

Insurance Company, Authority of Without and Within State. Corporation, Authority of to Transact Business in Montana. Foreign Insurance Company, When May Transact Business in Montana.

The laws of Montana do not prohibit a Montana insurance company from transacting business in another state, and such matter must rest with the laws of such other state.

An insurance company not authorized to transact business in the State of Montana, cannot legally be recognized as "a good and reliable company," so far as to give effective and safe insurance within the meaning of Section 4050, Revised Codes, as amended.

December 17, 1915.

Hon. William Keating,
State Auditor,
Helena, Montana.

Dear Sir:

I am in receipt of your letter submitting the questions:

1. May an insurance company, created under the laws of Montana, transact insurance business outside of said state?

2. May the insurance department of the State of Montana recognize and give sanction to reinsurance required by Section 4050, Revised Codes, as amended, in a foreign insurance company which has not complied with the laws of this state relating to the right of foreign corporations to do business in Montana?

1. It appears from the statement of facts that the Montana Live Stock and Casualty Company, a domestic corporation, authorized to do business in the State of Utah, now desires to transact insurance business in the State of Nevada. Whether or not such company may transact business in the state of Nevada must rest with the authorities of that state. Such company has the same authority so far as our state is concerned, to transact business in Nevada that it has to transact business in the state of Utah.

2. The authority of a corporation cannot extend beyond the jurisdiction of the statute which authorizes its existence. A corporation may do business in a state foreign to the jurisdiction of its origin only by compliance with the law of such foreign state, or by comity. The law of this state prescribes conditions and regulations for the admission of a foreign corporation to do business within the state. Where such foreign corporation has never complied with this law, there are not any records within your possession which will enable you officially to determine: (1) Whether such foreign corporation existed at all; (2) whether it was of such standing and reliability, that is whether it was a "good and reliable company," so far as to give effective and safe insurance,—for you have no authority to make any investigation or examination of such foreign company. Furthermore a recognition by you of the right of such foreign company to insure persons residing within the state of Montana, and property situate within the state of Montana would be at least impliedly giving sanction to the right of a foreign corporation to do business within this state without yielding compliance to the foreign corporation law. The second question must be answered in the negative.

Yours very truly,

J. B. POINDEXTER,

Attorney General.