

2994.

APPROVAL, TWO GAME REFUGE LEASES.

COLUMBUS, OHIO, December 8, 1928.

HON. CHARLES V. TRUAX, *Director of Agriculture, Division of Fish and Game, Columbus, Ohio.*

DEAR SIR:—I have your letter of December 6, 1928, in which you enclose the following State Game Refuge Leases, in duplicate, for my approval:

No.	Lessor	Acres
1178	Annie and C. K. Johnson, Richland County, Mifflin Twp.-----	79.28
1179	Mary Brubaker, Richland County, Mifflin Township-----	98.48

I have examined said leases, find them correct in form, and I am therefore returning the same with my approval endorsed thereon.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2995.

FEES—DEPARTMENT OF COMMERCE—FILING OF COPIES OF PAPERS FROM BOND INVESTMENT COMPANIES—FIFTY CENTS FOR EACH COPY NOT SPECIFICALLY RATED.

SYLLABUS:

Section 704, General Code, provides a fee of fifty cents per folio to be charged by the Department of Commerce for filing each copy of papers required to be filed by a bond investment company, in those instances wherein said section does not otherwise specifically provide a filing fee for certain instruments.

COLUMBUS, OHIO, December 10, 1928.

HON. EARL D. BLOOM, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—Your recent letter reads:

“Sometime ago, in conversation with Mr. Davis of your department, it was our understanding that your office would render an opinion with reference to the interpretation placed upon Section 704 of the General Code, and particularly with reference to the part of said section which reads as follows:

‘A bond investment company shall pay to the supervisor of such companies the following fees:

* * *

For each copy of paper filed in his office, fifty cents per folio;

* * * ’

Section 701, G. C., mentions the different copies of papers that are necessary to be filed by a bond investment company wishing to do business in the state of Ohio, and in the past we have collected a fee of fifty cents per folio for each paper or copy of paper filed in this office by the bond investment company complying with Section 701 of the General Code. However, we

have a new company which has just recently secured our permission to do business in this state which interprets Section 704 of the General Code as meaning copies *we make* of the papers they have filed in the office and not the copies of papers they have filed.

I hope we have made this discrepancy clear. Will you kindly render an opinion as to your interpretation of this section at your earliest convenience?"

Section 701 of the General Code, which you mention, reads:

"Before doing business in this state every bond investment company shall comply with the following conditions:

1. It shall file with the supervisor of bond investment companies certified copies of its charter and articles of incorporation, constitution and by-laws, and other rules and regulations showing its manner of doing business.

2. It shall file with the supervisor a statement, under oath of its president and secretary, or other managing officer of its business for the preceding year, in a form required by the supervisor.

3. It shall file with the supervisor a written instrument, duly executed, agreeing that a summons may issue against it from any county in this state, directed to the sheriff of the county in which the office of the supervisor is situated, commanding the sheriff to serve such summons by certified copy, personally upon the supervisor, or by leaving a copy thereof at his office. The supervisor shall mail a copy of any papers served on him to the home office of such bond investment company."

Section 704 of the General Code, to which you refer, provides:

"A bond investment company shall pay to the supervisor of such companies the following fees:

For filing each application for admission to do business in this state, one hundred dollars;

For filing each certificate of authority and annual renewal of certificate, fifty dollars;

For filing each annual statement, twenty-five dollars;

For issuing license to each agent, two dollars;

For each copy of paper filed in his office, fifty cents per folio;

For affixing seal and certifying any paper, one dollar.

The fees provided for herein shall be deposited by the supervisor with the treasurer of state, upon the certificate of the auditor of state."

In examining the legislative history of the act of which the foregoing sections were a part, it will be found that the first enactment was made by the 73rd General Assembly, 93 O. L. 401. It also will be observed that Section 704, *supra*, contained substantially the same provision insofar as your question is concerned in the original enactment, that it now contains. While said section has been twice amended, the changes therein had no effect upon the question herein presented. It will be noted that by virtue of the provisions of Section 154-39, General Code, the phrase "Department of Commerce" must now be substituted for the word "supervisor" as mentioned in said Section 704.

It seems that for a long period of time the officers administering the law have interpreted Section 704, supra, as requiring a fee of fifty cents per folio to be charged in those instances wherein papers are required to be filed by bond investment companies, in order to qualify to do business in Ohio, other than those cases where a specific filing fee is provided.

I cannot concur in the contention made by the company you mention to the effect that the language under consideration relates to charges for copies made by your department. It will be noted there is no specific provision in said enactment requiring your department to make copies. There is a provision fixing a fee to be charged for "affixing seal and certifying any paper."

It will be noted that Section 701 requires the filing of certain papers, and it is my opinion that the provisions of Section 704, supra, to which you refer, has reference to a filing fee to be charged for each instrument or paper so filed, other than those cases wherein said section specifically provides the filing fee for certain instruments.

It may be that the contention made by the company is a possible interpretation, but it seems to me it is too far-fetched to be given serious consideration. If such a construction could be said to be as plausible as the construction I place thereon, it is believed the view I have indicated must control on the theory that weight must be given to the administrative interpretation hereinbefore referred to.

In the case of *Industrial Commission vs. Brown*, 92 O. S. 309, it was held:

"The administrative interpretation of a statute is to be given great weight by the courts in the judicial construction of such statute, if it has been continued for a long time and generally acquiesced in."

In view of the foregoing you are advised that Section 704, General Code, provides a fee of fifty cents per folio to be charged by the Department of Commerce for filing each copy of papers required to be filed by a bond investment company, in those instances wherein said section does not otherwise specifically provide a filing fee for certain instruments.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2996.

SCHOOL BUS DRIVER—MUST GIVE BOND—MUST HAVE CERTIFICATE OF GOOD MORAL CHARACTER—RECOVERY ON VOID CONTRACT DISCUSSED.

SYLLABUS:

1. *The driver of a school wagon or motor van who does not give a satisfactory and sufficient bond and who has not received a certificate of good moral character as provided by Section 7731-3, General Code, cannot recover for his services as such driver.*

2. *When the driver of a school wagon or motor van is employed by a board of education otherwise than in strict conformity with the provisions of Section 7731-3, General Code, and renders satisfactory service as such driver in reliance upon such contract and is paid therefor, in the absence of a showing of fraud or collusion in the transaction, no recovery can be had on behalf of the school district for the moneys so paid.*