its main occupation or where it spends a major portion of its time. A determination of that fact will have to be made by the department of licensing and regulation. If said entity does not have another vocation and engages in such real estate activities as a main and principal vocation, it is required to be licensed as a broker under 1919 P.A. 306, as amended, regardless of whether such entity operates full- or part-time. In all of the above instances where an individual, partnership, corporation or other legal entity is subject to the licensing requirements of the act, such entity is not required to be licensed if it negotiates and consummates all of its transactions through a broker duly licensed under 1919 P.A. 306, as amended.

FRANK J. KELLEY,
Attorney General.

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WATER RESOURCES COMMISSION: Power to promulgate water quality standard orders.

Water Resources Commission has broad and comprehensive power to regulate water quality standards and to abate water pollution.

No. 4721 June 7, 1971.

Mr. Ralph W. Purdy, Executive Secretary
Water Resources Commission
Mason Building
Lansing, Michigan

You have requested my opinion concerning the authority of the water resources commission to control and abate pollution of Michigan's waters pursuant to the provisions of the water resources commission act, as amended, 1929 P.A. 245, as amended; M.C.L.A. 323.1 et seq; M.S.A. 3.521 et seq.

Your inquiry may be paraphrased as follows:

> May the commission establish water quality standards for receiving waters pursuant to Section 5 of 1929 P.A. 245 in order to maintain existing water quality and thereafter control and regulate discharges into the receiving waters under Section 6(a) of 1929 P.A. 245 to meet the requirements of said standards?

Section 5 of 1929 P.A. 245, M.C.L.A. 323.5; M.S.A. 3.525, which authorizes the commission to establish water quality standards for receiving waters, provides in pertinent part as follows:

> "The commission shall establish such pollution *standards* for lakes, rivers, streams and other waters of the state *in relation to the public use* to which they are or may be put, as it shall deem necessary. * * * It shall have the authority to make regulations and orders restricting the polluting content of any waste material or polluting substance discharged or sought to be discharged into any lake, river, stream, or other waters of the state. It shall have the authority to take all appropriate steps to prevent any pollution which is deemed

by the commission to be unreasonable and against *public interest* in view of the existing conditions in any lake, river, stream, or other waters of the state." (emphasis added)

It is important to note that Section 5 specifically refers to "public use" and "public interest" and, in construing the meaning of this section, it is necessary to consider its language in relation to the wording of Section 6 (a) and other sections of the act. *People v. Babcock,* 343 Mich. 671 (1955); *Lakehead Pipe Line Company, Inc. v. Dehn,* 340 Mich. 25 (1954); *Williams v. Secretary of State,* 338 Mich. 202 (1953); *Webster v. Rotary Electric Steel Company,* 321 Mich. 526 (1948).

Section 6 (a) of 1929 P.A. 245, supra, defines unlawful water pollution in Michigan as follows:

> "It shall be unlawful for any person directly or indirectly to discharge into the waters of the state any substance which is or may become injurious to the public health, safety or welfare; or which is or may become injurious to domestic, commercial, industrial, agricultural, recreational or other uses which are being or may be made of such waters; or which is or may become injurious to the value or utility of riparian lands; or which is or may become injurious to livestock, wild animals, birds, fish, aquatic life or plants or the growth or propagation thereof be prevented or injuriously affected; or whereby the value of fish and game is or may be destroyed or impaired."

Section 8 (b) of 1929 P.A. 245, M.C.L.A. 323.8; M.S.A. 3.528, additionally provides authority for the water resources commission to issue orders containing such restrictions as the commission deems necessary to guard against "such unlawful uses of the water of the state as are set forth in section 6" and in your inquiry to me you have set forth the proposition that "the Commission's entire program of water pollution control, through the Orders that it issues and the voluntary action that it encourages, is based upon the restriction of discharges to waters of the state so that they do not and will not cause the injuries identified as being unlawful by Section 6 (a)."

In considering the above indicated provisions of the water resources commission act, it is apparent that the public uses and interests referred to in Section 5 are to be construed to mean those uses and interests set forth in Section 6 (a) of the statute. Thus Section 5 and Section 6 (a) are consistent in the requirements imposed as they affect regulation of waste discharges and receiving water quality standards.

The water resources commission may establish water quality standards for particular receiving waters so as to maintain existing water quality in those waters and to regulate and control individual discharges to meet the standards so established if the commission finds that such standards and controls are required to prevent one or more present or potential injuries as set forth in Section 6 (a) of the statute.

Section 6 (a) of the water resources commission act, it will be noted, defines unlawful pollution in broad terms and vests the commission with broad discretionary authority in determining those conditions which are

or could become violative of the public and private interests set forth in that section.

In this regard it will be noted that in *White Lake Improvement Association v. City of Whitehall,* 22 Mich. App. 262, 286 (1970), Judge Levin, speaking for the court and referring to the water resources commission act, supra, said:

> "We note the comprehensive powers of the water resources commission to regulate and prohibit pollution. * * *."

However, it must be further noted that, as indicated in *Toole v. State Board of Dentistry,* 306 Mich. 527, 533-534 (1943):

> " 'The regulations of the board are valid so long as they are not unreasonable or arbitrary. If any doubt exists as to their invalidity, they must be upheld.' "

See also *Hiers v. Detroit Superintendent of Schools,* 376 Mich. 225, 234-235 (1965) and *Sterling Secret Service, Inc. v. Department of State Police,* 20 Mich. App. 502, 514 (1969).

The water resources commission act is a statute having widespread application throughout the state and as such clearly affects the interests of the public at large.

