

Insurance Companies—Foreign Title Insurance—Mortgage Guaranty Companies—Corporations—Commissioner of Insurance.

The company referred to in the opinion will have to comply with the general insurance laws governing foreign insurance companies and also the laws pertaining to title insurance companies. The company is in fact a surety company and will be subject to the laws governing foreign surety companies.

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

January 19, 1928.

My dear Mr. Porter:

You have submitted to me a letter from Clarence Hodson & Company of New York City which states in part as follows:

“Strong financial interests with which we are associated are about to obtain a charter for a title insurance and mortgage guaranty company under the insurance law of New York, with a capital of \$150,000 and subscribed surplus of \$75,000. The home office will be in New York City and the company expects to make a number of first mortgage real estate loans in city, business and residence properties in your state.

“Some of these mortgages will be sold with a guarantee and others with a guarantee of principal and interest. The general plan upon which the company will operate is the same as that of National Mortgage Company of New York City, which is organized under the investment company part of the New York banking law.

“We would be obliged if you would be good enough to advise us if the title and mortgage company will be required to qualify as an insurance company in your department before attempting to make any loans or title mortgages in your state. If so, we would thank you to be good enough to forward us blanks for that purpose.”

You wish to know if this proposed company will be amenable to the insurance laws, investment laws or the banking laws of this state.

Under section 6136 R. C. M. 1921 insurance companies are given the power to insure titles and credits and therefore inasmuch as this is to be a title insurance company it will come within the insurance laws and will have to comply with the general insurance laws governing foreign insurance companies as well as the laws pertaining to title insurance companies. This company also being a mortgage guaranty company, it

is in fact a surety company and will be subject to the laws governing foreign surety companies.

Very truly yours,

L. A. FOOT,

Attorney General.