



GOVERNMENT OF PUERTO RICO  
Office of the Commissioner of Insurance

June 25, 2020

**RULING LETTER NO. CN-2020-281-D**

**TO ALL INSURERS AUTHORIZED TO WRITE PROPERTY AND CASUALTY INSURANCE IN PUERTO RICO, THEIR GENERAL AGENTS, AUTHORIZED REPRESENTATIVES, PRODUCERS, RATING ORGANIZATIONS, AND GENERAL PUBLIC.**

**RE: AMENDMENT TO RULING LETTER NO. N-AP-8-75-2006; PROPERTY POLICIES FOR CONDOMINIUMS AND APARTMENTS IN CONDOMINIUMS**

Dear Sirs and Madams:

On August 21, 2006, our Office issued Ruling Letter No.: N-AP-8-75-2006, ON property policies for condominiums and apartments in condominiums, to establish the parameters to be met for insuring risk in condominiums and apartments in condominiums. Our office seeks through this letter to amend several of the provisions in that ruling letter to clarify the guidelines set forth therein.

**I. Master Policy of the Condominium**

Among other matters, Ruling Letter No.: N-AP-8-75-2006 establishes that in the particular case of condominiums, the maximum limit that may be required under the master policy of the condominium is the replacement value of the common elements of the condominium plus the replacement value of such other elements that according to the master deed, the by-laws of the condominium, or the determination of those who represent the majority of the unit owners must be insured by the Condominium Association.

In this regard, it must be noted what is set forth in Section 43 of Act No. 104, enacted on June 25, 1958, as amended, the Condominium Act, with regard to the insurance of the condominium and the individual rights of unit owners, as follows:

“Unit owners, by means of agreement of those who represent the majority, may insure the building against risks to cover general common, quasi-common, and limited areas, as well as other risks on behalf of all unit owners, **without prejudice to the right of each to insure their apartment on their own behalf and for their own benefit.** The unit owner who has his or her own insurance for the apartment or who has paid his/her mortgage in full shall not be exempted from the payment of the proportional part of any common insurance adopted by the Condominium Association.

All unit owners may request the inspection of the documents pertaining to common insurance from the Board of Directors. The Board of Directors may substitute the



insurance agent or broker, if the coverages and conditions of the new insurance policy are the same, or of broader scope and benefit, and at the same or less cost than the insurance policy in effect at the time of such a change, with **prior** approval by the Condominium Association.

The Board shall have the responsibility to request from the broker at least three (3) quotations for each annual renewal and keep evidence of such for at least three (3) years, as well as keeping evidence of the denial of a quotation from any insurer, if any has expressed such. This evidence shall be available for review by any unit owner who so requests. (31 L.P.R.A. § 1293g). (our emphasis).

As set forth in the aforementioned Section 43 of the Condominium Act, it may be seen that the majority of the unit owners has the authority to determine to cover general common areas, quasi-common areas, and limited areas of the condominium, but such authority does not extend to determining, imposing, and covering under a master policy of the condominium, the originally built or installed elements that are the private and separate property of each unit owner. This elements are called "**original separate elements, attached to the structure.**" It is clarified that all unit owners may insure such separate elements on his or her behalf with the insurer of his or her preference under the rights vested in the Condominium Act. Therefore, master policies of the condominium may cover the common, quasi-common, and limited elements of the condominium, **but not the elements that are the private and separate property of each of the unit owners**. This type of policy that covers the common, quasi-common, and limited elements of the condominium is called Bare-Walls insurance.

As provided in the aforementioned Section 43 of the Condominium Act, it is also clear that for the Board of Directors to substitute an insurance agent or producer there must be prior approval by the Condominium Association.

## **II. Additional policy available to apartment owners to insure what is not covered by the master policy.**

### **1. The original separate elements that are attached to the structure and their alterations and improvements:**

Furthermore, the original separate elements that are attached to the structure and their alterations and improvements may only be insured by the owner of each apartment under a policy issued to the owner that covers that property. To determine the appropriate limit of that coverage, the owner or each apartment shall arrange with an appraiser to appraise the original separate elements and alterations the owner is seeking to insure. The authorized representative of producer selected by that owner may assist the owner in obtaining the appraisal. In cases in which the apartment is financed, the mortgage institution shall agree with the mortgagee with regard to the replacement value of the original separate elements that are attached to the structure and their alterations and improvements.

Thus, the policies that are to cover the original separate elements attached to the structure and their alterations and improvements in condominiums and multi-family walk-ups are type **HO-06** property policies. The insurer that has registered with the OCI a Personal Package to insure such separate elements in condominiums and multifamily walk-ups may also be eligible. DP policies with or without a DP 17 66 07 88 endorsement, are only eligible for condominiums and walk-ups with 4 attached apartments or fewer according to the ISO manuals.

**2. Policy that covers in excess of the master policy of the condominium when such has been acquired for a limit that is less than the replacement value of the condominium.**

It is clarified that the endorsements included in Ruling Letter No.: N-AP-8-75-2006, DP Excess 08 06 PRS and HO Excess 08 06 PRS, are only for cases in which the common, quasi-common, and limited elements of the condominium are not insured for 100% of the replacement cost. **These endorsements may not be used to cover the original separate elements attached to the structure or their alterations.** The policies to cover the unit owner's separate elements are primary policies.

It is hereby provided that Ruling Letter No.: N-AP-8-75-2006 is amended as stated herein. The provisions of such ruling letter that have not been amended remain in full effect, provided they are not contrary to the provisions herein.

Strict compliance with the guidelines set forth herein is required with regard to all common and apartment policies effective July 1, 2020 and thereafter. Failure to comply with such guidelines may entail the imposition of severe sanctions.

Very truly yours,

Rafael Cestero Lopategui, Esq. CIC  
Chief Deputy Commissioner