

Counties—Tax Deeds.

Method provided by house bill 17, laws of 1929, for obtaining tax deed is in addition to other methods provided by law. It applies, however, only in cases of property sold after March 11, 1929, the effective date of said house bill.

John W. Hutchinson, Esq.,
County Clerk and Recorder,
Chester, Montana.

April 11, 1929.

My dear Mr. Hutchinson:

You have requested my opinion concerning House bill 17, passed by the Twenty-first Legislative Assembly. Your inquiries are:

"1. Does this law supersede or repeal the old law or must both laws be taken together?

"2. Is it now possible to get a tax deed by direct application to the district court according to the new law?

"3. Is it still possible to take a tax deed under the old law and by the former method?"

You state that you desire this information for the reason that Liberty county is ready to take a number of tax deeds and that you have been waiting until this bill became a law before commencing proceedings for that purpose.

Section 1 of House bill 17 provides that the method of obtaining a tax deed provided for in said bill is in addition to all other methods now provided by law. It further provides that the action to secure a tax deed in the manner provided for in said bill may be brought by "the purchaser of property hereafter sold for delinquent taxes" or his assigns.

The bill, as originally introduced in the House, did not limit the bringing of the action to the purchaser of property hereafter sold, or his assigns, but was broad enough to include a purchaser who had heretofore purchased property for delinquent taxes. The judiciary committee of the Senate recommended that the bill be not concurred in and the report was adopted. The bill was returned to the House and later was recalled by the Senate. The bill was then reported out of the judiciary committee of the Senate with the recommendation that it be concurred in as amended. The amendment made by the committee in the Senate was the insertion of the word "hereafter" in line 1 of Section 1, so that the same read as it reads now in the enrolled bill as above quoted. The effect of this amendment was to limit the provisions of the bill to property that is sold for delinquent taxes after the bill takes effect. The bill took effect upon its approval by the Governor on March 11, 1929.

Applying the foregoing to the questions asked by you, you are advised that as to your first question House bill 17 does not supersede or repeal the existing laws relating to tax deeds, but is in addition thereto as to all property sold for delinquent taxes after March 11, 1929, it being optional with the purchaser, or his assignee, as to which of the laws he will proceed under to obtain his tax title; as to property heretofore sold for delinquent taxes House bill 17 has no application at all but deeds must be procured according to the former law, which is still in effect.

Answering your second question, you are advised that it is not possible to obtain a tax deed by direct application to the district court where the property was sold for delinquent taxes prior to March 11, 1929

Answering your third question, you are advised that as to property that was sold for delinquent taxes prior to March 11, 1929, the only possible way to obtain a tax deed is according to the existing laws other than House bill 17.

As to property hereafter sold for delinquent taxes, a purchaser, or his assignee, has the option of choosing which of the two methods now provided by law he will pursue for the purpose of obtaining a tax deed.

Very truly yours,

L. A. FOOT,

Attorney General.

By L. V. Ketter, First Assistant.