of the commission to dismiss the proceeding for want of jurisdiction.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Small Loan Act, whether licensee may conduct investigation and record mortgages in county other than that named in license.

August 16, 1939.

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

Dear Sir:

I have before me your letter calling attention to the following provision from section 1 of chapter 154 of the Acts of 1933, to wit:

“No licensee shall transact such business or make any loan provided for by this Act under any other name or in any other county than that named in the license.”

The business referred to is the business of loaning money pursuant to a license granted under the Small Loan Act.

Referring to the above provision, you submit the question as to whether it is a violation of the above provision if a resident of a county wherein the loan company is not licensed shall make application for a loan at the office of the licensee, and thereafter returns to the lending agency to sign the necessary papers and receives the money,—whether the Act upon the part of the licensee would violate the above provision.

You call attention to the fact that between the time the application was made and the time when the money is actually loaned there would doubtless be some investigation in the county where the borrower resides, and also that the licensee would record the chattel mortgage in the county where the borrower resides. Your question narrows down then to the question as to whether the fact of this investigation and the fact that the mortgage is recorded in a county other than that of the licensee results in a violation of the provision first above quoted. I have not been able to find any direct authorities upon the subject. However, in the consideration of when a foreign corporation is doing business within a State other
than the State of its domicile, it is usually held that the recording of a mortgage in such State other than its domicile, where the indebtedness secured was contracted in the State of domicile, does not constitute the doing of business by such corporation in the State foreign to its domicile.

See Monaghan & Murphy Bank v. Davis, et al., (Arizona), 234 Pac. 818, at p. 819;
Covey Cotton Oil Co. v. Bank, etc. (Ala.), 74 So. 87, at p. 88.

I think the two situations are somewhat analogous, but I would hesitate to base my opinion on these decisions alone in the absence of other supporting evidence, which, I think, is found in the Act itself.

It will be noted, first of all, that in making an application for a license the Act requires that such application shall contain, among other things:

"* * * the county and municipality with street and number, if any, where the business is to be conducted."

Burns Indiana Statutes Annotated (1933), section 18-3001.

The same section provides that:

"The document or other instrument evidencing the license shall state the address at which the business is to be conducted * * *.

Burns Indiana Statutes Annotated (1933), section 18-3001.

In other words, the term “business” as used in the Act evidently has reference to the making of the application, the signing and delivery of the papers and the delivery of the money loaned, which is to be accomplished at the place, first, set out in the application, and second, set out in the license itself.

The recording of the mortgage is only an incident to the business and, in my opinion, would not be sufficient to fix the place of doing business as the place where the mortgage was recorded.