

Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
P. O. Box 11217 - Fernandez Juncos Sta.
Santurce, Puerto Rico

Circular Letter # A-1-244-60
January 18, 1960

TO ALL COMPANIES LICENSED FOR THE WRITING OF AUTOMOBILE LIABILITY
INSURANCE IN THE COMMONWEALTH OF PUERTO RICO
RE: PUERTO RICO AUTOMOBILE ASSIGNED RISK PLAN

Gentlemen:

Section 12.200 of the Insurance Code of the Commonwealth of Puerto Rico, Act of 1957, provides that agreements may be made among vehicle or casualty insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but are unable to procure such insurance through ordinary methods, and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and the rate modifications to be subject to the approval of the Commissioner.

The Office of the Commissioner of Insurance has discussed extensively with representatives of the insurance industry the necessity for the establishment of an assigned risk plan for public automobiles. Recently, the National Bureau of Casualty Underwriters submitted a plan for the Commissioner to act upon. After a thorough consideration of the merits of this plan, we have approved it.

Your cooperation is hereby requested so that full subscription to the plan can be obtained. Since there is no doubt as to the great service to the community this plan will render, your notification of subscription to the plan prior to February 19, 1960 shall be highly appreciated.

Attached hereto you will find the following:

- 1- Copy of the Puerto Rico Automobile Assigned Risk Plan for public automobiles.
- 2- Letter that will serve as your company's subscription to the Puerto Rico Automobile Assigned Risk Plan.

Cordially yours,

Pablo J. López Castro
Commissioner

Enclosures

PUERTO RICO AUTOMOBILE ASSIGNED RISK PLAN
VOLUNTARY PLAN FOR GRANTING AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE
LIABILITY INSURANCE TO CERTAIN RISKS UNABLE TO SECURE IT FOR THEMSELVES

Honorable Pablo J. López Castro
Commissioner of Insurance
P. O. Box 11217 - Fernández Juncos Station
Santurce, Puerto Rico

Sir:

This letter will serve as this company's subscription to the Puerto Rico
Automobile Assigned Risk Plan.

In subscribing to the Plan it is understood and agreed that the Plan shall
become effective when all carriers authorized to write direct automobile bodily
injury liability insurance in the Commonwealth of Puerto Rico have subscribed
thereto.

Cordially yours,

Authorized Signature for Company - Title

Company

Date

PUERTO RICO AUTOMOBILE ASSIGNED RISK PLAN

THIS PLAN IS A VOLUNTARY AGREEMENT FOR GRANTING
AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE LIABILITY
INSURANCE TO CERTAIN RISKS UNABLE TO SECURE IT FOR THEMSELVES

Sec. 1. Purposes of Plan

The purposes of the Plan are:

- A. to make automobile bodily injury and property damage liability insurance available, subject to the conditions hereinafter stated, only to the following classes of automobiles registered in Puerto Rico:
 - 1. Public and private livery vehicles
 - 2. Taxicabs
 - 3. Buses not owned by any public authority, and
- B. to establish a procedure for the equitable distribution of risks assigned to insurance companies.

Note: This plan is not available for insurance on any motor vehicle required to pay a fee under Section 180 Title 9 of the Laws of Puerto Rico Annotated, nor to automobiles owned by the Commonwealth of Puerto Rico, its dependencies, entities, corporations, authorities and municipalities.

Sec. 2. Effective Date and Changes

The Plan shall become effective when all carriers authorized to write direct automobile bodily injury liability insurance in Puerto Rico have subscribed thereto.

Sec. 3. Administration

The Plan shall be administered by the Manager of the Puerto Rico Inspection and Rating Bureau (hereinafter referred to as "the Manager"), Ochoa Building, San Juan, Puerto Rico.

Sec. 4. Duties of The Manager

The Manager shall be empowered to budget expenses, levy assessments, disburse funds, etc., essential to the proper administration of the Plan. The Manager, annually, shall furnish to all subscribers to the Plan, a written report of operations.

