

Hail Insurance — Applications — County Clerk and Recorder—Fees.

Hail insurance applications must be filed in the office of the County Clerk and Recorder and no fee shall be charged therefor.

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

My dear Mr. Bowman:

You have submitted to this office the question whether applications for hail insurance, under the provisions of Section 351, Revised Codes of 1921, as amended by Chapter 40, Laws of 1923, are authorized to be filed with the Clerk and Recorder of the county within which they are written. This section provides, in part, as follows:

"In addition to the lien created above on the land of the insured, the levy for such hail insurance shall also constitute a lien on the crops insured. Said lien shall be enforced in the same manner as provided in Section 7 of this Act, and all applications for hail insurance shall be in such form as to constitute the lien herein provided." * * *

Section 7 of the Act provides as follows:

"If the person receiving hail insurance secured by a crop lien fails to pay said insurance to the County Treasurer by January first of the year following the year in which the crop so insured is grown the County Treasurer shall after the first day of January deliver to the Sheriff of said county a full, true and correct copy of the lien on file in the office of the Clerk and Recorder and such Sheriff must immediately demand from the person or persons signing such lien payment of the amount due thereon, and if the same is not paid to the Sheriff upon such demand being made, the Sheriff must forthwith seize and sell in the manner provided by law for the sale of personal property under execution," * * *

This section clearly contemplates that the lien created under Section 351 has to be filed, for it speaks of it as on file in the office of the Clerk and Recorder, while Section 351 contains no direct provision for filing a lien, yet the Act clearly contemplates the filing of this lien, and the same should be filed.

As to the filing fee, the State Board of Hail Insurance is a department of the state and no fee should be charged it under the provisions of Section 4893, Revised Codes of 1921. This section provides as follows:

"No fees must be charged the state, or any county, or any subdivision thereof, or any public officer acting therefor, or in habeas corpus proceedings for official services rendered, and all such services must be performed without the payment of fees."

It is, therefore, my opinion that the State Board of Hail Insurance should file applications for hail insurance under the provisions of Section 351, Revised Codes of 1921, as amended by Chapter 40, Laws of 1923, and that no fee should be charged by the Clerk and Recorder for filing the same.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.