

## Opinion No. 21-2975

May 13, 1921

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** Mr. L. C. Mersfelder, President, Life Underwriters Association of New Mexico, Albuquerque, New Mexico.

### **Legality of Ordinances Requiring License Taxes from Soliciting Insurance Agents.**

#### **OPINION**

{\*58} In reply to your letter of the 10th instant asking for my opinion regarding the right of towns or villages to collect from soliciting life insurance agents a license fee, I would advise you as follows:

There is no doubt but what the State would have authority to authorize the collection of license fees or occupation taxes from persons who solicit life insurance, and the only question which is to be considered is whether such municipalities have been so authorized by any law of the State.

Section 2810, Code 1915 as amended by Chapter 124, Laws 1919, provides that all insurance companies shall pay two per centum on the gross amount of premiums received, as a tax, and shall be subject to no other taxation except upon real estate.

This section was part of Chapter 48 of the Laws of 1909, and would modify any former legislation which might have permitted the imposition of license taxes or occupation taxes or any other kind of a tax upon insurance companies or their agents.

Chapter 148, Laws of 1919, authorizes city councils of cities and boards of trustees of towns and villages to levy and collect occupation taxes upon garages, machine shops and all other business occupations or professions for which an occupation tax has not been otherwise provided by law.

This being a later legislative pronouncement than the Act of 1909, would amend the former in connection with the levy of an occupation tax or license upon insurance agents, if such a tax or license is authorized in the latter act.

The authority granted in Chapter 148, Laws 1919, is very broad, since it uses the words "and all other business occupations or professions."

I am of the opinion that a license tax or occupation tax could be levied upon insurance agents under the provisions of this act.

Much of course would depend upon the ordinance which imposes the tax, and until I have made an examination of it I would not be in a position to advise you as to the legality of the tax in so far as the form of the ordinance is concerned.