

**Opinion No. 44-4490**

March 29, 1944

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. R. F. Apodaca, Superintendent of Insurance, State Corporation Commission, Santa Fe, New Mexico

We are in receipt of your letter of March 24, 1944, concerning the Kansas City Title Insurance Company of Kansas City, Missouri. In your letter you state that this company has a paid-up capital of \$ 100,000., and ask our opinion as to whether or not, under Section 60-405 of the 1941 Compilation, as amended, you are authorized to accept a surety bond for \$ 10,000. in lieu of the securities required by that section, which is, in part, as follows:

"No company shall be licensed to transact a Title Guaranty insurance business in the State of New Mexico unless it is possessed of a minimum paid up capital of \$ 100,000.00; nor unless it has first made a deposit with the State Treasurer of New Mexico for the benefit of all its policies issued covering risks in this State of \$ 10,000.00 in securities of one of the kinds authorized as an investment for an insurance company and approved by the Superintendent of Insurance."

It is seen by this section that the securities acceptable are limited to those kinds authorized as an investment for insurance companies.

Section 60-307 of the 1941 Compilation sets forth the securities in which insurance companies may invest. It is apparent that the Legislature had reference to this section when it referred to "securities of the kinds authorized as an investment", since by other paragraphs of Section 60-405, as amended, the Legislature makes reference to the various sub-paragraphs of this section.

It is, therefore, my opinion that, since surety bonds are not mentioned in Section 60-307, a surety bond is not an authorized security under Section 60-405.

Trusting the foregoing sufficiently answers your inquiry, I remain

By ROBERT W. WARD,

Asst. Atty. General