visions of the Uniform Commercial Code in order to perfect a security interest, the respective county recorders are not required to follow the provisions of Sec. 29 of Ch. 81 of the Acts of 1933, supra, and said recorders are under no duty to require the affixing of intangibles tax stamps to said instruments before admitting them to record.

In answer to your third question, I can find no provisions in the Uniform Commercial Code for any instruments to be filed, other than “financing statements” or “security agreements” which would come within the filing provisions of said Code. It would appear that the legal requirements necessary to evidence a secured transaction are a properly executed “financing statement” or a properly executed “security agreement” and that no other evidence would suffice to meet the legal requirements of the act. If any instrument meets the legal requirements of the act, it would then be a “financing instrument” or a “security agreement.”

I feel that your third question answers itself in that if an instrument meets the legal requirements for evidencing a secured transaction under the Uniform Commercial Code, said instrument would then be within the definition of a “financing statement” or “secured agreement.”

OFFICIAL OPINION NO. 68

November 24, 1964

Hon. Walter H. Barbour
State Representative
5105 North Shadeland
Indianapolis, Indiana

Dear Representative Barbour:

This is in response to your request for my Official Opinion as to the interpretation of certain language in respect to the two cents’ tax levy for the purpose of operating and maintaining 4-H club buildings as found in the Acts of 1877, Ch. 1, Sec. 2, as last amended by the Acts of 1953, Ch. 108, Sec. 2, as found in Burns’ (1964 Repl.), Section 15-315. Your letter states, in part:

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“As a State Representative, I am requesting an opinion in regard to Chapter 108, Acts of 1953, with particular emphasis on the latter portion of the Act, where it states 'the board of county commissioners may levy an annual tax of not to exceed two cents on each one hundred dollars of assessed valuation for the purpose of operating and maintaining.'”

Your specific questions are then set forth as follows:

1. “There has been some question in reference to this portion of the act as to whether or not a petition of thirty (30) freeholders is necessary in order that it be approved by the Council or the Tax Adjustment Board.

2. “Also, if the County Commissioners approve a levy for this purpose, is this subject to the approval of the Council or the Adjustment Board?”

Before attempting to set out the pertinent statutory provisions, I would point out that the fundamental rule in the construction of Indiana statutes is to ascertain the intent of the Legislature as therein expressed.

Roth v. Local Union No. 1460 of Retail Clerks Union et al. (1939), 216 Ind. 363, 24 N. E. (2d) 280;

State ex rel. Clemens v. Kern et al. (1939), 215 Ind. 515, 20 N. E. (2d) 514;

State of Indiana v. Mears (1938), 213 Ind. 257, 12 N. E. (2d) 343.

In ascertaining the legislative intent, an act must be construed in its entirety and together with other legislative enactments which are in pari materia to such act.

Schulz v. Graham; Kercheval (1955), 234 Ind. 243, 126 N. E. (2d) 1;

Wedmore v. State of Indiana (1954), 233 Ind. 545, 122 N. E. (2d) 1;

Starr v. City of Gary (1934), 206 Ind. 196, 188 N. E. 775;
The Acts of 1877, Ch. 1, Sec. 1, as last amended by the Acts of 1953, Ch. 108, Sec. 1, as found in Burns' (1964 Repl.), Section 15-314, reads as follows:

“The board of commissioners of any county may, in their discretion, make an allowance out of the general fund of such county to any 4-H club association having for its purpose the promotion of the agricultural and horticultural interests of the county, already or hereafter organized, subject to the provisions in the next section contained.” (Our emphasis)

The Acts of 1877, Ch. 1, Sec. 2, as last amended by the Acts of 1953, Ch. 108, Sec. 2, as found in Burns’ (1964 Repl.), Section 15-315, reads as follows:

“Whenever the president or secretary of any such society or organization shall file with the county auditor of any county, a petition signed by thirty [30] or more resident freeholders of such county, requesting the board of commissioners to make any allowance provided for in section 1 of this act, the county auditor shall cause such petition, without the signatures attached thereto, to be published in a newspaper of general circulation printed and published in the county, and said auditor shall in said notice give the time when such petition will be considered by the board of county commissioners, which time shall be fixed by the auditor for not less than thirty [30] days after the publication of such notice. If on or before the time fixed in said notice for the consideration of said petition by the board of county commissioners, a remonstrance signed by more resident freeholders of the county than the number signing the petition shall be filed with the county auditor protesting the making of the allowance as petitioned for, the said board shall consider such remonstrance and if it finds that it is signed by a greater number of resident freeholders than the petition asking for an allowance, the board of county com-
missioners shall have no authority to make an allowance for such purpose and shall dismiss said petition and take no further action thereon.

