

certain reservoir land lease in triplicate executed by the state of Ohio through the Conservation Commissioner, by which there is leased and demised to Albert Mann, Clara M. Kaiser, Matilda K. Johnston and Elizabeth King of Columbus, Ohio, the right to use and occupy for boathouse, docklanding and walkway purposes, the water front and state land in the rear thereof, that lies immediately in front of lot No. 60 of Bound's Second Addition at Buckeye Lake; said lot having a frontage of forty feet, more or less, and being in section 13, town 17, range 18, Licking County, Ohio. The lease here in question, which is one for a term of fifteen years and is subject to the conditions and restrictions usually found in leases of this kind, is for an annual rental of six dollars, payable semi-annually.

This lease is one executed by the Conservation Commissioner under the authority of section 471, General Code, as amended by the 88th General Assembly, in the enactment of the Conservation Act. Upon examination of said lease, I find that the same has been properly executed by the parties thereto and that the same, as to its terms and provisions, is in conformity with the above mentioned and other sections of the General Code, relating to leases of this kind. Said lease is accordingly hereby approved by me as to legality and form and I am herewith returning the same, together with the duplicate and triplicate copies thereof, with my approval endorsed thereon.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3250.

APPROVAL, LEASE FOR RIGHT TO USE FOR BATHING BEACH, BATHHOUSE, COTTAGE SITE AND LANDING PURPOSES, STATE RESERVOIR LAND AT BUCKEYE LAKE, OHIO—LON FISHER.

COLUMBUS, OHIO, May 25, 1931.

HON. I. S. GUTHERY, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of a recent communication from the Conservation Division in your department, submitting for my examination and approval a certain reservoir land lease in triplicate, executed by the state of Ohio through the Conservation Commissioner, by which lease there is granted and demised to one Lon Fisher of Millersport, Ohio, the right to use and occupy for bathing beach, bath-house, cottage site and landing purposes, that portion of the state reservoir property at Buckeye Lake, which is more particularly described as follows:

That portion of the old towing-path embankment between the Old and New Reservoir at Buckeye Lake, commencing at a point 37 feet east of the west line produced of the old wooden bridge that formerly connected Leib's Island with said towing-path embankment and extending thence westerly 237 feet, more or less, to the west line of a lease originally granted to D. M. Fisher and Charles Decker by lease dated May 11th, 1904, and being part of the Northwest Quarter of Section 27, Town 17, Range 18, Fairfield County, Ohio.

The lease here under consideration, which is one for a term of fifteen years, has been executed subject to a number of conditions and restrictions therein provided for and the same calls for an annual rental of one hundred and fifty dollars, payable in semi-annual installments.

This lease has been executed by the Conservation Commissioner under the authority of section 471 of the General Code, as amended in the enactment of the Conservation Act. On examination of said lease, I find that the same has been properly executed by the parties thereto and that the terms and provisions of the same are in conformity with the above noted and other sections of the General Code, relating to the execution of leases of this kind.

I am accordingly approving said lease, as to legality and form, and I herewith return the same, together with the duplicate and triplicate copies thereof, with my approval endorsed thereon.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3251.

CORPORATION—APPROPRIATING MONEY FROM ITS PROFITS FOR PURCHASE AND RETIREMENT DURING ENSUING FISCAL YEAR OF SHARES OF ITS PREFERRED STOCK—SUCH APPROPRIATION NOT A "DEBT" ELIMINATING A TAXABLE EXCESS CREDIT.

**SYLLABUS:**

*Where a manufacturing and commercial corporation in this state by action of its board of directors appropriates and thereby sets aside a certain sum of money from the profits accruing from the business of the corporation for the purchase and retirement during the following fiscal year of a certain number of shares of an issue of second preferred stock at a call price per share therein stated, which action by the board of directors is followed by an entry made on the books of the corporation by its treasurer as to the purpose and effect of such action by the board of directors; HELD, that such action on the part of the board of directors and the treasurer of the corporation did not have the effect of making the sum of money thus appropriated for the purchase and retirement of said stock a debt that it could set up against its gross credits for the purpose of determining the taxable credits of such corporation for the ensuing tax year.*

COLUMBUS, OHIO, May 25, 1931.

*The Tax Commission of Ohio, Wyandotte Building, Columbus, Ohio.*

GENTLEMEN:—This is to acknowledge receipt of your communication with which you enclose a communication received by you from the county auditor of Cuyahoga County, Ohio, in which it is said:

"The Patterson-Sargent Company, an Ohio Corporation, closes its fiscal year as of October 31, 1929. Prior to said closing, the Board of Directors of The Patterson-Sargent Company held a meeting at the office of the Company, 1325 East 38th Street, Cleveland, Ohio, October