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134th General Assembly

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Am. H. B. No. 575

Representative Cutrona

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

A BILL

To amend section 3921.19 and to enact sections 1
3921.102 and 3921.32 of the Revised Code to 2
modernize fraternal benefit society solvency 3
regulation and oversight. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3921.19 be amended and sections 5
3921.102 and 3921.32 of the Revised Code be enacted to read as 6
follows: 7

Sec. 3921.102. (A) In the event a domestic fraternal 8
benefit society has an authorized control level RBC as defined 9
in section 3903.81 of the Revised Code or fails to comply with 10
section 3921.101 of the Revised Code, the society shall present 11
to the superintendent of insurance a plan to protect the 12
interests of the society members not later than forty-five days 13
following such an event. The plan shall provide for the transfer 14
of all members, certificates, and other assets and liabilities 15
of the society to another fraternal benefit society or other 16
insurer through merger, consolidation, assumption, or any other 17

means. The plan shall designate a period of time in which the 18
transfer must be completed. Any transfer is subject to approval 19
by the superintendent. 20

(B)(1) Any transfer under division (A) of this section 21
shall constitute a novation of the transferring society's 22
certificates effective on the date of transfer. The society 23
shall ensure that the transfer is concluded within the time 24
period approved by the superintendent. A transfer under division 25
(A) of this section shall be considered fully approved by the 26
society upon a majority vote of the society's board of 27
directors, notwithstanding section 3921.14 of the Revised Code 28
or any other law or regulation that requires notice to or 29
approval by the society's members or supreme governing body. The 30
society shall make any necessary amendments to its laws to 31
recognize this authority of the board not later than the next 32
meeting of the society's supreme governing body. The 33
transferring society shall provide notice to its members of the 34
transfer by mail or in the society's official publication not 35
later than thirty days after the transfer is approved by the 36
superintendent. 37

(2) Notwithstanding any law or regulation to the contrary 38
and any law of the society, the board of directors of a society 39
may, with the approval of the superintendent, suspend or modify 40
the qualifications for membership in the society as necessary to 41
facilitate a transfer under division (A) of this section. 42

(3) Upon the effective date of a transfer to an 43
organization that is not a fraternal benefit society and in 44
consideration for the transfer, each member of the society is 45
considered to agree that any terms of a certificate subjecting 46
the certificate to the laws of the society or providing for the 47

maintenance of the society's solvency, except to the extent of 48
any outstanding lien not released by the terms of the transfer, 49
are null and void. The assuming organization shall endorse the 50
certificate accordingly. 51

Sec. 3921.19. (A) Each fraternal benefit society 52
authorized to do business in this state shall issue to each 53
owner of a benefit contract a certificate specifying the amount 54
of benefits provided under the contract. The certificate, 55
together with any riders or endorsements attached to the 56
certificate, the laws of the society, the application for 57
membership, the application for insurance and declaration of 58
insurability, if any, signed by the applicant, and all 59
amendments to each such document, constitute the benefit 60
contract, as of the date of issuance, between the society and 61
the owner, and the certificate shall so state. A copy of the 62
application for insurance and declaration of insurability, if 63
any, shall be endorsed upon or attached to the certificate. 64

All statements made on the application are representations 65
and not warranties. Any waiver of this provision is void. 66

(B) Any changes, additions, or amendments to the laws of 67
the society duly made or enacted subsequent to the issuance of 68
the certificate, shall bind the owner and the beneficiaries, and 69
shall govern and control the benefit contract in all respects 70
the same as though such changes, additions, or amendments had 71
been made prior to and were in force at the time of the 72
application for insurance, except that no change, addition, or 73
amendment shall destroy or diminish benefits that the society 74
contracted to give the owner as of the date of issuance. 75

(C) Any person upon whose life a benefit contract is 76
issued prior to attaining the age of majority shall be bound by 77

the terms of the application and certificate and by all of the 78
laws and rules of the society to the same extent as though the 79
age of majority had been attained at the time of application. 80

(D) A society shall provide in its laws that if its 81
reserves as to all or any class of certificates become impaired 82
its board of directors or corresponding body may require that 83
there shall be paid by the owner to the society an assessment in 84
the amount of the owner's equitable proportion of such 85
deficiency as ascertained by its board, and that if the payment 86
is not made, either of the following applies: 87

(1) It shall stand as an indebtedness against the 88
certificate and draw interest not to exceed the rate specified 89
for certificate loans under the certificates; 90

(2) In lieu of or in combination with division (D) (1) of 91
this section, the owner may accept a proportionate reduction in 92
benefits under the certificate. 93

