

Opinion No. 35-1209

November 8, 1935

BY: FRANK H. PATTON, Attorney General

TO: Mr. A. M. Fernandez, Special Tax Attorney, Santa Fe, New Mexico.

{*87} This is in reference to a letter of E. B. North, dated November 4th, addressed to you in which he asks whether or not both the taxpayer and the mortgagee must be given notice of the sale of property for delinquent taxes for the year 1934.

Section 4 of Chapter 27, Laws of 1934, provides that the treasurer, not less than twenty-one (21) days prior to the date of sale, shall give notice "to each delinquent taxpayer and/or mortgagee by mailing same to his last known address, etc." The same section provides also that "the treasurer shall not be required to give notice to mortgagees other than as shown by the records of the county clerk of the county where the property is situate." In the same section, it is provided that any failure of the treasurer or the county clerk to comply strictly with the requirements of said section is made a misdemeanor and punishable by a fine of not less than \$ 100.00 nor more than \$ 300.00.

In view of the foregoing provisions of the 1934 statute, it is my opinion that the treasurer is required to give notice of such sale to mortgagees so far as they are shown by the records of the county clerk. I see no way of avoiding the plain provisions of the statute. In my opinion the county treasurer should make every attempt to comply with such provisions.

By: QUINCY D. ADAMS,

Asst. Atty. General