

July 19, 1962

SUBJECT: INSURANCE

TO ALL AUTHORIZED LIFE INSURERS:

Statutory Requirements for Precluding Individual Selection and for the Determination of Classes in the Issuance of Group Life Insurance

Gentlemen:

In his opinion of July 20, 1959 Department's Chief Counsel held that a "non-contributory group life policy issued to a single employer engaged in a small business with from 10 to 25 employees with a certificate of \$ 100,000 on one employee and individual certificates of \$ 1,000 on each of the other employees" would violate Section 204 of the Insurance Law. Some instances of failure to comply with the requirements of this section currently disclosed in Department examinations and by inquiries and complaints received by the Department make it desirable that all licensed life insurers be formally reminded of such requirements.

Section 204(1)(a) provides that coverage for persons insured under a group life insurance policy issued to an employer or trustees of a fund established by an employer shall be "for amounts of insurance on each person insured based upon some plan which will preclude individual selection" Similar provisions are contained in paragraphs (b), (d), (e) and (h) of subsection 1 of Section 204. These provisions were incorporated in the statutory definition of group life insurance to achieve sound underwriting practice--as essential in group insurance as in the case of individual risks.

Section 204(1)(a) also provides that subject to the exception specified therein, a group life insurance policy issued to an employer or to the trustees of a fund established by an employer must cover all the employees or "all of any class or classes thereof determined by conditions pertaining to the employment ***". Similar underwriting safeguards are contained in paragraphs (b), (d), (e) and (h) of subsection 1 of Section 204. The purpose of this requirement is to provide a broad spread of risks within a reasonably determined classification in order to obviate adverse selection and misuse of the group mechanism for the benefit of one or a limited number of persons.

To meet statutory requirements, the maximum coverage for an individual employee, or limited number of employees, under a group contract must be reasonably related both to the total amount of insurance on the group and to the average amount of insurance on each member of the group. Thus, any plan underlying a group contract which does not grant uniform amounts of coverage to each member of the group must utilize a consistent pattern of grading the amounts of insurance for individual group members in accordance with any of such factors as earnings, office or position, length of service, or a combination thereof if the resulting pattern of classification is reasonable and precludes individual selection.

Issuance of group life insurance to one or a few top executives in disproportionately larger amounts than available to other employees of the class is completely incompatible with the basic concept of group insurance incorporated in Section 204 of the Insurance Law. Requiring evidence of insurability, including medical examination, of such executives does not constitute compliance with the statutory requirements discussed above since it still permits individual selection and does not satisfy the requirement that classes of coverage be determined by conditions pertaining to the employment.

Companies which in the past may have issued group life insurance policies under which the amount of coverage for a few favored employees is disproportionately large in relation to the remaining employees, should take immediate steps to preclude re-currence of such practice.

Each licensed life insurer should advise this office of its receipt of this letter.

Very truly yours,

[SIGNATURE]

Superintendent of Insurance