

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
Guaynabo, Puerto Rico

RULE 96

**ACTUARIAL OPINION FOR
PROPERTY AND CASUALTY INSURERS**

SECTION 1. LEGAL BASIS

The Office of the Commissioner of Insurance Puerto Rico (“OCI”) adopts Rule 96 of the Regulations of the Puerto Rico Insurance Code, titled “Actuarial Opinions for Property and Casualty Insurers,” under the authority conferred by the provisions of Section 2.030 of Public Law No. 77, enacted on June 19, 1957, as amended, known as the Puerto Rico Insurance Code, as well as the provisions of Public Law No. 170, enacted on August 12, 1988, known as the Uniform Administrative Procedures Act of Puerto Rico.

This Rule is adopted in accordance with model regulation number 745 titled “Property and Casualty Actuarial Opinion,” as recommended by the National Association of Insurance Commissioners (NAIC).

**SECTION 2. ACTUARIAL OPINION ON INSURER’S RESERVES AND OTHER
SUPPORTING DOCUMENTS**

A. Actuarial Opinion

All property and casualty insurers that are authorized to write insurance in Puerto Rico must file an annual actuarial opinion by a named actuary. The opinion shall be filed following the provisions of the NAIC instruction manual titled “Property and Casualty Annual Statement.”

B. Summary of the actuarial opinion

- (1) All property and casualty insurers that are authorized to write insurance in Puerto Rico must file an annual summary of the Actuarial Opinion, drafted by the actuary named by the insurer. The summary will be prepared according to the NAIC instruction manual titled “Property and Casualty

Annual Statement” and will be considered a supporting document of the Actuarial Opinion required in this Section.

- (2) Any insurer who is authorized but not domiciled in Puerto Rico should provide a summary of the Actuarial Opinion, if so required by the Commissioner.

C. Actuarial Report and Worksheets

- (1) The actuarial report, along with the worksheets required in the NAIC instruction manual titled “Property and Casualty Annual Statement” should be prepared to support each actuarial opinion.

- (2) If the insurer does not provide the actuarial report or the corresponding worksheets at the request of the Commissioner, or if the Commissioner determines that the documents that have been submitted are not acceptable, the Commissioner may retain a qualified actuary to review the opinion and prepare supporting documents or worksheets to support such. The cost of retaining of the qualified actuary shall be borne by the insurer.

- D. The named actuary will not be liable for any harm to any person (except the insurer and the Commissioner) due to any act, error, omission, decision or conduct with regard to the actuary’s opinion, except in the case of fraud or malicious conduct of the named actuary.

SECTION 3. CONFIDENTIALITY

- A. The Actuarial Opinion will be provided along with the annual statement in accordance with the NAIC instruction manual titled “Property and Casualty Annual Statement” and will be considered a public document.
- B. (1) Any document, material or other information in the possession or control of the OCI that is considered to be an actuarial report, work sheets or summary of the Actuarial Opinion and which has been provided as a support document for the actuarial opinion, as well as any other material provided by the insurer to the Commissioner with reference to the actuarial report, work sheets or summary of the actuarial opinion , should be considered confidential and privileged, will not be subject to public inspection, and will not be revealed in discovery or admissible as evidence in any civil action of a private nature.

- (2) The above provision will not limit the authority of the Commissioner to publish the documents to the Actuarial Board for Consulting & Discipline (ABCD), provided that the material is required for disciplinary procedures and the ABCD establishes procedures that are acceptable to the Commissioner to ensure the confidentiality of the documents. This Section will not limit the authority of the Commissioner to use the documents, materials or any information related to regulatory or legal action related to the duties of the Commissioner.
- C. The Commissioner, or any other person who has received the documents, materials or other information while acting within his or her authority, will not be required to testify in any civil action of a private nature related to the confidential documents, materials or information subject to Paragraph B.
- D. For the purpose of assisting and expediting the performance of the duties of the position, the Commissioner may:
- (1) Share documents, materials or any other information, including confidential and privileged documents subject to Paragraph B, with another state, regulatory agency at the federal or international level, the NAIC, its affiliates and subsidiaries and with federal or international law enforcement authorities or agencies, only if the party receiving the information agrees to maintain them confidential and privileged and has the legal authority to do so.
 - (2) Receive documents, materials or any other information, including confidential and privileged documents from the NAIC, its affiliates and subsidiaries and from regulatory or law enforcement agencies of another jurisdiction, whether foreign or of the United States. The information must be maintained confidential and privileged if provided by the laws of the other jurisdiction.
- E. There will be no waiver of any applicable privilege or claim of confidentiality of the documents, materials or any other information as a result of the disclosure to Commissioner under this section or as a result of the provisions of Paragraph D.

SECTION 4. SEVERABILITY

If any word, sentence, paragraph, subsection, section, or part of this Rule were found to be null and void by a Court of competent jurisdiction, the order of the Court will not affect nor invalidate the remaining provisions of this Rule and the effect of the order

will be limited to the word, sentence, paragraph, subsection, section, or part that has been found to be void.

SECTION 5. EFFECTIVE DATE

The provisions of this Rule will enter into effect thirty (30) days from the date of filing with the Puerto Rico Department of State, in accordance with the provisions of Public Law No. 170, enacted on August 12, 1988, *supra*.

RAMON L. CRUZ COLON
COMMISSIONER OF INSURANCE

Date of approval:

Date of Filing with
the Department of State:

Date of Filing at
the Legislative Library: