

GERALD C. MANN

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June 15, 1939

Honorable Walter C. Woodward
Life Insurance Commissioner and
Chairman of the Board
Board of Insurance Commissioners
Austin, Texas

Dear Sir:

Opinion No. O-847
Re: Disposition of certain fees col-
lected under Article 3020, as
amended by the 46th Legislature,
S.B. No. 404.

We have for acknowledgment your letter of June 6th, 1939. It appears from your letter that Article 3920, as amended by the 46th Legislature, in Senate Bill No. 404, provides for the collection of certain fees by the Board of Insurance Commissioners, and until August 31, 1939, appropriates such fees "to the use and benefit of the Board of Insurance Commissioners to be used in the payment of salaries and other expenses arising out of and in connection with the examination of insurance companies and/or the licensing of insurance companies and investigations of violations of the Insurance Laws of this State."

You advise that the Board has several special funds out of which is paid the cost of examination of insurance companies, certain expenses in connection with licensing insurance companies, and the cost of investigating the violation of Insurance Laws, and you ask the opinion of this Department upon the question whether the fees collected under Article 3920 may be deposited by the Board in any of these special funds decided upon by it and disbursed from such special funds in carrying out the provisions of the Article.

You are advised that it is the opinion of this Department that the fees collected under Article 3920 should be deposited in a special fund to be maintained for the purposes specified in Senate Bill No. 404, and that moneys from this special fund may be transferred by the Board of Insurance Commissioners from time to time, as in its discretion appears necessary, to supplement the funds available in the other special funds maintained for the purposes of defraying the cost of examination of insurance companies, defraying the expenses in connection with licensing of insurance companies, and defraying expenses incident to the investigation of the violation of insurance laws.

So far as the use of these moneys to defray the expenses of examining insurance companies is concerned, it does not appear that it is the intention of the Legislature to amend Article 4690, as amended, so as to relieve the insurance companies examined, to the extent of the fees

available under Article 3920, from the payment of assessments for the expenses of examinations sufficient to meet all of the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to such examinations of insurance companies. It would therefore seem that the use of the fees under Article 3920 should be limited to expenses not properly chargeable to and collectible from insurance companies by assessment under the provisions of Article 4690.

This is not to say that the fees collected under Article 3920 may not be used for the purpose of defraying examination expense, but merely to require that the use of such fees collected under and by virtue of Article 3920 shall not relieve the insurance company from the duty of reimbursing the fund by the assessment required to be levied and collected by Article 4690.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ R.W. Fairchild

R. W. Fairchild
Assistant

RWF:PBP:egw

APPROVED:

/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED

Opinion Committee
By C O B
Chairman