

INSURANCE - Amount of reserve of mutual fire insurance companies required.

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1-14  
January 2, 1935.



Honorable T. C. Mitchell, Jr.  
Assistant Actuary  
Insurance Department  
Jefferson City, Missouri

Dear Sir:

We have your request of December 14, 1934 for an opinion, which request is as follows:

"In Mr. Politte's request, it appears that he limits his request for an opinion regarding foreign mutual fire insurance companies. Are we correct in assuming that the opinion rendered was intended to apply to domestic mutual fire companies as well as foreign mutual fire companies?"

"Will you please also inform us whether or not, in approving a non-assessable form for mutual fire companies, any requirement should be made as to the amount of surplus which the company must have?"

"Further, could a non-assessable form of policy be issued at once by a mutual company organizing, either by means of applications for policies, as provided in Section 5808, or by means of the guarantee fund as stated in this Section?"

#2 - Honorable T. C. Mitchell, Jr.

We shall treat the paragraphs of your letter separately and answer them in the order in which they appear in your letter.

You are correct in assuming that the opinion referred to rendered by this office to Leo A. Politte, Prosecuting Attorney of Franklin County under date of November 9, 1934 applies to both foreign and domestic mutual fire insurance companies. That opinion was a construction of Article VI of Chapter 37, R. S. Mo. 1929.

Relative to your second request as to whether or not there is any requirement made as to the amount of surplus which a mutual fire insurance company must have, we are unable to answer your inquiry specifically, since both Article VI and Article VII of Chapter 37, R. S. Mo. 1929 apply to such mutual insurance. We assume that insurance companies are admitted under either Article VI or Article VII, and that your records specify under which Article the mutual insurance company is admitted to do business in this state. If you care to submit a specific example or statement of facts, at the first opportunity I shall be glad to go into that in detail.

With reference to the third inquiry as to whether or not a newly licensed mutual company can begin to issue non-assessable policies from the beginning, this again depends upon which Article the company was authorized to do business under. Article VI, Chapter 37, R. S. Mo. 1929 provides:

" \*\* any mutual company upon a majority vote of its members present at an annual meeting, or at any special meeting called for that purpose after one week's notice by advertisement in one or more newspapers \* may charge and receive for the mutual benefit of all its policyholders cash in payment of premiums on such of its policies as shall be, by a majority vote of such meeting, determined upon."

#3 - Honorable T. C. Mitchell, Jr.

Thus, from the above statute, it appears that before a mutual company can issue an all-cash premium policy under Article VI, it must have been in existence prior to the issuance of such policy and therefore cannot issue all-cash premium policies from the very beginning. Section 5808, referred to in your letter, we believe is limited to the method of beginning a mutual fire insurance company and is not any authority for issuing an all-cash premium policy. Under Article VII, an all-cash premium mutual policy may be issued under and by virtue of the terms of Section 5848, R. S. Mo. 1929, provided the company, upon organizing, has a contributing surplus of at least \$100,000.

Yours very truly,

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

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