

You inquire also as to whether such "revenue bonds" are eligible for investment of savings banks under section 1 of chapter 27 of the Acts of 1937. Without copying the section in its entirety in this opinion, I desire to say that my examination of it discloses that the only provisions which could possibly authorize such an investment is contained in subdivision indicated as "Second," which reads as follows:

"It shall be lawful for the trustees of any savings bank to invest the money therein only as follows, to wit: \* \* \*

"Second. In bonds, notes, certificates or orders of the State of Indiana, or of any county, township, city, town, political subdivision, instrumentality or agency thereof issued pursuant to authority of law, which is not then in default in the payment of either principal or interest on any of its obligations, and has not so defaulted within five years immediately preceding the purchase of such securities."

As already pointed out, these "revenue bonds" are not the bonds of the State of Indiana or of any county, township, city, town, political subdivision, instrumentality or agency thereof in the sense that they are the *obligations* of such units, which, I think, the above quoted provision requires as a condition of eligibility. In my opinion, therefore, section 1 of chapter 27 of the Acts of 1937 does not authorize savings banks to invest their funds in "revenue bonds" as that term is herein defined.

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**CONSERVATION, DIVISION OF: Abstract of title; purchase of real estate for park purposes in Porter County.**

May 7, 1937.

Hon. Myron L. Rees, Director,  
Division of Lands and Water,  
Conservation Department,  
Indianapolis, Indiana.

Dear Sir:

Reference is made to your letter of May 3, 1937, forwarding abstracts of title numbered 1 to 18 inclusive, covering real estate which your department is proposing to purchase. You also forward the several unofficial opinions of the At-

torney General, under dates of August 1 and August 14, 1936, passing on the merchantability of these titles.

It is noted further that these several abstracts have been continued to from April 24, 1936 to May 5, 1936, inclusive.

Your letter also includes a purported certificate of Herman S. Kempf, Porter County treasurer, under date of April 28, 1937, stating that there are no "delinquents" on certain lots in Waverly Beach subdivision of section 24, Porter county.

Also enclosed with your letter is the affidavit of John E. Kemp, dated October 16, 1936, showing adverse possession of the predecessors and successors of John A. Peterson.

An unexecuted copy is attached of what is called "Cover-Up Affidavit" alleging no further conveyances or encumbrances since the dates of the last continuation of the respective abstracts of title affecting the real estate to be conveyed to the State of Indiana.

An unexecuted copy of the proposed deed of conveyance is attached showing the description of the real estate to be conveyed. There appears to be an error in such description due to an omission which should be corrected. The description of the real estate involved, as set out in the proposed deed of conveyance, as corrected is as follows:

"A strip of land two hundred ten (210) feet in width adjoining and immediately west of and parallel to land conveyed by the Indiana Industrial Land Company to the State of Indiana for park purposes on the 19th day of December, 1927, said deed being recorded in recorder's office of Porter County, Indiana, at page 138, book 94, including lots 4, 5, 6 and 7 of block 3, and lots 4, 5, 6, 7, 8, 9, 10 and 14 of block 6 in Waverly Beach subdivision, Westchester Township, Porter County, Indiana, together with all right, title, and interest in and to the streets, alleys, and public highways located thereon, said real estate being more particularly described as follows:

"A part of the northwest quarter ( $\frac{1}{4}$ ) of section 24, township 37 north, range 6 west of the second principal Meridian described as follows:

"Commencing at the intersection of the east line of the west half of said northwest quarter of said section 24 and the northwesterly boundary line of the lands of the Northern Indiana Public Service Com-

pany, said point of intersection being 318.28 feet north of the southeast corner of the west half of the *northwest quarter* of section 24; thence south sixty-five degrees twenty-six minutes west (S. 65° 26' W.) on and along said northwesterly boundary line of the lands of Northern Indiana Public Service Company to a point of intersection with a line that is parallel to the east line of the west half of the northwest quarter of said section 24 and situated forty feet (40 Ft.) west thereof; thence north along said parallel line to the north line of said section 24; thence west along said north line two hundred ten (210.0) feet; thence south along a line that is parallel with the east line of the west half of the northwest quarter of said section 24, and situated two hundred fifty (250.0) feet west thereof to a point of intersection with the northwesterly boundary line of the lands of the Northern Indiana Public Service Company; thence north sixty-five degrees twenty-six minutes east (N. 65° 26' E.) along said northwesterly boundary line to the place of beginning."

Your request calls for an opinion as to whether or not the several exceptions and conditions pointed out in the former opinions above referred to have been corrected and complied with, thereby showing the merchantability of the several titles as of the date of the respective abstract continuation.

*Abstracts numbered 1 and 2*—These abstracts are continued to April 24, 1936, and are for the same described real estate, being a part of the northwest one-quarter (N. W.  $\frac{1}{4}$ ) of the northwest one-quarter (N. W.  $\frac{1}{4}$ ) of section 24, containing 6.315 acres more or less, shown by the plat thereof. There is no continuation beyond April 24, 1936. The opinion of the Attorney General, under date of August 1, 1936, contains the following exceptions:

1. Unpaid mortgage lien.

A notation appears on the opinion as follows:

"This mortgage only covers property sold to H. C. Wilson and does not include the property to be sold to the State of Indiana."

In my opinion this statement is shown by the abstract to be true and this exception, therefore, may be treated as waived.

## 2. Tax lien for the year 1935.

*Abstracts numbered 3, 4, 5 and 6*—These abstracts cover lots number 4, 5, 6 and 7 in block 3, Waverly Beach subdivision of section 24. There is no continuation of these abstracts beyond April 27, 1936. The former opinion of the Attorney General, under date of August 14, 1936, notes the following exceptions:

Tax liens for 1925, 1935 and 1936.

*Abstracts number 7, 8 and 9*—These abstracts cover lots number 4, 8 and 9 in block 6, Waverly Beach subdivision of section 24. Abstract numbered 7 shows no continuation beyond April 29, 1936, and abstracts numbered 8 and 9 show no continuations beyond May 1, 1936. The former opinion of the Attorney General, under date of August 14, 1936, shows the following exceptions:

Tax liens for 1925, 1935 and 1936.

The request for an affidavit of adverse possession by the predecessors and successors of John A. Peterson, grantee, has been complied with and this exception may be treated as waived.

*Abstracts numbered 10, 11, 12 and 13*—These abstracts cover lots number 5, 6 and 7 in block 6, in Waverly Beach subdivision of section 24. There has been no continuation of these abstracts beyond April 29, 1936. The former opinion of the Attorney General, under date of August 14, 1936, shows the following exceptions:

Tax liens for the years 1925, 1926, 1935 and 1936.

The request for an affidavit of adverse possession by the predecessors and successors of John A. Peterson, grantee, has been complied with and this exception may be treated as waived.

*Abstract numbered 14*—This abstract covers lots number 8, 9 and 10 in block 6, Waverly Beach subdivision of section 24. This abstract has not been continued beyond May 1, 1936. In the former opinion of the Attorney General, under date of August 14, 1936, there appear the following exceptions:

Tax liens for 1925, 1935 and 1936.

The request for an affidavit of adverse possession by the predecessors and successors of John A. Peterson, grantee, has been complied with and this exception is treated as waived.

*Abstract numbered 15*—This abstract covers lot number 14 in block 6, Waverly Beach subdivision of section 24. This abstract has not been continued beyond May 2, 1936. In a former opinion of the Attorney General, under date of August 14, 1936, there appears the following exception:

Tax liens for the years 1925, 1935 and 1936.

The request for an affidavit of adverse possession by the predecessors and successors of John A. Peterson, grantee, has been complied with and this exception may be treated as waived.

*Abstract numbered 16*—This abstract covers lot number 8 in block 2, lots number 1, 2, 3, 4, 5, 6, 7 in block 3, lots number 8 and 16 in block 5, and lots number 1, 2, 3, 4, 11, 12, 13 and 14 in block 6, Waverly Beach subdivision of section 24. This abstract has not been continued beyond May 2, 1936. In a former opinion of the Attorney General, under date of August 14, 1936, appear the following exceptions:

Tax liens for the years 1925, 1935 and 1936.

The request for an affidavit of adverse possession by the predecessors and successors of John A. Peterson, grantee, has been complied with and this exception may be treated as waived.

*Abstracts numbered 17 and 18*—The description and the caption covers the southwest quarter (S. W.  $\frac{1}{4}$ ) of the northwest quarter (N. W.  $\frac{1}{4}$ ) of section 24, except six tenths (.6) feet off the north side thereof. These abstracts have not been continued beyond May 5, 1936. In a former opinion of the Attorney General, under date of August 14, 1936, appear the following exceptions:

Tax liens for 1935, 1936.

The request for an affidavit of adverse possession by the predecessors and successors of John A. Peterson, grantee, has been complied with and this exception may be treated as waived.

Recommendations and exceptions:

1. An accurate composite plat of the real estate to be conveyed should be furnished with the abstracts of title.
2. There should be a proper showing of payment of all accrued taxes, including May installment, 1937, November, 1937 installment, now a lien, also the taxes accrued on March 1, 1937, payable in 1938, are now a lien.
3. There should be a continuation of these abstracts to the present date, with the proper certificate of the abstractor.

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**ACCOUNTS, STATE BOARD OF: Motor Vehicle Fund—  
division of counties' portion of fund in counties contain-  
ing first, second or third class cities.**

May 7, 1937.

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

Dear Mr. Cosgrove:

I have before me your letter calling attention to subsection (c) of section 3 of chapter 135 of the Acts of 1937, which reads as follows:

“(c) Except as to counties in which cities of the first and second class are located, the funds allocated to the respective counties from the motor vehicle highway account, or such portion thereof as may then be held in the motor vehicle highway account shall be distributed and paid to the respective counties by the auditor of state on the first day of April in each year and quarterly thereafter. As to counties in which are located cities of the first class the funds which would otherwise be annually allocated to such county or counties, respectively, from the motor vehicle highway account shall be divided so that the county shall receive two-fifths of the allotment and the city of the first class shall receive three-fifths of the allotment. As to counties in which are located cities of the second class, *and/or one city of the second class and one city of the third class* the funds which would otherwise be annually allocated to such counties, respectively,