

2484.

APPROVAL, NOTES OF CARMEL SPECIAL RURAL SCHOOL DISTRICT,  
HIGHLAND COUNTY, OHIO—\$1,058.00.

COLUMBUS, OHIO, April 10, 1934.

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

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2485.

APPROVAL, NOTES OF MEIGS RURAL SCHOOL DISTRICT, ADAMS  
COUNTY, OHIO—\$5,574.00.

COLUMBUS, OHIO, April 10, 1934.

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

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2486.

LOANS—CORPORATION MAKING LOANS ON NOTES SECURED BY  
ESTATE MORTGAGES ONLY AND CHARGING INTEREST EXCEED-  
ING 8% PER ANNUM NOT REQUIRED TO OBTAIN LICENSE FROM  
COMMISSIONER OF SECURITIES.

**SYLLABUS:**

*A corporation engaged in the business of making loans on notes secured by mortgages on real estate only, which charges interest at a rate in excess of eight per centum per annum is not required by the provisions of Section 6346-1, General Code, to obtain a license so to do from the commissioner of securities and otherwise complying with the provisions of Chapter 25, Title II of Part Second of the General Code; but such loans are subject to the provisions of sections 8303 and 8306, General Code, with reference to usury as limited by section 8623-78, General Code.*

COLUMBUS, OHIO, April 11, 1934.

HON. THEO. H. TANGEMAN, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion reading as follows:

“Section 6346-1 of the General Code of Ohio reads as follows:

‘It shall be unlawful for any person, firm, partnership, association or corporation, to engage, or continue, in the business of making loans, on plain, endorsed, or guaranteed notes, or due bills, or otherwise, or upon the mortgage or pledge of chattels or personal property of any kind, or of purchasing or making loans on salaries or wage earnings,

or of furnishing guarantee or security in connection with any loan or purchase, as aforesaid, at a charge or rate of interest in excess of eight per centum per annum, including all charges, without first having obtained a license so to do from the commissioner of securities and otherwise complying with the provisions of this chapter.'

The X Corporation is engaging in the business of making loans on notes secured by mortgages on real estate at a charge or rate of interest in excess of 8 per centum per annum.

Your opinion is respectfully requested as to whether the business of the X Corporation is within the purview of General Code Section 6346-1, above noted."

For the purposes of this opinion, I assume that the business of the X Corporation consists in lending money to a property owner, taking his note, secured by mortgage on such real estate, in other words, is in the business of making loans direct, as distinguished from the making of loans evidenced by a collateral note with a real estate mortgage note and real estate mortgages as collateral. Concerning such collateral loan business I express no opinion herein.

I might call attention to the fact that the loans referred to in your inquiry are usurious by reason of the provisions of Sections 8303 and 8306, General Code, and that any agreement for interest in excess of eight per cent per annum is void as to such excess interest except in case of corporate borrowing when maturing a year or more after the date of the loan. See Section 8623-78, General Code. The enforcement of such laws with reference to usury has not been placed with your department. I express no opinion whatsoever herein as to the effect of their provisions or as to the method of enforcement of their provisions.

An analysis of Section 6346-1, General Code, quoted in your letter is possibly the easiest method of determining its meaning. Such section makes it unlawful to engage in the business of:

1. Making loans
  - (a) on plain notes
  - (b) on endorsed notes
  - (c) on guaranteed notes
  - (d) on due bills or otherwise
2. (a) upon mortgage of chattels or personal property
  - (c) upon pledge of chattels
3. Purchasing or making loans on
  - (a) salaries
  - (c) wage earnings.
4. Furnishing guarantee or security in connection with such loans or purchases.

From the facts set forth in your inquiry, it is evident that if the X Corporation is subject to the provisions of such Section 6346-1, General Code, it is not expressly made so by reason of the provisions of the subdivisions 2, 3 or 4 above set forth. Your inquiry then is tantamount to: Is the engaging in the business of making loans of money secured by mortgage on real estate, a loan "on plain, endorsed or guaranteed notes or due bills or otherwise?"

You make no mention of any endorsement or guarantee on the mortgage note evidencing the loan. I therefore am assuming for the purposes of this opinion, that the notes evidencing the loans of the X Corporation are not so

endorsed or guaranteed. You do state that they are secured by mortgages on real estate and are not plain notes. It would then appear that if the business of the X Corporation is subject to the provisions of Section 6346-1, General Code, it is by reason of the fact that the language "or otherwise" includes "loans on notes secured by mortgages on real estate."

