



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GROVER SELLERS  
~~XVILLIENSON~~  
ATTORNEY GENERAL

Honorable George B. Butler, Chairman  
Board of Insurance Commissioners  
Austin 14, Texas

Dear Sir:

Opinion No. 0-6995

Re: Whether the purpose clause of the Reserve Loan Life Insurance Company of Texas is sufficient to enable it to write workmen's compensation insurance and a related question.

Your request for an opinion of this department, by letter dated December 14, 1945, presents the following questions:

"In view of letter opinions from your Department of March 16, 1938 and December 6, 1938, copies of which are attached for your ready reference, we assume that a life, health and accident company incorporated under Chapter 3, Title 78 may, with appropriate purpose clause in its chapter, write workmen's compensation insurance. Please confirm or correct me as to this.

"If you answer to the foregoing is in the affirmative, please advise me whether the following purpose clause of Reserve Loan Life Insurance Company of Texas is sufficient to enable it to write workmen's compensation insurance:

"The purpose for which this corporation is formed is to engage in the business of life, health and accident insurance, as authorized by Chapter 3, Title 78 of the Revised Civil Statutes of the State of Texas. \* \* \* \*"

Insurance companies incorporated under Chapter 3, Title 78, Revised Civil Statutes, are authorized for the purpose of forming a life, health, and accident insurance company. Article 4717, Revised Civil Statutes. The only expressed limitation found under Chapter 3, Title 78 limiting the kind of insurance business to be written by a life, health, and accident insurance company is contained in Article 4738, adopted from an act of 1909, which Article provides:

"It shall be unlawful for any life insurance company, accident insurance company, life and accident, health and accident, and life, health and accident insurance company to take any kind of risks or issue any policies of insurance, except those of life, accident or health; nor shall the business of life, accident or health insurance in this State be in any wise conducted or transacted by any company which in this or any other State or country, is engaged or concerned in the business of marine, fire, or inland insurance."

In 1917, the Thirty-fifth Legislature, Chapter 103, enacted the Workmen's Compensation Law, Title 130, Revised Civil Statutes, providing in part 4, Section 2, (Art. 8309, Section 2, R.C.S.), as follows:

"Any insurance company, which term shall include mutual and reciprocal companies, lawfully transacting a liability or accident business in this State shall have the same right to insure the liability and pay the compensation provided for in part 1 of this law and when such company issues a policy conditioned to pay such compensation, the holder of such policy shall be regarded as a subscriber so far as applicable under this law, and when such company insures such payment of compensation it shall be subject to the provisions of parts 1, 2 and 4 and of sections 10, 17, 18a and 21 of part 3 of this law. Such company may have and exercise all of the rights and powers conferred by this law on the association created hereby, but such rights and powers shall not be exercised by a mutual or reciprocal organization unless such organization has at least fifty subscribers who have not less than 2,000 employes."

The term "accident business" as used in the foregoing statute is broad, and it is not believed the Legislature, in designating a company by its insurance business, used the word in a limited or qualifying sense, that is, confined to strictly contracts of indemnity. Nowhere in the statutes do we find any definition of "liability" insurance or "accident" insurance. Article 4716 specifies the kind and character of accident insurance business sufficient to denominate a company an accident insurance company, viz: "doing business under any charter involving the payment of money or other thing of value, conditioned upon the injury, disablement or death of persons resulting from travel or general accidents by land or water."

It is therefore the opinion of this department that

such companies as the one in question, incorporated under Chapter 3, Title 78, Revised Civil Statutes, lawfully doing an accident insurance business, may, by appropriate amendment to its charter, write workmen's compensation insurance.

As to the purpose clause of the company quoted in your letter and hereinabove set forth, it is our opinion that same is insufficient to authorize such company to write workmen's compensation insurance as provided under Title 130, V.A.C.S.

We have reviewed the documentary copies attached to your request, dated March 16 and December 6, 1938, referred to by you as letter opinions. The former relates solely to a tax question, stating reasons for compromising a tax suit involving a reciprocal exchange. The letter opinion of December 6, 1938, pertains solely to a company operating under the Lloyd's Plan and was written in response to an inquiry as to what kind of insurance is included within the terms "liability insurance", Article 5015, Subdivision 3, Revised Civil Statutes. These instruments do not relate to or affect the above questions propounded; consequently we find it unnecessary to discuss them.

This opinion is not to be construed as applicable to limited capital stock companies authorized under Article 4752, R.C.S.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Wm. J. R. King  
Wm. J. R. King  
Assistant

WJRK/JCP/wc

APPROVED JAN 25 1946  
s/Grover Sellers  
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman