"In all cases where lands have been or may hereafter be sold for delinquent taxes, penalty, interest and costs, and a certificate of purchase has been or may be hereafter issued, it is hereby made the duty of such purchaser, his heirs or assigns, to cause a deed to be executed and placed on record in the proper county within four (4) years from the date of said sale: Provided, That on failure of said purchaser, his heirs or assigns so to do, then and in that case, the amount due such purchaser shall cease to be a lien on said lands so purchased as herein provided and as is now provided by law."

The first of the above sections provides very clearly that unless the property is redeemed within two years from the date of sale the auditor of the county, upon the presentation of the certificate of purchase, is required to make a deed.

The second section referred to clearly makes it the duty of the purchaser or owner of the certificate, if the same has been assigned, to cause the deed to be executed and placed on record within four years from the date of the sale. Failing in this, the purchaser or his assigns loses the lien on the lands purchased and by virtue of which the certificate was issued.

Your question is answered accordingly.

INSURANCE DEPARTMENT: Order of Department establishing separate classifications, pertaining to compensation insurance rates, for United States Government Construction Projects, under provisions of Workmen's Compensation Rating Bureau Law, tentatively approved.

March 10, 1941.

Honorable Frank J. Viehmann,
Insurance Commissioner,
The Department of Insurance,
State House,
Indianapolis, Indiana.

Dear Sir:

You request an opinion by your letter of February 28th, which reads as follows:
"There has been filed with this department by the National Bureau of Casualty and Surety Underwriters, 60 John Street, New York City, a proposed modification in Workmen's Compensation rates. What is proposed is fully covered by the attached letter and proposal and we desire, at your early convenience, an opinion as to whether or not under the provisions of the Indiana Insurance Law governing rates, both as to compensation and otherwise, that the proposed modification is within the authority granted by law governing such rates."

The proposal referred to in your letter, together with the brief subsequently furnished supporting the proposal, urges the issuance under the provisions of the Indiana Workmen's Compensation Rating Bureau law of 1935 of an order by the Department of Insurance substantially to the following effect:

"There shall be added to the classifications of risks on which rates are fixed for workmen's compensation insurance a separate classification, to be known as United States Government Defense Construction Projects.

"The Department of Insurance hereby authorizes any insurance company writing workmen's compensation insurance, in connection with any and all United States government defense projects in the State of Indiana, to deviate from the rate fixed by the Indiana Bureau on Workmen's Compensation Rates in such classifications by a reduction of not to exceed twenty per cent (20%) from the regularly promulgated rate, in all cases where the insurance carrier can show a decrease in acquisition cost, administrative and audit expense of not less than fifteen per cent (15%) of the total rate in connection with the underwriting of any risk within said classification."

The question to be determined is whether an order substantially to the foregoing effect would be in accord with the intent and purpose of, or would violate, the provisions of such rating bureau law, more particularly the provisions of Sections 13, 14, 15, 19 and 21 of such act. It will be unnecessary to set out such sections, or discuss them separately or in any particular detail.

It is recognized, as stated by the National Bureau of Casualty and Surety Underwriters, that the theory of the Indiana Rat-
ing Bureau law is that the Department of Insurance shall fix a minimum premium rate for each classification of hazard, and no insurance company shall write such a risk at a rate under that promulgated by the Department; that the statute authorizes a merit rating schedule to be applied to certain classifications, and it may take into consideration the experience of employers in a certain classification for the purpose of increasing or reducing the rates.

At the same time, it is possible to agree with the National Bureau in the contention which it expresses that the provisions of the law "would not prevent the Department of Insurance from ruling that if the maximum expense in a certain classification should be a certain figure, then the rate in such a classification should be a certain figure, but if a carrier could show that in such classification the expense, on account of peculiar circumstances, would be less than a certain figure, then the Department might authorize a decrease in rate proportionate to the decrease in expense"; that there is nothing in the act "to prevent the department from saying that under certain circumstances the rate on a particular classification would be a certain amount, whereas, if a showing could be made that other conditions existed the rate would be a lesser amount."

But we are confronted with a more difficult problem when we attempt to fix the limits of the particular classification for the application of such change of rate to a lower amount.

If the total risk, including all the separate classification rates, of a United States government defense construction project, is of such size as to entail much less proportionate expense than is involved in a small risk (thereby making possible a proportionately less total rate for such defense project), the question naturally arises why a medium sized risk, for instance, should not likewise be granted the benefit of a proportionately less rate, on account of the proportionately less amount of expense involved as compared with the small risk. In other words, why would it not be as logical, or more so, to work out a plan of reduction, applying to all risks, graded according to the size of the risk?

Is there any sound or natural basis for establishing a separate classification and reduction of rate for defense project risks alone, on account of conditions and surrounding circumstances applying to such risks as do not apply to other large risks, or to other risks in general? If there is, then a separate classification and a lower rate for defense project risks would seem to be
warranted; if there is not; then such separate classification, as proposed, would be unjustified.

I am obliged to say that I am unable definitely to answer that question as presently advised. The various defense construction projects that have suddenly come to Indiana are indeed very substantial in size. Their emergency character and the conditions under which they will be carried to completion do undoubtedly differ from those conditions as have normally prevailed, and there may be sound reason or basis for the classification sought by the National Bureau of Casualty and Surety Underwriters.

Under the circumstances, upon the showing as at present presented, I feel disposed tentatively to approve the classification in question until such time as the entire subject-matter can be given further study, subject to change if upon further study any change appears justified.

In the event the department tentatively approves the proposed order, it is my opinion that such order should be definite and final in its effect, insofar as the rate established under such order is concerned. That is, I do not believe that these projects present such circumstances as bring them within the terms of Section 21 of the act as might raise the question of enforcing a rate retrospective in effect.

It should be further stated that any such order must apply alike to both stock and mutual insurance companies. The position of the National Bureau in this particular cannot be sustained.

You are therefore definitely authorized, from a legal standpoint, according to my present opinion, to issue an order substantially as proposed and set out above, until a subsequent ruling or opinion is forthcoming from this office.