submitted as of the last day of the month preceding the date of the contract.

(4) The commissioner shall thereupon consider the contract of merger, consolidation, or reinsurance and, if satisfied that the interests of the certificate holders of the associations are properly protected, that the contract is just and equitable to the members of each of the associations, and that no reasonable objection exists thereto, shall approve the contract as submitted.

Subd. 3. Foreign parties to the contract. In case the parties to the contract shall have been incorporated in separate states or territories:

(1) The contract shall be submitted, as herein provided, to the commissioner of insurance of each of the incorporating states or territories, to be considered and approved separately by each of the commissioners;

(2) When the contract of merger, consolidation, or reinsurance shall have been approved, as hereinabove provided, such commissioner or commissioners of insurance shall issue a certificate to that effect, and thereupon the contract of merger, consolidation, or reinsurance shall be in full force and effect;

(3) In case the contract is not approved, the fact of its submission and its contents shall not be disclosed by the commissioner.

Subd. 4. **Payment of expenses.** (1) All necessary and actual expenses and compensation incident to the proceedings provided hereby shall be paid as provided by the contract of merger, consolidation, or reinsurance. An itemized statement of all these expenses shall be filed with the commissioner or commissioners, as the case may be, subject to approval, and when approved the same shall be binding on the parties thereto;

(2) No brokerage or commission shall be included in such expenses and compensation or shall be paid to any person by either of the parties to any such contract in connection with the negotiation therefor or execution thereof;

(3) No compensation shall be paid to any officer or employee of either of the parties to the contract for, directly or indirectly, aiding in effecting such contract of merger, consolidation, or reinsurance;

(4) Except as fully expressed in the contract of merger, consolidation, or reinsurance, or the approved itemized statement of expenses, as approved by the commissioner or commissioners, as the case may be, no compensation shall be paid to any person and no officer or employee of the state shall receive any compensation, directly or indirectly, for in any manner aiding, promoting, or assisting any such merger, consolidation, or reinsurance.

[1967 c 395 art 5 s 14]

64A.15 FRATERNAL BENEFICIARY ASSOCIATIONS MAY BECOME MUTUAL LIFE INSURANCE COMPANIES. Subdivision 1. **Amendment of articles.** Any domestic association organized and operating under the laws of this state on a solvent basis according to a recognized table of mortality acceptable to the commissioner, may amend its articles of incorporation and laws in such a manner as to transform itself into a mutual life insurance company with the name by which it is already known, or any other name, as its supreme legislative and governing body shall determine, by:

(1) A two-thirds vote of its supreme legislative and governing body;

(2) Provided that a 30-day written notice be given, by mail, to all insured members stating the object of the meeting.

Subd. 2. **Approval of plan; effect of reorganization.** The proposed plan for reorganization or reincorporation shall be submitted to, and be subject to the approval of the commissioner. Upon so doing and procuring from the commissioner his approval and a certificate of authority, as prescribed by law, to transact business in this state as a mutual life insurance company, the corporation:

(1) Shall incur the obligations and enjoy the benefits thereof the same as though originally thus incorporated;

(2) Shall be a continuation of the original organization under its articles and by-laws as so framed or amended;

(3) Officers thereof shall serve until their successors shall be elected as provided by the amended articles or bylaws of the company as thus reorganized;

(4) But this incorporation, amendment, or reincorporation shall not affect existing suits.

Subd. 3. **Certificate of authority.** The commissioner shall issue a certificate of authority to any such company so reorganized which is in a solvent condition and has fully complied with the laws of this state, to transact such insurance business in this state. The commissioner shall exercise the powers and discharge the duties concerning any such company so reorganized that are applicable to companies writing insurance or issuing policies of the same class, organized or operating in this state.

Subd. 4. **Rights, powers, and duties.** The company so reorganized, and its officials, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon organizations writing the kinds of insurance written by the company so reorganized:

(1) All outstanding certificates shall be recalled and new contracts issued based upon the same table of rates and reserves, but in form required by law for the company as reorganized;

MINNESOTA STATUTES 1978

1109

FRATERNAL BENEFICIARY ASSOCIATIONS 64A.20

(2) The minimum reserve requirements shall be based on the tables upon which the certificates are based, if acceptable to the commissioner.

