

December 29, 1975

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 22(1975)

TO ALL INSURERS LICENSED TO WRITE INDIVIDUAL ANNUITY CONTRACTS IN NEW YORK STATE

SUBJECT: POLICY LOAN INTEREST RATES FOR INDIVIDUAL ANNUITY CONTRACTS

The question of the permissible policy loan interest rate to be charged by an insurer offering individual annuity contracts has been considered by the Insurance Department. The question arises because some insurers have submitted annuity contracts for approval by the Insurance Department which include policy loan interest rates of 8% compounded annually.

Section 159 of the New York Insurance Law, which sets forth the required standard provisions for annuity contracts, not only is silent on the permissible loan interest rate that may be charged but makes no mention of the need for any loan privilege in the annuity contract.

The Legislature, thus, rejected the requirement that the loan privilege be included as a standard provision in all annuity contracts. Those insurers that do include the loan provision are granting owners of annuity contracts a privilege which makes their contracts more favorable than required by law. It is reasonable to assume, in the absence of any specific legislative pronouncement, that a company which includes a loan provision in an annuity contract can specify a maximum loan interest rate not otherwise prohibited by law. Insurers should be encouraged to liberalize their annuity contracts by including the loan privilege, but the incentive to do so would be eliminated if policy loans earn substantially less interest than could be earned by the insurer in other types of investments.

In view of the foregoing, it is the Insurance Department's conclusion that individual annuity contracts can be approved with policy loan privileges which provide a loan interest rate not to exceed the maximum rate set forth in the New York General Obligations Law, as prescribed by Section 14-a of the New York Banking Law.

[SIGNATURE]

THOMAS A. HARNETT

Superintendent of Insurance