

**OPINION
49-93**

September 29, 1949 (OPINION)

INSURANCE

RE: Investment of Funds

You have asked whether the Home Protective Benevolent Society may invest funds of the company in real property or land.

Section 26-2501 of the North Dakota Revised Code of 1943, as amended by chapter 208 of the 1945 Session Laws, provides, "Benevolent societies, as defined in section 26-2502, shall be under the jurisdiction of the commissioner of insurance and shall be and remain subject to all the laws, rules and regulations applicable to insurance companies transacting business within this state, except as specifically provided."

In as much as this section states that benevolent societies are regulated by the laws and rules pertaining to other domestic insurance companies, we refer to section 26-0812 of the Revised Code of 1943 where it states, "A domestic insurance company may acquire, hold, and convey only such real property as shall: 1. Be requisite for its convenient accommodation in the transaction of its business;".

This section prohibits any domestic insurance company, the laws of which govern benevolent societies, from placing its funds to purchase complete title in real estate for investment purposes. This section relates to acquiring land for the construction of a building or other structure used in the operation of the company for other similar operations.

You will note in section 26-0811 of the 1947 Supplement to the North Dakota Revised Code of 1943 that gives a list of authorized investments of funds which list does not include investments to purchase real property in fee simple, meaning complete legal title in the company.

Therefore, it would be my opinion that the Home Protective Benevolent Society could not invest funds in real property except as provided in section 26-0812, subsection 1 of the 1947 Supplement. However, I might state that advanced death and expense assessments of a benevolent society should be invested in assets which can be easily liquidated so that there may be sufficient funds for the payment of death benefits and expenses of operation of the company.

WALLACE E. WARNER

Attorney General