

**Building and Loan Associations—Contracts—Insurance—  
Insurance Agents.**

Building and loan associations are not permitted to stipulate with the mortgagor of real property that the property must be insured through a particular insurance agent though the association may require the property, to the extent of the association's insurable interest, to be insured in a particular insurance company.

Mrs. E. L. Roper,  
Havre, Montana.

July 18, 1930.

My dear Mrs. Roper:

You have requested my opinion whether it is lawful for a building and loan association to stipulate with the mortgagor of real property that the property shall be insured in certain specified insurance companies and if the following clause inserted in the building and loan association which you represent, is prohibited under the laws of Montana:

“The undersigned hereby agrees to secure all new or renewal fire insurance policies on the property securing this loan from the authorized loan agent of the United States Building and Loan Association in the town in which the property is located.”

In my opinion, it is lawful for a building and loan association to require the mortgagor to insure property upon which it makes a loan in certain insurance companies which are acceptable to the building and loan association, to the extent of the building and loan association's insurable interest in the property. However, the provision above quoted in my opinion, is in effect a contract between the building and loan association and the mortgagor for the personal benefit of a third person rather than for the benefit of the building and loan association.

So long as the mortgagor insures the property to the extent of the association's insurable interest in a company that is acceptable to the association the full interest of the association in the insurance is protected and it is immaterial to the security of that interest whether the insurance policy is written by a particular agent or not. It is not within the corporate powers of a building and loan association to make contracts for the personal benefit of a third person where the association has no interest in the subject of the contract.

It is therefore my opinion that the provision above quoted is in excess of the powers of the building and loan association to incorporate within its contract with the mortgagor. There is also a grave question whether such provision does not violate Section 6121, R.C.M. 1921, as it is readily conceivable that such a provision might operate as an inducement to the procuring of the insurance that is not expressed in the policy of insurance itself.

Very truly yours,  
L. A. FOOT,  
Attorney General.