BANKING DEPARTMENT: Whether borrowed money certificate is preferred claim against building and loan association; if payable ahead of withdrawal notices on paid up stock.

April 12, 1933.

Hon. H. J. Hanes,
Clerk, Building & Loan Division,
Banking Department,
Indianapolis, Indiana.

Dear Sir:

I have before me your inquiry as to whether the certificate you enclose, commonly called a borrowed money certificate, is a preferred claim against a building and loan association, and whether it is payable ahead of the withdrawal notices on paid up stock. The answer is yes to each of these questions.

These questions were exhaustively and ably considered and interpreted by my predecessor, in two opinions as found in the following citations.


No change has been made in the law, either by legislative enactment or court interpretation, and I readopt the opinions above cited.

INDUSTRIAL BOARD: Boiler construction—whether statutes of Indiana contemplate a distinction between construction requirements and the regulations concerning actual installation of the boiler.

April 14, 1933.

Industrial Board of Indiana,
432 State Capitol,
Indianapolis, Indiana.

Attention: Mr. James Donohue,
Chief Boiler Inspector.

Dear Sirs:

Your communication of April 12, 1933, presents the question as to whether or not the statutes of this state contemplate a distinction between the construction requirements and the
regulations concerning the actual installation of the boiler. This inquiry calls for a construction of Sections 10 and 11 of the act of March 8, 1915, appearing at pages 462-463 of Acts of 1915, and in Burns’ Annotated Indiana Statutes (1926) at Sections 8803 and 8804.

Section 10 (Burns’ 8803) provides among other things that:

“All boilers constructed after the passage of this act which are Indiana standard shall have a factor of safety of not less than five. Boilers built to the standard of the American Society of Mechanical Engineers, as issued by direction of the council of the American Society of Mechanical Engineers, February 13, 1915, will be acceptable to the State of Indiana.

*    *    *”

Section 11 (Burns’ 8804) provides that:

“All boilers fifty-four inches and above in diameter shall be suspended, and not rest on walls. All boilers less than fifty-four inches in diameter installed after this act shall go into effect may be suspended or supported by two brackets or lugs on each side of the boiler. All openings or doors for access in brickwork shall be not less than 14 x 18 inches.”

The language quoted above conclusively points to the clear intent of the legislature to distinguish or differentiate between the physical constructive requirements of a boiler and the regulations surrounding the actual installation thereof. Further, it is our opinion that the statutes do effectively make such a distinction.

Concretely, this differentiation is simply this: under Section 10 of the act (which is Section 8803 of Burns’ Annotated Indiana Statutes) boilers built with a factor of safety of not less than five, or to the standard of the American Society of Mechanical Engineers are to be accepted by you; but the installation of such boilers can only be made in the manner prescribed by Section 11 of the act (which is Section 8804 of Burns’ Annotated Indiana Statutes).

The standards of the American Society of Mechanical Engineers then, do not apply to the installation of the boilers. Such installation must be made in strict compliance with Section 11 of the act.