



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable George B. Butler, Chairman
Board of Insurance Commissioners
Austin, Texas

Dear Sir:

Opinion No. 0-5761
Re: Is Article 4758, Revised
Civil Statutes of 1925,
repealed by House Bill No.
23, 49th Legislature? If
so, may deposits be re-
turned to respective owners?

Your request for our opinion on the above matters is
as follows:

"Please see House Bill 23 passed by the Forty-
ninth Legislature, effective ninety days after
adjournment, and refer particularly to Section 4,
in part as follows:

"This Act shall be cumulative of all other
laws but shall repeal Article 4758, Revised
Civil Statutes of 1925, as amended;"

"I assume that when the bill becomes effective
it repeals Article 4758 outright, and I will thank
you to confirm or correct me as to this.

"This Department now holds one bond and the
State Treasurer is holding deposits in the amount
of \$100,000 in securities for the account of ten
out of state insurance companies. The deposits
were required by this state under Article 4758 in
retaliation for corresponding requirements made of
Texas companies by the home state of the various
companies for the privilege of doing business there.
These deposits would not have been required or made
except for Article 4758.

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"If your answer to the above inquiry is in the affirmative, please advise me whether after the effective date of House Bill 23 the deposits above described may be returned to their respective owners."

We concur in your opinion that when House Bill No. 23 becomes effective, it will repeal Article 4758, Vernon's Annotated Civil Statutes, as amended.

Said Article 4758, as amended, reads as follows:

"Whenever, by any law in force without this State, an insurance corporation, fraternal beneficiary society or reciprocal exchange of this State or agent thereof is required to make any deposit of securities thereunder for the protection of policyholders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, valuation of policies, license fees, or otherwise, or any special burden is imposed greater than is required by the laws of this State for similar foreign corporations or their agents, the insurance companies, fraternal beneficiary societies and reciprocal exchanges of such States or governments shall be and they are hereby required as a condition precedent to their transacting business in this State, to make a like deposit for like purposes with the State Treasurer of this State, and to pay to the Commissioner of Insurance for taxes, fines, penalties, certificates of authority, valuation of policies, license fees and otherwise a rate equal to such charges and payments imposed by the laws of such other State upon similar corporations of this State and the agents thereof. Any corporation refusing for thirty (30) days to make payment of such fees or taxes as above required shall have its certificate of authority revoked by the Commissioner of Insurance; provided, that insurance corporations organized under the laws of any State or country, other than these United States shall, as to the provisions of this Act, be considered corporations of that State wherein their general deposit for the benefit of their policyholders is made."

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It is our further opinion that after said law becomes effective, the deposits described in your request may not be returned to the respective owners until the obligations assumed when they were made, as set forth in said Article 4758, are satisfied.

We trust that this satisfactorily answers your inquiry.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Jas. W. Bassett*
Jas. W. Bassett
Assistant

JWB:LJ

APPROVED *JUL 31, 1945*
Geo. B. Butler
(Acting) ATTORNEY GENERAL OF TEXAS

