

nati, Ohio. This contract covers the construction and completion of contract for moving and resetting boiler from Longview State Hospital to Athens State Hospital, in accordance with the Form of Proposal dated October 16, 1934. Said contract calls for an expenditure of three thousand four hundred and fifty dollars (\$3,450.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in an amount sufficient to cover the obligations of the contract; also a certificate of the Controlling Board shows that such board has consented to the expenditure of the funds for this contract, appropriated by House Bill No. 699 of the 90th General Assembly, regular session.

In addition, you have submitted a contract bond upon which the Hartford Accident and Indemnity Company of Hartford, Connecticut, appears as surety, sufficient to cover the amount of the contract.

You have also submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3399.

REAL PROPERTY—RECEIVER MAY OBTAIN BENEFITS OF AMENDED
SENATE BILL NO. 200—PURCHASER AT FORECLOSURE SALE
ENTITLED TO INCIDENTAL BENEFITS OF SAID LAW.

SYLLABUS:

1. *Where real property is placed by the courts in the hands of a receiver, such receiver having obtained the permission of the court appointing him, may receive the incidental benefits of Amended Senate Bill No. 200 as Amended by Amended Substitute Senate Bill No. 53 as enacted by the 90th General Assembly, provided all the other conditions set forth in the law have been complied with.*

2. *Where real property has been sold by the court on foreclosure order and is acquired by a person, company, bank or building and loan company, such person, company, bank, or building and loan company may receive the incidental benefits of Amended Senate Bill No. 200 as amended by Amended Substitute Senate Bill No. 53 as enacted by the 90th General Assembly, provided all the other conditions of the law have been complied with in respect to the housing of indigent families.*

COLUMBUS, OHIO, November 3, 1934.

The State Relief Commission of Ohio, Pure Oil Building, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your recent communication which reads as follows:

"May we request your opinion on the following questions:

1. Where a property has been placed by the courts in the hands of a receiver, is such receiver eligible to receive benefits of Amended Senate Bill No. 200, providing for 'Direct Housing Relief,' provided the conditions as set forth in the law have been complied with?

2. Where a property has been sold by the courts by foreclosure order and is acquired by a person, company, bank, or building and loan company, is such person, company, bank, or building and loan company eligible to receive the benefits of Amended Senate Bill No. 200, providing for 'Direct Housing Relief,' provided the conditions of the law have been complied with, as regards the housing of an indigent family?"

Amended Senate Bill No. 200 of the regular session of the 90th General Assembly as amended by Amended Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly reads in part as follows:

"Sec. 1

In addition to all other forms of relief, the commissioners of any county are authorized to appropriate the sum that said commissioners decide is necessary for the purpose of direct housing relief to indigent persons. Said commissioners may appoint the clerk of the board of county commissioners to investigate claims and demands for such relief. The clerk may issue a voucher to the auditor of the county each month for the rent of any indigent person whom he finds is entitled to such relief, which amount so allowed each month shall not be less than \$4.00 for a 2 room suite, \$5.00 for a 3 room suite, \$6.00 for a 4 room suite, \$7.00 for a 5 room suite and \$8.00 for a 6 or more room suite, but such voucher shall in no case exceed the sum of ten dollars per suite or single house nor shall the total of such vouchers issued upon any one taxable property exceed in any one month one-twelfth of the total annual tax exclusive of special assessments upon such property for the preceding calendar year. Such voucher shall give the line and page of the book of the tax list of the county on which such property is entered and otherwise identify same as the auditor may direct and upon presentation of such voucher to the auditor, the auditor shall issue a warrant mentioning the property described in said voucher which shall be received by the treasurer on payment on taxes on the premises mentioned on said voucher. Said warrant shall not be negotiable or received by the treasurer in payment of taxes of any property except the property mentioned therein. At each semi-annual settlement between the treasurer and the auditor, the warrants that have been presented for the payment of taxes as herein provided shall be entered on a book provided by the auditor who shall deduct from each taxing subdivision the portion of the tax which is represented by said warrants and in making the settlement with each taxing subdivision amounts so deducted shall be entered upon same as taxes withheld for direct housing relief."

* * * * *

"Sec. 3:

No vouchers shall be issued to any *owner* of real estate according to the provisions of this act unless said *owner* shall agree to accept them for the rent thereof and the vouchers herein mentioned shall not be honored by the auditor unless it be endorsed thereon by the

first mortgagee that said first mortgagee agrees not to foreclose on said property as long as same is occupied and paid for by such warrants without giving thirty days' notice to said county commissioners or to their duly appointed agent of the intention of foreclosing." (Italics the writer's.)

* * * * *

The answer to your question involves an interpretation of the word "owner" as employed in Sec. 3 supra. I call your attention to my opinion No. 2355, rendered March 19, 1934, in the course of which it was stated:

"From the tenor of the entire act it would appear that the poor relief which is authorized to be furnished is to and on behalf of the tenant. * * * The purpose of the act being to help indigent persons pay their rent and thus prevent their ejection, it would appear that it is the indigent's claim or demand that must be investigated, rather than that of the landlord's need for the rent.

* * * the chief benefit of Amended Senate Bill No. 200 was intended for the indigent tenant, even though the landlord may incidentally be financially benefited."

Having determined the purpose of the Act it now becomes necessary to interpret the word "owner." It is stated in *Coombs vs. People*, 64 N. E. 1056, 1057, 198 Ill. 586:

"The word 'owner' as applied to land, has no fixed meaning which can be declared to be applicable under all circumstances, and as to any and every enactment."

