

**SUBSTITUTE FOR
SENATE BILL NO. 495**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 8182 (MCL 500.8182), as added by 1990 PA 1, and
by adding sections 8199b and 8199c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8182. (1) Each society authorized to do business in this
2 state shall issue to each owner of a benefit contract a certificate
3 specifying the amount of benefits provided. The certificate,
4 together with any attached riders or endorsements, the laws of the
5 society, the application for membership, the application for
6 insurance and declaration of insurability, if any, signed by the
7 applicant, and all amendments to each, ~~shall~~ constitute the benefit
8 contract, as of the date of issuance, between the society and the



1 owner, and the certificate ~~shall~~**must** state this. A copy of the
 2 application for insurance and declaration of insurability, if any,
 3 ~~shall~~**must** be endorsed upon or attached to the certificate. All
 4 statements on the application ~~shall~~**must** be representations and not
 5 warranties. Any waiver of this provision ~~shall be~~**is** void.

6 (2) Changes, additions, or amendments to the society's laws
 7 duly made or enacted subsequent to the issuance of the certificate
 8 ~~shall~~ bind the owner and the beneficiaries, and ~~shall~~ govern and
 9 control the benefit contract in all respects the same as though the
 10 changes, additions, or amendments had been made prior to and were
 11 in force at the time of the application for insurance, except that
 12 no change, addition, or amendment ~~shall destroy or diminish~~
 13 **destroys or diminishes** benefits that the society contracted to give
 14 the owner as of the date of issuance.

15 (3) A person upon whose life a benefit contract is issued
 16 prior to attaining the age of majority ~~shall be~~**is** bound by the
 17 terms of the application and certificate and by all the society's
 18 laws and rules to the same extent as though the age of majority had
 19 been attained at the time of application.

20 (4) A society shall provide in its laws that if its reserves
 21 as to all or any class of certificates become impaired, its board
 22 of directors or corresponding body may require that ~~there shall be~~
 23 ~~paid by the owner to~~**the owner shall pay** the society the amount of
 24 the owner's equitable proportion of the deficiency as ascertained
 25 by its board, and that if the payment is not made either of the
 26 following applies:

27 (a) It ~~shall stand~~**stands** as an indebtedness against the
 28 certificate and ~~draw~~**draws** interest not to exceed the rate
 29 specified for certificate loans under the certificates.



1 (b) In lieu of or in combination with subdivision (a), the
2 owner may accept a proportionate reduction in benefits under the
3 certificate.

4 (5) The society may specify the manner of the election under
5 subsection (4) and which alternative is to be presumed if no
6 election is made. **An assessment of a proportion of a deficiency**
7 **under subsection (4) does not take effect until 90 days after the**
8 **date the director is notified of the assessment, unless the**
9 **director approves an earlier effective date. The director may**
10 **disapprove an assessment of a proportion of a deficiency under**
11 **subsection (4) if the director finds that the assessment is not**
12 **adopted in conformity with this chapter or is contrary to the**
13 **interests of the members of the society.**

14 (6) Copies of any of the documents in this section, certified
15 by the secretary or corresponding officer of the society, ~~shall~~
16 **must** be received in evidence of the terms and conditions of the
17 document.

18 (7) A certificate ~~shall~~**must** not be delivered or issued for
19 delivery in this state unless a copy of the form has been filed
20 with the ~~commissioner~~**director** in the manner provided for like
21 policies issued by life insurers in this state. Each life,
22 accident, health, or disability insurance certificate and each
23 annuity certificate issued on or after April 1, 1991 ~~shall~~**must**
24 meet the standard contract provision requirements not inconsistent
25 with this chapter for like policies issued by life insurers in this
26 state as provided in chapters 34 and 40, except that a society may
27 provide for a grace period for payment of premiums of 1 full month
28 in its certificates. The certificates ~~shall~~**must** also contain a
29 provision stating the amount of premiums payable under the



1 certificate and a provision reciting or setting forth the substance
2 of any sections of the society's laws or rules in force at the time
3 of issuance of the certificate that, if violated, will result in
4 the termination or reduction of benefits payable under the
5 certificate. If the laws of the society provide for expulsion or
6 suspension of a member, the certificate ~~shall~~**must** also contain a
7 provision that any member so expelled or suspended, except for
8 nonpayment of a premium or within the contestable period for
9 material misrepresentation in the application for membership or
10 insurance, ~~shall have~~**has** the privilege of maintaining the
11 certificate in force by continuing payment of the required premium.

12 (8) Benefit contracts issued on the lives of persons below the
13 society's minimum age for adult membership may provide for transfer
14 of control or ownership to the insured at an age specified in the
15 certificate. A society may require approval of an application for
16 membership in order to effect this transfer, and may provide in all
17 other respects for the regulation, government, and control of the
18 certificate and all rights, obligations, and liabilities incident
19 to and connected with the certificate. Ownership rights prior to
20 the transfer ~~shall~~**must** be specified in the certificate.

21 (9) A society may specify the terms and conditions on which
22 benefit contracts may be assigned.

23 **Sec. 8199b. (1) If a domestic society has a regulatory or**
24 **authorized control level event, as defined by the director, or if**
25 **the continued operation of a domestic society is considered**
26 **hazardous to policyholders, creditors, or the public under section**
27 **436a(1), under circumstances the director determines will not be**
28 **promptly remedied, the director, in addition to taking any other**
29 **action required or allowed by law, may order the society to remedy**



1 the risk-based capital control level event or hazardous condition.
2 An order issued under this subsection may include authorization to
3 the society to negotiate an agreement to transfer, subject to
4 subsection (2), all members, certificates, and other assets and
5 liabilities of the society to another fraternal benefit society or
6 other insurer through merger, consolidation, assumption, or other
7 means.

