

1-1 By: Creighton S.B. No. 1958
 1-2 (In the Senate - Filed March 7, 2019; March 19, 2019, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 16, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 16, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1958 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to fraternal benefit societies in a hazardous financial
 1-22 condition.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section [885.311](#), Insurance Code, is amended by
 1-25 amending Subsection (a) and adding Subsections (d) and (e) to read
 1-26 as follows:

1-27 (a) A fraternal benefit society shall provide in the
 1-28 fraternal benefit society's laws that if the society's reserves for
 1-29 any class of the society's benefit certificates become impaired,
 1-30 the society's supreme governing body or board of directors may
 1-31 require the certificate holders to pay the society an equitable
 1-32 proportion of the deficiency as determined by the governing body or
 1-33 board. The aggregate assessment for the impaired reserves may not
 1-34 exceed the total amount required to comply with Section [885.408](#).

1-35 (d) Not later than the 90th day before the proposed
 1-36 effective date of an assessment under Subsection (a), the fraternal
 1-37 benefit society shall file with the department an application for
 1-38 approval of the assessment and a statement sworn to by the president
 1-39 and secretary or corresponding officers of the society. The
 1-40 statement must:

1-41 (1) include:

1-42 (A) the terms of the assessment, including the
 1-43 proposed effective date; and

1-44 (B) a narrative statement of the financial
 1-45 condition of the fraternal benefit society; and

1-46 (2) state that the assessment:

1-47 (A) received approval by a majority vote of the
 1-48 supreme governing body or board of directors of the society; and

1-49 (B) complies with the requirements of this
 1-50 section.

1-51 (e) After the department receives a completed application,
 1-52 the commissioner may approve or disapprove the application. If the
 1-53 commissioner does not approve or disapprove the application before
 1-54 the 60th day after the date the department receives the completed
 1-55 application, the application is considered approved. The
 1-56 commissioner may impose an effective date earlier than the date
 1-57 requested in the application if the earlier effective date is in the
 1-58 best interests of the certificate holders.

1-59 SECTION 2. Section [885.407](#), Insurance Code, is amended to
 1-60 read as follows:

2-1 Sec. 885.407. SOLVENCY. (a) If a fraternal benefit
 2-2 society reports admissible assets greater than the society's
 2-3 liabilities in an amount that authorizes the commissioner to place
 2-4 the society under regulatory control and the commissioner
 2-5 reasonably believes the society's hazardous financial condition
 2-6 will not be promptly remedied without intervention by the
 2-7 department, the commissioner may order the society to promptly seek
 2-8 and negotiate an agreement to transfer in accordance with this
 2-9 section all benefit members, benefit certificates, assets, and
 2-10 liabilities of the society to another fraternal benefit society. A
 2-11 transfer under this section:

2-12 (1) may be by merger, consolidation, assumption, or
 2-13 otherwise;

2-14 (2) constitutes an entire novation of each benefit
 2-15 certificate transferred by the society in a hazardous financial
 2-16 condition, and the receiving society is legally and contractually
 2-17 responsible for each transferred certificate;

2-18 (3) must conclude before the deadline set by the
 2-19 commissioner;

2-20 (4) may be approved by a vote of the majority of the
 2-21 supreme governing body or board of directors of the society in a
 2-22 hazardous financial condition, notwithstanding Section
 2-23 885.063(a)(2)(C) or any provision of the society's laws to the
 2-24 contrary; and

2-25 (5) is subject to approval by the commissioner.

2-26 (b) Not later than the seventh day before the date the
 2-27 supreme governing body or board of directors of a fraternal benefit
 2-28 society votes on a transfer proposed under Subsection (a), the
 2-29 governing body or board shall provide the society's certificate
 2-30 holders written notice of and an opportunity to comment on the
 2-31 proposed transfer. If the governing body or board approves the
 2-32 transfer, the governing body or board shall provide the certificate
 2-33 holders' comments to the commissioner.

2-34 (c) The supreme governing body or board of directors of a
 2-35 fraternal benefit society receiving benefit certificates pursuant
 2-36 to a transfer under an agreement described by Subsection (a) may
 2-37 suspend or modify qualifications for membership in the receiving
 2-38 society to the extent necessary to permit the society to accept the
 2-39 certificate holders of the society transferring certificates under
 2-40 the agreement, notwithstanding any provision of the receiving
 2-41 society's laws to the contrary.

2-42 (d) The commissioner may grant to a fraternal benefit
 2-43 society that is not authorized to engage in the business of
 2-44 insurance in this state the authority to service benefit
 2-45 certificates transferred pursuant to Subsection (a) and fulfill all
 2-46 obligations to the holders of the certificates. Commissioner
 2-47 action under this subsection does not authorize the fraternal
 2-48 benefit society to otherwise engage in the business of insurance in
 2-49 this state.

2-50 (e) A transfer under Subsection (a) may be made to an
 2-51 insurer that is not a fraternal benefit society if the insurer is
 2-52 authorized to engage in the business of insurance in this state. A
 2-53 holder of a certificate subject to a transfer as authorized by this
 2-54 subsection is deemed to agree that any term in the certificate,
 2-55 including a term that makes the certificate subject to the
 2-56 transferring society's laws or that provides for maintenance of the
 2-57 transferring society's solvency that is inconsistent with transfer
 2-58 to an insurer that is not a fraternal benefit society, is void on
 2-59 transfer of the certificate. The receiving insurer shall endorse
 2-60 on a form approved by the commissioner each benefit certificate
 2-61 received by a transfer made under this section to reflect any terms
 2-62 of the certificate voided by this subsection. A certificate
 2-63 holder's obligation to pay an outstanding assessment under Section
 2-64 885.311 that is not released under the transfer agreement is not
 2-65 released or voided by this subsection.

2-66 (f) The commissioner may request the attorney general bring
 2-67 an action under Section 885.502 to terminate a fraternal benefit
 2-68 society that fails to comply with an order under this section or
 2-69 fails to remedy the financial condition that gave rise to the order.

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

3-7 SECTION 3. The changes in law made by this Act to Section
3-8 885.311, Insurance Code, apply only to an assessment by a fraternal
3-9 benefit society with an effective date on or after January 1, 2020.
3-10 An assessment by a fraternal benefit society with an effective date
3-11 before January 1, 2020, is governed by the law as it existed
3-12 immediately before the effective date of this Act, and that law is
3-13 continued in effect for that purpose.

3-14 SECTION 4. This Act takes effect September 1, 2019.

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