

August 11, 1964

SUBJECT: INSURANCE

Circular Letter 64-8

TO ALL INSURERS AUTHORIZED TO TRANSACT LIFE INSURANCE IN THIS STATE:

Re: Life Insurance Professional Premium Financing Plans

Gentlemen:

The Insurance Department has had under review the propriety of premium finance plans which are part of a life insurance program made available to physicians, dentists, osteopaths and veterinarians during their period of internship, residency or during the first three years of private practice, or, in some instances, while in the senior year in professional schools.

These programs are designed to create an immediate life insurance estate, commensurate with the applicant's anticipated economic status when engaged in the practice of his profession, and generally involve issuance of life insurance policies in amounts up to \$ 50,000, with a pre-arranged plan for financing of premiums for periods ranging from three to six years during which only the payment of interest is required. Repayment of the loan principal is postponed until the end of the period of financing, when the entire loan becomes due. It is anticipated that the financial potential of the insured's profession is such that he will be in a position at the end of such financing period to repay the entire principal amount of the loan.

The financing usually is (1) extended by banks with which advance arrangements have been made by the life insurance company issuing the policy, and (2) evidenced by notes executed by the insured, which the agent, the general agent or branch manager, or the company endorse as guarantors. The policies are assigned to the bank which, in addition, requires the agent to deposit in escrow an amount from five to ten per cent of the initial premium. In the event of default on a loan, the bank has recourse to the escrow fund, the cash value of the policy, and the guaranty.

The Department's Office of General Counsel has concluded that certain features of the financing plan constitute inducements violative of Section 209(1) of the Insurance Law which states in part:

No life insurance company doing business in this state...shall give...any valuable consideration or inducement whatever not specified in such policy or contract;...

These features are:

1. The insured at the time the policy is issued is concededly in no financial position (and will not be for some time thereafter) to pay premiums due on the policy;
2. Principal payments on the premium loans are postponed for periods of time ranging from three to five years;
3. The obligation of the insured is limited to the payment of interest each year;

4. The loans usually are made by banks with which advance arrangements have been made by the life insurance company issuing the policy; and

5. Because of the credit risk involved in such financing, banks only make the loans on the guarantee of the obligation by one or more of the following: the agent, general agent, branch manager, or life insurance company.

It should be noted that Section 209(1) does not make every inducement ipso facto a violation, but only those inducements which are "not specified in such policy or contract". Thus, the premium finance plan, or sufficient details thereof, if specified in or made part of the policy or contract of insurance, fulfill the requirement of Section 209(1) insofar as "inducements" are concerned. It is recognized, however, that, even by detailing the provisions of a premium finance plan in the policy or contract of insurance, there may be a discrimination between individuals of the same class and of equal expectation of life in the terms and conditions of the policy or contract of insurance. Whether this constitutes "unfair" discrimination is a question not reached at this time. Any life insurer desiring to incorporate into its policy a special premium financing arrangement should be prepared to demonstrate, in addition, that the proposal does not constitute a prohibited "unfair" discrimination.

You are requested to acknowledge receipt of this letter.

Very truly yours,

[SIGNATURE]

Henry Root Stern, Jr.

Superintendent of Insurance