

Opinion No. 16-1717

January 22, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Messrs. Skinner & Bruckner, Albuquerque, New Mexico.

Trust companies are under the supervision of state bank examiner.

OPINION

{*290} I have received your letter of the 20th inst. in which you say that you are about to file articles of incorporation for the Bankers and Stockmen's Trust Company, but that it is not your intention to take deposits subject to check, only to receive trust funds on deposit not subject to check, and that you had spoken to Mr. Carter, the State Bank Examiner, of your purpose and that he advised you to write to me for my opinion as to whether or not you come under the banking laws when you do not take deposits.

If you will refer to Chapter 67 of the Laws of 1915, you will find in the second section thereof a definition of what is meant by the word "bank" as used in that act. It is there stated that it includes every person, firm, company, co-partnership or corporation, except national banks, engaged in the business of banking in the State of New Mexico, and that banks are divided into three classes, commercial banks, savings banks and trust companies. For the purposes of that act your trust company would be a bank and would have the powers set out in Section 60 of the act.

Beginning with Section 67, you will find the provisions as to the State Bank Examiner, whose duty it is to make examinations of every bank, and in view of what is found in the second section of the act, trust companies would be included among those institutions which are under the supervision and jurisdiction of the State Bank Examiner.

In addition to this, the legislative intent to put trust companies under the supervision of the State Bank Examiner, is indicated by the requirement in Section 59, that the articles of incorporation must be made in duplicate, a copy to be filed in the office of the State Corporation Commission and the other in the office of the State Bank Examiner. Similar provisions are to be found in Sections 64 to 66 of the act, among which is one which requires the trust company to get a certificate of authority to do business from the State Bank Examiner.