

## **CHAPTER 26.1-16 BENEVOLENT SOCIETIES**

### **26.1-16-01. Benevolent society defined.**

A "benevolent society" is a domestic corporation, association, or society which operates on the voluntary assessment or contribution plan for the sole purpose of providing, through assessments of its members, for the payment of a death benefit to the beneficiary of a deceased member.

### **26.1-16-02. Chapter not applicable to fraternal benefit society.**

This chapter does not apply to a fraternal benefit society as defined in chapter 26.1-15.1 nor to a benefit society organized within and limited to members of a fraternal benefit society.

### **26.1-16-03. Jurisdiction of commissioner.**

A benevolent society is under the jurisdiction of the commissioner and is subject to all the laws and rules applicable to insurance companies transacting business within this state, except as specifically provided.

### **26.1-16-04. Organization of society - Minimum number of members.**

Any number of persons, not less than five, all of whom are residents of this state, may form a benevolent society by complying with the applicable provisions of this chapter.

### **26.1-16-05. Articles of incorporation - Contents.**

Persons proposing to form a benevolent society under this chapter shall subscribe and acknowledge articles of incorporation specifying:

1. The name of the society, which must include the words "benevolent society".
2. The purpose for which the society is to be formed.
3. A full and clear definition of the plan under which the society proposes to do business.
4. The time and place of holding meetings of the members of the society.
5. The location of the society's principal office, which must be within this state.
6. The date for the commencement and for the termination of the fiscal year of the society.
7. The term for which the society is to be incorporated, which term may not exceed thirty years.
8. The number of directors, not less than five nor more than nine, all of whom must be residents of this state.
9. The names and addresses of the directors selected to serve until the first meeting of the members of the society.

### **26.1-16-06. Society doing business on July 1, 1937, need not change name - Requirements.**

Any benevolent society organized and doing business on July 1, 1937, which has a name which does not include the words "benevolent society" is not required to change its name to comply with section 26.1-16-05, but its membership certificate, stationery, and literature must state clearly that it is a benevolent society.

### **26.1-16-07. Articles of incorporation - Filing - Approval - Deposit required - Authority to solicit.**

The articles of incorporation must be submitted to the commissioner who shall examine the articles to ascertain whether they comply with all applicable requirements of the law. After the articles have been approved by the commissioner, they must be filed in the office of the secretary of state, and a certified copy must be filed with the commissioner. The society shall deposit with the commissioner United States government bonds, United States treasury certificates, bonds of the state of North Dakota, or certificates of deposit of the Bank of North Dakota in the amount of at least two hundred fifty dollars. Upon filing the certified copy of its

articles and making the deposit, the society may solicit and secure the necessary preliminary members as the basis for the issuance to it of a certificate of authority. The solicitation of such members, however, must be conducted in accordance with any applicable rules adopted by the commissioner.

**26.1-16-08. Deposit maintained by society.**

Before the commissioner may issue a certificate of authority to a benevolent society, the commissioner shall ascertain that the deposit required by section 26.1-16-07 has been made. The society shall maintain the deposit until the membership of the society reaches one thousand. Thereafter, the deposit maintained with the commissioner must be equal in amount to at least twenty-five cents per member in good standing.

**26.1-16-09. Bylaws required.**

Each benevolent society shall adopt bylaws which conform to its articles of incorporation or to this chapter.

**26.1-16-10. Amendment of articles and adoption, amendment, and repeal of bylaws.**

The articles of incorporation of a benevolent society may be amended, and its bylaws adopted, amended, or repealed, at any annual meeting or at any special meeting called for that purpose. A two-thirds affirmative vote of the members of the society is required to take any of the actions specified in this section.

**26.1-16-11. Bonds of officers and agents.**

After a benevolent society has been licensed by the commissioner, the bonding of its officers and agents is discretionary with its board of directors. During the period between the filing of articles of incorporation and the issuing of a certificate of authority, however, the commissioner shall set the amounts of the bonds sufficient to guarantee return of membership fees collected in case the organization is not completed, and the bonds must be filed with the commissioner.

