

Opinion No. 43-4227

February 9, 1943

BY: EDWARD P. CHASE, Attorney General

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

We have your letter of January 29, 1943, wherein you submitted a question to this office concerning whether or not a corporation can be licensed as an insurance agent in this state, and if so, whether a license may be required for (a) the officers of such corporation and/or (b) the employee of a licensed corporation who attempt to sell and/or solicit insurance for such corporation.

Section 60-420 of the New Mexico 1941 Compilation defines an agent, among other things, as being a corporation. No other section of our laws either allows or denies the right of a corporation to be licensed as an insurance agent.

In view of Section 60-420, the Legislature must have contemplated a corporation becoming an agent, or else they would not have defined an insurance agent as also being a corporation.

It is, therefore, my opinion that if a corporation is empowered under its charter and under the laws under which it was organized to become an insurance agent, and can meet the requirements of our statute pertaining to insurance agents, that it may be licensed as such.

The further question concerning the named officers of such a corporation who might attempt to sell or solicit insurance on behalf of that corporation is therefore presented. Since a corporation can only act through its officers and authorized agents, and since, therefore, the acts of the officers are, in fact, the acts of the corporation, it is my further opinion that a license can not be required of the officers of a licensed insurance corporation.

It is further my opinion that employees of a corporation licensed as an insurance agent who attempt to solicit insurance would be solicitors, and would have to obtain a license from the Corporation Commission before they could solicit insurance on behalf of their corporation employers. See Section 60-421 of the New Mexico 1941 Compilation which defines a solicitor as being a person employed to solicit insurance for an agent licensed to sell insurance.

Section 60-401 of the New Mexico 1941 Compilation provides that a solicitor shall pay \$ 2.00 for an annual license.

Hoping that the above answers your questions, I am

By HARRY L. BIGBEE,

Asst. Atty. General