An Act

ENROLLED HOUSE
BILL NO. 2671

By: McDaniel (Randy) and
Sullivan of the House

and

Stanislawski of the Senate

An Act relating to insurance; amending 36 O.S. 2001, Sections 2402, 2404, 2405 and 2411, which relate to Mutual Benefit Association requirements; increasing maximum age of a person to whom a benefit certificate may be issued; increasing age limit for the issuance of certain graded membership certificate; increasing maximum age limitation of certain insurance policies; specifying that certain assessments shall become part of association general funds; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2001, Section 2402, is amended to read as follows:

Section 2402. Any number of persons, being citizens of the United States, not less than seven, five of whom shall also be citizens and residents of the state of Oklahoma, desiring to form a mutual benefit association, may associate themselves together and effect such organization in the manner provided in this section and as otherwise provided in this article for reorganization of associations now doing business in this state, and not otherwise. Articles of association shall be prepared in triplicate in the manner hereinafter provided, and submitted to the Insurance Commissioner for ~~his~~ approval. If the name selected for an association is not the same or so near the same as that of another association or corporation doing business in this state as to cause confusion in the minds of the people, and the objects of the association conform to the provisions of this article, the Insurance

Commissioner shall endorse on the back of each copy of said articles of association the fact that ~~he~~ the Commissioner has approved the same. Before the Insurance Commissioner shall approve such articles of association, it shall be shown to ~~him~~ the Commissioner by the sworn statement of one or more of the proposed incorporators that at least one thousand persons have signed, in good faith, applications for benefit membership in such proposed association, and paid to the proper one of such proposed incorporators the amount of one death or mortuary collection, by whatever name it may be called, and that such money is deposited with some bank or trust company and is held for the special purpose named. For such examination and approval of the articles of association herein mentioned, the Insurance Commissioner shall charge and receive a fee as stated in Section 321, Article 3 of this ~~Code~~ title. Provided, however, that before such incorporators, or any of them, or any person or persons, shall solicit members or collect any money whatever from any applicant in an association formed, or to be formed, under this article, they shall first furnish to the Insurance Commissioner a surety bond running to the State of Oklahoma, to be approved by ~~said~~ the Commissioner, in the sum of Five Thousand Dollars ($5,000.00) Dollars, conditioned that all sums collected, or to be collected, from applicants for benefit membership in such association will be promptly returned to respective applicants in case the articles of incorporation are not approved or no certificate of incorporation is granted within one (1) year from the date of the filing of such bond, or in case the association fails to accept said charter and in good faith conduct the business of a mutual benefit association authorized thereby. Upon the filing of said bond, the Insurance Commissioner shall issue ~~his~~ a certificate to that effect, showing that the person or persons named therein are authorized to solicit members in such proposed association and to collect dues and assessments in advance. When the foregoing conditions are complied with and the articles of association are approved by the Insurance Commissioner, as hereinbefore provided, one copy thereof shall be filed with the Secretary of State, whereupon the said Secretary shall issue ~~his~~ a certificate of incorporation and affix the Seal of the State thereto, and one copy, approved as hereinbefore provided, shall be delivered to the incorporators of such association, and the third approved copy of such articles shall be filed with the Insurance Commissioner. Such articles of association shall be substantially in the following form:

First. The preamble shall name the incorporators and give the residence of each and the fact of their citizenship, as herein required, and express their desire to incorporate a mutual benefit

association in accordance with and under the provisions of this article, making definite reference to the same.

Second. Article I shall give the name of the association.

Third. Article II shall state the location of the principal office of the association.

Fourth. Article III shall state the objects of the association and the plans by which these objects are to be carried out, including the extreme limit of age of persons to whom benefit certificates may be issued, which limit of age shall not exceed ~~sixty-five (65)~~ seventy-two (72) years.

Fifth. Article IV shall state the names of the persons selected to manage the business or prudential affairs of the association for the first term, for which such persons are to be elected, the title of all officers and the names of such officers, with their residence, if they have been selected.

Sixth. Article V shall contain a description of the corporate seal adopted by such association, together with an impress of the same.

The articles of association shall be signed and acknowledged by each of the incorporators.

SECTION 2. AMENDATORY 36 O.S. 2001, Section 2404, is amended to read as follows:

Section 2404. A. The following provisions are made applicable to mutual benefit associations:

1. The bylaws of such associations shall provide for periodical meetings of the members and how special meetings may be called. At such meetings each member shall be entitled to vote on all questions arising, either in person or by proxy, and such proxy may be given in the application for membership.

2. The bylaws shall provide for the calling of extra, increased or additional assessments when in the opinion of the board of directors such is necessary.

