

Opinion No. 16-1731

February 8, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Ernest D. Reynolds, Raton, New Mexico.

Cities have no power to impose licenses upon insurance agents.

OPINION

{*302} I have just received your letter of the 7th instant in which you say that the city clerk of Raton has made a demand upon you as Agency Manager for the Capitol Life Insurance Company, that you pay a license of \$ 11.00, and you ask my opinion as to whether you must pay this license.

I would naturally infer that the city clerk must be asking you to pay a city license, and if that is so, I must say that I do not find authority given to cities to impose a license upon insurance agents. There may possibly be something in the statute about municipal corporations which I have overlooked, and perhaps the city clerk or the city attorney can call our attention to something that authorizes {*303} such a license by a city. As far as I have seen the statutory authority to municipal corporations to impose licenses is to be found in the 13th, 14th, 15th, 16th, 18th and 61st, sub-divisions of Section 3564 of the new codification of the laws, and none of these appear to relate to anything like insurance agents.

It may be, however, that the city clerk was acting for the county collector and seeking to collect from you the license imposed by Section 3301 which requires all insurance agents, or those engaged in the business as agents in soliciting or issuing life or fire insurance, to pay the sum of \$ 10.00 per annum. This is a tax upon the individual engaged in business as an insurance agent and is entirely aside from any requirements of law with which his company or companies must comply. By reference to Section 3306 you will see that the agent who does not pay the license, is required to pay double the amount of the tax for the time during which he has done business without a license.

You can find a copy of the codification in the office of any member of the bar or in the office of the justice of the peace or of the county clerk.