

you and by the lessee therein named in the manner required by law. I likewise find upon examination of the provisions of this lease, and of the conditions and restrictions therein contained, that the same are in conformity with the act of the 89th General Assembly above referred to. Assuming, as stated above, that these parcels of land have not heretofore been taken over for highway or public park purposes, I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease, and upon the duplicate and triplicate copies thereof.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1716.

APPROVAL, LEASE TO CANAL LAND IN COSHOCTON COUNTY, FOR
RIGHT TO OCCUPY AND USE FOR COTTAGE SITE AND AGRICULTURAL
PURPOSES.

COLUMBUS, OHIO, October 10, 1933.

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

DEAR SIR:—You have submitted for my examination and approval a certain canal land lease in triplicate, executed by you to one E. F. Dutoit of New Philadelphia, Ohio.

By this lease, which is one for a term of fifteen years and which provides for an annual rental of nine dollars (\$9.00), there is leased and demised to the lessee above named the right to occupy and use for cottage site and agricultural purposes only, that portion of the abandoned Ohio Canal property, including the full width of the bed and embankments thereof, located in Oxford Township, Coshocton County, Ohio, and more particularly described as follows:

“Beginning at a line drawn at right angles to the transit line of the G. F. Silliman survey through Station 3177, and running thence southwesterly with the lines of said canal property, one hundred (100') feet, to a line drawn at right angles through Station 3178; reserving therefrom any portion of the above described property that may be occupied by the public highway.”

Though you do not so state by recital in the lease or otherwise, the same is executed under the authority conferred upon you by Amended Substitute Senate Bill No. 172, enacted by the 89th General Assembly, and which went into effect on the 5th day of August, 1931, 114 O. L. 541. This act provides for the abandonment for canal purposes of that portion of the Ohio Canal and all lateral canals and canal feeders connected therewith, lying within Tuscarawas, Coshocton and Muskingum Counties, Ohio, and for the lease and sale thereof. Under the provisions of this act, municipalities have a prior right to take over by lease portions of such abandoned canal lands which may be included in their applications therefor filed with the Superintendent of Public Works within one year from the effective date of said act. And, subject to the prior rights of municipalities

in such cases, a person owning land abutting upon or adjoining such abandoned canal lands has a right to a lease of the canal lands prior to that of other persons generally, provided the application of the owner of such abutted property makes application therefor within ninety days after the expiration of the period of one year from the effective date of the act, which limits the prior right of municipalities to a lease of such lands.

Although you do not so state, I assume that the parcel of land here in question is not in a municipal corporation and that no application for the lease of the same has been made by any such municipal corporation. I also assume that the lessee named in this lease is the owner of land abutting upon the above described parcel of abandoned canal land or, if he is not the owner of such abutting land, that the owner of such abutting land has not made application for the lease of this property within the time prescribed in this statute.

With these assumptions, I find upon examination of this lease that the same has been properly executed by you and by the lessee therein named. I also find upon examination of the provisions of the lease, and of the conditions and restrictions therein contained, that the same are in conformity with the provisions of said act and of other statutory enactments relating to leases of this kind. I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease, and upon the duplicate and triplicate copies thereof.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1717.

LIQUIDATION OF BANKS—SUPERINTENDENT OF BANKS MAY EXCHANGE DISTRESS MORTGAGES FOR BONDS ISSUED UNDER HOME OWNERS LOAN ACT OF 1933 WHEN.

SYLLABUS:

Under Section 710-95, General Code, the Superintendent of Banks may exchange distress mortgages among the assets of banks in the process of liquidation for bonds issued under the Home Owners Loan Act of 1933, provided that such exchange is approved by the Common Pleas Court in which the liquidation proceedings are pending.

COLUMBUS, OHIO, October 11, 1933.

HON. I. J. FULTON, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR:—I have your letter of recent date, which reads as follows:

“Reconstruction Finance Corporation has requested that I ask your opinion relative to my right to exchange distress mortgages in the assets of banks in the process of liquidation for bonds to be issued by the Home Owners’ Loan Corporation.

Many of such mortgages have, prior to the closing of such institutions, been pledged with Reconstruction Finance Corporation to secure