

county auditor and the county commissioners. In the light of this effect to be given to the provisions of this section of the General Code prior to its amendment, it is quite clear that the Legislature, in amending said section so as to provide that in the year 1925, and in every sixth year thereafter, it shall be the duty of the county auditor to assess all the real estate situated in the county, other than real estate owned by public utilities otherwise assessed, thereby intended to remove the question as to when the real estate in the county should be assessed for taxation from the judgment and discretion of the county auditor and the county commissioners, and to prescribe the specific times when such assessment should be made.

In the case of *State ex rel Tax Commission of Ohio vs. Faust, Auditor*, 113 O. S. 365, it was held that the duty imposed upon the county auditor by the provisions of Section 5548, General Code, above quoted, requiring him to assess in the year 1925 all of the real estate in the county which had not been reappraised in the years 1922, 1923 and 1924, other than the real estate of public utilities, the assessment of which is otherwise provided for, was a mandatory duty enforceable by an action in mandamus. No reason is suggested as to why the duty imposed upon the county auditor by the further provision of said section, to assess the real estate in the county every sixth year after the year 1925, is not equally mandatory; and by way of specific answer to the question presented in your communication, I am of the opinion that such duty is mandatory, and is not one which as to the time of its performance lies in the discretion of the county auditor.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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2136.

APPROVAL, ABSTRACT OF TITLE TO LAND OF ANNA ROESSLER, IN  
CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, July 23, 1930.

*State Office Building Commission, Columbus, Ohio.*

GENTLEMEN:—There have been submitted for my examination and approval abstracts of title relating to a certain parcel of land off of the west end of inlot 114 in the city of Columbus, Ohio, which is owned of record by one Anna Roessler and which is more particularly described as follows:

Being part of inlot No. 114 in the city of Columbus, Ohio, as the same is numbered and delineated upon the recorded plat thereof of record in deed book F, page 332, recorder's office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the northwest corner of said lot; thence eastwardly on the north line of said lot 18 feet, more or less, to the west line of a parcel of land out of said lot recently conveyed to the State of Ohio by one Anna Binder; thence southwardly on a line at right angles to the north line of said lot (said line being the west line of the Binder and Isaly parcels recently purchased by the state), 62½ feet to the south line of said lot; thence westwardly with said south line 38 feet, more or less, to the southwest corner of said lot 114; thence northeastwardly along the west line of said lot 65.46 feet, more or less, to the place of beginning. The property hereby conveyed being all

of said lot 114 other than parcels thereof conveyed to the state of Ohio by Walter E. Isaly, trustee, and Anna Binder respectively, by deeds executed June 12, 1930, and July 3, 1930, and recorded respectively in deed book 941, page 197, and in deed book 942, page 122, recorder's office, Franklin County, Ohio.

Upon examination of said abstracts of title, each of which relate to separate parts of the above described premises, I find that said Anna Roessler has a good and indefeasible fee simple title to the above described tract of land and the appurtenances thereunto belonging, free and clear of all incumbrances except taxes on said property for the last half of the year 1929, amounting in the aggregate in the sum of \$55.19 which are unpaid, and are a lien upon said property. The undetermined taxes for the year 1930 on said property are unpaid and a lien upon said property.

No warranty deed conveying this property to the state of Ohio has as yet been executed by said Anna Roessler. Such deed should be prepared and submitted to me for approval before the transaction relating to the purchase of this property is closed.

Upon examination of encumbrance estimate No. 360, covering the purchase price of the above described property, I find that the same has been properly executed and approved, and there is shown thereby that there are sufficient balances in the proper appropriation account to pay the purchase price of said property which is the sum of \$6,677.00.

I am herewith returning to you the said abstracts of title and encumbrance estimate above referred to.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

2137.

SCHOOL ATTENDANCE—CERTIFICATE OF FAMILY PHYSICIAN SUFFICIENT TO SHOW REASON FOR PUPIL'S NON-ATTENDANCE—SUCH PHYSICIAN'S CERTIFICATE MAY NOT BE SUBSTITUTED FOR THE ONE REQUIRED UNDER SECTION 4766-1, GENERAL CODE, FOR ISSUANCE OF AGE AND SCHOOLING CERTIFICATE.

**SYLLABUS:**

1. *A superintendent of schools is not permitted to arbitrarily demand the certificate of the school physician or public health physician as to the physical or mental condition of a child before excusing such child, as authorized by Section 7763, General Code. A certificate of the family physician should ordinarily be sufficient to constitute a satisfactory showing of the facts set forth in the certificate.*

2. *A superintendent of schools, in issuing an "age and schooling certificate," by authority of Section 4766-1, General Code, is required by law to receive, approve and file a certificate from the school physician or physician designated by him, or if there be no school physician, from the district health commissioner or physician designated by him, showing that the child to whom the certificate is to be granted is physically fit to be employed in such occupations as are not prohibited by law for a boy or girl, as the case may be, under eighteen years of age. The superintendent of schools may*