



COMMONWEALTH OF PUERTO RICO

## OFFICE OF THE COMMISSIONER OF INSURANCE

IN REPLY PLEASE  
REFER TO:

**April 5, 1995**

**Circular Letter No. E-2-1375-95**

**TO ALL INSURERS AUTHORIZED TO TRANSACT PROPERTY AND CASUALTY INSURANCE BUSINESS IN PUERTO RICO WHICH HAVE RENOUNCED TO RECOVER THE ASSESSMENTS PAID ON ACCOUNT OF LIQUIDATION PROCEEDINGS COMMENCED PRIOR TO AUGUST 17, 1991<sup>1</sup>**

**Subject: Recoupment of Assessments Paid to the Puerto Rico Property and Casualty Insurance Guaranty Association**

Gentlemen:

Section 38.160 of the Insurance Code of Puerto Rico (the Code), as amended by Act No. 72 of August 17, 1991, governs the recovery of assessments levied and paid by member insurers to the Puerto Rico Property and Casualty Insurance Guaranty Association (the Association) on account of liquidation proceedings commenced on or after August 17, 1991.

In accordance with said section the rates and premiums charged for insurance policies to which Chapter 38 of the Code applies shall include a portion that is sufficient to recover an amount equal to the sums that the member insurer pays to the Association, less any sums reimbursed by the Association to the member insurer. Such rates will not be considered excessive on account of such portion. The amounts to be recovered pursuant to Section 38.160 of the Code will be determined from time to time by the Commissioner so that the recoveries are made on a reasonable basis and within a reasonable period of time.

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<sup>1</sup> The liquidation proceedings commenced prior to said date are: Guaranty Insurance Company, Commonwealth Insurance Company, Great Indemnity Insurance Company, Lincoln Insurance Company, Reliant Assurance Company and Central National Insurance Company.

Pursuant to the above mentioned legal provision every member insurer of the Association shall commence to recover, on the effective date indicated in item 1 below, the amounts paid to the Association due to the insolvencies of The Insurance Company of Florida and Corporación Insular de Seguros.

The recoveries will be made following the procedures indicated below:

1. Recoveries will be made commencing with all new policies and additional premium endorsements with an effective date of April 1, 1995, and renewals with an effective date of May 1, 1995.
2. The recovery applies to all kinds of property and casualty insurance except the following lines of business: disability, mortgage guaranty, ocean marine, financial guaranty, fidelity, surety and credit.
3. The initial recovery will be made by applying a surcharge factor of seven tenths of one percent (.7 %) to the premiums written on account of new or renewal policies or any additional premium endorsements issued thereto, i.e., the recovery will be equivalent to \$7 per \$1,000 of premiums written on account of such policies.
4. The mandatory endorsement entitled "Recovery of Amounts Paid to the Puerto Rico Property and Casualty Insurance Guaranty Association" (copy enclosed) must be attached to and form part of all policies indicated in item 1 above.
5. The amounts recovered pursuant to the procedures indicated in this circular letter shall be subject to the establishment of a reserve similar to the unearned premium reserve required in Section 5.040 of the Code. The insurer must inform the Commissioner the method selected for the computation of said reserve and shall not change this method without the Commissioner's previous approval. This reserve will be presented by the insurer together with the unearned premium reserve in the annual statement.
6. The unearned portion of any amount recovered, as indicated herein, will be returned by the insurer together with any applicable return premium in the event a return premium endorsement is issued or if the policy is cancelled.
7. The recoveries will not be subject to the payment of commissions or any other fees or assessments based on premiums such as, but not limited to, fees paid to ISO or similar rating organizations, guaranty fund assessments, premium taxes, etc., nor will they be considered as premiums subject to reinsurance transactions.

8. The amount to be recovered from a specific policy or additional premium endorsement will be separately and clearly indicated in the face of the invoice of the policy or endorsement, or, at the option of the insurer, it may also be included in the declaration page or as an additional endorsement to the policy. In all cases the following explanatory remark shall be included in the face of the document in which the recovery is noted:

"This amount is imposed in order to recover the amounts previously paid by (include name of insurer) to the Puerto Rico Property and Casualty Insurance Guaranty Association. Please refer to Mandatory Endorsement Number \_\_\_\_\_, attached to and made part of this policy."

