tion of the city, except that in no case shall he receive less than $100. ** ** *

In this case no language is used to fix the maximum amount that he may receive. A minimum amount of $100 is fixed but again we find that the salary is two cents per capita, with a minimum of $100.

The salary, as fixed on the per capita basis, both for the county and the city health officer, pertain to part-time officials and may be paid only out of funds appropriated for that particular purpose.

TAX COMMISSION, STATE: Taxation—Right of Cemetery Association to claim property taken under foreclosure as exempt.

January 14, 1938.

Hon. Philip Zoercher,
Chairman, State Board of Tax Commissioners,
Statehouse,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of January 12, in which you submit the following question.

"We would like to have your opinion as to whether section 2 of chapter 262, page 1238 of the 1937 Statute, would permit cemeteries or any other tax exempt institution to own taxable property which they acquired through foreclosure proceedings, and would the same become tax exempt up to March 1, 1944?"

In reply to this question, your attention is directed to the eighth clause of chapter 262, Acts of Indiana General Assembly of 1937, which reads as follows:

"Eighth. The real and personal property of any cemetery incorporated under the laws of this state upon such a basis that the corporation cannot derive any pecuniary benefit or profit therefrom; and in all cases where a cemetery association shall provide for setting aside a certain definite portion of the proceeds derived from the sale of lots as the perpetual care fund, the income of which shall be used as a per-
petual care and maintenance fund, such fund and the
income therefrom shall be exempt; also any fund,
duly incorporated where such property is not held by the
corporation for a pecuniary profit.

Your attention is further directed to section 2 of the Act
above quoted, which reads as follows:

"Sec. 2. In case any institution, organization, corpo-
ration or body designated in this Act shall have
heretofore acquired, or shall hereafter acquire, any
real estate or improvements thereon in foreclosure
proceedings, under present mortgage obligations or
in settlement and/or payment of present obligations
and/or indebtedness due the same, such real estate or
improvements shall be exempt from taxation, if owned
by such corporation, until March 1, 1944, but from
and after March 1, 1944, shall be subject to taxation,
unless otherwise exempted from taxation under sec-
tion 1 of this Act."

Sec. 2, Chap. 262, Acts of Ind. Gen. Assembly of
1937, p. 1238.

It is my opinion that this provision would operate to ex-
empt incorporated cemetery associations on real estate taken
under foreclosure of mortgages, provided that the mortgages
and the real estate so taken by virtue thereof are within the
general class of property from which the corporation derives
no pecuniary benefit or profit.