

May 15, 1958

SUBJECT: INSURANCE

TO ALL INSURERS AUTHORIZED TO TRANSACT LIFE INSURANCE AND ACCIDENT AND HEALTH INSURANCE IN THIS STATE.

Chief Counsel of the Department has rendered an opinion that it is a violation of Section 113 of the Insurance Law for an insurer or its field representative to pay a commission to an insurance agent who does not represent the insurer for his services in writing a policy of life insurance or a policy of accident and health insurance where an assignment is used as a device to evade the prohibition in that section, and that an insurer or its representatives, would not comply with Section 113 if, through an assignment, the commission were to be paid to an insurance agent who did not render any services in obtaining the contract.

You are, therefore, advised that (1) an assignment of commissions to an agent who is not licensed to represent the insurer writing the policy constitutes a violation of Section 113 unless supported by a lawful consideration; and (2) an insurer and its representatives are obligated, upon receipt of an assignment of commissions by its agent, to make sure that, before recognizing such assignment, it is a bona-fide assignment and not made for the purpose of evading the provisions of Sections 113 or 209.

For the purpose of carrying out your responsibility under the law, you are requested to maintain at your home offices a record of all assignments of commissions, which should show the consideration for the assignment. Such assignments of commissions by agents who are not licensees of your company should be carefully scrutinized. You are also requested to notify your agency force that the company will not recognize assignments of commissions by their agents which are not based upon a valid consideration.

Yours very truly,

[SIGNATURE]

Superintendent of Insurance