

It may well be questioned whether a franchise of this character, which by its very nature presupposes perpetuity, could be granted to an individual. See *Robbins vs. Hennessey et al.*, 86 Ohio St., 181; *State, ex rel., vs. Ackerman et al.*, 51 Ohio St., 163. But if it be granted that Section 670, General Code, above quoted, would authorize the issuing of such a franchise to an individual, such individual would be bound by all the restrictions and requirements of an incorporated company."

Similarly, in the case of *Thornton vs. Duffy*, 20 N. P. (N. S.) it was stated on page 524:

"It is the contention of plaintiff that since the Legislature has repealed all regulations as to such indemnity insurance, that in the absence of laws requiring incorporation for the transaction of the business of insurance, that individuals are unrestrained in making insurance contracts with other individuals, and engaging in the business of insurance. This is because, as claimed, that the right to make insurance is an inalienable right protected by the Constitution; that the Legislature can not prohibit insurance, but may regulate it. It is the claim, in brief, that plaintiff, being an individual, can not be restrained by legislation from making indemnity insurance contracts.

I think it is not necessary to dwell at any length on this question. The Supreme Court has held in *Renschler vs. State*, 90 O. S. 366, that an insurance contract by an individual is subject to regulation by the insurance department; that even if individuals, acting as natural persons, can carry on the business of insurance, and exercise the functions of such, they must comply with all the laws of Ohio on the subject of life insurance; that it may well be questioned whether a franchise of this character, which by its very nature presupposes perpetuity, could be granted to an individual."

I feel that the term "duly licensed surety company" as used in Section 9573-1, supra, is not restricted to corporations, but that it covers any licensees, whether such license be a corporation, association or individual. Accordingly, the only distinction or discrimination made is between licensees and those not licensed, and this I believe the Legislature may constitutionally do.

For the above mentioned reasons, it is my opinion that when the county treasurer gives an official bond signed by a duly licensed surety company, the county commissioners are authorized to pay the premium therefor out of the general funds of the county.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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2901.

APPROVAL, BONDS OF MORROW COUNTY—\$28,043.70

COLUMBUS, OHIO, November 21, 1928.

*Industrial Commission of Ohio, Columbus, Ohio.*