

1204.

INSURANCE AGENT — SOLICITOR — EXAMINATION FEE — NOT CHARGED TO ANY APPLICANT OF INSURANCE COMPANY OF FOREIGN STATE FOR AGENT'S OR SOLICITOR'S LICENSE IN OHIO—SECTION 658, G. C., NOT APPLICABLE EVEN THOUGH SUCH FOREIGN STATE CHARGES APPLICANTS AN EXAMINATION FEE FOR LICENSES TO REPRESENT OHIO INSURANCE COMPANIES.

*SYLLABUS:*

1. *If a state, other than Ohio, charges an applicant for an insurance agent's license, who is to represent an Ohio insurance company authorized to do business in such state, a fee for taking an examination for such agent's license, the Division of Insurance should not charge a fee in the same amount, or any amount, to applicants for insurance agents' licenses in this state who are to represent a company or companies of such other state which are authorized to do business in Ohio.*

2. *If a state, other than Ohio, charges an applicant for an insurance solicitor's license, who is to represent an insurance agent of an Ohio company or companies authorized to do business in such state, a fee for taking an examination for such solicitor's license, the Division of Insurance should not charge a fee in the same amount, or any amount, to applicants for insurance solicitors' licenses in this state for taking such examination when such applicants are to represent as solicitors, agents of a company or companies of such other state, which are authorized to do business in Ohio.*

COLUMBUS, OHIO, September 18, 1939.

HON. JOHN A. LLOYD, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR: I have your request of recent date for my opinion as follows:

"Since August of 1935 this office, in compliance with the requirements for examinations in G. C. 644 and 644-1, has been holding written examinations for new applicants for fire and miscellaneous insurance agents' licenses and solicitors' licenses, respectively.

Under G. C. 644 and 644-1, no fees for taking the examinations have been charged applicants in this state.

The office of the Auditor of State has recently been engaged in making an audit of this office including the fees charged and collected.

The representatives of the office of the Auditor of State

claim by virtue of G. C. 658, which is the statute providing for retaliation against companies of other states and their agents, that this Division should charge fees for the taking of examinations for insurance representatives' licenses, when the new applicants are applying for licenses of companies of other states which other states require the paying of a fee by every applicant to take the examination.

In view of the foregoing, we would appreciate the answers to the following questions:

1. If a state, other than Ohio, charges an applicant for an agent's license, who is going to represent an Ohio company authorized to do business in such state, a fee for taking such examination, should this Division charge a fee in the same amount to applicants for agents' licenses in this state when the applicant indicates he is applying for an agent's license to represent a company domiciled in such other state?

2. If a state, other than Ohio, charges an applicant for a solicitor's license, who is going to represent an agent who, in turn, represents Ohio companies authorized to do business in such state, a fee for taking such examination, should this Division charge a fee in the same amount to applicants for solicitors' licenses in this state when the applicant indicates he is applying for a solicitor's license to represent an agent who, in turn, is representing insurance companies of such other state, which are authorized to do business in Ohio?"

Sections 644 and 644-1, General Code, are of such length that I shall not quote them. Section 644, General Code, provides in part that a person who has not held a license as an insurance agent in this state and who is appointed as agent by an insurance company authorized to transact business in this State, other than a life insurance company or a domestic mutual protective assessment fire association, shall be required to submit to an examination and hearing touching his qualifications.

Section 644-1, General Code, provides in part that insurance agents who are licensed pursuant to Section 644, General Code, may employ one or more solicitors who must take an examination touching the qualifications prescribed in said section if such solicitor has not theretofore held a license as insurance solicitor in this State.

Both Section 644, *supra*, and Section 644-1, *supra*, provide that a fee of Two Dollars (\$2.00) shall be collected for the issuance of licenses authorized respectively by said sections, but they do not contain any provision authorizing or requiring the collection of any fee for taking the examinations provided for in said sections. There is no other provision in our statutes authorizing the collection of a fee for taking the examina-

tions unless it be Section 658, General Code, which is the so-called retaliatory statute and which I quote in full as follows:

“When by the laws of any other state, district, territory or nation, any taxes, fines, penalties, license fees, deposits of money, securities, or other obligations, or prohibitions are imposed on insurance companies of this state doing business in such state, district, territory or nation, or upon their agents therein, the same obligations and prohibitions shall be imposed upon insurance companies of such other state, district or nation doing business in this state and upon their agents.”

In the case of *State, ex rel. Watson, Attorney General, vs. Insurance Company*, 49 O. S., 440, it was held in the third paragraph of the syllabus as follows:

“The provisions of section 282, Revised Statutes, imposing on insurance companies of another state or nation, doing business in this state, the same obligations and prohibitions, that are imposed in such other state or nation upon Ohio companies doing business therein, are retaliatory in character, and must, therefore, be confined to such cases as fairly fall within the letter of the statute.”

(Section 282, Revised Statutes, is now, with slight modification, Section 658, General Code.)

It is therefore necessary to determine whether an examination fee “fairly falls within the letter of the statute.” In other words, is such a fee a tax, fine, penalty, license fee, deposit of money or of security or other obligation or prohibition? It is clear that a fee exacted for the privilege of taking an examination is neither a tax, fine, penalty nor deposit of money or security. Likewise, it is clear that it is not a license fee because our legislature has expressly provided in Sections 644 and 644-1, *supra*, that a license fee shall be collected, but has not provided for any examination fee and thereby has clearly distinguished between license fees and examination fees. It also seems obvious that the collection of an examination fee is not a prohibition for it does not forbid or prevent the doing of any act. It remains to be considered whether the word “obligation” as used in said section is broad enough in its meaning to include a fee exacted for the privilege of taking an examination for a license as an insurance agent.

In determining the meaning of the word “obligation” it must be remembered that its sense can be gathered best by comparing it with the other words contained in this section and viewing them together. In 37 O. Jur., 779, Section 450, it is said:

“In accordance with what is commonly known as the rule of *ejusdem generis*, where, in a statute, general words follow a designation of particular subjects or classes of persons, the meaning of the general words will ordinarily be construed as restricted by the particular designation and as including only things or persons of the same kind, class, or nature as those specifically enumerated, unless there is a clear manifestation of a contrary purpose. An explanation which has been given for the principle is that if the legislature had meant the general words to be applied without restriction it would have used only one compendious term. In accordance with the rule of *ejusdem generis*, such terms as ‘other,’ ‘other thing,’ ‘others,’ or ‘any other,’ when preceded by a specific enumeration, are commonly given a restricted meaning, and limited to articles of the same nature as those previously described.”

It would therefore seem that the words “other obligations” should be construed as including only those mentioned specifically in the section, i. e., taxes, fines, penalties, license fees, etc.

There is a legal maxim, “*noscitur a sociis*,” which means that the sense of a doubtful word may be ascertained by reference to the meaning of words associated with it. Application of this rule, as well as that of the other rules of construction hereinabove noted, result in the conclusion that the words “other obligations” refer only to taxes, fines, penalties, license fees, deposits of money, or of securities and are not broad enough to include fees exacted for the privilege of taking an examination for an agent’s or solicitor’s license.

That this construction of the statute is correct is strengthened by the very language of the statute itself. In the subordinate clause the words “taxes, fines, penalties,” etc., are enumerated in detail, but in the principal or main clause, only the words “same obligations and prohibitions” are used and the legislature must have intended that the word “obligations” should have substantially the same meaning as taxes, fines, penalties, etc., or it would have again set forth at length and in detail in the main or principal clause those things which it had enumerated in the subordinate clause.

For the foregoing reasons, I am of the opinion that Section 658, General Code, does not authorize or require the collection of a fee from applicants for the privilege of taking an examination for an insurance agent’s or solicitor’s license. In view of the conclusion I have reached, it is unnecessary to determine whether the word “agents” as used in Section 658, *supra*, is broad enough in its meaning to include “solicitors” as used in Section 644-1, *supra*.

It is therefore my conclusion that :

1. If a state, other than Ohio, charges an applicant for an insurance agent's license, who is to represent an Ohio insurance company authorized to do business in such state, a fee for taking an examination for such agent's license, the Division of Insurance should not charge a fee in the same amount, or any amount, to applicants for insurance agents' licenses in this State who are to represent a company or companies of such other state which are authorized to do business in Ohio.

2. If a state, other than Ohio, charges an applicant for an insurance solicitor's license, who is to represent an insurance agent of an Ohio company or companies authorized to do business in such state, a fee for taking an examination for such solicitor's license, the Division of Insurance should not charge a fee in the same amount, or any amount, to applicants for insurance solicitors' licenses in this State for taking such examination when such applicants are to represent, as solicitors, agents of a company or companies of such other state, which are authorized to do business in Ohio.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1205.

INSURANCE POLICY, LIFE—GROUP—"WHOLESALE INSURANCE"—INDUSTRIAL INSURANCE—WHERE COMMON EMPLOYER HAS LESS THAN FIFTY EMPLOYEES—PREMIUMS LESS THAN SIMILAR CONTRACTS TO OTHER INDIVIDUALS—SECTIONS 9426-1 TO 9426-4, G. C., INCLUSIVE, NOT VIOLATED—SECTIONS 9403, 9404 AND 12956, G. C.. VIOLATED.

**SYLLABUS:**

1. *Where insurance is issued to employes of a common employer in the form of one-year renewable term policies and is restricted to employes of employers having less than fifty employes, and where the premiums paid therefor are lower than those charged for similar contracts of insurance to other individuals, the provisions of Sections 9426-1 to 9426-4, inclusive, General Code, are not violated thereby.*

2. *Where insurance is issued to employes of a common employer in the form of one-year renewable term policies and is restricted to employes of employers having less than fifty employes, and where the premiums paid therefor are lower than those charged for similar con-*