

Opinion No. 19-2434

November 26, 1919

BY: HARRY S. BOWMAN, Assistant Attorney General

TO: Mr. James A. Read, State Bank Examiner, Santa Fe, New Mexico.

Employes of Banks Acting as Agents for Bonding and Insurance Companies Not "Underwriting."

OPINION

Complying with your oral request for an opinion regarding the construction of that part of section 7, Chapter 120, Laws 1919, which provides that "no bank officer or employee thereof shall engage in underwriting any policy of insurance, surety, indemnity or guaranty bonds," we beg to advise you as follows:

The word "underwriter" as defined in the Century Dictionary means "One who insures or carries on a business of insurance, especially of marine insurance." "Underwriting" is defined in the same work as "the practice or business of an underwriter."

In the case of Childs vs. Firemen's Insurance Company,

66 Minn. 393, 69 N. W. 141, 35 L. R. A. 99.

the court, in defining the meaning of the word 'underwriter' says that this word "has now acquired the meaning of anyone who insures another on life or property in a policy of insurance," and Cyc., in defining the word "underwriter" "as anyone who insures another on life or property in a policy of insurance" cites the above mentioned case.

It will appear, therefore, that the word "underwriter" means "insurer" and therefore that the word "underwriting" would mean the act of insuring.

Applying the above definition to the act in question it would appear that an employe or officer of a bank acting as agent for an insurance, surety, indemnity or bonding company would not be "engaged in underwriting" but that the person so engaged would be the insurer himself.

We, therefore, are of the opinion that employes and officers of a bank, acting as agents for insurance or bonding companies, are not "engaged in underwriting."