

OPINION NO. 165
Answered by Letter--Sprick

March 14, 1968



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

Dear Mr. Scharz:

This is in response to your letter of January 12, 1968, providing this office with copies of the Articles of Agreement and Accident and Sickness Plan of the American Senior Citizens Benevolent Association and asking for an opinion as to whether that association is engaging in the business of insurance in the State of Missouri.

The purpose of the association is to form a group of members who agree to contribute to one another in the event of an accident or sickness. Voluntary donations are to be taken from all the members to help cover medical and hospital expenses of a member that becomes injured or sick. Donations are asked for the actual cost of each sickness or accident up to One Thousand Dollars.

The question which is raised by these facts has previously been considered at length by this office. Opinion No. 50, 8/22/67, Scharz; Opinion No. 164, 3/12/68, Scharz. Those opinions concluded that a benevolent association is engaged in the business of insurance where it institutes death benefit plans which are designed to indemnify the beneficiaries of deceased members, and, where it sets up disability, sickness and accident plans to help defray medical and hospital expenses of a member. Both of those opinions were written in regard to benevolent associations who stated that they were not insurance companies and purported to operate entirely on voluntary contributions. However, as those opinions pointed out, the essential elements of an insurance contract were present when the plans were closely examined. It was evident that the effect of the plans was to present insurance coverage for their members. The American Senior Citizens Benevolent Association's Accident and Sickness Plan is also purportedly based on voluntary donations and expressly disclaims being an insurance company.

Honorable Robert D. Scharz

We believe that the legal reasoning used in the opinions which we have cited is controlling in answer to the instant request. Therefore, it is the opinion of this office that the American Senior Citizens Benevolent Association is engaged in the business of insurance in the State of Missouri under its plan to provide accident and sickness protection to its members through voluntary contributions.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

GGS/jlf

Enc.--Op. No. 50; 8/22/67; Scharz
Op. No. 164; 3/12/68; Scharz