

**OPINION  
42-116**

December 12, 1942           (OPINION)

WELFARE BOARD

RE: Liens on Real Estate

I have your letter of December 8th, in which you request our opinion on the following set of facts:

A owns a piece of land in Benson County and applies to the Welfare Board for old age assistance. In consideration for such assistance, A executed a trust deed to the county as security for such old age assistance payment, as he has received, or will thereafter receive, under the provisions of chapter 211 of the 1937 Session Laws. Subsequently, A fails to pay any taxes and the Welfare Board does not pay such taxes for him. The county acquires the land through tax proceedings, and later sells the same. You inquire whether any amount of the proceeds of such land when sold shall be paid to satisfy the lien taken as security for such old age assistance payments.

In my opinion, the lien taken by the welfare agency as security for such old age assistance payments is a preferred claim against the estate of the old age pensioner, but has no standing other than the lien as a preferred claim. Section 9 of chapter 286 of the 1941 Session Laws specifically provides that after the expiration of the period of redemption, the county receives a tax deed, and "such tax deed shall pass the absolute property in fee to the county free from all encumbrances whatsoever."

In my opinion, the tax sale cuts off the preferred claim on the welfare agency, and all they have is the right of redemption under the law. The statute, which provides for tax deed proceedings in the state of North Dakota also provides what distribution should be made of the proceeds of the sale. Such proceeds shall be paid to the several taxing districts in accordance with the amount of taxes due the district. If there is any remainder, such remainder shall be paid into the general fund of the county. This language is specific, and there can be no question but that your conclusion to the effect that the trust deed given to secure old age assistance payments is cut off by subsequent tax proceedings is correct.

ALVIN C. STRUTZ  
Attorney General