

The pertinent provision of the licensure act in question, MCLA 338.826(1)(g), *supra*, speaks of the applicant as "a graduate with a degree in the field of police administration from an accredited *university or college*." In my judgment, the phrase "university or college" refers to a four-year institution of higher education having the authority to grant baccalaureate degrees.

Therefore, it is my opinion that a two year associate degree awarded by a community or junior college does not satisfy the requirements set forth in 1965 PA 285, § 6g, *supra*.

FRANK J. KELLEY,
Attorney General.

70316.1

MUNICIPAL FINANCE COMMISSION: Contract for purchase of real property

An incorporated village, township or city may enter into a contract for the purchase of real property in which the aggregate does not exceed \$250,000 without review by the Municipal Finance Commission; however, where the aggregate of such contracts exceed \$250,000, they are subject to review of the Municipal Finance Commission for the providentiality of the borrowing and businesslike repayments.

Opinion No. 4968

March 16, 1976.

Honorable Michael J. O'Brien
State Senator, Sixth District
P. O. Box 240
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I am in receipt of your recent letter wherein you ask for my formal opinion as to whether the Municipal Finance Act, 1943 PA 202, as amended, being MCLA 131.1 *et seq*; MSA 5.3188(1) *et seq*, or 1933 PA 99, as amended, being MCLA 123.721 *et seq*; MSA 5.3461 *et seq*, controls a township insofar as the purchase of real estate is concerned. You have also asked whether 1967 PA 290 unconstitutionally attempts to amend the Municipal Finance Act by reference.

Prior to 1967, § 1 of Chapter III of the Municipal Finance Act read as follows:

"No municipality shall hereafter borrow money and/or issue any obligations payable out of taxes or special assessments except in accordance with the provisions of this act."

Effective August 1, 1967, 1967 PA 294 amended the section to read as follows:

"No municipality shall hereafter borrow money and issue any obligations payable out of taxes or special assessments except in accordance with the provisions of this act. The making of a contract for the purchase of real or personal property or leasing thereof with or without an option to purchase is not deemed the borrowing of

money. Such a contract or lease, whether heretofore or hereafter made, or note or other obligation given in connection therewith, is not subject to this act. The aggregate of such contracts shall not exceed \$100,000.00 at any period of time." [A later amendment (1968 PA 356) increased the dollar amount to \$250,000.]

The above-referenced section by its terms limits borrowing by municipalities to the extent that no borrowing shall be undertaken except in accordance with the provisions of the act. The section goes on to state, however, that the making of a contract for the purchase of real or personal property or leasing thereof with or without an option to purchase is not considered to be a borrowing within the terms of such prohibition so long as the aggregate of such contracts does not exceed \$250,000 at any time.

1933 PA 99 was originally enacted as an act to validate municipal purchase contracts. The act has, since its original adoption, been amended to authorize installment purchase contracts by townships for the purchase of lands, property or equipment for public purposes to an amount not to exceed 1 and $\frac{1}{4}$ percent of the equalized assessed value of the real and personal property in the township at the date of such contract or agreement. The relevant section reads as follows:

"(1) The legislative body of an incorporated village, township, or city may enter into any contract or agreement for the purchase of lands, property, or equipment for public purposes, to be paid for in installments over a period of not to exceed 15 years but in any case not to exceed the useful life of the property acquired as determined by resolution of the legislative body. Any contract or agreement entered into, before this amendatory act of 1973 takes effect, by the legislative body of any incorporated village, township, or city for the purchase of lands, property, or equipment for public purposes, to be paid for in installments, is validated and made legal for all purposes. The outstanding balance of all such purchases, made both before and after this amendatory act of 1973 takes effect, exclusive of interest, shall not exceed 1 & $\frac{1}{4}$ % of the equalized assessed value of the real and personal property in such village, township, or city at the date of such contract or agreement. The limitations shall not apply to contracts or leases entered into under Act No. 31 of the Public Acts of the Extra Session of 1948, as amended, being sections 123.951 to 123.965 of the Michigan Compiled Laws or to other contracts or leases between public corporations or municipalities. *The contracts or agreements, and the purchase of lands, property, or equipment thereunder, shall not be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws.*

"(2) The legislative body of any such village, township, or city may include in its budget and pay such sum or sums as may be necessary each year to meet the payments of any such installments, and the interest thereon, when and as the same shall become due, including overdue installments.