3. The bylaws may provide for the issuing of graded membership certificates to persons not to exceed ~~sixty-five (65)~~ seventy-two

(72) years of age, and for the grading of rates of assessment according to the age of members; provided that the premium or assessment charged on policies or certificates insuring individuals over age ~~fifty-five (55)~~ seventy-two (72) shall not be less than the net rate produced by using the American Experience Table of Mortality with interest assumption at three and one-half percent (3 1/2%) plus ten percent (10%).

4. Such associations shall have the right to regulate and govern their affairs as provided and set forth in their respective bylaws, so long as such bylaws are not in conflict with any law of this state. ~~And the~~ The membership shall be bound by the bylaws of the association as the same exist at the time of joining or as they may be amended in the future. Provided, no amendment to such bylaws affecting the policy contract or rate of contribution of the membership shall become valid and binding upon the membership unless notice of such proposed change in the bylaws is given each member of such association at least twenty (20) days prior to any annual meeting or special meeting of such association called to consider such proposed amendment and a certified copy thereof is filed with the Insurance Commissioner and approved by ~~him~~ the Commissioner; provided further, that no notice of such proposed amendment shall be required if the same is adopted in compliance with any of the provisions of this article or a notice or order of the Insurance Commissioner made in pursuance thereof. Bylaws or amendments thereto, which are not in conflict with any of the provisions of this article, shall be approved by the Insurance Commissioner.

5. The affairs of such associations shall be conducted strictly in accordance with their respective bylaws herein provided for. Such bylaws duly certified to by the president and secretary shall be filed with the Insurance Commissioner, and copies of such, duly certified by ~~such~~ the Commissioner, shall be received in evidence in all courts of this state.

6. In all actions against assessment insurance companies or against the bonds or bondsmen of such companies by any policyholder or beneficiary, it shall not be necessary to notify or summon the other policyholders or beneficiaries, but it shall be sufficient to bring such company into court by usual summons on the secretary or president or managing agent thereof, and in suits upon the bond by ordinary services as in other cases upon the several bondsmen sued.

7. In case the membership of any such association is divided into circles, classes or groups, upon the membership of which

assessments are made to cover benefits or to replenish the mortuary or benefit fund, no benefit assessment shall be made upon any other circle, class or group to which the insured member does or did not belong to cover such benefit paid or to be paid.

B. No circle, class or group shall be established unless a sufficient number of members be placed therein and a regular benefit assessment collected therefrom will produce an amount sufficient to pay in full the face amount of the policy issued for which the assessment was levied, and each and every circle, class or group shall be maintained up to the number placed therein when such circle, class, or group was established; provided, that not more than one circle, class or group shall remain incomplete.

SECTION 3. AMENDATORY 36 O.S. 2001, Section 2405, is amended to read as follows:

Section 2405. Mutual benefit associations authorized to do business in this state, may provide for a level or stipulated weekly, monthly, quarterly, semiannual or annual assessment, and the following provisions are made specially applicable thereto:

1. Level rate assessment associations, companies or corporations are defined as those corporations granting insurance benefits on the assessment plan and which collect from their membership a level, stipulated monthly, quarterly, semiannual assessment or premium, which assessment or premium is not made contingent upon the happening of a certain event but is based upon stated periodical rates or charges estimated by the Board of directors to be sufficient for the payment of all claims and expenses.

2. Such associations shall specify in their policy or membership certificate forms the sum of money they promise to pay, which sum shall not be less than the face amount of the policy, and the number of days after satisfactory proof is filed when such payment will be made. Upon the occurrence of such contingency unless the contract shall have been void by fraud or by breach of its conditions, the corporation shall be obligated to the beneficiary for such payment at the time and in the amount specified in the policy or certificate. If such corporation shall refuse or fail to make such payment, after final judgment has been obtained upon each claim, the Insurance Commissioner shall notify the corporation not to issue any new policies or certificates until such indebtedness is fully paid; and no officer or agent of the

corporation shall make, sign or issue any policy or certificate of insurance while such notice is in force.

3. Each such association or company shall be held to be legally solvent so long as its admitted assets are equal to or in excess of its matured liabilities.

4. Any association or company organized under the provisions of this article having admitted assets in its mortuary or reserve fund of at least One Hundred Thousand Dollars ($100,000.00) in excess of its matured claim liabilities may write legal reserve life insurance and the provisions of paragraphs numbered 1, 7 and 8 ~~in subsection A~~ of Section 1204, Article 12; Section 4029, Article 40, and Section 3610, Article 36 of this ~~Code~~ title shall be applicable to all insurance written on the legal reserve basis. The reserve on such business shall be held separate and apart from all other funds of the association or company and shall be computed upon a calculation which shall show a value not less than that shown in accordance with the one-year preliminary term method based upon the American Experience Table of Mortality and three and one-half (3 1/2%) percent per annum, assuming an average risk exposure of six (6) months on all new policies issued within each calendar year shall be security for the legal reserve business only. Should such legal reserve become impaired by reason of excessive mortality or other cause, the board of directors of such association or company may levy additional assessments with which to make up such impairment. Every policy issued by reason hereof shall contain a provision making this section a part thereof. Provided, however, that any such association or company shall discontinue writing all types of new insurance in Oklahoma except legal reserve insurance within five (5) years after publishing legal reserve rates or having printed legal reserve policy forms. Any director, trustee, officer, or member of any such corporation, or any other person, may advance to the corporation any sum or sums of money necessary for the purpose of its business, or to enable it to comply with any of the requirements of the law, and such monies and such interest thereon as may have been agreed upon, not exceeding ten percent (10%) per annum, shall not be a liability or claim against the corporation or any of its assets except as to surplus earnings of such corporations and unless the obligation is in writing and duly acknowledged by the corporation, and a verified copy thereof is filed with the Insurance Commissioner. No commission or promotion expense shall be paid in connection with the advance of any such money to the corporation and the amount of such advance shall be reported in each annual statement filed with the Insurance Commissioner.

