

July 23, 1959

SUBJECT: INSURANCE

TO ALL AUTHORIZED LIFE INSURANCE COMPANIES: AND FRATERNAL BENEFIT SOCIETIES:

Life Insurance Policies issued pursuant to terms of Insurability Options

Notice is hereby given that it is the Department's construction of Section 155 of the Insurance Law that all forms which grant the insured an option or options to purchase additional insurance without evidence of insurability shall restrict the operation of the incontestable and suicide clauses in the policy so that the respective periods in such clauses shall run only from the date of issue of the original policy and, in the case of the incontestable clause, the period runs from the date of reinstatement, if any.

This ruling is based upon an opinion of the Department's Chief Counsel which, in substance, is as follows:

An agreement granting an insured the option to purchase additional insurance is merely an agreement to insure the insurability of the policyholder which as such adds to the coverage of the basic policy and is, therefore, subject to the incontestable clause and the suicide clause therein. The periods in the aforementioned clauses therefore run only from the date of issue of the policy and, in the case of the incontestable clause, the period runs from the date of reinstatement, if any, and does not run anew at such future date (the insurance is increased through the exercise of an option).

It is the Department's opinion that all forms containing a provision relating to granting the insured the right to purchase additional insurance shall be revised to comply with the above ruling and resubmitted for approval. Such revised form shall be submitted for approval on or before October 1, 1959, unless 20 days prior thereto the company shall file a notice with the Department that it desires a hearing pursuant to Section 141 with reference to the withdrawal of approval of the option form.

Very truly yours,

[SIGNATURE]

Deputy Superintendent