

Insurance—Risk—Title Insurance Company.

A title insurance company is subject to and must comply with all the requirements of insurance laws and the amount of risk said company may assume is therefore restricted by section 6136 R.C.M. 1921.

George P. Porter, Esq., April 20, 1927.
State Auditor and Commissioner of Insurance,
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion on the following question: Is a "Title Insurance Company" organized under the provisions of sections 6345-6354, R. C. M. 1921, subject to the rules and regulations of insurance companies so as to bring it within the following prohibition as to assumption of risk expressed in section 6136, R. C. M. 1921, to-wit:

"No corporation organized under this chapter, or transacting business in this State, shall expose itself to loss on any one risk or hazard to an amount exceeding ten per cent of its paid-up capital, or write on a risk within the corporate limits of any one city an amount representing more than the paid-up capital of the corporation unless the excess shall be insured by the same in some other good and reliable company or companies."

Section 6346 R. C. M. 1921, provides in part as follows:

"Every title insurance company shall be subject to and shall comply with all the requirements of the insurance laws and the rules and regulations of the insurance department of this State * * *."

It is therefore apparent that title insurance companies must comply with the provisions of section 6136, supra, unless specifically exempted.

While there appears to be no good reason for applying the prohibition in question to title insurance companies, yet the language of the statute is plain and admits of no other interpretation. It cannot even be contended that it was the intention of the legislature to exempt title insurance companies from the provisions of this section, for, following the specific mention of title insurance in paragraph five of said section, we find the legislature provided therein that:

"The restriction as to the amount of risk any such corporation shall assume shall not apply to corporations organized to

guarantee the fidelity of persons in places of public or private trust, or to corporations that receive on deposit and guarantee the safekeeping of books, money, papers, and other property.”

And the only conclusion to be drawn is that if the legislature had intended to exempt title insurance companies, that said companies would have been included with those specifically mentioned as being so exempted.

While, as stated above, I fail to see any reason for requiring title insurance companies to comply with the provisions in question, yet the relief, if any, must come from the legislature, and it is therefore my opinion that a title insurance company is subject to the provisions of section 6136, supra, as to the amount of risk said company may assume.

Very truly yours,

L. A. FOOT,
Attorney General.