

**As Reported by the Senate Insurance Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Am. H. B. No. 575**

**Representative Cutrona**

**Cosponsors: Representatives Lampton, Sweeney, Upchurch, Jarrells, Cross, Baldridge, Carruthers, Grendell, Lanese, Loychik, Miller, J., Stephens, Swearingen**

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**A BILL**

To amend section 3921.19 and to enact sections 1  
3921.102 and 3921.32 of the Revised Code to 2  
modernize fraternal benefit society solvency 3  
regulation and oversight. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3921.19 be amended and sections 5  
3921.102 and 3921.32 of the Revised Code be enacted to read as 6  
follows: 7

**Sec. 3921.102.** (A) In the event a domestic fraternal 8  
benefit society has an authorized control level RBC as defined 9  
in section 3903.81 of the Revised Code or fails to comply with 10  
section 3921.101 of the Revised Code, the society shall present 11  
to the superintendent of insurance a plan to protect the 12  
interests of the society members not later than forty-five days 13  
following such an event. The plan shall provide for the transfer 14  
of all members, certificates, and other assets and liabilities 15  
of the society to another fraternal benefit society or other 16  
insurer through merger, consolidation, assumption, or any other 17  
means. The plan shall designate a period of time in which the 18

transfer must be completed. Any transfer is subject to approval 19  
by the superintendent. 20

(B) (1) Any transfer under division (A) of this section 21  
shall constitute a novation of the transferring society's 22  
certificates effective on the date of transfer. The society 23  
shall ensure that the transfer is concluded within the time 24  
period approved by the superintendent. A transfer under division 25  
(A) of this section shall be considered fully approved by the 26  
society upon a majority vote of the society's board of 27  
directors, notwithstanding section 3921.14 of the Revised Code 28  
or any other law or regulation that requires notice to or 29  
approval by the society's members or supreme governing body. The 30  
society shall make any necessary amendments to its laws to 31  
recognize this authority of the board not later than the next 32  
meeting of the society's supreme governing body. The 33  
transferring society shall provide notice to its members of the 34  
transfer by mail or in the society's official publication not 35  
later than thirty days after the transfer is approved by the 36  
superintendent. 37

(2) Notwithstanding any law or regulation to the contrary 38  
and any law of the society, the board of directors of a society 39  
may, with the approval of the superintendent, suspend or modify 40  
the qualifications for membership in the society as necessary to 41  
facilitate a transfer under division (A) of this section. 42

(3) Upon the effective date of a transfer to an 43  
organization that is not a fraternal benefit society and in 44  
consideration for the transfer, each member of the society is 45  
considered to agree that any terms of a certificate subjecting 46  
the certificate to the laws of the society or providing for the 47  
maintenance of the society's solvency, except to the extent of 48

any outstanding lien not released by the terms of the transfer, 49  
are null and void. The assuming organization shall endorse the 50  
certificate accordingly. 51

**Sec. 3921.19.** (A) Each fraternal benefit society 52  
authorized to do business in this state shall issue to each 53  
owner of a benefit contract a certificate specifying the amount 54  
of benefits provided under the contract. The certificate, 55  
together with any riders or endorsements attached to the 56  
certificate, the laws of the society, the application for 57  
membership, the application for insurance and declaration of 58  
insurability, if any, signed by the applicant, and all 59  
amendments to each such document, constitute the benefit 60  
contract, as of the date of issuance, between the society and 61  
the owner, and the certificate shall so state. A copy of the 62  
application for insurance and declaration of insurability, if 63  
any, shall be endorsed upon or attached to the certificate. 64

All statements made on the application are representations 65  
and not warranties. Any waiver of this provision is void. 66

(B) Any changes, additions, or amendments to the laws of 67  
the society duly made or enacted subsequent to the issuance of 68  
the certificate, shall bind the owner and the beneficiaries, and 69  
shall govern and control the benefit contract in all respects 70  
the same as though such changes, additions, or amendments had 71  
been made prior to and were in force at the time of the 72  
application for insurance, except that no change, addition, or 73  
amendment shall destroy or diminish benefits that the society 74  
contracted to give the owner as of the date of issuance. 75

(C) Any person upon whose life a benefit contract is 76  
issued prior to attaining the age of majority shall be bound by 77  
the terms of the application and certificate and by all of the 78

laws and rules of the society to the same extent as though the 79  
age of majority had been attained at the time of application. 80

(D) A society shall provide in its laws that if its 81  
reserves as to all or any class of certificates become impaired 82  
its board of directors or corresponding body may require that 83  
there shall be paid by the owner to the society an assessment in 84  
the amount of the owner's equitable proportion of such 85  
deficiency as ascertained by its board, and that if the payment 86  
is not made, either of the following applies: 87

(1) It shall stand as an indebtedness against the 88  
certificate and draw interest not to exceed the rate specified 89  
for certificate loans under the certificates; 90

