

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2671

By: Sullivan

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7 COMMITTEE SUBSTITUTE

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

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

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

21 Section 2402. Any number of persons, being citizens of the
22 United States, not less than seven, five of whom shall also be
23 citizens and residents of the state of Oklahoma, desiring to form a
24 mutual benefit association, may associate themselves together and
effect such organization in the manner provided in this section and
as otherwise provided in this article for reorganization of

1 associations now doing business in this state, and not otherwise.
2 Articles of association shall be prepared in triplicate in the
3 manner hereinafter provided, and submitted to the Insurance
4 Commissioner for ~~his~~ approval. If the name selected for an
5 association is not the same or so near the same as that of another
6 association or corporation doing business in this state as to cause
7 confusion in the minds of the people, and the objects of the
8 association conform to the provisions of this article, the Insurance
9 Commissioner shall endorse on the back of each copy of said articles
10 of association the fact that ~~he~~ the Commissioner has approved the
11 same. Before the Insurance Commissioner shall approve such articles
12 of association, it shall be shown to ~~him~~ the Commissioner by the
13 sworn statement of one or more of the proposed incorporators that at
14 least one thousand persons have signed, in good faith, applications
15 for benefit membership in such proposed association, and paid to the
16 proper one of such proposed incorporators the amount of one death or
17 mortuary collection, by whatever name it may be called, and that
18 such money is deposited with some bank or trust company and is held
19 for the special purpose named. For such examination and approval of
20 the articles of association herein mentioned, the Insurance
21 Commissioner shall charge and receive a fee as stated in Section
22 321, Article 3 of this ~~Code~~ title. Provided, however, that before
23 such incorporators, or any of them, or any person or persons, shall
24 solicit members or collect any money whatever from any applicant in

1 an association formed, or to be formed, under this article, they
2 shall first furnish to the Insurance Commissioner a surety bond
3 running to the State of Oklahoma, to be approved by ~~said~~ the
4 Commissioner, in the sum of Five Thousand Dollars (\$5,000.00)
5 Dollars, conditioned that all sums collected, or to be collected,
6 from applicants for benefit membership in such association will be
7 promptly returned to respective applicants in case the articles of
8 incorporation are not approved or no certificate of incorporation is
9 granted within one (1) year from the date of the filing of such
10 bond, or in case the association fails to accept said charter and in
11 good faith conduct the business of a mutual benefit association
12 authorized thereby. Upon the filing of said bond, the Insurance
13 Commissioner shall issue ~~his~~ a certificate to that effect, showing
14 that the person or persons named therein are authorized to solicit
15 members in such proposed association and to collect dues and
16 assessments in advance. When the foregoing conditions are complied
17 with and the articles of association are approved by the Insurance
18 Commissioner, as hereinbefore provided, one copy thereof shall be
19 filed with the Secretary of State, whereupon the said Secretary
20 shall issue ~~his~~ a certificate of incorporation and affix the Seal of
21 the State thereto, and one copy, approved as hereinbefore provided,
22 shall be delivered to the incorporators of such association, and the
23 third approved copy of such articles shall be filed with the

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1 Insurance Commissioner. Such articles of association shall be
2 substantially in the following form:

3 First. The preamble shall name the incorporators and give the
4 residence of each and the fact of their citizenship, as herein
5 required, and express their desire to incorporate a mutual benefit
6 association in accordance with and under the provisions of this
7 article, making definite reference to the same.

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

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

11 Fourth. Article III shall state the objects of the association
12 and the plans by which these objects are to be carried out,
13 including the extreme limit of age of persons to whom benefit
14 certificates may be issued, which limit of age shall not exceed
15 ~~sixty-five (65)~~ eighty (80) years.

