

EHB 2671

THE STATE SENATE  
Monday, March 22, 2010

ENGROSSED

House Bill No. 2671

ENGROSSED HOUSE BILL NO. 2671 - By: McDaniel (Randy) of the House and Stanislawski of the Senate.

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

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

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

Section 2402. Any number of persons, being citizens of the United States, not less than seven, five of whom shall also be citizens and residents of the state of Oklahoma, desiring to form a 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 associations now doing business in this state, and not otherwise. Articles of association shall be prepared in triplicate in the manner hereinafter provided, and submitted to the Insurance Commissioner for his approval. If the name selected for an

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

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

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

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

7 Third. Article II shall state the location of the principal  
8 office of the association.

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

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

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

22 The articles of association shall be signed and acknowledged by  
23 each of the incorporators.

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

3 Section 2404. A. The following provisions are made applicable  
4 to mutual benefit associations:

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

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

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

22 4. Such associations shall have the right to regulate and  
23 govern their affairs as provided and set forth in their respective

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

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

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

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

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

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

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

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

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

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

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

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

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.

13           6. Any individual, person, corporation, association or  
14 partnership with an insurable interest in the life of the insured  
15 may be a beneficiary of insurance written on either the level rate  
16 or legal reserve plan by an association or company operating under  
17 this article.

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

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

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

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

1 of such association such additional assessment is needed; provided,  
2 that associations which have a table of rates that are sufficient to  
3 meet the above requirements shall not be required to make the  
4 assessment provided for herein, upon members whose benefit  
5 certificates are based upon such rate table.

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated  
14 3-18-10 - DO PASS.