DEPARTMENT OF FINANCIAL INSTITUTIONS: Small Loans License, whether annual license required.

March 13, 1941.

Mr. Ross H. Wallace, Director,
Department of Financial Institutions,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter calling attention to the provisions of Chapter 154 of the Acts of 1933 concerning the licensing and regulation of the business of making small loans in the sums of $300.00 or less at a greater rate of interest than eight percentum per annum. You submit the question as to whether licenses issued under the provisions of the above Act remain in full force and effect so long as the licensee pays the annual license fee and furnishes an acceptable bond, provided, of course, that such license shall not have been revoked or suspended upon some one or more of the grounds set out in the Act. In other words, your question, as I understand it, is whether the Act contemplates the annual issuance of a license.

An examination of the Act reveals the following applicable provisions which, in my opinion, should be taken into consideration in arriving at the answer to your question.

First: It will be observed:

"The applicant shall, at the time of making such application, file with the Department a bond with one or more sureties in which the applicant shall be the obligor."


Second:

"Every licensee shall on or before the twentieth day of each April, pay to the Department the sum of One Hundred Dollars as an annual license fee for the year commencing on the next succeeding May first and shall at the same time file with the department a bond in the same amount and of the same character as required by this section for bonds accompanying original applications for license."

Third: One of the grounds for revoking a license is the fact that:

"The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required under the provisions of this Act."


Fourth: It is also provided that:

"Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked or suspended in accordance with the provisions of this Act."


It seems to me that the above provisions all point unerringly to the conclusion that the annual issuance of licenses is not contemplated by the Act. In fact, as pointed out above, it is expressly provided that "every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked or suspended in accordance with the provisions of this Act." Moreover, the Act expressly provides for the annual filing of a bond and the payment of an annual license fee, but that same provision wholly omits the requirement of the issuance of a new license and assumes, as is so plainly stated in the Act, that the license once issued remains in effect until it has been surrendered, revoked or suspended.

The fact also that failure to pay the annual license fee is ground for revocation is wholly inconsistent with a construction which would cause the termination of the license at the end of one year. In other words, there would be no reasonable necessity for providing that the failure to pay the annual license fee would be grounds for revocation because, when the original application is made, the license cannot be issued until the fee is paid, and if it terminates at the end of one year no new annual license fee would have become due.

I think it is very clear and I so hold, that the Act does not contemplate that a new license shall be issued every calendar year. However, it should be remembered that, in order to keep the license in effect, it is necessary to file a new bond and to pay the license fee annually. Otherwise, the license would be subject to revocation.