

**Insurance—Mutual Benefit Societies—Supervision—Commissioner of Insurance—Exemptions.**

If a mutual benefit society does not have to exceed two hundred members and pays no salaries to officers, agents, or other employees, or if it does not receive premiums or make dividends it is exempt; otherwise, it must comply with the provisions of section 6118, R.C.M. 1921.

Mr. George P. Porter, May 2, 1932.  
State Auditor and Commissioner of Insurance,  
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion on the following questions:

“Referring to what is termed ‘special laws’ relating to fraternal benefit societies, sections 6305 to 6344, inclusive, and especially to section 6336, amended by house bill No. 332, chapter 61, session laws of 1931, ‘Exemption of certain Societies’, in reading this section you will note that societies which do not issue insurance certificates are exempt.

“Kindly advise if this would exempt what is commonly termed ‘mutual benefit societies’, meaning those societies where upon the death of a member each surviving member pays a dollar and the accumulated amount is paid to the beneficiary of the deceased member.

“If such societies were exempt under the fraternal law, would the commissioner of insurance have any supervision over the organization and operation of them?”

Section 6336, R.C.M. 1921, as amended by chapter 61 of the laws of 1931, provides as follows:

“Nothing contained in this Act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows,

or Knights of Pythias (exclusive of the insurance department of the Supreme lodge Knights of Pythias), and the Junior Order of the United American Mechanics (exclusive of the beneficiary degree or insurance branch of the national council Junior Order of the United American Mechanics), or societies which admit to membership only persons engaged in one (1) or more hazardous occupations, in the same or similar lines of business; nor to similar societies which do not issue insurance certificates; nor to an association of local lodges of a society now doing business in this state which provided death benefits not to exceed Three Hundred Dollars (\$300.00) to any one (1) person, or disability benefits not exceeding Three Hundred Dollars (\$300.00) in any one (1) year to any one (1) person, or both; nor to any contracts of reinsurance business on such plan in this state; nor to domestic societies which limit their membership to the employees of a particular city or town, designated firm business house, or corporation; nor to domestic lodges, orders, or associations of a purely religious, charitable, benevolent description, which do not provide for a death benefit of more than One Hundred Dollars (\$100.00) or for disability benefits of more than One Hundred and Fifty Dollars (\$150.00) to any one (1) person in any one (1) year; provided always, that any such domestic order or society which has more than five hundred (500) members, and provides for death or disability benefits, and any such domestic lodge, order, or society which issues to any person a certificate providing for the payments of benefits, shall not be exempt by the provisions of this section, but shall comply with all the requirements of this Act. The commissioner of insurance may require from any society such information as will enable him to determine whether such society is exempt from the provisions of this Act.

“No society, which is exempt by the provisions of this section from the requirements of this Act, shall give, or allow to promise to give or allow, to any person any compensation for procuring new members.

“Any fraternal benefit society heretofore organized and incorporated, and operating within the definition set forth in sections 6305 to 6307 of this code, providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of this Act, and shall have all the privileges and shall be subject to all the provisions and regulations of this Act, except that the provisions of this Act requiring medical examinations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.”

The words “nor to similar societies which do not issue insurance certificates,” as used in the first paragraph of the above section, refer to societies similar to those mentioned in that paragraph and would have no application to mutual benefit societies. The other exemption in said

paragraph applies to associations of purely religious, charitable or benevolent description, and since the association in question is neither of these, this exemption would have no application. It is therefore my opinion that such societies are not exempt under the provisions of this statute. However, section 6159, R.C.M. 1921, provides:

“Nothing in this chapter must be so construed as to prevent any number of persons, not exceeding two hundred, from making mutual pledges, and giving valid obligations to each other, for their own insurance from loss by fire or death; but such association of persons must in no case insure any property not owned and occupied by one of their number; and no life except that of one of their own number; nor are the provisions of this chapter applicable to such associations or companies. But such associations or companies must not pay any salaries or compensation to officers, agents, or other employees, or receive premiums, or make dividends.”

Under the provisions of this section mutual benefit societies are not required to come under the jurisdiction of the insurance commissioner as in the case of other insurance companies, where the membership does not exceed two hundred and where no salary or compensation is paid to their officers, agents or other employees, or do not receive premiums or make dividends, but should such associations violate any of these prohibitions they would come under the general insurance laws as in the case of other insurance companies and would be required to comply with the provisions of section 6118, R.C.M. 1921.

I am also enclosing herewith copy of an opinion rendered to the county attorney of Hill county, and refer you to an opinion rendered to your office on this subject under date of May 25, 1931.

Very truly yours,

L. A. FOOT,  
Attorney General.