8 (2) A transfer under subsection (1) constitutes a novation of
9 the transferring society's certificates that is effective on the
10 date of transfer. The society shall ensure the transfer is
11 concluded within the time ordered by the director and subject to
12 the approval by the director. A transfer agreement under subsection
13 (1) is considered to be fully approved by the domestic society upon
14 a majority vote of the society's board of directors,
15 notwithstanding section 8177 and any other law, regulation, or rule
16 that requires notice to or approval by the society's members or
17 supreme governing body. Any law of a society requiring notice to or
18 approval by the society's members or supreme governing body is
19 suspended by this section. The transferring society shall provide
20 notice to its members of the transfer by mail or in the society's
21 official publication not later than 30 days after the transfer is
22 approved by the director.

23 (3) If the society seeks to make a transfer under subsection
24 (1) to an organization that does not have a certificate of
25 authority in this state, the director may grant the organization a
26 certificate of authority with authority limited to servicing the
27 existing certificates and fulfilling all obligations owed to
28 certificate holders following the transfer but not to otherwise
29 transact insurance business in this state.



1 (4) By order of the director and notwithstanding any law or
2 rule to the contrary and any laws of the society, the board of
3 directors of the society may suspend or modify the qualifications
4 for membership in the society as necessary to facilitate a transfer
5 under subsection (1).

6 (5) On the effective date of a transfer to an organization
7 that is not a fraternal benefit society and in consideration for
8 the transfer, each member of the society is considered to agree
9 that any terms of a certificate subjecting the certificate to the
10 laws of the society or providing for the maintenance of the
11 society's solvency, except to the extent of any outstanding lien
12 not released by the terms of the transfer, are void and the
13 assuming organization shall endorse the certificate accordingly.

14 Sec. 8199c. (1) Any of the following qualify as additional
15 grounds for rehabilitation under section 8112(a) or liquidation
16 under section 8117(a) or (c):

17 (a) Failure by a domestic society to comply with an order of
18 the director under section 8199b.

19 (b) Failure by a domestic society to remedy within the time
20 specified by the director a hazardous condition as determined by
21 the director under section 8199b.

22 (2) Rehabilitation under section 8112(a) is presumed to be
23 futile, unless the director reasonably believes that rehabilitation
24 has a high probability of returning the society to long-term
25 viability or will facilitate a transfer to another fraternal
26 benefit society or insurer. If the rehabilitator seeks to make a
27 transfer to an organization that does not have a certificate of
28 authority in this state, the director may grant the organization a
29 certificate of authority with authority limited to servicing the



1 existing certificates and fulfilling all obligations owed to
2 certificate holders following the transfer but not to otherwise
3 transact insurance business in this state.

4 (3) Notwithstanding section 8182(4), after the director files
5 a petition for liquidation of a society under section 8117, the
6 society shall not assess payment of shares of a deficiency under
7 section 8182(4) unless the director determines that the assessment
8 is for the purpose of satisfying the obligations of the society to
9 Class 1 or Class 2 creditors described in section 8142(1)(a) and
10 (b). The society shall not make an assessment for the purpose of
11 any deficiency related to other claims including those described in
12 section 8142(1)(c), (d), (e), (f), (g), (h), or (i).

13 (4) Liquidation proceedings under section 8117 for a society
14 must be conducted consistent with the purposes of section 8101 in a
15 manner designed to conserve assets, limit liquidation expenses, and
16 avoid any assessment of shares of a deficiency.

17 (5) The liquidator of a society shall attempt to transfer
18 policies or certificates of the liquidating society under section
19 8121(1)(h) by way of assignment, assumption, or other means to a
20 qualified fraternal benefit society, either domestic or foreign,
21 or, if no qualified fraternal benefit society will accept the
22 transfer, to an insurer authorized to transact life insurance
23 business in this state. If the liquidator seeks to make a transfer
24 to an organization that does not have a certificate of authority in
25 this state, the director may grant the organization a certificate
26 of authority with authority limited to servicing the existing
27 certificates and fulfilling all obligations owed to certificate
28 holders following the transfer but not to otherwise transact
29 insurance business in this state. In determining whether a



1 fraternal benefit society or insurer is qualified to accept a
2 transfer under this subsection, the liquidator shall consider the
3 solvency of the fraternal benefit society or other insurer among
4 other things. A qualified fraternal benefit society or insurer is
5 not obligated to accept a transfer under this subsection. On the
6 effective date of a transfer under this subsection to an insurer
7 that is not a fraternal benefit society and in consideration for
8 the transfer, each member of the society and owner of a policy or
9 certificate being transferred is considered to agree that any terms
10 of the insurance policy or certificate that provide for the
11 maintenance of the society's solvency or that subject the policy or
12 certificate to the policies of the society are void and to agree to
13 any other changes to terms of the policy or certificate that are
14 determined by the liquidator to be necessary to effectuate the
15 transfer. The insurer accepting transfer shall endorse the policy
16 or certificate accordingly. Any transfer under this subsection is a
17 novation of the policy or certificate that is effective on the date
18 of transfer.

