

SALE OF DELINQUENT PROPERTY - When surplus exists from sale of land for taxes, Collector may pay same to person legally entitled thereto; if two parties claim same, collector shall pay it to the County Treasury and county court may determine claims and pay to proper person any time within 20 years.

January 2, 1936.



Honorable Nat B. Rieger,  
Prosecuting Attorney,  
Adair County,  
Kirksville, Missouri.

Dear Sir:

This department is in receipt of your letter of December 19 wherein you request an interpretation of Section 9953c, Laws of Missouri 1933, p. 433. Your letter is as follows:

"Please give me an official opinion on the construction of Section 9953c of the Laws of 1933, found at page 433, and with particular attention to the following:

'You shall pay the surplus, if any, to the person entitled thereto; or if any doubt or a dispute arises as to the proper person, the same shall be paid to the County Treasury to be held for the use and benefit of the person entitled thereto.'

"I particularly want to know whether the County Treasurer, in the event of a dispute, is privileged to pay out said money to claimants on his judgment, or on the order of the County Court; or whether he must hold said funds pending the direction of a decree or judgment of the Circuit Court.

"There have been a number of the sales provided for in this statute held here in which a surplus has been had and paid to the County Treasurer, and he is in doubt whether to pay out these funds at the direction of the County Court or not."

Section 9953c, Laws of Missouri 1933, p. 433, provides in part as follows:

"Where such sale is made, the purchaser at such sale shall immediately pay the amount of his bid to the collector, who shall pay the surplus, if any, to the person entitled thereto; or if he has doubt, or a dispute arises as to the proper person, the same shall be paid into the county treasury to be held for the use and benefit of the person entitled thereto.\*\*\*\*"

Section 9959, Laws of Mo. 1933, p. 428 relates further to any surplus or unclaimed money which might result from the foreclosure or sale of land for taxes and is as follows:

"When real estate has been sold for taxes or other debt by the sheriff or collector of any county within the State of Missouri, and the same sells for a greater amount than the debt or taxes and all costs in the case, and the owner or owners, agent or agents cannot be found, it shall be the duty of the sheriff or collector of the county, when such sale has been or may hereafter be made, to make a written statement describing each parcel or tract of land sold by him for a greater amount than the debt or taxes and all costs in the case, and for which no owner or owners, agent or agents can be found, together with the amount of surplus money in each case, which statement shall be subscribed and sworn to by the sheriff or collector making the same before some officer competent to administer oaths within this state, and then presented to the county court of the county where such sale has been or may hereafter be made; and on the approval of the statement by the court, the sheriff or collector making the same shall pay the said surplus money into the county treasury,

take the receipt in duplicate of said treasurer for said overplus of money and retain one of the said duplicate receipts himself and file the other with the county court, and thereupon the court shall charge said treasurer with said amount. And said treasurer shall place such moneys to the credit of the school fund of the county, to be held in trust for the term of twenty years for the owner or owners or their legal representatives. And at the end of twenty years, if such fund shall not be called for, then it shall become a permanent school fund of the county. County courts shall compel owners or agents to make satisfactory proof of their claims before receiving their money: Provided, that no county shall pay interest to the claimant of any such fund."

#### CONCLUSION

In view of the foregoing, it is the opinion of this department that Sections 9953c and 9959 are to be read in conjunction with each other. Therefore, if under Section 9953c there is a surplus resulting from the sale of land for taxes, the county collector may pay the same to the person legally entitled thereto.

If the county collector be in doubt as to the proper person entitled thereto, and if said surplus be claimed by two persons, a dispute thereby arising, the county collector shall pay the same in to the county treasury. Claimants may then follow the surplus and according to the provisions of Section 9959, (Laws of Mo. 1933, p. 428), may present their contentions or claims to the county court, which court has authority, on satisfactory proof, to pay to the proper person the surplus at any time within twenty years.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General.

APPROVED:

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JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General.