



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GROVER SELLERS
~~WILLIAMSON~~
ATTORNEY GENERAL

Honorable J.P. Gibbs
Commissioner, Casualty Insurance Division
Board of Insurance Commissioners
Austin, Texas

Dear Mr. Gibbs:

Opinion No. 0-7067

Re: May the Board of Insurance Commissioners appoint an examiner to go out of the State to investigate certain foreign companies which are licensed rating organizations and doing business in Texas; if so, would the examiner be limited to \$4.00 per day maximum expense.

Your letter, which reads as follows, has been given our consideration:

"An occasion has arisen in which it has become necessary for the Casualty Actuary and Title Director of the Casualty Insurance Department to go in person to foreign states to consult with and examine into the affairs of certain foreign companies and licensed rating organizations, for rate making purposes.

"In connection with this and any similar occasional situation which may arise, we desire your opinion upon the following questions:

"1. May the Casualty Insurance Commissioner, Casualty Actuary or a Director of the Casualty Insurance Department lawfully make such trips, examinations, consultations and investigations?

"2. In the event of an affirmative answer to Number 1, would said Commissioner, Actuary and Director be limited to the \$4.00 per day maximum travel expense allowed by the present Biennial Departmental Appropriation Bill (SB 317, Act 1945, 49th Leg.), or would said parties be entitled to charge actual expenses incident to the examinations, consultations and investigations?

"For your convenience, we are attaching to this letter certain statutory provisions which we believe have a direct bearing on these questions."

Under Article 4989 of the Revised Civil Statutes, three or more persons may organize a number of different kinds of casualty insurance companies.

Article 4998 of the Revised Statutes provides that any casualty insurance company may be examined by the Board of Insurance Commissioners.

Article 4690a of Vernon's Annotated Revised Statutes provides specifically that when examinations are made by the Board of Insurance Commissioners of domestic or foreign insurance corporations, said corporations are required to pay all expenses incident thereto. Article 4911 of the Revised Civil Statutes authorizes and empowers the Board of Insurance Commissioners to consult any rate-making bodies of other states for the purpose of assembling data for the making of compensation insurance rates.

On July 28, 1942, we released our opinion No. 0-4289, addressed to Honorable O. P. Lockhart, Chairman, Board of Insurance Commissioners, in which we held that the examiner appointed to examine a foreign corporation which required him to make a trip outside the State could collect all of his expenses from said corporation and that after same had been deposited in the State Treasury, a warrant should then be drawn payable to said examiner for all of the expenses he incurred on said trip.

We think said opinion applies to examination of casualty insurance companies and any and all investigations made thereunder the same as it does for the examination of insurance companies.

You are therefore advised that the Board of Insurance Commissioners may appoint someone to make these out of State trips and collect from the companies examined the actual expenses and that the Comptroller will be authorized, upon proper application, to pay the examiner his actual expenses which he collected and which had been deposited with the State Treasurer as a result of such trip.

Our reasons are stated in our Opinion No. 0-4289, a copy of which is enclosed herewith.

Hon. J. P. Gibbs, page 3, 0-7067

Yours very truly,

ATTORNEY GENERAL OF TEXAS

s/ Geo. W. Barcus

By

Geo. W. Barcus,
Assistant.

GWB:rt
Enc. 1

APPROVED FEB 6, 1946
s/ Carlos C. Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED OPINION COMMITTEE
By WJF, Chairman