

5325.

APPROVAL—BONDS OF MILTON RURAL SCHOOL DISTRICT,  
MAHONING COUNTY, OHIO, \$1,500.00.

COLUMBUS, OHIO, April 2, 1936.

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

5326.

APPROVAL—BONDS OF CUYAHOGA COUNTY, OHIO,  
\$15,000.00.

COLUMBUS, OHIO, April 3, 1936.

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

5327.

DELINQUENT LANDS—PROCEDURE OF SALE WHERE  
LANDS DO NOT SELL FOR AMOUNT TO PAY TAXES,  
ASSESSMENTS, PENALTIES AND INTEREST.

**SYLLABUS:**

1. All lands which have been forfeited to the state under the provisions of Section 5744, General Code, must be offered for sale pursuant to Section 5752, General Code, at which sale such lands may not be sold for less than the taxes, assessments, penalties and interest due thereon.

2. If such lands do not sell at such sale for an amount sufficient to pay the taxes, assessments, penalties and interest due thereon, they may then be sold under the provisions of Section 5755, General Code.

3. The sale of lands pursuant to Section 5755, General Code, may be had only if said lands, in the opinion of the county commissioners, are of less value than the amount of taxes, assessments, penalties and interest due thereon and then upon order of the county commissioners directed to the county auditor to offer said lands for sale at the next regular sale of forfeited lands.

4. Such action may be taken only at the regular annual June session

*of the county commissioners, preceding the next regular sale of forfeited lands.*

COLUMBUS, OHIO, April 4, 1936.

HON. HAROLD J. ROSE, *Prosecuting Attorney, Athens, Ohio.*

DEAR SIR: This will acknowledge receipt of your recent communication, which reads as follows:

"I respectfully request your opinion upon the following facts:

Real estate has been offered for sale under General Code Section 5718-3 and at the sale thereof there were no bidders and the real estate was forfeited to the State of Ohio under Section 5744.

SECTION 5752 of the GENERAL CODE reads as follows:

**"SALE, WHEN HELD; PROCEDURE.**

The auditor in each county, on the second Monday of March, shall attend at the courthouse, and sell the whole of each tract of land as contained in the list, heretofore provided for, at public auction, to the highest bidder. He shall offer each tract separately, beginning with the first tract contained in the list and continue on through it, until each tract contained therein is sold. The county auditor may adjourn the sale from day to day until he has disposed of or offered for sale each tract of land specified in the notice. This section shall not prevent the auditor from offering a tract of land two or more times at the same sale.'

SECTION 5755 of the General Code reads as follows:

**'PROCEDURE IF LAND NOT SOLD.**

If a tract or parcel of land does not sell at such public sale for an amount sufficient to pay the taxes, assessments, penalties and interest which stand against it, the commissioners of the county in which it is situated, at their regular annual session in June preceding the next regular sale, if in their opinion it is of less value than the amount of taxes, assessments, penalties, and interest due upon it, may order the auditor of the county to offer it for sale at the next regular sale of forfeited lands, and sell it to the highest and best bidder therefore, irrespective of the

amount of taxes, assessments, penalties, and interest due upon it. Such sale shall convey the title to the said tract or parcel of land, divested of all liability for any arrearages of taxes, assessments, penalties, and interest which remain after applying the amount thereon for which it was sold.'

My questions are as follows :

1. If the real estate is offered for sale under Section 5718-3 et seq. and forfeited to the State of Ohio under Section 5744, does it have to be passed upon by the county commissioners under Section 5755.

2. Is it necessary to have real estate so acted upon by the county commissioners whether or not the commissioners can act upon the real estate at any meeting or is it necessary to wait until the meeting in June as provided for under Section 5755."

Under the provisions of Section 5744 of the General Code, all lands offered for sale in tax foreclosure proceedings pursuant to Section 5718-3, General Code, which are not sold for want of bidders and all lands which were omitted from foreclosure proceedings under Sections 5718-1 and 5718-2 and duly advertised as provided for in said sections, become forfeited to the state and are required to be sold by it, through the county auditor, pursuant to the provisions of Section 5750, General Code, et seq.

It will be noted that Section 5752, General Code, which you quote in your communication, provides that the county auditor shall sell such forfeited lands at public auction to the highest bidder and that nothing is contained in said section which requires said lands to be sold for an amount sufficient to pay taxes, assessments, penalties and interest due thereon.

Section 5755 of the General Code, which you quote, refers to the public sale provided for in Section 5752, and in view thereof, said sections must be construed as being in *pari materia*.

In discussing the construction to be placed upon statutes relating to the same subject and having a common scope, it is stated in Ohio Jurisprudence, Volume 27, page 599, that :

"Statutes or sections which expressly refer to each other or which relate to the same person or thing or to the same class of persons or things or to the same subject or object may be regarded as in *pari materia*."

Therefore; if Section 5752, *supra*, is construed in the light of the

provisions of Section 5755, General Code, it would appear that no sale could be made under the former section unless the bid is sufficient to pay all taxes, assessments, penalties and interest. Such being the case, it would appear, and it is accordingly my opinion, that all lands which have been forfeited to the state must be offered for sale under the provisions of Section 5752, supra, at which sale such lands may not be sold for less than the taxes, assessments, penalties and interest thereon, and if such real estate does not sell at such sale for an amount sufficient to pay said taxes, assessments and interest, it must then be sold under the provisions of Section 5755, supra. In selling such real estate pursuant to the latter section, it may only be sold by order of the county commissioners after they have determined that said land is of less value than the amount of taxes, assessments and interest due thereon. At such sale it must be sold to the highest and best bidder therefor, regardless of the amount bid.

Your second question is answered by the clear and specific language of the statute itself. It is a uniform rule that when the language of a statute is plain and unambiguous and conveys a clear and definite meaning, the plain provisions thereof must control. Furthermore, it must be borne in mind that a strict compliance with the requisitions of the law with respect to sales or forfeiture of lands for delinquent taxes is essential in order to effect a valid sale to enforce a tax lien or a forfeiture and sale of the forfeited lands. *Magruder vs. Esmay*, 35 O. S., 221; *Woodward vs. Sloan*, 27 O. S., 592, and *Rhodes vs. Gunn*, 35 O. S., 387.

Therefore, in view of the specific provisions contained in Section 5755, supra, it is my opinion that the order of the county commissioners requiring the county auditor to offer for sale forfeited lands, provided for in said section, may be made only at the regular annual June meeting of the county commissioners preceding the next regular sale of forfeited lands.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*