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

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

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

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

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

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

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

15 3. The bylaws may provide for the issuing of graded membership
16 certificates to persons not to exceed ~~sixty five (65)~~ seventy-two
17 (72) years of age, and for the grading of rates of assessment
18 according to the age of members; provided that the premium or
19 assessment charged on policies or certificates insuring individuals
20 over age ~~fifty five (55)~~ seventy-two (72) shall not be less than the
21 net rate produced by using the American Experience Table of
22 Mortality with interest assumption at three and one-half percent (3
23 1/2%) plus ten percent (10%).

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

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

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

10 7. In case the membership of any such association is divided
11 into circles, classes or groups, upon the membership of which
12 assessments are made to cover benefits or to replenish the mortuary
13 or benefit fund, no benefit assessment shall be made upon any other
14 circle, class or group to which the insured member does or did not
15 belong to cover such benefit paid or to be paid.

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

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

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

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

16 2. Such associations shall specify in their policy or
17 membership certificate forms the sum of money they promise to pay,
18 which sum shall not be less than the face amount of the policy, and
19 the number of days after satisfactory proof is filed when such
20 payment will be made. Upon the occurrence of such contingency
21 unless the contract shall have been void by fraud or by breach of
22 its conditions, the corporation shall be obligated to the
23 beneficiary for such payment at the time and in the amount specified
24 in the policy or certificate. If such corporation shall refuse or

1 fail to make such payment, after final judgment has been obtained
2 upon each claim, the Insurance Commissioner shall notify the
3 corporation not to issue any new policies or certificates until such
4 indebtedness is fully paid; and no officer or agent of the
5 corporation shall make, sign or issue any policy or certificate of
6 insurance while such notice is in force.

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

10 4. Any association or company organized under the provisions of
11 this article having admitted assets in its mortuary or reserve fund
12 of at least One Hundred Thousand Dollars (\$100,000.00) in excess of
13 its matured claim liabilities may write legal reserve life insurance
14 and the provisions of paragraphs numbered 1, 7 and 8 ~~in subsection A~~
15 of Section 1204, Article 12; Section 4029, Article 40, and Section
16 3610, Article 36 of this ~~Code~~ title shall be applicable to all
17 insurance written on the legal reserve basis. The reserve on such
18 business shall be held separate and apart from all other funds of
19 the association or company and shall be computed upon a calculation
20 which shall show a value not less than that shown in accordance with
21 the one-year preliminary term method based upon the American
22 Experience Table of Mortality and three and one-half (3 1/2%)
23 percent per annum, assuming an average risk exposure of six (6)
24 months on all new policies issued within each calendar year shall be

1 security for the legal reserve business only. Should such legal
2 reserve become impaired by reason of excessive mortality or other
3 cause, the board of directors of such association or company may
4 levy additional assessments with which to make up such impairment.
5 Every policy issued by reason hereof shall contain a provision
6 making this section a part thereof. Provided, however, that any
7 such association or company shall discontinue writing all types of
8 new insurance in Oklahoma except legal reserve insurance within five
9 (5) years after publishing legal reserve rates or having printed
10 legal reserve policy forms. Any director, trustee, officer, or
11 member of any such corporation, or any other person, may advance to
12 the corporation any sum or sums of money necessary for the purpose
13 of its business, or to enable it to comply with any of the
14 requirements of the law, and such monies and such interest thereon
15 as may have been agreed upon, not exceeding ten percent (10%) per
16 annum, shall not be a liability or claim against the corporation or
17 any of its assets except as to surplus earnings of such corporations
18 and unless the obligation is in writing and duly acknowledged by the
19 corporation, and a verified copy thereof is filed with the Insurance
20 Commissioner. No commission or promotion expense shall be paid in
21 connection with the advance of any such money to the corporation and
22 the amount of such advance shall be reported in each annual
23 statement filed with the Insurance Commissioner.

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1 5. The provisions of this article placing the extreme limit of
2 age of persons to whom policies may be issued at not to exceed
3 ~~fifty-five (55)~~ seventy-two (72) years of age, shall not be
4 applicable to insurance written upon the level rate plan outside the
5 State of Oklahoma or the legal reserve plan in any state; provided
6 that if the age of the insured has been incorrectly stated in the
7 application for any policy issued by such association or company the
8 face amount of said policy payable in event of a valid claim shall
9 be such an amount as the premium paid by the insured to the
10 association or company would have purchased at the true and correct
11 age of the insured, at entry, on a basis of the published rates of
12 the company applicable thereto. 6. Any individual, person,
13 corporation, association or partnership with an insurable interest
14 in the life of the insured may be a beneficiary of insurance written
15 on either the level rate or legal reserve plan by an association or
16 company operating under this article.

17 7. No mutual benefit association shall be formed after June 4,
18 1953, nor shall the Insurance Commissioner, after said effective
19 date issue a permit to organize such an association to or approve
20 any articles of incorporation of, any group of individuals desiring
21 to organize an association or company under the provisions of this
22 article.

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

1 Section 2411. A. Every mutual benefit association doing
2 business in this state under the provisions hereof shall by its
3 bylaws provide for the payment by its members of sufficient dues to
4 cover the expenses of conducting the business of such association
5 and for such assessments as may be necessary to provide funds
6 sufficient to pay the benefits to which its members shall be come
7 entitled and also to establish an emergency fund of at least One
8 Dollar (\$1.00) per annum, per One Thousand Dollars (\$1,000.00)
9 ~~Dollars~~ death benefits with which to meet any unusual or
10 unanticipated benefits or losses which may become due and payable,
11 which emergency fund shall be available for use by the association
12 as may be provided in its bylaws without regard to the group, class
13 or circle whose members might have paid assessments therefor;
14 provided, however, that two additional assessments for such
15 emergency fund of at least One Dollar (\$1.00) per One Thousand
16 Dollars (\$1,000.00) ~~Dollars~~ of death benefits shall be levied
17 annually in these circles, classes or groups where and when it may
18 be done in any calendar month in which no death benefit assessment
19 or call for dues is made upon members of such circle, class or
20 group; provided further, that such associations may pay death
21 benefits in excess of seven per thousand in any such circle, class
22 or group when the emergency fund to its credit shall be sufficient
23 therefor; and provided further, that if any annual report of a
24 mutual benefit association, as provided for in this article or an

1 investigation of the Insurance Commissioner discloses the fact that
2 the mortuary and emergency funds of such association will not be
3 sufficient to pay the benefits or losses to which its members or
4 their beneficiaries may be entitled during the succeeding biennial
5 period, the Insurance Commissioner, taking into consideration the
6 age of the members and any special provisions for meeting such
7 benefits or losses or for replenishing its funds, may direct such
8 association to make such additional assessments as may be necessary
9 to meet the said benefits or losses during the succeeding biennial
10 period. Out of the original membership fee charged every new member
11 there shall be placed in the mortuary or emergency fund a sum
12 sufficient to equal at least one maximum benefit assessment to which
13 said member would be liable under his contract. Whenever the
14 association shall use any portion of the mortuary or benefit funds
15 to pay promised benefits payable therefrom said association shall
16 for the purpose of replenishing, establishing or maintaining a
17 mortuary or benefit fund of sufficient strength to enable the
18 association to meet promptly all valid claims for benefit as they
19 mature, levy an additional assessment or assessments for such fund;
20 provided that the association shall not be required to levy such
21 assessment until in the judgment of the executive officers of such
22 association such additional assessment is needed; provided, that
23 associations which have a table of rates that are sufficient to meet
24 the above requirements shall not be required to make the assessment

1 provided for herein, upon members whose benefit certificates are
2 based upon such rate table.

3 B. The fund referenced in this section comprised of assessments
4 upon the members of One Dollar (\$1.00) per One Thousand Dollars
5 (\$1,000.00) of death benefits need not be reported separately, but
6 shall become a part of the general funds of the association provided
7 books and records are kept on the collection and disbursement of
8 same.

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

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