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February 7, 1951

Op. No. 51-44

Mr. H. W. Nason
Deputy Insurance Director
Arizona Corporation Commission
The Capitol
Phoenix, Arizona

Dear Mr. Nason:

Re: Form required for fire
insurance policy

We have examined the so-called "open face" fire insurance policy submitted with your letter of January 29 wherein you ask:

"In your opinion is this open face policy acceptable for use in this state?"

From the tenor of your letter we assume your question is directed to the physical arrangement of this policy rather than the legality of the "added provisions"; hence we have not gone into this latter question.

As you point out, our statute requires that fire policies be issued only on the "New York Standard" form. This statute reads in part as follows:

"No fire insurance company shall issue any fire insurance policy covering any property or interest therein in this state other than on the form known as the 'New York Standard.' Every company shall have printed on the face of its policies and on the filing back the words 'Stock Company,' if issued by a stock company, and shall also have printed on the back the amount of its paid up capital stock. If issued by a mutual company there shall be printed on the face at the top and also on the filing back whether the policy is issued on the cash premium or assessment plan, and

the words 'Mutual Company,' and the policies shall state the contingent mutual liability of its policyholders or members for payment of losses and expenses not provided for by its cash fund until it has accumulated surplus assets of not less than fifty thousand dollars (\$50,000), which it must maintain in securities deposited as required of stock companies, but while it maintains such surplus assets on deposit, it may issue its policies with a statement thereon that the liability of the policyholder is limited to the premium paid." (Sec. 61-501, ACA 1939, Supplement) (Emphasis supplied)

As you can see from the underlined portion of the material quoted, our statute requires something to be printed on the front and back of such policies in addition to the material set forth in the New York Standard form.

In prescribing these additional requirements the Legislature used the term "face" to refer to the front cover of such a policy, and used the term "filing back" to refer to the page or cover of the policy opposite the "face" and which would be visible when the policy was folded face inward. In other words, the mandatory requirements of Section 61-501, supra, are that:

1. Both of the outside covers of any such policy must indicate whether the company is a "Stock Company" or a "Mutual Company".
2. Both of such covers, in the case of a Mutual, must indicate whether the policy is issued on the cash premium or assessment plan.
3. The filing back, in the case of a stock company, must indicate the amount of its paid up capital stock.

It is readily apparent that the Legislature attached considerable importance to the physical placement of such information and that a failure to place such information on the respective outside covers would be a substantial variance from the mandatory requirements.

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The so-called "open-face" policy is an attempt to make one cover serve the purposes of both the "face" and "filing back"; the other cover is filled with printed matter and obviously is neither the "face" nor the "filing back".

It is therefore our opinion that said form does not conform with law.

With kindest regards, we are

Very truly yours,

FRED O. WILSON
Attorney General

WILBERT E. DOLPH, JR.
Assistant Attorney General

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