

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

Circular Letter No. E 9-300-61
September 21, 1961

TO THE INSURANCE COMPANIES LICENSED IN PUERTO RICO

Gentlemen:

On August 30, 1961, Act No. 7 was approved to amend Section 10.070(3), to add Sections 10.070(4), 10.071 and 10.072 and to repeal Section 10.190 of the Puerto Rico Insurance Code.

The most important provisions of Act No. 7 are those contained in Section 10.071, which establishes the requirements that must be met by unauthorized insurers in order to be able to accept surplus risks from the surplus lines brokers licensed by our office.

Section 10.071 reads as follows:

4 "10.071.- ELIGIBLE SURPLUS LINE INSURERS. (1) No surplus lines broker shall place any coverage with any unauthorized insurer which is not then an eligible surplus lines insurer as provided for under this section. No unauthorized insurer shall be or become an eligible surplus lines insurer unless determined to be eligible by the Commissioner in accordance with the following conditions:

(a) The status of eligibility of the insurer must be requested of the Commissioner in writing by a licensed surplus lines broker.

(b) The unauthorized insurer must furnish evidence satisfactory to the Commissioner that it is currently an authorized insurer in the State or country of its domicile as to the kind or kinds of insurance proposed to be so placed, and must have been such an insurer for not less than the five (5) years next preceding; or must be the wholly-owned subsidiary of an admitted insurer in Puerto Rico or of an already eligible surplus lines insurer that has been so eligible for a period of not less than the five (5) years next preceding;

(c) Before granting eligibility there shall be furnished to the Commissioner by the surplus lines broker or the unauthorized insurer one duly authenticated copy of its current annual financial statement, in the English or Spanish language and with all monetary values therein expressed in United States currency, and with such additional information relative to the insurer as the Commissioner may require;

(d) The unauthorized insurer must have a surplus as to policyholders of not less than the amount required under this Code for a like

admitted insurer, and, if an alien insurer not organized under the laws of a State of the United States, must also deposit with the Secretary of the Treasury of the Commonwealth of Puerto Rico or in a bank duly authorized to do business in Puerto Rico an amount of not less than \$50,000 or, in the case of a group of insurers, such deposit shall be in an amount of not less than \$300,000. Such amounts would be for the protection of all the policyholders and creditors of said foreign insurer in Puerto Rico. Any such fund so established shall consist of public obligations of the Commonwealth of Puerto Rico, the United States, or of any state, county or municipality thereof, or Canada or other investments of the same general character, kind and quality as those which are qualified investments for like funds for domestic insurers pursuant to Chapter 6 of this Code;

(e) The unauthorized insurer must be of good repute and provide reasonably prompt service to its policyholders in the payment of just losses and claims;

(f) No unauthorized insurer shall be eligible if the management is incompetent or untrustworthy, or so lacking in insurance company managerial experience as to make its proposed operations hazardous to the insurance buying public, or if the Commissioner has good reason to believe that it is affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations, with any person or persons whose business operations are or have been detrimental to policyholders, stockholders, investors, creditors or to the public.

(g) No unauthorized insurer shall be eligible if its voting control or ownership is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency.

2. The Commissioner shall from time to time publish a list of all currently eligible surplus lines insurers, and shall mail a copy thereof to each licensed surplus lines broker at his office last of record with the Commissioner.

3. This section shall not be deemed to impose upon the Commissioner any duty or responsibility to determine the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the Commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary.

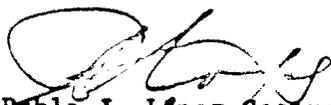
4. Whenever any particular surplus risk cannot be placed in whole or in part through the eligible surplus lines insurers, the surplus lines broker may file with the Commissioner a supplemental affidavit stating such facts and advising him that such parts of the risk which are unprocurable, as aforesaid, are being procured from a named unauthorized insurer or insurers, in the amounts and percentages set forth in the affidavit. Such named ineligible unauthorized insurer or insurers shall, however, before accepting the risk, deposit with the

Secretary of the Treasury of the Commonwealth of Puerto Rico, through the Commissioner, the amount of \$20,000 in cash or eligible securities as provided in paragraph (1)(d) of this section, of an equal market value, which shall be held by the Secretary of the Treasury only for benefit of creditors and policyholders of the insurer and the surplus lines broker shall procure from each such unauthorized insurer and file with the Commissioner a certified copy of its current annual statement of financial condition. If such deposit is made and the statement reveals, including both capital and surplus, net admitted assets of at least \$500,000 of which at least \$300,000 are liquid assets, then the surplus lines broker may proceed to consummate the contract of insurance. Whenever any insurance risk or any part thereof, is placed with an ineligible unauthorized insurer, as provided herein, the policy or binder, if any, shall bear conspicuously on its face in red ink the following notation: "All or part of the insurers participating in this risk have not been admitted to transact business in Puerto Rico, nor have they been approved as a surplus lines insurer by the Commissioner of Insurance of this Commonwealth. The placing of such insurance by a duly licensed surplus lines broker shall not be construed as approval of such insurer by the Commissioner of Insurance of Puerto Rico."

All other provisions of this act shall apply to such placement the same as if such risks were placed with an eligible surplus lines insurer." (Unofficial translation by the Office of the Commissioner of Insurance of Puerto Rico.)

As Act No. 7 shall become effective on October 29, 1961, our office has instructed the surplus lines brokers not to place from that date on any surplus business with unauthorized insurers not duly qualified as eligible surplus lines insurers as defined in Section 10.071.

Cordially yours,


Pablo J. López Castro
Commissioner