money penalty upon the architect who fails to comply with
the statute regarding the payment of annual renewal fees. 
However, the payment of this money penalty would not re-
lieve the architect from liability for any of the criminal pen-
alties imposed under the terms of the act for violation thereof.
In other words, the architect who has failed to pay his annual 
renewal fees when due, and who has continued to practice 
architecture during the period following expiration of his 
certificate and prior to restoration thereof, would be liable 
to the criminal penalties imposed by Section 26 (a) for prac-
ticing architecture during such period "without a certificate 
of registration as a registered architect issued by the Board."

Your final question has to do with the method to be used 
by you in making repayment of fees, in the event that restora-
tion fees have been collected erroneously from certain appli-
cants. From your letter it appears that you have not made 
improper charges for these restoration fees, but that the 
charges made are in conformity with the spirit and letter of 
the Act. In the absence of any mistake as to the collection of 
these fees, it becomes unnecessary to discuss the matter of 
repayment.

ARCHITECTS, STATE BOARD OF REGISTRATION FOR:

Whether said Board is limited in its expenditures to biennial appropriation.

Mr. Leighton Bowers, Secretary,
Indiana State Board of Registration for Architects,
Indianapolis, Indiana.

March 5, 1936.

Dear Sir:

I have before me your request for an official opinion as to 
whether the Board is limited in the expenditure of funds de-

duced from fees collected by it as provided in the biennial 
appropriation act of 1935, approved March 2, 1935, Acts of 
1935, page 361, or whether the applicable provision is section 
4 of Chapter 252 of the Acts of 1935, approved ten days later 

Section 4 supra is an amendment of section 19 of the original act of 1929. The original section, however, remains un-
changed except that in the amended section it is provided that the excess in the architects' fund at the end of any fiscal year over and above $3,000.00 is to be transferred to the "general fund" instead of to the "common school revenue fund" as provided in the original section of the Acts of 1929, pages 178-179. Acts of 1935, pages 1276-1277. The amendment, therefore, as it applies to the question under consideration is simply a re-enactment of the original section.

The biennial appropriation act of 1935 makes a specific appropriation for the Architects' Board and then provides as follows:

"Such appropriation to be in lieu of any and all provisions heretofore made for the payment of salaries and expenses of said board: Provided, That all fees collected by said board shall be paid to the general fund of the state: and, Provided, further, That the appropriations above made are hereby limited to the amount of fees collected in the same fiscal year."


The above provision clearly modifies section 19 of the original act but probably does not repeal it in its entirety. It clearly repeals the provision requiring the keeping of fees collected in a separate fund; and other provisions of the appropriation act limits the expenditures to the specific appropriations, thereby repealing the provision of the original Section 19 authorizing the payment of all necessary expenses out of the "architects' fund."

Under such circumstances the practical re-enactment of said section 19 in the amendment of 1935 furnishes the basis for the application of the familiar rule of statutory construction that "where a later statute merely re-enacts the provisions of an earlier one, it does not repeal an intermediate act which has qualified or limited the earlier one, but such intermediate act will be deemed to remain in force, and to qualify or modify the new act in the same manner as it did the first."

Public Service Commission et al. vs. City of Indianapolis et al., 193 Ind. 37 at p. 49.

By the application of the above rule, it would have to be held that the provision of the biennial appropriation act above
referred to is not repealed by the amendment of section 19 standing alone but remains to modify section 19 as amended in the same way and to the same extent as it had modified the original section 19. It should be remembered, however, that the above rule is simply a rule of construction and furnishes an exception to the general rule that the later act of two conflicting Acts impliedly repeals the former. It is designed to give effect to the intent of the legislature, but when the legislature has expressly evinced a different intent, the expressed intent should be given preference to an intent derived simply from the application of the foregoing rule of construction. The amendatory act of 1935 contains a section repealing all laws or parts of laws in conflict with the provisions of the Act. The particular provisions of the biennial appropriation act referred to are clearly in conflict with said Act of 1935, and while Section 19 as amended would not in and of itself operate as a repeal by reason of the foregoing rule of statutory construction, it seems to me that the legislature has disavowed this rule by expressly providing that conflicting laws or parts of laws are in fact repealed.

From the foregoing it seems to follow that the applicable provision is section 4 of Chapter 252 of the Acts of 1935.

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**INSURANCE DIVISION:**  Fire insurance—Rate deviations; bureau rules.

March 6, 1936.

Hon. Harry E. McClain,
Commissioner of Insurance,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of February 6, 1936, requesting an opinion concerning the following filings by fire insurance companies as deviations from rates:

1. “If this policy shall be for a term of years (more than one year) the premium named in said policy shall be payable in equal annual installments, the first installment of said premium shall be payable on the delivery of this policy and a like equal installment of such premium shall be payable each year thereafter