

By: Creighton

S.B. No. 1958

A BILL TO BE ENTITLED

AN ACT

relating to financially impaired fraternal benefit societies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 885.311, Insurance Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) A fraternal benefit society shall provide in the fraternal benefit society's laws that if the society's reserves for any class of the society's benefit certificates become impaired, the society's supreme governing body or board of directors may require the certificate holders to pay the society an equitable proportion of the deficiency as determined by the governing body or board. The aggregate assessment for the impaired reserves may not exceed the total amount required to comply with Section 885.408.

(d) Not later than the 90th day before the proposed effective date of an assessment under Subsection (a), the fraternal benefit society shall file with the department an application for approval of the assessment and a statement sworn to by the president and secretary or corresponding officers of the society. The statement must:

(1) include:

(A) the terms of the assessment, including the proposed effective date; and

(B) the financial condition of the fraternal

1 benefit society; and

2 (2) state that the assessment:

3 (A) received approval by a majority vote of the  
4 supreme governing body or board of directors of the society; and

5 (B) complies with the requirements of this  
6 section.

7 (e) The commissioner shall approve or disapprove an  
8 application under this section not later than the 60th day after the  
9 date the department receives the application. If the commissioner  
10 does not approve or disapprove the application before the  
11 expiration of the 60-day period, the application is considered  
12 approved. The commissioner may impose an effective date earlier  
13 than the date requested in the application if the earlier effective  
14 date is in the best interests of the certificate holders.

15 SECTION 2. Section 885.407, Insurance Code, is amended to  
16 read as follows:

17 Sec. 885.407. SOLVENCY. (a) If a fraternal benefit society  
18 reports a ratio of total adjusted capital to authorized control  
19 level risk-based capital that triggers an authorized control level  
20 as determined by the commissioner in accordance with 28 T.A.C.  
21 Section 7.402 and the commissioner reasonably believes the impaired  
22 society's financial condition will not be promptly remedied without  
23 intervention by the department, the commissioner may order the  
24 impaired society to promptly seek and negotiate an agreement to  
25 transfer in accordance with this section all benefit members,  
26 benefit certificates, assets, and liabilities of the impaired  
27 society to another fraternal benefit society. A transfer under this

1 section:

2 (1) may be by merger, consolidation, assumption, or  
3 otherwise;

4 (2) constitutes an entire novation of each benefit  
5 certificate transferred by the impaired society, and the receiving  
6 society is legally and contractually responsible for each  
7 transferred certificate;

8 (3) must conclude before the deadline set by the  
9 commissioner;

10 (4) may be approved by a vote of the majority of the  
11 supreme governing body or board of directors of the impaired  
12 society, notwithstanding Section 885.063 or any provision of the  
13 impaired society's laws to the contrary; and

14 (5) is subject to approval by the commissioner.

15 (b) Not later than the 30th day after the date the  
16 commissioner approves a transfer under Subsection (a), the impaired  
17 society transferring the certificates shall notify the certificate  
18 holders of the transfer.

19 (c) The supreme governing body or board of directors of a  
20 fraternal benefit society receiving benefit certificates pursuant  
21 to a transfer under an agreement described by Subsection (a) may  
22 suspend or modify qualifications for membership in the receiving  
23 society to the extent necessary to permit the society to accept the  
24 certificate holders of the impaired society under the agreement,  
25 notwithstanding any provision of the receiving society's laws to  
26 the contrary.

27 (d) The commissioner may grant to a fraternal benefit

1 society that is not authorized to engage in the business of  
2 insurance in this state the authority to service benefit  
3 certificates transferred pursuant to Subsection (a) and fulfill all  
4 obligations to the holders of the certificates. Commissioner  
5 action under this subsection does not authorize the fraternal  
6 benefit society to otherwise engage in the business of insurance in  
7 this state.

8 (e) A transfer under Subsection (a) may be made to an  
9 insurer that is not a fraternal benefit society if the insurer is  
10 authorized to engage in the business of insurance in this state. A  
11 holder of a certificate subject to a transfer as authorized by this  
12 subsection is deemed to agree that any term in the certificate,  
13 including a term that makes the certificate subject to the  
14 transferring society's laws or that provides for maintenance of the  
15 transferring society's solvency that is inconsistent with transfer  
16 to an insurer that is not a fraternal benefit society, is void on  
17 transfer of the certificate. The receiving insurer shall endorse  
18 each benefit certificate received by a transfer made under this  
19 section to reflect any terms of the certificate voided by this  
20 subsection. A certificate holder's obligation to pay an  
21 outstanding assessment under Section [885.311](#) that is not released  
22 under the transfer agreement is not released or voided by this  
23 subsection.

24 (f) The commissioner may request the attorney general bring  
25 an action under Section [885.502](#) to terminate a fraternal benefit  
26 society that fails to comply with an order under this section or  
27 fails to remedy the financial condition that gave rise to the order.

1        (g) The powers and authority of the commissioner under this  
2 section are cumulative and in addition to all other powers and  
3 authority to remediate the financial condition of a fraternal  
4 benefit society available to the commissioner, including the powers  
5 and authority under 28 T.A.C. Section 7.402. [~~A fraternal benefit~~  
6 ~~society is considered solvent if its admissible assets are equal to~~  
7 ~~or greater than its liabilities.~~]

8        SECTION 3. The changes in law made by this Act to Section  
9 885.311, Insurance Code, apply only to an assessment by a fraternal  
10 benefit society with an effective date on or after January 1, 2020.  
11 An assessment by a fraternal benefit society with an effective date  
12 before January 1, 2020, is governed by the law as it existed  
13 immediately before the effective date of this Act, and that law is  
14 continued in effect for that purpose.

15        SECTION 4. This Act takes effect September 1, 2019.