

Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
P. O. Box 3508 - Old San Juan Station
San Juan, Puerto Rico 00904

Circular Letter No. AM-I-711-77
November 22, 1977

TO THE INSURANCE SERVICES OFFICE, TO ALL MEMBER AND SUBSCRIBER
COMPANIES OF THE INSURANCE SERVICES OFFICE AUTHORIZED TO TRANSACT
PROPERTY AND CASUALTY INSURANCE BUSINESS IN PUERTO RICO AND TO
ALL THE MANAGERS AND GENERAL AGENTS OF SAID INSURANCE COMPANIES

Subject: Rule of Application of filings approved
to the Insurance Services Office on
behalf of its member and subscriber
companies

Dear Sirs:

It has come to our attention that different interpretations exist of effective date rules for approved rate filings among Insurance Services Office member and subscriber companies; specifically, the one applicable to the recently approved private passenger automobile rate filing PP-76-5, with effective date September 21, 1977/November 1, 1977.

Some companies assume that the first effective date is only for the application of new rates to new business and that renewal business can only be affected by the new rates on or after the second effective date. Other companies assume that late renewals with effective date between the two effective dates of the approved filing may be rated using the new rates. This second interpretation causes that two member or subscriber companies of Insurance Services Office may charge different rates for two policies with the same effective renewal date insuring two risks with identical rating information.

In view of the above, this Office is hereby notifying the member and subscriber companies of the Insurance Services Office its interpretation of the effective date rule used by said bureau for the implementation of approved filings in order that said rule may comply with Chapter XII of the Insurance Code of Puerto Rico. The first effective date applies only to new business written on or after the first date and the second effective date applies only to renewal business with effective renewal date on or after the second date.

To this effect we call your attention to the provisions of sections 12.010, 12.030(1) and 12.040(1)(c) of the Insurance Code of Puerto Rico which stipulate the following:

"12.010. Purpose - The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate, or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter. Nothing in this chapter is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the provisions of this section."

"12.030(1) - Definitions. - As used in this chapter:

(1) "Rate" includes as the context may require, either the consideration to be paid or charged insurance contracts, including also fidelity and surety bonds, or the elements and factors forming the basis for the determination or application of the same, or both." (emphasis supplied)

"12.040(1)(c) - Rate Making Bases

(1) Rates shall be made in accordance with the following provisions:

...

(c) No rate shall discriminate unfairly between risks involving essentially the same hazards and expense elements or between risks in the application of like charges and credits. (emphasis supplied)

This Office interprets that the aforementioned provisions of the Insurance Code prohibit any kind of discrimination in the application of rates. Certainly, a rule of application of effective dates which permits that the same risks or identical risks may have different rates just because of the operation of the renewal practices of a specific member or subscriber of a rating bureau is against the provisions of Chapter XII of the Insurance Code of Puerto Rico.

Therefore, this Office hereby notifies the Insurance Services Office and its member and subscriber companies that we will consider to be in violation of Chapter XII of the Insurance Code of Puerto Rico a rule of application of effective dates which permits the charging of different rates to renewal policies with identical effective dates insuring risks involving the same hazards and expense elements by different member or subscriber companies of a rating bureau.

Thus, we are hereby requiring that all private passenger automobile renewal policies with renewal dates prior to November 1, 1977, which were issued at the new rates promulgated by Filing PP-76-5, be adjusted by charging the rates in effect prior to September 21, 1977, and the excess premiums be returned to the insureds.

Strict compliance with the provisions of this Circular Letter is hereby requested.

Cordially yours,


Rolando Cruz
Commissioner of Insurance