

Opinion No. 219.**Taxation—Tax Deeds—Certificate of Tax Sale—Application of Subsequent Purchasers—Rights of Holders of Prior Certificates—Chapter 54, Laws of 1937.**

HELD: An individual in making application for a tax deed is required by Chapter 54, Laws of 1937, to pay all taxes and penalty and interest accumulated at the time of such application and must therefore pay all taxes paid by the holder of a previously issued certificate of tax sale.

A county, in making application for tax deed, need not pay taxes, penalty and interest accumulated at the time of application.

When a county makes application for a tax deed the holder of the previously issued certificate of tax sale has the right of redemption and must exercise it in order to protect his rights.

March 27, 1940.

Mr. Bert Kronmiller
County Attorney
Hardin, Montana

Dear Mr. Kronmiller:

You have submitted the questions (1) whether the county in making application for a tax deed must pay to the assignee of a previous tax sale certificate the amount paid by him; (2) whether an individual in making application for a tax deed must make such payments to such assignee; and (3) whether such previous assignee, in order to protect his certificate of tax sale, must redeem from an applicant for a tax deed on a subsequent tax sale certificate.

Chapter 54, Laws of 1937, which amends Section 2231, R. C. M., 1935, by providing for assessment and sale of real estate for delinquent taxes although previously sold, provides:

“* * * no tax deed shall issue to any purchaser, other than the county under said sales, until the applicant for such tax deed shall have paid and discharged all taxes, penalty and interest accumulated at the time of such application * * *.”

This requires the payment of taxes paid by the prior assignee when an application is made by an individual. This section, however, excepts the county, which need not make such payment.

Where the county makes an application for tax deed a previous assignee of a tax sale certificate would have to redeem from the county in order to protect his tax sale certificate. Under the provisions of said Chapter 54, purchasers of certificates of tax sale for years subsequent have the same privilege of redemption where the county applies for a tax deed.