

**Abstracts — Attorneys' Fees — Mileage — Publication —
Cost—Deeds—Taxes—Redemption.**

Costs of an abstract, attorneys' fees, mileage and costs of publication of notice of application for a tax deed are not proper items of costs to be paid by the redemptioner of property sold for delinquent taxes.

J. H. Forster, Esq.,
County Attorney,
Malta, Montana.

August 25, 1927.

My dear Mr. Forster:

You have requested my opinion whether costs of an abstract, attorneys' fees, mileage and costs of publication of notice of application for a tax deed are proper items of costs to be paid by the redemptioner.

Section 2212 R. C. M. 1921 provides in part as follows:

“Such purchaser is entitled to receive the sum of three dollars for the service of said notice and the making of said affidavit; which sum of three dollars must be paid by the redemptioner at the same time and in the same manner as other costs, percentages, penalties, and fees are paid.”

Section 2209 R. C. M. 1921 provides for serving notice of application for tax deed and requires publication of the notice when the post office address of the owner, mortgagee, or assignee is unknown.

It is my opinion that the \$3.00 fee mentioned in section 2212 was intended to cover all costs of serving notice, including mileage and publication charges, if any.

It is also my opinion that no attorneys' fees can be charged nor a fee for an abstract of title. Section 2209 requires the notice to be served upon “the owner, mortgagee, or assignee as disclosed by the mortgage records in the office of the county clerk and recorder.” I believe the legislature contemplated that this information should be obtained from the county clerk under section 4807 and that an abstractor's fee is unauthorized.

Your attention is also directed to an opinion rendered by this office and appearing in volume 11 of Opinions of Attorney General, page 299, wherein it was held that where the county is the applicant for a tax deed the \$3.00 fee may not be allowed.

It was this opinion that caused the enactment of chapter 92, laws of 1927, but the latter enactment does not in my opinion change the foregoing opinion as to the collection of the \$3.00 fee by the county.

Very truly yours,

L. A. FOOT,
Attorney General.