



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

October 30, 1957

State Board of Insurance
Hon. William A. Harrison
Commissioner of Insurance
International Life Building
Austin, Texas

Opinion No. WW-291

Re: Does the State Board of Insurance have authority to fix maximum commissions which insurers writing credit insurance may allow to lenders, lender agents, or insurance agents under Article 3.53 of the Texas Insurance Code?

Gentlemen:

Your letter of September 9, 1957, has been received, and we quote from it in part as follows:

"In this connection, we desire your opinion of the authority of this Board to fix the maximum commissions which insurers writing credit insurance may allow to lenders, lender agents, or insurance agents."

Article 3.53, originally Senate Bill No. 208, was enacted by the 51st Legislature in 1949. From the caption of this Act we quote in part as follows:

"An Act providing for regulation of life insurance and health and accident insurance issued in connection with loan transactions; . . . declaring certain commissions for the sale of credit insurance legal, and forbidding those above maximum rates¹ or based on loss experience; . . ."

Section 6 of Article 3.53 provides:

"Commissions received by lenders, lender agents and insurance agents from insurers for the writing of credit insurance complying with the terms of this article, the maximum rates promulgated by the Board, and rules and regulations of the Board of Insurance Commissioners, shall be considered for all purposes as compensation for services rendered to such insurer and shall not be taken to be an interest charge on the money borrowed; provided, however,

should such commissions be in excess of any maximum fixed hereunder, then such commissions shall be deemed to be an interest charge on the money borrowed. No agreements by insurers with any of its agents shall permit contingent commissions based on loss experience."

Section 9 of Article 3.53 provides:

"The Board is hereby authorized to promulgate rules and regulations to carry out the spirit and purposes of this article, including but without limiting the generality hereof, the reserve requirement and records to be maintained on such business, the method of insurance and delivery of the policies and the methods for the settlement of claims."

It is evident from this language that it was the intent of the Legislature to authorize the State Board of Insurance, the successor to the Board of Insurance Commissioners, to set a maximum rate of commissions that can be paid by the credit life, health and accident insurers. If this were not true, such language as quoted above would be mere surplusage.

SUMMARY

The State Board of Insurance is authorized by Article 3.53 of the Texas Code of Insurance to set maximum commissions that may be allowed by insurers writing credit life, health and accident insurance.

Very truly yours,

WILL WILSON
Attorney General of Texas

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APPROVED:
OPINION COMMITTEE:

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W. V. Geppert
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