"(3) The authority granted in this act shall not be construed to authorize the legislative body of a city, village, or township to levy

taxes in excess of statutory or charter limitations without the approval of the electors.

"(4) The limitations imposed by subsection (1) shall not be applicable to a contract for purchase of lands declared surplus by the United States government or one of its agencies, subject to the prior approval of such contract by the municipal finance commission." MCLA 123.721; MSA 5.3461. [Emphasis supplied and denotes the substance of the 1967 amendment to which you have made reference.]

Effective August 1, 1967, 1933 PA 99 was amended to add the following sentence:

"The contracts or agreements, and the purchase of lands, property or equipment thereunder, shall not be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948."

In *Valentine v Redford Township Supervisor*, 371 Mich 138, 144; 123 NW2d 227, 230 (1963), the Court outlined pertinent guidelines which one can utilize to interpret the two statutes you have questioned and stated as follows:

". . . If by any reasonable construction 2 statutes can be reconciled and a purpose found to be served by each, both must stand, *Garfield Township v A. B. Klise Lumber Co.*, 219 Mich 31; *Edwards v Auditor General*, 161 Mich 639; *People v Harrison*, 194 Mich 363. The duty of the courts is to reconcile statutes if possible and to enforce them, *Board of Control of the Michigan State Prison v Auditor General*, 197 Mich 377. The courts will regard all statutes on the same general subject as part of 1 system and later statutes should be construed as supplementary to those preceding them, *Wayne County v Auditor General*, 250 Mich 227. See, also, *Rathbun v State of Michigan*, 284 Mich 521. *People v Buckley*, 302 Mich 12, 22."

It should be noted that 1967 PA 290 (amending 1933 PA 99) and 1967 PA 294 (amending the Municipal Finance Act) were passed at the same legislative session and were in *pari materia* so as to accomplish a single purpose. The referenced section of 1933 PA 99, as amended, *supra*, can be read as authority for townships to enter into installment purchase contracts as delineated therein. To the extent that such contracts do not exceed the aggregate amount of \$250,000, they are not subject to Municipal Finance Commission review prior to issuance under the terms of the Municipal Finance Act. However, should the aggregate of such contracts as authorized by 1933 PA 99, as amended, *supra*, exceed \$250,000, those contracts would be subject to review under the terms of the Municipal Finance Act.

Were the 1967 amendment to 1933 PA 99, as amended, *supra*, to be read as exempting all contracts from the provisions of the Municipal Finance Act rather than merely those which do not exceed the aggregate amount of \$250,000, then indeed your suggestion that the referenced amendment may unconstitutionally amend the Municipal Finance Act without republishing same would be a valid concern. However, the legislature is presumed to have acted in accordance with the terms of the con-

stitution; and therefore it is my opinion that the referenced exemption of the application of the Municipal Finance Act pertains only to those contracts which do not exceed the aggregate amount of \$250,000 as provided in the Municipal Finance Act itself.

In conclusion, it is my opinion that 1933 PA 99, as amended, supra, constitutes authority for villages, townships and cities to enter into certain contracts providing certain conditions and limitations are observed; and to the extent that such contracts do not exceed \$250,000 in the aggregate, they are not subject to the review requirements of the Municipal Finance Act; but to the extent the aggregate of such contracts does exceed \$250,000, then such contracts are a borrowing of money under the terms of the Municipal Finance Act so as to subject the borrowing to review for the providentiality of the borrowing and businesslike repayment.

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760322.3

DOMICILE AND RESIDENCE: Members of legislature

WORDS AND PHRASES: "Domicile"; "Residence"

The terms "domicile" and "residence" are synonymous. The terms "residence" and "domicile" mean the place where a person has his or her permanent home. That place continues to be the domicile of a person unless he or she renounces it and takes up another domicile in its stead. The establishment of a new domicile consists of the two factors, physical presence and intent.

A legislators domicile in his or her home district remains unaffected where he or she owns or rents the year round a house, room, or apartment outside the legislative district so long as the legislator does not intend to change his or her domicile.

Opinion No. 4931

March 22, 1976.

Honorable Richard J. Allen
State Senator
The Capitol
Lansing, Michigan 48902

Recently you have written to request an opinion answering a number of questions related to the residency status of members of the State legislature. Before attempting to respond to each specific question, it may be helpful to outline some of the general principles underlying this area of the law.

The fundamental provision concerning the residency requirements for members of the legislature is Const 1963, art 4, § 7, which provides:

"Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of sub-