

n. 3812
Fecha 7 de febrero de 1989 4:26 p.m.
Aprobado: Sila M. Calderón

Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
P.O. Box 3508 - Old San Juan Station
San Juan, Puerto Rico 00904

Secretario de Estado
J. A. Juncos
Secretario Auxiliar de Estado

AMENDMENT TO THE REGULATION OF THE INSURANCE
CODE OF PUERTO RICO

Section 1. - In accordance with the provisions of section 2.040 of Act No. 77 of June 19, 1957, as amended, I hereby give notice to the insurance industry, the insurance consumers and the general public of the approval of an amendment to Rule LV of the Regulations of the Insurance Code of Puerto Rico which will read as follows:

RULE LV

LIMITATION OF CANCELLATION BY THE INSURER
AND PROCEDURE FOR THE RENEWAL OF POLICIES

Legal Authority: Sections 11.140, 11.260 and 11.270

Section 1. - This Rule shall be applicable to property and/or casualty insurance policies or bonds which by their own terms are subject to cancellation, included within sections 4.040, 4.050, 4.060, 4.070, 4.080 and 4.090 of the Insurance Code of Puerto Rico. The term "insurance policies" shall include certificates of insurance issued under master policies.

Section 2. - No insurance policy or bond issued after the effective date of this Rule, shall contain a cancellation clause which permits the insurer to cancel said policy or bond after it has been in force for sixty (60) days or more or after its renewal term has commenced, for reasons other than the following, except as provided in section 3:

(a) In the case of any insurance policy or bond, if the insured fails to comply with his obligations when due, in relation with the payment of premiums, whether it be the total premium or any additional premium due to adjustments to the policy ordered by an inspection bureau duly authorized by the Commissioner of Insurance or by changes requested by the insured, or fails to pay any installment payable directly to the insurer or to an authorized representative, or under any premium finance plan or extension of credit duly approved.

(b) In the case of insurance policies covering physical damage and/or the public liability of an automobile as such term

is defined in the applicable rate manuals, except automobiles covered by Section 2(g):

1. If the driver's license of the insured or of any driver of the automobile resident in the same household of the insured or of any driver who customarily operates the insured automobile, has been suspended or revoked during the term of the policy.

2. If the automobile is a financed automobile, when the same is repossessed in accordance with the terms of the finance contract, or is declared a total loss due to any insured peril or is voluntarily surrendered to the seller by the conditional purchaser, or is a total loss due to confiscation by a governmental authority.

(c) In the case of insurance policies covering the building and/or the contents of a dwelling for four families or less, against the perils of fire and allied lines, or personal multiple line insurance policies, as such term is defined in Rule XL, covering a building and/or its contents against the perils of fire and allied lines, or insurance policies or bonds required by law or regulation of a public body, or other insurance policies falling within the scope of this Rule, except to those to which subsection (b) applies:

1. If the insurance contract was obtained by misrepresentation, fraudulent declarations, omissions or concealment of facts material to the acceptance of the risk or hazard assumed by the insurer.

2. If a substantial change in the exposure of the risk assumed by the insurer within the control of the insured has occurred after the issuance of the insurance contract.

3. If conscious and negligent acts or omissions by the insured have substantially increased the hazard for the perils insured.

(d) In the case of a property and/or casualty insurance policy or bond required by law or regulation of a public body, otherwise exempted by section 12, at the option of the insurer, if the insured has had one or more claims during the term of the policy or bond resulting in losses paid by the insurer.

(e) In the case of any policy or bond covered by this Rule, if the insurer is subject to an order of rehabilitation or liquidation

(f) In the case of any policy excluding certificates of insurance issued in connection with the finance or leasing of personal or real property or bond issued for a term longer than one year contemplated within the provisions of this Rule, except those issued to comply with a law or a regulation, may be cancelled by the insurer for any valid reason at the date of any anniversary.

(g) In the case of certificates of automobile single interest physical damage insurance or any other certificate of insurance issued under master policies covering the outstanding balance under a property finance or leasing contract shall only be cancelled by the reasons contained in Sections 2(a), 2(b)(2) and 2(e)

Section 3. - Notwithstanding the provisions of section 2 of this Rule, any insurer may file for the approval of the Commissioner, other reasons for the cancellation of an insurance policy or bond which are not arbitrary nor unreasonable.

Section 4. - Every insurance policy or bond may be cancelled for any valid reason by the insurer at any time prior to the first sixty (60) days after it becomes effective by using the procedure established in section 5.

Section 5. - Every insurer who proposes to cancel an insurance policy or bond shall send written notice of cancellation by regular mail to the last address informed in writing by the insured, or otherwise to the address shown in the policy, with not less than twenty (20) days prior to the date the cancellation will

become effective. Notwithstanding the shortest period stipulated herein,

(a) if the insured has failed to comply with his obligations of payment of premiums or installment thereof, whether they be payable to the insurer or its agent, or under any premium finance plan or extension of credit, or of any additional premium as a result of adjustments to the policy requested by the inspection bureau, or otherwise, or

(b) if the insurance policy or bond has been in force for less than sixty (60) days at the date of mailing of the cancellation notice, and said policy or bond is not a renewal, the insurer may send the cancellation notice with not less than ten (10) days prior to the date the cancellation will become effective. Provided that the minimum terms herein indicated shall be replaced by those provided in any law or regulation which requires said policy or bond.

Section 6. - Every new or renewal insurance policy or bond or renewal certificate issued after the effective date of this Rule, except in connection with policies or bonds required within a property finance contract or a property leasing contract, shall be accompanied with a written notice, which may have the form of an invoice, indicating the total premium or installment payable and the due date of each installment payable under the policy.

Section 7. - Notwithstanding the provisions of section 5, the cancellation of the insurance charges for non payment of the total premium or the first installment may be effected at any time by the insurer, retroactive to the effective or renewal date of the insurance policy or bond, but the insurer shall only be entitled to the premium tax refund as provided in Section 7.050 of the Insurance Code of Puerto Rico if the cancellation was made within forty five (45) days from the date of issuance and the insured has not paid the total premium or initial installment after notification by the insurer of the due date of the payment as required by section 6. The retroactive cancellation of the

insurance charges to the effective or renewal date of the insurance policy or bond shall be permissible only if it is demonstrated that the insurer has not incurred in liability under the policy or bond.

Section 8. - Any insurer may willfully limit its right to cancel any property and/or casualty insurance contract or bond after submission of the corresponding filing to the Commissioner and approved by him.

Section 9. - No person, other than the named insured, may request the cancellation of a policy or bond at the request of the insured, unless the written consent granted by the named insured is made a part of the policy or bond by means of an endorsement; except that for double interest automobile physical damage insurance policies whose premiums have been partially or totally financed, the financial institution may request the cancellation of the policy for any of the reasons listed in section 2.(b)2.

Section 10. - Any insurer which decides not to renew an insurance policy or bond shall send written notice of non-renewal to the named insured by regular mail to the last address informed in writing by the named insured, or otherwise to the address shown in the policy or bond, with not less than twenty (20) days prior to the expiration date of said policy or bond.

Section 11. - The cancellation and non-renewal notices that ought to be sent to the insured must be sent by mail to the last address informed in writing by the insured or to the address shown in the policy, of the two addresses the one most recently informed. Each and every one of such notices shall be in writing and duly countersigned by an officer, general agent, manager, agent or employee or authorized representative of the insurer. A facsimile signature of any of those persons in lieu of the original signature shall not be used. The insurer or its representative shall, at the request of the Commissioner of Insurance, provide evidence that such notices have been sent to the insured. The notices of cancellation shall have the prior approval of the

Commissioner of Insurance. The provisions of this section relative to countersignature shall not apply to notices which are processed by electronic procedures, except that in these cases, the Commissioner of Insurance shall determine the means to effect the countersignature.

