

**OPINION
72-237**

May 26, 1972 (OPINION)

Mr. Charles Bosch

Motor Vehicle Registrar

RE: Motor Vehicles - Registrar - Branch Office Contract

This is in reply to your letter of May 24, 1972, in which you enclosed a proposed contract to be executed by the various managers of the several branch offices of this State. You state the contract includes the various recommendations made in the recent audits of the State Bank Examiner and the State Auditor. You ask us to review the proposed agreement as to form and substance to determine if it is in conformity with section 39-02-03 of the North Dakota Century Code.

I am enclosing herewith a copy of an opinion issued by this office to Peter S. Hilleboe, State Representative, on May 23, 1972, which I believe will set forth our position on several matters which would be of concern to you in the preparation of any contract.

We do not find the agreement to be in conflict with the conclusions reached in the May 23, 1972, opinion except with respect to Article II A, wherein the manager agrees to establish and maintain separate and distinct bank accounts to be designated as Motor Vehicle Branch Office pursuant to the procedures prescribed by the Registrar. While this provision is not objectionable, it does not, in our estimation, adequately cover the matter. At the very least the contract should contain a provision that the moneys so deposited will be remitted as provided by statute and the directives of the Registrar. We find nothing in the agreement which specifically states the manager will pay to the credit of the State the moneys collected on behalf of the State. While same may be implied in the contract, we believe these procedures should be specifically contained in the agreement.

We also have serious reservations as to the authority of the Motor Vehicle Registrar to authorize the charging of an additional fee by which to finance the branch offices. While same may have been the policy for several years we find nothing in the statute which explicitly legalizes such a practice nor do we believe such a practice can be justified by implication. If this is what is intended by the Legislature we believe same should be specifically stated in the legislation. The amount to be charged for license tabs, registration of title, etc., is specifically provided by statute. There is nothing in the statutes which indicates additional charges can be made.

HELGI JOHANNESON

Attorney General