

shall be reimbursed and repaid the amount of tax so paid upon presenting to the Commissioner an application for such reimbursement or repayment, in form prescribed by the Commissioner, . . .”

The Parking Authority of the City of Elizabeth was created by an ordinance adopted by the City of Elizabeth under the authority granted by the “Parking Authority Law”, N.J.S.A. 40:11A-1 et seq.

The Authority is expressly recognized as a political subdivision of the State by N.J.S.A. 40:11A-6 which provides in part:

“The authority shall constitute a public body corporate and politic and a political subdivision of the State with the same territorial boundaries as the boundaries of the municipality or county creating the authority, exercising public and essential governmental functions, . . .”

Accordingly, you are advised that as a political subdivision of this State the Parking Authority of the City of Elizabeth is entitled to the refund in question pursuant to the statutes above cited.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DONALD M. ALTMAN
Deputy Attorney General

DMA :ccm

AUGUST 30, 1957

HONORABLE FREDERICK J. GASSERT, *Director*
Division of Motor Vehicles
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-28

DEAR DIRECTOR GASSERT:

We have your request for an opinion concerning an Unsatisfied Claim and Judgment Fund assessment or fee against a New Jersey resident car owner presently stationed in a foreign country, who upon renewal of his New Jersey motor vehicle registration, presents evidence that he has liability insurance meeting all of the other requirements of the statute except for the fact that the insuring company is not authorized to do business in New Jersey. The pertinent sections of the Unsatisfied Claim and Judgment Fund Law provide as follows:

R.S. 39:6-62. “Definitions

* * * ‘Unsatisfied Claim and Judgment Fund Fee’ means the additional fee to be collected under this act as a contribution to the fund from the owner of a motor vehicle upon the registration thereof in this State. * * *”

R.S. 39:6-63. “Creation of fund

For the purpose of creating the fund

(d) On December 30 in each year, beginning with 1956, the director shall calculate the probable amount which will be needed to carry out the provisions of this act during the ensuing registration license year. If, in his judgment, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall

(1) Assess the estimated deficiency against insurers for such year's contribution to the fund. Such deficiency shall be apportioned among such insurers in the proportion that the net direct written premiums of each bears to the aggregate net direct written premiums of all insurers during the preceding calendar year as shown by the records of the commissioner. Such aggregate assessment, however, shall in no event exceed $\frac{1}{2}$ of 1% of the aggregate net direct written premiums for such preceding calendar year. Each insurer shall pay the sum so assessed to the treasurer on or before March 31, next following.

(2) If such assessment against insurers be insufficient in the judgment of the director to provide the estimated amount needed to carry out the provisions of this act for the ensuing registration license year, he shall determine the amount to be fixed as to the Unsatisfied Claim and Judgment Fund Fee for such license year. Such fee shall in no case exceed \$8.00 and shall be paid by each person registering an uninsured motor vehicle during such ensuing year at the time of registration in addition to any other fee prescribed by any other law."

R.S. 39:6-62. "Definitions

* * * 'Uninsured motor vehicle' means a motor vehicle as to which there is not in force a liability policy meeting the requirements of sections 3, 24, 25, or 26 of the Motor Vehicle Security-Responsibility Law of this State, established pursuant to the provisions of chapter 173 of the laws of 1952, as amended and supplemented, and which is not owned by a holder of a certificate of self-insurance under said law. * * *

R.S. 39:6-25:

"* * * No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this State, except that if such motor vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; * * *

R.S. 39:6-46. "Liability policies; requirements

A motor vehicle liability policy furnished as proof of financial responsibility as provided herein shall be a policy of liability insurance issued by an insurance carrier authorized to transact business in this State to the person therein named as insured, or in the case of a nonresident, by an in-

insurance carrier authorized to transact business in any of the States or provinces hereinafter stated. * * *

Under the plain language of the foregoing statutes, a New Jersey resident is required to have liability insurance in an insurance company authorized to do business in the State of New Jersey or in the alternative, at the time of the registration of his motor vehicle, to pay the Unsatisfied Claim and Judgment Fund fee provided for in R.S. 39:6-63. Non-residents of the State of New Jersey are, by express language in the above statute, permitted to have liability insurance in companies not authorized to transact business in New Jersey provided certain additional requirements not pertinent to the question under consideration are met. This exemption as to non-residents, however, in no way affects the requirements as to residents of the State of New Jersey. *State v. Garford Trucking, Inc.*, 4 N.J. 346 (1950)

You are, therefore, advised that a New Jersey resident, temporarily out of the State of New Jersey, is required, at the time of the registration of his motor vehicle in New Jersey, to have a liability insurance policy in an insurance company authorized to transact business in New Jersey or in default thereof, to pay the Unsatisfied Claim and Judgment Fund fee provided for the registration of an uninsured motor vehicle.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: GEORGE H. BARBOUR
Deputy Attorney General

GHB :jeb

SEPTEMBER 12, 1957

MR. J. FRANK O'DONNELL, *Member*
Union County Board of Elections
263 North Broad Street
Elizabeth, New Jersey

MEMORANDUM OPINION—P-29

DEAR MR. O'DONNELL:

You have asked our opinion concerning the legality of a proposed resolution by the governing body of the City of Elizabeth.

The resolution in question in pertinent part recites that due to the increasing difficulties of transportation and parking in the City of Elizabeth, it has been determined that the best interest of the residents of the City of Elizabeth can be served by increasing the facilities of the office of the City Clerk for the purpose of registering voters and performing other duties incidental to the office of the City Clerk. The proposed resolution authorizes and directs the City Clerk to maintain his office, in addition to maintaining said office at the regular time at City Hall, at six named locations within the City of Elizabeth, between the hours of 6:00 P. M. and 8:00 P. M. on seven designated days in the month of September, 1957.

Specifically you request our opinion as to the legality of the proposed resolution