Section 12. - The provisions of this Rule shall not apply to insurance policies or bonds issued under a mass merchandising plan pursuant to Rule XXXIX, except as provided in said Rule; nor to policies issued under the Assigned Risk Plan; nor to policies issued by the Joint Underwriting Association for Fire and Allied Lines Insurance or the Syndicate of Insurers for the Underwriting of Medico-Hospital Professional Liability Insurance, nor shall it apply, except the provisions of sections 6, 7, 8, 9 and 11, to policies or bonds providing coverage to risks which by law or regulation or by the customs of the business are classified under the following lines or sublines of insurance, (exception made of those policies or bonds covering those risks and which are issued to comply with a law or regulation of a public body):

(a) Multiple lines as defined in Rule XL, except personal multiple line contracts

(b) Insurance contracts commonly known as "excess" or "umbrella"

(c) Commercial Inland Marine Risks

(d) Boiler and Machinery Insurance

(e) Automobile Dealers, Automobile Maintenance and Repair Garages and Automobile Parking Places

(f) Workmen's Compensation and Employers' Liability Insurance

(g) Builders Risk Insurance

(h) Insurance under the Highly Protected Risk Rating Plan or the Schedule for Rating Electric Generating Stations; the Schedule for Rating Petrochemical Plants or under the Schedule for Rating Petroleum Properties or under any other rating plan with similar purposes

(i) Automobile master policies covering the single risk of a vendor or a finance company or a bailee (single interest), but excluding certificates in force for sixty days or more prior to the effective date of the cancellation of the master policy

(j) Commercial Fire and Allied Lines Insurance as such risks are classified within the rate manual approved by the Commissioner of Insurance

(k) Mortgage Loan Insurance

(l) Commercial automobiles of all classifications not included in Sections 12(e) and 12(i), as defined in the corresponding manuals, except insurance in individual double interest policies or in certificates of insurance issued under master policies, covering a private passenger automobile

(m) Insurance upon an aircraft, its hull and the liability for the use, ownership or maintenance of the same

(n) Commercial General and Professional Liability Insurance

(o) Commercial Crime (criminal acts) and Glass Insurance

(p) Agricultural or Farmowners Insurance

(q) Credit Insurance

(r) Title Insurance

(s) Fidelity Bonds, except those contemplated by Rule XXIV-A

(t) Surety Bonds, except those contemplated by Rule XXIV-A

Notwithstanding the provisions of this section, any insurer, at the request of the Commissioner, shall be obligated to provide to him the reasons for having cancelled any policy or bond which has been in force for sixty days or more exempted by this Rule except that the information so provided shall be confidential. The Commissioner may order the immediate reinstatement of such policy or bond giving his reasons, if he finds that the cancellation was due to any of the following reasons:

(1) The insured filed a complaint against the insurer or its representative or consulted the Office of the Commissioner of Insurance with detriment to the interest of the insurer or its representative.

(2) The insurer and its representative have ended commercial relations between them or have poor commercial relations.

(3) The insured has not placed all his policies with the insurer.

(4) The agent, without the consent and against the wishes of the insured, placed the policy with another represented insurer.

In the case of mass cancellations or policy by policy cancellation of an insurance portfolio within any line of insurance exempted by this Rule, of policies, certificate of insurance, or bonds which have been in force for sixty (60) days or more, the Commissioner may order the immediate reinstatement if he finds that the cancellations has not been done for the following causes:

(a) Protect the solvency of the insurer due to poor loss experience in the line of insurance as evidenced by a loss and expense ratio which exceed the maximum permissible ratio contained in the last rate filing approved on behalf of the insurer.

(b) Insurer lacks reinsurance treaties in force.


(c) Insurer has a capital impairment or is or may be subject to a rehabilitation or liquidation order.

(d) Insurer is planning to cease business in the line of insurance or will cease business in Puerto Rico.

(e) Insurer lacks capacity to assume new risks under the line of insurance."

Section 2. - This Rule shall become effective thirty (30) days after it has been filed in the Department of State and after the publication in a newspaper of general circulation, once a week for two consecutive weeks, of a notice to the effect that such amendment has been approved. Nevertheless,

compliance with the provisions of this Rule shall begin on July 1, 1984.



Ramon L. Cruz
Acting Commissioner
of Insurance

Date of the Amendment: July 26, 1985.

Filing date of the amendment: September 3, 1985

Date of Amendment: *February 7, 1989*

Filing date of the Amendment: