

Opinion No. 49-5269

December 27, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: R. F. Apodaca Superintendent of Insurance State Corporation Commission Santa Fe, New Mexico

{*114} I have your letter of December 21, 1949, in which you request an official opinion as to whether the local union of Brotherhood of Painters, Decorators and Paperhangers of America must comply with our insurance laws. You set forth the by-laws and working rules of Local No. 823, Brotherhood of Painters, Decorators and Paperhangers of America of Albuquerque, New Mexico, effective {*115} July 18, 1949, and which provides in part as follows:

"Section 13. Each member of Local Union 823 shall be assessed \$ 2.00 for a special Death Fund, the said \$ 2.00 death assessment will be placed in a special fund to be paid the beneficiary on the death of a member of this Local in good standing or in the event of the death of the wife of a member in good standing the Death Fund will be paid to the member. All members to be reassessed after the death of any member and or member's wife. Any member coming into this Local Union, either by initiation or Clearance Card, shall pay a death assessment of \$ 2.00 and same shall be paid before dues are accepted."

Section 60-901 -- 60-942, N.M.S.A., 1941 Compilation, as amended, covers the subject of Fraternal Benefit Societies and Domestic Benevolent Societies, et al. Section 60-904 states:

"Except as herein provided such societies shall be governed by this act (secs. 60-901 -- 60-931, 60-933), and shall be exempt from all provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter enacted shall apply to them, unless they be expressly designated therein."

Section 60-930 provides as follows:

"Nothing contained in this act (secs. 60-901 -- 60-931, 60-933) shall be construed to affect or apply to grant (grand) or subordinate lodges of Masons, Odd Fellows, or Knights of Pythias (exclusively of the insurance department of the Supreme Lodge of Nights (Knights) of Phythias), and the Junior Order of United American Mechanics (exclusive of the Beneficiary Degree of Insurance Branch of the National Council Junior Order United American Mechanics,) or societies which admit to membership only those engaged in one (1) or more hazardous occupations, nor to similar societies which do not issue insurance certificates, nor to an association of local lodges of a society now doing business in this state which provides death benefits not exceeding five hundred

dollars (\$ 500) to any one (1) person, or disability benefits not exceeding three hundred dollars (\$ 300) in any one (1) year to any one (1) person, or both, nor to any contracts of reinsurance business on such plan in this state nor to domestic societies which limit their membership to the employees of a particular city or town, designated firm, business house or corporation, nor to domestic lodges, orders or association of a purely religious, charitable and benevolent description, which do not provide for a death benefit of more than one hundred dollars (\$ 100) or for disability benefits of more than one hundred and fifty dollars (\$ 150) to any one (1) person in any one (1) year. The superintendent of a insurance may require from any society such information as will enable him to determine whether such society is exempt from the provisions of this act (secs. 60-901 -- 60-931, 60-933).

"Any fraternal benefit society, heretofore organized and incorporated and operating within the definition set forth in section 1, 2, 3, (secs. 60-901 -- 60-903) of this act, providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the {*116} provisions of this act (secs. 60-901 -- 60-931, 60-933), and shall have all the privileges and shall be subject to all the provisions and regulations of this act (secs. 69-901 -- 60-931, 60-933), except that the provisions of this act requiring medical examinations, valuations of benefit certificates, and that the certificates shall specify the amount of the benefits, shall not apply to such society."

Section 60-939, sub-section(n), Pocket Supplement, provides as follows:

"The provisions of this act (sec. 60-939 -- 60-942) shall not apply to any mutual benefit association whose membership is restricted to the employees of one particular company or corporation, its subsidiaries and affiliates, or to one particular industry or occupations; or associations engaged primarily in furnishing hospital or medical services, rather than cash benefits to their subscribers."

In view of the above quoted statutory provisions, it is my opinion that the Local No. 823 of the Brotherhood of Painters, Decorators and Paperhangers of America are clearly within the exemptions set forth, supra, and said local union does not have to comply with the insurance laws of this state.