Foreign insurance companies may only issue insurance policies in conformity to the Missouri Laws.

January 20, 1933

5796 R.S. Mo. 1929

FILED
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Mr. Jos. B. Thompson,
Sup't. Insurance Dep't.,
Jefferson City, Missouri.

Dear Sir:-

Your letter of January 18, 1933 requesting an opinion has been received and is as follows:

> "Can a foreign mutual fire insurance company authorized by the laws of the state of its creation to issue a non-assessable policy and licensed to do business in Missouri under Article 6 of the Missouri Insurance Laws issue a non-assessable policy in the state of Missouri."

Section 4596, R. S. Mo. 1929 with reference to foreign corporations doing business in Missouri provides:

> "Such corporations shall be subjected to all the liabilities, restrictions and duties which are or may be imposed upon corporations of like character organized under the general laws of this state, and shall have no other or greater powers, And no foreign corporation established or maintained in any way for pecuniary profit of its stockholders or members shall engage in any business other than that expressly authorized in its charter, or by the law of this state under which it may come,"

Section 5796, R. S. Mo. 1929 prohibits a mutual insurance company from issuing non-assessable policies.

Foreign insurance companies doing business in this state cannot exceed the powers and duties granted to domestic corporations. The Supreme Court of Missouri en banc in Head v. Insurance Co., 241 Mo. 403, l.c. 413, in passing upon this question said:

> "It has been repeatedly ruled in this state since the enactment of (now sections 5741, 4596, 4599, R.S. Mo. 1929) that foreign insurance companies admitted to carry on their business in this state can only con-

> tract within the limits prescribed by our statutes and that in the conduct of the business under the license granted by this state, they shall be subjected to all the liabilities, restrictions and duties which are or may be imposed upon corporations of like character organized under the general laws of this state, and shall have no other or greater powers. The effect of these decisions is to write into every insurance contract made by a foreign insurance company, so licensed, in this state, all of the provisions of the statutes of this state appurtenant to the making of such contract and wh ch define and measure the reciprocal rights and duties of the parties thereto. These statutes are declaratory of the public policy of this state, and inhibit the doing of the business of insurance in this state by any corporation contrary to their regulations by annulling all the stipulations which offend the provisions of the statutes. Cravens v. Insurance Co. 148 Mo. 583."

An insurance contract which is made in this state by a corporation doing business under license from this state cannot be allowed to introduce into its policy, terms which are forbidden such corporations by our laws. Summers v. Fidelity Mutual Aid Association 84 Mo. Appeals, 605.

The last word on this subject was written by the Kans s City Court of Appeals in Weed v. Banks Savings Life Insurance Co., 24 S.W. (2d) 653, l.c. 657, in the following language:

> "It has been held that foreign insurance companies who do business in this state do so not by right but by grace and must make their business conform to our laws."

We therefore hold that a foreign mutual fire insurance company doing business in this state cannot issue a non-assessable policy.

Yours very truly,

FRANKLIN E. REAGAN
Ass't. Attorney General

Approved:

ROY McKITTRICK
Attorney General

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