

Hail Insurance — County Treasurer — Mortgages — Redemption—Taxes.

A mortgagee who has foreclosed his mortgage and wishes to redeem the land from tax liens is not required to pay a hail insurance tax assessed against the land subsequent to his mortgage.

R. V. Bottomly, Esq.,
County Attorney,
Chinook, Montana.

My dear Mr. Bottomly:

You have requested my opinion as to whether a mortgagee who has foreclosed his mortgage and desires to redeem the land from tax liens must pay a hail insurance tax levied on the lands subsequent to the giving of the mortgage.

In two previous opinions rendered by this office it has been held that hail insurance assessments, although denominated by the statute a "tax," are not in the proper sense of the word taxes and do not take precedence over other liens existing at the time of their creation.

In an opinion rendered on June 21, 1923, to Mr. R. M. Hattersley, Deputy County Attorney of Pondera county, it was further held that the question as to whether a mortgagee is required to pay these hail insurance taxes in order to redeem the land depends upon whether the mortgage was prior in time to the levy of the hail insurance tax.

It is, therefore, my opinion that in the case cited in your letter the mortgagee should be permitted to redeem without paying the hail insurance tax, it appearing that his mortgage was prior in time to the levy of the tax.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.