Accordingly it is my opinion that the Act of 1903, supra, is authority for the application of the quarantine rules and laws of this State to tuberculosis patients even though the disease of tuberculosis may not at the time of the effective date of the law of 1903 have been recognized as such, that fact having been ascertained and declared at a date subsequent thereto.

STATE BOARD OF TAX COMMISSIONERS: Soldiers’ exemptions.

March 27, 1941.

Mr. Edward D. Koenemann,
Executive Secretary,
State Board of Tax Commissioners,
231 State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion involving a construction of House Bill No. 253, which was approved March 4, 1941, and will become Chapter 95 of the Acts of the General Assembly of 1941.

The particular point involved is as to whether, under Section 1 of the above Act, a person eligible to claim thereunder is also entitled to the exemption provided by Chapter 175 of the Acts of 1927, in the event such person can also qualify under the terms of the last named Act.

Section 1 of Chapter 175 of the Acts of 1927 provides as follows:

"That any honorably discharged soldier, sailor, marine or nurse who shall have served ninety (90) days or more in the military or naval forces of the United States, and who is totally disabled as evidenced by pension certificate or the award of compensation, and the widow of any such soldier, sailor or marine, may have the amount of one thousand dollars ($1,000) deducted from his or her taxable property, providing the amount of taxable property as shown by the tax duplicate, shall not exceed the amount of five thousand dollars ($5,000) and the amount remaining after such deduction shall have been made shall constitute the basis for assess-
ment and taxation; Provided, Further, That the age of sixty-two shall constitute the basis of total disability for any pensioner.”


Section 1 of Chapter 95 of the Acts of 1941 provides as follows:

“That any honorably discharged soldier, sailor, marine or nurse who shall have served in the military or naval forces of the United States between the dates of April 6, 1917, and November 11, 1918, and who was disabled with service-connected disability of ten percent or more, as evidenced by a letter or certificate from the Veterans Administration, or its successor, and the widow of any such soldier, sailor or marine, shall have the amount of one thousand dollars deducted from his or her taxable property: Provided, That this said exemption shall not bar recipient thereof from receiving benefits from any other exemption, or exemptions which he or she may be entitled to under the laws of the State of Indiana.”

Acts of 1941, Chap. 95, p. 236.

While provisos are more properly used as restrictive of what has gone before, the use of the word “provided” as the introduction to further language in an Act, has not always been used by the Legislature of Indiana in its strictly legal sense. The proviso in Chapter 95 of the Acts of 1941 is an example of this. An examination of the context of the proviso reveals very clearly that it was intended not as a restriction of the language preceding but rather as supplying a savings clause with reference to prior legislation. I think the language used makes it very clear that the receiving of a pension under Section 1 of Chapter 95 of the Acts of 1941 is not to be considered as a bar to such recipients claiming other exemptions if otherwise legally entitled thereto. In my opinion, therefore, each of the exemptions, that is, the one provided for in Section 1 of Chapter 95 of the Acts of 1941, and the one provided for by Chapter 175 of the Acts of 1927, are separate and distinct and the receipt of one does not preclude the receipt of the other, if the applicant satisfies the requirements of such other.
Of course, the ordinary mortgage exemption is available to anyone who meets the requirements of the Mortgage Exemption Act.

---

TAX COMMISSIONERS: Two persons owning separate real estate properties, included in one mortgage, are entitled to but one mortgage deduction or exemption.

March 27, 1941.

Mr. Edward D. Koenemann, Secretary,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of March 26th which reads as follows:

"We are in receipt of a letter, which is enclosed, raising the question as to whether a husband and a wife are each entitled to a $1,000.00 mortgage exemption or deduction where one mortgage is given on two separate farms, one owned by the husband and one by the wife.

"The State Board of Tax Commissioners for many years has construed the law to be that only one claim for deduction under the mortgage exemption law can be made upon any one mortgage.

"May we have your official opinion on this question?"

I believe the interpretation as given to the statute in the past by the State Board of Tax Commissioners is correct, that only one claim for deduction can be made upon any one mortgage.

The statute in question, Section 1, Chapter 32, Page 118, Acts 1939, being Section 64-209, Burns 1933, Pocket Supplement, reads as follows:

"Any person being a resident of the state of Indiana, being the owner of real estate liable for taxation within the state of Indiana, and being indebted in any sum secured by mortgage upon any such real estate, may have the amount of such mortgage indebtedness, not exceeding one thousand ($1,000) existing and unpaid