Chapter 748

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Fraternal Benefit Societies

GENERAL PROVISIONS

748.103 Definitions
748.106 Description of fraternal benefit society
748.109 Conditions constituting "operating on a lodge system"
748.112 Conditions constituting "representative form of government"

SOCIETIES GENERALLY

748.121 Purposes, operation and powers
748.123 Membership; eligibility; admission process; privileges

ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS

748.130 Principal office; publications; annual statement synopsis; complaints
748.133 Formation
748.136 Officers, governors, directors; exemption from liability; indemnification; insurance
748.139 Waiver of provisions by subordinate body
748.142 Amendment of society laws
748.144 Creation and operation of other organizations and entities
748.148 Consolidation and merger

LICENSING AND REINSURANCE

748.171 Certificate of authority
748.174 Certificate of authority for foreign or alien society
748.177 Authorization as mutual life insurance company
748.181 Insurance producers; licensing
748.184 Reinsurance

BENEFITS, BENEFICIARIES AND CONTRACTS GENERALLY

748.201 Benefits
748.204 Beneficiaries
748.207 Benefits exempt from execution
748.211 Benefit contract; certificate

GROUP BENEFITS

748.306 Authority for group benefit certificates
748.309 Group membership; lodges
748.312 Membership in lodges organized under ORS 748.309
748.316 Payments for group benefits
748.319 Group certificates issued by foreign or alien society or by domestic society in foreign or alien jurisdiction
748.322 Continuation of membership in society after cancellation, discontinuance or nonrenewal of group certificate

FINANCIAL PROVISIONS

748.401 Value of benefit and amount of options
748.403 Standards of valuation for certificates
748.406 Financial statement; filing; fee; valuation
748.409 Assets of society; variable contracts
748.412 Investment of funds
748.414 Funds exempt from certain taxes

ENFORCEMENT

748.501 Examination
748.503 Investigation of society; notice of deficiencies; action by Attorney General; hearing
748.506 Investigation of foreign or alien society; notice of deficiencies; revocation or suspension of authority
748.509 Validity of petition for injunction

EXEMPTIONS; RELATION TO OTHER LAW

748.601 Exemptions from chapter
748.603 Relationship to other insurance laws
748.605 Insurance against risk of loss under less than fully insured employee health benefit plan

PENALTIES

748.990 Penalties

748.010 [Amended by 1955 c.465 §7; 1967 c.359 §108; renumbered 731.562]

748.020 [Amended by 1955 c.465 §8; repealed by 1967 c.359 §704]

748.030 [Repealed by 1967 c.359 §704]

748.040 [Amended by 1955 c.465 §9; repealed by 1967 c.359 §704]

748.045 [1955 c.465 §4; repealed by 1967 c.359 §704]

748.050 [Repealed by 1955 c.465 §12]

748.055 [1955 c.465 §6; repealed by 1967 c.359 §704]

748.060 [Repealed by 1967 c.359 §704]

748.070 [Amended by 1955 c.465 §10; repealed by 1967 c.359 §704]

748.075 [1955 c.465 §3; repealed by 1967 c.359 §704]

748.080 [Repealed by 1955 c.465 §12]

748.084 [1955 c.465 §2; 1967 c.359 §94; renumbered 731.438]

748.086 [1955 c.465 §5; 1967 c.359 §572; renumbered 746.055]

748.090 [Amended by 1955 c.465 §11; repealed by 1967 c.359 §704]

GENERAL PROVISIONS

748.103 Definitions. As used in this chapter:

(1) "Benefit contract" means the agreement for provision of benefits authorized by ORS 748.201, as that agreement is described in ORS 748.211 (1).

(2) "Benefit member" means an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.

(3) "Certificate" means the document issued as written evidence of the benefit contract.

(4) "Impaired" means either:

(a) For a society that does not write variable contracts, whenever its assets are less than its total liabilities; or

(b) For a society that does write variable contracts, whenever its assets are less than its total liabilities, plus the required surplus for a mutual life insurer to write such contracts.

(5) "Laws" means the society's articles of incorporation, constitution and bylaws, however designated.

(6) "Lodge" means subordinate member units of the society, known as camps, courts, councils, branches or by any other designation.

(7) "Premiums" means premiums, rates, dues or other required contributions by whatever name known, which are payable under the certificate.

(8) "Rules" means all rules, regulations or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.

(9) "Society" means fraternal benefit society, unless otherwise indicated. [1987 c.490 §2]

748.105 [Formerly 740.010; repealed by 1987 c.490 §58]

748.106 Description of fraternal benefit society. Any corporation, society, order, supreme lodge or voluntary association, without capital stock, conducted solely for the benefit of its members and their beneficiaries and not-for-profit, operated on a lodge system with ritualistic form of work, having a representative form of government and which provides benefits in accordance with this chapter is hereby declared to be a fraternal benefit society. [1987 c.490 §3]

748.109 Conditions constituting "operating on a lodge system." (1) A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated or admitted in accordance with its laws, rules and ritual. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once each month in furtherance of the purposes of the society.

