

991.

APPROVAL, NOTES OF CONCORD RURAL SCHOOL DISTRICT, DELAWARE COUNTY, OHIO—\$1,900.00.

COLUMBUS, OHIO, June 23, 1933.

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

992.

BILL OF SALE—MOTOR VEHICLE—MUST BE FILED WITH CLERK OF COURTS WHERE PURCHASED—OWNER MUST POSSESS BILL OF SALE OR FILE CERTIFICATE OF OWNERSHIP IN COUNTY OF RESIDENCE.

SYLLABUS:

1. *When a "motor vehicle" or "used motor vehicle" is purchased, the bill of sale must, in compliance with the provisions of Section 6310-10, General Code, be filed in the office of the clerk of courts of the county where the purchase was made, regardless of the residence of the purchaser.*

2. *An owner of a "motor vehicle" or a "used motor vehicle" is required by the provisions of Section 6310-10, General Code, to file the bill of sale with the clerk of courts of the county in which the transaction of sale was consummated and also by the provisions of Section 6310-13, General Code, either to possess a bill of sale or file a sworn certificate of ownership with the clerk of courts in the county of his residence.*

3. *Opinion 857, with reference to the filing of a bill of sale where the residence of the purchaser and the consummation of sale were the same county, although the bill of sale was executed in another county, discussed, and limited to question there presented.*

COLUMBUS, OHIO, June 26, 1933.

HON. DONALD J. HOSKINS, *Prosecuting Attorney, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion concerning the interpretation of Sections 6310-10 and 6310-13, General Code, that is, when an automobile is purchased in a county other than the residence of the purchaser, in what counties do the provisions of Sections 6310-10 and 6310-13, General Code, require the bill of sale therefor to be filed for record?

It appears that some confusion has arisen by reason of certain statements in my opinion No. 857 wherein the question was presented as to the proper county in which to file the bill of sale when the car was purchased in R. county wherein the purchaser resided, but the vendor resided in another county, and the bill of sale was acknowledged in a third county. I held in such opinion, that the proper place to record the bill of sale was in R. County, since the purchaser resided in that county and also since the transaction of sale took place in that county. There was no reason to consider the apparent conflict

in such Sections 6310-10 and 6310-13, General Code, inasmuch as when the bill of sale was filed in R. County, the provisions of either section must necessarily have been complied with.

Section 6310-10, General Code, reads as follows:

"Each corporation, partnership, association, or person to whom title has in any manner been passed to a motor vehicle shall present to the clerk of courts of the county in which the sale, transfer, conveyance, gift or passage of title is consummated within three days immediately thereafter, both copies of the duplicate bill of sale. It shall be the duty of the clerk of courts to refuse to accept for filing the duplicate bill of sale if such instrument is not executed and witnessed according to the provisions of this act.

The clerk of courts shall, if such instruments are properly executed and witnessed, affix his official seal and the date of the filing upon each instrument, assign to each set of duplicate bills of sale a distinctive number, which he shall stamp upon both original and duplicate and make an alphabetical index of the grantors and grantees and of the motor vehicles according to make, type and model. The clerk shall thereupon return one copy to the person presenting the bill of sale and place the others in a file to be kept by him for such purpose. Any instrument purporting to be a bill of sale, which does not bear the official seal of the clerk of courts of the county where the sale, gift, transfer, conveyance or passage of title took place shall be null and void. The clerk of courts of each county shall charge a fee of twenty-five cents for filing each duplicate bill of sale."

You will note that this section specifically requires the bill of sale to be filed with the clerk of courts of the county in which the title to the motor vehicle passed. That is, in the county where the sale of the motor vehicle was completed.

Section 6310-13, General Code, reads as follows:

"No person residing in this state shall drive, use or operate, a 'motor vehicle' or 'used motor vehicle' upon the public highways thereof, without having a 'bill of sale' for the motor vehicle as defined in this act, or without having first filed, with the clerk of courts, of the county in which his residence is established, a sworn statement containing the name, residence, of each and every bona fide owner or owners of the 'used motor vehicle', the name of the manufacturer or make, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, the horsepower of such 'used motor vehicle,' and a general description of the body thereof, and obtain from said clerk, a certified copy of such statement."

This section makes it unlawful for an owner of a "motor vehicle" or a "used motor vehicle" to drive the vehicle unless one of two acts shall have been performed: (a) he shall have a bill of sale for the motor vehicle or (b) a sworn statement of ownership concerning the motor vehicle shall have been filed with the clerk of courts of the county wherein the owner shall have established his residence.

