

Hail Insurance—Application For, By Lessees—County Assessor, Duty to Reject.

Where the lessees of land fail to comply with the provisions of Section 5 of Chapter 169, Laws of 1917, protection under act is waived and tax should not be levied against the land.

Oct. 15th, 1919.

Hon. E. K. Bowman, Chairman,
State Board of Hail Insurance,
Building.

Dear Sir:

I am in receipt of your letter of recent date, submitting your file relative to the 1917 hail insurance of V. W., Lewis, Albert and C. A. Skarda.

From your file it appears that these parties were the lessees of certain land situated in Fergus County, Montana; that they made application to the county assessor of that county for assessment for the lands held under lease by them for the year 1917, and that the application was received by the assessor and filed and reported to you. It appears, however, that the

owner of the lands in question did not elect to come under the provisions of the hail insurance law and did not consent thereto.

The levy for hail insurance to cover the land in question was duly made and is now carried against these parties while no attempt is made to collect the same from the land held under lease.

The question you desire answered is whether or not the assessments so made can be collected from these parties.

Chapter 169, Laws of the Fifteenth Legislative Assembly, provides for hail insurance and Section 5 of said Act provides that each taxpayer who elects to become subject to the provisions of the Act shall be liable for the taxes levied for hail insurance and shall participate in the benefits and protection afforded by the Act.

Section 1 of the Act provides, among other things, as follows:

"Every such farmer taxpayer who desires to become subject to the provisions of this Act shall file in the office of the county assessor the blanks above referred to, properly filled out, not later than June 1st and shall be chargeable with the tax on lands growing crops subject to injury or destruction by hail, hereinafter provided for, and shall share in the protection and benefits under the hail insurance provisions of this Act."

Section 5 of said Act provides in part as follows:

"Provided that the owners of lands worked by others under lease or contract shall elect if such lands shall be subject to the tax levies herein provided for, and the crops grown thereon protected for hail insurance, or the lessee of such land may tender payment of the tax levied for hail insurance to protect his crops, in cash, to the officer authorized to receive same, whereupon such crops shall become eligible to the benefits and protection afforded by this Act for hail insurance."

It will be observed from the foregoing quotations from the Act that a lessee of lands may avail himself of the provisions of said Act by either of two methods. First, by obtaining the consent of the owner of the land, and second, by paying to the officer the tax levy for hail insurance to protect his crop.

I am of the opinion that where a lessee files an application for hail insurance with the county assessor and has failed to comply with the provisions of the section just quoted, that the county assessor should reject said application and such applicant would not be entitled to protection under the provisions of said Act.

It is obvious from the foregoing that these parties failed entirely to comply with the provisions of the law and were entitled to no protection as a result of their efforts to avail themselves of the provisions of the Act. Such being the case, I am further of the opinion that no levy should have been made against the land, and consequently the amount which has been levied cannot be collected for the benefit of the hail insurance fund.

Respectfully,

S. C. FORD,

Attorney General.