5. The provisions of this article placing the extreme limit of age of persons to whom policies may be issued at not to exceed ~~fifty five (55)~~ seventy-two (72) years of age, shall not be applicable to insurance written upon the level rate plan outside the State of Oklahoma or the legal reserve plan in any state; provided that if the age of the insured has been incorrectly stated in the application for any policy issued by such association or company the face amount of said policy payable in event of a valid claim shall be such an amount as the premium paid by the insured to the association or company would have purchased at the true and correct age of the insured, at entry, on a basis of the published rates of the company applicable thereto.

6. Any individual, person, corporation, association or partnership with an insurable interest in the life of the insured may be a beneficiary of insurance written on either the level rate or legal reserve plan by an association or company operating under this article.

7. No mutual benefit association shall be formed after June 4, 1953, nor shall the Insurance Commissioner, after said effective date issue a permit to organize such an association to or approve any articles of incorporation of, any group of individuals desiring to organize an association or company under the provisions of this article.

SECTION 4. AMENDATORY 36 O.S. 2001, Section 2411, is amended to read as follows:

Section 2411. A. Every mutual benefit association doing business in this state under the provisions hereof shall by its bylaws provide for the payment by its members of sufficient dues to cover the expenses of conducting the business of such association and for such assessments as may be necessary to provide funds sufficient to pay the benefits to which its members shall be come entitled and also to establish an emergency fund of at least One Dollar ($1.00) per annum, per One Thousand Dollars ($1,000.00) death benefits with which to meet any unusual or unanticipated benefits or losses which may become due and payable, which emergency fund shall be available for use by the association as may be provided in its bylaws without regard to the group, class or circle whose members might have paid assessments therefor; provided, however, that two additional assessments for such emergency fund of at least One Dollar ($1.00) per One Thousand Dollars ($1,000.00) of death

benefits shall be levied annually in these circles, classes or groups where and when it may be done in any calendar month in which no death benefit assessment or call for dues is made upon members of such circle, class or group; provided further, that such associations may pay death benefits in excess of seven per thousand in any such circle, class or group when the emergency fund to its credit shall be sufficient therefor; and provided further, that if any annual report of a mutual benefit association, as provided for in this article or an investigation of the Insurance Commissioner discloses the fact that the mortuary and emergency funds of such association will not be sufficient to pay the benefits or losses to which its members or their beneficiaries may be entitled during the succeeding biennial period, the Insurance Commissioner, taking into consideration the age of the members and any special provisions for meeting such benefits or losses or for replenishing its funds, may direct such association to make such additional assessments as may be necessary to meet the said benefits or losses during the succeeding biennial period. Out of the original membership fee charged every new member there shall be placed in the mortuary or emergency fund a sum sufficient to equal at least one maximum benefit assessment to which said member would be liable under his contract. Whenever the association shall use any portion of the mortuary or benefit funds to pay promised benefits payable therefrom said association shall for the purpose of replenishing, establishing or maintaining a mortuary or benefit fund of sufficient strength to enable the association to meet promptly all valid claims for benefit as they mature, levy an additional assessment or assessments for such fund; provided that the association shall not be required to levy such assessment until in the judgment of the executive officers of such association such additional assessment is needed; provided, that associations which have a table of rates that are sufficient to meet the above requirements shall not be required to make the assessment provided for herein, upon members whose benefit certificates are based upon such rate table.

B. The fund referenced in this section comprised of assessments upon the members of One Dollar ($1.00) per One Thousand Dollars ($1,000.00) of death benefits need not be reported separately, but shall become a part of the general funds of the association provided books and records are kept on the collection and disbursement of same.

SECTION 5. This act shall become effective November 1, 2010.

Passed the House of Representatives the 3rd day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 5th day of April, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 4th

day of May, 2010,

at 12:52 o'clock P M.

By:

Approved by the Governor of the State of Oklahoma the 6th day of

May, 2010, at 6:02 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

7th day of May, 2010,

at 3:23 o'clock P M.

By: