

SENATE BILL NO. 712

October 28, 2021, Introduced by Senator MACDONALD and referred to the Committee on Insurance and Banking.

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

1 insurance and declaration of insurability, if any, signed by the
2 applicant, and all amendments to each, shall constitute the benefit
3 contract, as of the date of issuance, between the society and the
4 owner, and the certificate shall state this. A copy of the
5 application for insurance and declaration of insurability, if any,
6 shall be endorsed upon or attached to the certificate. All
7 statements on the application shall be representations and not
8 warranties. Any waiver of this provision shall be void.

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

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

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

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

4 (b) In lieu of or in combination with subdivision (a), the
5 owner may accept a proportionate reduction in benefits under the
6 certificate.

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

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

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

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

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

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

25 **Sec. 8199b. (1) If a domestic society has an authorized**
26 **control level event, as defined by the director by rule, under**
27 **circumstances the director determines will not be promptly**
28 **remedied, the director, in addition to taking any other action**
29 **required or allowed by law, may issue an order declaring the**

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

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

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

1 insurance business in this state.

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

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

15 Sec. 8199c. (1) Any of the following qualify as grounds for
16 rehabilitation under section 8112(a) or liquidation under section
17 8117(a) or (b):

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

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

23 (2) Rehabilitation under section 8112(a) is presumed to be
24 futile, unless the director reasonably believes that rehabilitation
25 has a high probability of returning the society to long-term
26 viability or will facilitate a transfer to another fraternal
27 benefit society or insurer.

28 (3) Notwithstanding section 8182(4), after the director files
29 a petition for liquidation of a society under section 8117, the

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

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

12 (5) The liquidator of a society shall attempt to transfer
13 policies or certificates of the liquidating society under section
14 8121(1)(h) by way of assignment, assumption, or other means to a
15 qualified fraternal benefit society, either domestic or foreign,
16 or, if no qualified fraternal benefit society will accept the
17 transfer, to an insurer authorized to transact life insurance
18 business in this state. In determining whether a fraternal benefit
19 society or insurer is qualified to accept a transfer under this
20 subsection, the liquidator shall consider the solvency of the
21 fraternal benefit society or other insurer among other things. A
22 society is not obligated to accept a transfer under this
23 subsection. On the effective date of a transfer under this
24 subsection to an insurer that is not a fraternal benefit society
25 and in consideration for the transfer, each member of the society
26 and owner of a policy or certificate being transferred is
27 considered to agree that any terms of the insurance policy or
28 certificate that provide for the maintenance of the society's
29 solvency or that subject the policy or certificate to the policies

1 of the society are void and to agree to any other changes to terms
2 of the policy or certificate that are determined by the liquidator
3 to be necessary to effectuate the transfer. The insurer accepting
4 transfer shall endorse the policy or certificate accordingly. Any
5 transfer under this subsection is a novation of the policy or
6 certificate that is effective on the date of transfer.