

October 6, 1982

SUBJECT: INSURANCE

WITHDRAWN

CIRCULAR LETTER NO. 23

October 6, 1982

RE: ALL INSURERS AUTHORIZED TO WRITE MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE IN
NEW YORK STATE AND RATING ORGANIZATIONS

SUBJECT: MOTOR VEHICLE PHYSICAL DAMAGE POLICY PROVISIONS - ELECTION TO REPAIR

In a decision entitled Auto Body Federation of the Empire State vs. Lewis (436NYS2ND3) dated March 26, 1982, the Supreme Court has invalidated policy provisions which give the insurer the right to "elect to repair" damaged motor vehicles. Since this decision was not appealed, it is now the law in New York and policies must be amended accordingly.

Rating organizations authorized to make filings on behalf of their members and subscribers and insurers not so affiliated are directed to promptly submit an amendatory endorsement to be attached to all policies covering physical damage to motor vehicles, deleting all language which appears to give the insurer the right to elect to repair the damaged motor vehicle.

Filings to comply with this Circular Letter should be made on or before December 1, 1982 to the attention of:

Charles Rapacciuolo
Senior Insurance Examiner
New York State Insurance Department
Property and Casualty Insurance Bureau
Two World Trade Center
New York, New York 10047

Very truly yours,

[SIGNATURE]

ALBERT B. LEWIS

Superintendent of Insurance

ABL/eb