

Commonwealth of Puerto Rico  
OFFICE OF THE COMMISSIONER OF INSURANCE  
P. O. Box 11217 - Fdez. Juncos Station  
Santurce, Puerto Rico 00910

Circular Letter No. 6-424-68  
June 17, 1968

TO ALL THE PROPERTY INSURERS AUTHORIZED TO TRANSACT  
BUSINESS IN PUERTO RICO

Gentlemen:

In reference to our Circular Letter No. T-5-422-68 of May 6, 1968, we wish to inform you that on Friday, June 14, 1968, the Hon. Roberto Sánchez Vilella, Governor of the Commonwealth of Puerto Rico, signed into law an amendment to our Insurance Code whereby a Joint Underwriting Association for Fire and Allied Lines Insurance is established.

The amendment, which shall be known as Act No. 85, adds a Chapter XXXVII to the Puerto Rico Insurance Code and became effective immediately.

Pursuant to Section 37.040(2) of said statute, the Association shall be governed by a Board of eleven directors, elected annually by cumulative voting by the members of the Association or their authorized representatives, whose votes in such election shall be weighted in accordance with each member's net direct premiums written during the preceding calendar year. It is provided, however, that the first Board shall be elected within fifteen (15) days after the approval of the law at the date and place designated by the Commissioner of Insurance of Puerto Rico.

In accordance with said provision, a meeting is hereby called to take place on Thursday, June 27, 1968 at 9:30 A. M. at the Bar Association, 808 Ponce de León Avenue, Stop 11, Santurce, Puerto Rico.

A Designation of Authorized Representative form is enclosed to be completed by your President and Secretary and returned to us in time for the meeting. It may be handed personally by your authorized representative at the place and time of the meeting.

We shall try to have an official English copy of the law available for the meeting. In the meantime, enclosed is an unofficial translation, its main provisions are as follows:

Section 37.010 - Definitions. It contains a clear definition of the following terms as used in the law: Fire and Allied Lines Insurance, Insurable Property, and Net Direct Premiums.

Section 37.020 - Joint Underwriting Association and Plan of Operation. The Association created shall consist of all the insurers actually authorized or which may be authorized in the future, to write fire and allied lines insurance in Puerto Rico, including those covering such perils in homeowners

and commercial multiple peril package policies. Membership in the Association shall be a requirement for an insurer to continue being authorized to transact insurance of any kind in Puerto Rico.

The Association shall, pursuant to the provisions of this Act and the plan of operation and with respect to fire and allied lines on insurable property, have power, on behalf of its members, (a) to cause to be issued policies of insurance to applicants, (b) to assume reinsurance from its members, and (c) to cede reinsurance.

Within 45 days after the effective date of the law, the Directors shall submit to the Commissioner a plan of operation providing for economical, fair and non-discriminatory administration.

The plan of operation shall provide for a preliminary contribution from all members to cover initial expenses. It may also provide that any policy issued through the Association may have a clause requiring special conditions, to be approved by the Commissioner, as to security measures to be taken by the insured.

The plan of operation shall, also, provide that when claims have been paid in the amount of \$7,000,000 in a given year, excluding amounts collected or collectible from reinsurance, the Association shall not be bound to accept any additional insurance or reinsurance during the rest of such year.

The Association shall not insure more than \$2,000,000 in one location.

Section 37.030 - Procedures. Any person having an insurable interest in an insurable property, who has made a diligent effort in the normal insurance market to procure fire and allied lines insurance from more than one authorized insurer, shall be entitled to apply to the Association for such coverage, on or after the effective date of the plan of operation.

Any member of the Association may cede to the association fire and allied lines insurance written on insurable properties according to the terms and conditions set forth in the plan of operation.

The rates, rating plans and rating rules applicable to insurance written by the Association shall be subject to the provisions of Chapter XII of the Puerto Rico Insurance Code.

Section 37.040 - Participation. All the members of the Association shall participate in its writings, expenses, profits and losses in the proportion that the net direct premiums of each member bears to the total direct net premiums written in Puerto Rico by all the members of the Association for such year in the fire and allied lines business.

Section 37.050 - Appeals to the Commissioner. Any person seeking insurance from the Association or any affected insurer may appeal to the Commissioner, within 30 days after any ruling, action or decision of the Association.

Section 37.060 - Privileged Communications. Reports of inspections performed by the Association shall be available to the members of the

Association, the Commissioner, or applicants. However, there shall be no liability on the part of the Association, the insurers or the Commissioner for statements made in good faith by them in any report or communication concerning risks insured or to be insured by the Association and at any administrative hearing.

Section 37.070 - Reports - The Association shall file with the Commissioner of Insurance, on or before March 31 of each year, a report of its transactions, condition and operations during the preceding year.

