

Therefore, it is my opinion based on the above authority and in view of the express legislative intent that there be established uniform health and safety standards and inspection procedures in regard to factory-built housing, that a local governmental entity which enacts an electrical code pursuant to §553.18(2), *supra*, which differs from the electrical code adopted by the Department of Community Affairs for factory-built housing pursuant to §553.38(1), *supra*, may not require additional approval of factory-built housing units bearing the department's insignia of approval which are subsequently sold or installed within said entity's jurisdiction.

073-108—April 6, 1973

### PEACE BOND PROCEEDINGS

#### AUTHORIZED BEFORE JUDGE OF CIRCUIT OR COUNTY COURT

To: *Monroe W. Treiman, Executive Secretary, Conference of County Court Judges of Florida, Brooksville*

Prepared by: *Andrew W. Lindsey and Reeves Bowen, Assistant Attorneys General*

#### QUESTION:

Since the repeal of §37.21, F. S. 1971, which authorized peace bond proceedings before justices of the peace, is there any authorization for peace bond proceedings in this state and, if there is, may they be conducted before a judge of a county court?

#### SUMMARY:

Peace bond proceedings are still authorized by Florida law and they may be held before either a circuit judge or a judge of a county court. The forms set forth in §§923.04 through 923.07, F. S., for use by justices of the peace (which office was abolished by revised Art. V of the State Constitution) may be adapted for use in current peace bond proceedings. Although §37.21, F. S., relating to peace bond proceedings before justices of the peace, has been repealed by the legislature, its principles may be followed in current peace bond proceedings.

Section 37.21, F. S., provided that:

**37.21 Justice may bind over to keep the peace.**—After an affidavit is made before any justice of the peace by any person that he has reason to believe, and does believe, that he will suffer personal violence at the hands of another, he shall issue his warrant for the arrest of the party against whom the affidavit has been made, commanding the officer into whose hands the warrant has been placed, to bring the said person against whom the warrant has issued before him, and if, after a full and thorough examination, he shall have reason to believe, from evidence produced before him, that there is just cause for said complaint, he shall bind the person so arrested over by bond, with two or more good and sufficient sureties, said bond to be approved by the justice, for one year, to keep the peace, and, upon failure of said person to give bond as aforesaid, he shall commit such person to jail until the required bond is given, but the said commitment shall not be for more than three months.

Revised Art. V, State Const., which became effective at 11:59 p.m., Eastern Standard Time, on January 1, 1973, abolished the office of justice of the peace.

In keeping with this action, the 1972 Legislature enacted Ch. 72-358, which became effective on January 2, 1973, and which repealed said §37.21. However, all of this does not mean that peace bond proceedings are no longer authorized in Florida.

Section 19 of said revised Art. V says:

**SECTION 19. Judicial officers as conservators of the peace.**—All judicial officers in this state shall be conservators of the peace.

And §901.01, F. S., provides in pertinent part that:

*Each state judicial officer including all judges of courts created by home rule charter counties which have five or less justices of the peace, is a conservator of the peace and a committing magistrate with authority to issue warrants of arrest and commit offenders to jail and recognize them to appear to answer the charge. He may require sureties of the peace when the peace has been substantially threatened or disturbed. . . .* (Emphasis supplied.)

The words "state judicial officer," as used in said §901.01, exclude a municipal judge and include a circuit judge and a judge of a county court. That a circuit judge and a county court judge are *state* judicial officers is attested by the fact that their salaries are required to be paid by the state, it being provided by §14 of said revised Art. V that "[a]ll justices and judges shall be compensated only by state salaries fixed by general law. . . ." (Emphasis supplied.) The result is that peace bond proceedings before judges of county courts, as well as before circuit judges, are authorized by law.

Sections 923.04 through 923.07, F. S., containing forms for use in peace bond proceedings before justices of the peace, have not been repealed and these forms may serve as guidance in drafting similar papers for use by circuit judges and county court judges.

Also, although said §37.21 stands repealed, I think that it would be safe to follow its principles in a current peace bond proceeding.

073-109—April 10, 1973

### INTANGIBLE TAX RETURNS

#### CONFIDENTIALITY—AUDITOR GENERAL'S POWER TO INSPECT INTANGIBLE TAX RETURNS OF PUBLIC ASSISTANCE RECIPIENTS

To: J. Ed Straughn, Executive Director, Department of Revenue, Tallahassee

Prepared by: Harold Purnell, Assistant Attorney General

#### QUESTION:

May the auditor general inspect certain intangible tax returns of public assistance recipients pursuant to §11.50, F. S.?

#### SUMMARY:

Section 199.222, F. S., prohibits the Department of Revenue from disclosing in any manner, save for three express exceptions contained in the statute, particulars set forth in intangible tax returns. This statute must be strictly construed both as to its letter and spirit, which is to facilitate full disclosure on the taxpayer's return. The failure to expressly provide for disclosure of intangible tax returns in the