ACCOUNTS, STATE BOARD OF: School fund loans. Due date of loans extended under 1933 act. Whether right of re-extension exists as to such loans.

January 28, 1938.

Hon. W. P. Cosgrove,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Mr. Cosgrove:

I have before me your letter calling attention to chapter 118 of the Acts of 1933 providing for the extension of school fund mortgages upon the application of the mortgagors or the holders of the title of the mortgaged premises filed within six months from April 1, 1933. You submit the following questions:

"1. Do all loans extended under the provisions of chapter 118, Acts of 1933, become due and renewable on April 1, 1938, or on the anniversary date of the original loan?

"2. Can a loan made prior to 1933 and extended under the provisions of chapter 118, Acts of 1933, be continued pursuant to the provisions of section 28-258, Burns' Indiana Statutes Annotated 1933?

"3. If your answer to question No. 2 is in the affirmative, is it necessary for the county school fund board (see chapter 64, Acts of 1935), to approve such extension?"

Section 2 of chapter 118 of the Acts of 1933, supra, provides in part as follows:

"All loans of said school funds existing on April 1, 1933, and the mortgages securing the same, are hereby extended for a period of five years from said date, conditional on the mortgagors, or holders of title of properties mortgaged, filing with the auditor of the county his or their written acceptance of the terms of this Act within six months from April 1, 1933." (Our italics.)


The above quoted language makes it very clear and definite that school fund loans extended under the provisions of the
above Act become due and payable on April 1, 1938, and not on the anniversary date of the original loan. Your first question is answered accordingly.

The answer to your second question is in the negative. The statute referred to, section 28-258, Burns' Indiana Statutes, 1933, extends its privileges only to cases where the required notice is given at the expiration of five years from the date of the original loan. Note the language of the statute—

“All mortgagors of the common school, congressional school and permanent endowment funds, held in trust by their respective counties wherein such mortgage exists, shall, at the expiration of five (5) years from the date of the original loan, be required to give notice to the said auditor of said county that they desire to continue such loan.” (Our italics.)

I do not see how the mortgagor whose loan was extended pursuant to the provisions of chapter 118 of the Acts of 1933, could avail himself of the above provision at this time. I presume it is possible that a person having given a school fund mortgage between January 27, 1933, and April 1, 1933, might desire to avail himself of the provisions of the 1933 Act, although it seems to me that such a condition would be very improbable. That is, such a mortgagor would hardly take the pains of complying with the 1933 Act in order to secure an additional extension of only three months. The point I am trying to make is that in order to avail one's self of the provisions of section 28-258, supra, notice must be given at the expiration of five years from the date of the original loan as distinguished from the date of a subsequent extension.

Your second question having been answered in the negative, your third question requires no answer.

I have looked over the forms which you submit and the same are approved when applied to a case within the provisions of the statute.