In *McFeters vs. Pierson*, 24 Pac. 1076, 1077, 15 Colo. 201, it is stated:

"The term 'owner' when used alone, imports an absolute owner, or one who has complete dominion of the property owned, as the owner in fee of real property. But its meaning is varied according to the connection in which it is used, and is to be understood according to the subject matter to which it relates."

In *Lindsay-Strathmore Irr. Dist. vs. Wutchumna Water Co.*, 296 Pac. 933, 938, 111 Cal. App. 688, it is stated:

"The terms 'owning,' 'owner,' and 'owned' depend somewhat for the signification upon the connection in which they are used. They are not technical, but general terms, and are therefore liberally construed, the precise meaning depending upon the nature of the subject matter in the connection in which they are used."

Excerpts from the following cases relative to "receivers" are illustrative of the principle stated in the above cases.

In *Turner vs. Cross*, 18 S. W. 578, 579, 83 Tex. 218, 15 L. R. A. 262, it is stated:

"The word 'owner' as used in Rev. St. Art. 2899, giving a right of action for injuries resulting in death, caused by the negligence of the owner of a railroad, does not include a receiver, though it is often used to express rights to a property in a thing less than the absolute or exclusive right; but when this occurs it will ordinarily appear from the context, and in all such cases the person holds for himself and in his own right. The ordinary meaning of the word 'owner' is such that no person can hold such relation to property unless he has a personal interest or right to it." See also *Yoakum vs. Silph*, 19 S. W. 145, 83 Tex., 607; *Houston N. T. C. Ry. Co. vs. Roberts* (Tex.) 19 S. W. 512; *Bonner vs. Thomas* (Tex.) 20 S. W. 722.

On the other hand it has been held:

"Kirby's Dig. Section 6595 penalizing 'the corporation owning a railroad' for failure to ring a bell or blow the whistle when approaching a crossing, as required by that section, applies to a receiver operating a railroad, the statute being intended to apply to anyone operating a railroad, whether as the technical 'owner' or otherwise, the word 'owning' being used in the popular sense, and the purpose of such statute being to protect travelers against accidents which might occur at crossings, were not the prescribed precautions taken." *Bush vs. State*, 194 S. W. 857, 128 Ark., 448.

It was further held in *State vs. Corbett*, 59 N. W. 317, 320, 57 Minn. 345, 24 L. R. A. 498:

"The term 'owner' as used in Law's 1893 c. 66, section 5, providing that the owners of any railway companies or common carriers within the state shall redeem tickets sold by it in any manner, no matter whether sold within or without the state, was intended to be used in a comprehensive sense, so as to include all who are operating a railroad or steamboat, whether as owners of the property, or as lessees, receivers, or the like."

It has also been held that where a lumber company purchased timber on land, and assumed liability for failure to dispose of slashings, and where the receiver of the company, who, after all the timber had been cut and removed, and the company became insolvent, took possession of the logging machinery on such land so as to preserve it, the receiver was the "owner" within Rem. Comp. Stat. Sections 5792, 5807, 9917, making the existence of dry slashings a nuisance and the "owner" liable; "owner" as applied to land was held to include persons having possessory right to the land. *Great Northern Railway Co. vs. Oakley*, 237 Pac. 990, 992, 135 Wash. 279.

In my opinion, inasmuch as the purpose of Amended Senate Bill No. 200 of the regular session of the 90th General Assembly, as amended by Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly, is for paying rents of indigent tenants and such poor relief laws should be construed liberally, the word "owner" in Section 3 is broad enough to include the receiver where the property has been placed by the Court in his hands. Hence, in specific answer to your first question, it is my opinion that where real property

has been placed by the courts in the hands of a receiver, such receiver having obtained the permission of the court appointing him, may receive the incidental benefits of Amended Senate Bill No. 200 of the regular session of the 90th General Assembly as amended by Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly, provided all the other conditions as set forth in the law have been complied with.

I come now to your second question. It is obvious that when real property has been sold by the court by foreclosure order and is acquired by a person, company, bank, or building and loan company, such person, company, bank, or building and loan company is the "owner" thereof and is in the same category as any other owner of real property and hence is necessarily within the purview of the so-called "Housing Relief Act" (Amended Senate Bill No. 200 of the 90th General Assembly as amended by Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly), and assuming all the conditions of the law have been complied with, with respect to the housing of an indigent family, such person, company, bank, or building and loan company is eligible to the incidental benefits of said Act.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3400.

APPROVAL—BONDS OF ROME TOWNSHIP RURAL SCHOOL DISTRICT,
ATHENS COUNTY, OHIO, \$5,000 00.

COLUMBUS, OHIO, November 3, 1934.

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

3401.

APPROVAL—CERTAIN INDENTURE FOR THE TRANSFERRING TO
THE OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY
CERTAIN PARCELS OF CANAL LANDS IN LAWRENCE TOWNSHIP,
TUSCARAWAS COUNTY, OHIO.

COLUMBUS, OHIO, November 3, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain indenture in triplicate in and by which, subject to the exceptions and conditions therein provided for, you have transferred to the Ohio State Archaeological and Historical Society certain parcels of canal lands, pursuant to the authority conferred upon you for this purpose by House Bill No. 278 enacted by the 90th General Assembly under date of April 13, 1933, 115 O. L. 208.

The parcels of abandoned canal lands here referred to are in Lawrence