

Opinion No. 13-1080

July 16, 1913

BY: FRANK W. CLANCY, Attorney General

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

INSURANCE.

Chapter 66, Laws 1913, as to compensation of agents does not refer to surety companies.

OPINION

{*250} I have received your letter of even date herewith enclosing another from O. C. Watson & Co., as to which you ask me for my opinion to be given to them in response to their inquiry. They ask as to their Surety Company whether it is the intent of the law to allow resident agents a commission on local business. They say that the managers are on a salary basis, and they desire to know if such managers violate the law in not paying a commission to an agent who makes a bond for the company in New Mexico.

Very slight attention to the wording of the statute and to my letter to you of July 5, 1913, will show that the portion of the statute about compensation of agents has no reference to surety companies. In my letter to you after quoting the first sentence of the amended section set out in Chapter 66 of the Laws of 1913 which merely declares it to be unlawful for companies to make, write or place in this State any insurance policy or contract of any kind to provide against any contingency which may be insured or guaranteed against except through local agents residents of the State, I said that the remainder of the section has no reference to surety companies. You will notice that this first sentence of the section says nothing whatever about commission or other compensation, and while it requires companies to do business through agents in New Mexico, it leaves the question of commission or other compensation to be regulated between the companies and the agents as they may see fit. The next sentence of the section which forbids the paying of compensation to any agent not a resident of the State, is the only thing in the law on that subject and it refers only to policies of insurance covering property.

The letter from Watson & Co. erroneously states that "The above act requires that commissions be allowed by companies to agents where business is placed." The act does not directly require anything of that kind as to any companies and has nothing on the subject with regard to life insurance companies or surety companies.

I return the letter from O. C. Watson & Co.