

Opinion No. 13-1069

July 5, 1913

BY: FRANK W. CLANCY, Attorney General

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

INSURANCE.

Surety company bonds not required to be signed by local agents.

OPINION

{*241} I have had on my desk for several days by reference from your office a letter from O. C. Watson & Co., dated June 27, but I have not been able sooner to give it attention.

Watson & Co. desire an opinion from you in regard to matters set out in Section 1 of Chapter 66 of the Laws of 1913, asking on behalf of the United States Fidelity and Guaranty Company whether all bonds given by that company must be countersigned by them as general agents of the company or by their district agents, when as a matter of practice many of the bonds given by that company have been executed and signed by managers at Denver and a few executed and signed at the home office in Baltimore. They call attention to the fact that all business written by the company for New Mexico is credited to their office as general agents for this state, and their regular commission is allowed them, and they call attention to the inconvenience which might sometimes be occasioned when bonds are made at Denver or Baltimore for public officers in New Mexico to be filed in Washington, in which cases the bonds have not actually passed through the office here.

That portion of the section of the statute referred to which bears upon the subject of the inquiry made by Watson & Co. reads as follows:

"It shall be unlawful for any foreign insurance company to make, write, place or cause to be made, written or placed in this state, any insurance policy or contract of any kind to provide against any contingency which may be insured or guaranteed against, unless same shall be made, written or placed through its duly and regularly appointed and authorized agent or agents, residents of this state."

The remainder of the section has no reference to surety companies. There would seem to be possibly two objects in this legislation, one to protect the local agents of insurance and surety companies as to all business done within the state, and the other to preserve some record in the offices of local agents of all business transacted affecting New Mexican interests.

The requirement is in substance that the policies or contracts must "be made, written or placed" through New Mexican agents. I cannot see that this necessarily requires the signing of policies or contracts by agents resident in the state. If they are made through such agents, or written through such agents, or placed through such agents, the requirement of the statute would seem to be met, and while the meaning of these words may not be entirely clear, yet it appears to me that the business of such a company as the one now under consideration could be so arranged as to make it plain that { *242 } its bonds are made or placed through its New Mexican agents even though they may be actually written in Denver or Baltimore, and if this is done there would be no violation of the statute.

I return herewith the letter from Watson & Co.