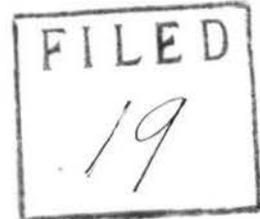


Taxation--Lien for tax extended to insurance for what year.
Section 9963b. *Case 33*

July 19, 1933



Hon. Joseph C. Crain
Prosecuting Attorney
Osark, Missouri

Dear Mr. Crain:

Acknowledgement is herewith made of your request for an opinion on the following facts:

"A has paid his taxes for 1931 which were payable in the fall of 1932. The taxes assessed in 1932 payable in 1933 and the taxes assessed in 1933 and payable in 1934 have as of this date been assessed against the land. A then has a fire which destroys a building. For what years does the state have a lien against the insurance?"

For convenience we quote portions of Section 9963b, applicable to your inquiry:

"Section 9963b. LIEN FOR TAXES TO FOLLOW INSURANCE IN CASE OF DESTRUCTION OF BUILDINGS
In the event of the destruction by fire, windstorm or tornado of any permanent buildings and/or improvements situate upon any land * * * *, which * * * * at the time of destruction were situate upon any land * * * * against which taxes were then levied and assessed, and was so situate at the time of such levy and assessment, the lien of such taxes shall attach to and follow any insurance that may be upon said property at the time of its destruction, * * * *. The lien given by this section shall be a first and paramount lien upon the money due in event of the contingency herein referred to. * * * *."

Taxes levied and assessed have at all times been a lien upon the real estate taxed. To further secure these taxes, the insurance upon the improvements on the land was made amenable to this lien. A study of the foregoing section leads us to believe that no new lien was created, but

the lien heretofore existing on real estate is simply extended to the insurance. The phrase "the lien of such taxes shall attach to and follow" does not contemplate a new and separate lien on the insurance, as distinct from the lien on the real estate, but refers to one lien upon the real estate and insurance.

While we have not overlooked the clause that states that the insurer shall pay the taxes, etc., then due, levied and assessed, it is our opinion that the lien extended to such insurance is the lien as exists upon the land, i.e.:— for taxes levied and assessed, whether due or not.

Accordingly it is the opinion of this office, that whatever lien exist on the land for the payment of taxes, is by the terms of Senate Bill 94 extended to insurance in the event of a "destruction" occurring under the circumstances provided for in said section 9963b.

Respectfully submitted

HARRY G. WALTNER, Jr.
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General