

3130.

APPROVAL, BONDS OF MIFFLIN TOWNSHIP CENTRALIZED SCHOOL DISTRICT, WYANDOT COUNTY, OHIO—\$2,700.00.

COLUMBUS, OHIO, April 7, 1931.

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

3131.

UNDERTAKING—SECURING PUBLIC FUNDS IN COUNTY DEPOSITORY—SURETIES MUST BE RESIDENTS AND FREEHOLDERS OF COUNTY WHOSE MONEYS ARE TO BE SECURED.

**SYLLABUS:**

*The phrase "such undertaking shall be signed by at least six resident freeholders as sureties" appearing in Section 2723, General Code, relating to the security to be provided by county depositories, requires that the sureties signing the undertaking reside and have a freehold interest in real property in the county whose moneys are to be secured.*

COLUMBUS, OHIO, April 9, 1931.

HON. GEORGE S. MIDDLETON, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR:—I am in receipt of your recent communication, which reads as follows:

"Section 2723 of the General Code of Ohio, provides as follows:

'Such undertaking shall be signed by at least six resident freeholders as sureties \* \* \*'

Does this provision of the Code require that all sureties be actual residents of the county and also freeholders of the county?

We have two banks near the county line with Directors who are offered as sureties on depository bonds, residing outside of the county, but owning real estate in the county and others residing in the county, but freeholders in the adjoining county."

Section 2723, General Code, relating to the security to be provided by banks in which county funds are to be deposited, provides as follows:

"Such undertaking shall be signed by at least six resident free-holders as sureties or by a fidelity or indemnity insurance company, authorized to do business within the state and having not less than two hundred and fifty thousand dollars capital, to the satisfaction of the commissioners, conditioned for the receipt, safe keeping and payment over of all money with interest thereon at the rate specified in the proposal, which may come under its custody under and by virtue of this chapter and under and by virtue of its proposal and the award of the commissioners, and conditioned for the faithful performance by such bank or banks or trust companies of all the duties imposed by law upon the depository or depositories of the money of the county."

It is quite evident from a reading of the above section that the legislature has failed to expressly state that the sureties shall be residents and freeholders of the county whose