in Indiana of gasoline, or other motor vehicle fuel, sold by it in Illinois.

DEPARTMENT OF FINANCIAL INSTITUTIONS: Retail Installment Sales Act—Relation of same to interstate transactions.

December 28, 1936.

Mr. R. A. McKinley,
Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in part as follows:

"Section 9 of the Retail Installment Sales Act reads in part that 'No retail seller may sell, assign and transfer any retail installment contract to any person other than a licensee under this Act,' and Section 11 reads in part that "No person shall purchase retail installment contracts from a retail seller doing business in this state or engage in the business of purchasing retail installment contracts from retail sellers doing business in this state or, unless a bank or trust company, makes loans to a retail seller doing business in this state on the security of retail installment contracts or engage in the business of making loans to retail sellers in this state on the security of retail installment contracts unless the department has licensed such person to do such business and has issued to the person a written instrument evidencing the license as in this Act provided.'"

You submit the following question:

"How do these above quoted parts of the statute apply to the following situations, assuming that the assignee of any of the contracts is properly licensed?

"(1) Indiana dealers selling to neighboring state residents, the transaction or sale actually occurring outside of Indiana."
“(2) Indiana dealers selling to neighboring state residents, the transaction or sale actually occurring in Indiana.

“(3) Out of state dealers selling to Indiana residents, the transaction or sale actually occurring in Indiana.

“(4) Out of state dealers selling to Indiana residents, the transaction or sale actually occurring outside of Indiana. This situation is prevalent in border communities.”

It is obvious that the “retail seller” as that term is used in both Sections 9 and 11 refers to a “retail seller doing business in this state,” and I think the retail installment contract referred to is such a contract as is entered into between the contracting parties as a result of such business. The theory upon which the statute proceeds is that the transaction involving first a retail sale of merchandise with the privilege of payment therefor in installments, and second a sale of the contract is, in so far as the statute regulates and limits the cost of credit, a transaction having its inception within the state. In other words, the above steps constitute a method of extending credit to retail buyers in installment sales of merchandise and of charging for the privilege thereby granted, and, in order to justify the regulation by the state, I think it is clear that some part of the transaction must have its situs within the state.

I think, therefore, it must be evident that the statute does not seek to affect the retail seller who is an out of state dealer and whose contract of sale even with an Indiana resident is without the State of Indiana. Moreover, the restriction against the buying without a license of such retail installment contracts as expressly set out in Section 11 is limited to the buying from retail sellers doing business in Indiana. In other words, such a contract as is referred to in subdivision (4) of your question could be purchased by a person who is not even a licensee. I do not think, therefore, that the Act under consideration affects the situation set out in the above subdivision of your question.

For the same reason I do not think your jurisdiction under the Act under consideration extends to subdivision (1) of your question.
It would, however, in my opinion extend to the situation described in subdivision (2) of your question.

As to subdivision (3) of your question, your jurisdiction, in my opinion, would apply, but would be subject to certain limitations which can be better pointed out in the consideration of specific cases as they arise.

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DEPARTMENT OF FINANCIAL INSTITUTIONS: Authority of Division of Installment Finance over wholesale transactions between manufacturer and dealer.

December 28, 1936.

Mr. F. M. Call,
Supervisor, Division of
Installment Finance,
Department of Financial
Institutions,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in part as follows:

"Many finance companies are engaged in the business of 'floor-planning' wherein an advancement of money is made to dealers to permit them to carry a stock of new or used automobiles pending sale of such merchandise to purchasers. Transactions of this nature supplement the purchase of retail installment sales contracts."

You submit the following questions:

"(1) To what extent does the Department of Financial Institutions have jurisdiction over this type of business?

"(2) What is the maximum rate of interest or charge that may be made by finance companies on this type of business?

"(3) Is the ordinary conditional sales contract a proper form of instrument of agreement to be used by finance companies?"