

Real Estate Brokers—Bonds.

The bond of a real estate broker does not cover his dealings as broker of personalty.

Mr. A. H. Stafford,
Commissioner of Agriculture,
Helena, Montana.

January 24, 1931.

My dear Mr. Stafford:

You request an opinion whether the surety bond of one M. W. Burton, operating as the Modern Investment Company of Butte, would be held liable for fraudulent transactions other than those covered by real estate.

It appears that Mr. Burton was calling on persons having property for sale, stating that he had a prospective buyer, and in some instances the transactions concerned personal property as distinguished from realty.

You are advised that code section 4058 provides:

“A real estate broker, within the meaning of this act, is a person who for a compensation, or promise thereof, sells or offers for sale, buys, or offers to buy, negotiates, or offers to negotiate, either directly or indirectly, whether as the employee of another or otherwise, the purchase, sale, exchange of real

estate, or any interest therein, for others as a whole or partial vocation. The word 'person' as used in this act, shall be construed to mean and include a corporation."

Code section 4065 provides for a bond of \$1,000.00, conditions that the applicant shall conduct his business as a real estate broker in accordance with the requirements of this act—the act being chapter 195 of the laws of 1921.

You have furnished a bond form identical with that signed by the person in question, the conditions being as follows:

"THE CONDITIONS OF THE ABOVE OBLIGATION ARE SUCH, that, Whereas, the above bounden principal is about to obtain a license to engage or continue in the business of real estate broker, in accordance with the provisions of Chapter 265, Part 3 Pol. Code, of R.C.M. 1921, as amended by Chapter 40 of the Session Laws of 1925, entitled: 'An Act Providing for the Regulation, Supervision and Licensing of the Business of Real Estate Broker; Providing for a State Real Estate Commissioner, and Defining His Powers and Duties; and providing for the Enforcement of this Act and Penalty for the Violation thereof.'

"NOW, THEREFORE, if the said..... the above bounden principal, shall, if said license is issued to him, conduct his business as real estate broker without fraud or fraudulent representation and according to the provisions of said Chapter 265, Part 3, Pol. Code of R.C.M. 1921, as amended by Chapter 40 of the Session Laws of 1925, and pay to any party entitled thereto all damages arising by reason of the fraud or fraudulent representation of said principal, directly or indirectly, not to exceed One Thousand Dollars, then this bond shall be void and of no effect; otherwise to remain in full force and virtue."

You are advised that there is nothing in the provisions of the act or in the terms of the bond which would make it liable for the acts of real estate dealer outside of the buying or selling of real estate as above described; accordingly, no reimbursement or partial reimbursement should be made to those other than those dealing with the principal in real estate matters.

Very truly yours,
 L. A. FOOT,
 Attorney General.