

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Thompson of Harris

H.B. No. 1251

A BILL TO BE ENTITLED

AN ACT

relating to fraternal benefit societies in a hazardous financial condition.

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

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

3           (2) state that the assessment:

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

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

8           (e) After the department receives a completed application,  
9 the commissioner may approve or disapprove the application. If the  
10 commissioner does not approve or disapprove the application before  
11 the 60th day after the date the department receives the completed  
12 application, the application is considered approved. The  
13 commissioner may impose an effective date earlier than the date  
14 requested in the application if the earlier effective date is in the  
15 best interests of the certificate holders.

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

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

1 another fraternal benefit society. A transfer under this 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 society in a hazardous financial  
6 condition, and the receiving society is legally and contractually  
7 responsible for each 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 society in a  
12 hazardous financial condition, notwithstanding Section  
13 885.063(a)(2)(C) or any provision of the society's laws to the  
14 contrary; and

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

16 (b) Not later than the seventh day before the date the  
17 supreme governing body or board of directors of a fraternal benefit  
18 society votes on a transfer proposed under Subsection (a), the  
19 governing body or board shall provide the society's certificate  
20 holders written notice of and an opportunity to comment on the  
21 proposed transfer. If the governing body or board approves the  
22 transfer, the governing body or board shall provide the certificate  
23 holders' comments to the commissioner.

24 (c) Notwithstanding any other law or provision of the  
25 society's laws to the contrary, the supreme governing body or board  
26 of directors of a fraternal benefit society that is ordered to agree  
27 to a transfer under Subsection (a) shall suspend or modify the

1 society's laws, including laws requiring notice to certificate  
2 holders or the approval of the governing body of the society of a  
3 transfer of the society's certificates, as necessary to facilitate  
4 a transfer approved by the commissioner under that subsection.

5 (d) The supreme governing body or board of directors of a  
6 fraternal benefit society receiving benefit certificates pursuant  
7 to a transfer under an agreement described by Subsection (a) may  
8 suspend or modify qualifications for membership in the receiving  
9 society to the extent necessary to permit the society to accept the  
10 certificate holders of the society transferring certificates under  
11 the agreement, notwithstanding any provision of the receiving  
12 society's laws to the contrary.

13 (e) The commissioner may grant to a fraternal benefit  
14 society that is not authorized to engage in the business of  
15 insurance in this state the authority to service benefit  
16 certificates transferred pursuant to Subsection (a) and fulfill all  
17 obligations to the holders of the certificates. Commissioner  
18 action under this subsection does not authorize the fraternal  
19 benefit society to otherwise engage in the business of insurance in  
20 this state.

21 (f) A transfer under Subsection (a) may be made to an  
22 insurer that is not a fraternal benefit society if the insurer is  
23 authorized to engage in the business of insurance in this state. A  
24 holder of a certificate subject to a transfer as authorized by this  
25 subsection is deemed to agree that any term in the certificate,  
26 including a term that makes the certificate subject to the  
27 transferring society's laws or that provides for maintenance of the

1 transferring society's solvency that is inconsistent with transfer  
2 to an insurer that is not a fraternal benefit society, is void on  
3 transfer of the certificate. The receiving insurer shall endorse  
4 on a form approved by the commissioner each benefit certificate  
5 received by a transfer made under this section to reflect any terms  
6 of the certificate voided by this subsection. A certificate  
7 holder's obligation to pay an outstanding assessment under Section  
8 885.311 that is not released under the transfer agreement is not  
9 released or voided by this subsection.

10 (g) The commissioner may request the attorney general bring  
11 an action under Section 885.502 to terminate a fraternal benefit  
12 society that fails to comply with an order under this section or  
13 fails to remedy the financial condition that gave rise to the order.

14 (h) The powers and authority of the commissioner under this  
15 section are cumulative and in addition to all other powers and  
16 authority to remediate the financial condition of a fraternal  
17 benefit society available to the commissioner, including the powers  
18 and authority under 28 T.A.C. Section 7.402. [~~A fraternal benefit~~  
19 society is considered solvent if its admissible assets are equal to  
20 or greater than its liabilities.]

21 SECTION 3. The changes in law made by this Act to Section  
22 885.311, Insurance Code, apply only to an assessment by a fraternal  
23 benefit society with an effective date on or after January 1, 2020.  
24 An assessment by a fraternal benefit society with an effective date  
25 before January 1, 2020, is governed by the law as it existed  
26 immediately before the effective date of this Act, and that law is  
27 continued in effect for that purpose.

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

# ADOPTED

MAY 15 2019

*Leta Spaw*  
Secretary of the Senate

BY: *Stephanie Thompson*

H.B. No. 1251

Substitute the following for H.B. No. 1251:

BY: Nichols

C.S. H.B. No. 1251

## A BILL TO BE ENTITLED

### AN ACT

1

2 relating to fraternal benefit societies in a hazardous financial  
3 condition.

4

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

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

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

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

22 (1) include:

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

1                   (B) a narrative statement of the financial  
2 condition of the fraternal benefit society; and  
3                   (2) state that the assessment:  
4                   (A) received approval by a majority vote of the  
5 supreme governing body or board of directors of the society; and  
6                   (B) complies with the requirements of this  
7 section.

8                   (c) After the department receives a completed application,  
9 the commissioner may approve or disapprove the application. If the  
10 commissioner does not approve or disapprove the application before  
11 the 60th day after the date the department receives the completed  
12 application, the application is considered approved. The  
13 commissioner may impose an effective date earlier than the date  
14 requested in the application if the earlier effective date is in the  
15 best interests of the certificate holders.

