Chapter 63. Regulation 17—Reinstatement of Policies

§6301. Policy Directive Number Four to Non-Profit Funeral Associations

A. All insurance policies which were written before December 31, 1956 are subject to the following paragraph contained in R.S. 22:336:

"A policyholder in good health and not over 70 years of age who has permitted his policy to lapse may rejoin upon terms fixed in the by-laws of the association and signing a statement in regard to his health as in the original application. Policyholders whose policies have lapsed and who are over 70 and under 90 years of age may reinstate only in the old age group."

B. Therefore, if a policyholder who was issued an assessment plan policy allows his policy to lapse, he may reinstate it upon the terms fixed in the by-laws of the association, or according to the provisions of his policy, but only if he or she is under 70 years of age when reinstatement is applied for. If a policyholder is over 70 years of age, he may be reinstated only in the old age group.

C. All policies issued on the industrial plan, after December 31, 1956, are subject to the provisions of R.S. 22:259(6), which reads as follows:

"A provision that the policy may be reinstated at any time within one year from the due date of the premium in default unless the cash surrender value has been paid, or the extension period expired, upon the production of evidence of insurability including good health satisfactory to the insurer and the payment of all overdue premiums and any unpaid loans or advances made by the insurer against the policy with interest at a rate not exceeding six percent payable annually."

D. Thus, if the policy in question is one issued after December 31, 1956, it may be reinstated upon the terms of the above Paragraph (6), or the terms of the insurance contract, if such contract contains more favorable language.

E. Any reinstatement of an insurance contract which is not accomplished according to the portions of the Insurance Code quoted above, is a violation of law.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, December 3, 1958.

Chapter 65. Regulation 18—Non-Profit Funeral Service Associations, Reinstatement of Lapsed Policies

§6501. Policy Directive Number Five to Non-Profit Funeral Service Associations

A. It has come to the attention of the Insurance Department that some non-profit funeral service associations are now reinstating policies which have been lapsed for many years. This is contrary to the insurance laws.

B. A survey of the non-profit association's charters and by-laws, if by-laws are on file with the Secretary of State, reveals that the most favorable reinstatement provisions allow reinstatement of lapsed policies within 90 days from date of lapse, provided all past due assessments are paid. In most cases the by-laws are silent with regard to reinstatement.

C. Lapsed policies may be reinstated only in accordance with the by-laws of the association. A policyholder whose policy has lapsed and who is over the age of 70 and under the age of 90 may reinstate only in the old age group. In the absence of the charter or by-laws pertaining to reinstatement, no lapsed policies may be reinstated.

D. All changes in the charter or by-laws of non-profit funeral service associations must be approved by the Commissioner of Insurance. No amendments to by-laws concerning reinstatement of lapsed policies will be approved, which allows for reinstatement after 90 days from date of lapse.

E. All non-profit funeral service associations must cease reinstating lapsed policies which are issued on the assessment plan except in accordance with their present by-laws. This directive is effective May 1, 1960.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.
HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, April 28, 1960.

Chapter 67. Regulation 19—Inclusion of Burial Plots, Vaults, etc., as Part of Funeral Service-Change in Reserve Basis

§6701. Policy Directive Number Six to All Insurance Issuing Funeral Policies

A. The provisions of House Bill 322 will become effective on or about August 1, 1962. This bill amends Section 253 of the Insurance Code by adding Subsection A thereto:

ALL POLICIES, ENDORSEMENTS OR RIDERS NOW IN YOUR POSSESSION WHICH INCLUDE PAYMENT OR FURNISHING OF BURIAL LOT, TOMBSTONE, MARKER, PLOT, TOMB, VAULT OR COPING ARE NOW DISAPPROVED. SUCH CONTRACTS MUST BE RESUBMITTED TO THE INSURANCE DEPARTMENT FOR APPROVAL IN ACCORDANCE WITH THIS DIRECTIVE.

B. For your information, the new Section 253 of the Insurance Code will read as follows:

Section 253—Burial Described: Cost Provision
Every funeral policy shall state, in dollars, the value of the funeral and shall specify therein those things which shall constitute the funeral to be furnished, and shall provide for a stated cash payment which shall not be less than seventy-five per cent of the value of the funeral as stated in the policy in lieu of such funeral in the event it is impossible or impractical to furnish such services as set forth in the policy.

A. Every funeral policy which includes among its benefits the payment for a burial lot, tombstone, marker, plot, tomb, vault or coping shall state in dollars the value of the said
benefits and shall specify herein those things which shall constitute the said benefits to be furnished. Such policy shall be valued without the reduction of reserves provided for in R.S. 22:162. In the event such services are not furnished or paid for by the insurer then the amount of insurance shall be paid in cash to the beneficiary by the insurer, at the option of the beneficiary.

C. The effect of this legislation is to require that any funeral policy which includes any burial plot, tombstone, marker, plot, tomb, vault or coping must be reserved on a 100 percent basis, and if the official funeral director is not used, 100 percent of the benefits promised by the insurance contract must be paid in cash to the beneficiary.

D. Therefore, all policies, endorsements or riders now in your possession which include the above enumerated benefits, and which may have been heretofore approved, are now disapproved. No funeral policy which includes any of the above benefits shall be issued until such policy has been submitted to and approved by the Insurance Department.

E. No endorsement, rider or attachment of any kind which includes any of the above described benefits shall be used in this state until after it and the policy to which it will be attached have been submitted together to and approved by the Insurance Department.

F. Any company wishing to issue such policies may write or come to the Insurance Department concerning any provision of such policy which may be in doubt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.
HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, July 9, 1962.


§6901. Policy Directive Number Seven to All Companies Authorized to Write Life Insurance in the State of Louisiana

A. Authority and Purpose

1. This directive is issued under the authority granted to the Insurance Commissioner by the Louisiana Insurance Code for the purpose of protecting the Louisiana insurance-buying public and the insurers from the effect of sales of certain types of insurance policies which experience has shown, in this and other states, has not been in the public interest.

2. Effective November 12, 1962, no policy of the type described in §6901.A.3 shall be approved for use in the state of Louisiana. Any such policy of the type described in §6901.A.3 which has heretofore been approved for use in Louisiana shall not be used after March 1, 1963, the approval of such form being specifically revoked on such date.

3. A policy form which guarantees a certain amount each year, either level or variable, where such amount is predicated upon a specified number of shares of stock of the company. Such forms usually provide that a certain amount is payable to the owner of the policy, usually upon payment of the second annual premium, or it will provide that the owner of the policy receive the same amount of money as the dividend which is declared upon a given number of shares of stock of the company during the year.

b. A policy which usually has some identifying language indicating that it will be made available to a limited number of persons or sold in specifically pre-determined numbers of units of fixed dollar amounts. Also, any policy form which contains provisions representing that the policyholder will be eligible to participate, with special advantage not available to persons holding other types of participating or nonparticipating policies issued by the same company, in any future distribution of general company profits. Such forms are often so drafted that it appears to a prospective policyholder that he is purchasing a preferential share of future profits and earnings of the company, rather than purchasing life insurance policies which may be subject to refunds of premiums.

i. Every participating contract shall stipulate that dividends, if any, shall be ascertained and apportioned by the Board of Directors, and shall not specify the sources of such dividends.

c. Any policy for which an extra premium is paid which is not used to purchase insurance but where such extra premium is set aside in a fund which is to be invested by the insurer for the benefit of the policyholders holding this type of contract. Dividends or guaranteed allocations or coupons used in connection with the policy are used to purchase stock in business corporations or other insurance companies for the exclusive benefit of the purchasers of the policies. Such policies contain language wherein it is indicated that dividends and capital gains from stock purchased with the excess portion of the premium paid for the policy are to be accumulated and distributed exclusively to those policyholders who continue to be such to the end of a specified period of time. Those persons who, for one reason or another, terminate or lapse their policies, or if the face amount of the policy is paid by reason of death of the insured, do not participate in the final distribution of the funds, although they may have contributed substantially to its formation.

4. Policies of the type described in §6901.A.3 generally purport to provide a means to an end result that is not authorized by statute, and in many cases, an end result that is without reasonable expectation of achievement. Such policies usually represent as an inducement to the purchase of insurance that the person who buys such a policy is procuring a preferential interest in the future profits and earnings of the insurance company. Inasmuch as distribution of earnings, profits or surplus must be fair and equitable to all policyholders, and must not discriminate unfairly