

1-1 By: Thompson of Harris H.B. No. 1251  
 1-2 (Senate Sponsor - Creighton)  
 1-3 (In the Senate - Received from the House April 23, 2019;  
 1-4 April 25, 2019, read first time and referred to Committee on  
 1-5 Administration; May 9, 2019, reported adversely, with favorable  
 1-6 Committee Substitute by the following vote: Yeas 6, Nays 0;  
 1-7 May 9, 2019, sent to printer.)

1-8 COMMITTEE VOTE

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

1-17 COMMITTEE SUBSTITUTE FOR H.B. No. 1251 By: Nichols

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to fraternal benefit societies in a hazardous financial  
 1-21 condition.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section [885.311](#), Insurance Code, is amended by  
 1-24 amending Subsection (a) and adding Subsections (d) and (e) to read  
 1-25 as follows:

1-26 (a) A fraternal benefit society shall provide in the  
 1-27 fraternal benefit society's laws that if the society's reserves for  
 1-28 any class of the society's benefit certificates become impaired,  
 1-29 the society's supreme governing body or board of directors may  
 1-30 require the certificate holders to pay the society an equitable  
 1-31 proportion of the deficiency as determined by the governing body or  
 1-32 board. The aggregate assessment for the impaired reserves may not  
 1-33 exceed the total amount required to comply with Section [885.408](#).

1-34 (d) Not later than the 90th day before the proposed  
 1-35 effective date of an assessment under Subsection (a), the fraternal  
 1-36 benefit society shall file with the department an application for  
 1-37 approval of the assessment and a statement sworn to by the president  
 1-38 and secretary or corresponding officers of the society. The  
 1-39 statement must:

1-40 (1) include:

1-41 (A) the terms of the assessment, including the  
 1-42 proposed effective date; and

1-43 (B) a narrative statement of the financial  
 1-44 condition of the fraternal benefit society; and

1-45 (2) state that the assessment:

1-46 (A) received approval by a majority vote of the  
 1-47 supreme governing body or board of directors of the society; and

1-48 (B) complies with the requirements of this  
 1-49 section.

1-50 (e) After the department receives a completed application,  
 1-51 the commissioner may approve or disapprove the application. If the  
 1-52 commissioner does not approve or disapprove the application before  
 1-53 the 60th day after the date the department receives the completed  
 1-54 application, the application is considered approved. The  
 1-55 commissioner may impose an effective date earlier than the date  
 1-56 requested in the application if the earlier effective date is in the  
 1-57 best interests of the certificate holders.

1-58 SECTION 2. Section [885.407](#), Insurance Code, is amended to  
 1-59 read as follows:

1-60 Sec. 885.407. SOLVENCY. (a) If a fraternal benefit society

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

2-10 (1) may be by merger, consolidation, assumption, or  
 2-11 otherwise;

2-12 (2) constitutes an entire novation of each benefit  
 2-13 certificate transferred by the society in a hazardous financial  
 2-14 condition, and the receiving society is legally and contractually  
 2-15 responsible for each transferred certificate;

2-16 (3) must conclude before the deadline set by the  
 2-17 commissioner;

2-18 (4) may be approved by a vote of the majority of the  
 2-19 supreme governing body or board of directors of the society in a  
 2-20 hazardous financial condition, notwithstanding Section  
 2-21 885.063(a)(2)(C) or any provision of the society's laws to the  
 2-22 contrary; and

2-23 (5) is subject to approval by the commissioner.

2-24 (b) Not later than the seventh day before the date the  
 2-25 supreme governing body or board of directors of a fraternal benefit  
 2-26 society votes on a transfer proposed under Subsection (a), the  
 2-27 governing body or board shall provide the society's certificate  
 2-28 holders written notice of and an opportunity to comment on the  
 2-29 proposed transfer. If the governing body or board approves the  
 2-30 transfer, the governing body or board shall provide the certificate  
 2-31 holders' comments to the commissioner.

2-32 (c) The supreme governing body or board of directors of a  
 2-33 fraternal benefit society receiving benefit certificates pursuant  
 2-34 to a transfer under an agreement described by Subsection (a) may  
 2-35 suspend or modify qualifications for membership in the receiving  
 2-36 society to the extent necessary to permit the society to accept the  
 2-37 certificate holders of the society transferring certificates under  
 2-38 the agreement, notwithstanding any provision of the receiving  
 2-39 society's laws to the contrary.

2-40 (d) The commissioner may grant to a fraternal benefit  
 2-41 society that is not authorized to engage in the business of  
 2-42 insurance in this state the authority to service benefit  
 2-43 certificates transferred pursuant to Subsection (a) and fulfill all  
 2-44 obligations to the holders of the certificates. Commissioner  
 2-45 action under this subsection does not authorize the fraternal  
 2-46 benefit society to otherwise engage in the business of insurance in  
 2-47 this state.

2-48 (e) A transfer under Subsection (a) may be made to an  
 2-49 insurer that is not a fraternal benefit society if the insurer is  
 2-50 authorized to engage in the business of insurance in this state. A  
 2-51 holder of a certificate subject to a transfer as authorized by this  
 2-52 subsection is deemed to agree that any term in the certificate,  
 2-53 including a term that makes the certificate subject to the  
 2-54 transferring society's laws or that provides for maintenance of the  
 2-55 transferring society's solvency that is inconsistent with transfer  
 2-56 to an insurer that is not a fraternal benefit society, is void on  
 2-57 transfer of the certificate. The receiving insurer shall endorse  
 2-58 on a form approved by the commissioner each benefit certificate  
 2-59 received by a transfer made under this section to reflect any terms  
 2-60 of the certificate voided by this subsection. A certificate  
 2-61 holder's obligation to pay an outstanding assessment under Section  
 2-62 885.311 that is not released under the transfer agreement is not  
 2-63 released or voided by this subsection.

2-64 (f) The commissioner may request the attorney general bring  
 2-65 an action under Section 885.502 to terminate a fraternal benefit  
 2-66 society that fails to comply with an order under this section or  
 2-67 fails to remedy the financial condition that gave rise to the order.

2-68 (g) The powers and authority of the commissioner under this  
 2-69 section are cumulative and in addition to all other powers and

3-1 authority to remediate the financial condition of a fraternal  
3-2 benefit society available to the commissioner. [A fraternal  
3-3 benefit society is considered solvent if its admissible assets are  
3-4 equal to or greater than its liabilities.]

3-5 SECTION 3. The changes in law made by this Act to Section  
3-6 885.311, Insurance Code, apply only to an assessment by a fraternal  
3-7 benefit society with an effective date on or after January 1, 2020.  
3-8 An assessment by a fraternal benefit society with an effective date  
3-9 before January 1, 2020, is governed by the law as it existed  
3-10 immediately before the effective date of this Act, and that law is  
3-11 continued in effect for that purpose.

3-12 SECTION 4. This Act takes effect September 1, 2019.

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