

Hail Insurance — Taxation — Liens — Limitations—County Treasurer.

A hail insurance levy is a tax and the lien thereof continues until the tax has been paid or the property sold for non-payment.

A county treasurer has no authority, without authorization of the hail insurance board, to transfer a hail insurance tax which has been regularly levied against land, and any such attempted transfer does not affect the right of the state to enforce the tax.

E. K. Bowman, Esq., May 25, 1925.
Chairman, State Board of Hail Insurance,
Helena, Montana.

My dear Mr. Bowman:

You have asked whether your department can have a certain hail insurance tax "reinstated" as a lien against the land upon which the crop was produced.

The essential facts appear from your letter as follows:

In 1920 one J. H. Prodger took out some hail insurance. At the time he applied for this insurance he was the equitable owner of the land upon which the crop was grown and on October 11, 1920, he received a deed to the land. On the same day Prodger deeded the land to one

Weintz. At the time of this transfer the levy for the hail insurance had been made against the land and was on record. Sometime thereafter, the exact date not appearing from the records, the county treasurer made the following notation on his records: "Hail insurance transferred account Mr. Weintz refuses to pay." The hail insurance tax has not been paid and you desire to know whether it can still be enforced against the land.

Section 351, R. C. M. 1921, as amended by section 4, chapter 40, laws of 1923, provides in part that "a tax is hereby authorized and directed to be levied on all lands in this state growing crops, the owners of which have elected to become subject to the provisions of this act." The law further provides that the state board of equalization shall make a tax levy against the lands in question for the amount of the hail insurance and that "such tax levies shall be chargeable to the lands of each taxpayer who shall elect to become subject to this act and shall be extended on the tax roll and collected by the officers charged with such duties in the manner and form as are other property taxes and if not paid shall be a lien on the lands against which the same are levied as are other property taxes."

Section 2152, R. C. M. 1921, provides that "every tax has the effect of a judgment against the person * * * the judgment is not satisfied, nor the lien removed until the taxes are paid or the property sold for the payment thereof."

It is clear from the law above quoted that hail insurance taxes have the same legal status as any other tax and that the lien thereof continues until such time as the tax is paid. It is my opinion that the action of the county treasurer in making the notation above quoted may be disregarded as a nullity. The county treasurer had no authority to transfer the hail insurance and the fact that he made the notation in question does not, in my opinion, affect the lien of the tax nor the power of the state to enforce it; neither did the transfer from Prodger to Weintz affect the existence of the tax nor the lien thereof.

It is my opinion, therefore, from the considerations above stated, that the tax in question is still a lien against the land and can and should be enforced in the same manner as any other tax which is a lien against real estate.

Very truly yours,

L. A. FOOT,
Attorney General.