

showing that the same have been paid. In my opinion, you should satisfy yourself that this is true.

In view of the foregoing, and subject to your satisfying yourself that the taxes for 1926 and 1927 have been paid, I am of the opinion that Clara R. Herman has a good and merchantable title in the premises.

The encumbrance estimate and deed were approved in Opinion No. 885 above referred to.

In accordance with the request contained in your letter under date of February 1, 1928, I am transmitting the abstract, deed, encumbrance estimate and other papers submitted in this connection to the Auditor of State.

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

---

1676.

BOND ISSUE—REFUNDER—APPROVAL OF ISSUE OF BONDS TO REFUND PAYMENT OF BONDS ALREADY ACCRUED.

*SYLLABUS:*

*Under the provisions of Section 2293-5, General Code, as amended in House Bill No. 1, enacted by the 87th General Assembly, the Tax Commission of Ohio may approve an issue of bonds to refund the payment of bonds already accrued and is not precluded from said approval by the phrase in said section, "bonds which are about to mature."*

COLUMBUS, OHIO, February 4, 1928.

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

GENTLEMEN:—This will acknowledge receipt of your recent communication, which reads:

"The Tax Commission wishes an official opinion from your office relative to the language of Section 2293-5 of House Bill No. 1 as enacted by the 87th General Assembly.

The section involved has to do with approval of the Tax Commission to different taxing authorities authorizing them to issue refunder bonds. The particular language which we wish interpreted is in line three 'bonds which are about to mature.' The question is, would the Tax Commission have the authority under this section to authorize the issuance of refunder bonds where the bonds have already matured, or in other words where the political subdivision has defaulted in the payment of its obligation.

We have pending several requests for permission to issue refunder bonds where bonds have matured in some cases as early as May, 1926. Now, the officials are coming to us asking authority to refund these bonds.

We shall be very pleased if we can have an early opinion in this matter."

Section 2293-5, General Code, as amended in House Bill No. 1, as enacted by the 87th General Assembly, reads as follows:

"With the approval of the tax commission of Ohio, the taxing authority of any subdivision may refund any outstanding bonds of the subdivision which are about to mature, except serial bonds, and may refund serial bonds issued in anticipation of the collection of special assessments, when for any reason, and to the extent that such collection cannot be made. The Tax Commission of Ohio shall approve such issue only when it finds and to the extent it finds that no other method of payment in whole or part exists. In its order approving such issue, it shall fix the maturities of the bonds to be issued, subject to the provisions of Sections 2293-9 and 2293-12 of the General Code, and no such bonds shall mature more than fifteen years after their date of issue. The interest and retirement levies thereon shall have the same status with respect to the fifteen mill limitation as the interest, sinking fund and retirement levies of the indebtedness which is refunded."

This section authorizes the taxing authority of any political subdivision to refund any outstanding bonds of the subdivision which "are about to mature," except serial bonds; and to refund serial bonds issued in anticipation of the collection of special assessments, when for any reason, and to the extent that such collection cannot be made. The approval of the State Tax Commission is required before such refunding may be made.

The order of the Tax Commission must include a finding:

"(a) That no other method in payment of the outstanding bonds of the political subdivision, in whole or in part, exists other than refunding the same.

(b) That the refunding of said bonds, in whole or in part, is necessary in order to effect the payment thereof."

The question is in regard to the construction to be given the phrase, "bonds which are about to mature," and you specifically inquire whether or not the "Tax Commission has the authority under this section to authorize the issuance of refunder bonds where the bonds have already matured, or in other words where the political subdivision has defaulted in the payment of its obligation."

The specific duty enjoined upon the Tax Commission under the provisions of Section 2293-5, General Code, is, as heretofore noted herein, viz., to consider and determine whether or not there be any other method of payment of the outstanding bonds, in whole or in part, and whether the refunding of the bonds is necessary to effect the payment thereof. It is evident that the intention of the Legislature was to permit any political subdivision to refund its outstanding bonds, when, in the opinion of the proper officers of such subdivision, and in the opinion of the Tax Commission, such refunding was necessary. The phrase, "which are about to mature" evidently was intended to authorize the taxing subdivision to refund bonds which were nearly or approximately due and payable, as distinguished from bonds recently issued and having considerable time yet to run. It evidently was not the intention of the Legislature to limit the subdivision in issuing refunder bonds and the Tax Commission in approving said refunder to bonds *which had not yet matured*. The intent of the Legislature, under the provisions of Section 2293-5, General Code, manifestly is to permit the taxing subdivision to extend the time of payment of bonds which are about to mature or which have matured, and not to preclude said taxing subdivision from refunding bonds past due, or to preclude the Tax Commission of Ohio from approving said refunder.

It is therefore my opinion that under the provisions of Section 2293-5, General Code, as amended in House Bill No. 1, enacted by the 87th General Assembly, the

Tax Commission of Ohio may approve an issue of bonds to refund the payment of bonds already accrued and is not precluded from said approval by the phrase in said section, "bonds which are about to mature."

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

1677.

FEES—OPINION NO. 921 REGARDING COMPUTATION OF FEES OF FOREIGN CORPORATIONS DOING BUSINESS IN OHIO, REVIEWED AND AFFIRMED.

SYLLABUS:

*Opinion No. 921, dated August 26, 1927, is reviewed and affirmed.*

COLUMBUS, OHIO, February 4, 1928.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

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

"Under date of December 8, 1927, there was submitted to the Secretary of State a filing by the United Engineering and Foundry Company, under Section 185 of the General Code.

Immediately upon receipt of same the increase in proportion reflected by the company's filing was computed and under date of December 13th, the company's attorneys were advised that the filing fee called for on account of the increase in proportion would be \$3,122.40.

Under date of December 17th, attorneys for the Company asked for an explanation of the method of computing the fee, questioning the amount thereof. Thereafter, on December 20th, the attorneys for the company were advised that the basis of computing the filing fee was as follows:

The value of property in Ohio was added to the business in Ohio and the sum of these two items was then added to the value of property out of Ohio and the value of business out of Ohio, giving a grand total of property and business. This total was then divided into the value of property and business in Ohio, giving the percentage of .18316.

The total present authorized number of shares of the company, to-wit, 431,867, was then multiplied by this decimal 79,100.75 as the number of shares at present represented by property and business in Ohio. From this was deducted the previous proportion in shares as evidenced by former filings, 25,020.72, giving 54,080.03 as the increased proportion in shares. This method of computation, we believe, follows your recent opinion in such connection. And in applying the schedule of fees in S. B. 295, the fee is figured as being \$3,122.40.

Under date of December 27th, attorneys for the company acknowledged receipt of information just referred to and presented certain considerations in connection with computation of fees, the gist of which seems to be that