

VOLUME NO. 37

OPINION NO. 51

AGRICULTURE - Hail insurance, reserve fund, amount required to raise coverage rates; GRAIN - Hail insurance coverage of, reserve fund, amount required to raise coverage rates; HAIL INSURANCE - Reserve fund, amount required to raise coverage rates; INSURANCE - Hail insurance, reserve fund, amount required to raise coverage rates; REVISED CODES OF MONTANA, 1947 - Sections 82-1502; 82-1507(4).

HELD: The state board of hail insurance has authority to increase the maximum coverage on each non-irrigated acre of grain for the 1978 hail season from \$12 to \$18 only if its reserve fund contains a minimum of three million dollars after payment of administrative expenses, interest owed on registered warrants, and claims for losses sustained during the 1977 hail season.

29 July 1977

Mr. Jim Stephens, Chairman
State Board of Hail Insurance
1300 Cedar Street
Airport Way, Building West
Helena, Montana 59601

Dear Mr. Stephens:

You have requested my opinion concerning the following question:

Is the state board of hail insurance authorized to increase the maximum coverage on each non-irrigated acre of grain for the 1978 hail season from \$12 to \$18?

Section 82-1502, R.C.M. 1947, outlines the authority of the board to set coverage rates. When the reserve fund is determined actuarially sound, as provided in section 82-1502, R.C.M. 1947, the board may write not more than \$24 insurance on each acre of grain, which is on non-irrigated land. Section 82-1502, R.C.M. 1947. The fund is actuarially sound when it contains an amount determined by an actuary sufficient to absorb all reasonably anticipated catastrophic losses. Section 82-1507(4), R.C.M. 1947.

The meaning of these statutes is clear, unambiguous, direct and certain. Under such circumstances the statutes speak for themselves and there is nothing to construe or interpret. State v. Lanagan, 151 Mont. 558, 562, 445 P.2d 565 (1968). We need only apply the statute to the peculiar, present actuarial standing of the reserve fund to ascertain the condition precedent which must occur before authority arises in the board to increase the rate of coverage.

According to records submitted to this office by the board's administrator, an actuarial valuation was conducted in 1975 to ascertain catastrophic reserve requirements as of the end of 1974. That valuation determined that at the existing \$12 rate of coverage per acre on nonirrigated land, a reserve of \$1,956,106.30 was necessary to absorb all reasonably anticipated catastrophic losses. The valuation further determined that if the coverage on each acre was increased to \$24, a reserve of \$3,912,212.60 would be necessary.

The actuarial valuation was based upon claims experience of the board from 1917 to 1974, with particular emphasis on the years 1930 to 1974. Since it is unlikely that the risk would change significantly during the last three years from that calculated in 1975 based upon a minimum period of forty-four years, that valuation continues to be reliable for purposes of calculating the reserve necessary in 1978.

Estimating from the 1975 actuarial valuation, we find that before the board may raise the coverage to \$18 per acre, the reserve must reach approximately \$3,000,000.00, after payment of administrative expenses and claims for losses sustained during the previous hail season.

THEREFORE, IT IS MY OPINION:

The state board of hail insurance has authority to increase the maximum coverage on each non-irrigated acre of grain for the 1978 hail season from \$12 to \$18 only if its reserve fund contains a minimum of three million dollars after payment of administrative expenses, interest owed on registered warrants, and claims for losses sustained during the 1977 hail season.

Very truly yours,

MIKE GREELY
Attorney General