



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD
February 14, 1974

FILE NO. S-702

INSURANCE:

Absent specific statutory authorization, group property insurance cannot be issued in Illinois

Honorable Roscoe D. Cunningham
State Representative
State Office Building
Springfield, Illinois 62706

Dear Mr. Cunningham:

This is to acknowledge receipt of your letter in which you state as follows:

As Vice Chairman of the Insurance Committee in the House of Representatives, I am concerned as to whether the Illinois Insurance Code must specifically authorize the writing of group insurance or whether the writing of such insurance is permissible in the absence of such specific authorization although subject to whatever other regulations in the Insurance Code which may apply. I have

Honorable Roscoe D. Cunningham -2

always thought that the writing of such insurance was permitted unless prohibited by the Code."

From other communications, I understand your question to be specifically directed to whether it is permissible to offer lines of group property insurance without a special enabling statute.

It is well settled that the insurance business is affected with the public interest and is subject to control by the state in the exercise of its police power. (Memorial Garden Association, Inc. v. Smith, 16 Ill. 2d 116.) To exercise control over the insurance industry, the General Assembly enacted the Illinois Insurance Code. (Ill. Rev. Stat. 1971, ch. 73, pars. 613 et seq.) The Illinois Insurance Code specifically authorizes insurers to write five types of group policies: Life (Ill. Rev. Stat. 1971, ch. 73, par. 842); Health and Accident (Ill. Rev. Stat. 1971, ch. 73, par. 979); Vehicle (Ill. Rev. Stat. 1971, ch. 73, par. 1000b); Credit Life and Credit Health and Accident (Ill. Rev. Stat. 1971, ch. 73, par. 767.5.) As a general principle of statutory construction

Honorable Roscoe D. Cunningham -4

§15, page 479.) It would, therefore, appear that the specific authorization of a number of diverse types of insurance on a group basis implies the exclusion of an unnamed type of insurance such as group property insurance.

This position is supported by the fact that the Department of Insurance has had a long-standing policy of not authorizing insurers to issue group policies absent specific statutory authorization. In opinion UP-1144, issued March 19, 1964, directed specifically to the policy of the Department of Insurance of not authorizing group property insurance, my predecessor stated:

"Neither the Illinois Insurance Code nor any other statute authorizes group policies for the insurance of property. Under existing statutory conditions, it is not possible to insure against the risks of loss, damage and destruction to property by means of a group policy."

In the years since opinion UP-1144 was issued, the General Assembly has frequently amended the Illinois Insurance Code. Included in these amendments was Public Act 77-1576 which specifically authorizes vehicle insurance. Ill. Rev. Stat.

Honorable Roscoe D. Cunningham -5

1971, ch. 73, par. 1000b.

Contemporaneous and practical construction over the years by the legislature and those concerned with the administration of law is entitled to great weight.

(Droste v. Werner, 34 Ill. 2d 495, app. dis., cert. den., 385 U.S. 456.) This doctrine of contemporaneous construction becomes even more persuasive when it has been of long standing and the legislature, presumably aware of the interpretation, has amended other sections of the Act during the period involved, but left untouched sections subject to the seemingly approved administrative interpretation. Freeman Coal Mining Corp. v. Ruff, 85 Ill. App. 2d 145.

Due to the implied exclusion of unnamed types of group insurance and the long-standing administrative interpretation that requires specific statutory authorization to write group insurance, it is my opinion that group property insurance cannot be issued absent specific statutory authorization.

Very truly yours,

A T T O R N E Y G E N E R A L