[1967 c 395 art 5 s 15]

64A.16 QUALIFICATIONS FOR MEMBERSHIP. Subdivision 1. **Age of admission.** Except as provided in subdivision 3, no association shall admit to beneficial membership any person less than 16 nor more than 60 years of age.

Subd. 2. **Medical, non-medical examinations.** Except as provided in subdivision 3, no association shall admit to beneficial membership any person who has not been examined by a legally qualified practicing physician and whose examination has not been approved by the supervising medical authority of the association, as provided by the laws of the association; provided, that in lieu of the medical examination above required, a declaration of insurability may be accepted by the association on an applicant under 45 years of age and for benefits not exceeding \$2,500; provided, further, that this examination or declaration of insurability shall not be required of associations paying only accident or sick benefits or funeral benefits not exceeding \$300.

Subd. 3. **When limitations do not apply.** An association meeting the requirements of section 64A.20, clause 3, shall not be subject to the limitations in subdivisions 1 and 2 of this section.

[1967 c 395 art 5 s 16]

64A.17 CONSTITUTION AND LAWS. The constitution and laws of the association may provide that no subordinate body, nor any of the officers or members of the subordinate body, shall have the power or authority to waive any of the provisions of the laws and constitution of the association, and the same shall be binding on the association and each and every member thereof.

[1967 c 395 art 5 s 17]

64A.18 AMENDMENTS TO CONSTITUTION. Every association transacting business under this chapter shall file with the commissioner a duly certified copy of all amendments of, or additions to, its constitution and laws within 90 days after the enactment of the same. Printed copies of the constitution and laws and of additions or amendments thereto, certified by the secretary or corresponding officer of the association, shall be prima facie evidence of the legal adoption thereof.

[1967 c 395 art 5 s 18]

64A.19 ANNUAL STATEMENT. Subdivision 1. Every association transacting business in this state shall, annually, on or before the first day of March, file with the commissioner, in such form as he may require, a statement, under oath of its president and secretary, or corresponding officer:

(1) Of its condition and standing on the thirty-first day of December, next preceding;

(2) Of its transactions for the year ending on that date; and

(3) Shall also furnish such other information as the commissioner may deem necessary to a proper exhibit of its business and plan of working.

Subd. 2. The commissioner may at other times require any further statement he may deem necessary to be made relating to these associations.

[1967 c 395 art 5 s 19]

64A.20 BENEFITS. Every association transacting business under this chapter:

(1) Shall provide for the payment of death or disability benefits, or both;

(2) May provide for the payment of temporary or permanent physical disability benefits as a result of accident, disease, or old age; provided that benefits for disability on account of old age shall not be under 70 years;

(3) May enter into contracts and grant such benefits with such persons in such forms and under such conditions as its laws may provide, provided that the association shall accumulate and maintain the assets required for the payment of benefits upon all contracts when valued by mortality and interest standards which provide reserves not less than those prescribed by the mortality tables and interest rates therein

mentioned, or the mortality tables and interest rates prescribed by law for life insurance companies.

[1967 c 395 art 5 s 20]

64A.21 NON-FORFEITURE PROVISIONS, CASH SURRENDER VALUES, CERTIFICATE LOANS, RESERVES AND OTHER OPTIONS. Any association may grant to its members paid-up and extended protection, or such withdrawal equities as its constitution and laws may provide; provided that:

(1) These grants shall in no case exceed in value the portion of the reserves to the credit of the members to whom they are made;

(2) The association shall show, by an annual valuation made by a competent actuary approved by the commissioner, that it is accumulating and maintaining for the benefit of these members the reserves required by the American Experience table of mortality, with interest at the rate of four percent per annum, or by the National Fraternal Congress table of mortality, with interest at the rate of four percent per annum, or by the mortality tables and interest rates prescribed by law for life insurance companies. The association shall carry as a liability the reserves so determined;

(3) The assets representing these reserves shall be held in trust for these members separate and distinct from assets belonging to members holding certificates on which these reserves are not maintained;

(4) The assets so held in trust shall not be used to pay any claims or benefits upon any certificates to members other than to the members for whom these assets are so held in trust;

(5) Nothing contained in this section, or contained in the laws of this state regulating associations, shall be held to restrict any association in the use of any surplus over and above the accumulation required by the table by which the rates are computed and the accretions thereon, as prescribed by the laws or rules of the association; provided, the same are used for the common benefit of all the members.

