

MUTUAL INSURANCE COMPANIES  
ORGANIZED UNDER ARTICLE 7,  
CHAPTER 37, R. S. MO. 1939.

Such companies under H.B. 498,  
may write multiple insurance  
lines, including fire insurance  
and thereby are subjected to  
all of the provisions of Ar-  
ticle 8, Chapter 37, R. S. Mo.  
1939.

April 22, 1948



Honorable Owen G. Jackson  
Superintendent of Insurance  
Jefferson City, Missouri

Dear Mr. Jackson:

This will acknowledge your letter requesting advice from this department on the subject matter which will be herein later discussed, especially calling attention to a former opinion of this department on the question of whether insurance companies organized under Article 7, Chapter 37, R. S. Mo. 1939, are subject to the provisions of Article 8 of said chapter, under H.B. 498, found in Laws of Missouri, 1945, page 1014. Your letter states:

"Will you please advise this Department whether Section 5904, Revised Statutes of Missouri, 1939, as amended by House Bill No. 498, will change the conclusion reached in your opinion, copy of which is attached hereto, directed to the Superintendent of Insurance under date of December 27, 1945, with particular reference to conclusion 'A' of said opinion? Section 5904, supra, contains the following proviso:

"and provided further, that any company operating under Article 7 and electing to effect insurance against the risk of loss by fire, shall, with respect to such fire insurance business, be subject to Sections 5905, 5907 and 5923 to 5940, inclusive, of Article 6, Revised Statutes of Missouri, 1939, and with respect to such fire insurance business shall also be subject to all of the provisions of Article 8, Revised Statutes of Missouri, 1939, which are applicable to mutual fire insurance companies;"

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"Is it now necessary 'that any insurance company operating under Article 7' and writing fire insurance on automobiles, be subjected to the provisions of Article 8, and the other statutes enumerated therein, or does this proviso refer only to insurance companies qualifying to write multiple lines?"

We are writing an additional opinion covering the questions you submit in your letter as relating to said paragraph (a) of the conclusion in said former opinion.

Paragraph (a) of the former opinion of this department, dated December 27, 1946, is as follows:

"a) Mutual insurance companies organized under the provisions of Article 7, Chapter 37, R. S. Mo. 1939, are not subject to the provisions of Article 8, Chapter 37, R. S. Mo. 1939, vesting in the State Department of Insurance regulation and control over rates charged for specific types of insurance;"

House Bill 498, as referred to in your letter, is now published in Laws of Missouri, 1945, at page 1014, under the title of "INSURANCE: relating to insurance other than life."

The particular quotation appearing in your letter in the second paragraph thereof, appears on page 1017, being a part of Section 5904, as amended, Laws of Missouri, 1945, and for the sake of clarity and understanding, we repeat it here as follows:

"\* \* \* and provided further, that any company operating under Article 7 and electing to effect insurance against the risk of loss by fire shall, with respect to such fire insurance business, be subject to Sections 5905, 5907 and 5923 to 5940, inclusive, of Article 6, Revised Statutes of Missouri, 1939, and with respect to such fire insurance business shall also be subject to all of the provisions of Article 8, Revised Statutes of Missouri, 1939, which are applicable to mutual fire insurance companies; \* \* \* \* \*"

This new section in said H.B. 498 in the first proviso, l.c. 1017, provides that any stock company which has a fully paid capital

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of not less than \$400,000.00, or any mutual company that maintains a guaranty fund of policyholders' surplus of not less than \$400,000.00 may make insurance on all three classes of insurance enumerated in said section. It simply allows stock companies to write all lines except life when they have a capital of \$400,000.00 and extends like powers to a mutual with \$400,000.00 surplus. That is, both the stock and the mutual companies can write all lines, either fire and/or casualty and/or marine when so capitalized.

It will be observed, we think, with clearness that said H.B. 498 permits mutual insurance companies organized under said Article 7, Chapter 37, R. S. Mo. 1939, to write insurance on all three classes of property mentioned in said section. It is plain, we believe, that said H.B. 498, as expressed in said new Section 5904, applies to companies organized under both Articles 6 and 7 of said Chapter 37, R. S. Mo. 1939, in writing the three lines of insurance mentioned in said Section 5904, Laws of Missouri, 1945, page 1014.

Said Section 5904 in providing that companies operating under Article 7, and electing to effect insurance against the risk of loss by fire, and further providing that such mutual companies shall be subject to Sections 5905, 5907, and 5923 to 5940, inclusive, of said Article 6, and with respect to such fire insurance business shall also be subject to all other provisions of Article 8, Revised Statutes of Missouri, 1939, which are applicable to mutual fire insurance companies, means that such companies organized and operating under said Article 7, aforesaid, electing to do fire insurance business must be permitted to write such insurance, and are thereby placed under the supervision and control of the Division of Insurance of this state, as to fixing of rates and all other requirements in the named sections, including fire insurance rates on automobiles.

#### CONCLUSION

1) Considering the above statutes and the provisions of said H.B. 498 it is the opinion of this department that conclusion (a) of the opinion of this department of December 27, 1946, should be changed to hold that mutual insurance companies organized under the provisions of Article 7, Chapter 37, R. S. Mo. 1939, are subject to the provisions of Article 8, Chapter 37, R. S. Mo. 1939, vesting in the State Department of Insurance the regulation and control over rates charged for specific types of insurance.

2) That mutual companies organized under Article 7, Chapter 37, R. S. Mo. 1939, may elect to write policies covering the hazard of fire insurance under the terms of H.B. 498 providing such companies have the capital or surplus required by said H.B. 498.

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3) That by so electing to write fire insurance policies under the multiple privilege granted in Section 5904 (H.B. 498), companies organized under said Article 7 are thereby made subject to Sections 5905, 5907 and 5923 to and including 5940 of Article 6, R. S. Mo. 1939; and that such companies writing fire insurance business shall also be subject to all provisions of Article 8, R. S. Mo. 1939, which are applicable to mutual fire insurance companies.

Respectfully submitted,

GEORGE W. CROWLEY  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General