

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Retail installment sales-right of licensee to maintain agents in branch offices.

November 12, 1937.

Hon. Homer O. Stone,
Supervisor, Division of
Small Loans and Consumer Credit,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of November 10th in which you submit the following question:

“A few of the licensees under the Retail Installment Sales Act are soliciting business from retail sellers through the use of individuals which they term agents. These agents are in reality insurance agents not in the actual employ of the licensee, but who solicit business from retail sellers on behalf of the licensee in return for which the licensee allows the agent to write certain types of insurance coverage in the insurance company which he represents. The remuneration for the solicitation by the agent takes the form of the insurance commission which would normally accrue to the benefit of the licensee plus in some cases a certain percentage of the unpaid balance payable out of the finance charge by the licensee. These agents are geographically located some distance from the principal office of the licensees.”

The question upon which we would appreciate your official opinion is this:

“Can these so-called agents described above be considered as branches of the principal office of licensees under the Retail Installment Sales Act?”

In reply to this inquiry beg to say that I can find nothing in the Retail Installment Sales Act which makes the practice described in your question unlawful. If these so-called agents maintain offices and are actually engaged in the purchase of retail installment sales contracts for and on behalf of a

licensee, I think they might be considered by their employer as a branch office. If they are considered as branch offices such statement should appear in the application for a license under and pursuant to the provisions of section 12 of the Retail Installment Sales Act.

PUBLIC INSTRUCTION, SUPERINTENDENT OF: School corporations, distribution of funds to townships pending proceedings to divide.

November 13, 1937.

Hon. Grover Van Duyn,
Assistant Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of November 19 in which you ask as to the distribution of certain public funds to the school corporations of Rock Creek Township and Liberty Township in Carroll County, Indiana.

As I understand the situation certain proceedings were undertaken to divide Rock Creek Township and to create by said division two townships, one to be called Rock Creek Township and the other Liberty Township. I am further informed that an appeal has been taken from the order of the Board of Commissioners approving this division, which appeal is now pending in the Circuit Court of Carroll County. On this state of facts, it is my opinion that the original Rock Creek Township should continue to be recognized until the existence of the new township has been finally determined by judicial decree.

Generally speaking, the effect of an appeal from the order of a board of commissioners is to stay the proceedings appealed from until final order of the court. This being true, it seems to me that the matter is in status quo and the original Rock Creek Township should continue to function until the division is finally confirmed. When the new township is finally created it will be entitled to a division of the funds on hand after deducting township debts.

It is my opinion therefore that the funds should continue to be distributed to Rock Creek Township until their litigation is finally determined.