

40-764. Formation requirements; incorporators; articles of incorporation; documents to be filed with commissioner; bond; preliminary certificate of authority, expiration; solicitation of members upon receipt of preliminary certificate; conditions precedent to incurring liabilities or paying benefits; issuance of certificate of authority; societies incorporated on act's effective date not required to reincorporate. A domestic society organized on or after the effective date of this act shall be formed as follows:

(a) Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation in which shall be stated:

(1) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(2) the purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this act;

(3) the names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme governing body, which election shall be held not later than one year from the date of issuance of the permanent certificate of authority.

(b) Such articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year shall be filed with the commissioner of insurance, who may require such further information as deemed necessary. The bond, with sureties approved by the commissioner of insurance, shall be in such amount, not less than \$300,000 nor more than \$1,500,000, as required by the commissioner of insurance. All documents filed shall be in the English language. If the purposes of the society conform to the requirements of this act and all provisions of the law have been complied with, the commissioner of insurance shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members as hereinafter provided.

(c) No preliminary certificate of authority 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 of insurance upon cause shown, unless the 500 applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

(d) Upon receipt of a preliminary certificate of authority from the commissioner of insurance, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any benefit to any person until:

(1) Actual bona fide applications for benefits shall have been secured on not less than 500 applicants, and any necessary evidence of insurability has been furnished to and approved by the society;

(2) at least 10 subordinate lodges have been established into which the 500 applicants have been admitted;

(3) there has been submitted to the commissioner of insurance, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(4) it shall have been shown to the commissioner of insurance, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have paid in cash premiums which in the aggregate amount to at least \$150,000. Such advance premiums shall be held in trust during the period of organization. If the society has not qualified for a certificate of authority within one year as herein provided, such premiums shall be returned to the applicants.

(e) The commissioner of insurance may make such examination and require such further information as the commissioner deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the commissioner shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to the provisions of this act. The certificate of authority shall be prima facie evidence of the existence of the society at the date of such certificate. The commissioner of insurance shall cause a record of such certificate of authority to be made. A certified copy of such record may be given in evidence with like effect as the original certificate of authority.

(f) Any incorporated society authorized to transact business in this state at the time this act becomes effective shall not be required to reincorporate.

History: L. 1988, ch. 154, § 27; Jan. 1, 1989.