

Insurance Companies — Stock — Investments — Foreign Corporations.

Only the capital of insurance companies mentioned in section 6258 R. C. M. 1921 must be invested in security authorized by section 6262 R. C. M. 1921.

In the case of fire insurance companies \$200,000 of their capital must be invested in the securities mentioned in section 6134 R. C. M. 1921.

April 27, 1928.

George P. Porter, Esq.,
Commissioner of Insurance,
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion on the following questions:

1. "Section 6258 R. C. M. 1921 provides that insurance companies cannot be organized under the laws of this state, having less than \$100,000 of capital stock which must be invested in the securities mentioned in section 6269 R. C. M. 1921, as amended by chapter 59, laws of 1925.

"Section 6262 R. C. M. 1921 requires a foreign insurance company to have the capital requirements of a domestic company and that their investments be in certain securities which are more or less identical with the securities listed in section 6269, supra.

"Is it necessary that the capital of a foreign insurance company in excess of the \$100,000 minimum limit fixed by section 6258 be invested in accordance with the provisions of section 6262?"

2. "Section 6134 R. C. M. 1921 provides that a domestic fire insurance company must have its capital invested in certain securities, and section 6149 R. C. M. 1921 provides that a foreign fire insurance company coming under the provisions of the act shall be subject to all restrictions or duties which are now, or may be imposed upon insurance companies of like character organized under the laws of this state.

"Does this require foreign insurance companies to have their capital invested in similar securities as are required by section 6134?"

In answer to your first question, will say that section 6262, supra, provides as follows:

"No company incorporated by or organized under the laws of any other state or government shall transact business in this state unless it is possessed of the actual amount of capital required of any company organized by the laws of this state, or, if it be a mutual company, of surplus equal to the amount

required of capital stock companies, and the same is invested in bonds of the United States or of this state or in interest-paying bonds, when they are at or above par, of the state in which the company is located, or of some other state, or in notes or bonds secured by mortgages on unencumbered real estate within this or the state where such company is located, worth double the amount loaned thereon, which securities shall, at the time, be on deposit with the superintendent of insurance, auditor, controller, or chief financial officer of the state by whose laws the company is incorporated or of some other state, and the auditor of this state is furnished with a certificate of such officer, under his official seal, that he, as such officer, holds, in trust and on deposit for the benefit of all the policyholders of such company the securities above mentioned. This certificate shall embrace the items of security so held, and show that such officer is satisfied that such securities are worth one hundred thousand dollars. Nothing herein contained shall invalidate the agency of any company incorporated in another state by reason of its having exchanged the bonds or securities so deposited with such officer for other bonds or securities authorized by this act, or by reason of its having drawn its interest and dividends on the same."

It is to be noted that the certificate required by this section simply provides:

"This certificate shall embrace the items of security so held, and show that such officer is satisfied that such securities are worth one hundred thousand dollars."

It is therefore my opinion that in view of the fact that no other provision is made for furnishing the information as to additional capital and that if an insurance company can satisfy this requirement it is entitled to be admitted to do business in this state, regardless of its additional capital, that it is only the capital required under the provisions of section 6258 that must be invested in securities mentioned in section 6262.

Your second question is somewhat similar and is governed by the same situation and it is evident that if a foreign fire insurance company has \$200,000 of paid up capital invested in securities authorized by the laws of this state, which is not already pledged in some other state, that it is entitled to do business in Montana, and it is therefore my opinion that a foreign fire insurance company in order to do business in this state must have at least \$200,000 of capital which is not otherwise deposited or pledged and which is invested in the securities mentioned in section 6134 but that its additional capital is not subject to being invested in accordance with this statute.

Very truly yours,

L. A. FOOT,
Attorney General.