

July 25, 1983

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 14 (1983)

TO: ALL AUTHORIZED INSURERS WRITING LIFE OR ACCIDENT AND HEALTH INSURANCE IN NEW YORK STATE

RE: CONTRACT APPROVAL PROCEDURES TO COMPLY WITH ARIZONA VS. NORRIS DECISION

The purpose of this Circular Letter is to advise insurers of this Department's accelerated contract approval procedure which is being implemented to permit insurers to assist employers in complying with the United States Supreme Court decision in Arizona vs. Norris.

As you know, that decision held that Title VII of the Civil Rights Act of 1964 prohibits an employer from offering its employees a retirement benefit option where a woman is paid a lower monthly retirement benefit than a man who has made the same contributions. The effective date of the Court's decision is August 1, 1983.

As a result of this decision, this Department has been advised by insurers that in addition to retirement benefits other types of insurance products may be affected by the decision and a substantial number of group and individual life, accident and health and annuity contracts may have to be amended immediately. Considering the anticipated volume of filings, the normal approval procedures of this Department would make timely approval of forms impossible.

In order to permit insurers to assist employers to comply with the Norris decision as quickly as possible, this Department will implement the following procedures for conditional approval of forms primarily designed to effect compliance with the decision:

--Insurers must include in the submission letter to the Insurance Department a statement that the forms are to be used for the sole purpose of complying with the Norris decision and that it is the company's opinion that the forms do not violate the requirements of applicable New York law and regulations. The form being submitted for approval must contain language which reads substantially as follows:

"This amendment/form was approved by the New York Insurance Department under an accelerated procedure to assist employers in complying with the United States Supreme Court decision in Arizona vs. Norris. The Department has reserved the right to require changes in this amendment/form to comply with applicable New York law and regulations."

In addition, the submission letter should describe the nature and effect of the contract change and where the change is located in the contract.

--After receipt of the company's submission letter and forms, the Department will send to the company an acknowledgement letter and a conditional approval of the form which will state as follows:

"These are conditionally approved as of this date to effect compliance with the recent

United States Supreme Court decision in Arizona vs. Norris in accordance with Insurance Department Circular Letter No. 14 (1983). This conditional approval is granted in reliance on the statements made by the Company in their submission letter, the Company's representation that they believe the captioned form(s) is/are not in violation of the New York Insurance Law and upon the condition that the Company will retroactively modify, to the extent necessary, the captioned form(s) to meet all requirements for approval.

The captioned form(s) will be reviewed at the earliest possible date and, if unconditionally approved, the Insurance Department will then send the insurer a stamped copy of the approved form."

No stamped approval of the form will be returned to the insurance company by the Department with the conditional approval letter.

--At a subsequent date, the Insurance Department will formally review and advise the insurer of its final disposition of the form. If unconditionally approved, the Insurance Department will then send the insurer a stamped copy of the approved form. If the form cannot be unconditionally approved, the company must comply with the modification requirement of the conditional approval.

This Circular Letter does not supersede Department Circular Letter 64-1 and Section 52.32 of Insurance Department Regulation 62. This accelerated contract approval procedure will remain in effect for one year from the date of this Circular Letter.

Very truly yours,

[SIGNATURE]

James P. Corcoran

Superintendent of Insurance