

Opinion No. 43-4217

January 27, 1943

BY: EDWARD P. CHASE, Attorney General

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

We have your letter of January 18, 1943, wherein you state "Under the present insurance laws, this Department is authorized to license a Corporation appointed by an Insurance Company licensed to transact business in this state, to act as their representative in any given locality, for the purpose of soliciting and writing insurance or bonds, and such other duties in connection therewith as may be authorized." You then request an opinion of this office concerning whether, in view of the provisions of Section 2, Chapter 35, New Mexico Laws of 1934, each officer or employee of said corporation actively engaged in the solicitation of business must be individually licensed, either as an agent or as a solicitor. You limit your request to an opinion concerning the provisions of 60-702 of the 1941 Compilation (Section 2, Chapter 35, New Mexico Laws of 1934). It was the object of Section 60-702 to provide a penalty for violating the requirements of the insurance act. It was not the purpose of this section to provide any further requirements for licensing than were already required. I quote from such section:

"Any person writing, or attempting to write, solicit or procure insurance within the State of New Mexico **without a license properly issued in accordance with the requirements of this act** * * *"

The act then proceeds to set out a penalty for not complying with the provisions of such act in connection with certain phases of the insurance business.

This section, in my opinion, cannot, of itself, be justification for requiring any person to obtain a license who is not otherwise required to obtain a license by the provisions of this act.

Hoping that the above sufficiently answers your question, I am,

By HARRY L. BIGBEE,

Asst. Atty. General