Sec. 5. Distribution and Assignment of Risks

The Manager shall distribute risks eligible for coverage under the Plan so that each insurer will receive the same proportion of assigned risk premiums that its respective net direct automobile bodily injury premiums, except premiums from motor vehicles required to pay a fee under Section 180 Title 9 of the

Laws of Puerto Rico Annotated, bear to the total of such premiums of all insurers in the state. Such distribution shall be made with due regard to exclusions under reinsurance agreements, treaties or contracts filed in writing with the Manager. If an insurer uses a basic rate for assigned risks which is higher than the rate used on risks voluntarily written by such insurer, the credit for assigned risk premiums shall be reduced, so that the aggregate of premiums credited to such insurer shall not be affected by the use of a higher basic rate for assigned risks.

Sec. 6. Cost of Administration

Each subscriber to the Plan shall pay a minimum annual fee of \$5.00 and all expenses incurred in excess of the minimum fees shall be apportioned to all subscribers in such proportion as their net direct automobile bodily injury premium writings in Puerto Rico bears to the total of such premium writings, as defined in Sec. 5 except that premiums for excess of loss policies shall be included, in Puerto Rico of all subscribers during the calendar year.

Sec. 7. Convictions

The term "conviction" wherever used in this Plan shall be deemed to include a forfeiture of bail.

Sec. 8. Eligibility

As a prerequisite to consideration for assignment under the Plan, an applicant must certify, in the prescribed application form, that he has attempted, within 60 days prior to the date of application, to obtain automobile bodily injury and property damage liability insurance in Puerto Rico and that he has been unable to obtain such insurance.

A risk shall not be entitled to insurance nor shall any subscriber be required to afford or continue insurance under the following circumstances:

- A. if the applicant, or anyone who usually drives the automobile, is engaged in an illegal enterprise, or has been convicted of any felony or high misdemeanor during the immediately preceding thirty-six months or habitually disregards local or state laws as evidenced by two or more non-motor vehicle convictions during the immediately preceding thirty-six months, or
- B. when during the immediately preceding thirty-six months the applicant or anyone who usually drives the automobile has been convicted or forfeited bail, as follows:
 - (1) six or more times for any Class A offense,
 - (2) three or more times for any Class A offense and one time for any Class B or Class C offense,
 - (3) two or more times for any Class B or Class C offense, or
 - (4) once each for two or more of the offenses listed in Class B and Class C.

Offenses, for the purposes of this Paragraph, are classified as:

Class A. Any moving traffic offense other than those listed in Class B or Class C.

Class B.

- (1) driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs,
- (2) failing to stop and report when involved in an accident,
- (3) homicide or assault arising out of the operation of a motor vehicle,
- (4) driving a motor vehicle at an excessive rate of speed where injury to person or damage to property results therefrom,
- (5) driving a motor vehicle in a reckless manner where injury to person or damage to property results therefrom.

Class C.

- (1) operating during period of revocation or suspension of registration or license,
- (2) operating a motor vehicle without state or owner's authority,
- (3) loaning operator's license to an unlicensed operator,
- (4) permitting an unlicensed person to drive,
- (5) the making of false statements in the application for license or registration,
- (6) impersonating an applicant for license or registration, or procuring a license or registration through impersonation whether for himself or another.

Two or more Class A convictions, or two or more Class B convictions, arising out of a single incident or occurrence shall be considered as a single conviction.

Any Class A conviction arising out of an incident or occurrence which resulted in a Class B conviction shall not be considered as a conviction.
Or

- C. when the applicant or anyone who usually drives the automobile has intentionally registered a motor vehicle in the State illegally during the immediately preceding twelve months, or
- D. when the applicant or anyone who usually drives the automobile has failed to meet all obligations to pay automobile bodily injury and property damage liability insurance premiums contracted during the immediately preceding twelve months, or
- E. if the applicant or anyone who usually drives the automobile is subject to epilepsy, or
- F. if anyone who usually drives the automobile does not have a valid operator's license.

The carriers to which a risk is assigned shall not be required to afford insurance if the condition of the applicant's automobile is such as to endanger public safety, except that the carrier shall afford insurance provided the applicant makes such repairs to his automobile as may reasonably be required.

Risks with physical disabilities involving heart ailments or mental or nerve

illnesses shall be subject to investigation and shall submit for consideration of the Manager satisfactory certificates from at least two qualified doctors giving their diagnoses of such disabilities or their opinions with regard to the likelihood of such disabilities interfering with the risk's safe operation of an automobile.

Sec. 9. Extent of Coverage

No subscriber shall be required to write a policy or binder for limits in excess of the basic limits of \$5,000/10,000 bodily injury and \$5,000 property damage, provided, however, that where limits in excess of such basic limits are required by law the subscriber shall be required to write a policy or binder for limits adequate to comply with the minimum requirements of the law.

The subscriber to which the risk is assigned shall make such filings of policies and certificates for the applicant as may be required by law.

Sec. 10. Application for Assignment

The application for insurance under the Plan must be submitted to the Manager on a prescribed form, in duplicate, accompanied by a per car deposit of 30% of the annual premium including the applicable surcharge of the coverage to be afforded.

Said premium shall be either by check or money order payable to the Puerto Rico Automobile Assigned Risk Plan. If the risk is ineligible for assignment, the deposit premium shall be returned.

Sec. 11. Designation of Carrier

Upon receipt of the application for insurance properly completed and the deposit specified in Sec. 10, the Manager shall designate a carrier to which the risk shall be assigned and shall so advise the applicant and the producer of record. The Manager shall forward to the designated carrier, at its principal office in Puerto Rico, the original copy of the application form and the deposit, same to be credited by the carrier against the policy premium. If for any reason the applicant refuses to accept the policy, the designated carrier shall retain the short rate earned premium for the period of coverage or the sum of \$5.00 per car, whichever is greater, and return the balance to the applicant.

Sec. 12. One-Year Assignment Period

A risk shall not be assigned to a designated carrier for a period in excess of 1 year. If a risk is unable to obtain insurance for itself at the end of the 1 year period, reapplication for insurance may be made to the Plan. Such reapplication shall be considered as a new application.

Sec. 13. Carrier's Notice to Applicant

A. Original Policy - Upon receipt of the notice of designation and the premium or deposit from the Manager, the designated carrier shall, within two working days

- (1) issue a policy or a binder if all information necessary for the carrier to fix the proper rate is contained in the application form, such policy or binder to become effective 12:01 A. M. on

the day following the second working day, or

- (2) bind the risk if all information necessary for the carrier to fix the proper rate is not contained in the application form, such binder to become effective 12:01 A. M. on the day following the second working day, or
- (3) in the event such carrier does not have on file rates applicable to the risks assigned to it, make the necessary filing and immediately upon its becoming effective issue a policy or binder, such policy or binder to become effective 12:01 A. M. on the day following the second working day following the effective date of filing.

The day on which the notice of designation and premium are received from the Manager shall be deemed the first working day, whatever may be the time of such receipt.

No Saturday, Sunday, or legal holiday in the place of receipt, shall be deemed a working day.

The producer of record shall be notified as to the disposition of the assignment in accordance with the foregoing Paragraph (1) - (3).

If the Manager finds that any carrier without good cause, is not complying with the provisions of this Section, he shall notify the Commissioner of Insurance.

Sec. 14. Carrier's Notice to Manager

Upon issuance of the policy the designated carrier shall file with the Manager the policy number, the effective date and expiration date of the policy, the amount of premium for which the policy was written and the percentage of additional charge made under Sec. 15. In the event changes in such policies involve additional or return premium, the carrier shall file with the Manager the amount of such premium.

If the applicant fails to pay the premium stipulated by the carrier, the carrier shall so notify the Manager with copy to the producer of record.

Sec. 15. Rates

All risks assigned under the Plan shall be subject to the rules, rates, minimum premiums and classifications in force, and to the rating plans applicable thereto, in use by the designated carrier, subject to an additional charge of 15%.

If a carrier is assigned a risk in a class for which it has no rates on file, such carrier may file or promulgate a reasonable rate for such risk or class subject to the provisions of the laws in Puerto Rico.

Sec. 16. Surcharge

If the hazard of a risk is greater than that contemplated by the rate normally applicable under the Plan, the carrier shall consult with the Manager before submission to the Commissioner of Insurance for an increase in such

rate. An increase in rate approved by the Commissioner shall be deemed to include the additional charges contained in Sec. 15.

Sec. 17. Cancellations

A. Cancellation at request of Insured

If for any reason the insured requests cancellation, the carrier shall retain the short rate earned premium for the period of coverage or the sum of \$5.00 per car, whichever is greater, and return the balance to the insured.

B. Cancellation by Company

A carrier which has issued a policy or binder under this Plan shall have the right to cancel the insurance by giving notice as required in the policy or binder if the insured

- (1) is not or ceases to be eligible or in good faith entitled to insurance, or
- (2) has failed to comply with reasonable safety requirements, or
- (3) has violated any of the terms or conditions upon the basis of which the insurance was issued, or
- (4) has obtained the insurance through fraud or misrepresentation, or
- (5) has failed to pay any premiums due under the policy.

Each such cancellation shall be on a pro rata basis, subject to the minimum charge of \$5.00 per car, and a copy of each such cancellation notice shall be furnished to the producer of record. A statement of facts in support of each such cancellation shall be furnished to the Manager, and, except in the case of cancellation for non-payment of premium, to the Commissioner of Insurance of Puerto Rico, ten days prior to the effective date of cancellation.

Cancellation shall be effective on the date specified and coverage shall cease on such date.

Sec. 18. Right of Appeal

An applicant denied insurance or an insured given notice of cancellation of insurance, under the Plan may appeal such action to the Manager. Each notice of cancellation or denial of insurance shall contain or be accompanied by a statement that the insured or applicant has a right of appeal to the Manager of the Plan. A subscriber to the Plan shall also have the right of appeal to the Manager.

The action of the Manager may be appealed to the Commissioner of Insurance of Puerto Rico.

The Manager shall promptly notify the company, the insured or applicant, and the producer of record, of the disposition of the appeal, which notification in the case of refusal to sustain a cancellation shall include notice that upon payment of the deposit premium to the insurer a policy or binder will be issued.

An appeal shall not operate as a stay of cancellation, provided, however, that if either the Manager or the Commissioner of Insurance refuses to sustain the cancellation, the carrier which issued the policy or binder shall, within two working days after receipt of the deposit premium provided such deposit premium is received within 30 days after determination of the appeal, issue a new policy or binder effective for a period of one year from the date of issuance of such new policy or binder. The balance of the premium shall be payable as provided in Section 14.

Sec. 19 Re-Eligibility

An applicant denied insurance under the Plan after appeal to the Manager shall not be eligible to reapply for assignment until 12 months after the date of the application. An assigned risk cancelled under the provisions of the Plan shall not be eligible to reapply for assignment until 12 months after effective date of cancellation.

Sec. 20. Commission

Unless other arrangements have been made with the Commissioner of Insurance the commission under the Plan shall be as follows:

- A. for risks, 5% of the policy premium for commission to a licensed producer designated by the insured.

Sec. 21. Re-Certification of Operator's License of Applicant or Principal Operator of the Motor Vehicle

If a designated carrier after investigation of the experience, physical or other conditions of any risk applying for coverage under the Plan, believe that reasonable doubt exists as to whether the applicant or principal operator of the vehicle should continue to be licensed to operate a motor vehicle in the Commonwealth of Puerto Rico, such carrier may request the Secretary of the Department of Public Works to recertify the ability of said person to continue to hold an operator's license. However, the designated carrier must issue a policy or binder in accordance with Sec. 13.

If the applicant is not recertified by the Secretary of the Department of Public Works as competent to hold and use an operator's license, either by a driving test or such other means as the Secretary of the Department of Public Works may require, the applicant is not eligible under this Plan and the policy or binder should be cancelled pro rata in accordance with Sec. 17 of the Plan, unless the insured wishes it to remain in force to cover operation by other persons who are duly licensed. However, in such event, the company may require a new application covering such other operations.

Requests for recertification must be made on a standard form, agreed to as satisfactory by the Commissioner of Motor Vehicles. The form must be prepared in triplicate, the original sent to the Commissioner of Motor Vehicles, with duplicate copy sent to the Manager of the Plan.

Sec. 22 Amendment of Plan

The Plan may be amended by the subscribers at any special meeting called for that purpose, or by mail vote. Notice of a proposed amendment shall be mailed to the subscribers not less than twenty days prior to the meeting at

which it is to be considered, or, in the case of mail vote, not less than twenty days before the final date fixed for voting thereon.

An amendment shall be deemed approved only if not more than 15% of the subscribers disapprove it and it is agreed to as satisfactory by the Commissioner of Insurance.