



COMMONWEALTH OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

October 21, 1985

Circular Letter No. AM-I-9-1017-85

TO ALL CASUALTY INSURERS AND RATING ORGANIZATIONS AUTHORIZED TO
TRANSACT LIABILITY INSURANCE IN PUERTO RICO

Subject: Liability Policies
issued to Exterminators
pursuant to Act 132 of
June 28, 1966

Dear sirs:

Act No. 132 of June 28, 1966, requires from all applicants who desire to engage in the business of fumigation or extermination of plagues within buildings or in the open, to procure an insurance policy with limits not less than \$50,000 per person and \$100,000 per occurrence, to become effective at the time of issuance or renewal of the license, to pay for loss or damage caused to others by action, error or omission. The act also requires that the Office of the Commissioner of Insurance shall approve said policy for adequacy and timeliness.

As you know, the most important needs of coverage for exterminators are the products hazard, the completed operation hazard and the pollution coverage. Nevertheless, we have observed that some policies do not offer adequate coverage to exterminators, as required by law.

In reviewing the submitted policies, the following are aspects which need special attention:

1. The description of Code 73420, as it appears in the Commercial Lines Manual approved by this Office is as follows:

"Exterminators - including termite control-excluding the use of gas of any kind".

The description of Code 73420, as approved by this Office, does not contain the phrase "including completed

operations"; however, some insurers are adding said phrase to their policies in violation of approved filings. Since the policy is assembled using the General Liability- Automobile Policy Jacket and either one of the Manufacturers' and Contractors' Liability Insurance coverage part or the Comprehensive General Liability Insurance coverage part, then the use of the Manufacturers' and Contractors' coverage part with the description of Code 73420, as approved by this Office, and the aforesaid jacket, would not offer coverage to exterminators for their completed operations risk due to exclusion (p) of the form with the description of Code 73420 and the definition of the term "completed operation hazard".

2. The limited exclusion for pollution contained in the Manufacturers' and Contractors' coverage part and in the Comprehensive General Liability coverage part would not offer coverage to exterminators or fumigators for their intended release of toxic chemicals and vapors as part of their normal working activities. In addition, we have recently approved an absolute exclusion for pollution exposures, which makes necessary to buy additional coverage for such exposures.

3. The contractual liability exclusion denies coverage for liability assumed under any contract or agreement, except an incidental contract. The term "incidental contract", must be clarified in the case of exterminators in order to avoid any misinterpretation of the intent of the coverage offered to such risks.

In view of the above, and in order to clarify the original intent of coverage and to comply with Act No. 132 of June 28, 1966, insurers and/or rating organizations must comply with the following:

1. The policy must be assembled using the General Liability - Automobile Policy jacket with the Comprehensive General Liability Insurance coverage part and the description of Code 73420 as approved to the Insurance Services Office.
2. Submit an endorsement containing a provision to the effect that the pollution exclusion shall not apply to the intentional discharge or release of toxic chemicals or vapors used in the exterminating or fumigating process.
3. Submit an endorsement containing a provision to the effect that for the purpose of any exterminating or fumigating services which result in bodily injury and/or property damage, any oral or written agreement to perform such exterminating or fumigating services shall be considered as

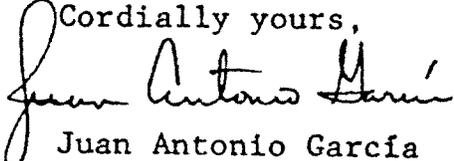
an incidental contract for the purpose of the contractual liability exclusion.

If the insurer elects to assemble the policy using the Manufacturers' and Contractors' Liability Insurance coverage part, then it must comply with the following:

1. Submit for approval of the Commissioner an amendment to the description of Code 73420 to incorporate the phrase "including completed operations".
2. Comply with items 2 and 3 above.
3. Use on a mandatory basis, endorsement GL 99 05 (07-66) - Products Hazard Exceptions.

Since most policies in force do not comply in their entirety with the provisions of this circular letter, we hereby request from those insurers who have issued such policies to submit to this Office an endorsement, which will later be attached to all policies in force, warranting that all such policies shall be construed and considered in full compliance with the provisions of this circular letter for the purpose of Act No. 132 of June 28, 1966.

Strict compliance with the provisions of this circular letter is hereby required; otherwise we will not approve the aforesaid policies, pursuant to Act No. 132 of June 28, 1966.

Cordially yours,

Juan Antonio Garcia
Commissioner of Insurance