[1967 c 395 art 5 s 21; 1975 c 129 s 1]

64A.22 BENEFICIARIES. Subdivision 1. **Change; eligibility; rights.** The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the association. Every association by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract; except that associations which fail to meet the requirements of section 64A.20, clause (3) shall confine the payment of death benefits to the wife, husband, family, relatives by blood or marriage, including illegitimate children, parent or child by adoption, affianced husband or wife, a person dependent on the member or on whom the member is dependent, the member's estate, a benevolent, educational, religious, or charitable corporation, or to an incorporated institution for the support of the member. Any association may limit the beneficiaries within the above classes.

Subd. 2. **Support and other payments.** The member may at any time, by written instrument, authorize the association to provide and pay for the support, care, medical and surgical treatment, and funeral of such member and deduct the amount so paid, with legal interest, from the net reserve to the credit of the member's certificate or from the amount otherwise payable under the certificate to the beneficiary, or the member may, at any time, designate the association as beneficiary and, in such case, the association shall use this reserve or amount to the extent necessary for the purpose aforesaid.

Subd. 3. **Absence of designation.** If, at the death of any member, there is no designated beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member or as provided in the laws of the association.

[1967 c 395 art 5 s 22]

64A.221 PAYMENT TO WELFARE RECIPIENTS. After August 1, 1975, no association authorized to do business in this state which provides or pays for any health care benefits shall issue any certificate which contains any provision denying or re-

ducing benefits because services are rendered to a certificate holder or beneficiary who is eligible for or receiving medical assistance pursuant to chapter 256B.

[1975 c 247 s 3]

64A.23 BENEFITS NOT ATTACHABLE. Except as provided in chapter 256B, the money or other benefits, charity, relief, or aid to be paid, provided, or rendered by any association authorized to do business under this chapter shall, neither before nor after being paid, be liable to attachment, garnishment, or other process and shall not be seized, taken, appropriated, or applied by any legal or equitable process or operation of laws to pay any debt or liability of a certificate holder or of any beneficiary named in a certificate, or of any person who may have any right thereunder.

[1967 c 395 art 5 s 23; 1975 c 247 s 4]

64A.24 CHILDREN'S BENEFITS; ASSOCIATION QUALIFICATIONS. Subdivision 1. **Qualified associations.** Any association authorized to do business in this state may provide in its articles and bylaws for the payment of death, annuity, or endowment benefits upon the lives of children below age 16 at next birthday; provided, that the association has a class of adult membership carrying life insurance certificates at a rate of contribution at least equal to those known as National Fraternal Congress rates, or upon a table based upon the association's own experience of at least 20 years covering not less than 100,000 lives, with an interest assumption of not more than four percent per annum, or upon the mortality tables and interest rates prescribed by law for life insurance companies, to which juvenile certificate holders shall be transferred without medical reexamination upon attaining the age of 16 years.

Subd. 2. **Five hundred certificates required.** No benefit certificate as to any child shall be issued unless the association shall simultaneously put in force at least 500 such certificates, on each of which at least one assessment shall have been paid, nor shall any such certificate be issued where the number of lives represented by such certificates falls below 500.

Subd. 3. **When limitations do not apply.** An association meeting the requirements of section 64A.20, clause (3) may provide for benefits on the lives of children under the minimum age for adult membership, but not greater than 18 years of age, at time of application therefor by some adult person, without regard to the limitations specified in sections 64A.24 to 64A.30 inclusive.

[1967 c 395 art 5 s 24; 1973 c 725 s 1; 1975 c 129 s 2]

64A.25 CHILDREN'S BENEFIT CERTIFICATES; REQUIREMENTS. Subdivision 1. **Evidence of insurability.** No benefit certificate as to any child shall take effect until after medical examination by a legally qualified practicing physician, or other acceptable evidence of insurability in accordance with the laws of the association.

Subd. 2. **Eligible applicants.** Any person responsible for the support of a child may make application for these benefits; but neither such person nor the parent of the child need be a member of the association.

Subd. 3. **Eligible beneficiaries.** Children's benefits shall be payable to the estate of the child or to the person or persons responsible for the support of the child and named as beneficiary in the certificate.

Subd. 4. **Premiums, mortality table, extra assessments.** The death benefit contributions to be made upon the certificate shall be based upon the standard industrial mortality table or the English life table number six, and at a rate of interest not greater than four percent per annum, or upon the mortality tables and interest rates prescribed by law for life insurance companies; provided, that the contributions may be waived or returns may be made from surplus in excess of reserve and other liabilities, as provided in the bylaws; and provided, further, that extra contributions shall be made if the reserves provided for in section 64A.27 become impaired.

[1967 c 395 art 5 s 25; 1975 c 129 s 3]

64A.26 CHILDREN'S BRANCHES. Any association qualified under section 64A.24, subdivision 1, may, at its option, organize and operate divisions of local lodges or branches for such children, and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the association.

[1967 c 395 art 5 s 26]

64A.27 CHILDREN'S INSURANCE; RESERVE REQUIREMENTS. Any association which provides children's benefits shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the association for computing contributions as provided in subdivision 4 of section 64A.25.

[1967 c 395 art 5 s 27]

64A.28 CHILDREN'S CERTIFICATES; ADULT MEMBERSHIP. Subdivision 1. **Exchange of children's certificate upon reaching adult membership.** An association may provide that when a child reaches the minimum age for initiation into membership in the association, any children's benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any other form of certificate issued by the association, and upon issuance of the new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate.

Subd. 2. **Beneficiary designation upon exchange for adult certificate.** Neither the person who originally made application for benefits on account of the child, nor the beneficiary named in the original certificate, nor the person who paid the contributions, shall have any vested right in the new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

[1967 c 395 art 5 s 28]

64A.29 VALUATIONS BY COMMISSIONER; CHILDREN'S BENEFITS. The commissioner may make a valuation of such children's benefit certificates, or he may accept the valuation thereof made by the insurance commissioner of the state under whose authority the association is organized, when that valuation has been made on sound and recognized principles, when furnished with a certificate of that commissioner setting forth the value on the last day of the preceding year. Every association which fails to promptly furnish the certificate required shall, on demand, furnish the commissioner detailed lists of all its certificates and shall be liable for all charges and expenses resulting therefrom.

[1967 c 395 art 5 s 29]

64A.30 SPECIFIED EXPENSE. Any association shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the association, as its constitution and bylaws may provide.

[1967 c 395 art 5 s 30]

64A.31 THE CONTRACT. Subdivision 1. **Certificates.** Every certificate issued by any association shall specify the maximum amount of benefit provided by the contract and shall provide that the certificate, the constitution and laws of the association, and the application for membership and medical examination, signed by the applicant, shall constitute the contract between the association and the member.

Subd. 2. **Evidence.** Copies of the certificate, certified by the secretary of the association, or corresponding officer, shall be received in evidence of the terms and conditions of the contract.

Subd. 3. **Amendments to charter.** Any changes, additions, or amendments to the charter or articles of association, constitution, or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries and govern and control the contract in all respects the same as though the changes, additions, or amendments had been made prior to and were in force at the time of the application for membership.

Subd. 4. **Minimum benefit.** Any association hereafter organized or admitted to do business in this state shall, in its certificates, specify a fixed minimum amount of benefit.

Subd. 5. **Reinsurance.** Any association organized or admitted to do business in this state may, with the approval of the commissioner, reinsure all or any part of the amount specified in the certificate in excess of the amount of \$5,000 in a company authorized to do business in this state.

Subd. 6. **Disability offset prohibited.** No association certificate, contract or other evidence of coverage entered into, issued, amended, renewed or delivered on or after January 1, 1976 shall contain any provision offsetting, or in any other manner

reducing, any benefit to a member or other beneficiary by the amount of, or in any proportion to any increase in disability benefits received or receivable under the Social Security Act, as amended subsequent to the date of commencement of such benefit.

