FINANCIAL INSTITUTIONS, DEPARTMENT OF: Amortized loan distinguished from "straight" loan in specific case.

February 21, 1939.

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

Dear Sir:

I have before me your letter which, in part, is as follows:

"There has been presented to us recently a factual situation in regard to the above matter as follows:

"An association entered into a contract with a borrower under which the borrower agreed to pay principal semi-annually in the amount of 4% of the amount borrowed for a period of 4½ years and the remaining 64% at the end of the fifth year."

You submit the following question:

"Since over 50% of the loan (namely, 64%) is actually on a straight basis, does this fact operate in any way to classify the loan as a straight loan? If the loan as written is considered illegal, could the association comply with the statute by taking two notes secured by the same mortgage, one note providing for amortization of 36% on a 4% semi-annual or equivalent monthly basis over a 4½ year period, and the other note providing for payment of 64% at the end of five years?"

This is not an amortized loan. See my discussion of the question in an official opinion addressed to you under this date. While not the usual "straight" loan, the added requirements increase the security of the company and are not objectionable, in my opinion. There is no necessity for taking two notes. The note described in your question matures in five years. It would, therefore, be valid as a "straight" loan and the fact that other provisions are embodied in it, which are more favorable to the company than the provisions contained in the ordinary straight loan, would not invalidate it.

The question of the power of the maker is not involved. The question involved is the authority of the company. If the com-
pany could make a "straight" loan for five years, it certainly would have authority to require that part of it should be paid in less than five years.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Whether Savings and Loan Associations may make amortized loans repayable on a quarterly or semi-annual basis.

February 21, 1939.

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

Dear Sir:

I have before me your letter in which you state that you would like to be advised as to whether savings and loan associations may make amortized loans on a quarterly or semi-annual basis. The question implied in the foregoing requires a consideration of section 273 (b) of The Indiana Financial Institutions Act, as amended in 1937, Acts of 1937, page 205, which provides as follows:

"Sec. 273. Subject to the provisions of this Act, any association may invest the funds received by it in the following, but in no other manner:

"* * * (b) In loans to its members upon their notes or other evidences of indebtedness secured by a first lien upon improved real estate, or upon real estate to be improved with the proceeds of the loan. Such loans shall be made in either of the following forms:

"(1) Share reducing amortized loans wherein the primary obligation evidencing the same requires the borrower to subscribe for shares of the association having a par value equal to the principal of the loan and to pledge such shares as additional security for payment of the loan and to make weekly or monthly payments sufficient to pay the interest and other charges on the loan and mature the shares so pledged in not more than fifteen years from the date of the loan. The shares so pledged shall be matured and retired and the proceeds therefrom applied to the payment of the loan in the manner provided in section 271 of the Act of which this Act is amendatory."