(2) A society may, at its option, organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges shall not be required of the children, nor shall the children have a voice or vote in the management of the society. [1987 c.490 §4]

748.110 [Formerly 740.020; repealed by 1987 c.490 §58]

748.112 Conditions constituting "representative form of government." A society has a representative form of government when:

(1) It has a supreme governing body constituted as:

(a) An assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws; or

(b) A board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies,

and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed four years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society;

(2) The officers of the society are elected either by the supreme governing body or by the board of directors;

(3) Only benefit members are eligible for election to the supreme governing body and the board of directors; and

(4) Each voting member has one vote. No vote may be cast by proxy. [1987 c.490 §5]

748.115 [Formerly 740.030; repealed by 1987 c.490 §58]

748.120 [1967 c.359 §601; repealed by 1987 c.490 §58]

SOCIETIES GENERALLY

748.121 Purposes, operation and powers. (1) The purposes of a society, as specified in subsection (2) of this section, may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

(2) A society shall operate for the benefit of members and their beneficiaries by:

(a) Providing benefits as specified in ORS 748.201; and

(b) Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic or religious purposes for the benefit of its members, which may also be extended to others.

(3) Every society shall have the power to adopt laws and rules for the government of the society, the admission of its members and the management of its affairs. It shall have the power to change, alter, add to or amend such laws and rules and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society. [1987 c.490 §6]

748.123 Membership; eligibility; admission process; privileges. (1) A society shall specify in its laws or rules:

(a) Eligibility standards for each and every class of membership, provided that, if benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than 15 years of age and not greater than 21 years of age;

(b) The process for admission to membership for each membership class; and

(c) The rights and privileges of each membership class, provided that only benefit members shall have the right to vote on the management of the insurance affairs of the society.

(2) A society may also admit social members who shall have no voice or vote in the management of the insurance affairs of the society.

(3) Membership rights in the society are personal to the member and are not assignable. [1987 c.490 §7]

748.125 [1987 c.490 §42; 1989 c.413 §18; repealed by 1991 c.182 §20]

ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS

748.130 Principal office; publications; annual statement synopsis; complaints. (1) The principal office of any domestic society shall be located in this state. The meetings of its supreme governing body may be held in any state, district, province or territory in which the society has at least one lodge or in any other location as determined by the supreme governing body, and all business transacted at the meetings shall be as valid in all respects as if the meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in English.

(2) A society may provide in its laws for an official publication in which any notice, report or statement required by law to be given to members, including notice of election, may be published. The required notices, reports or statements shall be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

(3) Not later than June 1 of each year, a synopsis of the society's annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society or, in lieu thereof, the synopsis may be published in the society's official publication.

(4) A society may provide in its laws or rules for grievance or complaint procedures for members. [1987 c.490 §8]

748.133 Formation. A domestic society organized on or after January 1, 1988, shall be formed as follows:

(1) 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 and sign articles of incorporation. The articles shall be acknowledged before some officer competent to take acknowledgment of deeds and shall state:

(a) 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;

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

(c) 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 until their successors are elected by the supreme governing body; and

(d) A plan for the election of officers, trustees and directors by the supreme governing body. The election shall be held not later than one year from the date of issuance of the permanent certificate of authority.

(2) The 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 Director of the Department of Consumer and Business Services, who may require such further information as the director deems necessary. The bond with sureties approved by the director shall be in an amount, not less than $300,000 nor more than $1,500,000 as required by the director. All documents filed are to be in English. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the director 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 provided in this chapter.

(3) No preliminary certificate of authority granted under the provisions of this section shall be valid after one year from its date or after any further period, not exceeding one year, as may be authorized by the director upon cause shown, unless the 500 applicants required have been secured and the organization has been completed as provided in this chapter. 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 has completed its organization and received a certificate of authority to do business as provided in this chapter.

(4) Upon receipt of a preliminary certificate of authority from the director, 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 tables of rates and shall issue to each applicant a receipt for the amount collected. No society shall incur any liability other than for the return of the advance premium, nor issue any certificate, nor pay, allow or offer or promise to pay or allow, any benefit to any person until:

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

(b) At least 10 lodges have been established into which the 500 applicants have been admitted;

(c) There has been submitted to the director, 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 lodge of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(d) It has been shown to the director, by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate amount to at least $150,000. The advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, as provided in this chapter, the premiums shall be returned to the applicants.

(5) The director may make any examination and require any further information that the director deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the director 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 chapter. The certificate of authority shall be prima facie evidence of the existence of the society at the date of the certificate. The director shall cause a record of the certificate of au-

thority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

(6) An incorporated society authorized to transact business in this state at the time this chapter becomes effective shall not be required to reincorporate. [1987 c.490 §9]

748.135 [Formerly 740.090; repealed by 1987 c.490 §58]

748.136 Officers, governors, directors; exemption from liability; indemnification; insurance. (1) The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

(2) Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by, and liabilities imposed upon, the person in connection with or arising out of any action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat of any action, suit or proceeding, in which the person may be involved by reason of the fact that the person is or was a director, officer, employee or agent of the society or of any firm, corporation or organization which the person served in any capacity at the request of the society. Except as provided in subsection (3) of this section, a person shall not be indemnified or reimbursed:

(a) In relation to any matter in such action, suit or proceeding as to which the person shall finally be adjudged guilty of breach of a duty as a director, officer, employee or agent of the society; or

(b) In relation to any matter in such action, suit or proceeding, or threat of such action, suit or proceeding, which has been made the subject of a compromise settlement.

(3) A person described in subsection (2) of this section may be indemnified if:

(a) The person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society; and

(b) In a criminal action or proceeding, the person had no reasonable cause to believe that the conduct of the person was unlawful.

(4) The determination whether the conduct of the person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in subsection (2) of this section may be made only by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to the action, suit or proceeding, or by a court of competent jurisdiction. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of no contest, as to the person shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The right of indemnification and reimbursement described in this section shall not be exclusive of other rights to which the person may be entitled as a matter of law and shall inure to the benefit of the person's heirs, executors and administrators.

(5) A society shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the society, or who is or was serving at the request of the society as a director, officer, employee or agent of any other firm, corporation or organization against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status as such, whether or not the society would have the power to indemnify the person against liability under this section. [1987 c.490 §10]

748.139 Waiver of provisions by subordinate body. The laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws of the society. This provision shall be binding on the society and every member and beneficiary of a member. [1987 c.490 §11]

748.140 [Formerly 740.100; repealed by 1987 c.490 §58]

748.142 Amendment of society laws. (1) A domestic society may amend its laws in accordance with the provisions thereof by action of its supreme governing body at any regular or special meeting thereof or, if its laws so provide, by referendum. The referendum may be held in accordance with the provisions of its laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges. A society may provide for voting by mail. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission, a majority of the members voting have signified their consent to the amendment by one of the methods specified in this chapter.

(2) No amendment to the laws of any domestic society shall take effect unless approved by the Director of the Department of Consumer and Business Services. The director shall approve the amendment if the director finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects and purposes of the society. Un-

less the director shall disapprove any such amendment within 60 days after the filing, the amendment shall be considered approved. The approval or disapproval of the director shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case the director disapproves the amendment, the reasons shall be stated in the written notice.

(3) Within 90 days from the approval by the director, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official publication of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments, or synopses thereof, stating facts which show that the amendments have been duly addressed and mailed, shall be prima facie evidence that the amendments, or synopsis thereof, have been furnished to the addressee.

(4) Every foreign or alien society authorized to do business in this state shall file with the director a duly certified copy of all amendments of, or additions to, its laws within 90 days after the enactment of the amendments.

(5) Printed copies of the laws as amended, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof. [1987 c.490 §12]

748.144 Creation and operation of other organizations and entities. (1) A society may create, maintain and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by ORS 748.121 (2)(b). Such institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held or leased by the society for this purpose shall be reported in every annual statement.

(2) No society shall own or operate funeral homes or undertaking establishments. [1987 c.490 §13]

748.145 [Formerly 740.110; repealed by 1987 c.490 §58]

748.148 Consolidation and merger. (1) A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the Director of the Department of Consumer and Business Services:

(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition of the society on a date fixed by the director but not earlier than December 31, next preceding the date of the contract;

(c) A certificate of the officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme governing body of each society, the vote being conducted at a regular or special meeting of each body, or, if the society's laws so permit, by mail; and

(d) Evidence that at least 60 days prior to the action of the supreme governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.

(2) If the director finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, the director shall approve the contract and issue a certificate to that effect. Upon approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of approval filed with the director of this state or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the director of insurance of such state or territory and a certificate of approval filed with the director of this state.

(3) Upon the consolidation or merger becoming effective as provided in this chapter, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after consolidation or merger.

(4) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that the notice or document has been duly addressed and mailed, shall be prima facie evidence

that the notice or document has been furnished the addressees. [1987 c.490 §15]

748.150 [Formerly 740.120; repealed by 1987 c.490 §58]

748.155 [Formerly 740.140; repealed by 1987 c.490 §58]

748.160 [Formerly 740.510; repealed by 1987 c.490 §58]

748.165 [Formerly 740.510; repealed by 1987 c.490 §58]

748.170 [1967 c.359 §609; repealed by 1987 c.490 §58]

LICENSING AND REINSURANCE

748.171 Certificate of authority. (1) A fraternal benefit society must obtain and maintain a certificate of authority in the manner provided for insurers in the Insurance Code.

