

**State Hail Insurance Board—Power to Borrow Money.**

The State Board of Hail Insurance has no power to borrow money for the purpose of funding outstanding warrants. The borrowing power conferred by an Act of the 17th Legislative Assembly grants the Board power to borrow money to meet hail losses in the current year only.

E. K. Bowman, Esq.,  
Chairman State Board of Hail Insurance,  
Helena, Montana.

My dear Mr. Bowman:

You have submitted to me the following questions:

"(1) In the event that the hail insurance board cannot borrow enough money to take up all the registered warrants, can they arrange for borrowing money to cover any selected warrant with the understanding that the money so borrowed will be used by the State Treasurer to pay the warrant specified?

"(2) Will the warrant so issued be entitled to the place in registration of the old warrant, or will it have to be registered at the end of all warrants registered on the books of the State Treasurer at the time of the conversion of the warrant?"

Section 10 of the Hail Insurance Law, as amended by the 17th Legislative Session, contains the borrowing power of the State Board of Hail Insurance, reading as follows, to wit:

"In any year the State Board of Hail Insurance may by resolution authorize its Chairman and Secretary to borrow as needed, from any person, bank or corporation such sum or sums of money as the State Board may deem necessary to carry on the business of the Department and for the purpose of paying all warrants as issued. For any moneys borrowed under the provisions of this Act, the State Board of Hail Insurance shall cause warrants to be drawn against the State Hail Insurance Fund and said warrants shall bear interest at not to exceed six per cent (6%) per annum and said warrants and the interest thereon shall be paid out of the funds from the State Hail Insurance Department as they are collected from the various counties in the state. The State Board of Hail Insurance shall not at any time borrow a total sum greater than the amount of the levies as made for taxes for the current year, together with such delinquent taxes as remain unpaid on the books of the county treasurers."

Your question seems to presuppose power under the above quoted law to borrow money for the purpose of paying off outstanding warrants. This would amount to giving the Board power to fund outstanding indebtedness, which I do not think was intended. The power given the Board is to "borrow as needed \* \* \* money \* \* \* for the purpose of paying all warrants as issued." No provision is made for paying warrants previously issued.

It is apparent that the intent of the Act is to enable the Board to meet losses as they occur so as not to keep the insured waiting until after the taxes are paid for the year before he could receive the money found to be due him under the adjustment. This conclusion is borne out by the fact that the law further provides that the warrants issued for this borrowed money shall be paid out of funds as they are collected from the various counties in the State, and the amount that may be borrowed is limited to the amount of the levies for the *current* year plus unpaid delinquent taxes.

The State Hail Insurance Department was created by Act of the Legislature and its powers are limited to those specially conferred by the statute. These powers do not include that of funding outstanding indebtedness, or of borrowing money to pay any indebtedness or warrant not specifically provided for in the Act. The Act does not provide for outstanding warrants for past indebtedness. Since the Board has no power to borrow money for the purpose of taking up any outstanding warrants for past indebtedness, it necessarily follows that it could not arrange to borrow money to cover any selected warrant so registered and outstanding.

You are, therefore, advised that, in my opinion, the State Board of Hail Insurance has no power to borrow money for the purpose of paying off any outstanding warrants, and your first question is answered in the negative.

The conclusion reached precludes any necessity of discussing or answering your second question.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.