

July 20, 1979

SUBJECT: INSURANCE

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

CIRCULAR LETTER NO. 20(1979)

TO: ALL AUTHORIZED INSURERS

RE: CHAPTER 250 OF THE LAWS OF 1979, IN RELATION TO FAILURE TO FILE ANNUAL STATEMENTS OR TO REPLY TO INQUIRIES AND RELATING TO PENALTIES IN CONNECTION THEREWITH

Chapter 250 of the Laws of 1979 amended Section 26 of the Insurance Law relating to the filing of annual statements by insurers by adding thereto a new subdivision which imposes upon the entity responsible for the filing a monetary penalty for failure to file the statement as required. The law provides for a penalty of up to \$ 250 per day or the maximum of \$ 25,000 in the aggregate for each failure. The law becomes effective on September 1, 1979. Attached is a copy of Chapter 250 in bill form.

This Department intends to strictly enforce the provisions of Chapter 250. In that regard you are hereby advised that the reference to "...willfully fails to file an annual statement as required in this section..." shall be construed by this Department as intentional and deliberate conduct in accordance with the decision and opinion of the Court of Appeals in *Old Republic Life Insurance Co. v. Thacher*, 12 N. Y. 2d 48, 234 N. Y. S. 2d 702, (1962).

For a listing of filings and the dates same are due at the Department's Statistics Unit in Albany, you are referred to Department Circular Letter No. 6 (1979) dated January 24, 1979, copy attached.

Please acknowledge receipt of this Circular Letter within 30 days of receipt to:

Fred Tizzio, Chief

Audit Bureau

New York State Insurance Department

2 World Trade Center

New York, New York

Very truly yours,

[SIGNATURE]

ALBERT B. LEWIS

Superintendent of Insurance

ATTACHMENT

1979-1980 Regular Sessions

IN ASSEMBLY

April 26, 1979

Introduced by COMMITTEE ON RULES-(at request of M. of A. Gorski)-read once and referred to the Committee on Insurance

AN ACT to amend the Insurance law, in relation to failure to file annual statements or to reply to inquiries and relating to penalties in connection therewith

[A> THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS: <A]

Section 1. Section twenty-six of the insurance law is amended by adding a new subdivision four to read as follows:

[A> 4. EVERY INSURER AND EVERY FRATERNAL BENEFIT SOCIETY WHICH IS AUTHORISED TO DO AN INSURANCE BUSINESS IN THIS STATE, AND EVERY PENSION FUND, RETIREMENT SYSTEM OR STATE FUND WHICH IS REQUIRED BY ANY LAW OF THIS STATE TO REPORT TO THE SUPERINTENDENT, WHICH WILLFULLY FAILS TO FILE AN ANNUAL STATEMENT AS REQUIRED IN THIS SECTION, OR WILLFULLY FAILS TO REPLY WITHIN THIRTY DAYS TO A WRITTEN INQUIRY BY THE SUPERINTENDENT IN CONNECTION THEREWITH, SHALL, IN ADDITION TO OTHER PENALTIES PROVIDED BY THIS CHAPTER, BE SUBJECT, UPON DUE NOTICE AND OPPORTUNITY TO BE HEARD, TO A PENALTY OF UP TO TWO HUNDRED FIFTY DOLLARS PER DAY OF DELAY, NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE, FOR EACH SUCH FAILURE. <A]

§ 2. This act shall take effect on September first, nineteen hundred seventy-nine.