

inference automobiles of other seating capacity. I do not think, however, that this automobile would be exempt from the fee in view of the fact that another Section of this statute provides that every automobile must be registered and a tag procured as provided for therein, and there is no way for those to be procured from you except upon the payment of at least \$5.00, and in view of this fact I believe that you should construe the law in favor of the tax payer and permit the owner to register an automobile of the description given above for the fee of \$5.00.

Yours very truly,

VAN C. SWEARINGEN,

Attorney General.

### **Opinions to State Treasurer.**

**INSURANCE AGENT—COUNTY LICENSE AUTHORIZES TO DO BUSINESS ONLY IN COUNTY WHERE ISSUED.**

Tallahassee, Fla., January 6, 1917.

*Hon. J. C. Luning, State Treasurer,  
Capitol.*

Dear Sir:

I am in receipt of your communication as follows:

"I transmit herewith a letter from Mr. Chas. E. Clarke, President of the Peninsular Casualty Company of this State, and at Mr. Clarke's request a letter addressed to him by the counsel of his company, Mr. Jno. W. Dodge, and also an opinion purported to be rendered by the Supreme Court of Texas with reference to the failure to

pay license taxes for an agent of said company, who is acting as a local agent for said company both in Jefferson and Madison Counties.

"Section 29 of the License Laws of the State, among other things, provides as follows:

"Each insurance company or association, firm or individual mentioned in this Act, doing business in this State shall, upon the first day of October after the passage of this Act and upon the first day of each succeeding October, furnish to the State Treasurer the name and address of each agent or solicitor authorized to write insurance in this State \* \* \* and for such local agent or solicitor each insurance company shall pay to the State Treasurer a license tax of five dollars, and it shall be the duty of the State Treasurer to transmit to the County Tax Collectors the name and address of every such agent as resides respectively in such counties. Counties, cities and towns may require a license tax of any such agent not to exceed fifty per cent of the State license tax.'

"Section 29 also provides that 'each insurance company, association, firm or individual shall pay to the State Treasurer for each traveling agent or solicitor doing business in this State a license tax of \$25.00 for each agent.'

"Under this law, which is practically a duplicate of the law which precedes it relating to this subject, I have construed that a local agent has no authority to solicit or transact any business outside of the county in which he resides, and that when he goes beyond the limits of the county in which he resides and for which he is licensed he then becomes a traveling agent within the meaning of the law and the company he represents is liable to a license tax of \$25.00 for him in such capacity. Mr. Dodge contends that a local agent may transact business in more than one county and that unless he travels generally over the State that he is not within the meaning of the law a traveling agent. I understand that my im-

mediate predecessor in office also ruled the same as I ruled on this matter. I am impressed with the fact that the Legislature in framing this act by requiring the State Treasurer to transmit to the County Tax Collector the name and address of every such agent as resides respectively in such counties, and allowing the counties, cities, and towns to require a license tax of such agent not to exceed fifty per cent of the State license tax, clearly intended that the agent should be limited to one county and that county the one in which he resides, particularly as it requires 'the name and address of such agent as resides respectively in such county' to be furnished to the State Treasurer when making application for a license for such agent. It seems also clear to me that that portion of the law which requires the State Treasurer to furnish the County Tax Collector with the name and address of every agent so licensed to solicit or transact business locally in his county to such Tax Collector further emphasizes the fact of the intent of the legislature to limit the operations of such agent to the county in which he resides.

"Had it been the intent of the Legislature to allow a local agent to solicit or transact business in another county and not to solicit business generally throughout the State, the Legislature would have said so in apparent terms. If it was the intent of the Legislature to allow a local agent to solicit business in an adjoining county and not go beyond the confines of adjoining counties, it seems to me that there would have been no use to have prescribed additional regulations or fees for an agent soliciting say in five or six counties. It is very clear to me that whenever an agent went beyond the confines of his county whether he went into one or more adjoining counties or four or five, he then became liable to the traveling agents license, and the company is required to pay accordingly.

"I would be pleased to have you render me your opin-

ion as to the interpretation of this law as soon as possible so that I may advise the company of same."

The question presented is not entirely free from doubt, but the conclusion reached by your office as stated in your communication is in my opinion, very probably the correct one, and you will, I think, be fully warranted in adhering to it until some court of competent jurisdiction holds to the contrary.

Respectfully submitted,

T. F. WEST,

Attorney General.

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AGENTS WRITING LIABILITY INSURANCE NOT  
AUTHORIZED TO REBATE NOR DIVIDE COM-  
MISSIONS.

Tallahassee, Fla., July 16, 1917.

*Honorable J. C. Luning, State Treasurer,  
Capitol.*

Dear Sir:

Your request of the 7th instant for opinion received as follows:

"On June 27th, I received a letter from Mr. J. A. Ormond enclosing an affidavit, stating that the Thornton Insurance Agency of Pensacola has for many years and still writes the liability insurance of the Jarratt Lumber Corporation in the Maryland Casualty Company and that he allows to the Jarratt Lumber Corporation a rebate of 20% of the premium charged as an inducement to secure this business, and on account of this rebate the