OFFICIAL OPINION NO. 27

June 13, 1956

Mr. Joe McCord, Director
Department of Financial Institutions
410 State House
Indianapolis, Indiana

Dear Mr. McCord:

This is in reply to your letter in which you request an Official Opinion as to the following:

> "Do credit unions organized and operating under the Indiana Credit Union Law have the authority to purchase life savings insurance to insure the lives of credit union shareholders?"

You further state in your letter that life savings insurance is defined as insurance taken out on a group basis with an insurance company by a credit union whereby the life of every eligible credit union member is insured in an amount equal to his savings in the share of the credit union up to a maximum of $1,000.00.

The Department of Insurance informs us that this type of insurance is offered by the Cuna Mutual Insurance Society which was admitted to do business in the State of Indiana on this plan on May 31, 1940.

We are further informed by the Indiana Credit Union League that twenty-six of the state chartered credit unions now carry this insurance and one hundred and nine federal chartered credit unions operating in the State of Indiana are now participating in this insurance. The authority of a credit union to purchase life savings insurance is found in the Acts of 1933, Ch. 40, Sec. 303, subsection (i) as amended, as found in Burns' Indiana Statutes (1950 Repl., 1955 Supp.), Section 18-2208, and provides:

> "To exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated."

Although this particular wording has not been interpreted

by any court in the State of Indiana, it has been interpreted by the Bureau of Federal Credit Unions. The Federal Credit Union Act, as found in 12 U. S. C. § 1757 (12) provides under the heading of powers, as follows:

> "A federal credit union * * * shall have the power * * * (12) to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated."

I respectfully invite your attention to the fact that § 1757, subsection 12 of the Federal Credit Union Act is identical to Section 303, subsection (i), *supra,* of the State Credit Union Act. The Bureau of Federal Credit Unions in construing this provision gave the following express authorization as found in the Federal Credit Union Handbook, Reprint, 1954, page 16:

> "A federal credit union may participate in a life savings insurance plan on authorization of its board of directors."

In the case of Mutual Bank & Trust Co. *et al.* v. Shaffner *et al.* (1952) [Not assigned for publication in Official Reports; see 363 Mo. (Appendix) pp. 1253, 1256], 248 S. W. (2d) 585, the Supreme Court of Missouri, Division No. 1 adopted as the opinion of the Court, a commissioner's opinion which considered a situation where the bank arranged for life insurance coverage for a specified amount up to $2,000.00. The opinion upheld the authority of a mutual banking institution to purchase life savings insurance saying:

> "Defendants say that 'banks frequently distribute gratuitously pencils, pocket diaries, calendars and numerous other small articles of utility as an act of advertising.' *But this plan is more than advertising. As defendants concede, it 'is a unique method of building up deposits in a bank' and 'the primary purpose of the alleged insurance coverage is to guarantee to the bank a constant flow of deposits.' The plan is not to be condemned merely because it is novel and unique.* 'Is there anything whereof it may be said, See, this is new? it hath been already of old time, which was before us.' *The plan is based upon principles consonant with long*

established banking methods and recognized insurance practices. It is not inherently wrong. It neither violates the law nor contravenes public policy. It appears to be an appropriate business-like means of the exercise of the bank's powers relating to deposits.

"Defendants say that the bank's use of funds in payment of premiums is 'the promotion of the insurer's insurance business' and the 'barter of life insurance coverage for periodic payments of money which is to be used in the bank's interest.' Payment of premiums under this group life insurance policy is obviously not the use of funds, 'directly or indirectly in trade or commerce, by buying and selling ordinary goods, chattels, wares and merchandise.' Secs. 362.200 and 363.270. (Cases cited by both parties are not in point as they involve, and sustain, a bank's right to *finance* a customer's purchase or sale of 'ordinary' tangible personal property.) We hold that the plan is within the bank's implied powers and does not violate said sections." (Our emphasis)

Therefore, taking into consideration the fact that Indiana credit unions have purchased this insurance in Indiana since 1940 and the interpretation placed upon the Federal Credit Union Act, Section 1757, subsection 12, which is identical to the language contained in the Indiana Credit Union Act, Section 303, subsection (i), *supra,* and the Supreme Court of Missouri's interpretation of identical wording as to the authority of a state mutual banking association to purchase life savings insurance, it is my opinion that a credit union of the State of Indiana does have the authority under the Acts of 1933, Ch. 303, subsection (i), *supra,* to purchase life savings insurance.