

Filing Fees—Clerk of District Court—Superintendent of Banks.

The state superintendent of banks when liquidating an insolvent bank acts as an agent for the state. He is not required to pay filing fees to the clerk of the district court for filing a complaint in a civil action.

Mr. Grant Bakewell,
County Attorney,
Plentywood, Montana.

February 15, 1932.

My dear Mr. Bakewell:

I have your request for an opinion. You inquire whether the state superintendent of banks, who is liquidating an insolvent bank and who has brought an action to recover from the county taxes paid under protest, is required to pay a filing fee at the time he files the complaint in said action.

The state superintendent of banks when liquidating an insolvent bank acts as an agent for the state and not for the bank. Under section 4893, R.C.M. 1921, no fees must be charged to any officer acting for the state. The superintendent of banks in bringing the action to recover taxes paid under protest is performing an act in connection with his statutory duties, namely, preserving the assets of the bank for the benefit of those entitled thereto. In such a matter he acts for the state which he represents rather than the bank itself and under the above statute he is exempted from the payment of the filing fee.

Very truly yours,

L. A. FOOT,
Attorney General.