Franklin Savings Bank v. Inhabitants of Framingham, 98 N. E. 925, 212 Mass. 92;
Donahue v. City of Newburyport, 98 N. E. 1081, 212 Mass. 561.

From the foregoing it follows that the above terms do not include the school corporations of the State of Indiana and the permit, therefore, is not required.

FINANCIAL INSTITUTIONS: Loans by Banks and Trust Companies on real estate limited to five year term.

October 19, 1938.

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

Dear Sir:

I have before me your letter calling attention to the amendment of section 201 of the Indiana Financial Institutions Act by the General Assembly of 1937. The amendment referred to is chapter 26 of the Acts of 1937.


The amendment, among other things, operates to authorize banks and trust companies to loan money upon the security of a first lien upon real estate in an amount not to exceed sixty per cent of the appraised value of the real estate offered as security if the loan is secured by mortgage, deed of trust or other such instrument, and the terms of the loan require a semi-annual principal reduction of not less than three per cent. In the section as it stood prior to the amendment and also earlier in the section as amended, it is provided that no loan shall be for a longer term than five years.

You state that a question has arisen as to whether or not a loan secured by a mortgage in an amount of sixty per cent or less of the appraised value of the property covered by the mortgage can be made for a period in excess of five years where the mortgage provides for a semi-annual principal reduction of not less than three per cent. You ask for my opinion upon this question.
In my opinion, unless the loan is insured under the provisions of section 172 (b) of the Act, the five year limitation applies notwithstanding the provision in the mortgage of a semi-annual principal reduction of not less than three per cent. The language of the Act upon the above subject is as follows:

"The amount of any such loan hereafter made shall not exceed fifty per cent of the appraised value of the real estate offered as security and NO SUCH LOAN SHALL BE MADE FOR A LONGER TERM THAN FIVE YEARS; except that (1) any such loan may be made in an amount not to exceed sixty per cent of the appraised value of the real estate offered as security if the loan is secured by mortgage, deed of trust, or other such instrument, and the terms of the loan require a semi-annual principal reduction of not less than three per cent, and (2) the foregoing limitations and restrictions shall not, within the limitations provided in section 205 of this Act, prevent the renewal or extension of loans heretofore made, and shall not apply to real estate loans which are insured under the provisions of section 172 (b) of this Act and the regulations issued thereunder, insofar as said section and regulations apply to loans on the security of real estate." (Our italics and capitals.)


The exception immediately following the capitals in the above quoted language clearly cannot be considered as a modification as to the term for which the loan can be made. The first exception has to do specifically with the amount of the loan and makes no provision modifying the term of such a loan. The second exception has to do entirely with insured loans as provided in section 172 (b) of the Act, the application of which is clear.

It is my conclusion, therefore, that except in the case of insured loans, as provided in section 172 (b) of the Financial Institutions Act, the term for which a real estate mortgage may be made by banks or trust companies is limited to five years. That is true notwithstanding the mortgage may contain a provision for a semi-annual principal reduction of not less than three per cent.