

Opinion No. 15-1589

July 20, 1915

BY: FRANK W. CLANCY, Attorney General

TO: State Corporation Commission, Santa Fe, New Mexico.

Any person soliciting insurance in this state must have a license issued by State Corporation Commission.

OPINION

{*162} We have your letter of the 19th inst. enclosing one from Mr. Frank G. White of Denver, both in regard to the necessity for those who occasionally solicit insurance for regularly appointed and qualified agents of insurance companies, to have furnished to them copies of the certificate of authority to do business provided for by Section 16 of Chapter 5 of the Laws of 1905, compiled as Sec. 2814 of the codification of 1915.

The questions involve the right of a clerk in an office of an insurance agent, who is supplied with copies of the certificates of authority to do business, issued to the companies he represents, to occasionally solicit business for his employer, and also the right of a person in no way connected with the same agency to bring a policy to the agency to be written, the person bringing the policy doing so only as an act of friendship to the members of the agency and he not being supplied with a copy of the certificate of authority of the Insurance Company which writes the policy.

The above named section provides that no company shall transact in this state any insurance business unless it shall procure from the Superintendent of Insurance a certificate stating that the requirements of this state have been complied with and authorizing it to do business. The section then goes on to state that "every such company shall be required to procure annually for the use of its agents and solicitors, copies of such certificate of authority, and any person soliciting business for any company authorized to transact business in this state without first procuring a certificate from the Superintendent of Insurance, shall be guilty of a misdemeanor * * * *" (It will be noted that the word "for" in the act as printed in the Laws of 1905 where it appears in the sentence "And any person soliciting business for any company," is printed in the codification as "or," but as this is an obvious typographical error and the sentence would be meaningless with the word "or," we shall attempt to construe the section as it appears in Sec. 16 of Chapter 5 of the Laws of 1905.)

The language of the act would seem to indicate that ANY person soliciting business for ANY company must be supplied with a copy of the certificate of authority to do business in this state, for the act uses the words "any person soliciting business for any company authorized to transact business in this state," and the words "any person soliciting

business" are so broad that they must necessarily refer to an individual who may solicit insurance business, where it be only one act of solicitation or many.

It might also be of some assistance in the construction of this section to consider the purposes for which this part of the act was intended and the reasons why agents are required to be furnished {*163} with copies of the certificate of authority issued by the Corporation Commission to the insurance companies which they represent. The copies of these certificates furnished by the Corporation Commission contain the names of the agents for whom they are issued, and it would seem that the law provides for the furnishing of copies of these certificates to the various agents of the insurance companies in order that the agents should have with them evidence of the authority under which they are acting in order that the public from whom insurance is being solicited may be protected against false and spurious representatives of companies who solicit insurance, collect the first premium and then disappear. Another object of the act may be for the information of the Corporation Commission in that the Commission will have on file a list of names of every person soliciting insurance in this state and upon inquiry directed to the office of the Commission, applicants could ascertain as to whether or not the person soliciting is a duly and qualified agent of a company authorized to do business in this state.

For the above reasons we are constrained to hold that any person soliciting insurance in this state is required to be furnished with a certificate of the authority of each of the companies for which he is soliciting. The above answer takes care of both of the questions contained in Mr. White's letter.

We are returning Mr. White's letter herewith.