

Opinion No. 13-1048

May 22, 1913

BY: FRANK W. CLANCY, Attorney General

TO: State Corporation Commission, Santa Fe, N. M.

INSURANCE.

As to license for non-resident insurance agents.

OPINION

{*217} On account of my absence at El Paso on official business I have not been able sooner to answer your letter of the twentieth instant with which you enclose a letter from Mr. Bunker, Agency Director of the National Casualty Company, asking that agents' licenses be issued to Mr. Frank Armstrong and Mr. S. Kalischer of Denver, and you ask as to the propriety of issuing such licenses to a non-resident in view of the provisions of Chapter 66 of the Laws of 1913.

As I understand the so-called licenses for agents are simply copies of the certificate of authority for the company to do business, and are provided for in Section 16 of Chapter 5 of the Laws of 1905 as amended in Section 4 of Chapter 48 of the Laws of 1909, but that section seems to contemplate that each person soliciting insurance business must have a certificate. It may be possible, notwithstanding the provisions of Chapter 66 of the Laws of 1913, that an insurance company might send a non-resident agent into the state to solicit business for the company, but no contract secured through his efforts could be "made, written or placed" except through an agent resident of the state, nor could he lawfully receive any compensation for the obtaining, placing or writing of any policy covering {*218} property in New Mexico. This is quite apparent from a careful reading of Chapter 66 of the Laws of 1913.

It appears to me that if Mr. Bunker's attention is called to the present condition of the law he will not desire any licenses for the use of non-resident agents.

You also ask as to the authority of a non-resident agent to continue to do business under an unexpired license issued prior to the passage of said Chapter 66 of the Laws of 1913. That act does not become effective until June 13, and at that time it is clear it would be applicable to all agents whether they had any license or not, and the authority of non-resident agents to do business under any unexpired license, in contravention of the provisions of the new statute, would immediately expire.

I return herewith Mr. Bunker's letter.