The provisions of Section 6310-13, General Code, do not purport to require a bill of sale for an automobile to be filed in any county, it merely requires that before the owner shall operate his automobile he shall either possess a bill of sale therefor, or in the event he does not possess such bill of sale he must, by reason of the provisions of such section, have filed with the clerk of courts of the county of his residence, a "sworn statement of ownership." In my opinion No. 857, the syllabus might have been more explicit and stated that neither the provisions of Sections 6310-10, General Code, nor 6310-13, General Code, authorize the recording of the evidences of title to an automobile in any county other than that in which the transaction of purchase was completed or the county of the residence of the owner.

The provisions of Section 6310-5, General Code, make it unlawful to dispose of a "motor vehicle" without delivering to the purchaser a bill of sale in duplicate. Section 6310-7, General Code, makes similar requirements concerning a "used motor vehicle." The purchaser can demand only two copies of the bill of sale when purchasing a motor vehicle. He is required to file one of these duplicates in the county of purchase; the other he must necessarily retain and deliver to the person to whom he may subsequently sell the car. (See Sections 6310-11 and 6310-11a, General Code.) Section 6310-13, General Code, provides that the owner must have a bill of sale, or a sworn statement concerning such vehicle must be filed in the county in which he resides. In the instance suggested by your inquiry, that is, the car is purchased in a county other than that of the residence of the purchaser and the bill of sale there filed pursuant to the provisions of Section 6310-10, General Code, the only bill of sale that could possibly be filed in the county of the purchaser's residence would be the owner's duplicate, which he must deliver to the purchaser of the car from him. (Section 6310-11 and Section 6310-11a, General Code.)

From the foregoing analysis of the statutes, it would appear that the legislative intent in the enactment of such sections, was:

First: To require the bill of sale for a "motor vehicle" or "used motor vehicle" to be filed with the clerk of courts of the county where such vehicle was purchased.

Second: The purchaser of a "motor vehicle" or "used motor vehicle," either must possess the bill of sale therefor or have filed a sworn statement of ownership in the county of his residence.

The purpose of such section is to enable the police officers of the state or subdivisions thereof to enforce police regulations. You state that in Franklin County, when the motor vehicle is purchased in another county by a resident of Franklin County and the bill of sale has been filed with the clerk of courts of the county of such purchase, you permit the purchaser to file in the county of his residence a sworn statement of ownership, prepared, executed and acknowledged in accordance with the provisions of Section 6310-13, General Code. From an analysis of Sections 6310-10 and 6310-13, General Code, it would appear that such practice complies with all the provisions of the motor vehicle bill of sale act.

Specifically answering your inquiries, it is my opinion that:

(1) When a "motor vehicle" or "used motor vehicle" is purchased, the bill of sale must, in compliance with the provisions of Section 6310-10, General Code, be filed in the office of the clerk of courts of the county where the purchase was made, regardless of the residence of the purchaser.

(2) An owner of a "motor vehicle" or a "used motor vehicle" is required by the provisions of Section 6310-10, General Code, to file the bill of sale with the clerk of courts of the county in which the transaction of sale was consummated and also by the provisions of Section 6310-13, General Code, to either possess a bill of sale or file a sworn certificate of ownership with the clerk of courts in the county of his residence.

Respectfully,

JOHN W. BRICKER,
Attorney General.

993.

APPROVAL, CERTIFICATE OF INCORPORATION OF THE IMPROVED RISK MUTUAL INSURANCE ASSOCIATION.

COLUMBUS, OHIO, June 26, 1933.

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

DEAR SIR:—I have examined the certificate of incorporation of The Improved Risk Mutual 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.

994.

MEDICINAL LIQUOR—EFFECT OF SENATE BILL NO. 9, 90TH GENERAL ASSEMBLY UPON AMOUNT PHYSICIAN MAY NOW PRESCRIBE.

SYLLABUS:

The words "now permitted by federal statutes and regulations" appearing in Section 6212-15a, General Code, as amended by Amended Senate Bill No. 9 of the 90th General Assembly of Ohio, refer to federal statutes and regulations in force at the time such bill becomes effective, to wit: ninety days after said bill was filed with the Secretary of State, which date of filing was March 16, 1933.

COLUMBUS, OHIO, June 26, 1933.

HON. R. E. JOYCE, *Supervisor of Permits, District No. 6, Bureau of Industrial Alcohol, United States Treasury Department, Cincinnati, Ohio.*

DEAR SIR:—I have your communication of recent date which reads as follows:

"The undersigned is the Supervisor of Permits for the Sixth District which includes the states of Michigan, Ohio, Kentucky and Ten-