

FARMERS' MUTUAL INSURANCE  
COMPANIES:  
INSURANCE:

The intent of the legislature expressed in Section 380.490, RSMo 1959, is to limit the sale of fire and lightning insurance by Farmers' Mutual Companies to ". . . . counties in which they are organized, and in adjoining counties and in counties of which a county line of said county is not more than one mile distant from the county line in which said mutual insurance company is organized." A Farmers Mutual selling fire and lightning insurance in any other county violates such law.

OPINION NO. 39  
No. 210 (1967)

April 18, 1968



Mr. Robert D. Scharz, Superintendent  
Division of Insurance  
Jefferson Building  
Jefferson City, Missouri

Dear Mr. Scharz:

Reference is made to your letter and subsequent telephone conversations requesting the formal opinion of this office on a question as follows:

The Bankers Security Mutual Insurance Company of Kansas City, Missouri, was incorporated on February 19, 1953, under the provisions of the Farmers' Mutual Insurance Law, Sections 380.480 to 380.570, RSMo 1949. The question which has arisen is in what counties may a company organized under those provisions write fire and lightning insurance. More specifically, can they write fire and lightning insurance in any and all counties of the state or are they limited to their home counties adjoining counties and counties of which a county line of said county is not more than one mile distant from the county line in which the farmers' mutual is organized?

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The Farmers' Mutual Insurance Law was thoroughly revised in 1953. As amended, the law provides that no new Farmers' Mutual insurance companies can be formed under the "old law" provisions of Sections 380.481 to 380.570. Section 380.479, RSMo 1959. Farmers' Mutuals formed after the 1953 revision are governed by Sections 380.580 to 380.840, RSMo 1959. In addition, Farmers' Mutuals incorporated under the old law may elect to be governed by the new provisions added in 1953. Section 380.600, RSMo 1959. If they do so, they subject themselves to the regulation of the Division of Insurance. However, if they do not elect to be governed by the new law, they remain subject to and governed by the provisions of the old law, Sections 380.479 to 380.570, RSMo 1959. It is our understanding that Banker's Security Mutual has not elected to be governed by the new law.

The company with which we are presently concerned was formed under the provisions of Sections 380.480 to 380.570, RSMo 1949. That law is substantially re-enacted by Sections 380.479 to 380.570, RSMo 1959. In fact, the provision with which we are most concerned, Section 380.490, was not changed by the 1953 revision and is identical with the version existing in 1949.

Section 380.490 pertains to "all farmers' mutual fire and lightning companies". Subsection 5 of this section states that:

"5. Such companies shall do business only in counties in which they are organized, and in adjoining counties and in counties of which a county line of said county is not more than one mile distant from the county line of the county in which said mutual insurance company is organized."  
(underlining added).

Section 380.500 relates to tornado, windstorm and cyclone insurance companies and subsection 2 thereof states that:

"2. Such companies shall do business only in the congressional districts in which they are organized until they shall have four hundred thousand dollars worth of property or more insured, then any such company may do business in any or all counties of this state."

Hail insurance companies, covered by the provisions of Section 380.510, are authorized to do business in "any or all counties of this state".

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From the foregoing, it seems clear that the legislature intended to separate Farmers' Mutual insurance companies according to the types of insurance that they wrote. Companies writing fire and lightning insurance are limited to a more restricted area than those writing hail insurance or tornado, windstorm and cyclone insurance.

The company with which we are dealing, Banker's Security Mutual, was clearly incorporated for the purpose of selling fire and lightning insurance. Article V of the Articles of Incorporation states in part that:

" . . . this corporation in anticipating losses and expenses for two years next following the date of assessment may anticipate such losses and expenses in any amount not to exceed two percent of the amount of insurance in force on the date of any assessment . . . provided that the expenses of operating this corporation exclusive of losses, in any one year shall not exceed twenty-five cents per \$100 of insurance in force; provided further that this company shall have all powers, rights, duties, privileges, and immunities of Section 6177 of the Laws of Missouri, 1947."

Section 6177 mentioned above dealt with fire and lightning companies. The two per cent figure for the anticipated losses is also drawn from the section relating to fire and lightning companies, as is the operating expense figure of twenty-five cents per \$100 of insurance in force. Therefore, although the articles of incorporation of Banker's Security do not use the terms fire and lightning insurance, it is clear that the purpose of the charter is to authorize the sale of fire and lightning insurance.

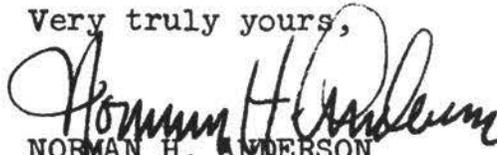
#### CONCLUSION

It is the opinion of this office that the intent of the legislature expressed in Section 380.490, RSMo 1959, is to limit the sale of fire and lightning insurance by Farmers' Mutual Companies to ". . . counties in which they are organized, and in adjoining counties and in counties of which a county line of said county is not more than one mile distant from the county line in which said mutual insurance company is organized". A Farmers mutual selling fire and lightning insurance in any other county violates such law.

Mr. Robert D. Scharz

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Gary G. Sprick.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General