

License. Insurance. Foreign Corporation.

A Foreign Insurance Corporation cannot be admitted to do business in the State of Montana under the license heretofore issued to a separate company whose paying business the new company takes over by contract of re-insurance.

Helena, Montana, July 9th, 1906.

Hon. H. R. Cunningham, State Auditor, Helena, Montana.

Dear Sir:—Your letter of July 7th, received.

The question submitted by you for the consideration of this office is whether the license heretofore issued to the Fireman's Fund Insurance Company authorizing said company to do business in the State of Montana, may be transferred without further fee to the Fireman's Fund Insurance Corporation.

It appears from the papers submitted that this latter company was incorporated in the State of California and admitted to do business in that State in May, 1906. It is in no sense a continuation of the Fireman's Fund Insurance Company, but is an independent corporation to the same extent that it would be, had it been incorporated in some other state or foreign country. The "general contract of re-insurance" by the terms of which this recent corporation takes over certain business of the Fireman's Fund Insurance Company does not, in any manner, affect the question submitted. It appears from this contract of re-insurance that this recent corporation only takes over policies of the older company on which no liability for loss has been incurred, and all policies of the old company involved in any claim for loss, and especially including all policies affected by the recent general conflagration in San Francisco are excepted from the contract of re-insurance. The new company, therefore, only takes over the paying business of the older company. This contract of re-insurance is a private contract between two corporations and this new company, the Fireman's Fund Insurance Corporation, being an independent entity and a wholly separate and distinct corporation, is liable for the payment of the same fees that any other like company would be which applied for permission to do business in the State of Montana.

Furthermore, there is nothing here to show that it is the intention of the Fireman's Fund Insurance Company to withdraw permanently from Montana, and in that case, if this new company was permitted to do business under the license granted to the old company you would have two separate and distinct companies doing business in Montana under one license.

You are, therefore, advised that the Fireman's Fund Insurance Corporation cannot do business in Montana on the license heretofore issued to the Fireman's Fund Insurance Company.

Very truly yours,

ALBERT J. GALEN,
Attorney General.