

790.

APPROVAL, NOTES OF SCOTT VILLAGE SCHOOL DISTRICT, PAUL-
DING COUNTY, OHIO—\$988.00.

COLUMBUS, OHIO, May 5, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

791.

BUILDING AND LOAN ASSOCIATIONS—DEPUTY SUPERINTENDENT
MAY CONSENT TO SALE OR HYPOTHECATION OF MORTGAGES
BY BUILDING AND LOAN ASSOCIATION — SUPERINTENDENT
MAY DELEGATE AUTHORITY TO DEPUTY WHEN.

SYLLABUS:

1. *The superintendent of building and loan associations may delegate to his deputy the duty of issuing his consent to the sale or hypothecation of mortgages conferred upon him by Section 9662, General Code.*

2. *A duly authorized deputy superintendent of building and loan associations may consent, in the name of the superintendent to the hypothecation of mortgages by a building and loan association.*

COLUMBUS, OHIO, May 6, 1933.

HON. PAUL A. WARNER, *Superintendent of Building and Loan Associations, Columbus, Ohio.*

DEAR SIR:—YOUR recent request for opinion reads:

“The Reconstruction Finance Corporation has raised the question as to whether or not the duty of approving a pledge of notes and mortgages with that institution can be delegated to the Deputy Superintendent of Building and Loan Associations of this state.

Will you please give us your opinion as to whether or not the Deputy Superintendent of this Division has such authority?”

Section 9662, General Code, provides that building and loan associations shall have the authority “To buy but not to sell except with the *written consent previously granted by the superintendent of building and loan associations* interest bearing obligations secured by real estate mortgages, * *.” (Italics, the writer’s.)

In an opinion of one of my predecessors (Opinions of the Attorney General for 1926, page 29) it was held as stated in the syllabus:

“The consent required under section 9662 of the General Code is necessary to be obtained in connection with the pledging or assigning of interest bearing obligations of building and loan associations as collateral security.”

See also *Thomas vs. Cleveland Trust Company*, 27 O. App. 418, syllabus 2, in which the court assumed that the depositing of mortgages as collateral security by a building and loan company, without the consent of the superintendent of building and loan companies was illegal, without deeming it to be necessary to cite authorities therefor. I am therefore of the opinion that the holding of my predecessor should be affirmed.

Your inquiry is as to whether the superintendent of building and loan associations may delegate the duty imposed upon him by this section.

The office of superintendent of building and loan associations is created by Section 154-6, General Code. Section 677, General Code, authorizes the superintendent of building and loan associations to employ deputies to assist him in his official duties, in the following language:

"The superintendent of building and loan associations may employ from time to time, subject to the provisions of the civil service laws, the necessary deputies, assistants, clerks and examiners, to assist him in the discharge of the duties imposed upon him by law."

The usual and ordinary meaning of the word "deputy", is an agent who is authorized to perform acts for and on behalf of his principal. Section 9, General Code, sets forth the authority of deputies, in the following language:

"A deputy, when duly qualified, may perform all and singular the duties of his principal."

From the language of Section 677, General Code, it is apparent that the legislature intended to use such word in the restricted sense referred to above and not as meaning "assistant" or "clerk" for the legislature also uses such terms in describing the powers of the superintendent to employ the necessary aid for the performance of his duties.

The statutes with reference to the duties of the superintendent of building and loan associations designate that each of the duties therein imposed shall be performed by the superintendent of building and loans. I am unable to find any duties imposed by statute upon the "deputies, assistants, clerks and examiners" whom the statute states the superintendent is authorized to appoint. However, it is a cardinal rule of interpretation of statutes that the purpose of the legislature is to be ascertained and that effect shall, if possible, be given to all the language used by it. *State ex rel. Spira vs. Comm'rs.* 32 O. App. 382; *State ex rel. Harness vs. Roney*, 82 O. S. 376; *Barth vs. State ex rel.* 107 O. S. 154; *Cochrel vs. Robinson*, 113 O. S. 526.

It is not to be presumed that the legislature intended to grant the superintendent the authority to employ such assistants and at the same time prevent them from performing any duties; such construction would lead to an absurd result, which is never presumed to be within the legislative intent. *Hill vs. Micham*, 116 O. S. 549, 552; *Moore vs. Given*, 39 O. S. 661.

I am therefore inclined to the view that the legislative intent was to authorize the superintendent of building and loans, upon the appointment of such aids employed "to assist him in the performance of the duties imposed upon him by law" to delegate to them such powers as, in his discretion, he deems expedient; otherwise the provision of Section 677, General Code, which requires a bond to be given by each such employe "for the faithful discharge of his duties," would seem redundant.

You do not ask whether a deputy superintendent of building and loan associations may issue the certificate in question in his own name; I therefore, express no opinion thereon. The language of Section 9662, General Code, construed in conjunction with Sections 9 and 677, General Code, would clearly indicate that the authority to issue such written consent in the name of the superintendent could be delegated to a deputy.

Specifically answering your inquiry I am of the opinion that:

1. The superintendent of building and loan associations may delegate to his deputy the duty of issuing his consent to the sale or hypothecation of mortgages, conferred upon him by Section 9662, General Code.

2. A duly authorized deputy superintendent of building and loan associations may consent in the name of the superintendent to the hypothecation of mortgages by a building and loan association.

Respectfully,

JOHN W. BRICKER,

Attorney General.

792.

APPROVAL, NOTES OF ISLAND CREEK TOWNSHIP RURAL SCHOOL DISTRICT, JEFFERSON COUNTY, OHIO—\$4,467.00.

COLUMBUS, OHIO, May 8, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

793.

APPROVAL, NOTES OF LORAIN CITY SCHOOL DISTRICT, LORAIN COUNTY, OHIO—\$30,000.00.

COLUMBUS, OHIO, May 9, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

794.

APPROVAL, NOTES OF STRATTON VILLAGE SCHOOL DISTRICT, JEFFERSON COUNTY, OHIO—\$2,700.00.

COLUMBUS, OHIO, May 9, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.