

Insurance Commissioner, Authority of, Company Which Changes Plan—Insurance Company, Change of Plan of Insurance.

When an insurance company changes its plan of insurance from that of an assessment company to that of a legal reserve company, it must pay assessment required by Insurance Commissioner.

July 17, 1920.

Mon. George P. Porter,
Insurance Commissioner,
Helena, Mont.

Dear Sir:

I have your recent letter asking for an opinion upon the proposition of whether or not the Bankers' Life Company of Des Moines, Iowa, is required to pay more than 2% upon certain of its premiums collected for life insurance.

As I understand it this company was originally organized and did business as an assessment life insurance company. The continued business under this plan for a number of years when they changed their plan of organization and method of doing business to the legal reserve plan. The laws of Iowa impose no tax upon premiums collected by assessment life insurance companies but they do impose a 2½% tax on all other premiums collected on the legal reserve plan. The laws of the State of Montana (Section 4017 Revised Codes as amended by Chapter 63, Laws of 1915), provide that insurance companies shall be assessed an amount of 2½% on the first \$5,000.00 of premiums collected for the particular assessment year. As to amounts above, said first \$5,000.00 the assessment is levied at 2%.

You state that you have levied a straight 2½% assessment against the total premiums collected by the Bankers' Life Company. Among the premiums so collected there is a considerable portion collected on its former written and present outstanding policies on the assessment plan. The company makes the contention that in no event should your assessment be more than 2% upon premiums collected on the policies written on the assessment plan. It makes this contention for the reason that any Montana company organized on the assessment plan and doing business in Iowa would be exempted from a taxation on the premiums so collected.

Section 4069 of the Revised Codes of our state provides that the commissioner of insurance shall assess a foreign insurance company to an amount at least as great as that imposed by the laws of the state organizing such foreign insurance company imposes upon Montana companies. As the laws therefore stand in Iowa and Montana, a straight 2½% of assessment on premiums collected on the assessment plan would be greater than the amount required of Montana companies in Iowa and is greater than is contemplated by the Laws of the state of Montana. It is my opinion that under the circumstances you are

authorized to assess the Bankers' Life Company on premiums collected on the assessment plan $2\frac{1}{2}\%$ for the first \$5,000.00 of such premiums and 2% for any amount collected by it over \$5,000.00 As to the amounts of premiums which the Bankers' Life Company collects on its re-organized legal reserve plan our laws contemplate that you shall assess them a straight $2\frac{1}{2}\%$ tax.

Respectfully,

S. C. FORD,

Attorney General.