

Liquor License, Petitions and Remonstrances. Petitions, for Liquor License. Freeholder, Who Is.

In a remonstrance against the issuance of a retail liquor license, the term "freeholder" is construed as applied to one who has filed upon government lands.

One holding the fee to lands encumbered by liens and mortgages is a "freeholder" and qualified to sign a remonstrance petition.

July 15, 1915.

Hon. Board of County Commissioners,
Billings, Montana.

Gentlemen:

This office is in receipt of a letter requesting an opinion upon the proposition as to who are eligible to sign petitions for, and remonstrances against the granting of liquor licenses, as provided by Chapter 87 of the Laws of 1915? Specific inquiry is made as to whether, if the government issues a patent to lands against which it holds a lien for unpaid water payments, the patentee may be considered as a freeholder, and whether, if the United States Land Office issues its final receipt, the homesteader may be considered a freeholder from the date of the receipt.

The term "freeholder," as used in Section 4, includes and comprehends estates of inheritance and estates for life. (Revised Codes, 4485, 4486). This office has held that where the government has issued its final receipt for land to a person and nothing remains to be done between the parties save the formal issuance of patent by the government, that such lands become subject to taxation by the state. (Vol. 5, Opinions Attorney General, p 210). By parity of reasoning, such a person may be regarded as a freeholder within the purview of the law, and hence, qualified to sign, provided he possesses the necessary qualifications as to residence. You are further advised that the mere fact that a freehold estate is subject to liens or encumbrances does not operate to divest it of its inherent nature; but so long as the title remains in the owner, he is eligible to sign a petition for, or a remonstrance against, the granting of a liquor license.

Yours very truly,

J. B. POINDEXTER,

Attorney General.