

April 27, 1955

SUBJECT: INSURANCE

TO ALL AUTHORIZED LIFE INSURANCE COMPANIES

Gentlemen:

This Department has been asked whether, in view of the fact that a substantial part of life insurance expenses, other than commissions and taxes, represent per policy expense, it is permissible under the New York Insurance Law for a life insurance company to adopt premium rates which within a policy plan and issue age vary by amount of insurance. The inquirer stated that the arrangement of a premium differential, if adopted, would be extended to the company's entire line of life and endowment policies rather than to a limited number of such forms; that the premium scales for all such policies within a policy plan and issue age would be based on the amounts of insurance, viz: (a) under \$ 5,000, (b) \$ 5,000 or more and under \$ 12,500, and (c) \$ 12,500 or more; and that present special forms with minimum amount requirements would be discontinued.

In order to acquaint you with the Department's views concerning this inquiry, I am quoting below from an opinion dated April 20, 1955 written by the undersigned in response thereto:

"Section 209 of the New York Insurance Law prohibits any authorized life insurance company from making or permitting any unfair discrimination between individuals of the same class and of equal expectation of life, in the amount or payment of premiums, or rates charged by it for policies of life insurance, or in the dividends, or other benefits payable thereon, or in any of the terms and conditions thereof.

"Obviously, the insurer in its underwriting and determination of premium rates must group or classify policies so that broad insurance averages may be applied. Provided the classifications are reasonable, the manner of grouping and the degree of refinement in such grouping or classification rests with the management of the insurer.

"The statute does not require that classes shall be limited to groups based on differences in mortality only. On the contrary, the term 'class' is to be construed broadly to take account of all elements involving common characteristics of the class. However, the statute imposes a responsibility on the insurer to justify any system of groupings or rate classifications as well as the results flowing therefrom as being reasonable', equitable and non-discriminatory. This means, in our opinion, that where premium rates vary according to the amount of insurance, consideration must be given not only to the average size of the policy but to any greater or lesser costs attributable to other factors.

"Therefore, subject to the insurer's responsibility referred to above, it is our opinion that it is permissible under the statute for your company to adopt premium rates which, within a policy plan and issue age, vary by amount of insurance. As to nonforfeiture values and dividends, they should conform with principles of equity."

Very truly yours,

(Signed) RAYMOND HARRIS

Deputy Superintendent and Counsel