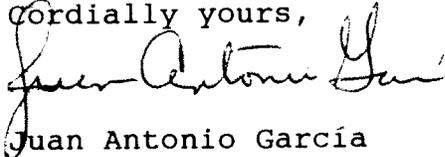
9. The provisions of Rules XXIX and LV of the Regulations of the Code will apply to the amount to be recovered as if it were the normal premium of the applicable policy or endorsement.
10. The appropriate manual rounding rule will be used in computing the amount to be recovered. Nevertheless, if the amount to be recovered from a specific policy or endorsement is less than \$1.00, no surcharge will be applied to that policy or endorsement.
11. Each insurer must file with the Commissioner of Insurance a sworn semiannual report for the semester ending on June 30 of each year and an annual sworn report for the complete calendar year indicating the amounts recovered pursuant to Section 38.160 of the Code during the period for which the report is rendered. The report and sworn statement must be submitted to this Office within 45 days after the end of each applicable period, in the form to be prescribed by the Commissioner. All supporting data and statistics shall be maintained by each insurer and must be readily available for inspection by the Commissioner.
12. Each insurer shall transmit the pertinent instructions to their general agents and policy writing agents so that the provisions of this Circular Letter are complied with by the persons issuing and processing policies and endorsements on behalf of the insurer.

For those insurers who pursuant to our letter dated August 5, 1994, opted to recover the assessments paid prior to August 17, 1991, for all or some of the liquidation proceedings commenced before that date, said recoveries must be first completed prior to the commencement of the mandatory recoveries addressed in this Circular Letter, in the manner determined by this Office.

Strict compliance with the provisions of this Circular Letter is required from all member insurers in recovering assessments paid to

the Association. Non compliance with these provisions will be considered as noncompliance with an order issued by the Commissioner of Insurance and therefore will be subject to the applicable sanctions.

Cordially yours,



Juan Antonio García  
Commissioner of Insurance

Enclosure

## ENDOSO MANDATORIO

### RECOBRO DE SUMAS PAGADAS A LA ASOCIACION DE GARANTIA DE SEGUROS MISCELANEOS DE PUERTO RICO

Por la presente se entiende y conviene que esta póliza queda enmendada según se indica a continuación:

1. El importe total cargado por esta póliza o cualquier endoso a la misma incluye, además de la prima, una cantidad fijada por el Comisionado de Seguros de Puerto Rico para recobrar las sumas pagadas por la compañía a la Asociación de Garantía de Seguros Misceláneos de Puerto Rico y que no hayan sido reembolsadas por la misma.
2. Conforme a lo que establece la Regla XXIX del Reglamento del Código de Seguros de Puerto Rico, el pago del importe total al que se hace referencia en el apartado 1, o la cantidad aplicable bajo un plan de pago, es necesario para que pueda entrar en vigor una póliza de seguro personal.
3. El pago del importe total al que se hace referencia en el apartado 1, es necesario para que se mantenga en vigor una póliza comercial, según lo establece la Regla LV del Reglamento del Código de Seguros de Puerto Rico.
4. La porción pagada y no devengada de la cantidad indicada en el apartado 1 estará sujeta a devolución en la eventualidad de la cancelación de esta póliza.

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Presidente

## MANDATORY ENDORSEMENT

### RECOVERY OF ASSESSMENTS PAID TO THE PUERTO RICO PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION

It is hereby understood and agreed that:

1. The total amount charged for this policy and any endorsement thereof includes, in addition to the premium, an amount determined by the Commissioner of Insurance of Puerto Rico for the purpose of recovering the unreimbursed assessments paid by the Company to the Puerto Rico Property and Casualty Insurance Guaranty Association.
2. The payment of the total amount referred to in item 1 above, or of the applicable amount under a payment plan pursuant to Rule XXIX of the Regulations of the Insurance Code of Puerto Rico, is required for a personal policy to become effective.
3. The payment of the total amount referred to in item 1 above is required for a commercial policy to remain in force, as provided for under Rule LV of the Regulations of the Insurance Code of Puerto Rico.
4. The portion paid, but not yet earned, of the total amount referred to in item 1 above will be returned in the event this policy is canceled.

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President