

October 8, 1943.

Mr. A. G. Swaney
 Secretary
 Montana Highway Commission
 Helena, Montana

Dear Mr. Swaney:

You request my opinion whether a quit claim deed issued after sale of real estate in conformity to the provision of Chapter 92, Laws of 1939, must be acknowledged.

Section 2 of the chapter provides the Governor, and in case of his absence or inability, the Lieutenant Governor, shall be, and is authorized to execute deed or patent of conveyance, transferring without covenants any and all land sold by the State Highway Commission under the laws of the state, when full payment has been made therefor.

The section then specifically provides:

“Such deed or patent shall be attested by the secretary of state, and have the Great Seal of the State of Montana thereto attached, **but need not be acknowledged.**” (Emphasis mine.)

It is true Section 6893, Revised Codes of Montana, 1935, provides a deed may not be recorded unless it is acknowledged, but by reason of the particular wording of Section 2 of Chapter 92, Laws of 1939, above quoted, I am of the opinion that a deed executed by the Governor, in pursuance to said statute and which is not acknowledged, is entitled to record.

I am further of the opinion, however, that the deed so executed should specifically show it is issued under the provisions of Chapter 92, Laws of 1939, in that this chapter is a special law relating to land sold by the State Highway Commission, and does not apply to other land belonging to the State of Montana, and the ordinary deed would not show it comes under the provisions of the chapter.

Opinion No. 142.

**State Land—Highway Commission
 Land—Acknowledgment to deed of
 Highway Land.**

Held: No acknowledgment required on a deed of land sold by State Highway Commission under Chapter 92, Laws of 1939, but deed should show it is made under said chapter.

Sincerely yours,
 R. V. BOTTOMLY
 Attorney General