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May 5, 1993

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RQ-00579-1

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FILE # ~~AL 20269-9~~

Opinion Committee

I.D.# 20269

RQ-579

Dear General Morales:

I am writing to ask whether the 1991 amendment to Art. 5160.A V.A.C.S. changes Attorney General Opinion JM-923, issued June 24, 1988, which concluded under the prior law that the requirement in article 5160.A required bonds to be executed by a "corporate surety" and did not authorize surety bond insurance issued by a Lloyd's company authorized to do business in Texas.

You will note that the provision of Art. 5160.A relied upon in Opinion JM-923 read as follows:

Each such bond shall be executed by a corporate surety or corporate sureties duly authorized to do business in this State.

The 1991 amendment to Art. 5160.A now reads as follows:

Each such bond shall be executed by a corporate surety or corporate sureties in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code).

Article 7.19-1, Vernon's Texas Insurance Code, entitled BOND OF SURETY COMPANY, in its pertinent part reads as follows:

...and whenever the performance of any act, duty or obligation, or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guarantee may be executed by a surety company duly authorized to do business in this state; and, except as provided by Subsection (b) of this section, such execution by such company of such bond, undertaking, obligation, recognizance or guarantee shall be in all respects a full and complete compliance with every law, charter, rule or regulation that such bond, undertaking, obligation, recognizance or guarantee shall be executed by one surety or by one or more sureties, or that such sureties shall be residents, or householders, or freeholder, or either, or both, or possess any other qualification

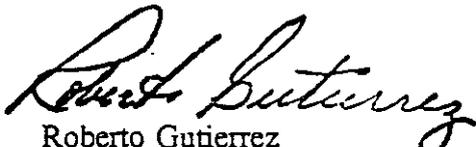


and all courts, judges, heads of departments, boards, bodies, municipalities, and public officers of every character shall accept and treat such bond, undertaking, obligation, recognizance or guarantee when so executed by such company, as conforming to, and fully and completely complying with, every requirement of every such law, charter, ordinance, rule or regulation.

It appears that this amendment now allows surety bonds issued by a Lloyd's company, authorized to do business in Texas, to satisfy the requirements of Art. 5160.

I look forward to hearing from you in this regard.

Sincerely,


Roberto Gutierrez