There is a general rule of statutory interpretation, oftentimes referred to as the *ejusdem generis* rule, that where in a statute we find general words following an enumeration of particular or specific words or things, such general words are not to be given their widest or most extended meaning but are to be construed as limited to those of the same general kind or class as those expressly mentioned. Black on Interpretation of Laws, Section 63.

The rule is stated in the second paragraph of the syllabus of the case of *Schultz vs. Cambridge*, 38 O. S., 659 as follows:

"General words, following particular words must, as a general rule, be confined to things of the same class as those specified."

See also *State vs. Johnson*, 64 O. S. 270, 271.

In the first paragraph of the syllabus of *Board of Education vs. Boal*, 104 O. S. 482, it is stated:

"When a statute defining an offense designates one class of persons as subject to its penalties, all other persons are deemed to be excluded therefrom."

From an examination of such section it will appear that the legislature did not deem notes secured by mortgages to have been included within the provisions of the first clause of such section, for if it had so considered it would have been unnecessary to mention chattel mortgages in the next succeeding clause.

Section 6346-1, General Code, quoted in your request is a part of an act enacted in 102 O. L. 469 entitled:

"An act to regulate the loaning of money upon chattels or personal property of any kind and of purchasing or making loans upon salaries or wage earnings."

Such section was amended May 7, 1915 (106 O. L. 281) by an act entitled:

"An act to amend Section 6346-1 \* \* \* of the General Code, \* \* \* providing for the regulation and licensing of loaning money, without security upon personal property, and of purchasing or making loans upon salaries or wage earnings."

Such section as enacted by such act read exactly the same as it now does with the single exception that in 107 O. L. 509, the final word of the section was changed from "act" to "chapter."

I am not unmindful of the rule of statutory interpretation that the title of an act cannot be referred to for the purpose of determining the legislative intent in the enactment of a statute, unless there is an ambiguity in the terms of the act itself, *Cornell vs. Coyne*, 192 U. S. 418, 430. Yet it is well established that resort may be had to the title of an act for the purpose of ascertaining the meaning of doubtful terms of an act. *Dubois vs. Coen, Exr.*, 100 O. S. 17; *Cochrel vs. Robinson*, 113 O. S. 532, 540, *Cornell vs. Coyne, supra*.

If I am in error as to my inference as above set forth that the term "or otherwise" does not include "loans on notes secured by mortgages on real estate" then there is, in my opinion such an ambiguity in such section as will authorize the reference to the title of the act with a view to the determination of the legislative purpose in the enactment of such Section 6346-1, General Code.

"An ambiguity is defined as doubtfulness or uncertainty; language which is open to various interpretations or having a double meaning; language which is obscure or equivocal." Marshall, C. J., in *Caldwell vs. State*, 115 O. S., 458, 460.

The purpose of the legislature as set forth in such titles in the enactment of such section is clearly expressed as being for the purpose of licensing the business of lending money without security or on chattel security. As stated in the third paragraph of the syllabus of *Cleveland Trust Company vs. Hickox*, 32 O. App. 69:

"In construing a legislative act to discover its application, the purpose of the legislature is an element which cannot be ignored."

In specific answer to your inquiry it is my opinion that a corporation engaged in the business of making loans on notes secured by mortgages on real estate only, which charges interest at a rate in excess of eight per centum per annum is not required by the provisions of Section 6346-1, General Code, to obtain a license so to do from the commissioner of securities and otherwise complying with the provisions of Chapter 25, Title II of Part Second of the General Code; but such loans are subject to the provisions of sections 8303 and 8306, General Code, with reference to usury as limited by section 8623-78, General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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2487.

POOR RELIEF—LEGAL SETTLEMENT OF ILLEGITIMATE CHILD  
DISCUSSED.

*SYLLABUS:*

*Legal settlement of an illegitimate child discussed.*

COLUMBUS, OHIO, April 11, 1934.

HON. A. L. CHATFIELD, *Prosecuting Attorney, McArthur, Ohio.*

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

"Referring particular'y to Section 3479 of the General Code, as to who are considered to have a legal settlement for the purpose of poor relief, we are confronted with the following situation: