

Opinion No. 14-1217

May 4, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. F. M. Jones, Santa Fe, New Mexico.

INSURANCE.

Courts of the state not open to holders of fire insurance policies in case of loss where company is not authorized to transact business in New Mexico.

OPINION

{*77} In response to your oral request as to the status of contracts of fire insurance made with companies not authorized to do business in the State of New Mexico, I have to say that the courts of the state would not be open to the insured, in case of loss, for the enforcement of any such contract. Our legislature has seen fit, very properly, to make certain requirements of insurance companies for the protection of our own citizens before such companies can do any business in the state. In such a case the insured would be compelled, in case of any dispute or difficulty, to go or send to some other state where the company exists in order to bring a suit to recover damages occasioned by the loss. It is obvious that this would subject the insured to greatly increased expense and loss of time. Moreover the very fact that an insurance company would be willing to do business in New Mexico without having complied with our local requirements would strongly tend to inspire well founded distrust on the part of our property owners for whose protection our insurance laws have been enacted.

In addition to this I call your attention to the fact that by Sec. 15, Chap. 5 of the Laws of 1905 it is made unlawful, not only for any person in New Mexico to procure, receive or forward applications for insurance in any company not having complied with our laws, but it is also made unlawful for any person even to adjust any loss. A practical difficulty would thus arise with regard to any policy of insurance made with a foreign insurance company not authorized to do business in New Mexico, as such a company could not even send an adjuster into the state to examine and adjust the loss, without subjecting their agent to a criminal prosecution under the section just referred to, which denounces as a punishment a fine of five hundred dollars or imprisonment for six months, or both.

Under these circumstances no prudent or well advised property owner would accept a policy from a foreign insurance company which refuses to comply with our statutes.