

1979 WL 43585 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 11, 1979

***1 RE: City of Beaufort Business License Ordinance**

James C. Sanders, Esquire
Dowling, Sanders, Dukes, Novit & Svalina
1105 Bay Street
P.O. Drawer 1027
Beaufort, SC 29902

Dear Mr. Sanders:

You have asked the opinion of this Office regarding the validity of the Beaufort City Business License Ordinance as applied to independent agents who also provide fire insurance coverage along with other forms of insurance.

South Carolina Code of Laws, 1976, as amended, § 38-5-490 provides that fire insurance companies 'or their agents licensed by the Commissioner' may not be charged license fees by municipality in any other manner than on a percentage of the premiums collected in such municipality or realized from risks located within the limits of such municipality, or both, such license fees to be limited to a maximum of 2 percent of the premiums collected in cities of 50,000 inhabitants or less, and limited to 5 percent in cities with a larger population. You have inquired whether the statutory section cited is applicable to those independent agents who deal with fire insurance along with other forms of insurance as opposed to agents who are solely the employees of fire insurance companies.

The provisions of § 38-5-490 distinguish between fire insurance companies' agents and agents dealing in all other types of insurance and categorizes them separately. While the Legislature is permitted to distinguish between fire insurance agents and other agents, [Columbia v. Putnam](#), 241 S.C. 195, 127 S.E.2d 631 (1962), such an exclusion must, of course, be read narrowly. The purpose of the Legislature was to protect fire insurance companies and their agents, not to shelter the larger category of insurance agents who also happen to deal with fire insurance, among others.

Therefore, it is the opinion of this Office that South Carolina Code of Laws, § 38-5-490 did not intent to apply to municipal license fees for independent agents who do business in fire insurance, among other types of insurance.

I hope this has been of some assistance to you.

Very truly yours,

Katherine W. Hill
Assistant Attorney General

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