

Opinion No. 41-3904

September 18, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. R. F. Apodaca Superintendent of Insurance Santa Fe, New Mexico

{*100} In your letter of September 15, you relate that a Texas life insurance company licensed by your department to do business in this state has requested an agent's license {*101} for an individual residing in El Paso, Texas, who does not maintain an office in the State of New Mexico.

It is my further understanding that the Texas Insurance Department will only issue an agent's license to citizens of Texas and will, therefore, not grant a license to a resident of New Mexico to represent any company in the State of Texas.

In view of the foregoing facts, you request our opinion as to whether or not your department should make a similar ruling with respect to individuals residing in Texas and who desire to procure an agent's license in the State of New Mexico.

Section 71-129 of the 1929 Compilation, is our so-called "retaliatory statute" and reads in part as follows, to-wit:

"* * * whenever any conditions precedent to the right to do business in such other state or country are imposed by the laws thereof beyond those imposed upon each foreign insurance companies by the laws of this state, the same * * * conditions precedent shall be imposed upon every similar insurance company of such other state or country and their agents doing or applying to do business in this state, so long as such foreign laws remain in force; * * *."

By reason of the provisions of Section 71-129 and in view of the ruling made by the Texas Insurance Department, I conclude that your department should not issue an agent's license to an individual residing in the State of Texas.

By HOWARD F. HOUK,

Asst. Atty. General