

tax deed, must follow the provisions of both Section 2208.1 and Section 2235, R. C. M. 1935.

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You inquire as follows:

"Will you kindly advise what is your opinion as to whether or not Section 2208.1 or Section 2235 is controlling in the procedure to be followed by the County Commissioners of any county in exposing land for sale that has been acquired by tax deed."

Both statutes in question seek to regulate the sale of tax title lands owned by counties. Chapter 162, Laws of 1929, amending Section 2235, R. C. set forth the procedure in this matter prior to 1933.

Chapter 65 of the Laws of 1933 (R. C. 2208.1) sets forth a somewhat different procedure in relation to the same subject—the sale of county lands acquired through tax title. This statute did not expressly repeal Section 2235, and it is impossible to determine from an investigation of same whether it was intended to amend Section 2235, or to provide an additional method of procedure.

Chapter 33 of the Extraordinary Session Laws of 1933-1934 again amended Section 2235, R. C., on the same subject. When we attempt to construe the two statutes upon this subject, we run into the most serious of difficulties in statutory construction. The last law upon the subject, which is an amendment of Section 2235 (now Section 2235, R. C. M. 1935), was passed at the Extraordinary Session of the legislature, and it is doubtful if same comes within the scope of the call for such Extraordinary Session, or any special message of the Governor in relation thereto. Were it not for this section we might accept the last law as the law upon the subject and disregard prior enactments.

If we attempt to reconcile the two statutes we encounter further difficulties. A parallel comparison of the two statutes clearly shows this difficulty. Below we have listed such variations in separate columns:

Opinion No. 365.

**Counties—County Commissioners—
Tax Deed Land, Sale of—Statutes,
Construction Of.**

HELD: The County Commissioners, in exposing for sale lands acquired by

2208.1, R. C. M. 1935	2235, R. C. M. 1935
County commissioners shall order the land sold within 6 months after acquiring title.	County commissioners shall order the land sold.
Sale shall be by public auction.	Idem.
Sale at front door of courthouse.	Id.
Thirty days' notice be published.	Id.
Published three weeks.	No mention of times of publication.
Posted in three public places.	Posted in five public places.
All land to be sold at one time may be included in one notice.	No similar provision found.
Notice shall be filed by the clerk and shall describe lands to be sold; shall set forth the appraised value and time and place of sale.	Details of notice not mentioned.
Lands are not to be sold at a price less than fixed by the county commissioners.	Certain bonds may be taken in payment if lands are sold for listed appraised value.
TERMS	
Cash or deferred payments. The dates of subsequent payments and duration of contract is not mentioned; four per cent interest.	Cash or deferred payments; 20 per cent cash in case of sale on installment. The balance in annual installments not over 5 years. The form of contract to be fixed by the State Board of Equalization; four per cent interest on deferred payments.
Chairman of county commissioners signs contract.	Id.
Property to be subject to taxation March 1st after the contract is executed.	Id.
Contract may be cancelled for failure to pay taxes.	No mention made of this subject.
If lands are not sold same may be exchanged by the county.	No provision in relation to exchange.

This analysis of the two statutes shows how bewildering they are, and constitutes an example of careless and imperfect legislation. At the next

session of the state legislature, it is clearly the duty of the legislature to repeal or amend one or both of these statutes so that it may be ascertained

what is in fact the legislative intent upon this subject.

Apparently, it is possible to comply with the provisions of both statutes. In order to be certain it would be necessary that thirty days publication be made in newspapers, which would more than cover the three publications required under Section 2208.1. If notices are posted in five public places, it would certainly be a compliance with the statute requiring three posted notices. And where the details of notice or contract are given in one statute, compliance with these provisions would constitute a compliance with the other statute. It is only by meeting the requirements of both statutes that you could be sure that you had complied with the law.

It is realized that this must be unsatisfactory. However, it is necessary to reconcile or determine the validity of two statutes covering the same subject and differing in details when neither statute expressly repeals, and each statute completely ignores the other.