

Opinion No. 406**Seed Grain Loans—Statute of Limitations—Taxation.**

HELD: Seed grain loans are entered as a special tax against the property of persons benefited and are a lien until paid or until the property is sold for payment.

December 8, 1933.

You have asked my opinion in regard to the duration of seed grain liens, or, in other words, in what period of time does the statute of limitations run on such liens.

Section 4662 R. C. M. 1921 provides for the filing of contracts for seed liens and that the county shall have and acquire a just and valid lien upon all the real and personal property owned by the applicant.

Section 4664 (id.) provides that if the amount specified in the contract is not paid by October 20th of the year the crop is harvested from the seed grain sown, it shall be the duty of the county treasurer "to enter the amount of such indebtedness upon the tax rolls of such county for that year as a tax upon all property, real and personal, which is described in said contract as being subject to the lien thereof, which tax shall be collected at the time and in the same manner as other taxes are collected, and if such tax becomes delinquent, said property shall be sold for delinquent taxes at the same time and in the same manner that property is sold for delinquent taxes."

The amount of the contract therefore becomes a special tax upon the property of the person who was benefited by such loan. Assuming that the county treasurer has done his duty and has entered the amount of the contract "as a tax" upon the property of the debtor, it is my opinion that the statute of limitations does not apply as the statute of limitations does not run against taxes. "Every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution duly levied against all personal property of the delinquent. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment thereof." (Section 2152 R. C. M. 1921.)

We do not find anything in the seed loan Act which evinces an intention of the Legislature to permit such loans to become voidable by lapse of time. In view of the constitutional provision (Section 39, Article V) we doubt if the Legislature has such power. Be that as it may, the Legislature has declared that such loan shall be a tax against the property of the person who is benefited from the loan, and, as above stated, the lien of such tax is not satisfied until paid or until the property has been sold for the payment thereof.

Note: See Chapters 29, 113 and 121, Laws of 1935.