

**Insurance—Discrimination—Rebating.**

Section 6121, R. C. M. 1921 prohibits discrimination by insurance companies between individuals but does not apply as to communities.

Mr. George P. Porter, May 20, 1931.  
State Auditor and ex-officio Commissioner of Insurance,  
Helena, Montana.

My dear Mr. Porter:

You have requested my opinion on the following question:

"Fire insurance companies that are members of the board of fire underwriters of the Pacific are furnished rates by the board which they must use in writing business throughout the state of Montana, as well as practically all other states in the Union.

"These rates are published and are furnished to the local agents of the companies. What are termed the non-board companies or companies who do not hold memberships in the board of fire underwriters of the Pacific use rates compiled from the past experience of the companies. Mutual fire insurance companies usually try to write as near the board rates as is possible and provide a refund to the policy holder of the company's earnings permit. Both the non-board company and the mutuals are able in a great many cases to write a lesser rate than the board companies. In such cases and where the non-board and mutual companies appear to be writing considerable business, a request may be made to the board for a relief rate and the board then permits a reduction of the rate in communities where the non-board and mutuals are active in order to be able to write the business.

"Does this operation constitute a violation of section 6121, prohibiting discrimination?"

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 insureds 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, nor specified in the policy contract of insurance."

The provisions of the foregoing statute prohibit discrimination or distinction in favor of individuals but do not apply or have any effect as to the rates to be charged in different communities and for this reason it is my opinion that the policy above outlined by you does not constitute a violation of the statute in question.

Very truly yours,

L. A. FOOT,  
Attorney General.