

2713.

APPROVAL, BONDS FOR THE FAITHFUL PERFORMANCE OF HIS
DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTOR—ROBERT
STOLTZ.

COLUMBUS, OHIO, May 22, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted a bond, in the penal sum of \$5,000.00, with surety as indicated, to cover the faithful performance of the duties of the official as hereinafter named:

L. Robert Stoltz, Resident District Deputy Director—Fidelity and Deposit Company of Maryland.

Said bond has undoubtedly been executed pursuant to the provisions of sections 1183 and 1182-3, General Code. Such sections provide, in so far as pertinent here:

“Sec. 1183. * * * Such resident district deputy directors shall * * * give bond in the sum of five thousand dollars. * * *”

“Sec. 1182-3. * * * All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds * * * shall be approved as to the sufficiency of the sureties by the director, and as to legality and form by the attorney general, and be deposited with the secretary of state.”

Finding said bond to have been properly executed in accordance with the foregoing sections, I have accordingly approved the same as to form, and return it herewith.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2714.

OLD AGE PENSION—RESIDENCE REQUIREMENTS NOT CONTROLLED
BY SECTION 3477, GENERAL CODE.

SYLLABUS:

The requirements of section 3477, General Code, for establishing a “legal settlement” for poor relief purposes, as therein defined are not controlling in determining the “residence” of an applicant for an Old Age Pension under Section 1359-2d, General Code.

COLUMBUS, OHIO, May 23, 1934.

HON. CALVIN CRAWFORD, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads in part as follows:

"We solicit your opinion as to whether the word 'resident' as used in Sub-section D of Section 2 of the Old Age Pension Act, described as G. C. 1359-1 to 1359-30, is to be construed as synonymous with the phrase 'one legally settled.'

The aged couple are legally settled in Franklin County but have actually resided in Montgomery County for over two years, but have received public relief so frequently that they have not established a legal settlement in Montgomery County. The aged couple desire to make an application for an Old Age Pension and from the family's standpoint the problem is whether to make the application from Franklin County or Montgomery County, and this turns upon what construction or interpretation legally shall be given the word *resident* in the Old Age Pension Law."

As suggested by your inquiry, the answer to the above question depends upon the interpretation of the word "resident" as used in Section 1359-2d, General Code, which reads as follows:

"No person shall be entitled to aid under this act unless he * * * has been a resident of the county in which he makes application for not less than one year immediately prior to making such application."

A guide for the interpretation of the purposes and intent of the framers of the Old Age Pension Law, and of the people of the state when they adopted the same, is furnished by Section 1359-29, General Code, which provides as follows:

"This Act shall be liberally construed to accomplish the purposes thereof. Nothing herein shall be construed as repealing any other Act or part of an Act providing for the support of the poor except insofar as plainly inconsistent herewith, and the provisions of this Act shall be construed as an additional method of supporting and providing for the aged poor."

Under the poor laws of the state, legal settlement is defined by Section 3477, General Code. It is there provided that, "each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

In my opinion the resident requirements of one year as contained in Section 1359-2d, General Code, bears no proper analogy to the settlement statutes in the poor laws providing for relief of paupers. If it were intended by the framers of the Old Age Pension Law that an applicant for aid, under the provisions of that law, must continuously reside and support himself or herself for twelve consecutive months within a county without relief, words to that effect could have been employed as was done by the General Assembly in Section 3477, General Code, when defining "legal settlement".

It is entirely possible that the framers of the Old Age Pension Law realized

that a requirement for "legal settlement" such as contained in Section 3477, General Code, would, if enacted in the Old Age Pension Law prevent a relatively large percentage of otherwise eligible and needy aged persons from acquiring a "legal settlement" in the county in which they are presently residing for the reason that a person applying for aid under the Old Age Pension Law is not likely to have supported himself or herself for twelve consecutive months, without relief.

Assuming for the sake of argument that the "legal settlement" requirement as contained in Section 3477, General Code, applied to the Old Age Pension Law, in the event that an applicant is unable to acquire a "legal settlement" in the county wherein he or she presently resides, because of inability to support himself or herself for twelve consecutive months, without relief, it would then be necessary to determine the county in which the applicant last had a "legal settlement" and make application for an Old Age Pension to the Board of Aid for the Aged in that county. Section 1359-14, General Code provides that applications for aid under the Old Age Pension Law shall be made yearly to the County Boards, and that each shall cause all applications to be investigated. I do not believe that it was the intent of the framers of the Old Age Pension Law, or of the people of the state who voted for its adoption, that a burdensome procedure such as that indicated above, should be inflicted upon those applying for aid under the Old Age Pension Law or upon officials charged with the administration of that law.

In my opinion the requirement that an applicant first reside for one year in the county in which he makes application was intended as a means of identification and as a method of depriving transients of the privilege of participating in the benefits of the law. Obviously for administrative purposes, the requirement of one year's residence within a county would greatly facilitate the work of the Board of Aid for the Aged in the respective counties.

I am inclined to the view that the residence requirement as contained in Section 1359-2d, General Code, was placed in the Old Age Pension Law after due consideration of problems such as those discussed herein; furthermore that it was intended to define and limit the meaning of the word "resident" to the phrase expressly contained in that section.

Specifically answering your inquiry it is my opinion, therefore, that the statutory requirements of legal settlement as contained in the poor relief laws are not applicable to the Old Age Pension Law and that under the facts stated in your letter the persons mentioned therein should make application for an old age pension to the Bureau of Aid for the Aged in Montgomery County.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2715.

LICENSE—PUBLIC SCHOOLS MAY BE LICENSED BY STATE BOARD
OF COSMETOLOGY WHEN—EXCEPT FROM LICENSE FEE—IN-
STRUCTORS MUST BE LICENSED.

SYLLABUS:

1. *Public junior high schools, regular high schools and public trade schools may be licensed by the State Board of Cosmetology, if they meet the requirements*