

MAINE STATE LEGISLATURE

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December 13, 1967

Frank M. Hogarty, Jr., Commissioner

Insurance

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Deductible Provision under Fire Insurance or "Home Owner's Insurance" policies.

QUESTION:

Does the Insurance Commissioner have the authority to require that all fire insurance and "home owners" insurance policies issued in the State of Maine contain a deductible provision?

OPINION:

The Maine standard policy contained in 24 M.R.S.A. § 1402 provides in part as follows:

" . . . in Consideration of the Provisions and Stipulations herein or added hereto and of the premium above specified, this Company . . . does insure . . . and legal representatives, to the extent of the actual cash value of the property at the time of loss "

Title 24 M.R.S.A. § 1401 provides in part that:

"No fire insurance company shall issue fire insurance policies on property in this State, other than those of the standard form set forth in § 1402, except as follows: . . . "

"The commissioner may authorize the issuance of deductible policies, i.e., policies under which the insured agrees to bear the loss up to an amount specified in the policy, and under which he contracts for indemnity against a loss in excess of that amount. . . "

The Maine standard fire policy, as set forth in Section 1402, provides insurance to the extent of the full cash value of the property involved at the time of loss. However, Section 1401, Sub-paragraph 3, provides that the Insurance Commissioner may

authorize the issuance of deductible policies.

When the two aforementioned sections are read together, they must be construed only to mean that all fire insurance policies issued in the State of Maine shall provide for full coverage unless the Insurance Commissioner elects to allow a deductible in a given case. These sections cannot be interpreted to provide that the Insurance Commissioner has the authority to require a mandatory deductible provision. Therefore, the Insurance Commissioner may not require a deductible provision: (1) in fire insurance policies or, (2) in "home owners" insurance policies where the Maine standard policy is used as the basic insuring vehicle insofar as the "home owners" insurance policy pertains to fire insurance.

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HNS/ch