



# THE ATTORNEY GENERAL OF TEXAS

GROVER SELLERS

AUSTIN 11, TEXAS

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ATTORNEY GENERAL

Honorable Leonard Carlton, Commissioner  
Bureau of Labor Statistics  
Austin, Texas

Dear Sir:

Opinion No. 0-6744

Re: Under the Texas Employment and Labor Agency Law (Art. 5221a-4, V.A.C.S.T.) can an employment agency operate in more than one county, i.e., have one central office and branch offices in other counties?

We have received your recent request for an opinion on the following question:

"Under the Texas Employment and Labor Agency Law can an employment agency operate in more than one county, i.e. have one central office and branch offices in other counties?"

Section 3 of Art. 5221a-4, V.A.C.S.T., provides as follows:

"Application and bond for an employment or labor agency shall be executed on blank forms prescribed and furnished by the Commissioner. Application for license to act as an employment or labor agency may be made in person or by mail to the Commissioner upon blank application form which shall be verified by the applicant. Where the application is made by a firm, partnership, or association of persons, it must be verified by each person for whose benefit the application is made, and such application shall also be accompanied by affidavits of at least five (5) creditable citizens who have resided in the county in which such applicant desires to conduct the business of an employment or labor agency for at least three (3) years, to the effect that the applicant or applicants are residents of the county in which such person desires to become an employment or labor agent, and that such person or persons are of good moral character. The Commissioner may acquire additional evidence of the moral character of appli-

cants and may make such additional investigation of said applicant as he deems necessary, and no license shall be granted to any person except those of good moral character.

"Such application shall be examined by the Commissioner and if he finds that the same complies with the law and that the applicant is entitled to a license then he shall issue a license to the applicant for each county for which application is made, and shall deliver such license to the applicant upon the payment of a license fee of One Hundred Fifty Dollars (\$150) for each county in which the employment or labor agent intends to operate. Not more than one office shall be operated for each license issued. Each person making application for an employment or labor agency license and before such license is issued, shall make and file with the Commissioner a good and sufficient bond executed by the applicant with good and sufficient surety in the penal sum of Five Thousand Dollars (\$5,000), payable to the State of Texas, for each county in which the agent intends to operate; said bond shall be conditioned that the obligor will not violate any of the duties, terms, conditions and requirements of this Act, and that the principal, his agents or representatives will not make any false representation or statement to any person soliciting any assistance from him for employees or employment, or solicited by him to accept employment.

"Said bond shall further recite that any person injured or aggrieved by any false or fraudulent statement of such agent, his sub-agents or representatives, or any violation of the provisions thereof by such agent, sub-agent or representative, shall be entitled to bring suit thereon. Each license issued by the Commissioner shall be good for a period of one year from the date of issuance." (Underscoring added).

Prior to the enactment in 1943 by the 48th Legislature of the provisions contained in Art. 5221a-4, V.A.C.S.T., substantially the same provisions as now appear in Section 3 of said Art. 5221a-4 then appeared in Art. 5210, V.A.C.S.T. In 1940 and prior to the repeal of said Art. 5210, V.A.C.S.T., this department issued an opinion (No. 0-2882) to the Honorable Joe Kunschik, Commissioner, Bureau of Labor Statistics at

that time, in which a question similar to yours was resolved as follows:

"It is clear from the very wording of Article 5210, supra, that only one such office may be operated under any one license. No exception is made, either expressed or by necessary implication, permitting the operation or maintenance of a so-called 'branch office', - - - it is our opinion that the license issued by the Bureau of Labor Statistics to instant employment agency authorizes said agency to operate only the one office in Beaumont and that in order for such agency to legally operate the Port Arthur office an additional license must be obtained."

It is our opinion from a careful study of said Sec. 3 of Art. 5221a-4 supra, that the next foregoing quoted holding is also applicable to the extant Texas Employment and Labor Agency Law; therefore, our answer to your question is that in order for such employment agency to legally operate in more than one county it must obtain a license under the terms of said Sec. 3 of Art. 5221a-4, supra, for each county in which it intends to operate.

We enclose herewith a copy of said Opinion No. 0-2882.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Robert L. Lattimore, Jr.  
Robert L. Lattimore, Jr.,  
Assistant

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APPROVED SEP 5, 1945  
s/Carlos C. Ashley  
FIRST ASSISTANT  
ATTORNEY GENERAL

Approved Opinion Committee By s/BWB Chairman