With respect to regulatory statutes, the Michigan Supreme Court in *Commissioner of Insurance v. American Life Ins. Co.,* 290 Mich. 33, 44-45 (1939) has stated as follows:

> "In *Board of Commissioners of Vigo County v. Davis,* 136 Ind. 503, 511 (36 N.E. 141, 22 L.R.A. 515), it was said:
>
> " 'Rules of construction applicable to legislation, in which the public at large are interested, require liberality, while, with reference to legislation granting powers or privileges to individuals, for their own advantage, require strict construction as against such individuals.'
>
> "In *Attorney General, ex. rel. Common Council of the City of Detroit v. Marx,* 203 Mich. 331, we quoted the following from 2 Lewis' Sutherland Statutory Construction (2d Ed.), § 490:
>
> " ' "Statutes will be construed in the most beneficial way which their language will permit to prevent absurdity, hardship or injustice; to favor public convenience and to oppose all prejudice to public interests." ' "
>
> "In *Sibley v. Smith* (syllabus), 2 Mich. 486, and again in *Detroit Common Council v. Engel,* 207 Mich. 106, we said:
>
> " 'In construing statutes of doubtful meaning, courts are authorized to collect the intention of the legislature from the occasion and necessity of the law—from the mischief felt, and the objects and remedy in view—and the intention is to be taken, or presumed, according to what is consonant to reason and good discretion.' "

1929 P.A. 245, supra, is remedial in nature and, as set forth in *In re School District No. 6, Paris and Wyoming Townships, Kent County,* 284 Mich. 132, 144 (1938):

"A remedial statute is designed to correct an existing law, redress an existing grievance, or introduce conducive to the public good. Act No. 2, Pub. Acts 1937 (Ex. Sess.), falls within this class. Such statutes are to be liberally construed. 2 Lewis' Sutherland, Statutory Construction (2d Ed.), § 679; 1 Cooley's Blackstone (4th Ed.), p. 86; Pound & Plucknett's History and System of the Common Law (3d Ed.), p. 254."

See also *Rookledge v. Garwood,* 340 Mich. 444, 453 (1954).

In *Higdon v. Kelley,* 339 Mich. 209 (1954), the Michigan Supreme Court also indicated that to construe a liberal statute strictly is to defeat the basic purpose of the statute.

In determining conditions which are now unlawful and contrary to public interest or which may in the future be injurious to public well-being, we have previously indicated in O.A.G. 1969-70, No. 4590, pp. 17, 19, 27, as follows:

"Act 245, P.A. 1929, as last amended by Act 405, P.A. 1965, under which the Commission derives its power and authority must be construed in light of Article IV, Section 52 of the Michigan Constitution of 1963 which provides:

" 'The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for *the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.*' (Emphasis supplied)

"This constitutional provision appears for the first time in the State's history in the 1963 Constitution and has not as yet been the subject of judicial construction. However, the questions you ask, as I review them, require that consideration be given to its meaning and purpose.

"It is apparent that the first sentence of this provision enunciates a public policy judgment, namely, that 'the conservation and development of the natural resources of the state' is an area of public interest of such present importance that it is characterized as being of 'paramount public concern.' This sentence carries the idea that it is a pronouncement of strong public consensus involving evaluation of present conditions and public needs. The sentence which follows contains the word 'shall' and, on its face, carries the idea of a command to the legislature to protect the 'air, water and other natural resources of the state from pollution, impairment and destruction.'

"* * *

"Examination of the water resources act, being Act 245, P.A. 1929, as amended, supra, indicates that it is an Act to prohibit the pollution of any waters of the state and the Great Lakes and grants authority to the Commission to control said pollution. The questions which you ask must, therefore, be viewed in relation to the constitutionally declared public policy."

In view of the foregoing, it is my opinion that the water resources commission has authority to establish water quality standards for receiving waters to maintain existing water quality in said waters and to control and regulate waste discharges to conform to such standards when in the judgment of the commission such will prevent conditions which are now or which in the future may be contrary to public interests and well-being as enunciated by 1929 P.A. 245, as amended, supra, and Const. 1963, art. 4, § 52.

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RETAIL INSTALLMENT SALES ACT: Mobile Homes.
USURY: Mobile Homes.
WORDS AND PHRASES: "Trailers"; "Mobile Homes".

Retail sellers of mobile homes may not charge a rate of interest in excess of the maximum set forth in the usury law since a mobile home is excluded from the provisions of the retail installment sales act and the motor vehicle sales finance act.

No. 4729 June 21, 1971.

Miss Dianne McKaig, Director
Michigan Consumers Council
525 Hollister Building
Lansing, Michigan

You have requested my opinion regarding whether the seller of a mobile home is a retail seller within the meaning of that term in the retail installment sales act, 1966 P.A. 224, as amended, M.C.L.A. 445.851 et seq.; M.S.A. 19.416(101) et seq.

You have advised that it has come to your attention that it is prevalent practice of the sellers of mobile homes to prepare and have a purchaser execute a retail installment sales contract which provides, among other things, a rate of finance charge or time/price differential commensurate with the rate set forth in section 7 of the retail installment sales act, M.C.L.A. 445.857; M.S.A. 19.416(107), when purchasing a mobile home.

The retail installment sales act defines "goods" which are regulated by the act in the event they are sold on an installment plan. This definition of "goods" appears in section 2(a) of the act and excludes from its coverage "motor vehicles". See M.C.L.A. 445.852; M.S.A. 19.416(102). "Motor vehicles" are then defined by section 2(c) of that act as follows:

> " 'Motor vehicle' means any self-propelled device in which, upon which or by which any person or property is or may be transported or drawn upon a public highway, including all tractors, motorcycles, all trailers and semi-trailers, buses, trucks, power shovels, road machinery, agricultural machinery and other machinery not designed primarily for highway transportation, but which may incidentally transport