

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

Circular Letter No. E 8-270-60
August 18, 1960

TO THE FOREIGN INSURANCE COMPANIES AND RATING BUREAUS
LICENSED IN PUERTO RICO

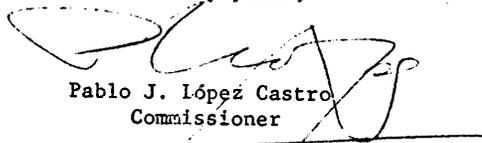
Gentlemen:

Enclosed please find a copy of the proposed amendments to the Regulation of this Office sent to you previously in Spanish.

These amendments shall be discussed during a public hearing to be held on September 12, 1960 at 9:00 A.M. in our office at 610 Condado Avenue, 2nd floor, Stop 17, Santurce, Puerto Rico.

Additional copies of the proposed amendments may be obtained upon request from our Administrative Division.

Cordially yours,


Pablo J. López Castro
Commissioner

Enclosure

PROPOSED AMENDMENTS TO THE REGULATION OF THE
OFFICE OF THE COMMISSIONER OF INSURANCE
OF PUERTO RICO 47

PROMULGATED IN ACCORDANCE WITH SECTION 2.040 OF THE
INSURANCE CODE OF PUERTO RICO, ACT NO. 77, APPROVED
JUNE 19, 1957, AS SUBSEQUENTLY AMENDED

The following provisions of the Regulation of the Office of the Commissioner of Insurance of Puerto Rico are hereby amended to read as follows:

RULE II

Section 1 is amended to read as follows:

Procedure for the Hearings to be Held by the Commissioner

Legal Authority: Section 2.220

Section 1.-The hearings to be held by the Commissioner, according to Section 2.220 of the Insurance Code, shall be governed by the procedure specifically stated by the Code for them, and in addition by those applicable provisions of Rule I, "Procedure for the Investigation, Hearings, and Resolution of Complaints," Sections 2(c), 3, 4, 5, 7, 8, 9, 10, 11 and 12.

RULE X

Section 3 of this rule is amended to read as follows:

Section 3.-Property, Casualty and Fidelity and Surety Insurance. - The following shall be an essential part of the accounting system of the general agent, manager or agent authorized to countersign policies of property, casualty and fidelity and surety insurers:

- (a) A copy of every policy issued, or an insurance memorandum, or an equivalent document stating risks covered, endorsements, insurance limits, rates, premium, per cent of coinsurance (when applicable), deductions, and any other related information.
- (b) A copy of the invoice, that shall be numbered and that shall be kept in numerical order and shall constitute a voucher of original entry. The invoice shall contain the date, policy number, name and address of the insured- (of the principal and of the obligee in the case of fidelity and surety risk) - insurance company, insured amount or limits, risk covered, description of the insured object, policy period, premium charged, name of the producer and commission.
- (c) A copy of every credit note, that shall be kept in numerical order and that shall constitute a voucher of original entry. The credit note shall contain the date of the credit note, policy number, name and address of the insured- (of the principal and of the obligee in the case of fidelity and surety risks) - insurance company, risk and its description, effective date of the policy, effective date of cancellation, premium returned, producer and commissions returned, and indication whether the cancellation was ordered by the insurer or by the insured.
- (d) A register of policies issued, that shall be maintained classified by risks and companies. It shall contain the date of entry, policy number, number of the invoice, name of the insured- (of the principal and of the obligee in the case of fidelity and surety risks) - effective date, term, insured amount, premium, producer and commission. Endorsements bearing payment of additional premium shall be included in this register.
- (e) A register of cancelled policies that shall be maintained by classified risks and by companies. It shall contain date of entry, policy number - name and address of the insured - (of the principal and obligee in the case of fidelity and surety risks) - effective date of the policy, number of the credit note, effective date of the cancellation, premium returned, producer, and indication whether the cancellation was ordered by the insurer or by the insured.

(f) A register of binders that shall be kept by companies and that shall contain the number of the binder, name and address of the insured - (of the principal and of the obligee in the case of fidelity and surety risks) - effective date, term, risk, amount insured or limits, producer, and final action indicating the number of the policy issued or premium charged for liquidation, if any.

(g) A register or endorsements that may be formed with an extra copy of each endorsement issued. It shall be kept by companies, and by risk classification.

(h) A loss register that shall contain the number of the claim, policy number, name of the insured - (of the principal and of the obligee in the case of fidelity and surety risks) - date of occurrence of the loss, losses occurred during the quarter indicating the reserve, amount paid and date of payment, losses paid of previous quarters indicating amount paid and date of payment. This register shall be added and the amounts fixed in each quarterly period.

(i) The correspondence and records of the general agent, manager and agent authorized to countersign policies.

Section 4 is added to this rule to cover title insurance.

Section 4.-Title Insurance- The following shall be an essential part of the accounting system of the general agent, manager, or agent authorized to countersign policies of title insurers:

(a) A copy of every policy issued, or an insurance memorandum or an equivalent document stating risks covered, endorsements, insurance limits, rates, premium and any other related information.

(b) A copy of the invoice, that shall be numbered and shall be kept in numerical order and shall constitute a voucher of original entry. The invoices shall contain the date, policy number, name and address of the insured, insurance company, amount insured and the amount of the invoice separating specifically the insurance premium from any other charges such as investigation fees.

(c) A register of policies issued that shall contain the date of entry, policy number, effective date of the policy, location of the risk, type of policy (owner or mortgage), amount insured, insurance company, premium, other fees, producer (if any) and commission paid.

(d) A loss register that shall contain the number of the claim, policy number, name of the insured, reasons for the claim, amount paid or cost of the claim and date of payment.

(e) The correspondence and records of the general agent, manager or agent authorized to countersign policies.

RULE XI

Section 1 of this rule is amended to read as follows:

Section 1.- General- Every agent not authorized to countersign policies, broker, or adjuster, shall keep in his office or principal place of business in Puerto Rico in appropriate form and following approved methods of accounting, books of accounts for all insurance transactions effected by them. This section shall not apply to life and disability agents.

RULE XV

Section 1 of this rule is amended to read as follows:

Section 1.- Every domestic insurer, general agent, manager or agent authorized to countersign insurance contracts, shall inform the Commissioner, in the blank forms furnished by him, ~~within the fifteen (15) days of the month following the quarterly period for which the report is rendered,~~ all transactions of the quarterly periods ending March 31, June 30, September 30 and December 31. The report shall be filed at the Office of the Commissioner within the month following the quarterly period for which the report is rendered. In those cases where

there has been no insurance transacted during the preceding quarter the report shall so indicate.

Section 2 of this rule is amended to read as follows:

Section 2.-Every insurance agent, broker or solicitor shall file with the Commissioner, in the blank forms furnished by him, on or before March 31 an annual report of all business transacted as of the preceding December 31. This section shall not apply to industrial life insurance. In those cases where there has been no insurance transacted during the preceding quarter the report shall so indicate.

RULE XVI

ADVERTISEMENTS

Legal Authority: Sections 27.040 and 27.050

Rule XVI is hereby amended to read as follows:

Section 1.- Every insurer, general agent, agent, broker, solicitor or adjuster duly authorized by the Commissioner of Insurance to effect insurance business in Puerto Rico, shall send the Commissioner a copy of any advertisement published by them and the form number of any advertised policy. Such information shall be given within the ten days following the first publication of said advertisement. Provided, however, that advertisements or advertisement programs can be filed before having been published.

Section 2.- An advertisement shall be deemed to have been approved, if after sixty (60) days from the date it was filed with this Office, the Commissioner has not acted upon it. Provided, however, that within said sixty (60) days and with due notice to the interested party, the Commissioner may reasonably extend the time required for the study of such advertisement.

Section 3.- If in any occasion the Commissioner should determine that an advertisement has been released by any insurer, general agent, agent, broker, solicitor or adjuster violating any provision of the Insurance Code, in addition to any other penalty which may be imposed, the person responsible for such violation shall have to publish an advertisement in the same form and manner in which the original advertisement was made correcting any error incurred.

Section 4.- Definitions

(a) An advertisement for the purpose of these standards shall include:

1. Printed and published material and descriptive literature, statements, depictions or illustrations used in newspapers, magazines, radio, television, bulletin boards, billboards displayed in public roads, vacant lots, buildings and similar displays whether they are published by, or in the name of an insurer, general agent, agent, broker, solicitor, or adjuster; and
2. Descriptive literature, pamphlets or sales promotion leaflets of all kinds issued by insurers, general agents, agents, brokers, adjusters, and solicitors for presentation, distribution or to be sent to members of the public, including but not limiting the general meaning of the first part; circulars leaflets, booklets, depictions, illustrations and form letters; and
3. Lectures, sales or promotion talks, presentations and material of all kinds, prepared to be used by general agents, agents, brokers, solicitors, or adjusters.

(b) Policies - For the purpose of these standards shall include any policy, plan, certificate, contract, agreement, endorsement or rider which provides evidence of insurance.

Section 5.- Advertisements of Benefits Payable, Losses Covered or Premiums Payable.

(a) Deceptive Words, Phrases or Illustrations - Words, phrases or

illustrations shall not be used in a manner which misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered or premium payable. An advertisement relating to any policy, benefit payable, loss covered or premium payable shall be sufficiently complete and clear as to avoid deception or the capacity and tendency to deceive.

(b) Exceptions, Reductions, and Limitations - Whenever an advertisement refers to any dollar amounts, length of time for which any benefit is payable, cost of policy, or specific policy benefit or the loss for which such benefit is payable, it shall also disclose these exceptions, reductions and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive.

Section 6- Method of Disclosure of Required Information - All information required to be disclosed by those standards shall be set out conspicuously and prominently and in close conjunction with the statement or representations to which such information relates so that such representations shall not be deceitful or should give margin to deceit.

Section 7. Testimonials - Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer, in using a testimonial, makes as its own all the statements contained therein, and the advertisement including such statements is subject to all of the provisions of these standards.

Section 8.- Use of Statistics - An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the policy advertised unless such is the fact.

Section 9.- Disparaging Comparisons and Statements - An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services or business methods.

Section 10.- Identity of Insurer - The identity of the insurer shall be made clear in all its advertisements. An advertisement shall not use a trade name, service mark, slogan, symbol or other device which has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

Section 11.- Service Facilities - An advertisement shall not contain untrue statements with respect to the time within which claims are paid or statements which imply that claim settlements will be liberal or generous beyond the terms of the policy.

RULE XXVI

Calculation of Cash Surrender Values

Legal Authority: Section 13.280

Section 3 of this rule is hereby amended to read as follows:

Section 3.- The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairment or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of; (a) the then present value of the future guaranteed benefits provided for by the policy; (b) two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy; (c) forty percent of the adjusted premiums for the first policy year and (d) twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. Provided, however, that in applying the percentages specified in (c) and (d) above, no adjusted premium shall be deemed to exceed four percent of the amount of insurance or

level amount equivalent thereto. The date of issue of a policy for the purpose of this rule shall be the date as of which the rated age of the insured is determined. In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of this rule shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten, or at expiry, if earlier. All adjusted premiums and present values referred to in this rule shall be calculated on the basis of the Commissioners' 1941 Standard Ordinary Mortality Table for ordinary insurance and the 1941 Standard Industrial Mortality Table for industrial insurance and the rate of interest, shall not exceed exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty percent of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other tables or mortality as may be specified by the insurer and approved by the Commissioner.

RULE XXVIII

Surplus Lines Insurance

Rule XXVIII is amended to read as follows:

Operation of Surplus Lines Insurance and Reports Required of the Broker

Legal Authority: Sections 10.070, 10.080, 10.130, 10.140 and 10.190

Section 1.- Every surplus lines insurance broker shall offer the coverage that he proposes to procure as surplus lines insurance to all authorized insurers or their representatives in Puerto Rico, on "Form O" furnished by this Office. Such offer for insurance coverage shall be made by mail according to the procedure established by section 3 of this rule.

Section 2.- The surplus lines broker may consider that the coverage has been rejected by the authorized insurers or their representatives in Puerto Rico if he does not receive any written answer within a period of five (5) days commencing with the date stated on the Postmaster's receipt, (at present, form No. 3817) mentioned in section 3 of this rule.

Section 3.- Every surplus line broker, at the time of sending the "Forms O" mentioned in section 1 of this rule, shall request the Postmaster's receipt, (at present form No. 3817) for every form sent. Such receipts shall be attached to a copy of each "Form O" sent by mail offering a coverage and both shall be kept with the records of each coverage circularized for future inspection by the Office of the Commissioner of Insurance.

Section 4.- The surplus line broker shall send to the Commissioner of Insurance a copy of "Form O" whenever he circularizes a coverage.

Section 5.- The reports required by sections 10.080 and 10.130 of the Insurance Code shall be made on "Form N" furnished by the Office of the Commissioner of Insurance, and shall be submitted to such Office within a period not to exceed thirty (30) days after a surplus lines coverage has been procured, whether by an issued policy or a binder. It shall be understood that an insurance coverage is procured on the effective date of the policy or of the binder.

Section 6.- In those cases where the premium on the surplus lines coverage procured is payable periodically during the policy year, it shall be the duty of the surplus lines broker to reasonably determine or estimate the total premium for the policy year and pay the tax on this amount as provided by section 10.130 of the Insurance Code and section 8 of this rule. Provided, that should

the premium estimated or determined result higher or lower than the total premium collected, the broker shall report the difference to this Office within the thirty (30) days immediately following the maturity date of the policy including the amount of any additional tax due on such difference. Provided further that in those cases where the difference results in a credit, such credit shall be granted on future remittances.

Section 7.- The renewal of a surplus lines insurance shall be accomplished following the established method, as if it were a new insurance.

Section 8.- "Total premium", for the purpose of taxation on surplus lines insurance, shall mean the total amount charged to the insured, only excluding charges for taxes.

Section 9.- Every surplus line broker shall submit to the Commissioner of Insurance, on or before March 31 of every year an annual report containing a balance sheet as of December 31 of the previous year and a summary of operations for the previous year ending on December 31, duly authenticated, of each insurer with whom he places insurance.

Section 10.- Every surplus line broker shall report to the Commissioner on the forms furnished by this Office, and within the month following the quarter of the report, the business transacted with such insurers with whom he places surplus lines insurance coverages during the quarters ending on March 31, June 30, September 30 and December 31. In cases where there has not been any transaction, the report shall be submitted stating that such is the case.

RULE XXVII

Subsection E(2) of Rule XXVII is amended to read as follows:

- d. Physicians' and Surgeons' Instrument Floaters. Such policies shall not cover furniture or fixtures. Said policies may include coverage of furniture, fixtures and tenant assured's interest in such improvements and betterments of buildings as are located in that portion of the premises occupied by the assured in the practice of his profession.

Subsection E(2)v of Rule XXVII is amended to read as follows:

- v. The following policies covering property which, when sold to the ultimate purchaser, may be covered specifically by the owner, under Inland Marine policies:
1. Musical Instrument Dealers policies covering property consisting principally of musical instrument and their accessories. Radios, televisions, record player and combinations thereof are not deemed musical instruments.
 2. Camera Dealers policies, covering property consisting principally of cameras and their accessories.
 3. Furriers' Dealers policies, covering property consisting principally of furs and fur garments.
 4. Equipment Dealers policies, covering mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders and other similar agricultural equipment and accessories therefor construction equipment consisting of bulldozers, road scrapers, tractors, compressors, pneumatic tools and similar equipment and accessories therefor, but excluding motor vehicles designed for highway use.

All such policies shall exclude coverage of monies and securities improvements and betterments of buildings, furniture, fixtures, tools and machinery of the insured. Musical instrument dealers, camera dealers and equipment dealers policies may include coverage of tenant assured's interest in improvements and betterments of buildings; also furniture, fixtures, tools, machinery, patterns, molds, and dies.

RULE XXX

Rule XXX now in force is hereby repealed. It reads:

Retroactive Cancellations

Legal-Authority: Section 7-050

For the purpose of refund of any taxes-paid by error or in excess on premiums written-by reason of cancellation of the insurance retroactive to the date of issuance as provided in Section 7-050, it shall be understand that the cancellation is made as the date of entry in the Register of Cancellations.

Rule XXX shall read as follows:

Refund for Retroactive Cancellations

Legal Authority: Section 7.050

Section 1.- In order to have a right to the premium tax refund as provided in Section 7.050 of the Insurance Code, the insurer or its authorized general agent shall cancel the policy within the period stipulated in said Section.

Section 2.- The notice of cancellation referred to in Section 1 of this rule, shall be drafted in such a way that the policy shall be actually cancelled at a given date which shall be indicated in the notice of cancellation and which shall not be later than the (forty-fifth) day from the date of issuance of the policy. The entry of the cancellation in the Register of Cancellation shall be made within the days following the cancellation date.

Section 3.- The insurer or its authorized general agent shall obtain from the postal authorities the Postmaster's Form indicative that a letter has been mailed to the insured. The insurer or its authorized agent shall attach this form to the copy of the cancellation notice mailed to the insured and shall file it in the individual record of the insured. This record shall be always kept in Puerto Rico, in the Office of the authorized general agent, and shall be subject to inspection by the examiners of the Office of the Commissioner of Insurance.

The following rules are added to the Regulation of the Commissioner of Insurance:

RULE XXXIII

Fictitious Groupings

Fire, Surety and Casualty Insurance

Legal Authority: Sections 12.040(a) and 27.030(1)

Section 1.- No insurer, admitted or non-admitted, shall make available through any rating plan or through any fire, surety or casualty insurance policy form to any firm, corporation or association of individuals any preferred rate or premium based upon any fictitious grouping of such firm, corporation or association of individuals, and no fire, surety or casualty master policy, series of policies or certificates of insurance issued to any fictitious grouping at any preferred rate or policy form shall include any Puerto Rico resident or group of Puerto Rico residents.

Section 2.- Fictitious grouping is hereby defined and declared to be any grouping by way of membership, license, franchise, contract, agreement or any other method or means other than common majority ownership.

Section 3.- This rule is not applicable to disability insurance.

RULE XXXIV

Commissioner's 1958 Normal Ordinary Mortality Table

Legal Authority: Sections 5.100(3)(a)(i) and 13.280(3)

Section 1.- Valuation Standard for New Policies - The Commissioner's 1958

Normal Ordinary Mortality Table may be used as the valuation standard for all ordinary life insurance policies issued after October 1, 1960 to cover a normal risk, excluding any disability and accidental death benefits in such policies.

Section 2.- Cash Surrender Values and Nonforfeiture Benefits of Paid-Up Insurance - For ordinary life insurance policies issued after October 1, 1960 to cover a normal risk, excluding any disability and accidental death benefits, based on the Commissioner's 1958 Normal Ordinary Mortality Table, all adjusted premiums and present values stipulated in Rule XXVI, Section 3, shall be based on the aforementioned table.

RULE XXXV

Premium Finance Plan

Legal Authority: Sections 2.140, 2.160, 3.300, 7.020 and 7.030

Section 1.- Every domestic insurer, general agent, manager or agent authorized to countersign policies which issues policies subject to the installment premium plan, shall record the policies in a special policy register. The endorsements that alter the premium shall be included in the register. The policy register shall include the effective date of the policy, policy number, invoice number, name of the insured, name of the insurer, risk covered, amount of insurance, term of policy, columns for five premium installments established by premium dates, name of producer and commissions earned and paid on an annual basis. It shall be maintained in chronological order by date of entry of the operation in the register.

Section 2.- The invoice issued as notice of premium due under the installment plan, shall be maintained in a file in chronological order by date as it appears entered in the special register required by this rule.

RULE XXXVI

Statistical Reports

Legal Authority: Section 12.150

Section 1.- Every insurer shall submit at the time of its authorization in Puerto Rico and whenever deemed necessary subsequently, a statistical plan or plans for the approval of the Commissioner applying to all kinds of insurance that he is authorized to transact and which shall be subject to the provisions of Chapter XII of the Insurance Code. Provided that an insurer may comply with this obligation by using the services of a rating organization or advisory organization which shall submit such statistical plans in its name.

Section 2.- Every rating and advisory organization shall send annually to the Commissioner of Insurance a statistical report showing a classification schedule of its premiums and losses on all kinds or types of insurance business to which the provisions of Chapter XII of the Insurance Code are applicable. Such statistical data shall be consistent as regards classifications, loss basis, premium basis and other aspects considered in rate making with the statistical data furnished in support of rate deviations.

Section 3.- Every insurer and rating or advisory organization that should submit statistics under this rule, shall do so as long as it may be feasible by using uniform classifications in the corresponding line of insurance.

Section 4.- Every insurer who is not a member of or subscriber of a rating or advisory organization or who does not want to use the services of a statistical agent, shall submit annually to the Commissioner a statistical report similar to that required under Section 2 of this rule.

RULE XXXVII

Mandatory Securities Valuation Reserve

Legal Authority: Section 5.030

Section 1.- Every life insurer duly authorized in Puerto Rico shall establish an adequate reserve to face possible losses in its investment in bonds and

stocks due to market price fluctuations or similar causes. Such reserve, which shall be known as Mandatory Securities Valuation Reserve, shall be established by an allocation from unassigned surplus and shall constitute a liability of the insurer in its balance sheet.

Section 2.- The Mandatory Securities Valuation Reserve shall be computed following the standards and procedures established by the National Association of Insurance Commissioners for the computation of such reserve, as prescribed in the annual publication Valuation of Securities of said Association.

RULE XXXVIII

Cancellation of Automobile Liability Policies

Legal Authority: Section 11.270

Section 1.- Any cancellation, by an insurer or its representative, of an Automobile Liability Policy, that has been in force for more than fifteen (15) days, shall be considered unjustified and in violation of this regulation unless said cancellation is effected for one or more of the following reasons:

- (a) Where the insured, has obtained the policy through fraud or misrepresentation, or
- (b) has failed to pay the premium due under the policy, or
- (c) has had his driving license suspended or revoked during the term of the policy, or
- (d) has violated any of the terms or conditions upon the basis of which the insurance was issued, or
- (e) has been convicted of any felony during the immediately preceding thirty-six months of the effective date of the policy, or during the term of the policy or endorsement, or
- (f) has during the term of the policy or endorsement been convicted of any or more violations set forth below:
 - 1. Operation of a motor vehicle under the influence of intoxicants.
 - 2. Careless driving.
 - 3. Violation of the legal speed limits.
 - 4. Revocation of a license due to any accidents which resulted in death.