(2) A certified copy or duplicate of the certificate of authority shall be prima facie evidence that the holder thereof is a fraternal benefit society within the meaning of this chapter. [1987 c.490 §28; 1989 c.413 §19; 1991 c.182 §10]

748.174 Certificate of authority for foreign or alien society. No foreign or alien society shall transact business in this state without a certificate of authority issued by the Director of the Department of Consumer and Business Services. Any foreign or alien society desiring admission to this state shall comply substantially with the requirements and limitations of this chapter applicable to domestic societies. Any foreign or alien society may be authorized to transact business in this state upon a showing that its assets are invested in accordance with the provisions of this chapter and upon filing with the director:

(1) A duly certified copy of its articles of incorporation;

(2) A copy of its bylaws, certified by its secretary or corresponding officer;

(3) A power of attorney to the director as required by the director;

(4) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the director, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the director;

(5) Certification from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business in the state, territory, province or country;

(6) Copies of its certificate forms; and

(7) Such other information as the director may deem necessary. [1987 c.490 §30; 1991 c.182 §11]

748.175 [1967 c.359 §610; repealed by 1987 c.490 §58]

748.177 Authorization as mutual life insurance company. Any domestic fraternal benefit society may be converted and authorized as a mutual life insurance company by compliance with all the requirements of the insurance laws of this state for mutual life insurance companies. A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting shall be necessary for the approval of the plan, or if the society is organized under the direct election method pursuant to ORS 748.112 (1)(a), the plan of conversion shall be submitted by mail to the benefit members. The affirmative vote of two-thirds of the benefit members voting thereon shall be necessary for the approval of the plan. No conversion shall take effect unless approved by the Director of the Department of Consumer and Business Services who may give approval if the director finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society. [1987 c.490 §16; 1991 c.182 §12]

748.181 Insurance producers; licensing. Insurance producers of societies shall be licensed in accordance with the provisions of ORS chapter 744 regulating the licensing, revocation, suspension or termination of license of resident and nonresident insurance producers. [1987 c.490 §34; 1989 c.701 §75; 2003 c.364 §168]

748.184 Reinsurance. (1) A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make reinsurance and authorized to do business in this state, or if not authorized, one which is approved by the Director of the Department of Consumer and Business Services, but no society may reinsure substantially all of its insurance in force without the written permission of the director. The society may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed or otherwise becoming effective after January 1, 1988, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

(2) Notwithstanding the limitation in subsection (1) of this section, a society may reinsure the risks of another society in a

consolidation or merger approved by the director under ORS 748.148. [1987 c.490 §14]

748.185 [Formerly 740.160; repealed by 1987 c.490 §58]

748.190 [1967 c.359 §612; repealed by 1987 c.490 §58]

BENEFITS, BENEFICIARIES AND CONTRACTS GENERALLY

748.201 Benefits. (1) A society may provide in any form the following contractual benefits:

(a) Death benefits;

(b) Endowment benefits;

(c) Annuity benefits;

(d) Temporary or permanent disability benefits;

(e) Hospital, medical or nursing benefits;

(f) Monument or tombstone benefits to the memory of deceased members; and

(g) Such other benefits as authorized for life insurers and which are not inconsistent with this chapter, upon determination by the Director of the Department of Consumer and Business Services that the society is in compliance with all the requirements for a mutual life insurer to write such benefits.

(2) A society shall specify in its rules those persons who may be issued, or covered by, the contractual benefits in subsection (1) of this section, consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person. [1987 c.490 §17]

748.204 Beneficiaries. (1) The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.

(2) A society may make provision for the payment of funeral benefits to the extent of the portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion paid shall not exceed $1,000.

(3) If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds shall be payable, the amount of the benefit, except to the extent that funeral benefits may be paid as provided in this chapter, shall be payable to the personal representative of the deceased insured, provided that if the owner of the certificate is other than the insured the proceeds shall be payable to that owner. [1987 c.490 §18]

748.205 [1967 c.359 §613; repealed by 1987 c.490 §58]

748.207 Benefits exempt from execution. No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society. [1987 c.490 §19]

748.210 [1967 c.359 §614; repealed by 1987 c.490 §58]

748.211 Benefit contract; certificate. (1) Every society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided. The certificate, together with any riders or indorsements attached to it, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments to each, shall constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. The laws of the society need not be stated in full in the certificate, except as provided in this section. A copy of the application for insurance and declaration of insurability, if any, shall be indorsed upon or attached to the certificate. All statements on the application shall be representations and not warranties. Any waiver of this provision shall be void.

