

Opinion No. 41.**Tax Title Land—Sale of Tax Title
Land—Land.**

Held: Chapter 171, Laws of 1941, applies to all tax title land, whether acquired before or after its effective date.

April 9, 1943.

Mr. H. E. Herrick
County Attorney
Custer County
Miles City, Montana

Dear Mr. Herrick:

You state that Custer County has unsold tax title land, acquired, appraised and advertised for sale at public auction, all previous to the effective date of Chapter 171, Laws of 1941. You ask my opinion whether it is necessary for the county commissioners to reappraise all of this land, which has not been sold, or whether the chapter in question applies only to lands acquired after its effective date.

You will note the particular provisions of the chapter to which you refer are identical with Chapter 193, Laws of 1939, and, further, previous opinions of this office treat various phases of the chapter. (See Opinions No. 6, 58 and 320, Volume 19, Report and Official Opinions of the Attorney General.

Section 4 of Chapter 171, Laws of 1941, provides:

“In the event any of said lands are not sold at such public sale the county commissioners may at any time either again appraise, advertise, and offer the same at public auction or sell the same at private sale . . .”

The provisions of Section 1 of the chapter provides:

“Whenever the county has acquired any land by tax deed it shall be the duty of the board of county commissioners . . .”

You will note the provision is not restricted to land thereafter acquired, but to any land acquired by the county.

The provision of Section 1—read in connection with Section 4—discloses the legislative intent that it shall apply to all tax title lands held by the county, and if the land is not sold at the first sale, then before it can be sold at public auction, it must again be appraised, advertised and offered for sale. On the other hand, if it has been once appraised and offered for sale at public auction and not sold, it may be sold at private sale, without further proceedings, under Section 4.

Sincerely yours,
R. V. BOTTOMLY
Attorney General