

No. 27

**MONTANA INSURANCE DEPARTMENT—FRATERNAL
INSURANCE ORGANIZATIONS**

Held: An insurance organization without a lodge system with ritualistic form of work, and without a supreme governing body with subordinate lodges or branches, into which members are elected, initiated and admitted in accordance with its prescribed ritualistic ceremonies, and which subordinate lodges hold regular meetings at least once each month, cannot qualify to do business as a fraternal insurance association under (Sections 6305-6306, Revised Codes of Montana, 1935) the laws of the State of Montana.

February 19, 1941.

Honorable John J. Holmes
State Auditor and Ex-Officio Commissioner of Insurance
State Capitol Building
Helena, Montana

Dear Mr. Holmes:

You have submitted the following question:

"Whether or not the Grange Mutual Life Insurance Company of Nampa, Idaho, a fraternal insurance organization organized under the Insurance Laws of the State of Idaho, can qualify to do business as a fraternal insurance association under the laws of the State of Montana."

You further state, "... the above-named organization does not have a ritualistic ceremony, does not initiate its members by such a ceremony and does not have a lodge system ..."

In answering your inquiry it is necessary to analyze our code sections which are pertinent thereto, namely, Section 6305, Revised Codes of Montana, 1935, which is as follows:

"Section 6305. Fraternal benefit societies defined. Any corporation, society, order, or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government, and which shall make provisions for the payment of benefits in accordance with section 6309, is hereby declared to be a fraternal benefit society."

The foregoing section, it will be noted, provides that any such fraternal benefit societies to be eligible must have a lodge system with ritualistic form of work, representative form of government, and provide for payment of benefits as provided in Section 6309, Revised Codes of Montana, 1935.

Then the following, Section 6306, Revised Codes of Montana, 1935, defines the foregoing **lodge system** as follows:

"Section 6306. Lodge system defined. Any society having a supreme governing or legislative body and subordinate lodges or branches by whatever name known, into which members shall be elected, initiated, and admitted in accordance with its constitution, laws, rules, regulations, and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by the laws of such society to hold regular or stated meetings at least once in each month, shall be deemed to be operating on the lodge system."

So we find that, by Section 6305, a **lodge system with ritualistic form of work is required** and, by Section 6306, it is required that the members shall be elected and **initiated**, and admitted in accordance with its prescribed **ritualistic ceremonies**, and there must be subordinate lodges or branches which shall hold regular or stated meetings at least once each month. None of these requirements are required or practiced by the Grange Mutual Life Insurance Company of Nampa, Idaho, according to the information you have given me.

Fraternal and lodge systems, as defined in the two foregoing sections, have full and well recognized meanings in the law of this country and in this State, and the initiation, the ritualistic ceremonies and form of work, and the lodge system are all pertinent and vital parts in such organizations and as used in said statutes are exclusive.

We now turn to the Idaho Statute, Section 40-2301 of Chapter 23 of the Idaho Code of 1932, which reads as follows,

"Section 40-2301, Fraternal Benefit Societies Defined. Any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government, and which shall make provision for the payment of benefits in accordance with Section 40-2305, **and any mutual life association whose membership is limited to a secret fraternity, profession or guild and which elects its officers and directors by direct vote of its members, either in person or by proxy,** is hereby declared to be a fraternal benefit society." (Emphasis mine.)

On looking into the history of the Idaho Section 40-2301, above quoted, we find that, prior to 1917, the said Idaho section read exactly as our Section 6305, Revised Codes of Montana, 1935, but in 1917 the Idaho Legislature saw fit to amend the said section by Chapter 108 of the Laws of 1917, by adding the above emphasized words. Apparently the said amendment was for the very purpose of making such organizations as the Grange Mutual Life Insurance Company of Nampa, Idaho, eligible thereunder.

" . . . It is competent for the state, either under the police power or as **creator** . . . , to determine who may engage in the business (of insurance) within its boundaries, . . ." 32 C. J. 981.

The Legislature in this State has particularly defined the kind of fraternal societies or associations that are exempt and has minutely set forth the requirements thereof. The Legislature may allow any or forbid all. Our Legislature allows those having the requirements as prescribed in Sections 6305, such as:

1. Those having a lodge system with ritualistic form of work,
2. Those having representative form of government,
3. Those having a supreme governing or legislative body and subordinate lodges or branches, into which members shall be elected,

initiated, and admitted in accordance with its constitution, laws, rules, regulations, and prescribed **ritualistic ceremonies**; and

4. The subordinate lodges or branches shall be required by the laws of such society to hold regular or stated meetings at least once in each month.

Each of the foregoing elements is required of a society in order that it may qualify to do business in Montana as a fraternal insurance association.

The "Grange Mutual Life Insurance Company of Nampa, Idaho," not having a lodge system with ritualistic form of work, into which its members are elected, initiated and admitted in accordance with prescribed ritualistic ceremonies, and not having subordinate lodges or branches which are required to have a regular meeting each month, it is my opinion that the said "Grange Mutual Life Insurance Company of Nampa, Idaho," does not come within the purview of the statutes of Montana, and cannot qualify to do business as a fraternal insurance association under the laws of the State of Montana.

Very truly yours,

JOHN W. BONNER
Attorney General