

773.

COURT OF COMMON PLEAS—NOT AUTHORIZED TO ORDER A TRANSFER OF FUNDS WHICH ARE THE PROCEEDS OR BALANCES OF SPECIAL LEVIES.

SYLLABUS:

When application is made to the court of common pleas for the transfer of funds as authorized by Section 2296 of the General Code, the court is not authorized to order a transfer of funds which are the proceeds or balances of special levies.

COLUMBUS, OHIO, July 25, 1927.

HON. J. R. POLLOCK, *Prosecuting Attorney, Defiance, Ohio.*

DEAR SIR:—I have your communication requesting my opinion, as follows:

“Several weeks ago there was submitted to me by the Clerk of the Board of Education of Defiance Township, Defiance County, Ohio, the matter of asking the Court of Common Pleas for a transfer of the funds from the Bond, Interest and Sinking Fund of said Board of Education to the General Fund of said Board of Education.

I advised the Clerk that under the statutes I do not think it possible to secure a transfer of the funds from the Bond, Interest and Sinking Fund. A few days after that a State Examiner came to this city and inspected and audited the books of said Board of Education and advised the Board of Education that by filing an application in the Court of Common Pleas it would be possible to secure the transfer above mentioned. Thereupon said Board of Education insisted that I file said application, which I have done, and the matter has been submitted to the court who advised me that I should get an opinion from you on the above mentioned subject.

Said Board of Education have overdrawn their General Fund in the sum of \$2100.00. There is in the Bond, Interest and Sinking Fund the sum of \$7770.57. This fund 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. The total unpaid indebtedness against the Bond, Interest and Sinking Fund is \$2,950.00, leaving a balance in said Bond, Interest and Sinking Fund, amounting to \$4820.57.

Can the said sum of \$4820.57 be legally transferred from the Bond, Interest and Sinking Fund to the General Fund for the purpose of paying the overdraft against said fund and for meeting current expenses?”

Section 2296, General Code reads as follows:

“The county commissioners, township trustees, the board of education of a school district, or the council, or other board having the legislative power of a municipality, may transfer public funds, except the proceeds or balances of special levies, loans or bond issues, under their supervision, from one fund to another, or to a new fund created under their respective supervision, in the manner hereafter provided, which shall be in addition to all other procedure now provided by law.”

Inasmuch as the foregoing section provides that county commissioners, township trustees and boards of education may, upon application to the common pleas court,

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."