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

(3) Any person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the laws and rules of the society to the same

extent as though the age of majority had been attained at the time of application.

(4) A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired, its board of directors or corresponding body may require that there be paid by the owner to the society the amount of the owner's equitable proportion of the deficiency as ascertained by its board, and that if the payment is not made:

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

(b) In lieu of or in combination with paragraph (a) of this subsection, the owner may accept a proportionate reduction in benefits under the certificate.

(5) The society may specify the manner of the election of the alternatives specified in subsection (4) of this section and which alternative is to be presumed if no election is made.

(6) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions of the documents.

(7) No certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with and approved by the Director of the Department of Consumer and Business Services, and is subject to withdrawal of approval, in the manner provided for like policies issued by life and health insurers in this state. Every life, accident, health or disability insurance certificate and every annuity certificate issued on or after one year from January 1, 1988, shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life and health insurers in this state, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificates shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, shall result in the termination or reduction of benefits payable under the certificate. In addition, except for contracts issued on a variable basis as authorized by ORS 748.409, the certificate shall contain a provision stating the substance of the society's laws required under subsections (4) and (5) of this section. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium.

(8) Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may provide in all other respects for the regulation, government and control of the certificates and all rights, obligations and liabilities incident thereto and connected therewith. Ownership rights prior to the transfer shall be specified in the certificate.

(9) A society may specify the terms and conditions on which benefit contracts may be assigned. [1987 c.490 §20; 1991 c.182 §13]

748.215 [1967 c.359 §615; repealed by 1987 c.490 §58]

748.216 [Formerly 740.740; repealed by 1969 c.336 §21]

748.220 [1967 c.359 §616; repealed by 1987 c.490 §58]

748.225 [Formerly 740.640; repealed by 1987 c.490 §58]

748.230 [Formerly 740.200; repealed by 1987 c.490 §58]

748.235 [Formerly 740.650; repealed by 1987 c.490 §58]

748.240 [Formerly 740.660; repealed by 1987 c.490 §58]

748.305 [1967 c.359 §621; repealed by 1987 c.490 §58]

GROUP BENEFITS

748.306 Authority for group benefit certificates. A fraternal benefit society may provide in its laws, in addition to other benefits provided, for the issuance of group benefit certificates if on the date when it enters upon business it has admitted assets which are greater than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after June 8, 1967. [1987 c.490 §36]

748.309 Group membership; lodges. (1) Group benefit certificates may provide for the payment of benefits in the event of the death, or death and disability, of:

(a) Persons engaged in a common enterprise or employment.

(b) The employees of any employer.

(2) Group certificates may be issued with or without medical examination and without limitation as to age.

(3) The society shall organize the persons or employees into a lodge or lodges with officers selected in the same manner as officers

of other lodges and subject to the provisions of the laws of the society.

(4) Not less than 50 persons may be admitted to membership under one group without medical examination. [1987 c.490 §37]

748.310 [1967 c.359 §622; repealed by 1987 c.490 §58]

748.312 Membership in lodges organized under ORS 748.309. If provided in the laws of the society, other persons may become members of a lodge organized under ORS 748.309 subsequent to its organization and may be initiated into and hold membership in the lodge. Individual benefit certificates may be issued to them. The lodges shall in all other respects be subject to the laws of the society. [1987 c.490 §40]

748.315 [1967 c.359 §623; repealed by 1987 c.490 §58]

748.316 Payments for group benefits. (1) The monthly or other payments to be made to the society on or for any group benefit certificate may be made by the employer, or by the employer and employees jointly, or as provided in the contract.

(2) When the payments are made by the employer and the employees jointly and the benefits under the group certificate are offered to all eligible employees of the employer, not less than 75 percent of the employees must be included under the group certificate. [1987 c.490 §38]

748.319 Group certificates issued by foreign or alien society or by domestic society in foreign or alien jurisdiction. (1) A group certificate, when issued in this state by any foreign or alien society, may contain, when issued, any provision required by the laws of the state or country under which the society is organized.

