

Estado Libre Asociado de Puerto Rico  
OFICINA DEL COMISIONADO DE SEGUROS  
Apartado 3508 "S" - Est. Viejo San Juan  
San Juan, Puerto Rico 00904

Carta Circular Núm. AM-IV-8-781-79  
10 de septiembre de 1979

A TODAS LAS INSTITUCIONES HIPOTECARIAS, BANCOS COMERCIALES,  
BANCOS MUTUOS, ASOCIACIONES DE AHORROS Y PRESTAMOS, FONDOS  
DE PENSIONES Y OTRAS ENTIDADES QUE SE DEDICAN A LA CONCESION  
DE PRESTAMOS PARA LA ADQUISICION O MEJORAS DE VIVIENDAS  
DE 4 FAMILIAS O MENOS EN PUERTO RICO

Asunto: Estudio sobre las estadísticas  
que genera el negocio de seguros  
de viviendas de 4 familias o  
menos gestionado a través de  
instituciones financieras

Estimados señores:

Esta Oficina está llevando a cabo un estudio sobre las estadísticas que genera el negocio de seguros de viviendas de 4 familias o menos gestionado a través de instituciones financieras.


El artículo 2.030(3) del Código de Seguros de Puerto Rico establece que el Comisionado de Seguros podrá llevar a cabo las investigaciones e inspecciones que considere convenientes para determinar si una persona ha violado cualquier disposición del Código de Seguros o para obtener información útil a la administración legal de cualquiera de dichas disposiciones. A tales efectos, en el caso Comisionado de Seguros V. Bradley, 1969, 98 D.P.R.21, se determinó que el Comisionado de Seguros puede investigar, en el ejercicio del poder investigativo que le concede el Código de Seguros, no solamente compañías dedicadas al negocio de seguros, sino que, cuando las circunstancias lo justifican puede extender la investigación a otras entidades o empresas que tenga o hayan tenido relaciones comerciales o económicas con compañías de seguros. (subrayado nuestro)

Toda vez que el seguro de propiedad cubriendo el daño físico que pueda sufrir la estructura es un requisito indispensable en el financiamiento o refinanciamiento de un préstamo hipotecario sobre una vivienda, por la presente se le requiere que someta a

esta Oficina la información estadística según se detalla en el formulario AM-4-79 que se acompaña. Dicha información deberá ser suministrada debidamente juramentada dentro de cuarenta y cinco (45) días a partir de la fecha de esta carta circular.

Muchas gracias por la cooperación que nos puedan brindar en este asunto.

Cordialmente,



Lic. Rolando Cruz  
Comisionado de Seguros

OFICINA DEL COMISIONADO DE SEGUROS  
SAN JUAN, PUERTO RICO

INFORME SOBRE PRIMAS TOTALES POR AÑO FISICAMENTE REMITIDAS POR INSTITUCIONES  
FINANCIERAS A COMPANIAS DE SEGUROS O SUS REPRESENTANTES POR CONCEPTO DE SEGUROS  
DE PROPIEDAD REQUERIDOS EN FINANCIAMIENTO O REFINANCIAMIENTO DE PRESTAMOS  
HIPOTECARIOS PARA VIVIENDAS DE 4 FAMILIAS O MENOS

Año	Nombre de la Compañía de Seguros	Total de Primas Remitidas por Concepto de Seguros de Incendio, Cubierta Ampliada o Huracán y Terremoto Solamente
1973	1	1
	2	2
	3	3
1974	1	1
	2	2
	3	3
1975	1	1
	2	2
	3	3
1976	1	1
	2	2
	3	3
1977	1	1
	2	2
	3	3

Fecha de Radicación

FORMULARIO AM-4-79

Nombre de Institución Financiera

Firma de Repre. entante Autorizado

## Misrepresentations by Producers in the Sale of Insurance

Section 781 prohibits licensees from perpetrating or participating in misrepresentations in the sale of insurance. Section 782 declares such an act to be a criminal offense. When such misrepresentation is knowingly done, Section 783 provides for suspension of a producer's license and Section 783.5 provides for suspension of an insurer's license for the class of insurance involved, regardless of whether done by the insurer or permitted by its officer, employee, or agent.

