

**Free Holder, Who Is. Registration Law, Free Holder Under.**

Under provisions of Sec. 15, Chap. 113, Laws of 1911, the witness signing affidavit must be the owner of an estate of inheritance or for life. A homesteader who has complied with the acts required by the Acts of Congress to entitle him to patent is a free holder within the meaning of this section.

January 6, 1912.

Mr. B. L. Powers,  
County Attorney,  
Fort Benton, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 3rd inst., in which you request my opinion as to whether a person having no other estate in real property than a homestead filing or contract for a deed to a lot in a townsite where patent has not been issued, is a free holder within the provisions of Section 15, Chapter 113, Laws of 1911; and also whether persons residing upon a forest reservation and for that reason are unable to obtain patent to the lots upon which they reside are free holders within the same section.

A free hold is defined by Section 4485, Revised Codes, as being "estates of inheritance and for life." Unless the person is the owner of an estate of inheritance or an estate for life, in my opinion he would not be a free holder within the meaning of this Act.

However, with reference to a homesteader, it is my opinion that when he has completed the residence and improvements upon his homestead as required by the acts of congress and has done everything necessary by him to be done prior to the issuance of a patent by the United States government that his estate in such homestead would be a free hold estate and the same would, descend to his heirs. But until such time as he has fully complied with the act under which he entered his homestead he would not have such an interest in the property as would constitute him a free holder. Neither would a person simply holding a contract for a deed to property be a free holder. Conditions of the contract might never be performed and as a consequence a deed would never issue and title would and could never vest in the holder of the contract. For the reasons above cited, it is my opinion that neither of the class of persons referred to in your letter are free holders within the intent of Section 15, Chapter 113, Laws of 1911.

Yours very truly,

ALBERT J. GALEN,

Attorney General.