

Life Insurance Companies—Mutual Policies—Participating Insurance.

Section 6279 R. C. M. 1921 applies only to companies issuing participating policies, and as the company in question is not a participating company, it is not subject to the provisions of this section.

November 16, 1927.

George P. Porter, Esq.,
State Auditor and Commissioner of Insurance,
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion whether the Guarantee Fund Life Association of Omaha, Nebraska, is subject to the provisions of sections 6279-6283 R. C. M. 1921.

In this connection you state that at the present time the assets of the company are eleven million dollars and its liabilities a little less than two million and one-half; that the company has recently changed

and is issuing policies on which it is putting up a reserve, according to the American Experience Table, and you are undecided whether you can insist upon its complying with section 6279, supra, and make a dividend of its apparent surplus before permitting it to go into this new form of insurance.

Section 6279, supra, provides as follows:

“Every life insurance company doing business in this state conducted on the mutual plan, or in which policy-holders are entitled to share in the profits or surplus, shall make an annual apportionment and accounting of divisible surplus to each policy-holder, beginning not later than the end of the third policy year, on all participating policies hereafter issued; and each such policy-holder shall be entitled to and be credited with or paid, in the manner hereinafter provided, such a portion of the entire divisible surplus as has been contributed thereto by his policy.”

It is at once apparent that this section applies only to companies that issue participating policies. From an examination of the articles of incorporation and the policy contract of the company in question I find that this is not a participating company and therefore not subject to the provisions of section 6279 or the other sections mentioned.

It is therefore my opinion that you cannot insist upon the company complying with the provisions of these sections, and I know of no statute which gives you the authority to require a dividend of its surplus before permitting it to go into a new form of insurance.

Very truly yours,

L. A. FOOT,
Attorney General.