

Insurance — Federal Land Bank — Stockholders' Association.

The Federal Land Bank Stockholders' Association cannot legally engage in the business of writing fire insurance and indemnity bonds in the state of Montana for the reason that it is not a "person," either natural or artificial, is not a resident of Montana as required by section 6118 R. C. M. 1921, and is not authorized by the constitution to engage in the insurance business.

February 9, 1928.

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

My dear Mr. Porter:

You have submitted to me a letter written to you under date of January 17th by the secretary of The Federal Land Bank of Spokane, asking for an opinion on the two following questions:

1. Whether the Spokane Federal Land Bank Stockholders' Association, a voluntary organization, legally may engage, through the securing of an agency or agencies, or otherwise, in the business of writing fire insurance and indemnity bonds for the Federal Land Bank of Spokane under the classifications hereinbefore described, with the understanding that all profits, commissions on premiums, etc. shall be administered for the benefit of the association and the Federal Land Bank.

2. Whether, in the event that the administration of the fund so

created, under any form of mutual agreement or control, or for joint benefits, conflicts with the provisions of the insurance laws of the state, the objection so arising would be removed if the Federal Land Bank were excluded from any participation whatsoever in, or control over the disposition of, the profits from the business, except as it would benefit from the activities of such organization functioning in the manner provided by its by-laws.

The Spokane Federal Land Bank Stockholders' Association is a voluntary unincorporated association of persons organized for the general purpose of encouraging agriculture by promoting the marketing of federal farm loan bonds and in general cooperating with the Federal Land Bank of Spokane and the Federal Farm Loan Board at Washington in the administration of the Federal Farm Loan Act. The association is neither a natural nor an artificial person and does not have the status of a person, corporation, or co-partnership. Neither is said association a resident of the state of Montana, nor is it authorized by its constitution to transact an insurance business.

Section 6118 R. C. M. 1921 reads in part as follows:

"The state auditor is hereby prohibited from issuing a certificate of authority to write policies of insurance, or to solicit and obtain and transact insurance business, as defined in this act, to any person, agent, firm, or corporation, unless such person, agent, firm, or corporation is a legal resident of the state of Montana at the time such certificate of authority is issued."

It is obvious that under the statute quoted The Spokane Federal Land Bank Stockholders' Association is precluded from engaging directly or indirectly in the insurance business in the state of Montana for the reason that it is not a legal resident of the state of Montana, nor could it ever become a legal resident of such state without acquiring the status of a person either natural or artificial.

In addition, it also appears from the copy of the constitution of said association which you have submitted to me, that the association is not authorized by its constitution to engage in the insurance business. This is an additional reason why it would be illegal for your department to license said association to transact an insurance business in the state of Montana.

The conclusion above expressed necessitates a negative answer to the first question and renders unnecessary the discussion of the second question. The "fund so created" referred to in the second question relates, I take it, to a fund derived from the insurance business contemplated to be transacted by the Spokane Federal Land Bank Stockholders' Association. Since such association cannot transact an insurance business no useful purpose would be served by a discussion of said question.

Very truly yours,

L. A. FOOT,
Attorney General.