These prohibitions may be violated without an express verbal representation. The use of logos or names of an unlicensed entity or person in the material may create the impression that such unlicensed entity or person is participating in the insurance transaction. It is the responsibility of the licensee to be sure that all such solicitation materials used in the insurance presentation exclude such logos, names and associated references of such unlicensed entity or person. An insurer is responsible for all solicitation or advertising it uses and also that used by its agents. These statutory provisions prohibiting misrepresentation also apply to all financial institutions, whether licensed or unlicensed, and all other entities or persons.

## Announcement by Unlicensed Financial Institution or Recommendation by Unlicensed Lender

The Department allows a written announcement by an unlicensed financial institution, or other unlicensed entity or person, concerning the availability of insurance through a specified insurer or producer. In addition, under limited circumstances Insurance Code Section 771(b) permits a lender to go beyond an announcement and to recommend to a borrower or prospective borrower the placing of insurance with a specified insurer or through a specified producer with respect to a sale of real property or a loan secured by real property. Such recommendation must be in writing and clearly set forth the name and mailing address of the recommended licensee. Such recommendation must be no more than a general testimonial as to the attributes or character of the insurer or producer. Such recommendation or testimonial may not endorse the insurance policy or plan, or point out the provisions of such policy or plan, unless the lender is properly licensed to sell the insurance product and is making the endorsement in its licensed capacity. Section 771(b) does not authorize the unlicensed lender to engage in public solicitation of insurance.

Unless licensed, a financial institution must not be involved in the direct marketing or advertising (solicitation) of an insurer's product. However, mailing of an insurance solicitation along with financial institution business, such as

If certain space is to be used jointly, as when common areas are shared or when space is leased within the walls of a place of business, the producer or insurer must identify its area of business occupation. It must demonstrate the independence of its activities to make it readily apparent to the public that the insurance business is a separate and independent operation. This may be done by use of adequate open space, partitions, or walls; and there must be an appropriate sign or signs accurately and prominently stating the producer's or insurer's name as shown on the insurance license.

#### Unlawful Rebates and the Sale of Customer Lists

Insurance Code §755 applies to the sale of customer lists irrespective of whether the entity or person utilizing the list has a lease arrangement with a financial institution. The fee paid, whether directly or indirectly, to an unlicensed entity or person for a customer list may not be based upon a percentage of insurance premium volume, commissions earned, policies issued, or any similar criteria. The fee must be the result of an "arm's length" negotiation and must be reasonable in direct relation to the cost of producing and making the list available.

#### Assistance to the Producer by the Unlicensed Financial Institution's Personnel

If a customer asks about the availability of insurance, the employee of the unlicensed financial institution, or other unlicensed entity or person, may do no more than direct the person to the licensee either by providing the licensee's location or furnishing the telephone number where the licensee can be reached. Joint use of personnel shall be avoided. The public must not be misled into believing that the financial institution is participating in the solicitation or transaction of insurance. An unlicensed entity or person may not engage in the transaction of insurance. The licensed producer or insurer shall not pay the salary of any employee of the financial institution since this would be viewed as a valuable consideration received on insurance business in violation of Insurance Code Section 755.

#### Tie-In Sales

There must be no tie-in sales. A primary concern is the possibility of credit tie-ins between the financial institution, or other entity or person, and the insurance operation--or even the appearance thereof. Tie-in arrangements

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This Bulletin has set forth some basic principles for insurance transactions involving unlicensed financial institutions, unlicensed lenders, or unlicensed entities or persons. Specific questions should be addressed to Investigation Bureau, California Department of Insurance, 100 Van Ness Avenue, San Francisco, CA 94102.



BRUCE BUNNER  
Insurance Commissioner

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