[1967 c 395 art 5 s 31; 1975 c 323 s 5]

64A.32 ANNUAL LICENSE. Subdivision 1. **Renewal.** Any domestic or foreign associations which are now authorized to transact business in this state may continue such business until the first day of March next succeeding the effective date of this chapter. The authority of such associations and all associations hereafter licensed may thereafter be renewed annually, subject to the provisions of section 60A.13, subdivisions 1 and 5 to 7.

Subd. 2. **Fee.** For each license or renewal, the association shall pay the commissioner of insurance \$20.

Subd. 3. **License as prima facie evidence.** A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is an association within the meaning of this chapter.

[1967 c 395 art 5 s 32; 1969 c 1148 s 19]

64A.33 FOREIGN ASSOCIATIONS; ADMISSION. Subdivision 1. **Prerequisites.** No foreign association shall be authorized to transact any business in this state without a license from the commissioner. Before receiving such license, it shall file with the commissioner:

- (1) A duly certified copy of its charter or articles of association;
- (2) A copy of its constitution and laws, certified by its secretary or corresponding officer;
- (3) A power of attorney to the commissioner as provided in section 64A.36;
- (4) A statement of the business of the preceding year, under oath in the form required by the commissioner;
- (5) A copy of its contract, which must show that benefits are provided for by assessments upon, or other payments by persons holding similar contracts; and
- (6) Shall furnish the commissioner with such other information as he may deem necessary to a proper exhibit of its business and plan of working.

Subd. 2. **Findings.** If the commissioner finds that the foreign association is:

- (1) Transacting business in accordance with the provisions of this chapter;
- (2) Investing its assets in accordance with the laws of the state where it is organized;
- (3) Maintaining the membership and qualifications required of domestic associations organized under this chapter, unless the foreign association has under its jurisdiction a Grand Lodge having a beneficiary department, which Grand Lodge is now authorized by the commissioner to transact business in this state;

the commissioner may license the association to do business in this state until the last day of the succeeding May, and the license may be renewed annually, but in all cases to terminate on the last day of the succeeding May.

Subd. 3. **Foreign beneficiary associations or societies.** Any foreign beneficiary association or society, having a branch system and representative form of government, whose membership is confined to the members of any one religious denomination, and which, prior to the passage of Laws 1907, Chapter 345, was, and has been ever since, continuously licensed to do business in this state, may, upon being authorized to transact the business provided for in the laws governing fraternal beneficiary associations in the state of its organization and making such changes, if any, in its charter and plan of business as may be necessary to meet the requirements of this chapter, be licensed to do business in this state thereunder without being required to adopt the rates required by the National Fraternal Congress table of mortality.

[1967 c 395 art 5 s 33]

64A.34 FOREIGN ASSOCIATIONS; EXAMINATIONS; REVOCATION OF LICENSES. Subdivision 1. **Examinations.** The commissioner, or any person whom he may appoint, may examine any foreign association transacting, or applying for admission to transact, business in this state. The commissioner shall conduct an examination at least once in every three years.

(1) The commissioner may employ assistants for the purpose of examination and he, or any person he may appoint, shall have free access to all the books, papers, and documents that relate to the business of the association and may summon and qualify as witnesses, under oath, and examine its officers, agents, employees, and other persons in relation to the affairs, transactions, and condition of the association.

(2) He may, in his discretion, accept in lieu of this examination the examination of the insurance department of the state, territory, district, province, or country where the association is organized.

Subd. 2. Revocation of license. If any such association or its officers, refuses to submit to examination or to comply with the provisions of this section relating thereto, or if upon an examination the commissioner, on investigation, is satisfied that any foreign association transacting business under this chapter has:

- (1) Exceeded its power;
- (2) Failed to comply with the provisions of the law;
- (3) Conducted business fraudulently;
- (4) Not carried out its contracts in good faith;

(5) Been in such condition as to render further proceedings hazardous to the public or certificate holders;

the commissioner may, by a written order or decision filed in his office, revoke the license of the association to do business in this state, subject to an appeal by the association.

