

Insurance Companies, Right to Reinsure Risks. Reinsurance, May Be Written by Companies Authorized to Do Business in This State.

Policies of reinsurance may be written by companies authorized to do business in this state, but policies of reinsurance may not be written by companies not authorized to do business in this state. Companies doing business in Montana

must maintain a resident agent in Montana who approves risks and who pays the taxes of the Company on a basis of premiums collected in excess of losses and ordinary expenses in this state.

December 15, 1910.

Hon. Harry R. Cunningham,
Commissioner of Insurance,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of December 10th, 1910, concerning the re-insurance of risks by fire insurance companies doing business in this state, together with two inclosures, one being a copy of a letter addressed to you by J. F. Magee, dated, San Francisco November 30th, 1910, and a copy of your reply to him dated December 10th, 1910.

The question submitted for my opinion is whether under the laws of this state it is necessary for the original insurance company to have the contract of reinsurance or agreement countersigned by a resident agent in this state. You are advised that Section 4037 of Revised Codes, prohibits insurance companies or associations licensed to do business in this state from re-insuring the whole or any part of a risk taken by it on property located in this state, in any other company or association not authorized to transact business in this state. There is no prohibition in the law preventing original insurance companies who write risks upon property in this state from re-insuring the risk in whole or in part with a second company under any agreement, contract, or card system which may exist between the two, providing the second company has complied with all the laws of this state, and is authorized to do business herein. Section 4036 of the Revised Codes, to which you called my attention is not in my opinion in conflict with the view herein above expressed, nor can said section be construed as an amendment of or limitation upon Section 4037 *supra*. Under it my interpretation of 4036, Revised Codes, the only object sought to be attained thereby is the control of the business methods of fire insurance companies doing business in this state, so that the officers of this state may without inconvenience be accorded the proper facilities for inspecting the business of the companies to the end that the state may without inconvenience save to itself the just proportion of taxes due the state under the laws of this state, and to accomplish this result the statute now under consideration makes it necessary for the fire insurance company taking risks on property located in this state to pass all of that business through the hands of some designated agent of the company within the state, whose books are accessible to the tax collecting officers. The only exception made is to the insurance covering the rolling stock of railroad corporations, or property in transit while in the possession of common carriers. In my opinion the statute was primarily passed for the purpose of preventing corporations or individuals owning large amounts of permanent property in this state from insuring that property with companies authorized to do business in this state at some place without the state, which trans-

action in the absence of the statute would make it impossible for the officers of this state to know the amount of premium collected and it would therefore be impossible to fully carry out the provisions of Section 4073 of the Revised Codes providing for the taxation of insurance companies upon the excess of premiums received over loss and expenses incurred.

Yours very truly,

ALBERT J. GALEN,

Attorney General.