"Any such petition, after final acceptance by the board of county commissioners, shall be effective for one [1] or more years, such time to be determined by the board, but in no event for a longer period of time than five [5] years.

"The board of county commissioners shall have the power and authority to levy an annual tax of not to exceed ten cents [10¢] on each one hundred dollars [$100] of assessed valuation for the purpose of constructing, operating or maintaining any building owned and operated by such agricultural association: Provided, however, that such tax may be levied only until the building has been constructed and in no event for a longer period of time than five [5] years. After the building has been constructed the board of county commissioners may levy an annual tax of not to exceed two cents [2¢] on each one hundred dollars [$100] of assessed valuation for the purpose of operating and maintaining such building.

"Any agricultural association shall have the power and authority to solicit and accept contributions of any kind or nature for the development and maintenance of any of their projects." (Our emphasis)

The Acts of 1877, Ch. 1, Sec. 3, as found in Burns' (1964 Repl.), Section 15-316, reads as follows:

"The amount so appropriated under this act shall be a lien on all the real and personal property of said association; and no dividend shall be declared or paid to the incorporators or stockholders until the appropriation made by the board shall be repaid to the county treasury, with interest." (Our emphasis)

Thus, in answer to your first question, a petition signed by thirty or more resident freeholders of a county is a necessary prerequisite to the board of county commissioners having authority to make an allowance out of the general fund of
such county for the purpose of constructing, operating or maintaining any building owned and operated by a 4-H club association. Such petition is thus also a necessary prerequisite to the board of county commissioners levying an annual tax of not to exceed ten cents on each one hundred dollars of assessed valuation for the purpose of constructing, operating or maintaining a building owned and operated by such agricultural association.

After the building has been constructed, however, the board of county commissioners is then given the authority to levy an annual tax of not to exceed two cents on each one hundred dollars of assessed valuation for the purpose of operating and maintaining such building. The statute does not require any additional petition as a necessary prerequisite to the board of county commissioners levying such two cents’ tax for the purpose of operating and maintaining such 4-H club association building.

Thus, while the statute does contemplate a sufficient petition as a prerequisite to the board of county commissioners having the authority to construct the building anticipated in such act, no additional petition is contemplated, but, rather, the county commissioners are given the discretion to levy a subsequent two cents’ tax for the purpose of operating and maintaining such building. It is noteworthy that such subsequent two cents’ tax, levied for the purpose of operating and maintaining such building, is not limited by the five-year limitation period of the statute, which limitation period is only applicable to the levy of the ten cents’ tax for construction purposes. Moreover, the above interpretation is in harmony with the provisions of Burns’ 15-316, supra, which statutory section gives the county a lien on all the real and personal property of the 4-H association in the amount appropriated to the association under this act. Thus, it would be in the interests of the county to preserve and maintain the property in which the county has a financial interest in the form of a lien.

In answer to your second question, the language of the statute in question is somewhat unique, in that such statute specifically provides that the board of county commissioners, rather than the county council, determines the necessity for the levying of a tax for the purpose of operating and main-
taining 4-H club buildings pursuant to the act and the rate of such tax levy. In so providing, the act nullifies (solely for the purposes of such act) a portion of the prior Acts of 1899, Ch. 154, Sec. 15, as found in Burns' (1960 Repl.), Section 26-515, which section reads as follows:

"The power of fixing the rate of taxation for county purposes, and for all purposes where the rate not fixed by law is required to be uniform throughout the county, shall be vested exclusively in the county council; and neither the board of county commissioners, nor any county officer or officers, shall have power to fix the rate for any such purpose whatever. The power of making appropriations of money to be paid out of the county treasury shall be vested exclusively in such council, and, except as in this act otherwise expressly provided, no money shall be drawn from such treasury but in pursuance of appropriations so made." (Our emphasis)

Thus, Burns' 15-315, supra, effectively nullifies the first sentence of the above-quoted statute. It is to be noted, however, that, as indicated by the italicized language above, any appropriations made pursuant to Burns' 15-314, supra, would necessarily be made by the county council. As to this requirement, see also

Acts of 1899, Ch. 154, Sec. 22, as amended by the Acts of 1935, Ch. 110, Sec. 1, as found in Burns' (1960 Repl.), Section 26-522.

