

1160.

CHATTEL LOAN BUREAU—PAWNBROKERS—RATE OF INTEREST
CHARGEABLE—WHETHER OR NOT STATE LAW OR MUNICIPAL
ORDINANCE APPLICABLE TO PAWNBROKERS.

Pawnbrokers who make loans at a charge or rate of interest in excess of eight per centum, including all charges, and have not obtained a municipal license under sections 6337 to 6346, inclusive of the General Code, are subject to the provisions of the chattel loan act (sections 6346-1 et seq. G. C.); but pawnbrokers (a) who have obtained such municipal license, and (b) those whose charge or rate of interest, including all charges, does not exceed eight per centum per annum, are not subject to the act referred to.

COLUMBUS, OHIO, April 16, 1920.

Department of Securities, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date inquiring whether pawnbrokers who loan money at a charge or rate of interest in excess of eight per cent per annum are subject to the jurisdiction of the commissioner of securities, was duly received.

A pawnbroker is defined by section 6338 G. C. to be one who lends money on deposit or pledges of personal property, etc., and hence is engaged in one of the lines of business mentioned in sections 6346-1 et seq. G. C., commonly called the chattel loan act. He is, therefore, subject to the provisions of that act and the jurisdiction of the commissioner of securities, unless he comes within the class of pawnbrokers exempted or excluded from its provisions.

Section 6346-1 G. C. provides, among other things, that:

“It shall be unlawful for any person, * * * to engage, or continue, in the business of making loans * * * upon the * * * pledge of chattels or personal property of any kind, * * * at a charge or rate of interest in excess of eight per centum per annum including all charges, without first having obtained a license so to do from the commissioner of securities,” etc.

Section 6346-5 G. C., which also is one of the sections of the chattel loan act, after prescribing for licensees certain maximum charges (including interest), further provides that:

“Nothing in this act shall apply to pawnbrokers who obtain a municipal license as provided in sections 6337 to 6346, inclusive, of the General Code or to national banks or to state banks or any person, partnership, association or corporation whose business now comes under the supervision of the superintendent of banks.”

It will thus be seen that pawnbrokers who have not obtained a municipal license under section 6337 to 6346, inclusive of the General Code, are subject to the provisions of the chattel loan act and to the jurisdiction of the commissioner of securities, provided they make loans upon the pledge of chattels or personal property at a charge or rate of interest in excess of eight per centum per annum, including all charges; but that pawnbrokers (a) who have obtained a municipal license under sections 6337 to 6346, inclusive of the General Code, and (b) those who have not obtained a municipal license, but whose charge or rate of interest does not exceed eight per centum per annum, including all charges, are not subject to that act and jurisdiction.

In view of the foregoing, and since your department has no jurisdiction over pawnbrokers who have obtained a municipal license as provided in section 6337 to 6346, inclusive of the General Code, your other question as to the amount of interest that may be exacted by a pawnbroker licensed by a municipality under those sections apparently becomes immaterial so far as your department is now concerned, and will be reserved for future consideration.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1161.

ROADS AND HIGHWAYS—CLAIMS FOR MATERIAL FURNISHED
STATE—PAID IN PART WITHOUT INTEREST.

Inquiry of state highway commissioner as to claim for material furnished state discussed and answered; claim as presented to be paid in part without interest.

COLUMBUS, OHIO, April 16, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:—Some time ago you submitted for the opinion of this department the following:

"On the 6th day of August, 1915, this department entered into contract with the firm of Pace Bros., for the improvement of section "F" of the Cleveland-East Liverpool road, I. C. H. No. 12, Cuyahoga county.

The work on this contract proceeded under the management of Pace Bros. until about the middle of April, 1917, when said firm became insolvent.

On May 1, 1917, the state highway department authorized Mr. W. A. Stinchcomb, county engineer, to proceed with the completion of the improvement on a 'force account' basis. Under this arrangement the work was completed and we are now holding to the credit of the account the sum of \$690.34.

During the early part of the year 1919 we received an account from R. L. Beck for brick furnished for this improvement between the dates of February 27 and May 18, 1917, which account amounts to \$1,207.80, and bears the approval of W. A. Stinchcomb, county engineer, under date of August 29, 1919. After considerable correspondence, Mr. C. W. Tyler, attorney for R. L. Beck, makes the following statement in reference to the account:

'I am in receipt of your letter in reference to the above. While it is true that the bricks were originally ordered by Mr. Pace, still the delivering to Mr. Pace was not completed as the bricks were in cars. At the time of the Pace failure they were ordered by the county engineer's office to be delivered on the job.'

In ordering the brick Mr. Beck relied on the county for his compensation.'

which statement is verified by a statement made by Mr. S. F. Pace, one of the firm of Pace Bros., under date of October 6, 1919, to this department reading as follows: