



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GROVER SELLERS
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ATTORNEY GENERAL

Hon. Sidney Latham
Secretary of State
Austin, Texas

Attention: Mr. R. J. Long, Head of Charter Division

Dear Sir:

Opinion No. 0-6047

Re: Filing fee to be paid by a profit corporation converting to a marketing association under the terms of Art. 5760, Vernon's Annotated Civil Statutes.

Your letter of May 25, 1944, requesting the opinion of this department regarding the matters stated therein is as follows:

"The provisions of Article 5760 authorize profit corporations to convert to marketing associations, as authorized by Chapter 8 of Title 93, R. C. S. The last sentence of Article 5760 provides for the filing fee of such instruments. This office, under said provision, has been requiring the payment of a \$50.00 filing fee. Please advise us what fee should be required under the provisions of Article 5760."

Articles 5760 and 5764, Vernon's Annotated Civil Statutes, read as follows:

"Article 5760. Any corporation or association organized under a previously existing statute, may by a majority vote of its stockholders or members be brought under the provisions of this Chapter by limiting its membership and adopting the other restrictions provided herein. It shall make out in duplicate a statement signed and sworn to by its directors, upon forms supplied by the Secretary of State, to the effect that the corporation or association has by a majority vote of its stockholders or members decided to accept the benefits and be bound by the provisions of this Chapter. Articles of incorporation shall be filed as required in the 8th Article of this Chapter, except that they shall be signed by the members of the Board of Directors. The filing fee shall be the same as for filing an amendment to Articles of Incorporation.

"Article 5764. Each association organized hereunder shall pay to the Commissioner an annual license fee of \$10.00 which shall be exempt from all franchise or license taxes. For filing

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Articles of Incorporation, an association organized hereunder shall pay \$10.00, and for filing an amendment hereto, \$2.50."

"Article 3914, Vernon's Annotated Civil Statutes, provides, in part:

". . . . Upon filing each charter, amendment, or supplement thereto, of a private corporation created for any other purpose intended for mutual profit or benefit, a filing fee of Fifty (\$50.00) Dollars, provided that if the authorized capital stock of said corporation shall exceed Ten Thousand (\$10,000.00) Dollars, it shall be required to pay an additional fee of Ten (\$10.00) Dollars for each additional Ten Thousand (\$10,000.00) Dollars, of its authorized capital stock, or a fractional part thereof, after the first."

The corporation now under consideration which is converting to a marketing association under the provisions of Article 5760, Vernon's Annotated Civil Statutes, was organized and incorporated under certain provisions contained in Article 1302, Vernon's Annotated Civil Statutes.

It will be noted that a corporation created and intended for mutual profit or benefit is required to pay a filing fee of \$50.00 for an amendment to its charter under the provisions of Article 3914 heretofore mentioned. It will also be noted that each association organized under Chapter 8, Title 93, is required to pay an annual license fee of \$10.00 and that a filing fee of \$10.00 is required of such corporations for filing articles of incorporation, and when an amendment is filed, the charge is \$2.50. When a corporation changes its corporate structure in the manner provided in Article 5760, supra, it is entitled to the benefits of Article 5764, just as a corporation originally organized under the provisions of the Cooperative Marketing Act. However, it is our opinion that a corporation converting into a marketing association does not come under said act until its charter is amended as provided in said Chapter 8, Title 93, Vernon's Annotated Civil Statutes and the filing fee for the amended charter paid. In other words, such a corporation converting into a cooperative marketing association is not entitled to the benefits of Article 5764 until and after its amended charter is filed and the filing fee paid authorizing such corporation to convert into a cooperative marketing association. Therefore, it is our opinion that the filing fee is \$50.00. It is our further opinion that the filing fee for any amendment to the Articles of Incorporation or Charter filed after the amendment heretofore mentioned is filed, will be \$2.50 as authorized by Article 5764.

AW:rt:iw:lm

Yours very truly

Approved - Opinion Committee by B. W. B.
Chairman.

ATTORNEY GENERAL OF TEXAS

APPROVED JUNE 7, 1944

By (s) Ardell Williams
Assistant

(s) Grover Sellers

Attorney General of Texas