

## No. 211

**BONDS—NOTARY PUBLIC—OFFICIAL BONDS—  
COUNTERSIGNING**

**Held: A bond of a Notary Public or official bonds required to be given by public officers must be countersigned by a resident agent, as provided by Chapter 62, Laws of 1941.**

August 20, 1941.

Honorable Sam W. Mitchell  
Secretary of State  
State Capitol Building  
Helena, Montana

Dear Mr. Mitchell:

You have requested my opinion whether, in view of the provisions of Chapter 62, Laws of 1941, the bonds of Notaries Public and also official bonds required to be given by public officials must be countersigned by the resident agent of the surety company furnishing the bond.

Section 1 of Chapter 62, Laws of 1941, provides:

"It shall be unlawful for any insurance company or association to write, issue, place or cause to be written, issued or placed in this State, any policy, bond, duplicate policy, contract of indemnity or insurance of any kind or character, hereinafter called contracts of insurance, covering risks on any persons, property, insurable business, activity or interest, located or transacted within this State, unless written through and countersigned by a resident agent of this State, duly licensed to transact such insurance, bonding or indemnity business therein. No such resident agent shall countersign contracts of insurance or endorsements in blank."

It will be noted this section includes "any policy, bond, duplicate policy, **contract of indemnity** or insurance of any kind or character . . . covering risks on any persons, property, insurable business, activity or interest . . ."

Section 6 of the act provides certain exceptions, but such exceptions deal only with certain types of companies or organizations and do not except from the provisions of the act any certain type of contract, such as life insurance, or indemnity.

The bond given by a Notary Public or by an official required to give bond is a "contract of indemnity" which is specifically mentioned in Section 1.

Chapter 62 is a penal statute making it unlawful to write any contract as therein specified without the same being countersigned by a resident agent. It provides a penalty therefor.

It is therefore my opinion a bond of a Notary Public or official bonds required to be given by public officers must be countersigned by a resident agent, as provided by Chapter 62, Laws of 1941.

Sincerely yours,

JOHN W. BONNER  
Attorney General