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In a matter of such importance, it will be presumed that the Indiana General Assembly would have so stated if the state department of public welfare and/or the state auditor were obliged to make a report of payments to recipients of blind assistance, as provided for under Chapter 321 of the Acts of 1951.

Therefore, it is my official opinion that the above quoted question should be answered in the negative.

OFFICIAL OPINION NO. 86

November 7, 1951.

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

Dear Sir:

I have your request for an official opinion which reads as follows:

"I have been requested by the Members of the Department of Financial Institutions to ask for your official opinion covering a question raised in connection with amendments to the Indiana Industrial Loan and Investment Act by the 1951 General Assembly as found in Chapter 79 of the Acts of 1951.

"The amendments referred to place limitations upon the number of Certificates of Authority which the Department may grant applicants to engage in business under the Act.

"There is some contention that in arriving at the number of additional Certificates of Authority which may be granted under the Act as amended, the Department should ignore those companies authorized to issue certificates of investment.

"In view of the fact that there are five companies authorized to issue certificates of investment operat-
ing in four cities in the State, it becomes necessary that the Department be advised as to whether these so-called investment companies should be considered in the granting of additional Certificates of Authority or whether they should be ignored. This question is of special importance to the Department in connection with applications now on file by applicants for Certificates of Authority to engage in business under the Act in the City of Indianapolis.”

Section 1 of Chapter 79 of the Acts of 1951, to which you refer, reads as follows:

“When authorized by the department in the manner prescribed by sections 25, 26, 27, 28 and 29 of the Indiana Financial Institutions Act and any amendments thereof, any domestic corporation now or hereafter organized under the general corporation laws of the state of Indiana may engage in business as an industrial loan and investment company subject to the limitations and restrictions hereinafter set forth. The department may issue a certificate to any such corporation when authorized by said department to engage in business under this act if the department determines after a hearing that a public necessity exists in the particular city for the type of industrial loan and investment company for which application is made: provided, however, that no such certificate may be issued to engage in business under this act in a city having a population of less than 30,000 inhabitants according to the last preceding United States census, and with respect to cities having a population of 30,000 or more inhabitants, not more than one certificate shall be issued for each 30,000 inhabitants of such city. Such certificates shall state whether such corporation is empowered and authorized to issue, negotiate and sell certificates of investment or indebtedness, or whether it shall not be so empowered and authorized and, if not, shall provide that such corporation shall do business under this act only as limited and restricted by section 20A hereof. No corporation holding any such certificates shall engage in business or exercise any powers, rights or privileges as an
industrial loan and investment company in any manner other than that provided in said certificate."

Prior to the 1951 amendment this section of the Indiana Industrial Loan and Investment Act consisted of the first sentence of the present section.

The Indiana Industrial Loan and Investment Act consists of Chapter 181 of the Acts of 1935, as subsequently amended, same being Burns 18-3101, et seq. Prior to the 1951 amendment the only differentiation that exists generally in the authority of industrial loan companies was that some were authorized to issue certificates of investment or indebtedness and others were not so authorized. The regulation of companies allowed to issue certificates of investment or indebtedness was more stringent than those companies not so authorized. See 1944 Opinions of the Attorney General, p. 185. So that the underlined portion of the second sentence of this section which refers to the type of industrial loan and investment company by the use of the word "type" must refer to those companies having the right to issue certificates of investment or indebtedness and to those companies not so authorized in the alternative. Thus we have a reference to the issuance of a certificate of one type or the other followed by the provision that "no such certificate" may be issued except subject to the limitations. The antecedent of "no such certificate" must be the use of the term industrial loan and investment company in the preceding phrase refer to companies authorized to issue certificates of investment or indebtedness or companies not so authorized.

Therefore, it is quite clear that the so-called investment companies should be considered in determining how many additional certificates of authority may be granted.