

**Opinion No. 13-1142**

December 17, 1913

**BY:** H. S. CLANCY, Assistant Attorney General

**TO:** State Corporation Commission, Santa Fe, New Mexico.

**INSURANCE.**

Non-resident agent not to write policies.

**OPINION**

{\*323} Complying with your oral request for the opinion of this office in connection with the matter discussed in the letter of Mr. C. H. Hardin Smith of Las Cruces, in regard to the Manufacturers Reciprocal Exchange of Kansas City, Missouri, writing fire insurance policies upon property located in this state, I have to say:

Section 22 of Chapter 66, Laws of 1913, makes it unlawful for any foreign insurance company to write an insurance policy in this state to provide against any contingency which may be insured against, unless such policy shall be made, written or placed through its duly authorized agent, resident of this state. If the Kansas City concern above referred to has written such a policy in this state through any agent, such agent would be subject to the penalty provided by law for doing such an act, the company itself not being authorized to transact business in this state; but a resident of this state cannot be prohibited from purchasing insurance from a company not authorized to transact business in New Mexico. It will be observed that the law above cited provides that any insurance company violating its provisions shall have its certificate of authority to do business in New Mexico suspended, but where a company has never been authorized to do business in New Mexico such a penalty, of course, cannot be inflicted. The object of this law was to protect insurance agents located here so that they might be in a position {\*324} to claim all of the emoluments arising from the writing by them of insurance policies.

I return herewith Mr. C. H. Hardin Smith's letter.