



THE ATTORNEY GENERAL OF TEXAS

PRICE DANIEL
ATTORNEY GENERAL

AUSTIN, TEXAS

June 23, 1950

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

Opinion No. V-1074

Re: Whether a farm mutual insurance company may write the additional coverages extended by Art. 4860a-20, Sec. 1a, V.C.S., coextensive with the coverage that any fire or windstorm insurance company may write.

Dear Sir:

Your inquiry relates to a farm mutual insurance company, organized and operating under Article 4860a-20, V.C.S. Specifically, you inquire whether such company may write the additional coverage extended to county mutual insurance companies by virtue of the provisions of Sec. 1a of Art. 4860a-20, as added by Acts 50th Leg., 1947, ch. 367, p. 739, titled House Bill 155.

A study of the problem should include some of its history.

County mutual insurance companies, as first defined, authorized and regulated in 1937 by the 45th Legislature in an act codified as Art. 4860a-20, V.C.S., had but a modicum of statutory regulation attached to their organization and operation, when compared with that of other types of insurance companies. Their rates were not regulated as are other companies; they were not subject to the rigid reserve requirements; their financial status for organization and for continued operation was less exacting. The possible coverage they were authorized to write was very limited, however. Such coverage was found in Sec. 1 of Art. 4860a-20, and was as follows:

"County Mutual Insurance Companies are companies organized for the purpose of insurance on the mutual or cooperative plan against loss or damage by fire, lightning, gas explosion, theft, windstorm and hail, and for all or either of such purposes.

"Unless they are restricted by their charters, they may write insurance against said hazards:

"(a) On both rural and urban dwellings and attendant out-houses and yard buildings and all their contents for home and personal use -- including family vehicles, musical instruments and libraries;

"(b) On barns and other farm, dairy, truck garden, hennery and ranch buildings and improvements of every description;

"(c) On all vehicles, harness, implements, tools and machinery of every kind and description used on and about farms, truck gardens, dairies, henneries or ranches.

"(d) On all fruits and products, other than growing crops, and all fowls, domestic animals and livestock of every description, produced, raised, grown, kept or used on truck gardens, henneries, farms, ranches and dairies; and

"(e) On church houses, country school houses, country lodge rooms and country recreation halls, other than road houses and public dance halls and their contents." (Emphasis supplied throughout this opinion.)

Thereafter, in 1947, the 50th Legislature, by the passage of its House Bill 155, as noted heretofore, extended the coverage in the following respects and with the following qualifications:

"Section 1. Senate Bill No. 121 passed by the Forty-fifth Legislature of the State of Texas at its Regular Session in 1937, and known as Article 4860a-20, Vernon's Civil Statutes of the State of Texas, is hereby amended so as to add thereto at the end thereof the following:

"Sec. 1a. County Mutual Insurance Companies operating under the provisions of Article 4860a-20 shall after the passage of this Act be authorized to write insurance against loss or damage from any hazard provided therein or that any other fire or windstorm insurance company operating in Texas may

write on property described in Section 1 of Article 4860a-20.

"Sec. 2a. Any company operating under the provisions of Article 4860a-20 or subject to the provisions of said Article, excepting those companies which out of the total amount of insurance in force maintain more than sixty per cent (60%) in force on rural property. . . which shall hereafter be known as 'Farm Mutual Insurance Companies,' shall become subject to the provisions of this Act and shall comply with the following requirements, to wit:

"(a) The following terms when used in this Act shall be defined:

"Company" shall refer to and include all types of organizations, corporations, associations, companies or groups subject to the provisions of this Act.

". . . .

"Rural Property" as the term is used in this Law shall mean any property which has at least five (5) acres of cultivated or grazing land used exclusively with such insured property."

Specifically, then, your question is whether a farm mutual insurance company, as defined in Sec. 2a of House Bill 155 set out above, is entitled to write the additional coverage extended to county mutual insurance companies by Sec. 1a of House Bill 155.

Until the passage of House Bill 155, county mutual insurance companies could write only the perils of fire, lightning, gas explosion, theft, windstorm and hail on the enumerated risks.

Thereafter, they were authorized to write insurance against all of the perils that a fire or windstorm insurance company may write, a recitation of which perils is unnecessary herein.

An examination of the precise language of House Bill 155 will show the exclusion of farm mutual insurance companies both from its benefits and from its exactions. Thus it provides that:

"Any company operating under the provisions of Article 4860a-20. . . , excepting those companies which out of the total amount of insurance in force maintain more than sixty per cent (60%) in force on rural property. . . , which shall hereafter be known as 'Farm Mutual Insurance Companies,' shall become subject to the provisions of this Act. . . ."

Obviously, farm mutual insurance companies are removed from the operation of the entire Act by the foregoing provision. That part of the Act which extends additional coverage to county mutual insurance companies, though designated therein as Sec. 1a, is no less removed from the effect of the quoted exemption of farm mutual insurance companies from the operation of the Act by virtue of its being in a separate section. The Act is entire. Farm mutual insurance companies are not subject to any part of it. They do not obtain the advantage of writing the additional coverage, but by the same token, they are not subject to the exactions made thereafter. And these exactions are considerable. For example, the additional exactions include the requirements of approval of policy forms, filing of rate schedules, licensing of agents, officers bonds and penal provisions, solvency definition and supervision, and ~~maximum~~ contingent liability, to point out some of the more substantial changes.

SUMMARY

Farm mutual insurance companies, organized, defined and operating under Art. 4860a-20, V.C.S., are not authorized to cover the additional perils extended by the provisions of House Bill 155, Acts 50th Leg., 1947, ch. 367, p.739 (Sec. 1a, Art. 4860a-20, V.C.S.) but are, instead, confined to the authorized perils set out in Sec. 1 of Art. 4860a-20.

Yours very truly

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