

Opinion No. 50-5303

June 16, 1950

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable Woodlan P. Saunders State Bank Examiner Santa Fe, New Mexico

{*159} I am in receipt of your recent letter requesting an opinion whether persons, firms, co-partnerships, associations or corporations engaging in the business of buying, selling or leasing oil and gas leases and oil and gas royalties shall obtain a license from the State Bank Examiner under the law known as Chapter 177, Session Laws of 1949.

Section 1 of the above law states as follows:

"It shall be unlawful for any person, firm, co-partnership, association or corporation to engage in the business of buying, selling or leasing real estate for another without first obtaining a license as prescribed in this Act, from the State Bank Examiner."

The question that must be determined, since the act does not specifically mention oil and gas lands and leases, is whether oil and gas lands are to be considered real estate within the meaning of the above act.

In *Simms v. Vosburg*, 43 N.M. 255, 91 P.2d 434, 1939, on page 257, it is stated as follows:

"A mineral deed conveys an interest in real estate; we have so held a number of times * * and is subject to taxation."

It is evident from the above quotation that oil and gas lands are considered real estate in this jurisdiction; sufficient enough to bring it within the purview of the above law.

It is, therefore, my opinion that persons, firms, corporations, etc., who are engaged in the business of selling oil and gas leases and oil and gas royalties would come under the provisions of the above act and a license from the State Bank Examiner is required.