

MAINE STATE LEGISLATURE

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January 29, 1952

yes

To Guy R. Whitten, Deputy Insurance Commissioner
Re: Direct Deductible Fire Insurance Coverage

You have requested this office to advise you:

1) If direct deductible fire insurance coverage may be legally written under the provisions of the Maine standard statutory fire insurance policy; and

2) If the authority extended to the Insurance Commissioner under subsection III of Section 96 is sufficiently broad to modify that insuring clause of the Maine standard policy to provide the writing of direct deductible fire insurance coverage by appending to the policy such a slip or rider as provided in the section above cited.

The Maine standard statutory fire insurance policy provides that the purchaser of the policy insures his property ". . . to the extent of the actual cash value of the property at the time of loss . . . against all DIRECT LOSS BY FIRE, LIGHTNING, ETC."

On its face, then, this standard policy purports to be a contract of indemnity indemnifying the insurer for all direct loss sustained by reason of injury caused by those perils against which he insures.

As opposed to such a contract, a direct deductible policy would provide that the purchaser of such a policy would in effect become a self-insurer, taking the risk for a certain percentage of the possible loss. The purchaser would bear the first loss up to a stipulated amount or percentage of value, and the insurer would bear the balance up to the amount of the policy limit.

In the one contract the insured would receive a sum of money equivalent to the extent of the actual cash value of the property at the time of loss. Under the direct deductible policy the insured may recover nothing under his policy, if the damage is less than the deducted amount.

We do not here consider the advantages or disadvantages of the direct deductible insurance policy. Suffice it to say that the direct deductible insurance policy appears to be such a complete deviation from the provisions of the Maine standard statutory fire insurance policy that it is our opinion that it should not be permitted as a modification of the Maine standard policy. This office feels that such a change must be effected through legislative action.

Alexander A. LaFleur
Attorney General

jgf/c