(2) Group certificates issued in other states or countries by a domestic society may contain any provision required by the laws of the other state or country. [1987 c.490 §39]

748.320 [1967 c.359 §624; repealed by 1987 c.490 §58]

748.322 Continuation of membership in society after cancellation, discontinuance or nonrenewal of group certificate. If any group certificate is canceled, discontinued or not renewed, or if any individual member of a group ceases to be a member of the group, the members of the group or any individual member who ceases to be a member of the group may be permitted to continue membership in the society for the same amount of protection at the required rate of monthly or other payment and in all other respects as provided in the laws of the society. [1987 c.490 §41]

748.325 [1967 c.359 §625; repealed by 1987 c.490 §58]

748.330 [1967 c.359 §626; repealed by 1987 c.490 §58]

748.335 [1967 c.359 §627; repealed by 1987 c.490 §58]

748.340 [1967 c.359 §628; repealed by 1987 c.490 §58]

748.345 [1967 c.359 §629; repealed by 1987 c.490 §58]

748.350 [1967 c.359 §630; repealed by 1987 c.490 §58]

748.355 [1967 c.359 §631; repealed by 1987 c.490 §58]

748.360 [1967 c.359 §632; repealed by 1987 c.490 §58]

748.365 [1967 c.359 §633; repealed by 1987 c.490 §58]

748.370 [1967 c.359 §634; repealed by 1987 c.490 §58]

748.375 [1967 c.359 §635; repealed by 1987 c.490 §58]

748.380 [1967 c.359 §636; repealed by 1987 c.490 §58]

FINANCIAL PROVISIONS

748.401 Value of benefit and amount of options. (1) For certificates issued prior to January 1, 1989, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall comply with the provisions of law applicable immediately prior to January 1, 1988.

(2) For certificates issued on or after January 1, 1989, for which reserves are computed on the Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980 Standard Mortality Table or any more recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted may not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits based upon the tables. [1987 c.490 §21; 2005 c.22 §498]

748.403 Standards of valuation for certificates. (1) Standards of valuation for certificates issued prior to January 1, 1989, shall be those provided by the laws applicable immediately prior to January 1, 1988.

(2) The minimum standards of valuation for certificates issued on or after January 1, 1989, shall be based on the following tables:

(a) For certificates of life insurance, the Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980 Standard Ordinary Mortality Table or any more recent table made applicable to life insurers; or

(b) For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for noncancelable accident and health benefits, the tables that are authorized for use by life insurers in this state.

(3) The tables referred to in subsection (2) of this section shall be under valuation methods and standards, including interest

assumptions, in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

(4) The Director of the Department of Consumer and Business Services may accept other standards for valuation if the director finds that the reserves produced will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed in subsection (2) of this section. The director may vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

(5) Any society, with the consent of the director of insurance of the state of domicile of the society and under conditions the director may impose, may establish and maintain reserves on its certificates in excess of the reserves required, but the contractual rights of any benefit member shall not be affected. [1987 c.490 §26; 2005 c.22 §499]

748.405 [Formerly 740.810; repealed by 1987 c.490 §58]

748.406 Financial statement; filing; fee; valuation. (1) Every society transacting business in this state shall annually file with the Director of the Department of Consumer and Business Services on or before March 1, unless the time has been extended by the director, a true statement of its financial condition, transactions and affairs for the preceding calendar year and shall pay the applicable fee established by the director. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the director.

(2) As part of the annual statement required by subsection (1) of this section, on or before March 1, each society shall file with the director a valuation of its certificates in force on December 31 last preceding. The director may extend the time for filing the valuation for not more than two calendar months. The valuation shall be done in accordance with the standards specified in ORS 748.403. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society. [1987 c.490 §27; 1991 c.182 §14]

748.409 Assets of society; variable contracts. (1) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights or become entitled to any apportionment on the surrender of any part, except as provided in the benefit contract.

(2) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of the society.

(3) Pursuant to resolution of its supreme governing body a society may:

(a) Establish and operate one or more separate accounts and issue contracts on a variable basis, subject to all the provisions of law regulating life insurers establishing accounts and issuing contracts;

(b) To the extent the society deems it necessary in order to comply with any applicable federal or state laws, adopt special procedures for the conduct of the business and affairs of a separate account;

(c) For persons having beneficial interest therein, provide special voting and other rights, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of certified public accounts and selection of a committee to manage the business and affairs of the account; and

(d) Issue contracts on a variable basis to which ORS 748.211 (2) and (4) shall not apply. [1987 c.490 §23]

748.410 [Formerly 740.820; repealed by 1987 c.490 §58]

748.412 Investment of funds. A society shall invest its funds only in investments that are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds. [1987 c.490 §22]

748.414 Funds exempt from certain taxes. Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax, other than taxes on real estate and office equipment. [1987 c.490 §24]

748.415 [Formerly 740.840; repealed by 1987 c.490 §58]

748.420 [Formerly 740.850; repealed by 1987 c.490 §58]

748.425 [Formerly 740.860; repealed by 1987 c.490 §58]

748.430 [1967 c.359 §642; repealed by 1987 c.490 §58]

ENFORCEMENT

748.501 Examination. (1) The Director of the Department of Consumer and Business Services, or any person the director may appoint, may examine any domestic, foreign or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign or alien insurers. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers shall also be applicable to the examination of societies.