The society may specify the manner of the election and 94
which alternative is to be presumed if no election is made. 95

(E) At least ~~thirty-ninety~~ days prior to imposing any 96
~~indebtedness-assessment of shares of a deficiency~~ upon any owner 97
as provided in division (D) of this section, the board of 98
directors or corresponding body shall notify the superintendent 99
of insurance in writing of the board's intent to require the 100
~~payment-assessment~~ and a statement of the reason that request is 101
necessary. The notice shall be confidential and not a public 102
record under section 149.43 of the Revised Code. The society may 103
impose the assessment following the notice period only if the 104
assessment has been duly adopted by the board in accordance with 105
this section and has not been disapproved by the superintendent. 106

The superintendent may allow the assessment to be imposed at an 107
earlier date than the date identified in the notice. 108

(F) (1) Certificates that are delivered or issued for 109
delivery in this state on or after January 1, 1997, but prior to 110
January 1, 1998, shall comply with the requirements that would 111
have applied under the laws in effect on December 31, 1996. 112

(2) No certificate shall be delivered or issued for 113
delivery in this state on or after January 1, 1998, unless a 114
copy of the form is filed with and approved by the 115
superintendent of insurance in accordance with the provisions of 116
law applicable to like policies issued by life or sickness and 117
accident insurers in this state. 118

(3) Each life, sickness and accident, or disability 119
insurance certificate, and each annuity certificate, that is 120
delivered or issued for delivery in this state on or after 121
January 1, 1998, shall comply with the standard contract 122
provision requirements applicable to like policies issued by 123
life or sickness and accident insurers in this state, if those 124
requirements are not inconsistent with this chapter. However, a 125
society may provide in its certificates for a grace period of 126
one full month for payment of premiums. A certificate shall also 127
contain a provision that states the amount of premiums that is 128
payable under the certificate and that sets forth the substance 129
of any sections of the society's laws or rules in force at the 130
time of issuance of the certificate which, if violated, will 131
result in the termination or reduction of benefits payable under 132
the certificate. If the laws of the society provide for the 133
expulsion or suspension of a member, the certificate shall also 134
contain a provision stating that any member expelled or 135
suspended, except a member expelled or suspended because of 136

nonpayment of a premium, may maintain, other than during the 137
contestable period for material misrepresentation in the 138
application for membership or insurance, the certificate in 139
force by continuing payment of the required premium. 140

(G) Benefit contracts issued on the lives of persons under 141
the society's minimum age for adult membership may provide for 142
transfer of control of ownership to the insured at an age 143
specified in the certificate. A society may require approval of 144
an application for membership in order to effect this transfer, 145
and may provide in all other respects for the regulation, 146
government, and control of such certificates and all rights, 147
obligations, and liabilities incident to and connected with such 148
certificates. Ownership rights prior to such a transfer shall be 149
specified in the certificate. 150

(H) A society may specify the terms and conditions on 151
which benefit contracts may be assigned. 152

(I) A copy of any of the documents described in this 153
section, if certified by the secretary or corresponding officer 154
of the society, is prima facie evidence of the terms and 155
conditions of the documents. 156

Sec. 3921.32. (A) Liquidation proceedings for a domestic 157
fraternal benefit society shall be conducted consistent with the 158
purposes of section 3903.02 of the Revised Code in a manner 159
designed to conserve assets, limit liquidation expenses, and 160
avoid any assessment of shares of a deficiency. 161

(B)(1) The liquidator shall attempt to transfer policies 162
or certificates of the liquidating fraternal benefit society by 163
way of assignment, assumption, or other means to another 164
fraternal benefit society, whether domestic or foreign, or, if 165

no fraternal benefit society will accept such a transfer, to 166
another insurer. No fraternal benefit society shall be obligated 167
to accept a transfer from a liquidating society. 168

(2) Upon the effective date of a transfer to an insurer 169
that is not a fraternal benefit society and in consideration for 170
the transfer, each member of the society and owner of a policy 171
or certificate shall be deemed to agree to both of the 172
following: 173

(a) That any terms of an insurance policy or certificate 174
providing for the maintenance of the society's solvency or 175
subjecting the policy or certificate to the bylaws of the 176
society are null and void; 177

(b) Such other changes determined by the liquidator to be 178
necessary to effectuate the transfer. 179

The assuming insurer shall endorse the policy or 180
certificate accordingly. 181

(3) Any transfer shall constitute a novation of the 182
liquidating fraternal benefit society's certificates effective 183
upon the date of transfer. 184

Section 2. That existing section 3921.19 of the Revised 185
Code is hereby repealed. 186