ACCOUNTS, STATE BOARD OF: Building and Loan Associations may not act as public depositories.

March 22, 1938.

Mr. Ross Teckemeyer,
Secretary, State Board for Depositories,
State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of March 22 in which you submit the following question:

"The Marion County Board of Finance accepted the proposal of the First Federal Savings and Loan Association of Indianapolis to become a depository for the clerk of the Marion Circuit Court. Such agreement was made pursuant to chapter 30, Acts of 1937.

"In your opinion can the above named bank qualify under the terms of chapter 3 of the Acts of 1937, as defined in sub-section F of section 1."

Replying to your question, your attention is directed to sub-section (f), section 1, chapter 3 of the Acts of the Indiana General Assembly, 1937, which reads as follows:

"The term 'bank or trust company,' or the plural thereof, means any national banking association formed under the laws of the United States with its principal office located in the State of Indiana and doing business herein, and any bank or trust company, any bank of discount and deposit, loan and trust and safe deposit company, or trust company organized and doing business under the provisions of any law of this state."

This above quoted section applies to those institutions which are authorized under the law to be designated by the county board of finance as a depository for public funds.

Section 1 of chapter 30 of the Acts of the Indiana General Assembly of 1937, provides:

"That the clerk of the circuit court of any county of this state shall on taking effect of this Act, and at the same time that depositories are designated by the board of finance thereafter, petition the board of finance of
the county of which he is an officer to designate one or more banks or trust companies located within the county, as the depository for any and all fees and funds received by such clerk by virtue of his office.”

It will be noted the language of the last above quoted section requires a designation of a bank or trust company. This language is not as broad as that used in the Act covering the deposit of public funds. However, it is to be noted that building and loan associations are not included in either of the above designated classes.

Section 281 of the Financial Institution Act further provides that no building and loan associations shall engage in the banking or trust business or operate a savings bank, commercial bank or trust company. This same section further provides:

“No association shall advertise or hold itself out to the public as accepting deposits of money payable on demand, or without notice, or agreeing to pay, or guaranteeing the payment of any interest or fixed amount in dividends, upon deposits of money or upon any shares of its stock.”

It is my opinion, therefore, that a building and loan association can not qualify as a public depository for funds in the hands of county clerks or for public funds of any kind.

ACCOUNTS, STATE BOARD OF: State Board for Depositories Public Funds. Money held in escrow from public funds.

March 28, 1938.

Mr. Ross Teckemeyer,
Secretary, State Board for Depositories,
State House,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your request for an opinion as to whether or not certain monies held in an escrow account are