(2) The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the director. [1987 c.490 §29]

748.503 Investigation of society; notice of deficiencies; action by Attorney General; hearing. (1) The Director of the Department of Consumer and Business Services shall notify the society of any deficiency or deficiencies, and state in writing the reasons for dissatisfaction, when the director, upon investigation, finds that a domestic society:

(a) Has exceeded its powers;

(b) Has failed to comply with any provisions of this chapter;

(c) Is not fulfilling its contracts in good faith;

(d) Has a membership of less than 400 after an existence of one year or more;

(e) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business; or

(f) Has become impaired.

(2) The director shall at once issue a written notice to the society requiring that the deficiency or deficiencies be corrected. After notice, the society shall have 30 days in which to comply with the director's request for correction, and if the society fails to comply, the director shall notify the society of findings of noncompliance and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of has been corrected, or why an action in quo warranto should not be commenced against the society.

(3) If on the date named the society does not present good and sufficient reasons why it should not be enjoined or why the action should not be commenced, the director may present the facts relating thereto to the Attorney General who shall, if the Attorney General deems the circumstances warrant, commence an action to enjoin the society from transacting business or an action in quo warranto.

(4) The court shall notify the officers of the society of a hearing. If after a full hearing it appears that the society should be enjoined or liquidated or a receiver appointed, the court shall enter the necessary order. No society so enjoined shall have the authority to do business until:

(a) The director finds that the violation complained of has been corrected;

(b) The costs of the action have been paid by the society if the court finds that the society was in default as charged;

(c) The court has dissolved its injunction; and

(d) The director has reinstated the certificate of authority.

(5) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, and the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed at once to close the affairs of the society and to distribute its funds to those entitled to them.

(6) No action under this section shall be recognized in any court of this state unless the action is brought by the Attorney General on request of the director. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the director as the receiver.

(7) The provisions of this section relating to hearing by the director, action by the Attorney General at the request of the director, hearing by the court, injunction and receivership shall be applicable to a society which voluntarily determines to discontinue business. [1987 c.490 §31]

748.505 [1967 c.359 §643; repealed by 1987 c.490 §58]

748.506 Investigation of foreign or alien society; notice of deficiencies; revocation or suspension of authority. (1) The Director of the Department of Consumer and Business Services shall notify the society of any deficiency or deficiencies, and state in writing the reasons for dissatisfaction, when the director, upon investigation, finds that a foreign or alien society transacting or applying to transact business in this state:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this chapter;

(c) Is not fulfilling its contracts in good faith; or

(d) Is conducting its business fraudulently or in a manner hazardous to its members, creditors or the public.

(2) The director shall at once issue a written notice to the society requiring that the deficiency or deficiencies be corrected. After notice, the society shall have 30 days in which to comply with the director's request for correction, and if the society fails to comply, the director shall notify the society of findings of noncompliance and require the society to show cause on a date named why its certificate of authority should not be suspended, revoked or refused. If on the named date the society does not present good and sufficient reason why its certificate of authority should not be suspended, revoked or refused, the director may suspend or refuse the certificate of authority until satisfactory evidence is furnished to the director that the suspension or refusal should be withdrawn or the director may revoke the certificate of authority of the society.

(3) Nothing contained in this section shall be taken or construed as preventing any foreign or alien society from continuing in good faith all contracts made in this state during the time the foreign or alien society was legally authorized to transact business as provided in this chapter. [1987 c.490 §32; 1991 c.182 §15]

748.509 Validity of petition for injunction. No application or petition for injunction against any domestic, foreign or alien society, or lodge thereof, shall be recognized in any court of this state unless made by the Attorney General upon request of the Director of the Department of Consumer and Business Services. [1987 c.490 §33]

748.510 [1967 c.359 §644; repealed by 1987 c.490 §58]

748.515 [1967 c.359 §645; repealed by 1987 c.490 §58]

748.520 [1967 c.359 §646; 1981 c.609 §22; repealed by 1987 c.490 §58]

748.525 [1967 c.359 §647; repealed by 1987 c.490 §58]

748.530 [1967 c.359 §648; 1975 c.324 §1; repealed by 1987 c.490 §58]

748.535 [1967 c.359 §649; repealed by 1987 c.490 §58]

748.540 [1967 c.359 §650; repealed by 1987 c.490 §58]

748.545 [Formerly 740.080; repealed by 1987 c.490 §58]

748.550 [1967 c.359 §652; repealed by 1987 c.490 §58]

748.555 [1967 c.359 §653; 1971 c.231 §40; 1973 c.515 §4; 1973 c.613 §3a; 1975 c.338 §3; 1975 c.689 §3; 1979 c.708 §10; 1981 c.649 §21; 1987 c.411 §11; 1987 c.739 §4; 1987 c.838 §15; repealed by 1987 c.490 §58]

EXEMPTIONS; RELATION TO OTHER LAW

748.601 Exemptions from chapter. (1) Except as provided in subsection (2) of this section, nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of orders, societies or associations doing business in this state that provide benefits exclusively through local or subordinate lodges;

(b) Orders, societies or associations that admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

(c) Domestic societies that limit their membership to employees of a particular city or town, designated firm, business house or corporation that provide for a death benefit of not more than $400 or disability benefits of not more than $350 to any person in any one year, or both; or

(d) Domestic societies or associations of a purely religious, charitable or benevolent description, that provide for a death benefit of not more than $400 or for disability benefits of not more than $350 to any one person in any one year, or both.

