

Fire Department Relief Associations—Funds—Organization.

A relief association must comply with the law before it can be recognized as an organization, but an association existing under the law, before it was amended, would not lose its funds as the law is not retroactive and the association would be held to be acting as a defacto corporation.

George P. Porter, Esq.,
State Auditor,
Helena, Montana.

January 11, 1928.

My dear Mr. Porter:

You have requested my opinion on the following question:

“Must a fire department relief association comply with all of the requirements of the law before it can participate in moneys collected for the purpose of firemen’s disability and will an association that has participated lose funds that it has on hand where it has not complied with all the requirements of the law?”

Sections 5117 to 5135 R. C. M. 1921, as amended by the laws of 1927, provide the manner in which a fire department relief association shall be organized and all of the requirements stated therein must be complied with before the association can participate in the firemen’s disability fund. However, in this connection you refer particularly to the provisions of section 5125 R. C. M. 1921, which provides as follows:

“On or before October 31st, annually, the clerk of every city having an organized fire department, or a partly paid or volun-

teer department, shall file with the commissioner of insurance of this state his certificate stating such fact, the system of water supply in use in such fire department, the number of its organized companies, steam, hand, or other engines, hook-and-ladder trucks, hose-carts, and feet of hose in actual use, and such other facts as the commissioner may require."

The certificate therein referred to is required for the purpose of giving the commissioner of insurance knowledge of the existence of the association so as to enable him to include said city in which the association exists in the blank form furnished insurance companies for their annual statements as provided by section 5126, supra, and therefore the said section 5125 has nothing to do with the organization of the association, and if the city is actually included in the form mentioned in section 5126, regardless of where the commissioner obtains the information as to the existence of the association in question, the association would be entitled to participate in the fund.

In the case where an association existing under the laws prior to the amendment of 1927 has not complied with the requirements of the new law, such an association would not lose its fund already on hand for the reason that the law cannot be made retroactive and such an association insofar as its acts in connection with the funds in question would be held to be acting at the present time as a defacto corporation.

Very truly yours,

L. A. FOOT,
Attorney General.