

Insurance — Fire Insurance — Embezzlement Bonds — Bonds.

A fire insurance company chartered solely for the purpose of writing fire insurance cannot write embezzlement bonds in this state.

The writing of fidelity insurance held not to be the insurance of "houses, buildings, or other kinds of property", within the meaning of section 6136, R. C. M. 1921.

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

March 10, 1927.

My dear Mr. Porter:

You have requested my opinion whether "a fire insurance company regularly authorized in this state, may write embezzlement bonds."

It is my understanding that your question contemplates a company chartered solely for the purpose of writing fire insurance. On that assumption, it is my opinion that such a company cannot legally write embezzlement bonds for the reason that such business is wholly foreign to the purposes specified in the charter of a fire insurance company.

The general rule is stated thus in 32 C. J. 1013:

"An insurance corporation cannot assume any other kind of risk, or insure any other kind of property, or engage to pay a loss arising from any cause other than that prescribed by its charter or the statute under which it is incorporated." (Citing authorities).

In connection with your inquiry you have directed my attention to the provisions of subdivision 1 of section 6136, R. C. M. 1921, which provides that it shall be lawful for insurance corporations to insure "houses, buildings, and all other kinds of property against loss or damage by fire or other casualty."

This statute does not, in my opinion, affect the applicability of the general rule above stated. Furthermore, the words "or other casualty" must be read in connection with the words "houses, buildings, and all other kinds of property." The writing of fidelity insurance, such as embezzlement bonds, is not, in my opinion, the insurance of houses, buildings, or other kinds of property, within the meaning of the Montana statute above quoted.

Very truly yours,

L. A. FOOT,
Attorney General.