**26.1-16-12. Territorial restrictions on society - Voluntary contribution plan benefits regulated by chapter.**

Any society organized under this chapter shall confine its activities, insofar as solicitation by insurance producers is concerned, to this state. No benefits on the voluntary contribution plan may be provided by any society except as provided in this chapter.

**26.1-16-13. Licensing of insurance producers.**

All insurance producers of a benevolent society must be licensed in the same manner as insurance producers for insurance companies generally are licensed.

**26.1-16-14. Classification of membership - Units.**

A benevolent society may provide for the classification of its membership by one or more units based on the age of individual members, or by the adoption of a maximum limit of one group or unit. Before the organization of a new group or unit, the society shall notify the commissioner of its proposal to organize the group or unit, and the organization must be conducted in accordance with any applicable rules adopted by the commissioner. The number of members in a unit may not be less than is required for the organization of a society. If the membership of any group or unit of any society falls below two hundred, the group or unit must be consolidated with another group or unit of the society unless within sixty days the group or unit has restored its membership to the minimum required by this section. An age group composed of members over age sixty-five, however, may be established and maintained at not less than one hundred members.

**26.1-16-15. Preliminary applications required before issuance of certificate of authority - Bank certificate - Issuance of certificate of authority.**

Before a benevolent society may issue a certificate of membership, it must have actual applications for certificates from at least three hundred persons upon which certificates may be issued simultaneously. The applications, together with a certificate from a solvent bank stating that there has been deposited to the account of the society an amount which is determined by the preliminary applications presented as constituting the entire proceeds of membership fees collected, must be submitted to the commissioner. Upon submission to the commissioner of the preliminary applications, the bank certificate, and any evidence of compliance with this chapter which the commissioner requires, the commissioner may issue to the society a certificate of authority to expire on the thirtieth day of April following the date thereof.

**26.1-16-16. Application for and certificate of membership - Contents - Approval - Maximum benefits - Expense deductions.**

The certificate of membership issued by a benevolent society must state fully the conditions on which the benefit is paid. The certificate of membership and the application for the certificate constitute the entire contract between the society and the member. Every certificate and application must have printed or stamped thereon in red ink and in ten-point boldfaced type "This is not an insurance policy. The society maintains no reserve. All benefits are dependent upon voluntary assessments from members." The insurance commissioner shall approve the form of the certificate and application prior to their issuance or use. The benefits under any certificate must be confined to a death benefit to the beneficiary of the deceased member in an amount not to exceed two thousand dollars, and the certificate must provide for an assessment on the membership in an amount not exceeding four dollars to be paid by the members after notice and proof of death. The proceeds of the assessment, less an amount not exceeding ten percent thereof as an allowance for expenses, must be paid to the beneficiary of the deceased member. A death benefit may not exceed the maximum amount stated in the certificate.

**26.1-16-17. Notice of annual meeting - Voting rights of members.**

Each member of a benevolent society organized under this chapter must be notified of the time and place of the annual meetings of the society by a notice incorporated in the certificate of membership issued by the society. Each member of the society is entitled to one vote and may vote in person or by proxy.

**26.1-16-18. Incontestability of certificate - Responsibility upon suicide.**

A certificate of membership is incontestable after one year from its date of issue except for fraud, nonpayment of assessments, or naval or military service in time of war. Death from acute or chronic disease occurring more than one year after the date of issue of a certificate may not be a ground for nonpayment of the benefits thereunder regardless of any provision or statement contained in the application or certificate, and full payment may not be refused under any certificate when the member's death occurs from an acute, subacute, or chronic disease more than one year after the date of issue of the certificate. If a member commits suicide within one year from the date of issue of the certificate, the liability of the society is limited to an amount equal to all membership fees and assessments paid by the member.

**26.1-16-19. Expense fund and mortuary fund maintained as separate funds.**

A benevolent society shall maintain and keep two separate funds:

1. An expense fund.
2. A mortuary fund.

**26.1-16-20. Expense fund - Credits - Levies.**

The membership fee of the society, which may be not less than one dollar nor more than five dollars, may be used for expenses. The certificate of membership must state the percentage of death assessments, not exceeding ten percent, that may be used for expenses, and moneys received on the assessments, within the limitations of this section, must be credited

to the expense fund. Expense fund assessments may be levied in accordance with the applicable provisions in the membership certificate in amounts not exceeding three dollars in any one calendar year.

