MAY 7, 2018

CIRCULAR LETTER NO. CC-2018-1932-D

TO ALL INSURERS IN PUERTO RICO THAT ARE AUTHORIZED TO WRITE PROPERTY INSURANCE AND TO ALL MANAGERS, GENERAL AGENTS, PRODUCERS, AND AUTHORIZED REPRESENTATIVES

COMMERCIAL PROPERTY INSURANCE RATES FOR WATERFRONT CONDOMINIUMS

Dear Sirs and Madams:

In Ruling Letter No. N-AM-5-37-2003, dated May 30, 2003, the Office of the Commissioner of Insurance (OCI) suspended the requirements for filing and registering rates for commercial property insurance for Waterfront Condominiums, as provided in Sections 12.050 and 12.060 of the Insurance Code of Puerto Rico, 26 L.P.R.A. § 1205 and 1206. Subsequently, in Ruling Letter No. 2011-129-AP, dated August 23, 2011, the OCI indefinitely suspended the requirements for filing and registering this kind of risk.

Accordingly, Ruling Letter No. N-AM-5-37-2003 established that property insurance rates for waterfront condominiums located at no more than one thousand (1,000) feet from the shore would be exempted from the requirement for filing and registering rates. However, it should be clarified that the suspension of the filing and registration requirements did not exempt insurers that write commercial property insurance for waterfront condominiums from complying with the provisions of Section 12.040 of the Insurance Code of Puerto Rico, 26 L.P.R.A. §1204, and other applicable provisions of the Insurance Code of Puerto Rico and its Regulations, and orders that the OCI may issue in this regard.

Insurers that write commercial property insurance for waterfront condominiums have the obligation to follow the basis for setting rates provided in Section 12.040(1)(b) and (c) of the Insurance Code of Puerto Rico, supra, which specifically establish the following:

(1) Rates shall be made in accordance with the following provisions:

(a)…

(b) Rates shall not be excessive, inadequate, or unfairly discriminatory.

> (c) No rate shall discriminate unfairly between risks involving essentially the same hazards and expense elements or between risks in the application of like charges and credits. (Our emphasis)

Pursuant to Section 12.040 (1)(b) of the Insurance Code of Puerto Rico, 26 L.P.R.A. sec. 1204 (1)(b), Ruling Letter No. N-AM-5-37-2003 established that any rate used for calculating premiums that is higher than $1.75 for every $100 of insured value will be considered to be excessive. In addition, if the rate of $1.75 were inadequate due to the cost of reinsurance, the insurer must apply for an excess rate as provided in Section 12.090 of the Insurance Code of Puerto Rico, 26 L.P.R.A. §1209. That is to say, no increase on the premium for property insurance for waterfront condominiums may be imposed y an insurer at the insurers discretion, and on the contrary, the insurer must meet the criterion that the premium may not be excessive, inadequate, or unfairly unequal.

According to the provisions of Section 12.080 of the Insurance Code of Puerto Rico, 26 L.P.R.A. §1208 and the investigative powers established in Section 2.030 (12) of the Insurance Code of Puerto Rico, 26 L.P.R.A. §235 (12), you are advised that the OCI will carry out such investigations as it may deem advisable to ensure compliance with the provisions of Section 12.040 (1)(b) and (c) of the Insurance Code of Puerto Rico, *supra*, and the guidelines established in Ruling Letter No. N-AM-5-37-2003, dated May 30, 2003, as amended, for the protection of insurance consumers and the public interest.

Notice shall be taken of the contents of this Circular Letter.

Very truly yours,

Javier Rivera-Ríos, LUTCF
Commissioner of Insurance