FINANCIAL INSTITUTIONS, DEPARTMENT OF: Funds reserved by building and loan associations for sinking fund may be same as funds reserved for Federal Insurance reserve account.

March 4, 1939.

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

Dear Sir:

I have before me your letter calling attention to section 272 of the Indiana Financial Institutions Act which requires every building and loan association to set aside from its gross profits at least 3 per cent thereof each year as a sinking fund to provide for contingent losses and requires each association to accumulate such fund until the total amount thereof shall equal 10 per cent of the total assets of the association. The same section provides that any losses incurred by such association shall be paid out of and charged against such fund but that such fund shall not be available for the payment of dividends or operating expenses. The section also provides that any association may, by order of its board of directors, charge against the fund for contingent losses any losses sustained from its investments, whether resulting from depreciation or otherwise, without encroaching upon its undivided profits or its net earnings until such fund for contingent losses is exhausted.

Burns Indiana Statutes Annotated, 1933, 18-2122.

Section 252 (g) of the Indiana Financial Institutions Act as amended in 1935 authorizes building and loan associations to procure insurance from the Federal Savings and Loan Insurance Corporation pursuant to Title 4 of the National Housing Act.

Burns Indiana Statutes Annotated, 1933, Pocket Supplement, December 1938, 18-2102.

Many building and loan associations of the state have taken advantage of this provision for obtaining insurance which can be obtained only upon complying with one or the other of the following requirements of the Federal Savings and Loan Insurance Corporation, namely: (1) Establish federal insur-
ance reserve accounts for the sole purpose of absorbing losses and credit thereto during each fiscal year at least .3 of 1 per cent of the aggregate of their insured accounts standing on their books at the beginning of each year, or (2) Irrevocably establish their present reserve for contingencies as an account to be used for the sole purpose of absorbing losses and securing the written approval of the corporation in such event. You inquire as follows:

"If an insured association does not designate its present reserve for contingencies as its Federal insurance reserve, as the corporation makes possible under item 2 above, it frequently happens that such an association transfers each year amounts to its reserve for contingencies and its Federal insurance reserve which aggregate over 3 per cent of gross profits. We should like to be advised, therefore, whether an aggregate transfer of 3 per cent of gross profits by an association to these two accounts, each of which is available for losses, constitutes compliance with section 272 of our Act although the amount actually transferred to the reserve for contingencies is less than that amount."

Stated in the form of a question, your question is, "May amounts paid annually into the Federal insurance reserve be added to the reserve required by section 18-2122, supra, in order to effect a compliance by the association with the provisions of said section?" It seems to me that such may be done. Both accounts are available for losses and I can see no reason which would prevent their consideration together. In my opinion, therefore, if the aggregate transferred annually to the two accounts equals 3 per cent of the gross profits of the association, section 272 of the Indiana Act is substantially complied with.