

4551.

FISH AND GAME ACT—RESIDENT DEFINED—CITIZEN OF  
U. S. AND HAS LIVED IN OHIO ONE YEAR PRECEDING  
APPLICATION FOR LICENSE.

*SYLLABUS:*

*A resident of Ohio, for the purpose of the Fish and Game Act, is a person who is a citizen of the United States and who has lived in the state of Ohio for not less than one year next preceding the date of application for a fishing license or hunter's and trapper's license.*

COLUMBUS, OHIO, August 17, 1935.

HON. L. WOODDELL, *Commissioner, Division of Conservation, Columbus, Ohio.*

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

“We are desirous of obtaining your opinion in regard to the length of time required to establish a legal residence, as it pertains to the sale of resident and non-resident hunting and fishing licenses.

The question involved refers to the issuance of resident or non-resident hunting and fishing license to Army engineers, contractors, and other men working on watershed projects, who have been detailed to work in our State for approximately two years; but who have to date only resided in Ohio for three months.”

Section 1430 of the General Code, which deals with the issuance of fishing licenses, reads in part as follows:

“Said licenses shall be procured in the manner provided for taking out hunting and trapping licenses. The applicant shall pay to the clerk or other agent having authority to issue such licenses the sum of three dollars, if a non-resident, and the sum of one dollar if a resident of Ohio, as a license fee therefor, together with the sum of twenty-five cents if a non-resident and ten cents if a resident, as a fee to the clerk or other agent issuing such licenses; provided, however, that any person under the age of eighteen years may take or catch fish by angling without a license.”

The provisions of the General Code with reference to fees to be paid by residents and non-residents for hunting and trapping licenses are contained in section 1431 of the General Code, which reads in part as follows:

“Every applicant for a hunter’s and trapper’s license, who is a non-resident of the state of Ohio and who is a citizen of the United States of America, shall pay a fee of fifteen dollars to the officer, or deputy issuing same. Every applicant for hunter’s and trapper’s license who is a citizen of the United States of America, and a resident of the state of Ohio, shall pay a fee of one dollar, but the owner, manager, tenant or children of the owner, manager or tenant of lands within this state may hunt and trap upon such lands without a hunter’s and trapper’s license.”

The legislature in the enactment of section 1390 of the General Code, defines certain words and phrases as the same are used in the Fish and Game Act. Said section reads in part as follows:

“Words and phrases as used in this act shall be construed as follows:

\* \* \*

Resident: Any citizen of the United States who has lived in the state of Ohio for not less than one year next preceding the date of making application for a license.

Non-resident: Any person who is a citizen of the United States and has not resided in the state of Ohio for a period of one year or more next preceding the date of making application for license, but nothing in this definition of non-resident shall apply to a resident of any country wherein a similar license to fish and hunt is granted to a resident of the state of Ohio.”

In the case of *Ohio River Power Company vs. Steubenville*, 99 O. S., 421, it was stated:

“There is no better way to determine the intent and purpose of the legislature than by its own construction of the language used.”

The cases in Ohio are legion wherein it was held that a statutory definition would at all times have controlling weight.

*Davis Laundry & Cleaning Co. vs. Whitmore*, 92 O. S. 44;  
*State, ex rel. Merydith Constr. Co. vs. Dean*, 95 O. S. 108;  
*Acklin Stamping Co. vs. Kutz*, 98 O. S. 61;  
*State, ex rel. Moore Oil Co. vs. Dauben*, 99 O. S. 406;  
*Black vs. State*, 103 O. S. 434;  
*State, ex rel. Price vs. Huwe*, 103 O. S. 546.

In *Ohio Jurisprudence*, Volume 37, at pages 536 and 537, it is declared:

“The lawmaking body’s own construction of its language, by means of definitions of the terms employed, should be followed in the interpretation of the act or section to which it relates and is intended to apply. Indeed, there is no better way to determine the intent and purpose of the legislature than by its own definition of the language used. Accordingly, any provision in a statute which declares its meaning is authoritative and in many cases will have controlling weight. In such cases, definitions of experts of the terms used are immaterial.”

In view of the foregoing, it would appear that the definition contained in section 1390, General Code, supra, manifestly requires that the word “resident”, as used in sections 1430 and 1431, General Code, be construed to mean a citizen of the United States who has lived in the state of Ohio for not less than one year next preceding the date of making application for a license.

Specifically answering your question, it is therefore my opinion that a resident of Ohio, for the purposes of the Fish and Game Act, is a person who is a citizen of the United States and who has lived in the state of Ohio for not less than one year next preceding the date of application for a fishing license or hunter’s and trapper’s license.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

4552.

FRANCHISE TAX—APPLICABILITY WITH RESPECT TO U. S. GOVERNMENT BONDS OWNED BY OHIO CORPORATION BUT HELD IN MICHIGAN OFFICE—SHOULD BE ALLOCATED IN OHIO.

**SYLLABUS:**

*Sections 5328-1 and 5328-2, General Code, providing for the allocation of intangible property in and out of this State for purposes of taxation, are not applicable with respect to the allocation of United States government bonds owned and held by an Ohio corporation at its office in the state of Michigan where it does not appear that such bonds were created or acquired by the corporation in the course of repeated dealings in property of this kind, and it appears that such bonds are simply owned and held by the corporation*