insurance business in this state. Thus insurance company A would not have to pay premium tax upon the reinsurance premium received from insurance company B.

Here too, if both companies are foreign, no loss is "actually paid within this state."

Conceivably, if the direct writing were by a domestic company, a loss is paid within the state upon the reinsurance, but as in the consideration of the first question, to permit a deduction of the loss in this situation creates inequalities for which there is little basis between contracts and companies in the same position.

That fact and the fact that no tax upon the reinsurance premium is paid lead me to believe that in providing for deduction of losses, the legislature intended such deduction only on those risks where the premium is taxable.

In answer to your second question, I am therefore of the opinion that losses paid by the reinsuring company upon Indiana risks are not deductible.

OFFICIAL OPINION NO. 82
August 12, 1946.

Hon. George W. Boner, M.D., Superintendent,
Madison State Hospital,
North Madison, Indiana.

Dear Doctor:

Your letter of July 26, 1946, received, requesting an opinion as to whether or not a patient dying in your institution, unclaimed by relatives and who did not die with a contagious disease, should be turned over to the Anatomical Board at Bloomington, Indiana, under Section 63-602 Burns' 1933, same being Section 2, Chapter 31, Acts of 1903, or whether said Act is superseded by Section 17, Chapter 69, Acts of 1927, same being Section 22-1217 Burns' 1933.

You further desire to know, if the 1927 Act prevails, whether the amount paid by the county to the Treasurer of State for burial is credited back to the hospital, so that you do not lose the use of this money out of your appropriation.
Section 63-602 Burns' 1943 Replacement, same being Section 2, Chapter 31, Acts 1903, provides as follows:

"It shall be the duty of every public officer, agent servant, and every officer, agent and servant of any and every county, township, city, town, village or other municipality, and of any and every almshouse, poorhouse, prison, morgue, hospital, asylum, jail, lockup, stationhouse, workhouse or other public institution, and of any and every charitable or benevolent institution supported in whole or in part at public expense, having in his or their possession, charge or control, the dead body of any person not claimed by any relatives or legal representative, as hereinafter provided, and which may be required to be buried at public expense or the expense of any one of such public institutions, excepting only the dead bodies of such persons as shall have died with smallpox, diphtheria or scarlet fever, and they are hereby required to notify said anatomical board or such person as may be designated by the said board or its duly authorized officer or agent whenever any such body or bodies come to his or their possession, charge or control for burial at public expense, or the expense of any one of such institutions. And every such officer, agent and servant shall, upon application by said anatomical board or its agent, without fee or reward, deliver such body to said board and permit said board and its agents and the schools and colleges, physicians and surgeons from time to time designated by them, who may comply with the provisions of this act, to take and remove the same. The notice aforesaid shall be given in writing and forwarded to said anatomical board within twenty-four (24) hours after said officer, agent or servant comes into possession, charge or control of such body for burial, and shall include such material information as said anatomical board may designate. But no such body shall be delivered if within the time specified above and before actual delivery any person claiming to be and satisfying the officer in charge of such body that he is a relative to the deceased, or a duly authorized representative thereof, shall claim the said body
for burial, but it shall be surrendered for interment, or if the deceased person was a traveler who died suddenly, except such traveler belong to that class commonly known as Tramps, the said body shall be buried."

Section 22-1217, Burns' 1933, same being Section 17, Chapter 69, Acts 1927, provides as follows:

"In case of the death of any patient at any of the hospitals for insane whose funeral charges are not otherwise supplied, such funeral charges shall be paid by the superintendent of the hospital, who shall make out an account therefor, in each case, against the county from which such patient was admitted. The account so made out shall be signed by the superintendent and attested by the seal of the hospital, and shall be delivered to the treasurer of state, to be by him collected of such county, as a debt due to such insane hospital."

Section 52-146, being Section 3, Chapter 116, Acts 1935, provides, in part, as follows:

"* * * The county council shall appropriate and the board of commissioners in each county shall advance to the township trustees the money necessary for the relief and burial of the poor in each township, which shall be accounted for and repaid to the county treasury as hereinafter provided."

Please be advised that this matter has been the subject of two previous official opinions of this office, found in 1934 Indiana O. A. G., page 110, and 1940 Indiana O. A. G., page 155, where it is held the 1903 Act is not repealed by the 1927 statute. In said opinion attention is further called to the provisions of Section 3, Chapter 116, Acts of 1935, being the Poor Relief Act, same being Section 52-146, Burns' 1945 Supplement, supra, which makes it the duty of the Township Trustee to bury the poor and indigent of such township, and holds such duty would include persons dying in a state institution but having legal settlement in such township. Enclosed you will please find copies of said official opinions.
When the foregoing official opinions are carefully considered, it is clear it is the duty of the superintendent of such hospital for the insane to deliver such bodies for burial in the following order:

1. To a relative or authorized representative of a relative of the deceased making a claim for such body;

2. To the Anatomical Board any bodies required to be buried at public expense, providing such persons did not die with smallpox, diphtheria or scarlet fever, and provided said Anatomical Board makes application therefor under the provisions of Chapter 63-602 Burns' 1942 Replacement, supra;

3. To the trustees of the township in this state in which such deceased inmate had legal settlement, said bodies to be buried by the township trustee under the provisions of Section 52-146, Burns' 1945 Supplement, supra; and,

4. Any bodies not disposed of under the foregoing classifications to be buried by the superintendent of the institution under the provisions of Section 22-1217 Burns' 1933, supra.

In answer to your second question, it is to be noted that Section 22-1217 Burns' 1933, supra, provides that:

"* * * The account so made out shall be signed by the superintendent and attested by the seal of the hospital, and shall be delivered to the treasurer of state, to be by him collected of such county, as a debt to such insane hospital."

I am, therefore, of the opinion, if it becomes necessary for you to pay funeral charges under the provisions of Section 22-1217 Burns' 1933, supra, the amount so paid by you should be collected by the Treasurer of State from the county and distributed to the fund of the institution from which such burial payment was made, such payment being in the nature of a reimbursement.