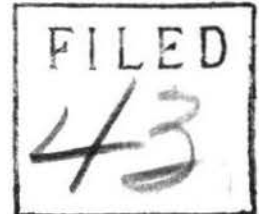


BURIAL SOCIETIES: The right of burial societies to solicit and receive members over the age of sixty-five years.

March 15, 1940

3-16



Honorable Frank Huffhines
Prosecuting Attorney
Stone County
Galena, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you submit a request for an opinion as follows:

"I have had two complaints from funeral homes on the solicitation for membership by Burial Associations on persons over 65 years of age. The Christian County Association is three years old and they sold a policy to one B. F. Bowling, age 72, who died just recently. His policy was transferred from an old .10¢ burial policy about 1½ years ago. Is this in violation of any statute?"

By your second letter pertaining to this request, I note you state that the Christian County Burial Association was organized under the provisions of Article X, Chapter 32, Revised Statutes of Missouri 1929. You also state in your second letter that the original policy to Mr. Bowling was not issued by the Christian County Burial Association and that that association had no connection with the one which issued the policy. It appears from your original request that the policy which Mr. Bowling had at the time of his death had been transferred by another association to the Christian County Burial Association.

It is a well settled rule of law that burial associations are creatures of the statute and they must look to the statutes for their powers and duties. This is such a general rule that we do not deem it

necessary to cite authorities.

Referring to Article X of Chapter 32, Revised Statutes of Missouri 1929, we fail to find where the Christian County Burial Association was authorized to receive the old burial policy of Mr. Bowling under which insurance is claimed against the Christian County Burial Association.

Section 5014, R. S. Missouri 1929, which applies to such associations, provides as follows:

"Associations may be incorporated under the provisions of article 10, chapter 32, R. S. 1929, for the purpose of furnishing funeral or burial benefits for their members: Provided, that no such benefits shall exceed the sum of three hundred dollars for the funeral or burial of any one member. Such association when formed shall be exempt from the provisions of the general insurance laws of this state, to wit: Chapter 37, R. S. 1929: Provided, that any such association now in existence may incorporate as provided in this law within ninety days after it shall take effect, and thereafter no such association shall be incorporated, as in this law authorized, until it shall have application for at least three thousand memberships, with at least one month's dues paid on each application: Provided, that no member shall be admitted into any such association who, at his or her last birthday was over age of 65 years, and that the premium or dues collected by every such association shall increase at the same as, or a greater rate than, premiums are increased from 10 years to 50 years: Provided, also, that if any such

corporation shall receive any member as of any date prior to first day of the month in which such member was actually received, or who shall receive any member at a rate for any other age than the actual age of such member shall be deemed guilty of a misdemeanor and upon conviction punished by a fine of not less than five hundred (\$500.00) dollars nor more than one thousand (\$1,000) dollars, and in addition thereto, it shall be the duty of circuit judge before whom such case is tried to enter judgment declaring a forfeiture of the charter of the defendant association."

It will be noted by this section that such associations are prohibited from admitting members whose last birthday was over the age of sixty-five. It will also be noted that this section provides a penalty for receiving members at a rate for any other age than the actual age. From the statement which you have submitted, it seems that the company admitted Mr. Bowling into its organization clearly in violation of said Section 5014, R. S. Missouri 1929, because you stated in your letter that Mr. Bowling's age is seventy-two years.

CONCLUSION.

From the foregoing it is the opinion of this department that a burial association, organized under Article X, Chapter 32 Revised Statutes of Missouri 1929, is not authorized to solicit for membership or receive a member into its organization who, at his or her last birthday, was over the age of sixty-five years.

Respectfully submitted

APPROVED:

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Assistant Attorney General

COVELL R. HEWITT
(Acting) Attorney General