

**Hail Insurance—Insurance—State Insurance — Taxes—  
Warrants—Losses.**

Money collected for any particular year for hail insurance must be applied to the payment of losses sustained during that year and no part of it can be used to pay warrants issued for losses for prior years until all losses for the year for which it was collected are paid.

E. K. Bowman, Esq.,  
Chairman State Board of Hail Insurance,  
Helena, Montana.

My dear Mr. Bowman:

You have submitted to me the question of whether the money collected for hail insurance for the year 1923 should be held wholly for the losses sustained for that year and be used exclusively for

the payment of that year's warrants, or whether outstanding warrants for other years must be first paid out of such money.

State hail insurance is a form of mutual insurance and is intended "to furnish protection against loss by hail, at the actual cost of the risk, to all taxpayers who may elect to become subject to the provisions of this act. \* \* \* Every farmer taxpayer who signifies his desire 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 August fifteenth, and shall be chargeable with the tax on lands growing crops subject to injury or destruction by hail, \* \* \* and shall share in the protection and benefits under the hail insurance provisions of this act."

Under the provisions of Section 351, Revised Codes of 1921, as amended by Chapter 40, Session Laws of 1923, a tax is authorized and directed to be levied on lands of owners who have elected to become subject to the provisions of the act. The State Board of Hail Insurance is required to annually estimate as near as may be possible the amount required to pay all losses, interest on warrants and costs of administration. The Board of Equalization is required to levy annually against lands growing crops subject to injury or destruction by hail, which are subject to this act, according to the recommendations of the State Board of Hail Insurance. These tax levies are chargeable to the lands of each taxpayer who shall elect to become subject to this act.

Section 352, Revised Codes of 1921, as amended by Chapter 40, Laws of 1923, requires the levy for hail insurance to be sufficient: (1) To pay the expenses of administration and interest owing or to be owed on registered warrants; (2) To cover that portion of the losses incurred during the current year which is not paid out of the reserve fund; (3) To maintain a reserve fund to be used in supplementing payments under Nos. 1 and 2. This reserve or supplemental fund is created by adding not to exceed 5 per cent of the total risk in any year; provided, that the levy to pay costs of administration, interest and losses, plus reserve, does not exceed 70c per acre on lands sown to grain and a proportionate amount for hay land in any year.

By Chapter 40 of the Laws of 1923, Section 361, R. C. M. 1921, was amended by inserting therein the following provision: "Also if the losses in any year should exceed the current levy plus the reserve fund, if any, then the payment of all losses shall be prorated share and share alike among all grain growers having loss claims adjusted and approved."

Under this section, as amended, it is plain that if the amount of money raised by the levy for the year 1923 was not sufficient to pay all losses sustained during that year, the losses should be prorated among the growers.

The money collected for the year 1923 could not be used to pay warrants issued for losses sustained in prior years until the losses for 1923 were first paid.

It is, therefore, my opinion that money collected for the 1923 levy for hail insurance must be applied to the payment of losses sustained during the year 1923 and that no part of it can be used to pay warrants issued for losses for prior years until the 1923 losses are first paid.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.