

INSURANCE: An insurance company incorporated under Art. IV, Chapter 37, R.S. Mo. 1929 may increase its capital stock as provided in Sec. 5915, R.S. Mo. 1929.

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May 13, 1936.

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Honorable Elliott M. Dampf,
Prosecuting Attorney,
Cole County,
Jefferson City, Missouri.

Dear Sir:

This department is in receipt of your letter of March 20, 1936 wherein you request an opinion as to the following state of facts:

"In order to determine the tax liability of an insurance company organized on the stipulated premium plan, I desire, and will appreciate, your opinion on the following question:

"May an insurance company which was organized as a stipulated premium company with a capital of twenty-five thousand dollars, under Article IV of Chapter 37 of the Insurance Laws of Missouri, lawfully increase its capital stock, even though there is no express provision in that particular Article authorizing such increase?"

It is true that Article IV, Chapter 37, Revised Statutes Missouri, 1929, relating to insurance on the stipulated premium plan, does not make provision for the increase or reduction of the capital stock of said companies, the article being wholly silent as to this matter. However, Section 5915, R.S. Mo. 1929, which is within Article X of Chapter 37, relating to general provisions governing all insurance companies, provides:

"Any insurance company incorporated under the laws of this state may increase or reduce its capital stock for the purposes, in the manner and to the extent prescribed by law: Provided, the board of directors of any company desiring so to increase or reduce its stock shall file with the superintendent of the insurance department a certified copy of the proceedings, both of the stock-holders' and directors' meetings, at which it was determined to increase or reduce such stock, and upon being satisfied that the law has been fully complied with, that the proceedings were regular, that the condition and assets of the company justify the increase or reduction, and that the same will not be prejudicial to the interests of the policyholders, the superintendent shall issue a certificate authorizing said increase or reduction, and showing that the stock of said company has been increased or reduced, the amount to which it is increased or reduced, the par value of the shares; and such certificate shall be filed and recorded as in this chapter is provided for filing and recording the certificates of incorporation; and thereafter such company shall, with such increased or reduced capital, be subject to the same liabilities that it possessed or was subject to at the time of the increase or reduction of its capital; and the charter or certificate of incorporation of such company shall be deemed to be amended in respect to the amount of capital and the par value and number of shares, so as to conform to such increase or reduction."

While Article IV, Chapter 37, does not make provision for the increase in the capital stock of these companies, neither does it forbid it, and in view of Section 5915, which is applicable to any insurance company incorporated under the laws of this

state, it is the opinion of this department that an insurance company incorporated under Article IV, Chapter 37, R.S. Mo. 1929 may increase its capital stock as provided in this section.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,
Assistant Attorney General

APPROVED:

ROY MCKITTRICK,
Attorney General.

JWH:AH