

**Insurance Companies—Rebates—Agents.**

The creation of an agency for the purpose of allowing the owner to insure his own property and thus secure the benefits of an agent's commission on the premium constitutes rebating under section 6121 R. C. M. 1921, and the state insurance commissioner has authority to make a ruling prohibiting the appointment of such agents.

May 12, 1928.

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

My dear Mr. Porter:

You have requested my opinion as to whether the appointment of an agent who simply writes insurance upon his own property, thereby securing the benefit of the agent's commission on the premium is in violation of section 6121 R. C. M. 1921.

In this regard you have submitted a ruling of your office designating this kind of agency as a mercantile agency and declaring that such an agency will be considered presumptive evidence of rebating.

Section 6121 R. C. M. 1921 provides as follows:

"No insurance company organized under the laws of this state or doing business in this state, shall make or permit any discrimination or distinction in favor of individuals between insurants or property of the same class in the amount of premiums or rates charged for policies, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon, nor shall any such company or agent pay or allow, offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantages in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy contract of insurance."

From the foregoing it is at once apparent that if the agent was appointed for the purpose of writing his own insurance in order that he might be allowed the agent's commission on the premium, this would be a violation of the law.

In Pennsylvania, under a statute similar to ours, it has been held:

"The appointment of one as agent merely to the end that he might insure his life or property in the company, and thereby secure the advantage of the usual agent's commission, would violate the statute." (19 Pa. Dist. Rep. 567; see also

Equitable Life Insurance Association vs. Commonwealth (Ky.),  
67 S. W. 388.

It is therefore my opinion that where the agency is created for the purpose of allowing the owner to insure his own property and thus secure the benefits of the agent's commission on the premium, this would constitute rebating under our statute and that your office has authority to make a ruling prohibiting the appointment of such agents.

Very truly yours,

L. A. FOOT,  
Attorney General.