

MAINE STATE LEGISLATURE

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STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1908.

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to do the business of an ordinary fire insurance company, so called, and for which purpose fire insurance companies may be organized, under said section 41, clause I, which latter clause reads as follows:

“To insure against loss or damage to property by fire, lightning or tempest on land.”

The legislature of this State, (see R. S., chapter 49, section 4,) has provided in substance a standard form of fire insurance policy and that no fire insurance company shall issue an insurance policy on property in this State other than those in the standard form as set forth in the statute, with some exceptions. The exceptions do not seem to cover the question before us as to the insurance of automobiles.

It is my opinion that the attempt of the insurance company in question, to carry on practically the business of a fire insurance company upon land, is in conflict with the spirit and intent of our law, and I should, therefore, advise against it.

ASSESSMENT CASUALTIES COMPANY.— REDUCTION OF RESERVE FUND.

Hon. S. W. Carr, Insurance Commissioner, Augusta, Maine:

DEAR SIR:—Relative to your inquiry as to what extent the reserve fund of assessment casualty companies on deposit in the State treasury can be reduced, I have the honor to advise you as follows:

It is my opinion that this fund cannot at any time be reduced below the amount equal to one assessment or periodical call upon all of its members, and that such an assessment refers to an assessment made to pay indemnity claims. In R. S., chapter 49, section 126, (near the middle) appears the following clause relative to the matter before us. It is as follows:

“Provided, however, that said fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members.”

What is the meaning of the words “one assessment or periodical call upon all of its members”? In order to ascertain we must examine all of said section 126, which reads as follows:

“Any corporation organized under section one hundred and twenty-three, or any corporation of this state doing assessment insurance business under this chapter or its charter, shall keep on deposit with the treasurer of state a reserve fund for the benefit and protection of certificate holders in said corporation; for the creation of which it shall on or before the thirty-first day of December, of each year, deposit with said treasurer not less than ten per cent of the total receipts on assessments made to pay indemnity claims during the year then ended, until the reserve fund so accumulated shall amount, together with the amount there deposited prior to March one, eighteen hundred and eighty-nine, to not less than twenty-five thousand dollars. These amounts may be deposited in such interest bearing securities as the governor and council may approve, or in such securities as any insurance company or savings bank may, from time to time, be authorized to hold for the purpose of investment. These securities shall be held in trust by the treasurer of state, but the corporation shall have at all times the right to exchange any part of said securities for others of like amount and character. When deemed advisable by a majority of the directors, such a part of the fund as may be considered necessary, may be applied from time to time, to the payment of claims under insurance contracts and the expense necessarily incident thereto, and for no other purpose. Provided, however, that said fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members. The insurance commissioner shall annually, in February, certify to the treasurer of state, the minimum amount of reserve fund required to be kept on deposit in the state treasury by each corporation doing business on the assessment plan, under this chapter. If said corporation shall neglect for sixty days to satisfy any judgment against it, in any court in this state, then the said treasurer shall convert into money any of said securities, and forthwith satisfy such judgment, and said corporation shall not transact any further business until said deposit is restored. When any such corporation shall discontinue business, any justice of the supreme judicial court may appoint a receiver or agent to administer any unexhausted portion of such fund which shall be used, less compensation not to exceed five

per cent, as such court or justice may allow the receiver or agent, first, in the payment of accrued indemnity claims upon certificates or policies, or if insufficient to pay such claims in full, they shall be paid pro rata; second, if a balance remains after the payment of such claims, such balance shall be distributed to the holders of certificates then in force, pro rata, in proportion to the total payments by each policy-holder after first paying all expenses incident to such distribution. If, upon the thirty-first day of December of any year, the reserve fund on any such corporation is found to be less than the amount of one assessment or periodical call upon all of the members thereof, said corporation shall, within one year thereafter, collect from its members a sum sufficient to bring said reserve fund up to one assessment or periodical call upon all its members, and deposit the amount with the treasurer of state to the credit of said fund."

The only place in said section 126, where the word assessment appears previous to its use in the clause we are now trying to interpret, is in the early part of said section 126, where after providing that there shall be a reserve fund thus kept on deposit with the treasurer it says: "for the creation of which (referring, of course, to said reserve fund) it shall on or before the thirty-first day of December of each year deposit with the state treasurer not less than ten per cent of the total receipts on assessment made to pay indemnity claims for the year then ended" etc., etc.

This clearly refers to assessments made to pay indemnity claims in express terms. I am, therefore, forced to the conclusion that the words, "one assessment or periodical call upon all of its members," used in connection with how far the reserve fund may be reduced refers to assessments made to pay indemnity claims in the early part of said section 126.

FRATERNAL BENEFICIARY ASSOCIATIONS.— DEPOSIT WITH STATE TREASURER.

Hon. S. W. Carr, Insurance Commissioner, Augusta, Maine:

DEAR SIR:—I have the honor to report to you, in answer to your inquiry as to whether or not the deposit of \$1,000 with the treasurer of the State of Maine by fraternal beneficiary asso-