



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

September 13, 2006

RULING LETTER NO.: N-L-77-9-2006

TO ALL SERVICE CONTRACT PROVIDERS

APPROVAL OF SERVICE CONTRACT FORMS¹

Dear Sirs and Madams:

Article 21.230 of the Puerto Rico Insurance Code, hereinafter, "the Insurance Code" provides that Chapter 21 of the Code regarding service contracts will constitute a separate subchapter to which the provisions of the Code will not be applicable, except as expressly provided in Chapter 21 itself. According to the above, Article 21.260(7) of the Code² indicates the provisions, in addition to Chapters 1 and 2, that will be applicable to Chapter 21. In this regard, said Article 21.260(7), reads as follows:

"The provisions of §§ 1102, 1103, 1105, 1106, 1108, 1109, 1110, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1120, 1123, 1124, 1125, 1126, 1128, 1136 and 1137 of this title related to the service contracts, shall be applicable to the service contracts, in the measure that they are compatible, except with regard to those instances in which there is a more specific provision in this subchapter."

Chapter 21 of the Code grants the power to the Office of the Insurance Commissioner, hereinafter the "OIC," to regulate matters related to service contracts, as defined in said chapter. Pursuant to such power, Article 21.260(6)³ establishes that:

¹ 26 P.R.L.A. sec. 2123

² 26 P.R.L.A. sec. 2126(7)

³ 26 P.R.L.A. sec 2126(6)

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"No provider shall issue, deliver or use any service contract form, or application form or other addenda, unless it has first been presented to, and approved by the Commissioner; no person shall issue, nor deliver any form whatsoever that has not thus been presented to, and approved by him/her."

Notwithstanding the above, Chapter 21 does not establish a fixed period in which the OIC must approve or deny service contracts, as the legislative intention is clearly that there should not be a term fixed by law for the procedure for approving or denying the forms for such contracts. Furthermore, in Article 21.260(7), *supra*, which expressly mentions the other provisions of Chapter 11 of the Insurance Code that will be applicable to Chapter 21, expressly excludes Article 11.110 of the Insurance Code⁴, which establishes the term for the approval of model service contracts.

As can be seen, the legislative intention in approving Sub-chapter II of Chapter 21 was clear in not providing a specific period of time for the approval process for service contract forms. The lawmaker did not provide an express term for such procedure, but also expressly excluded the application of any other article of the Code providing for specific periods of time for other procedures.

It is a basic and reiterated principle of jurisprudence that when the law is clear and free of any ambiguity, the letter of the law should not be disregarded under the pretext of complying with the spirit of the law. Article 14 of the Puerto Rico Civil Code, 31 P.R.L.A. sec. 14.

In view of the above, we find that the OIC does not have fixed term for approving or denying service contract forms submitted to us under the provisions of Subchapter II of Chapter 21 of the Insurance Code.

All entities being notified herein shall take notice of these matters.

Very truly yours,

SIGNED

Dorelisse Juarbe-Jiménez
Commissioner of Insurance

⁴ 26 P.R.L.A. sec. 1111