It is, however, my opinion that approval of the tax levy must yet be obtained by the board of county commissioners from the county tax adjustment board. The Acts of 1937, Ch. 119, Sec. 5, as last amended by the Acts of 1963 (Spec. Sess.), Ch. 9, Sec. 1, as found in Burns' (1964 Supp.), Section 64-1908, reads, in part, as follows:

"The officers of each municipal corporation shall, at the time of filing a statement of the tax levies and rates fixed by each of said municipal corporations, also file with the county auditor, at least two [2] days prior to the second Monday in September, two [2]
copies of the budgets on which said tax levies are based, and the same shall be carefully preserved by the auditor for the use of the county tax adjustment board. * * * It shall be the duty of such tax adjustment board to examine, revise, change or reduce, but not increase, ANY budget, tax levy, or rate, and to hold such budget within the total of the amount of revenue to be raised therefrom from any source whatsoever, to reduce such budget in accordance therewith. * * *

"If the county tax adjustment board shall revise, change or reduce any such budget, levy and rate as fixed by the proper officers of any such municipal corporation, the budget, levy and rate (as fixed by the proper officers of any such municipal corporation, the budget, levy and rate) as so revised, changed or reduced by said board shall be the ONLY budget, levy and rate upon which taxes shall be levied, collected and applied during the ensuing year, except as herein otherwise provided." (Our emphasis)

It is to be noted that the Acts of 1937, Ch. 119, Sec. 2, as found in Burns' (1961 Repl.), Section 64-1905, defines the term "municipal corporations" as follows:

"The term 'municipal corporations,' as used herein shall include counties, townships, school townships, cities, school cities, towns, school towns, school districts, sanitary districts, park districts and all taxing units within the state."

Thus, a board of county commissioners would be subject to the provisions of Burns' 64-1908, supra.

The exceptions referred to in Burns' 64-1908, supra, are those enumerated in the Acts of 1937, Ch. 119, Sec. 6, as amended, as found in Burns' (1961 Repl.), Section 64-1909, which section reads, in part, as follows:

"The total rates fixed in section 3 of this act shall not apply to levies or rates required by municipal corporations for any of the following purposes: (a) To meet the principal and interest upon any funding, refunding
or judgment funding obligations of any municipal corporations; (b) to meet the interest or principal upon any outstanding obligations of any municipal corporation or of any judgment taken against any municipal corporation; (c) to meet the interest and principal upon any obligations issued by any municipal corporation to meet an emergency growing out of a flood, fire, pestilence, war or other major disaster; (d) to meet the interest and principal upon any other obligations hereafter issued which in their issuance have been petitioned for and issued in accordance with the provisions of this act; (e) to meet the requirements of the county welfare fund for public welfare services, nor shall any other provisions of this act apply to levies or rates required by municipal corporations for any of the following purposes: (a) To meet the principal and interest upon any funding, refunding or judgment funding obligations of any municipal corporation; (b) to meet the interest or principal upon any outstanding obligations of any municipal corporation or of any judgment taken against any municipal corporation; (c) to meet the interest and principal upon any obligations issued by any municipal corporation to meet an emergency growing out of flood, fire, pestilence, war or other major disaster; (d) to meet the interest and principal upon any other obligations hereafter issued which in their issuance have been petitioned for and issued in accordance with the provisions of this act. In complying with the provisions of this act, the levies or rates referred to in this section shall be excluded from consideration by the county board of tax adjustment, the county auditor and the state board of tax commissioners, except to determine that said levies and rates do not exceed the amount actually necessary for said purposes. The levies and rates referred to in this section shall be added to and become a part of the levy and rate finally fixed for each municipal corporation. It shall be the duty of all officers and governmental bodies having to do with the levying of taxes to levy taxes for the purposes referred to in this section in an amount sufficient to meet said purposes, any provisions of this or
any other statute to the contrary notwithstanding.”
(Our emphasis)

The purposes enumerated above do not encompass the purpose for which an appropriation and tax levy are authorized in Burns’ 15-315, supra.

In conclusion, please be advised it is my opinion that while a sufficient petition is required for the construction of a building pursuant to the statute in question, yet no additional petition is necessary to enable the board of county commissioners, subsequent to such construction, to levy a maximum two cents’ tax for the purpose of operating and maintaining such building. It is further my opinion that inasmuch as the board of county commissioners is the tax-levying body under the act, no approval from the county council need be obtained as to the tax levy; however, such board of county commissioners must yet, under the specific provisions of Burns’ 64-1908, supra, obtain the approval of the county tax adjustment board as to its tax levy. Moreover, as previously stated, any appropriations under the act would be necessarily made by the county council.

OFFICIAL OPINION NO. 69

November 25, 1964

Mr. Richard L. Worley, Chairman
State Board of Tax Commissioners
201 State Office Building
Indianapolis, Indiana

Dear Mr. Worley:

You have requested my Official Opinion on the following questions:

“(1) Where a public library, established under the provisions of the Acts of 1881, Ch. 27, as amended, as found in Burns’ (1948 Repl.), Section 28-1433 et seq., is operated in any city or town and the schools of such city or town become a part of a community or united school