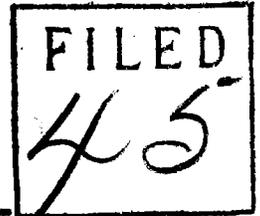


**INTER-INDEMNITY & RECIPROCAL INSURANCE CONTRACT:** In an application for license for reciprocal or inter-indemnity insurance contracts, the attorney in fact in qualifying for the license under paragraph (f) of Sec. 6080, R.S. Mo. 1939, need not state in the application that "100 separate risks" have been taken for automobile insurance. Automobile insurance under said paragraph (f) is exempted from the "100 separate risks" clause. Under said clause (f) the word "or" permits either 100 applications to be made on 1000 motor vehicles, or 1 application to be made covering 1000 motor vehicles. Bodily injury and property damage may be included in the aggregate sum of \$1,500,000.00 liability. The \$1,500,000.00 of insurance contracted under said paragraph (f) may be covered in three applications of \$500,000.00 each.

May 29, 1946

Honorable Owen C. Jackson  
Superintendent of Insurance  
Jefferson City, Missouri

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Dear Mr. Jackson:

This will acknowledge your letter requesting an opinion on the effect of the provisions of paragraph (f) of Section 6080, R.S. Mo. 1939. Your letter is as follows:

"I would appreciate receipt of your opinion interpreting subdivision (f) of Section 6080, R.S. Mo., 1939, which reads as follows:

"That except as to the kinds of insurance hereinafter specifically mentioned in this subdivision, applications have been made for indemnity upon at least one hundred separate risks aggregating not less than one and one-half million (\$1,500,000.00) dollars represented by executed contracts or bona fide applications to become concurrently effective. In the case of employer's liability or workmen's compensation insurance, applications shall have been made for indemnity upon at least one hundred separate risks covering a total pay roll of not less than two and one-half million (\$2,500,000.00) dollars as represented by executed contracts or bona fide applications to become concurrently effective. In the case automobile insurance applications shall have been made for indemnity upon at least one thousand motor vehicles or for insurance aggregating not less than one and one-half

million (\$1,500,000.00) dollars represented by executed contracts or bona fide applications to become concurrently effective on any or all classes of automobile insurance effected by said subscribers through said attorney.'

"The last sentence specifically mentions automobile insurance. Is it necessary that applications be made upon at least one hundred separate risks, or may one application be made covering one thousand motor vehicles, or should there be one thousand separate applications, each upon a motor vehicle?"

"Does the provision 'or for insurance aggregating not less than one and one-half million (\$1,500,000.00) dollars' constitute an alternative which may be used in lieu of applications upon at least one thousand motor vehicles, and can bodily injury and property damage be included in the aggregate sum mentioned above? Could applicants qualify in this event with three risks of \$500,000.00 limits, each accident?"

Your letter submits four distinct questions to be determined. The first question is:

"Is it necessary that applications be made upon at least one hundred separate risks, or may one application be made covering one thousand motor vehicles, or should there be one thousand separate applications, each upon a motor vehicle?"

The second question is:

"Does the provision 'or for insurance aggregating not less than one and one-half million (\$1,500,000.00) dollars' constitute an alternative which may be used in lieu of applications upon at least one thousand motor vehicles,"

The third question is:

"Can bodily injury and property damage be included in the aggregate sum mentioned above?"

The fourth question is:

"Could applicants qualify in this event with three risks of \$500,000.00 limits, each accident?"

Section 6080, is a part of Article 11, Chapter 37, R.S. Mo. 1939, dealing with Inter-Indemnity Contracts-- Reciprocal or Inter-Insurance Contracts, ordinarily called "reciprocal" insurance.

Section 6078, R.S. Mo. 1939, names the conditions and designates the procedure to be followed in carrying on such business.

Section 6079, R.S. Mo. 1939, requires that such contracts of reciprocal insurance shall be executed by an attorney in fact acting for the contractors who are called "subscribers". Then we come to said Section 6080, which is the subject of your inquiry. We think it well to quote the first paragraph of said Section 6080, which is as follows:

"Such subscribers so contracting among themselves shall, through their attorney, file with the superintendent of insurance of this state, a declaration verified by the oath of such attorney setting forth:"

The above quoted excerpt from said Section 6080, is the preamble to what is set forth in said paragraph (f) constituting along with other facts stated in other paragraphs in said Section as the case may require, the declaration of the company. Said paragraph (f) of said Section 6080 is as follows:

"(f) That except as to the kinds of insurance hereinafter specifically mentioned in this subdivision, applications have been made for indemnity upon at least one hundred separate risks aggregating not less than one

and one-half million (\$1,500,000.00) dollars represented by executed contracts or bona fide applications to become concurrently effective. In the case of employer's liability or workmen's compensation insurance, applications shall have been made for indemnity upon at least one hundred separate risks covering a total pay roll of not less than two and one-half million (\$2,500,000.00) dollars as represented by executed contracts or bona fide applications to become concurrently effective. In the case of automobile insurance applications shall have been made for indemnity upon at least one thousand motor vehicles or for insurance aggregating not less than one and one-half million (\$1,500,000.00) dollars represented by executed contracts or bona fide applications to become concurrently effective on any or all classes of automobile insurance effected by said subscribers through said attorney."