(2) In lieu of or in combination with division (D) (1) of 91  
this section, the owner may accept a proportionate reduction in 92  
benefits under the certificate. 93

The society may specify the manner of the election and 94  
which alternative is to be presumed if no election is made. 95

(E) At least ~~thirty-ninety~~ days prior to imposing any 96  
~~indebtedness assessment of shares of a deficiency~~ upon any owner 97  
as provided in division (D) of this section, the board of 98  
directors or corresponding body shall notify the superintendent 99  
of insurance in writing of the board's intent to require the 100  
~~payment assessment~~ and a statement of the reason that request is 101  
necessary. The notice shall be confidential and not a public 102  
record under section 149.43 of the Revised Code. The society may 103  
impose the assessment following the notice period only if the 104  
assessment has been duly adopted by the board in accordance with 105  
this section and has not been disapproved by the superintendent. 106  
The superintendent may allow the assessment to be imposed at an 107

earlier date than the date identified in the notice. 108

(F) (1) Certificates that are delivered or issued for 109  
delivery in this state on or after January 1, 1997, but prior to 110  
January 1, 1998, shall comply with the requirements that would 111  
have applied under the laws in effect on December 31, 1996. 112

(2) No certificate shall be delivered or issued for 113  
delivery in this state on or after January 1, 1998, unless a 114  
copy of the form is filed with and approved by the 115  
superintendent of insurance in accordance with the provisions of 116  
law applicable to like policies issued by life or sickness and 117  
accident insurers in this state. 118

(3) Each life, sickness and accident, or disability 119  
insurance certificate, and each annuity certificate, that is 120  
delivered or issued for delivery in this state on or after 121  
January 1, 1998, shall comply with the standard contract 122  
provision requirements applicable to like policies issued by 123  
life or sickness and accident insurers in this state, if those 124  
requirements are not inconsistent with this chapter. However, a 125  
society may provide in its certificates for a grace period of 126  
one full month for payment of premiums. A certificate shall also 127  
contain a provision that states the amount of premiums that is 128  
payable under the certificate and that sets forth the substance 129  
of any sections of the society's laws or rules in force at the 130  
time of issuance of the certificate which, if violated, will 131  
result in the termination or reduction of benefits payable under 132  
the certificate. If the laws of the society provide for the 133  
expulsion or suspension of a member, the certificate shall also 134  
contain a provision stating that any member expelled or 135  
suspended, except a member expelled or suspended because of 136  
nonpayment of a premium, may maintain, other than during the 137

contestable period for material misrepresentation in the 138  
application for membership or insurance, the certificate in 139  
force by continuing payment of the required premium. 140

(G) Benefit contracts issued on the lives of persons under 141  
the society's minimum age for adult membership may provide for 142  
transfer of control of ownership to the insured at an age 143  
specified in the certificate. A society may require approval of 144  
an application for membership in order to effect this transfer, 145  
and may provide in all other respects for the regulation, 146  
government, and control of such certificates and all rights, 147  
obligations, and liabilities incident to and connected with such 148  
certificates. Ownership rights prior to such a transfer shall be 149  
specified in the certificate. 150

(H) A society may specify the terms and conditions on 151  
which benefit contracts may be assigned. 152

(I) A copy of any of the documents described in this 153  
section, if certified by the secretary or corresponding officer 154  
of the society, is prima facie evidence of the terms and 155  
conditions of the documents. 156

Sec. 3921.32. (A) Liquidation proceedings for a domestic 157  
fraternal benefit society shall be conducted consistent with the 158  
purposes of section 3903.02 of the Revised Code in a manner 159  
designed to conserve assets, limit liquidation expenses, and 160  
avoid any assessment of shares of a deficiency. 161

(B) (1) The liquidator shall attempt to transfer policies 162  
or certificates of the liquidating fraternal benefit society by 163  
way of assignment, assumption, or other means to another 164  
fraternal benefit society, whether domestic or foreign, or, if 165  
no fraternal benefit society will accept such a transfer, to 166

another insurer. No fraternal benefit society shall be obligated 167  
to accept a transfer from a liquidating society. 168

(2) Upon the effective date of a transfer to an insurer 169  
that is not a fraternal benefit society and in consideration for 170  
the transfer, each member of the society and owner of a policy 171  
or certificate shall be deemed to agree to both of the 172  
following: 173

(a) That any terms of an insurance policy or certificate 174  
providing for the maintenance of the society's solvency or 175  
subjecting the policy or certificate to the bylaws of the 176  
society are null and void; 177

(b) Such other changes determined by the liquidator to be 178  
necessary to effectuate the transfer. 179

The assuming insurer shall endorse the policy or 180  
certificate accordingly. 181

(3) Any transfer shall constitute a novation of the 182  
liquidating fraternal benefit society's certificates effective 183  
upon the date of transfer. 184

**Section 2.** That existing section 3921.19 of the Revised 185  
Code is hereby repealed. 186