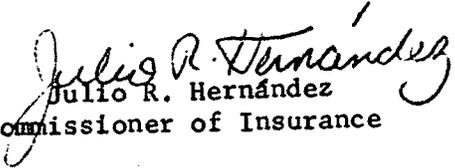
The Commissioner may, however, require at any time from the Association additional information with respect to its affairs necessary to evaluate its scope, experience and operation.

Section 37.080 - Examinations. The Commissioner may examine the affairs of the Association whenever he deems it necessary.

Section 37.090 - The law shall take effect immediately after its approval and shall cease to be of any effect two (2) years after its effective date, except that policies issued or other obligations incurred by the Association shall not be impaired by the expiration of the law and the Association shall continue for the purpose of servicing such policies and meeting such obligations.

Your cooperation toward the implementation of this act shall be greatly appreciated.

Cordially yours,

  
Julio R. Hernández  
Commissioner of Insurance

Enclosures

(Unofficial Translation)

(SB 907)

AN ACT

To amend the Insurance Code of Puerto Rico to establish a Joint Underwriting Association for Fire and Allied Lines Insurance.

Be it enacted by the Legislative Assembly of Puerto Rico:

Section 1: The Insurance Code of Puerto Rico is hereby amended by adding thereto a new Chapter, which shall be known as Chapter XXXVII, to read as follows:

CHAPTER XXXVII

Joint Underwriting Association for Fire and Allied Lines Insurance.

37.010 - Definitions - As they are used in this Chapter.

(1) "Fire and Allied Lines Insurance" - Means the insurance of all kinds of real or personal property and interests on same, against losses or damages by any peril or cause, and against losses resulting from such losses or damages, which shall not be non-contractual legal liability for such losses or damages, as defined in the first sentence of Article 4.040 of this Code.

It is understood that "Fire and Allied Lines Insurance" shall not include automobile insurance, or marine or transportation insurance.

(2) "Association" - Means the Joint Underwriting Association for Fire and Allied Lines Insurance, established according to this Chapter.

(3) "Plan of Operation" - Means the plan of operation approved in accordance with Article 37.020 of this Chapter.

(4) "Insurable Property" - Means real property located anywhere in the Commonwealth of Puerto Rico, or personal property located in such property, having an insurable value which shall not exceed the limits provided in the plan of operation of the Association, and in no event shall be more than two million (2,000,000) dollars in the same location, and that such property, after being inspected and appraised, following the criterion stipulated in the plan of operation, shall be considered by the Association as a property in insurable conditions.

(5) "Direct Net Premiums" - Means direct gross premiums written in Puerto Rico for Fire and Allied Lines Insurance on property in Puerto Rico, including the perils of Fire and Allied Lines covered by multi-peril policies (package policies) on residential and mercantile buildings, as determined by the Commissioner, subtracting the return premiums or those portions not used or not absorbed from the deposited premiums.

37.020 - Joint Underwriting Association and Plan of Operation

(1) It is hereby created an Association for the Joint Underwriting, comprised by all the authorized insurers, or those that may be authorized in the future, to write, and which do write in Puerto Rico, directly, fire and allied lines insurance, including the insurers of such perils through multi-peril policies (package policies), covering residential or mercantile buildings. Each one of such insurers shall be members of the Association and will continue being a member of such Association, as a condition for its continued authorization to write any kind of insurance business in Puerto Rico.

(2) The Association shall have, in accordance with the provisions of this Chapter and of the plan of operation, and in respect to fire and allied lines insurance on insurable property, power, on behalf of its members to:

- (a) cause to issue, or issue, insurance policies on behalf of applicants;
- (b) assume reinsurance from its members; and
- (c) cede reinsurance

(3) (a) Within forty five (45) days after the effective date of this law, the directors of this Association shall submit to the Commissioner, for his consideration, a plan of operation, consistent with the dispositions of this Chapter, which shall provide for an economical, fair and non-discriminatory administration, and for the fast and efficient marketing of the fire and allied lines insurance, which, for the benefit of the general welfare and security of the property owners, permits a fair distribution of the insurable risks. This plan must contain provisions regarding, but not limited to:

(a) Preliminary contribution by all of its members for the initial expenses needed to commence operations; the establishment of the necessary facilities; the administration of the Association, the contribution of its members to finance losses and expenses; commissions, reasonable and objective underwriting rules, assumption and ceding of reinsurance and procedures to determine the maximum limit of insurance which will be provided.

(b) This plan of operations may also provide that the policies contain a clause requiring the insureds, to take special security measures after such conditions are approved by the Commissioner.

As soon as claims amounting to the sum of seven million (7,000,000) dollars, excluding recovered or recoverable amounts from reinsurers, are paid in a given year, the Association shall not be bound to accept any additional insurance or reinsurance during the rest of the year.

(c) The plan of operations shall be subject to the approval of the Commissioner, after consulting with the persons or organizations affected, and will become effective ten (10) days after having been approved. If the Commissioner does not approve the plan, in whole or in part, the Directors of the Association, within the following fifteen (15) days of the notification

of such disapproval, shall submit the plan, or the part objected, amended and revised, and if they fail to submit a new proposal, or if such proposal is not acceptable, the Commissioner shall promulgate his own plan of operations or the corresponding part of it, as the case may be.

