

said abandoned canal for public park purposes, may be appraised by the superintendent of public works and leased to responsible parties for a term of fifteen years or any multiple thereof up to ninety years, or for a term of ninety-nine years, renewable forever, subject to reappraisalment.

It is obvious from the provisions of the sections of this act above noted that the only authority which you now have with respect to the lease of such portions of abandoned Miami and Erie Canal lands as are not designated for highway purposes, is to lease the same for park purposes to some one or more of the political subdivisions mentioned in the act; and that you do not have any authority to lease any of such canal lands for any other purpose until the expiration of two years from the date of said act, that is, until August 5, 1933. In this situation, it is suggested that on or after August 5, 1933, the leases here in question be re-executed and resubmitted to this office for approval. The leases above referred to are herewith enclosed.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

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1025.

APPROVAL, CERTIFICATE OF AMENDMENT TO ARTICLES OF INCORPORATION OF THE LOCOMOTIVE ENGINEERS MUTUAL LIFE AND ACCIDENT INSURANCE ASSOCIATION.

COLUMBUS, OHIO, July 11, 1933.

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I have examined the Certificate of Amendment to Articles of Incorporation of The Locomotive Engineers Mutual Life and Accident Insurance Association and find that it is not inconsistent with the Constitution and laws of this State and of the United States. I am therefore herewith returning it to you with my approval endorsed thereon.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

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1026.

LIQUIDATED CLAIMS—COUNTY TREASURER MAY ACCEPT FROM SUBDIVISION IN PAYMENT OF TAXES WHEN.

SYLLABUS:

*By virtue of the authority contained in House Bill 94, the county treasurer may accept "liquidated claims" of a subdivision in payment of taxes assessed and being collected for the benefit of such subdivision to the extent of the taxes assessed for the benefit of such subdivision for whatsoever purpose, and is not limited by*

*such act to that amount of taxes assessed for the operating expenses of such subdivision.*

COLUMBUS, OHIO, July 12, 1933.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your request for my opinion, which reads as follows:

“House Bill No. 94, passed as an emergency by the Ninetieth General Assembly and effective April 18, 1933, provides for the payment of taxes with liquidated claims held against taxing subdivisions of the State. Section three of this act reads in part as follows:

‘It shall be the duty of the county treasurer, upon submission of evidence of a liquidated claim by a taxpayer, to accept it in full or partial payment as herein provided on those taxes which are to be allocated to the subdivision against which the claim exists.

Before any such liquidated claim is so used it shall first be presented by the taxpayer to the fiscal officer of the subdivision for verification. If such fiscal officer, upon examination, determines that the liquidated claim can be used for the payment of taxes as provided in this act, he shall in writing certify to such fact in duplicate, and such duplicate certificate shall be given to the taxpayer as evidence of his liquidated claim.

If of the total amount due from the taxpayer, the portion of it which is to be allocated to the indebted subdivision exceeds the amount of the liquidated claim evidenced by the certificate which the taxpayer wishes to use in payment of that portion of his taxes, the county treasurer shall accept the total claim as part payment of such taxes and shall distribute the canceled, receipted certificate along with such other canceled certificates and cash as are due it, to the subdivision in the same manner as if it were cash.’

Question 1: May such liquidated claims as are described in (b) of the third paragraph of section two of this act, be accepted by the county treasurer in an amount in excess of the total amount of proceeds of the general tax for operating purposes which the subdivision will receive at the next semi-annual tax settlement?

In presenting this question, we wish to call your attention to a concrete example resulting from the placing in operation of the provisions of this act.

In the Village of Sebring, Mahoning County, the semi-annual tax settlement for the first half of 1933 showed a collection of taxes for the benefit of the village for operating purposes of \$1,167.09, and a credit of \$3.50 for depository interest. There was deducted from this total for workmen’s compensation \$593.99, and for the county health district \$468.07, leaving a balance of \$108.53 to be distributed to the village for operating purposes. A certificate issued under H. B. No. 94 in the amount of \$1,005.74 was then deducted from the total settlement and as only \$108.53 was available for general fund purposes, the balance of \$897.21 had to be deducted by the county auditor from the proceeds of the levy for debt charges.”

House Bill 94 referred to in your inquiry, is an Act purporting to authorize the receipt of liquidated claims by the county treasurer in payment of certain taxes. Thus, in the first paragraph of Section 3 quoted in your request, there is a specific grant of authority to the county treasurer to accept as a payment of taxes assessed for the benefit of a particular subdivision liquidated claims against such subdivision. However, paragraph 2 of such section as quoted in your request, provides that as a condition precedent for such acceptance the liquidated claim shall be presented to the fiscal officer of the subdivision for his certificate as to the use of the claim for the payment of taxes.

Your inquiry undoubtedly arises by reason of the fact that no specific rule is laid down by which the fiscal officer may determine "that the liquidated claim can be used for the payment of taxes as provided in this act." However, such paragraph provides that the fiscal officer must upon examination determine such fact. Section 2 of such House Bill 94 defines "liquidated claim" as follows:

"'Liquidated claim' shall mean (a) any sum of money that was due and payable January first, 1933, upon a judgment founded upon a contractual obligation rendered against the subdivision prior to such date by a court of competent jurisdiction and constituting a final order and decree; (b) any sum of money that was due and payable January first, 1933, upon a written contractual obligation duly executed between the subdivision and taxpayer prior to such date; (c) any sum of money that was due and payable January first, 1933, for poor relief furnished to or in behalf of a subdivision prior to such date, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision, which resolution or ordinance may be passed subsequent to January first, 1933."

Section 1 of such Act provides that:

"A taxpayer may \* \* use in the payment of his taxes any liquidated claim which such taxpayer \* \* has against any subdivision which is to derive benefit from the tax collection."

It is an elemental rule of statutory construction that the language of an act is to be interpreted in its ordinary sense unless it shall clearly appear from a reading of the entire act that a wholly different meaning was intended. See *Kiefer vs. State*, 106 O. S. 285; *Smith vs. Buck*, 119 O. S. 101, 105; *Schariou vs. State*, 105 O. S. 535.

It would therefore appear from a reading of the entire act, that the duties which are to be performed by the fiscal officer of the subdivision are (1) a verification of the claim, (2) a determination of whether or not such claim is a liquidated claim, and (3) the issuance of his certificate.

For the purposes of this opinion, I am assuming that House Bill 94 is a constitutional act of the legislature. The duty of determining whether or not such act is constitutional is a matter for the courts, and one which is beyond the jurisdiction of the administrative branch of the state government. Assuming the constitutionality of the act, I am unable to find any language in House Bill 94 which would limit the county treasurer in the acceptance of liquidated claims against the subdivision to that portion of the taxes assessed for such subdivision which were assessed for operating purposes.

Specifically answering your inquiry, it is my opinion that by virtue of the authority contained in House Bill 94, the county treasurer may accept "liquidated claims" of a subdivision in payment of taxes assessed and being collected for the benefit of such subdivision to the extent of the taxes assessed for the benefit of such subdivision for whatsoever purpose and is not limited by such act to that amount of taxes assessed for the operating expenses of such subdivision.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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1027.

BOARD OF EDUCATION—UNDER SECTION 4759, G. C. NOT AUTHORIZED TO SELL PROPERTY UPON TERMS OTHER THAN CASH UNLESS SALE MADE TO MUNICIPALITY OR BOARD OF TRUSTEES OF SCHOOL DISTRICT LIBRARY.

*SYLLABUS:*

*A board of education in making sales of property by authority of Section 4759, General Code, is not authorized to sell such property upon terms other than for cash, unless the sale is made to a municipality or a board of trustees of a school district library.*

COLUMBUS, OHIO, July 13, 1933.

HON. RAY B. WATERS, *Prosecuting Attorney, Akron, Ohio.*

DEAR SIR:—Over the signature of one of your assistants, my opinion has been requested, as follows:

"Would you kindly give us your opinion as to whether or not a board of education owning a parcel of land on which is located an old school building could sell the property for part cash and take back a first mortgage for the balance of the purchase price? The value of the property is over \$300.00?"

By force of Section 4749, General Code, boards of education of the several school districts in Ohio are vested with the power of acquiring, holding, possessing and disposing of real and personal property.

The manner of exercising that power when the property to be disposed of exceeds \$300.00 in value, or when it is determined to sell and convey the property to a municipality or a board of trustees of a school district library is provided for by Section 4756, General Code, which reads as follows:

"When a board of education decides to dispose of real or personal property, held by it in its corporate capacity, exceeding in value three hundred dollars, it shall sell such property at public auction after giving at least thirty days' notice thereof by publication in a newspaper of general circulation or by posting notices thereof in five of the most public places