Subd. 3. Notice. No license shall be revoked by the commissioner until after notice has been duly served on an executive officer of the association and a reasonable opportunity given to it on a date to be named in the notice to show cause why the license should not be revoked.

[1967 c 395 art 5 s 34; 1969 c 7 s 25]

64A.35 EXPENSES OF EXAMINATIONS. The cost of any examination made by the commissioner, of any association, shall be paid by the association in accordance with section 60A.03, subdivisions 3 and 5.

[1967 c 395 art 5 s 35]

64A.36 SERVICE OF PROCESS. Subdivision 1. **Appointment of commissioner as attorney.** Each foreign association now transacting business in this state and each such association applying for admission shall, before being licensed:

(1) Appoint, in writing, the commissioner and his successors in office to be its true and lawful attorney, upon whom all legal process in any action or proceedings against it shall be served; and

(2) In such writing, shall agree that any lawful process against it, which is served upon such attorney, shall be of the same legal force and validity as if served upon the association; and

(3) That the authority shall continue in force so long as any liability remains outstanding in this state.

Subd. 2. Copies of appointment as evidence. Copies of this appointment, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

Subd. 3. Service. Service may only be made upon such attorney, must be in duplicate, and shall be deemed sufficient service upon the association; provided, that no such service shall be valid or binding against any such association when it is required thereunder to file its answer, pleading, or defense in less than 30 days after the date of such service.

Subd. 4. Copy of process to association. When legal process against any such association is served upon the commissioner, he shall forthwith forward, by certified mail, one of the duplicate copies, prepaid and directed to its secretary or corresponding officer.

Subd. 5. Fee. The plaintiff in the process so served shall pay to the commis-

MINNESOTA STATUTES 1978

1115

FRATERNAL BENEFICIARY ASSOCIATIONS 64A.43

sioner, for the use of the state, at the time of service, a fee of \$3, which shall be recovered by him as part of the taxable cost, if he prevails in the suit.

[1967 c 395 art 5 s 36; 1978 c 674 s 60]

64A.37 DOMESTIC ASSOCIATIONS; EXAMINATION; REHABILITATION; DISSOLUTION. Subdivision 1. **Visitation and examination.** The commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic association. The commissioner shall conduct an examination at least once in every three years. He may:

(1) Employ assistance for the purposes of examination and he, or any person he may appoint, shall have free access to any books, papers, and documents that relate to the business of the association; and

(2) Summon and qualify as witnesses, under oath, and examine its officers, agents, and employees, or other persons, in relation to the affairs, transactions, and condition of the association.

Subd. 2. **Conditions.** Wherever the commissioner is satisfied that any of the conditions exist as stated in chapter 60B, he may proceed as provided therein.

[1967 c 395 art 5 s 37; 1969 c 7 s 26; 1969 c 708 s 63]

64A.38 [Repealed, 1969 c 708 s 62]

64A.39 FINANCIAL MATTERS. Subdivision 1. **Investments.** Any association may invest its funds in, hold, sell, and convey:

(1) Real estate for lodge and office purposes;

(2) Real estate acquired by foreclosure or received in satisfaction of loans;

(3) Such investments, including real estate holdings, as are permitted by the laws of this state for the investment of assets of life insurance companies, and subject to the limitations thereon.

Subd. 2. **Foreign associations.** Every foreign association shall be empowered to invest its funds according to the laws of the state, province or country in which it is organized.

Subd. 3. **Prohibited loans.** No association shall loan any of its funds to any of its officers or directors.

[1967 c 395 art 5 s 39]

64A.40 RESERVE FUND. Subdivision 1. **Creation of fund.** Any association may create, maintain, invest, disburse, and apply a reserve, emergency, surplus, or other fund in accordance with its constitution and laws, for the purpose specified in section 64A.21. Any association so creating, maintaining, investing, disbursing, or applying any such reserve, emergency, or surplus fund shall not be held to be organized or carried on for profit within the intent of the provisions of section 64A.02.

Subd. 2. **Use of and rights in fund.** These funds shall be held, invested, and disbursed for the use and benefits of the association, and no member or beneficiary shall have or acquire any individual rights therein, or be entitled to an apportionment or the surrender of any part thereof, except as provided in section 64A.21.

