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Overview

This bill provides a system for domestic fraternal benefit societies to liquidate or transfer membership to another organization. The requirements of this system apply to fraternal benefit societies who have experienced a fraternal authorized control level event (“FACLE”), meaning the society has insufficient capital, fails to file a capital plan with the commissioner, or fails to respond to a corrective order by the commissioner.

Section

- 1** **Insolvency or insolvent.** Provides a definition for insolvency and insolvent for purposes of a domestic society under section 4 of the bill.
- 2** **Notice of extra assessment.** Allows the commissioner of commerce to disapprove an assessment by a society if the assessment was not properly adopted, is not in the best interest of the members of the society, or does not improve the long-term viability of the society. Allows the commissioner to approve an earlier effective date for an assessment.
- 3** **Fraternal authorized control level event; foreign societies.**
 - Subd. 1. Definitions.** Clarifies that a “society” under this section is a foreign society.
- 4** **[64B.435] Fraternal authorized control level event; domestic societies.**
 - Subd. 1. Definitions.** Defines “society” as a domestic society and “qualifying society” as a foreign or domestic society domiciled in a NAIC accredited state which

Section

has the financial strength and administrative ability to accept a transfer of a society's certificates. Defines and describes events that constitute a FACLE.

Subd. 2. Plan to transfer members. (a) If there is a FACLE a domestic society must present a plan to protect the members to the commissioner of commerce. The plan must include the transferring of members, certificates, policies, assets, and liabilities to another organization. All of the domestic society's certificates are replaced with certificates from the new organization upon transfer.

(b) Requires a transfer to be approved by the society's board, the commissioner, completed within a time frame set by the commissioner, and suspends any other notice requirement outside of that required by this section.

(c) Allows the commissioner to issue a limited license to transact insurance if the transfer is to an organization that does not currently have a license to do so in this state.

(d) Provides that when a society transfers its certificates to an organization that is not a domestic or foreign society, any contract terms stating that the society is subject to the laws of the society or providing for maintenance of the society's solvency are void. This does not apply to a lien that was not released by the transfer.

(e) Allows the board to suspend or modify its qualifications for membership to ensure a transfer can occur.

Subd. 3. Liquidation. (a) Allows the commissioner to liquidate a society if a FRACLE or other issue (such as insolvency or a society concealing records or assets) with the society occurs that the commissioner believes will not be dealt with promptly.

(b) Clarifies what statutes apply to a liquidation under this section.

(c) Prohibits an extra assessment from being levied after a petition for liquidation is filed. Requires any assessment that exceeds the funds necessary to satisfy claims be returned.

(d) Requires the commissioner to attempt to transfer the certificates of a liquidating society to another qualified society or an organization authorized to transact insurance in this state. Clarifies that no society is obligated to accept a transfer. Provides that any contract terms subjecting the certificate to a transferring society's bylaws or providing for the maintenance of the society's solvency are void. This does not apply to a lien that was not terminated in the liquidation. Provides that a transfer under this section constitutes a replacement of the transferring society's certificates.

(e) Requires liquidations to be conducted in a manner designed to conserve assets and limit expenses.