

### Deposits of Surety Companies.

Deposits required to be made by foreign surety companies with the State Treasurer are held in trust for the benefit of resident holders of obligations of such corporations.

Helena, Montana, November 15, 1906.

Hon. Harry R. Cunningham, State Auditor, Helena, Montana.

Dear Sir:—I am in receipt of your favor of recent date, making request for opinion of my office as to whether deposits made by surety companies in Montana should be classed as special deposits for the benefit of policy holders residing in Montana or as general deposits for policy holders without regard to their place of residence.

The act of March 11, 1903, (Session Laws 1903, page 294) contains this statement with reference to the deposits required of foreign surety companies, "they shall also deposit with the treasurer of the state fifty

thousand dollars of like securities, in trust for the benefit of the resident holders of the obligations of such corporation." This is a State law, which operates only within the State, and the phrase "resident holders" undoubtedly has reference to residents only within the jurisdiction within which the law is in force. To that extent the fifty thousand dollar deposit is segregated from the general funds of the corporation and is held here "in trust" for a specific purpose, and to that extent is a special deposit.

Whatever may be the right of the "resident holders" to participate in the distribution of the general funds of the company, in addition to this special deposit, or whatever may be the right of the corporation to make this segregation, are questions not here considered.

Yours very truly,

ALBERT J. GALEN,

Attorney General.