INSURANCE, DEPARTMENT OF: Fire insurance gross premium tax, whether casualty companies writing fire risks are required to pay.

June 12, 1939.

Hon. George H. Newbauer, Commissioner,
Department of Insurance,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of June 5, 1939, calling for a construction of section 1, chapter 286, of the Acts of 1937, being section 20-818 of Burns Indiana Statutes Annotated, Cumulative Pocket Supplement, has had my consideration. This section provides:

"Fees from fire insurance companies.—All fire insurance companies duly licensed to transact business in the State of Indiana shall pay into the state treasury on or before March 1 and September 1 of each year, an amount equal to three-fourths of one per cent (¾ of 1%) of the gross premiums of each company, received on fire risks written in the State, after deducting therefrom return premiums and considerations received from reinsurance, as reported by them to the auditor of the State of Indiana for the payment of premium taxes as now provided by law; said semi-annual payment by such companies shall be in addition to all taxes and license fees now required by existing law or laws to be paid by fire insurance companies doing business in Indiana, and which fund so paid in and created shall be known as the Fire Marshal Fund."

Your question, according to your letter, is whether casualty companies or organizations writing any form of fire premiums in the State are obliged to pay the tax required by the foregoing section.

While casualty companies or other organizations writing fire premiums are not, strictly speaking, fire companies, it is my opinion that when they do write fire risks as permitted under the Indiana insurance laws, they are to be understood as included for the purposes of the section under consideration as fire companies and should pay the tax.

Fire companies cover many forms of insurance risks other
than fire, such as lightning, earthquake, tornado, hail, and many others, not only on buildings but also upon every description of personal property. It is not reasonable to believe that the legislature intended the tax in question to be collected alone of actual fire companies when a large part of their business did not involve fire, and on the other hand permit casualty companies and other organizations writing fire risks to go untaxed.

The section of the statute under consideration does not use the term fire companies in a necessarily exclusive sense. The section does not define fire companies and its apparent purpose is to require the tax as related to fire risks, the term fire companies being a loose, but not improper, designation of such companies and organizations as write such fire risks.

It is therefore my opinion that said section 20-818 applies to all companies and organizations writing fire premiums in Indiana.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Loans of $300 or less at 8 per cent discount, validity of under Petty Loan Act.

June 12, 1939.

Hon. Ross H. Wallace, Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion as to whether an individual, partnership or corporation can legally make loans of $300.00 or less at 8 per cent discount without violating the provisions of the Petty Loan Act as the same was amended by chapter 154 of the Acts of 1933.

The Petty Loan Act above referred to is embodied in chapter 30 of title 18 of Burns Indiana Statutes Annotated (1933), the same being sections 18-3001 to 18-3005. Section 1 of the Act, as amended, provides, among other things, that:

"Except as otherwise authorized by this Act and unless and until a license shall have been obtained as in this Act provided no person, copartnership, or corporation shall engage in the business of making loans of money, credit, goods, or things in action in the amount