[1967 c 395 art 5 s 40]

64A.41 METHOD OF COLLECTION. The funds from which benefits shall be paid and the funds from which the expenses of the association shall be defrayed shall be derived from periodical or other payments by the members of the association and accretions of these funds.

[1967 c 395 art 5 s 41]

64A.42 EXTRA ASSESSMENTS. Every association shall provide in its constitution or laws that if the regular payments are insufficient to pay all matured death and disability claims in full and to provide for the creation and maintenance of the funds required by its constitution and laws, extra assessments, or other payments, may be levied upon the members to meet the deficiency.

[1967 c 395 art 5 s 42]

64A.43 EXPENSES. Every association shall make provision in its constitution and laws for payment by members of the association, which provision shall state the

purpose of the same and a proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes and no part of the reserve, emergency, or surplus funds or the net accretions of either or any of these funds shall, except as provided in section 64A.21, be used for expenses. From the accretions to the principal of the emergency fund may be paid the taxes, if any, and the expense actually and necessarily incurred in the investment and protection of that fund; and from the savings in mortality may be paid the expenses of medical examination and inspections of risks.

[1967 c 395 art 5 s 43]

64A.44 TAXATION. Fraternal beneficiary associations are declared to be charitable institutions, and the property held and used for lodge purposes, and the funds of these associations shall be exempt from taxation under the general tax or revenue laws of this state, except that the real estate of the association shall be taxable.

[1967 c 395 art 5 s 44]

64A.45 CERTAIN ORGANIZATIONS EXEMPT. Subdivision 1. **Application of chapter.** Nothing contained in this chapter shall be construed to affect or apply to:

(1) Grand or subordinate lodges of Masons, Odd Fellows, Elks, or Knights of Pythias, exclusive of the insurance branch of the supreme lodge of Knights of Pythias, or to similar orders which do not issue insurance certificates; or

(2) To associations which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business; or

(3) To local lodges of an association which was doing business in this state at the time of the enactment of Laws 1907, Chapter 345, that provide death benefits not exceeding \$600 to any one person, or disability benefits not exceeding \$600 in any one year to any one person, or both; or

(4) To any contracts of reinsurance of or between such local lodges of such association now doing business on such a plan in this state; or

(5) To domestic associations which limit their membership to the employees of a particular city or town, designated firm, business house, or corporation; or

(6) To domestic lodges, orders, or associations of a purely religious, charitable, and benevolent description, which do not operate with a view to profit, and which do not provide for a death benefit of more than \$100, or for disability benefits of more than \$150 to any one person in any one year; or

(7) To any domestic lodge, order, or association which was incorporated under the laws of this state prior to the year 1917 and has been doing business in this state since incorporation and which now has less than \$4,000 in cash or in securities acceptable to the commissioner and which has heretofore agreed, in its constitution or bylaws, to pay \$300 as death benefits and \$200 as funeral expenses, and which does not operate with a view to profit and which shall hereafter pay no funeral expenses and pay not more than \$300 as death benefits, and shall hereafter collect from its members, at their then attained ages, regular payments or assessments not lower than those required by the National Fraternal Congress table of mortality, with interest at four percent per annum; and save and except as in this section otherwise specifically modified, limited or qualified that any such domestic order or association which has more than 500 members, and provides for death or disability benefits, and any such domestic lodge, order, or association which issues to any person a certificate providing for the payment of benefits shall not be exempt by the provisions of this section, but shall comply with the requirements of this chapter. All foreign associations transacting business in this state shall comply with the provisions of section 64A.36.

Subd. 2. Aid associations. Any aid association confining its membership to one religious denomination, not operating for profit, and not charging stipulated premiums, which has been so operating in this state for more than 30 years and which pays death benefits not exceeding \$2,000 in any one case, shall not be subject to the insurance laws of this state.

Subd. 3. Information furnished commissioner. The commissioner may require from any association such information as will enable him to determine whether the association is exempt from the provisions of this chapter. No association which is exempt by the provisions of this section from the requirements of this chapter shall give

or allow, or promise to give or allow, to any person any compensation for procuring new members.

