

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

Circular Letter No. AM-III-9-782-79

September 21, 1979

**TO ALL DOMESTIC INSURERS, GENERAL
AGENTS, AND FOREIGN INSURANCE MANAGERS
AUTHORIZED TO ISSUE PROPERTY OR AUTOMOBILE
INSURANCE**

Re: Payments made to financial institutions in
relation to insurance transactions

Dear Sirs:

Several people have inquired with our Office if in accordance with the provisions of the Puerto Rico Insurance Code, insurers are allowed to pay banks and financial companies for the administrative services that said banks and companies have provided with regards to insurance contracts required by them during normal financial activities. Specifically, inquiries have been made regarding property insurance for residential units and for single interest automobile insurance.

We wish to inform you that this Office has determined that any payment made by insurers to banks and financial companies for services provided in relation to such insurance will fall under the scope of Section 1.050 of the Puerto Rico Insurance Code. Said provision defines the activity of contracting insurance as follows:

“ 'Contracting or transacting' with respect to insurance includes any of the following:

- (1) Soliciting or persuading
- (2) Negotiations preliminary to underwriting.
- (3) Executing an insurance contract.
- (4) Insure or reinsure.
- (5) Transaction of matters subsequent to executing a contract and that arise therefrom. (Our emphasis)

The Puerto Rico Insurance Code clearly establishes who may contract or transact insurance in Puerto Rico, depending on the particular activity they are engaged in. To this effect, the categories of insurer, general agent, agent, broker, solicitor, and adjuster exist. Specifically, Section 1.030 defines as insurer as “the person that *contracts* insurance.”

For the protection of the public interest and with the view of promoting a sound distribution of the insurance business and avoiding preferential access to certain sectors, there are a series of provisions in our Code that provide for the separation between the person that contracts or transacts insurance and the institutions whose business consists of lending money. To this effect, in accordance with Section 3.070 of said Code, an insurer is prohibited from contracting or transacting other businesses if said insurer engaged in any other business that is not insurance and the operations and transactions thereof are incidental. Said provision clearly stipulates that the banking business is not considered incidental to the insurance business.

Consequently, Section 9.070(3) of said Code prohibits that agent, general agent, broker, solicitor, or adjuster licenses be issued or renewed to any bank, financial company or institution that is directly or indirectly engaged in the money lending business, or to any person that is an employee, director, or official of any of said institutions, or to any entity or corporation with which any of said institutions has direct or indirect material financial interest or is related to such as its owner, subsidiary or affiliate. In addition, Section 3.040(7) of the Puerto Rico Insurance Code establishes as a requirement for authorizing an insurer to transact insurance in Puerto Rico that said insurer be not directly or indirectly owned or controlled by any such institution or that said insurer does not have a direct or indirect material financial interest in any of the banking institutions described above.

In accordance with the above, through this circular letter insurers authorized to transact insurance in Puerto Rico are prohibited from paying financial institutions for services rendered with regards to the negotiation and execution of insurance contracts and the transaction of matters subsequent to the execution and that arise from such. However, our determination does not prohibit financial institutions, in the course of financial activities, act as the insured or as a representative of the named insured from carrying out certain processing activities related to insurance, provided that no reimbursement or payment of any kind is issued by the insurer or its agent.

Strict compliance with the provisions stipulated in this circular letter is required. Any violation to such will be interpreted as an prohibited rebate, for which the strictest penalties provided by law will be imposed.

The provisions of this circular letter revokes any opinion issued by this Office with regards to this matter previously.

Very truly yours,

Signed

Rolando Cruz, Esq.
Commissioner of Insurance