The kinds of insurance specifically mentioned in said paragraph (f) are: a) "Employer's liability or workmen's compensation insurance", and, b) "Automobile insurance".

We will observe that said paragraph (f) begins with this significant language: "That except as to the kinds of insurance hereinafter specifically mentioned in this subdivision, applications have been made for indemnity upon at least one hundred separate risks aggregating not less than one and one-half million (\$1,500,000.00) dollars represented by executed contracts or bona fide applications to become concurrently effective. \* \* \*".

It becomes apparent then that the meaning of the quoted part of said paragraph (f) makes exceptions out of "employer's liability or workmen's compensation insurance" and "automobile insurance". In other words, they being the only two kinds of insurance specifically mentioned in said paragraph (f), the requirement as to there being at least one hundred separate risks aggregating not less than one and one-half

million (\$1,500,000.00) dollars represented by executed contracts or bona fide applications to become concurrently effective, has nothing to do with employer's liability or workmen's compensation insurance, or with automobile insurance.

Now, we think we may proceed to answer the specific questions contained in your letter, and as numerically set forth hereinabove.

Considering the first one of said questions, it is not necessary, in applications for automobile insurance, to have "one hundred separate risks", because, automobile insurance is one of the kinds of insurance excepted by the terms of said Section 6080 from such requirements, and that being not restricted to the one hundred application feature of said paragraph (f) of said Section 6080, one thousand separate applications, each upon a motor vehicle need not be made, but one application may be made for liability covering one thousand motor vehicles.

Proceeding to the second question contained in your letter, we believe the word "or" is a coordinating particle designating an alternative choice to be used in place of making applications upon at least one thousand motor vehicles. The word "or" is defined in Webster's International Dictionary as: "the correlative of either". We believe it was intended by the Legislature to be so used and has that meaning and effect in this statute. We believe that part of said Section is in the alternative so that one thousand applications could be made either on one thousand motor vehicles, or one application may be made covering one thousand motor vehicles for insurance aggregating not less than \$1,500,000.00.

Answering the third one of said questions, we believe bodily injury and property damage may be included in the aggregate sum of \$1,500,000.00 if this kind of insurance is included within the kinds of insurance to be exchanged. This is clearly indicated in the last part of said paragraph (f) where it says: "not less than one and one-half million (\$1,500,000.00) dollars represented by executed contracts or bona fide applications to become concurrently effective on any or all classes of automobile insurance effected by said subscribers through said attorney." (Under-scoring ours.) This, we think, is broad enough language to include both property damage, bodily injury or any other

kind or character of automobile insurance. The statute says all classes of automobile insurance affected by said subscribers through said attorney. (underscoring ours.) We believe it was the intention of the Legislature to include any class of automobile insurance in the sum named by the statute.

Proceeding now to the fourth and last one of said questions submitted in your letter, we believe applicants could qualify for the \$1,500,000.00 insurance by making applications for and procuring three risks of \$500,000.00 each to make the aggregate of \$1,500,000.00. The statute very clearly indicates it to have been the intention of the Legislature to permit multiple applications to qualify for the \$1,500,000.00 insurance. This is indicated by the use of the plural word "applications", and by the use of the word "aggregating". Aggregating is defined as the present participle of the verb "aggregate" in Webster's International Dictionary, page 49, as follows: "to bring together; to collect or create into a mass or form". We think there is no doubt that this statute gives authority to qualify for such insurance with three risks of \$500,000.00 each.

#### CONCLUSION

It is, therefore, the opinion of this Department that:

1) That said paragraph (f) of said Section 6080, R.S. Mo. 1939, does not require the attorney in fact in reciprocal or inter-indemnity insurance in applying for a license, to declare that "100 separate risks" in automobile insurance have been taken, because automobile insurance is exempted from the "100 separate risks" clause in said paragraph.

It is further the opinion of this Department:

2) That the use of the word "or" in said paragraph (f) is used as an alternative, permitting either 1000 separate applications to be shown on 1000 motor vehicles, or 1 application may be shown covering 1000 motor vehicles to qualify for such license.

It is further the opinion of this Department that:

3) Bodily injury and property damage may be included in the aggregate sum of \$1,500,000.00 of risks named

Honorable Owen G. Jackson -7-

in said paragraph (f), which in its terms includes all classes of automobile insurance, if these kinds of insurance are within the kinds of insurance to be effected by the reciprocal group submitting such risks.

It is further the opinion of this Department that:

4) Applications of \$500,000.00 each may be shown upon 1000 motor vehicles aggregating not less than one and one-half million dollars.

Respectfully submitted,

GEORGE W. CROWLEY  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General

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