

MAINE STATE LEGISLATURE

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Insurance

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Insurance

Legal Opinion--Open End Fire Insurance Policies

Facts: Many insurance companies are requesting that they be permitted to write what is known as an open-end fire insurance policy on homes where they are writing other open-end policies such as Comprehensive General Liability on a package basis, which is not uncommon to Homeowners Policies. An open-end policy is one which has a particular starting date and time but no ending date, that is, the policy period has no specific duration.

Question: "Is it legal to write an open-end fire insurance policy on homes in the State of Maine either without, or in conjunction with, other policies."

The standard fire insurance policy to be issued in the state of Maine is prescribed entirely by statute. The statute to which I refer is Section 105, Chapter 60, Revised Statutes of Maine 1954, as amended by the Public Laws of 1961. This form of policy indicates on its face that it must have a commencing date and an ending date, that is a definite prescribed duration or policy period. It does seem clear that the Legislature intended matters of form not going to the heart of the contract might well be altered for operating efficiency, but this alteration would be for the purpose of conveniently including for duplication, office records or for daily office reports only. Certainly a company could not construe that an open-end policy was absolutely necessary as a minor alteration for conveniently making up or duplicating office records.

This statute must be held to be paramount in any case and where it requires the policy to contain a date which at noon time the policy commences and another date which at noon time the policy ceases, I can only conclude that such must be done. An open-end policy does not contain both dates.

In the past, opinions have been raised that sub-paragraph V of Section 104, Revised Statutes, Chapter 60, would permit a company to modify the standard form. However, I think it is rather obvious from reading sub-paragraph V that it applies to slips, riders, provisions and endorsements adding to and modifying certain provisions contained in the standard form, which standard form throughout indicates those paragraphs to which these riders, slips, provisions and endorsements may be added to modify the policy, such as, "other insurance paragraph" or the paragraph relating to "conditions to suspend or restrict insurance" since these would differ substantially from person to person. I do not feel that in any way it would be permitted to completely change this standard form from a policy which requires a definite policy period to an open-end policy. It is therefore impossible to determine that the statutory policy and an open-end policy are the same.

In conclusion may I offer my opinion that the Insurance Department itself probably would have no objection to the various fire and casualty companies applying to the Legislature for approval of the open-end fire insurance policy proposition since there appears to be nothing inherently wrong in it.

Respectfully submitted;

/s/ Albert E. Guy

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