

**Opinion No. 44-4587**

September 25, 1944

**BY:** C. C. McCULLOH, 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 September 11, 1944, and the enclosed securities which the Title Insurance Company proposes to deposit with the State Treasurer to enable it to do Class 4 insurance business. In connection with these securities I observe the following:

No assignment of the Mortgage involved from the Mortgage Investment Company to the Title Insurance Company is submitted. On the back of the notes appears assignments thereof made by the Mortgage Investment Company of El Paso, Texas, to the Title Insurance Company, and from the Title Insurance Company to Guy Shepard, State Treasurer. Both of these assignments are made without recourse. However, the words "without recourse on us in any event" in the assignment made by the Title Insurance Company have been crossed out. There is no indication who crossed out these words, or when they were so stricken.

The assignment of mortgage appearing as a separate instrument from the Title Insurance Company to Guy Shepard also contains a clause assigning the notes. This clause states:

"This transfer without recourse in any event."

The improvements are only insured for \$ 8,000.00 on appraised valuation of improvements of \$ 12,500.00, which is slightly under the 75% insurance coverage required by Section 60-307 (e) of the 1941 Compilation, the section which must be complied with in making deposits under Chapter 122 of the Laws of 1943.

While the face of the policies would indicate that the improvements were insured to the extent of \$ 8500.00, yet Policy No. 25150, covering the dwelling and household goods, contains an endorsement reducing the coverage to \$ 1,000.00.

Policies Nos. 25209, 25150 and 1624 cover both the dwelling and household goods. Household goods, of course, are not improvements. There is no way of determining whether or not these insurance policies cover the property described in the notes and mortgages. Further, none of these insurance policies contain a mortgage clause in favor of Guy Shepard, State Treasurer.

You have submitted an appraisement signed by two individuals by which the land described in the notes and mortgages is appraised at \$ 2,000.00, and the improvements

at \$ 12,500.00, which would be sufficient for a \$ 5,000.00 security. However, there is no showing as to who the appraisers are, or why the appraisal was made, or that the appraisal is accurate.

By ROBERT W. WARD,

Asst. Atty. General