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

18                   Sec. 885.407. SOLVENCY. (a) If a fraternal benefit society  
19 reports admissible assets greater than the society's liabilities in  
20 an amount that authorizes the commissioner to place the society  
21 under regulatory control and the commissioner reasonably believes  
22 the society's hazardous financial condition will not be promptly  
23 remedied without intervention by the department, the commissioner  
24 may order the 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 society to  
27 another fraternal benefit society. A transfer under this section:



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

3           (2) constitutes an entire novation of each benefit  
4 certificate transferred by the society in a hazardous financial  
5 condition, and the receiving society is legally and contractually  
6 responsible for each transferred certificate;

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

9           (4) may be approved by a vote of the majority of the  
10 supreme governing body or board of directors of the society in a  
11 hazardous financial condition, notwithstanding Section  
12 885.063(a)(2)(c) or any provision of the society's laws to the  
13 contrary; and

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

15           (b) Not later than the seventh day before the date the  
16 supreme governing body or board of directors of a fraternal benefit  
17 society votes on a transfer proposed under subsection (a), the  
18 governing body or board shall provide the society's certificate  
19 holders written notice of and an opportunity to comment on the  
20 proposed transfer. If the governing body or board approves the  
21 transfer, the governing body or board shall provide the certificate  
22 holders' comments to the commissioner.

23           (c) The supreme governing body or board of directors of a  
24 fraternal benefit society receiving benefit certificates pursuant  
25 to a transfer under an agreement described by Subsection (a) may  
26 suspend or modify qualifications for membership in the receiving  
27 society to the extent necessary to permit the society to accept the

1 certificate holders of the society transferring certificates under  
2 the agreement, notwithstanding any provision of the receiving  
3 society's laws to the contrary.

4 (d) The commissioner may grant to a fraternal benefit  
5 society that is not authorized to engage in the business of  
6 insurance in this state the authority to service benefit  
7 certificates transferred pursuant to Subsection (a) and fulfill all  
8 obligations to the holders of the certificates. Commissioner  
9 action under this subsection does not authorize the fraternal  
10 benefit society to otherwise engage in the business of insurance in  
11 this state.

12 (e) A transfer under Subsection (a) may be made to an  
13 insurer that is not a fraternal benefit society if the insurer is  
14 authorized to engage in the business of insurance in this state. A  
15 holder of a certificate subject to a transfer as authorized by this  
16 subsection is deemed to agree that any term in the certificate,  
17 including a term that makes the certificate subject to the  
18 transferring society's laws or that provides for maintenance of the  
19 transferring society's solvency that is inconsistent with transfer  
20 to an insurer that is not a fraternal benefit society, is void on  
21 transfer of the certificate. The receiving insurer shall endorse  
22 on a form approved by the commissioner each benefit certificate  
23 received by a transfer made under this section to reflect any terms  
24 of the certificate voided by this subsection. A certificate  
25 holder's obligation to pay an outstanding assessment under Section  
26 885.311 that is not released under the transfer agreement is not  
27 released or voided by this subsection.

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

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

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

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

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 15, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **HB1251** by Thompson, Senfronia (Relating to fraternal benefit societies in a hazardous financial condition.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to fraternal benefit societies in a hazardous financial condition. Based on information provided by the Texas Department of Insurance and Office of the Attorney General, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill applies only to an assessment by a fraternal benefit society with an effective date on or after January 1, 2020. The bill would take effect on September 1, 2019.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 302 Office of the Attorney General

**LBB Staff:** WP, SD, KK, CMa, SGr, CP, DFR

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 9, 2019**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on Administration

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **HB1251** by Thompson, Senfronia (relating to fraternal benefit societies in a hazardous financial condition.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to fraternal benefit societies in a hazardous financial condition. Based on information provided by the Texas Department of Insurance and Office of the Attorney General, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill applies only to an assessment by a fraternal benefit society with an effective date on or after January 1, 2020. The bill would take effect on September 1, 2019.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 302 Office of the Attorney General

**LBB Staff:** WP, KK, CMa, SGr, CP, DFR

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 7, 2019**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on Administration

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **HB1251** by Thompson, Senfronia (Relating to fraternal benefit societies in a hazardous financial condition.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to fraternal benefit societies in a hazardous financial condition. Based on information provided by the Texas Department of Insurance and Office of the Attorney General, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill applies only to an assessment by a fraternal benefit society with an effective date on or after January 1, 2020. The bill would take effect on September 1, 2019.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 454 Department of Insurance

**LBB Staff:** WP, KK, CMa, SGr, CP, DFR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 9, 2019**

**TO:** Honorable Eddie Lucio III, Chair, House Committee on Insurance

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **HB1251** by Thompson, Senfronia (relating to fraternal benefit societies in a hazardous financial condition.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to fraternal benefit societies in a hazardous financial condition. Based on information provided by the Texas Department of Insurance and Office of the Attorney General, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill applies only to an assessment by a fraternal benefit society with an effective date on or after January 1, 2020. The bill would take effect on September 1, 2019.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 454 Department of Insurance

**LBB Staff:** WP, CMa, SGr, CP, DFR

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 25, 2019**

**TO:** Honorable Eddie Lucio III, Chair, House Committee on Insurance

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1251** by Thompson, Senfronia (Relating to financially impaired fraternal benefit societies.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

This bill would amend the Insurance Code relating to financially impaired fraternal benefit societies. Based on information provided by the Texas Department of Insurance and Office of the Attorney General, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill applies only to an assessment by a fraternal benefit society with an effective date on or after January 1, 2020. The bill would take effect on September 1, 2019.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 454 Department of Insurance

**LBB Staff:** WP, CMa, SGr, CP, DFR