

OFFICE OF THE COMMISSIONER OF INSURANCE

November 10, 1981  
Circular Letter No. AM-I-10-851-81

TO ALL INSURERS AUTHORIZED TO TRANSACT PROPERTY AND  
INLAND MARINE INSURANCE IN PUERTO RICO

Subject: Difference in Conditions Forms

Dear Sirs:

It has been brought to our attention that some insurers are providing earthquake insurance to condominiums using a Difference in Conditions form, amended by the Earthquake Insurance Assumption Endorsement and using unapproved earthquake rates. Such an action is in violation of sections 11.110 and 12.050 of the Insurance Code of Puerto Rico and Rule XXVII of the Insurance Regulations.

With the acceptance by this Office of the 1976 revision of the Nation-Wide Marine Definition, adopted by the National Association of Insurance Commissioners, in addition to the existing option of writing the Difference in Conditions form through its Fire and Allied Lines Division, the insurer may also use said form through its Inland Marine Division, as an uncontrolled subline of inland marine insurance.

Pursuant to section 12.050 of the Insurance Code of Puerto Rico, fire and allied lines insurance rules and rates are subject to the prior approval of the Commissioner of Insurance, while uncontrolled inland marine insurance rules and rates are not.

If the insurer elects to use the Difference in Conditions form with inland marine risks (as an inland marine form), it must do so in compliance with section 4.050 of the Insurance Code of Puerto Rico, Rule XXVII mentioned above, and the adopted recommended interpretations of the Committee on Interpretation of the Nation-Wide Marine Definition. Since Difference in Conditions forms, when used to insure risks which are a proper subject of Inland Marine insurance, as defined by section 4.050, Rule XXVII,

and the adopted recommended interpretations, are not controlled by the rate manual of a rating organization, then the rates and the rules applicable to insurance provided by such forms are not subject to the prior approval of the Commissioner of Insurance as required by section 12.050. However, pursuant to the aforesaid section 4.050 and Rule XXVII, buildings, their furniture and furnishings, fixed contents and supplies held in storage, property in manufacturing plants and money and securities in vaults or safe deposit boxes are not considered as proper subjects of inland marine insurance and thus, must not be insured under Difference in Conditions forms using unapproved rates.

Therefore, the aforementioned risks, as well as any other risks contemplated by Division V, Fire and Allied Lines, of the Commercial Lines Manual approved to ISO, insured under Difference in Conditions forms must be insured using rules and rates, previously approved by the Commissioner of Insurance.

In addition, Difference in Conditions forms, as well as any modification to them, must have the prior approval of the Commissioner of Insurance when used either as fire forms or inland marine forms since they are not exempted from section 11.110 of the Insurance Code of Puerto Rico. Thus, exclusions or any other provisions in the Difference in Conditions policy forms can not be amended or removed unless the insurer has previously sought the permission of the Commissioner of Insurance pursuant to the mentioned section.

In view of the above, Difference in Conditions forms shall comply with the following:

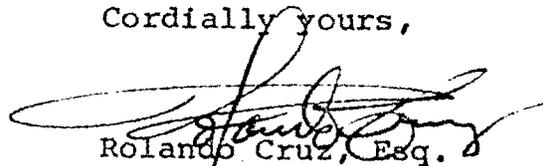
1. All forms and any modification to them must have the prior approval of the Commissioner of Insurance pursuant to section 11.110 of the Insurance Code, when used either as fire or inland marine forms.
2. When used as fire forms, the rules and rates applicable to Difference in Conditions insurance must have the prior approval of the Commissioner of Insurance pursuant to section 12.050 of the Insurance Code.
3. When used as inland marine forms, that is, when used to insure risks which are a proper subject of inland marine insurance as defined by section 4.050 of the Insurance Code of Puerto Rico, Rule XXVII of the Insurance Regulations, and the aforementioned adopted recommended interpretations, the rules and rates applicable to Difference in Conditions insurance are exempted from the approval of the Commissioner of Insurance pursuant to section 12.050 of said Insurance Code.

4. Buildings, condominiums included, their contents and any other property risk which is not a proper subject of inland marine insurance, shall not be insured under Difference in Conditions forms using unapproved rules, rates and forms.

Severe sanctions will be applied to those insurers found in violation of the filing and forms requirements pertaining to insurance afforded through Difference in Conditions forms.

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

Cordially yours,



Rolando Cruz, Esq.  
Commissioner of Insurance