

**Notaries Public, Official Bonds Of, by Whom Approved.
Secretary of State, Duty to Approve Official Bonds of Notaries
Public.**

By the provisions of Chap. 103, Laws of 1909, the duty of approving of the official bonds of notaries public devolves upon the secretary of state, and said chapter repeals Sec. 324 of the Revised Codes of 1907.

February 8, 1912.

Honorable T. M. Swindlehurst,
Secretary of State,
Helena, Montana.

Dear Sir:

I acknowledge receipt of your letter of February 7th, requesting me to render you my official opinion as to whose duty it is to approve the official bonds of Notaries Public within this state.

Sec. 324, Revised Codes, provides as follows:

"Each notary public must give an official bond in the sum of \$1000.00, which bond must be approved by the county clerk of the county for which he was appointed, provided, however, that when such bond is executed by a surety company purporting to be duly authorized to do business in the State of Montana, such approval shall be by the secretary of state."

Section 325, Revised Codes, reads as follows:

"Each notary public, upon such approval of his official bond, so soon as he has taken his official oath, must transmit such bond and oath, signed by him with his own proper signature, to the office of the secretary of state, whereupon the governor must issue a commission."

The Legislative Assembly of the State of Montana by Chapter 103, Laws of 1909, amended Sec. 325 above quoted to read as follows:

"Each notary public must give an official bond in the sum

of \$1000.00, which bond must be approved by the secretary of state."

This chapter also repeals all acts in conflict with it.

It was evidently the intention of the Legislature to amend Sec. 324 instead of Sec. 325 above quoted, as the Legislature follows the wording of Sec. 324, and that section is the one which had to do with the approval of official bonds. However, as Chap. 103, Laws of 1909, directly provides that the official bonds of notaries public must be approved by the secretary of state, and this provision is directly in conflict with the provisions of Sec. 324, this latter section is repealed by the general repealing clause of the act.

You are, therefore, advised that it is the duty of the secretary of state to approve all official bonds of notaries public in this state, and that the county clerks of the several counties since the passage of Chap. 103, Laws of 1909, are relieved of this duty.

Very truly yours,

ALBERT J. GALEN,

Attorney General.