GOVERNMENT OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

March 9, 2007

RULING LETTER NO.: 2007-80-EX

TO ALL LOCAL INSURERS AUTHORIZED TO DO PROPERTY INSURANCE BUSINESS

PROCEDURE FOR REQUESTING WITHDRAWAL OF SURPLUS FROM THE CATASTROPHIC INSURANCE LOSSES RESERVE

Act No. 227 of October 13, 2006 ("Act 227") set a new upper limit to the Reserve for Catastrophic Insurance Losses (the "Reserve"). Considering this new limit, which was set at eight percent (8%) of their probable maximum loss (PML)[1], the Reserve accumulated by many insurers exceeds the amount that they are otherwise required to maintain pursuant to Section 25.030(4).

For such circumstance, Section 5 of Act 227 contains a transitory provision so that at the time the Act enters into effect those insurers that have accumulated a reserve amount greater than the new limit required by Section 25.030(4) of the Insurance Code of Puerto Rico, may withdraw the surplus through written request to the Commissioner. Likewise, this section states that the Commissioner will make a determination about said request within a period of 60 days from the date of receipt of the request. It is further provided that the amount of funds withdrawn from the reserve shall be subject to payment of taxes at the rate provided in Section 25.070 of the Insurance Code of Puerto Rico, inasmuch as the insurer may have obtained a tax benefit for the deduction of said amount. In this regard, the aforementioned Section 5 authorizes the Secretary of the Treasury to establish the methodology for determining the tax obligation that arises from the withdrawal of the Reserve surplus funds.

In view of the foregoing, the Office of the Commissioner of Insurance, through this Ruling Letter establishes the following procedure for requesting authorization to withdraw the funds from the Reserve in excess of the limit required by law:

- The request shall be signed by the President of the insurer or by its Controller.

[1] The PML shall be calculated by using the catastrophic exposure for a hurricane whose occurrence probability is one in every one hundred years, and shall be estimated in accordance with a risk simulation model developed by a recognized firm and accepted by the Commissioner.

- Said request shall include a detailed calculation of the PML, together with a certification by the President of the insurer, sworn before a public notary, describing the risk simulation model used to calculate the PML and, if applicable, the version used. In the alternative, the insurer may file the calculation prepared and signed by the entity that developed the model.

- The request shall be accompanied by a check payable to the Secretary of the Treasury for the payment of the tax equivalent to fifteen percent (15%) of the amount proposed to be withdrawn.

- In those cases where the insurer claims to have received no tax benefit and, therefore, is not liable for paying the fifteen percent (15%) tax, said insurer shall file, along with the request for withdrawal, a certification from the Department of the Treasury to such effect.

- The 60-day term provided in the aforementioned Section 5 of Act 227 shall begin once the insurer has filed with the Office of the Insurance Commissioner a request for the withdrawal of the funds that fully complies with the provisions of this Ruling Letter.

It is hereby advised that the procedure established herein shall only apply to those requests for withdrawal of surplus reserve funds filed pursuant to Section 5 of Act 227.

Strict compliance with the provisions of this Ruling Letter is required.

Very truly yours,

SIGNED

Dorelisse Juarbe Jiménez
Insurance Commissioner