

State lien for taxes attached to Insurance only when liability on the company: Tax lien taxes to Insurance money payable as damages to the particular tract against which the taxes are assessed.

June 12, 1933



Mr. Gordon Weir,  
Prosecuting Attorney  
Greenfield, Mo.

Dear Mr. Weir:

We received your letter of June 8, 1933 requesting an opinion on the following state of facts:

"Where a person owns two separate tracts of land and both are insured in the same company but under the separate policies and there is a loss by fire on one of the places, does the new law mean to say that the taxes are paid on both tracts of land or only on the place where the loss occurred."

Section 9746 R.S. Mo. 1929, provides that the owner of property on June 1st, of each year shall be liable for the taxes thereof. The state is given a lien for the taxes on each tract of real estate. Section 9747 R.S. Mo. 1929. Each tract of land must be separately assessed, Section 9772 R.S. Mo. 1929, and each tract of land under Section 9793 R.S. Mo. 1929 is chargeable with its own taxes.

The recent law passed by the Legislature is found in Mo. St. Ann. Section 9963b. This law extends the state lien to certain insurance money. It is the opinion of this office that before a lien provided for in Section 9963b. Mo. St. Ann. attaches that the following conditions precedent must exist: (1) The improvement of buildings destroyed or damaged must have been on said land at the time of the assessment and levy of the taxes, which are unpaid; (2) The loss of damage to said building or improvement must be by fire, windstorm or tornado; (3) The destroyed or damaged property was insured and that there is some liability under the contract of insurance for all or any part of said loss or damage.

When the above three conditions exist, then the statute provides that the insurance company shall,

"Pay to the county collector from said

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insurance money, and limited to the extent thereof, all taxes, interest and cost then due, levied and assessed against the identical land or lot upon which were situated the building and \* \* are improvements destroyed".

The term "identical", means land or a lot which is assessed separately, and which is chargeable with its own taxes, on which taxes constitute a lien against that particular piece of property as specifically provided in the above statutes. It is therefore, the opinion of this office that the tax lien under the above statute attaches only to that particular and separate tract upon which the damage or destroyed buildings are located and not to other separate individual tracts of land which may be owned by the same party.

It is now well settled that policies of insurance issued subsequent to the passage of a statute, are issued subject to its terms and the statute becomes a part of the insurance contract and in some instances controls provisions of the policy. State ex rel Business Men Assurance Company v. Allen 259 S.W. 77. Ampleman v. Citizens Insurance Company 35 Mo. App. 308. Wilson v. Illinois Insurance Company 300 S. S. 550.

Even though the above statutes become a part of the insurance contract, it does not place upon the insurance company any new or additional burden, in the sense that the standard mortgage clause does. The requirement that the insurance company shall pay the taxes, "from said insurance money" means the money which the insurance company under the contract is obligated to pay to the owner or other persons interested in the damaged or destroyed property. In this sense the liability of the insurance company is a condition precedent to the right of the state to have the tax lien attached to said insurance money.

Yours very truly,

APPROVED:

FRANKLIN E. REAGAN  
Assistant Attorney General.

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ROY MCKIPTRICK  
Attorney General.

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