



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

**GROVER SELLERS**

**ATTORNEY GENERAL**

Honorable Sidney Latham  
Secretary of State  
Austin, Texas

Dear Sir:

Attention: Mr. R. J. Long:

Opinion No. 0-5798  
Re: Whether a non-profit  
educational, charitable,  
religious, benevolent  
foreign corporation,  
or any non-profit foreign  
corporation is required  
to secure a permit to do  
business in the State of  
Texas, and related matters.

Your letter of May 1, 1944, requesting the opinion of  
this department on the questions stated therein is as follows:

"This department has had several requests  
from foreign non-profit corporations for this of-  
fice to issue a permit to such corporations. In  
the past this department has granted some of such  
permits and some administrations of this depart-  
ment have held that such corporations are not re-  
quired to secure a permit to do business in Texas.  
Therefore, will you please advise this department  
on the following questions:

"1. Is a non-profit educational, charitable,  
religious, benevolent foreign corporation, or any  
non-profit foreign corporation, required to secure  
a permit to do business in this State?

"2. If such corporations are required to se-  
cure a permit, what filing fee should this depart-  
ment request?

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"3. If such corporations are required to secure a permit, should this department collect a franchise tax for their operations in this State?

"4. If such corporations are not required to secure a permit from this office, are such corporations authorized to do business in this State without a permit?"

Article 1529, Vernon's Annotated Civil Statutes, provides:

"Any corporation for pecuniary profit, except as hereinafter provided, organized or created under the laws of any other State, or of any territory of the United States, or of any municipality of such State or territory, or of any foreign government, sovereignty or municipality, desiring to transact or solicit business in Texas, or to establish a general or special office in this State, shall file with the Secretary of State a duly certified copy of its articles of incorporation; and thereupon such official shall issue to said corporation a permit to transact business in this State for a period of ten years from the date of so filing said articles of incorporation. If such corporation is created for more than one purpose, the permit may be limited to one or more purposes."

It is stated in Hildebrand's "Texas Corporations," Volume 4, page 13:

"According to Vernon's Annotated Civil Statutes Article 1529 only foreign corporations for pecuniary profit that transact or solicit business in Texas are required to take out a permit. A foreign corporation for benevolent, religious, philanthropic purposes where the charters provide that all of its revenues except reasonable expenses will be devoted to one or more such purposes is not organized for pecuniary profit. Such a corporation does not come within the provision of the Texas statute, and, therefore, could recover on a claim due it without proving that it obtained a permit. A

corporation organized for the above purpose has authority to buy land reasonably necessary to further its charter powers;"

In the case of City of San Antonio, et al v. Salvation Army, 187 S. W. 860, in construing Articles 745 and 746, Revised Statutes, 1895, which contained practically the same language as Articles 1529 and 1536, Vernon's Annotated Civil Statutes, it was said:

"\* \* \* The corporation not being organized or operated for pecuniary profit, but by the terms of its incorporation strictly prohibited from being conducted for pecuniary profit, Articles 745 and 746 have no application to it, and it was not required to obtain a permit to operate and conduct its affairs in Texas as a condition precedent to its maintaining this action."

After carefully considering Article 1529, supra, it is apparent that such statute applies only to foreign corporations created for pecuniary profit and does not apply to any non-profit foreign corporations which are not incorporated for pecuniary profit.

In view of the foregoing authorities, we respectfully answer your first question as stated above in the negative.

As we have answered your first question in the negative, it necessarily follows that your second and third questions require no answer.

In view of what has heretofore been said, your fourth question is respectfully answered in the affirmative.

Yours very truly

ATTORNEY GENERAL OF TEXAS



By *Ardell Williams*

Ardell Williams  
Assistant

APPROVED MAY 5, 1944

*[Signature]*  
ATTORNEY GENERAL OF TEXAS

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