

**Opinion No. 37-1718**

July 20, 1937

**BY:** FRANK H. PATTON, Attorney General,

**TO:** State Corporation Commission Motor Transportation Department Santa Fe, New Mexico. Attention: Don R. Casados, Chairman

{\*142} This is in response to your letter of July 17th in which you request an interpretation of Section 4 of Chapter 224 of the Laws of 1937 which reads as follows:

"No certificate issued in accordance with the terms of this act shall be construed to be either a franchise or irrevocable or to confer any property right upon the holder thereof. No certificate issued under this act shall be assigned, leased or otherwise transferred without the approval of the Commission. **No certificate issued under this act shall be assigned, leased or transferred until the holder thereof shall establish to the satisfaction of the Commission that all indebtedness of transferor that pertains to the certificate or operation under such certificate sought to be transferred has been fully paid, settled and discharged.**"

You wish to know what indebtedness the underlined portion of the act pertains to, i. e., whether or not it applies strictly to indebtedness to the State of New Mexico, or to all indebtedness incurred by the person, firm or corporation operating under the certificate of necessity and convenience.

It is our opinion that the italicized portion of the section above quoted applies only to the indebtedness directly attributable to the certificate and not to the business which is being operated pursuant to the authority granted by the certificate. In other words, it does not apply to bills incurred by the certificate holder for gasoline, oil, labor, merchandise and general expenses of the transportation business. It does apply to mileage taxes and funds due to the state and generally all indebtedness which is incurred as a result of the issuance of the certificate proper as distinguished from the business under which it is operated. It is true that the language used in this section is general in nature but it is doubtful if the legislature intended to make a collection agency of the Corporation Commission. To the contrary, we think that it was {\*143} the legislative intent only to provide that all indebtedness connected with the certificate proper was to be included.

Trusting this answers your question, I am

By RICHARD E. MANSON,

Asst. Atty. Gen.