INSURANCE: Miscellaneous mutual casualty company organized under Sections 379.205 to 379.310, RSMo 1949, as amended, may invest in and own all the capital stock of a regular life insurance company organized under Sections 376.010 to 376.670, RSMo 1949, as amended, but is subject to like limitations set forth in Section 379.080, RSMo 1949, applicable to stock companies.

April 14, 1959

Honorable C. Lawrence Leggett
Superintendent
Division of Insurance
Jefferson Building
Jefferson City, Missouri

Dear Mr. Leggett:

This opinion is in reply to your recent inquiry which posed the following question:

> May a miscellaneous mutual casualty insurance company organized under Sections 379.205 to 379.310, RSMo 1949, as amended, invest in and own all the capital stock of a regular life insurance company organized under Sections 376.010 to 376.670, RSMo 1949, as amended, and chartered to write life, health and accident insurance?

For a miscellaneous mutual casualty company to own all the capital stock of a regular life insurance company would involve its power to invest its assets, and such power is clearly worded in the following language found in Section 379.255, RSMo 1949:

> "No such company shall invest any of its assets except in accordance with the laws of this state relating to the investment of the assets of domestic stock companies transacting the same kinds of insurance."

In view of the reference made in the statute just quoted to "domestic stock companies transacting the same kinds of insurance," it is appropriate to quote in full Section 379.230, RSMo 1949, which discloses the kinds of insurance a miscellaneous mutual casualty company may write, and such statute provides:

> "Any company organized under the provisions of sections 379.205 to 379.310 is empowered and authorized to make contracts of insurance or to reinsure or accept reinsurance

on any portion thereof, to the extent specified in its articles for the kinds of insurance following:

(1) Liability insurance. Against loss, expense or liability by reason of bodily injury or death by accident, disability, sickness or disease suffered by others for which the insured may be liable or have assumed liability, including workmen's compensation;

(2) Disability insurance. Against bodily injury or death by accident and disability by sickness;

(3) Automobile insurance. Against any or all loss, expense and liability resulting from the ownership, maintenance or use of any automobile or other vehicle: provided, no policies shall be issued under this subsection against the hazard of fire alone;

(4) Steam boiler insurance. Against loss or liability to persons or property resulting from explosions or accidents to boilers, containers, pipes, engines, fly wheels, elevators and machinery in connection therewith and against loss of use and occupancy caused thereby and to make inspection and issue certificates of inspection thereon;

(5) Use and occupancy insurance. Against loss from interruption of trade or business or loss of rents which may be the result of any accident or casualty;

(6) Miscellaneous insurance. Against loss or damage by any hazard upon any risk not provided for in this section, which is not prohibited by statute or at common law from being the subject of insurance, excepting life insurance and fire insurance."

Domestic stock insurance companies authorized to write miscellaneous casualty risks such as are outlined in Section 379.230, supra, are organized under and subject to Sections 379.010 to 379.200, RSMo 1949, as amended. The investment statute applicable

to these domestic miscellaneous stock casualty companies is Section 379.080, RSMo 1949. After outlining how the minimum capital of such companies shall be invested, Section 379.080, RSMo 1949, provides:

> " * * * and the remainder of the capital of said companies and their other assets may be invested either in the property or securities in this section above mentioned, * * * or in stocks, bonds or evidences of indebtedness issued by corporations organized under the laws of this state, * * * ; provided, that no insurance company may buy stock in any company to an amount which will give the company so buying the virtual control of any other corporation, except that any corporation organized under or for the purpose of doing any of the kinds of business mentioned in one of the subdivisions of section 379.010 may buy and hold any amount of stock in other corporations organized under or for the purpose of doing any of the kinds of business mentioned in any one of the subdivisions of said section 379.010, but it may not purchase a majority of the shares in any other insurance corporation unless it has a capital of two hundred thousand dollars in addition to the capital required by this section for each such company, the controlling interest in which is purchased, and no such company shall invest more than thirty-five per cent of the surplus to policy holders of such acquiring company, or fifty per cent of its surplus over and above its liabilities and capital, whichever is greater, in the stocks or bonds of any such corporation." (Emphasis supplied.)

The quoted language from Section 379.080, supra, is directed to companies "organized under" or organized "for the purpose" of doing any of the kinds of business mentioned in any one of the subdivisions of Section 379.010, RSMo 1949, and such statute is the basic authority outlining the types of miscellaneous casualty coverage which may be written by miscellaneous stock casualty insurance companies. Regular life insurance companies, as suggested in the question posed at the beginning of this opinion, are formed under Sections 376.010 to 376.670, RSMo 1949, as amended, and not under Section 379.010, RSMo 1949. We next must resolve the question

of whether a regular life company is organized "for the purpose of doing any of the kinds of business" mentioned in one of the subdivisions of Section 379.010. The task is simplified by searching out the powers of the regular life company in this regard and then looking for similar powers given to miscellaneous stock casualty companies under Section 379.010, RSMo 1949, and related statutes.

Section 376.010, RSMo 1949, outlines the purposes for which a regular life company may be formed in the following language:

> "Any number of persons, not less than thirteen, may associate and form a company for the purpose of making insurance upon the lives of individuals, and every assurance pertaining thereto or connected therewith, and to grant, purchase and dispose of annuities and endowments of every kind and description whatsoever, <u>and to provide an indemnity against death, and for weekly or other periodic indemnity for disability occasioned by accident or sickness to the person of the insured</u>; but such accident and health insurance shall be made a separate department of the business of the life insurance company undertaking it." (Emphasis supplied.)

In the underscored language quoted above from Section 376.010, we find regular life companies vested with authority to write accident and health insurance, including indemnity against death resulting from accident. Is such a power vested in miscellaneous stock casualty companies organized under Section 379.010, RSMo 1949? It is concluded that an affirmative answer to such question is found in the following language from Section 379.010, RSMo 1949:

> "1. Any number of persons, not less than thirteen in number, a majority of whom shall be citizens of this state, may associate and form an incorporation, association or company for the following purposes, to wit:
>
> * * * * * * * * * * * *
>
> (3) <u>To make insurance upon the health of individuals, and against personal injury, disablement, or death, resulting from</u>

traveling or general accident by land or water, * * *." (Emphasis supplied.)

By comparing the language quoted above from Sections 376.010 and 379.010, RSMo 1949, it is apparent that a regular life insurance company is organized "for the purpose of doing any of the kinds of business mentioned in one of the subdivisions of section 379.010" as such language is used in the investment statute, Section 379.080, RSMo 1949, pertaining to miscellaneous stock casualty companies.

The foregoing examination of applicable statutes sustains our view that a miscellaneous mutual casualty company organized under Sections 379.205 to 379.310, RSMo 1949, as amended, has the same power to invest in the capital stock of a regular life company as is accorded a miscellaneous stock casualty company subject to the provisions of Section 379.080, RSMo 1949. Of course, this investment statute does limit the right of the miscellaneous stock casualty company to purchase "any amount" of the capital stock of the regular life company and such limitations must also be applied to any miscellaneous mutual casualty company seeking to exercise the same power of purchase. In applying such limitations, the guaranty fund or policyholders' surplus in the miscellaneous mutual casualty company is to be considered in lieu of the capital stock fund of the miscellaneous stock casualty company.

CONCLUSION

It is the opinion of this office that a miscellaneous mutual casualty insurance company organized under Sections 379.205 to 379.310, RSMo 1949, as amended, may invest in and own all the capital stock of a regular life insurance company organized under Sections 376.010 to 376.670, RSMo 1949, as amended, and chartered to write life, health and accident insurance, but is subject to like limitations set forth in Section 379.080, RSMo 1949, applicable to stock companies.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Julian L. O'Malley.

Yours very truly,

John M. Dalton
Attorney General

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