

**OPINION
50-83**

October 20, 1950 (OPINION)

INSURANCE

RE: Organization of Mutual Life Insurance Company

We are in receipt of your letter of October 13, 1950, in which you ask whether or not a domestic Mutual Life Insurance Company may be organized with assets of a suitable nature in the amount of \$25,000.00 and \$10,000.00 surplus.

Section 26-1102, N.D.R.C. 1943, provides:

No policy shall be issued by a purely mutual life insurance company until not less than two hundred thousand dollars of insurance in not less than two hundred separate risks have been subscribed for and entered on its books. The commissioner of insurance shall not grant a certificate of authority for the transaction of business to such a company unless it has assets of at least twenty-five thousand dollars in cash or in investments as prescribed by law, and a surplus of assets over all liabilities of at least ten thousand dollars. Surplus of at least this amount shall be maintained by a domestic mutual life insurance company at all times."

It is the opinion of this office that the Commissioner of Insurance may grant a license or a certificate of authority to a domestic mutual life insurance company authorizing it to transact business in this state when the company has assets of at least \$25,000.00 in cash or investments as required by law and a surplus of assets over all liabilities of at least \$10,000. We believe it was the intention of the Legislature to make this the minimum requirements for domestic mutual life insurance companies.

The section quoted in your letter, section 26-1101, authorizes a company to organize with \$100,000.00 if it wishes. This statute used the work "may" in providing for the amount of assets. Inasmuch as section 26-1102 was enacted by the Legislature at a later date than section 26-1101, it is our opinion that section 26-1102 governs the minimum requirements.

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Attorney General