ACCOUNTS, STATE BOARD OF: School fund loans, whether such loans can be made to domestic corporations.

February 24, 1938.

Hon. W. P. Cosgrove,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following question:

"Can a county school fund board legally grant a school fund loan on real estate owned by a corporation, if the assessed valuation and appraisal of such real estate meets the requirement of the laws governing the loaning of school funds?"

In my opinion, if the corporation is a domestic corporation and an inhabitant of the county making the loan, there is nothing to prevent the loan being made upon the other conditions assumed in your question. The statute makes inhabitants of the county making the loan preferred borrowers although it does not absolutely prohibit the making of a loan to a person or corporation who is not an inhabitant of the county, providing the conditions exist as are set forth in sec. 28-214 of Burns’ Indiana Statutes Ann. 1933. In determining the question as to the county of which a domestic corporation is an inhabitant, I desire to refer you to the case of the Galveston, etc. Ry. Co. v. Gonzales, 151 U. S. 496, which holds that a domestic corporation is an inhabitant of the county wherein its principal office is located.

I note what you say with reference to the opinion printed in the State Board of Accounts’ book of opinions to the effect that a school fund loan cannot be made to a corporation. I have not been able to find anything, however, which justifies that conclusion. As early as the 1865 Act, concerning school fund loans, it was provided, in limiting the amount of such a loan, that “the amount loaned to any person or company shall not exceed $1,000,” Acts of 1865, ch. 20. The use of the word “company” in the above provision of that Act evidently contemplated that corporations might borrow from the school fund if other conditions making them eligible borrowers were present. The same kind of a provision is present in the 1901
Act, except that the limitation of the amount of such a loan, instead of being $1,000 as provided in the 1865 Act, is now $4,000 as provided in the 1901 Act.

Burns' Indiana Statutes Ann. 1933, sec. 28-220.

Your question is answered in the affirmative.

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WELFARE, DEPARTMENT OF PUBLIC: Right of Director of Division of Corrections to carry firearms. Parole Agents, right to carry firearms without permit—authority to retake parolees—use of firearms in making arrests.

February 25, 1938.

Hon. T. A. Gottschalk,
Administrator State Department of Public Welfare,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Mr. Gottschalk:

We have your recent request for an official opinion, in which you ask the following questions:

"1. What authority does a parole agent have, as an employee of the Department of Public Welfare, in the making of arrests generally or in the taking, keeping or transporting of prisoners who have been released upon parole and who have not been discharged?

"2. Is it necessary for such parole agents to secure a permit to carry fire arms or other deadly weapons or may they carry such fire arms to assist them in the necessary discharge of their duties without receiving an official permit to do so?

"3. Under what circumstances does the law permit them to make use of fire arms or other deadly weapons in the necessary discharge of their duties? That is, with regard to the recapture or retaking of a parolee who has violated his parole or who refuses to submit to arrest or who flees from a parole agent to escape arrest.

"4. Does the director of the Division of Corrections and/or the supervisor of paroles have the same authority to carry fire arms as the parole agents who are under their supervision?"