

Opinion No. 41-3896

September 12, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Jessie M. Gonzales Secretary of State Santa Fe, New Mexico

{*96} In your letter dated September {*97} 10, 1941, you inquire whether a personal surety bond given by a collection agency is valid when one of the two sureties upon said bond has withdrawn.

Chapter 125, Section 1, Laws of 1931, provides that any person firm, corporation or association conducting a collection agency shall first file with the Secretary of State a surety bond in the sum of \$ 2500.00. This office has previously held under Opinion No. 2049 that such a surety bond may be personal surety bond as well as a corporate one.

Since the above mentioned statute does not provide for the number of sureties upon the bond, it is possible for the bond to be legal with the principal and one surely upon the same. However, the qualifications of one or more sureties involved should be the same as set forth under Section 17-107 of the 1929 Compilation which reads as follows:

"No bond of any public officer of this state executed by any individual, or firm as surety, shall be accepted or approved unless the persons or firm executing the same shall be the owners of unencumbered real estate or personal property in this state to an amount equal to the amount for which they respectively qualify on such bonds."

In answer to your question, if the remaining surety submits a financial statement or other evidence to you sufficient to show that he is the owner of unencumbered real estate or personal property in this state to an amount equal to \$ 2,500.00, I believe the bond would still be valid.

By C. C. McCULLOH,

Asst. Atty. General