

City of fourth class
has no power under
Section 7046, Revised
Statutes of Mo. 1929, to
require a license tax on
agents selling fraternal
insurance.

11-16

November 10th, 1934.



Mr. Leo A. Politte,
Prosecuting Attorney of Franklin County,
Union, Missouri.

Dear Sir:-

We have your letter of September 21, 1934, in which
is contained a request for an opinion as follows:

"Will you kindly give me an opinion on the question
as to whether or not a city of the fourth class, under
Section 7406, Revised Statutes of Missouri, 1929, has the
power to require a license of insurance agents selling on a
commission basis, fraternal insurance for companies which
are exempt from taxation, under Article 13, Chapter 37,
Revised Statutes of Missouri, 1929, and, also, Section 6022,
Revised Statutes of Missouri, 1929."

Chapter 37, Article 13, Section 6022, Revised Statutes
of Missouri, 1929, provides as follows:

"Sec. 6022. Taxation.-- Every fraternal benefit
society organized or licensed under this article is hereby
declared to be a charitable and benevolent institution,
and all of its funds shall be exempt from all and every
state, county, district, municipal and school tax, other
than taxes on real estate and office equipment."

Chapter 37, Article 13, Section 5993, Revised Statutes
of Missouri, 1929, provides as follows:

"Sec. 5993. Exemptions.- Except as herein provided,
such societies shall be governed by this article and shall be
exempt from all provisions of the insurance laws of this state,
not only in governmental relations with the state, but for
every other purpose, and no law hereafter enacted shall apply
to them, unless they be expressly designated therein."

From the above two sections the clear intent of the
legislature is to set apart fraternal benefit societies as insti-
tutions whose operations are not to be taxed in any way. They

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operate on a general insurance plan, not, however, being regarded by the legislature in the light of insurance companies, but rather as institutions of a separate class governed by special laws. This being true, we cannot regard an agent selling fraternal certificates as an "insurance agent" in the true sense of the term. Therefore, although section 7046, Revised Statutes of Missouri, 1929, gives power to cities of the fourth class to require a license and tax of insurance agents, we do not believe that this includes the power to license and tax agents of fraternal organizations.

For the above reason then, and for the further reason that the legislature has seen fit to set these institutions apart and to exempt all their funds, and apparently all their operations, from taxation, we are of the opinion that cities of the fourth class have not the power concerning which you ask in your letter. The agent is part of the association organization and should be included in the exemption.

Very truly yours,

CHARLES M. HOWELL, Jr.,
Assistant Attorney-General.

APPROVED:

Attorney-General

CMH jr:MB