

transfer public funds *except the proceeds or balances of special levies*, and your communication specifically states that the fund which the board of education of Defiance Township desires to have transferred "*is in existence by virtue of a special levy for the purpose of meeting outstanding indebtedness for bonds which have been issued by said Board of Education*" it seems clear that these funds are the very ones that the statute excepts from the provision authorizing the transfer of funds, and I am therefore of the opinion that the court is not authorized to order a transfer of the funds about which you inquire.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

774.

**REAL ESTATE BROKER'S LICENSE—MUST BE EXECUTED FOR A PERIOD OF ONE YEAR AND MUST BE RENEWED YEARLY—MAXIMUM LIABILITY.**

**SYLLABUS:**

*The bond required by Section 6373-35 of the General Code, to be furnished before the issuance of any real estate broker's license, must be executed for the period of one year and a new one for each renewal of a license. The effect of this is that the maximum liability of the surety company would be \$1,000 for each term of one year, but that liability for breaches of the bond in various years would be cumulative.*

COLUMBUS, OHIO, July 25, 1927.

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

DEAR SIR:—This will acknowledge receipt of your recent communication as follows:

"The Real Estate License Law, Section 6373-38, provides that each license issued under the act shall expire on the 31st day of December of the year in which it is issued, but that each license shall be renewed upon application therefor without recommendation, examination, or inquiry except as provided for in Section 6373-39 to Section 6373-44, inclusive.

Section 6373-35 provides that no real estate broker's license shall be issued until the grantee thereof shall have executed and filed a bond in the state of Ohio in the sum of One Thousand Dollars. We have been asked by numerous surety companies whether the liabilities on broker's bonds written pursuant to the sections quoted above will be cumulative, that is: if the company writes a surety bond in the sum of One Thousand Dollars for broker 'A' in 1926 and executes another bond for broker 'A' when his license is renewed in 1927 for One Thousand Dollars, whether the maximum liability of the surety company will then be Two Thousand Dollars or whether it can in no event exceed One Thousand Dollars.

They are requesting this information to determine the amount of the premium that should be charged, and we are anxious to clear up as many of these points as possible before any bonds are accepted, and therefore wish to inquire whether your Opinion No. 241, dated March 26, 1927, addressed to Norman E. Beck, Chief of the Division of Securities applies."

An examination of the sections of the General Code applicable to real estate licenses will, I believe, demonstrate that they are so similar to the ones under consideration in my previous opinion to which you refer, that it may be properly said that that opinion will answer your present inquiry.

Section 6373-35 of the General Code 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. Sections 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."

You will observe that this section makes the execution of a bond a prerequisite of the issuance of each real estate broker's license. The preceding sections deal with the requisites of the application for license and the method for examination.

Section 6373-38 of the Code is as follows:

"Each license issued under this act shall expire on the thirty-first day of December of the year in which it is issued but each license shall be renewed upon application therefor, without recommendation, examination or inquiry, excepting as provided in Sections 15 to 20, both inclusive, of this act. (G. C. Sections 6373-39 to 6373-44.)

I think the language of this section is plain and unambiguous and clearly demonstrates that each license expires annually. The only qualification to this is found in the provision for renewal, which states that it may be done without recommendation, examination or inquiry.

I am not unmindful of the provisions of Section 6373-39, providing for fees. In so far as pertinent, that section reads as follows:

"The fees for licenses shall be as follows:

1. For a real estate broker's license, \$10.00 for the first year and \$5.00 for each renewal thereof. If the licensee be a corporation, an additional fee of \$2.00 for each officer other than the president thereof, and if it be a firm, an additional fee of \$2.00 for the second and each additional member thereof. No charge shall be made for duplicate real estate broker's licenses.

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While it is true that there is a different fee for the initial license than for renewals thereof, I do not feel warranted in holding that the intention is thereby indicated

to make the license anything other than an annual right to do business as expressed in the preceding section.

I am therefore of the opinion that the bond required by Section 6373-35 of the General Code, to be furnished before the issuance of any real estate broker's license, must be executed for the period of one year and a new one for each renewal of a license. The effect of this is that the maximum liability of the surety company would be \$1,000 for each term of one year, but that liability for breaches of the bond in various years would be cumulative.

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

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775.

COUNTY BOARD OF EDUCATION—WHEN A MEMBER BECOMES A  
NON-RESIDENT OF COUNTY SCHOOL DISTRICT—EXEMPTED  
VILLAGE SCHOOL DISTRICT—CERTIFICATE TO COUNTY AUDITOR.

*SYLLABUS:*

1. *When a village school district within a county school district becomes an exempted village school district, a member of the county board of education who resides within such village school district becomes a non-resident of the county school district and a vacancy is thereby created on the county board of education.*

2. *When, on August first of each year, a county board of education makes its certificate to the county auditor, as enjoined by the provisions of Section 4744-2, a village school district, which it has been determined will become an exempted village school district at some time during the school year after the said August first, should not be included as a part of the county school district for that portion of the school year following the time when it will become an exempted village school district, and the certification should not include the number of teachers and the proportionate share of the compensation of the county school superintendent and assistant superintendents and contingent expenses of the county board of education which would have been chargeable to it for that part of the school year following the time when it will become an exempted village school district if it had remained a part of the county school district.*

COLUMBUS, OHIO, July 25, 1927.

HON. G. O. MCGONAGALE, *Prosecuting Attorney, McConnelsville, Ohio.*

DEAR SIR:—I have before me your request for my opinion which reads as follows:

“The president of the Morgan County Board of Education whose term has not yet expired, resides in this, The McConnelsville and Malta district which said district on the first of September next will become an exempted Village District. The question now arises as to whether or not this member of the County Board ceases to become a member of said Board by reason of his residence in said exempted district or may he continue to serve the term for which he was elected?”

The County Superintendent is required to file with the County Auditor on or before the first of August each year a certificate showing the amount of moneys required to be withheld from the several districts of the County