(d) The Directors of the Association may, on their own initiative, or at the request of the Commissioner, amend the plan of operations, subject to the approval of the Commissioner.

37.030 - Procedures - (1) (a) Every person who has an insurable interest in an insurable property, who shall have diligently made an effort, in the regular insurance market to obtain fire and allied lines insurance from more than one authorized insurer, shall have the right, on or after the date the plan of operation becomes effective, to request such coverage from the Association. The application can be made directly by the applicant or through a broker or agent authorized by him.

(b) If the Association shall determine that (1) the property is insurable and (2) that no premiums are owed, except those that have been objected to in writing within thirty (30) days after the invoice has been presented for payment, the Association, once it has received the payment of the premium for the policy or that part which may be required by the plan of operations, shall issue an insurance policy for fire and allied lines for the term of one year.

(2) Each member of the Association may cede to the Association fire and allied lines insurance covering insurable properties, in accordance with the terms and conditions established in the plan of operations.

(3) (a) The rates, rating plans and rating rules applicable to the insurance written by the Association, and the statistical records related with same, shall be subject to Chapter XII of this Code, except when otherwise provided for in this Chapter.

(b) The rates, rating plans and rating rules applicable to insurance written by the Association, shall be in accordance with the rates periodically filed with and approved by the Commissioner of Insurance, for the risks rated by the rating organization for the perils of fire and allied lines in Puerto Rico and applicable to such insurance.

The filed rules and rating plans, in regard to the plan of operation, may provide rules for the application of surcharges for risks which have unsafe and dangerous conditions. Such rules and rating plans shall provide for the prompt elimination of the surcharges upon the elimination of the unsafe and dangerous conditions.

37.040 (1) - Participation - Every insurer, member of this Association, shall participate in its underwritings, expenses, profits, losses, and liabilities in the proportion that the net direct premium of each member, (excluding the portion of premiums that shall correspond to the operations of the Association), written during the preceeding year, bears to the total direct net premiums written in Puerto Rico by all the members of the Association in the said year, for the perils of fire and allied lines.

(2) The Association shall be governed by a Board of eleven directors, elected by the cumulative voting of the members of the Association, whose votes in such election shall have weight in accordance with the direct net premiums written by each member during the preceeding year. The Board shall be elected annually in a meeting of the members or their authorized representatives, at the date and place designated by the Commissioner. The first Board shall be elected within fifteen (15) days after this law becomes effective, at the date and place designated by the Commissioner.

37.050 - Appeals to the Commissioner - Any person who applies for insurance to the Association and any person insured in accordance with this Chapter, or his representatives, or any insurer affected, may appeal to the Commissioner within thirty (30) days after being notified of any order, action or decision of or on behalf of the Association.

37.060 - Privileged Communications - (1) The reports from inspection made by or on behalf of the Association, shall be available to the members of the Association, the Commissioner and, with respect to their own applications, to the applicant for insurance.

(2) Neither the Association, nor its Agents or employees, nor the insurers, nor the Commissioner or his authorized representatives shall be held responsible for statements made by them in good faith in any report or communication on risks insured or to be insured by the Association, or on administrative hearings in relation to same.

37.070 - Reports - The Association shall present annually to the Office of the Commissioner of Insurance, on or before March 31 of each year, or at a later date set by the Commissioner, a report of the transactions, condition and operations made during the year. This report shall contain the material and information as requested by the Commissioner, and shall be in the form approved by him.

The Commissioner may at any time require from the Association, additional information on its transactions, conditions or any other matter connected therewith necessary for the evaluation of the scope, operations and experience of the Association.

37.080 - Examinations - The Commissioner may examine the business of the Association whenever he deems it necessary. These investigations and inspections shall be made in accordance with the methods provided by this Code.

37.090 - This law shall take effect immediately after its approval, and shall terminate two years after the date it becomes effective, except that the policies issued and other obligations incurred by the Association established under this law, shall not be affected by the expiration of this law, and it shall be understood that the Association shall continue to exist for the purpose of servicing such policies and to fulfill such obligations.

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DESIGNATION OF AUTHORIZED REPRESENTATIVE

WHEREAS, \_\_\_\_\_ is an insurer duly  
(Insurer's Name)  
authorized to write Fire and Allied Lines in the Commonwealth of Puerto  
Rico.

Whereas, a meeting shall be held on June 27, 1968 to elect the first  
Board of Directors of the Joint Underwriting Association for Fire and  
Allied Lines Insurance created by Act No. 85 of June 14, 1968.

Therefore, \_\_\_\_\_ hereby appoints  
(Insurer's Name)  
and names Mr. \_\_\_\_\_ to represent this insurer  
at such meeting.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary