

**OPINION NO. 77-065****Syllabus:**

The procedure set forth in R.C. 3318.16, directing the president and secretary of the State Board of Education to execute a deed to local school districts upon completion of construction projects takes precedence over the general provisions regulating transfer of real property on behalf of the State set forth in R.C. 5301.13.

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**To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio**

**By: William J. Brown, Attorney General, October 31, 1977**

I have before me your request for an opinion on a possible conflict between R.C. 3318.16 and R.C. 5301.13. Specifically, you have raised the following questions:

1. When a project undertaken pursuant to Section 3318.16 is completed, must the deed to transfer title in the real property to the school district be executed in accordance with the provisions of Section 5301.13?
2. The State Board of Education has in the past conveyed property to various school districts pursuant to Section 3318.16 by deeds executed only by the president and secretary of the state board. If number one (1) is answered in the affirmative, what procedure should be followed regarding such deeds in which the provisions of 5301.13 were not followed?

R.C. Chapter 3318 relates to local school district bond issues for the construction of additional classroom facilities, setting forth the procedures to be followed by the local boards. It also involves the procedure to be followed by the State Board of Education when state funding for such projects is involved.

Your question involves the construction of R.C. 3318.16. It provides, in pertinent part as follows:

Title to interests in real property purchased with monies in the school district's project construction account shall be take in the name of the State of Ohio. Upon completion of the project, the title to such interest in real property shall be conveyed to the school district board and the president and secretary of the state board shall execute and deliver deeds to complete the transfer of such interests. (Emphasis added) . . .

The operative portion of this section, contained in the second sentence thereof, appears to be in conflict with the general provision regarding transfer of interests of real property held by the state set forth in R.C. 5301.13. That section provides in part, as follows:

All conveyances of real estate, or any interest therein, sold on behalf of the state, shall be drafted by the Auditor of State, executed in the name of the state, signed by the governor, countersigned by the secretary of state, and sealed with the great seal of the state.

Significantly, R.C. 5301.13 (54 v. 160) was enacted prior to R.C. 3318.16 (127 v. 296).

As a general proposition, when two statutes relate to the same subject they should be read together and given equal effect, provided that they can be reconciled. State ex rel. O'Neil v. Griffith, 136 Ohio St. 526 (1940). This rule of statutory construction has been codified in R.C. 1.51.

R.C. 5301.13 is a general mandate requiring certain procedures when any interest in real property is "sold on behalf of the state." R.C. 3318.16 is part of an entire chapter which sets forth the procedure by which the state becomes involved in funding construction projects of local school boards. As such it is limited in its effect to those instances where the state takes title to land involved in certain construction projects of local school districts. While both sections concern the same subject matter, they cannot be reconciled.

The Supreme Court of Ohio, in State ex rel. Jasten v. Common Pleas Court, 132 Ohio St. 93 (1936), included in its syllabus the following rule of statutory construction:

Where a later specific statute is enacted on the same subject covered by an existing general statute, without express or implied intention to repeal the existing statute, such specific statute must be held to have been intended by the Legislature to be engrafted upon the general statute as an exception thereto.

Applying this rule to your question, I must conclude that the procedure set forth in R.C. 3318.16, which directs the president and secretary of the State Board of Education to execute a deed to local districts in the limited situation contemplated by R.C. 3318., takes precedence over the general requirements set forth in R.C. 5301.13. This interpretation is strengthened by the fact that the General Assembly has specifically required compliance with R.C. 5301.13 in other situations where a transfer of real property is to be made on behalf of the state. See R.C. 123.031, R.C. 122.46, R.C. 3377.14. Had the General Assembly intended the general provisions in R.C. 5301.13 to apply to R.C. Chapter 3318., it seems that they also would have included specific language to that effect in R.C. 3318.16. Their failure to do so indicates that they intended that section to be an exception to the general rule.

Accordingly, it is my opinion that:

The procedure set forth in R.C. 3318.16, directing the president and secretary of the State Board of Education to execute a deed to local school districts upon completion of construction projects takes precedence over the general provisions regulating transfer of real property on behalf of the State set forth in R.C. 5301.13.