[1967 c 395 art 5 s 45; 1969 c 535 s 1]

64A.46 PENALTIES. Subdivision 1. **Violations generally.** Any person violating the provisions of section 64A.14, subdivisions 3 and 4, shall be guilty of a felony; and, upon conviction, liable to a fine of not more than \$5,000, or to imprisonment for not more than five years, or to both fine and imprisonment.

Subd. 2. **False or fraudulent statements or representations.** Any person, officer, member, or examining physician, who shall knowingly or wilfully make any false or fraudulent statement or representation in, or with reference to, any application for membership for the purpose of obtaining money from or benefit in any association transacting business under this chapter shall be guilty of a misdemeanor:

(1) And any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement and any verified report or declaration under oath, required or authorized under this chapter, shall be guilty of perjury and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury;

(2) Any person who shall solicit membership for, or in any manner assist in procuring membership in, any association not licensed to do business in this state, or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized to do business in this state, shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not more than \$100;

(3) Any association or any officer, agent, or employee thereof, neglecting, refusing to comply with, or violating, any of the provisions of this chapter, the penalty for which neglect, refusal, or violation is not specified in this section, shall be fined not exceeding \$10 upon conviction thereof.

[1967 c 395 art 5 s 46; 1971 c 23 s 7]

64A.47 LAWS APPLICABLE. Subdivision 1. **Application of chapter 64A.** Except as therein provided, the association shall be governed exclusively by this chapter and shall be exempt from all provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter passed shall apply to them unless they be expressly designated therein.

Subd. 2. **Domestic and foreign associations.** All provisions of this chapter, except as otherwise provided, shall be taken and construed as applying to both domestic and foreign associations.

Subd. 3. **Application of certain sections.** The provisions of sections 61A.39 to 61A.42 and sections 61A.43 to 61A.50 shall not apply to fraternal beneficiary associations nor shall anything therein be construed as governing or in anywise regulating such associations.

[1967 c 395 art 5 s 47]

64A.48 BENEFICIARY ASSOCIATIONS. Subdivision 1. **Definitions.** "Beneficiary association" means a corporation, society, or voluntary association heretofore organized and now existing and carried on for the sole benefit of its members and their families, relatives, or dependents, but not for profit, to insure the lives of its members only upon the whole life assessment plan, so-called, and in which organization admission to membership by a vote of the members or some governing body thereof, is a prerequisite to being entitled to such relief or policy of insurance, and which association sells neither endowments nor annuities.

Subd. 2. **Benefits.** Any beneficiary association may make provisions for the payment of benefits in case of sickness, or temporary or permanent physical disability, as a result of disease, accident, or age exceeding 70 years, and may also provide for the payment of funeral expenses of a member not exceeding \$250; in any case, all of these benefits to be paid, subject to compliance by its members with its constitution and by-laws, out of funds derived from assessments and dues collected from its members.

Subd. 3. **Eligible beneficiaries.** Payments of death benefits shall be made only to the families, heirs, blood relatives, adopted children, fiancée of the member, or persons dependent upon him, or, when his certificate of membership may so provide, the executor or administrator of the estate of the member in trust for the person or per-

sons above mentioned as may be designated in the certificate. Any member who, by reason of old age, or other disability, is dependent for his support, in whole or in part, upon another, whether or not such other stands in the above relationship to him, may, with the consent of the association, and under such regulations as it may prescribe, designate the person upon whom he is so dependent as a beneficiary under his certificate; and, in such case, the death benefits shall be paid according to this designation.

Subd. 4. **Reserve; taxation.** Every association may create and maintain a reserve fund for that purpose and shall be held to be an institution of public charity, and shall be exempt from payment of any taxes for state, county, or municipal purposes, except that the real estate of the association shall be taxed as other real estate in the state.

Subd. 5. **Law applicable.** The beneficiary society or association shall be governed by the provisions of this chapter not inconsistent with this section and be excluded from all provisions of the insurance laws of this state to the same extent as fraternal beneficiary associations.

[1967 c 395 art 5 s 48]