**26.1-16-21. Mortuary fund - Credits to and use.**

A benevolent society shall credit to its mortuary fund that part of any postmortem assessment in excess of the amount required to pay the death claim for which the assessment was levied. If the society has more than one unit of membership, the mortuary fund must be kept separately by units. The fund must be used toward the payment of claims for deaths occurring within the unit from which the fund arose, and no assessment levy may be made unless the balance in the fund is insufficient to pay a claim on which notice and proof of death has been received. No expenses may be paid from the mortuary fund.

**26.1-16-22. Notice of assessment - Contents - Cancellation of certificate - Reinstatement.**

The notice of assessment in each case must provide that if the member to whom the notice is directed does not make payment within the time specified therein, which may be not less than fifteen days nor more than forty-five days after the date of the notice, the member's certificate will be canceled. If payment is not made within that time, a notice of cancellation must be mailed to the member informing the member that if the assessment is not paid within ten days from the mailing of the notice of cancellation, the member's certificate will be canceled. The notice of cancellation must be mailed to the member at the member's last-known address immediately after the expiration of the time specified in the notice of assessment, and proof of the mailing must be established on forms provided for that purpose by the United States postal service. If payment is not made within the time specified in the notice of cancellation, the certificate must be canceled. If payment of an assessment is made to the society subsequent to the date of cancellation of the certificate, the payment may be considered as a reinstatement fee and placed in the expense fund of the society.

**26.1-16-23. Secretary of society to levy assessments - Notice to members - Distribution of proceeds of assessments.**

Upon approval of a claim arising from the death of a member, the secretary of the society, if the mortuary fund is insufficient to pay the claim, shall levy an assessment upon the membership in accordance with the provisions of the membership certificate of the deceased member. Notice of the assessment must be mailed to each member at the member's last post-office address as given to the secretary. The notice must state:

1. The name and address of the deceased member.
2. The maximum benefit payable upon the member's certificate.
3. The amount of the assessment.
4. The date upon which the assessment shall become delinquent.

Upon the expiration of the period within which payment of the assessment may be made and the further period specified in the notice of cancellation required under section 26.1-16-22, the secretary shall pay to the beneficiary of the deceased member the proceeds of the assessment in the secretary's possession and available for that purpose.

**26.1-16-24. Annual statement required - Renewal of certificate of authority.**

Every benevolent society shall transmit to the commissioner, not later than March first of each year, an annual statement as of the previous December thirty-first. The statement must be on any forms required by the commissioner and must show:

1. All income of the society by sources.
2. All disbursements of the society detailed as to nature.
3. A listing of the assets of the society.
4. The liabilities of the society.
5. The number of members in the society.
6. Any other information required by the commissioner.

If it appears from the statement that the society has a membership at least equal in number to that required as a condition precedent to authorization and that it is otherwise qualified under the requirements of this chapter, a renewal certificate of authority must be issued on the succeeding April thirtieth. The fees for the filing of the statement and the issuance of the certificate are those specified in section 26.1-01-07.

**26.1-16-25. Examination.**

The commissioner has the same power and authority as to visitation and examination over all benevolent societies subject to this chapter as are given to the commissioner by this title over domestic insurance companies. The society examined shall pay the expenses of any examination. The commissioner may require a deposit in advance of an examination to guarantee payment of the estimated necessary expense to be incurred.

**26.1-16-26. Transfer of membership.**

A benevolent society organized or operating under this chapter, by a two-thirds vote of its members present or voting by proxy at any annual meeting or special meeting called for that purpose, may transfer its membership to any other society or organization. Notice of the contemplated action must be mailed to each member in good standing, at the member's last-known post-office address, at least fifteen days prior to the date of the meeting, and any transfer of membership, and the conditions thereof, must have the approval of the commissioner.

**26.1-16-27. Penalty.**

Any officer or agent of a benevolent society violating this chapter is guilty of a class A misdemeanor.