

Hail Insurance—Liens—Crops—Taxes.

State hail insurance covering flax and wheat under the contract submitted is a lien upon both crops and the insurance charges may be made out of both or either of said crops.

E. K. Bowman, Esq., November 24, 1930.
Chairman, Board of Hail Insurance,
Helena, Montana.

My dear Mr. Bowman:

You have requested an opinion as follows:

"The insured has 125 acres of wheat, one field of 140 acres of flax and another of 300 acres. It happens that the flax acreage was practically worthless. Our insurance covered both flax and wheat, and in taking out his insurance he gave our department a first lien upon wheat and flax. The question now arising is: Can the county treasurer properly hold our hail lien in its entirety against the wheat?"

You are advised that your standard form of application for hail insurance contains the following agreement:

"It is agreed that a lien is hereby given the State Board of Hail Insurance on my share of all of the above described crops for the maximum amount of the levy for hail insurance for the current year in the district in which said crop is growing, and that said lien shall attach to the crop described until payment for said hail insurance tax shall have been made, and shall be good as against all persons claiming such crop, including all subsequent purchasers, or encumbrances thereof. The State Board of Hail Insurance shall for the purpose of enforcing this lien have the right to the immediate possession of said crop as soon as the same shall have been harvested or gathered and may retake said crop (or so much thereof as may be necessary to pay said hail insurance tax) * * *."

You will notice that a lien is given for the maximum amount on all of the crop, which, in the instance mentioned, would include both the wheat and the flax. The situation would not be different from a situation where a chattel mortgage is given on a number of articles of personal property—the lien of the whole amount extends to each article, and, as in the case of a hail insurance lien, so much of the property mortgaged may be sold as it is necessary to discharge the lien of the chattel mortgage, so that one cow, for example, may be sold to discharge the entire lien.

You are accordingly advised that the county treasurer may hold your hail insurance lien in its entirety against the wheat.

Very truly yours,
L. A. FOOT,
Attorney General.