

LEGISLATIVE BILL 17

Approved by the Governor February 2, 1987

Introduced by Marsh, 29, Vice-Chairperson, Exec. Board

AN ACT relating to insurance; to amend sections 44-149, 44-308, 44-313, 44-382 to 44-385, and 44-402.01, Reissue Revised Statutes of Nebraska, 1943, and section 44-359, Revised Statutes Supplement, 1986; to eliminate references to fraternal beneficiary associations and societies; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 44-149, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-149. If any domestic insurance company or association, or domestic fraternal ~~beneficiary benefit~~ society, having a certificate of authority from the Department of Insurance, shall make application for admission to any other state or country, and shall comply with all the statutory regulations of such state or country, and it shall be refused admission to such state or country, the director may revoke every certificate of authority granted to like companies or societies organized under the laws of the state or country so refusing admission to a domestic insurance company or association or domestic fraternal ~~beneficiary benefit~~ society, unless and until ~~said such~~ country or state shall grant the necessary license or certificate to such domestic insurance company or association or fraternal ~~beneficiary benefit~~ society.

Sec. 2. That section 44-308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-308. No life insurance company or association, other than a fraternal ~~beneficiary~~ ~~associations benefit society~~, which issues contracts, the performance of which is contingent upon the payment of assessments or calls made upon its members, shall be hereafter organized to do business within this state. All such companies or associations as are now licensed to do business within the state on such plans may continue and carry on the business of insurance on the

plan under which they are organized and doing business July 17, 1913, without being required to value their assessment policies, or certificates of membership as yearly renewal term contracts.

Sec. 3. That section 44-313, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-313. All bonds or other evidences of debt having a fixed term and rate, held by any insurance company, assessment life association, or fraternal ~~beneficiary association~~ benefit society authorized to do business in this state, may, if amply secured and not in default as to principal and interest, be valued as follows: (1) If purchased at par, at the par value; and (2) if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity, and so as to yield in the meantime the effective rate of interest at which the purchase was made, except; ~~PROVIDED~~, that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase. The Department of Insurance shall have full discretion in determining the method of calculating values according to the foregoing rule.

Sec. 4. That section 44-359, Revised Statutes Supplement, 1986, be amended to read as follows:

44-359. In all cases when the beneficiary, or other person entitled thereto, brings an action upon any type of insurance policy, except workers' compensation insurance, or upon any certificate issued by a fraternal ~~beneficiary association~~ benefit society, against any company, person, or association doing business in this state, the court, upon rendering judgment against such company, person, or association, shall allow the plaintiff a reasonable sum as an attorney's fee in addition to the amount of his or her recovery, to be taxed as part of the costs. If such cause is appealed, the appellate court shall likewise allow a reasonable sum as an attorney's fee for the appellate proceedings, except that if the plaintiff fails to obtain judgment for more than may have been offered by such company, person, or association in accordance with section 25-901, then the plaintiff shall not recover the attorney's fee provided by this section.

Sec. 5. That section 44-382, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-382. No company, association, or society, other than a legal reserve life insurance company, life

association, or fraternal beneficiary association or benefit society maintaining reserves on the basis of the American Experience Table of Mortality with an interest assumption of not more than four per cent, or some higher standard, shall hereafter give or promise any cash surrender values in its policies whatever, except for the unearned premium.

Sec. 6. That section 44-383, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-383. Each accident corporation which has heretofore issued policies providing for a cash surrender value at any given period shall value such policies as pure endowments based upon an experience table and the rate of interest authorized by ~~this chapter~~ Chapter 44. This reserve shall be in addition to the unearned premium reserve of such company. Every policy heretofore issued by any other insurance corporation shall be valued either according to the terms of the policy itself or the provisions of ~~this chapter~~ Chapter 44. The right of a fraternal beneficiary association or benefit society to pay old age benefits or disability benefits to its members as provided in its rules or bylaws, shall not be affected by the provisions of sections 44-382 to 44-385.

Sec. 7. That section 44-384, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-384. Any fraternal beneficiary association or benefit society may enter into contracts providing for paid-up insurance, and granting such benefits, as well as cash surrender and loan values, and in favor of such beneficiaries, as its laws may authorize when it shall, for the payment of such benefits and obligations, provide and maintain reserves on the basis of the American Experience Table of Mortality with an interest assumption of not more than four per cent or some higher standard. Fraternal beneficiary associations or benefit societies or life associations, issuing such forms of contracts herein provided for, or granting cash surrender values in any of its certificates or policies, shall show by an annual valuation made by a competent actuary, approved by the Department of Insurance of this state, that it is accumulating and maintaining as to such certificates or policies the reserves required by the above-named mortality table at the interest rate above named or higher standard, as the case may be. Any such fraternal beneficiary association or benefit society or life association shall carry as a liability

the reserves so determined, and the assets representing such reserves shall be held in trust for such members separate and distinct from assets belonging to members holding certificates or policies on which such reserves are not maintained. The assets so held in trust shall not be used to pay any claims or benefits upon any certificate or policy to members other than the members for whom such assets are so held in trust.

Sec. 8. That section 44-385, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-385. Any member of a ~~beneficiary association or fraternal benefit~~ society holding a certificate therein, who desires to surrender such certificate in exchange for any other form of certificate issued by such ~~association or society~~, shall, by taking such new certificate, not lose his or her accumulated actuarial credit in the funds of the association, but he shall be entitled to the transfer of such funds to the amount of such credit to the funds held for the benefit of such new certificate, and shall be entitled to a deduction, justified by such credit, upon the assessments and payments he or she shall be required to make for such new certificate.

Sec. 9. That section 44-402.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-402.01. Any domestic life insurance company, including, for the purposes of sections 44-402.01 to 44-402.05, all domestic fraternal ~~beneficiary associations, benefit societies or companies~~ which operate on a legal reserve basis, may, after adoption of a resolution by its board of directors and certification thereof to the Director of Insurance, establish one or more separate accounts, and may allocate thereto amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance and benefits incidental thereto, payable in fixed or variable amounts or both.

Sec. 10. That original sections 44-149, 44-308, 44-313, 44-382 to 44-385, and 44-402.01, Reissue Revised Statutes of Nebraska, 1943, and section 44-359, Revised Statutes Supplement, 1986, are repealed.