

However, if the title is in the county, then by virtue of Section 3812 of the General Code, as construed in the case of *Jackson, Treasurer vs. Board of Education*, 115 O. S. (Ohio Law Bulletin & Reporter for January 3, 1927, page 239), the municipality has the power to levy and collect a special assessment against this property just the same as against any other property located on that street.

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

685.

### FORM OF BOND FOR REAL ESTATE BROKERS' LICENSE.

COLUMBUS, OHIO, July 2, 1927.

HON. CYRUS LOCHER, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication, in which you request me to draw up in proper form a bond, both surety and personal, as provided for in Section 6373-35 of the General Code.

Section 6373-35, General Code, above referred to, is a part of the act creating a state board of real estate examiners, prescribing its duties, providing for licenses for real estate brokers and real estate salesmen, and relating to the conduct of the business of dealing in real estate generally. This act has been incorporated into the General Code of Ohio and is now known as Sections 6373-25 to 6373-51, both inclusive.

Section 6373-35 provides as follows:

“No real estate broker's license shall be issued until the grantee thereof shall have executed and filed a bond to the State of Ohio in the sum of \$1,000 and with such surety as the real estate examiners may require. Such bonds shall be filed with the state board of real estate examiners and kept by them in their offices. Such bond shall be conditioned upon the faithful observance of all the provisions of this act and shall also indemnify any person who may be damaged by a failure on the part of the applicant for a real estate broker's license to conduct his business in accordance with the requirements of this act (G. C., Sec. 6373-25 to 6373-51). Any person claiming to have been damaged by any misrepresentation or fraud on the part of a real estate broker or by reason of the violation of the terms of this act, may maintain an action at law against the broker making such representations or perpetrating such fraud or violating the provisions of this act, and may join as parties defendant the sureties on the bonds herein provided for. Such bonds shall be in the form prescribed by the board of real estate examiners and approved by them.”

In accordance with your request and the provisions of Section 6373-35, supra, I submit herewith the following suggested form of bond:

#### “BOND

#### REAL ESTATE BROKER'S LICENSE

(Sec. 6373-35, General Code)

KNOW ALL MEN BY THESE PRESENTS, That we, -----  
 ----- of -----, as principal, and

----- of ----- and  
 ----- of -----, as  
 suret -----, are held and firmly bound unto the State of Ohio in the sum  
 of One Thousand Dollars (\$1,000.00), lawful money of the United States  
 for the payment of which well and truly to be made, we, and each of us, bind  
 ourselves, our heirs, executors, administrators, successors and assigns jointly  
 and severally, firmly by these presents.

The conditions of the above obligation are such that whereas the above  
 named principal has made application to the board of real estate examiners  
 of the State of Ohio for a license as real estate broker to engage in or con-  
 tinue in the business of real estate broker in accordance with the provisions  
 of the act entitled: 'An Act regulating the business of real estate brokers,  
 requiring a license and a bond from real estate brokers and providing a pen-  
 alty,' and being Sections 6373-25 to 6373-51, both inclusive, of the General  
 Code of Ohio, and particularly in accordance with the provisions of Section  
 6373-29 of the General Code;

NOW, THEREFORE, if the said -----,  
 as principal, shall in the event said license be issued to him, conduct his busi-  
 ness as real estate broker in accordance with the provisions of said act, and  
 shall indemnify any person who may be damaged by the failure on the part of  
 the principal to conduct his business in accordance with the provisions of said  
 act, said principal hereby agreeing to indemnify any person damaged by any  
 misrepresentation or fraud on the part of said principal or by reason of the  
 violation of the terms of said act, then this obligation shall be void, other-  
 wise to remain in full force and effect.

It is expressly understood and agreed that the liability of the suret.-----  
 for any and all claims hereunder shall in no event exceed the sum of One  
 Thousand Dollars (\$1,000.00).

Signed and sealed at -----, Ohio, this -----  
 day of -----, 192---

----- (SEAL)  
 Principal  
 ----- (SEAL)  
 ----- (SEAL)  
 Suret.----- "

In cases where surety companies duly authorized to do business in the State of  
 Ohio act as sureties on real estate brokers' bonds, you should also be supplied with the  
 following information:

1. A certificate of the superintendent of insurance to the effect that such surety  
 company is authorized to transact business in this state.
2. A duly verified copy of the power of attorney of the agent of such company  
 executing said bond.
3. A copy of the company's last financial statement.

While the act above referred to does not prescribe the qualifications of sureties  
 on a real estate broker's bond, Section 6373-35 provides that such bond shall be in the  
 form prescribed by the board of real estate examiners and approved by them. It fol-  
 lows that the board may make such reasonable rules and regulations as to the qualifica-  
 tions of sureties as they deem proper and I suggest, therefore, that where the sureties  
 on such bond are personal sureties, such personal sureties be required to make affidavits  
 to the effect that they are worth in the aggregate over and above all liabilities an amount  
 equal to or double the amount of the bond. In lieu of such affidavit, the board of real

estate examiners might require that the sureties furnish a certificate of the county auditor to that effect.

If you have any further suggestions in connection with the above matter, I shall be glad to discuss the same with you.

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

686.

BOARD OF EDUCATION—MAY APPOINT ITS SUPERINTENDENT OF  
SCHOOLS AS ATTENDANCE OFFICER.

*SYLLABUS:*

*A board of education of a city school district may in its discretion appoint its superintendent of schools as attendance officer if circumstances are such that it is physically possible for one person to perform the duties of both positions.*

COLUMBUS, OHIO, July 5, 1927.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your request for my opinion as follows:

“May the board of education of a city school district legally employ the superintendent of their schools as attendance officer?”

City school superintendents are appointed by city boards of education by virtue of Section 7702 of the General Code. Section 7703, General Code, sets out the duties of such superintendent, which are, in a general way, the general supervision of the teachers and the pupils attending the public schools in the district. In addition to this, certain reports are required from him and if the board sees fit they may require him to attend any and all of its meetings.

The duties of an attendance officer employed by a city board of education are set out in Sections 7769, et seq., of the General Code. These duties are, in a general sense, the investigation of non-attendance of pupils and the enforcement of the laws relating to compulsory education.

An examination of the various provisions of the statutes relating to the duties of city superintendents of schools and attendance officers discloses that their duties are not in the least conflicting, nor is either one of them, as such officer, charged with the duty of keeping a check on the activities of the other, and none of these various provisions of law requires full time from the incumbent of either of the positions. In districts where the duties of these officers are such that it is physically possible for one person to perform the duties of both positions and the board of education in its discretion sees fit to appoint the same person to the two positions, I see no reason to prevent it from doing so.

You are therefore advised that a board of education of a city school district may legally employ the superintendent of its schools as attendance officer, if circumstances are such that it is physically possible for one person to perform the duties of both positions.

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