



THE ATTORNEY GENERAL OF TEXAS

GROVER SELLERS
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Ben L. King
County Attorney
Burnet County
Burnet, Texas

Dear Sir:

Opinion No. O-6544
Re: Construction of Art. 1939a,
V. A. C. S.

We have received your recent communication in which you ask the following questions:

- "1. Where soldier is killed in service, do Clerks furnish free the certified copies of birth certificates, marriage licenses, etc., to beneficiary of life insurance (government) when beneficiary is heir?
- "2. The same conditions except that beneficiary is not related to deceased soldier?
- "3. Would the case be considered in same status as 'ex-service' man?
- "4. Does man still in service have any such benefits as certified copies of birth, death, marriage record, or divorce proceedings free of charges?"

Our Opinion No. O-6342 holds that when certified copies of marriage licenses and birth certificates or other instruments are issued by any County Clerk, District Clerk, or other official in this State who is required to issue such instrument for the purposes mentioned in Sec. 1 of Art. 1939a, Vernon's Annotated Civil Statutes, they must be issued free of charge to ex-service men and ex-members of the Auxiliaries under said statute. We herewith enclose a copy of said opinion.

One of the purposes mentioned in Sec. 1 of Art. 1939a, V. A. C. S. is "where the person would on proper proof, be entitled to ... insurance."

Our Opinion No. O-6266, a copy of which we herewith enclose, holds in substance that heirs at law of service men losing their lives in defense of their country are heirs at law of ex-service men. The heir of the soldier in question comes within the purview of the next above holding.

The last paragraph of said Sec. 1 of Art. 1939a, V. A. C. S. provides as follows:

"All of the provisions of Section 1 hereof, shall inure to the heirs at law of such ex-service men and ex-members of the Auxiliaries, where the proof is necessary to establish the claim emanating through or under such ex-service men or ex-members of the Auxiliaries."
(Underscoring added)

Therefore, the beneficiary mentioned in your question No. 1 is also an "heir at law" of the "ex-serviceman" and is entitled to all benefits as such allowed under Sec. 1 of Art. 1939a, V. A. C. S. In this connection we assume that the certified copies desired by such beneficiary are necessary to establish the claim for insurance emanating through or under the deceased ex-serviceman.

In view of the foregoing, we answer both your questions Nos. 1 and 3 in the affirmative.

We shall now proceed to consider your question No. 2. An "heir" or "heir at law" is the person designated by law to succeed to the property of another upon his death. 15 Tex. Jur. 147. A "beneficiary" under a policy of insurance may be anyone designated by the insured, subject only to statutory regulations. 24 Tex. Jur. 776.

While a beneficiary might also be an heir, as in the case presented by your question No. 1, when such beneficiary is not an heir of the deceased soldier he would not be entitled to any benefits under Sec. 1 of Art. 1939a, V. A. C. S., as the provisions of said article are limited to the veterans pointed out and their "heirs at law".

In regard to your question No. 4, we call to your attention our Opinion No. O-6067, a copy of which is herewith enclosed, in which it is held that, as defined by Section 2 of said Article 1939a, V. A. C. S., the "terms 'ex-servicemen' and 'ex-members' of the Auxiliaries include all those persons recognized by the United States Government as being entitled to adjustment compensation, or other form of settlement for service in time of war, when such persons have been discharged from such services, or when present members show that they are now recognized by the United States Government as being entitled to adjustment compensation, or other form of settlement for service in time of war." (Underscoring added)

Therefore, our answer to said question No. 4 is: "No, unless the serviceman in question comes under one of the alternative provisions next hereinbefore quoted."

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We trust the foregoing full answers your question.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By s/Robert L. Lattimore, Jr.
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RLl:LJ:wc
encls.

APPROVED APRIL 28, 1945
s/Carlos C. Ashley
FIRST ASSISTANT
ATTORNEY GENERAL