(2) No society or association described in subsection (1)(c) or (d) of this section that provides for death or disability benefits for which benefit certificates are issued, and no society or association included in subsection (1)(d) of this section that has more than 1,000 members, shall be exempted from the provisions of this chapter. Any society or association described in this subsection shall comply with all requirements of this chapter.

(3) No order, society or association that, by the provisions of this section, is exempt from the requirements of this chapter, except an order, society or association described in subsection (1)(b) of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(4) Every society that provides for benefits in case of death or disability resulting solely from accident, and that does not obligate itself to pay natural death or sick benefits, shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter except that the provisions relating to medical examination, valuations of benefit certificates and incontestability, shall not apply to the society.

(5) The Director of the Department of Consumer and Business Services may require from any society or association, by examination or otherwise, any information enabling the commissioner to determine whether the society or association is exempt from the provisions of this chapter.

(6) Societies exempted under the provisions of this section are also exempt from all other provisions of the insurance laws of this state except as provided in ORS 731.042. [1987 c.490 §44; 1991 c.182 §16; 2003 c.802 §176]

748.603 Relationship to other insurance laws. (1) Societies are governed by this chapter and are exempt from all other provisions of the insurance laws of this state unless expressly designated therein, or unless specifically made applicable by this chapter.

(2) ORS 705.137, 705.139, 731.004 to 731.026, 731.036 to 731.136, 731.146 to 731.156, 731.162, 731.166, 731.170, 731.216 to 731.268, 731.296, 731.324, 731.328, 731.354, 731.356, 731.358, 731.378, 731.380, 731.381, 731.382, 731.385, 731.386, 731.390, 731.394, 731.396, 731.398, 731.402, 731.406, 731.410, 731.422 to 731.434, 731.446 to 731.454, 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.592, 731.594, 731.730, 731.731, 731.735, 731.737, 731.750, 731.804, 731.844 to 731.992, 731.870, 732.245, 732.250, 732.320, 732.325, 733.010 to 733.050, 733.080, 733.140 to 733.210, 733.220, 733.510, 733.652 to 733.658, 733.730 to 733.750, 735.600 to 735.650, 742.001, 742.003, 742.005, 742.007, 742.009, 742.013 to 742.021, 742.028, 742.038, 742.041, 742.046, 742.051, 742.150 to 742.162 and 744.700 to 744.740 and ORS chapters 734, 743 and 743A apply to fraternal benefit societies to the extent not inconsistent with the express provisions of this chapter.

(3) For the purposes of this subsection and subsection (2) of this section, fraternal benefit societies shall be deemed insurers, and benefit certificates issued by fraternal benefit societies shall be deemed policies.

(4) Every society authorized to do business in this state shall be subject to the provisions of ORS chapter 746 relating to unfair trade practices. However, nothing in ORS chapter 746 shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership, or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society. [1987 c.490 §§25,35,45; 1987 c.739 §4a; 1987 c.838 §15a; 1989 c.255 §12; 1989 c.474 §3; 1989 c.1022 §10; 1991 c.182 §17; 1991 c.401 §32; 1991 c.673 §7; 1991 c.812 §23; 1993 c.447 §117; 1995 c.30 §12; 1995 c.638 §8; 1999 c.633 §6; 2001 c.377 §19; 2003 c.802 §177; 2007 c.71 §243; 2008 c.22 §4]

748.605 Insurance against risk of loss under less than fully insured employee health benefit plan. Insurance issued or delivered by a fraternal benefit society against the risk of economic loss assumed under a less than fully insured employee health benefit plan is subject to ORS 742.065. Such insurance is subject to ORS 748.603 but is otherwise not subject to the provisions of ORS chapter 748. [1993 c.649 §4]

PENALTIES

748.990 Penalties. (1) Any person who willfully makes a false or fraudulent statement in or relating to an application for membership, or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be fined not less than $100 nor more than $500, imprisoned in the county jail for not less than 30 days nor more than one year, or both.

(2) Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties prescribed by law.

(3) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this state commits a Class C violation.

(4) Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed, commits a Class C violation. [1987 c.490 §43; 1999 c.1051 §222]