

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

DEPARTMENT OF STATE

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Approved: Hon. Kenneth D. McClintock

Secretary of State

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Assistant Secretary for Services

AMENDMENT TO RULE 1-A, REGULATION NO. 5266

INVESTIGATION PROCEDURES

Government of Puerto Rico

OFFICE OF THE COMMISSIONER OF INSURANCE
Guaynabo, Puerto Rico

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SECTION 1. AUTHORITY

The Office of the Commissioner of Insurance of Puerto Rico adopts this amendment to Rule No. I-A, Regulation No. 5266, of the Regulations of the Puerto Rico Insurance Code, hereinafter, "the Rule," under the authority vested in the Commissioner in 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, as amended, known as the Uniform Administrative Procedures act of Puerto Rico.

SECTION 2. PURPOSE AND AMENDMENT

The purpose of this amendment is to align the Rule with the provisions of the Puerto Rico Insurance Code Insurance Code.

Section 2 of the Rule, Purpose, is amended to read as follows:

“The broad investigative powers vested in the Commissioner of Insurance, and the corresponding obligation to facilitate an investigation that Section 2.130 of the Puerto Rico Insurance Code imposes on the parties being investigated, are of vital importance for the proper performance of the duty the Commissioner has to enforce the provisions of the Code, and to obtain any information that will allow for an effective administration of such legislation. This Rule is therefore adopted for the purpose of defining, elucidating, and regulating the rights and obligations of those who may be subject to investigations carried out by the Commissioner of Insurance. This rule shall prevail with regard to any other provisions in the current Rule I governing investigation procedures. This rule will be interpreted liberally for the purpose of enforcing its provisions.”

Section 6 of the Rule, Access to documents - Cooperation, is amended to read as follows:

"Any person who is investigated must cooperate fully with the investigation being carried out by the Commissioner, in the exercise of the Commissioner's powers, and to such effect shall respond to the investigative mechanisms set forth in Section 5, and comply with the obligations imposed Section 2.130 of the Puerto Rico Insurance Code.

It will be deemed that the following acts obstruct or hinder the investigative power of the Commissioner:

- (1) Not allowing entry into the offices of the investigated party.

- (2) Not allowing free access to the documents under the person's custody related to the subject of the investigation.
- (3) Offering incomplete or fragmentary documentation for examination or in an imprecise or excessive manner.
- (4) Failing to instruct employees or subordinates regarding the obligation to cooperate fully with the investigation.
- (5) Proffering excuses or reasons for not allowing access to the documents, alleging that the person is not authorized to do so.
- (6) Failing to respond to requests for information that have been submitted or not responding during the time stipulated for doing so.
- (7) Failing to attend meetings to which invitations have been made or failing to respond to subpoenas.
- (8) Delaying, encumbering or complicating the investigation.
- (9) Failing to provide the necessary facilities and cooperation to carry out the investigation.
- (10) Displaying an attitude, conduct or behavior tending or resulting in a fear-inspiring act, threats, intimidation or pressure that delays, hinders, obstructs, frustrates or prevents the conclusion or culmination of the investigation.
- (11) Displaying an attitude, conduct or behavior that delays, hinders or obstructs or prevents the conclusion or culmination of the investigation.
- (12) Submitting arguments that are patently frivolous and lacking any merit to contest the investigation.
- (13) Any other act or omission that frustrates the investigation."

Section 7 of the Rule, Compulsory Testimony, is amended to read as follows:

"Any person who is being investigated has the obligation to appear, testify and submit evidence with regard to the investigation that is being carried out, if so requested. For this purpose, the person under investigation, on testifying shall have the rights provided in Section 2.170 of the Puerto Rico Insurance Code, and Section 6.3 of Public Law 170, enacted on August 12, 1988, as provided for persons under investigation."

Section 13 of the Rule, Penalties, is amended to read as follows:

"In accordance with the investigative powers vested by the Puerto Rico Insurance Code on the Commissioner, and the duty of any person under investigation to have all of the requested information available, it shall be considered that failure to comply with any provision of this Rule is a violation of Section 2.130 of the Puerto Rico Insurance Code, and as such, will result in the imposition of administrative fines as provided for such in the Code."

SECTION 3. SUBSISTENCE OF OTHER SECTIONS

The remaining Sections of the Rule continue in full force and effect as on the date they were adopted.

SECTION 4. SEVERABILITY

If any word, sentence, paragraph, section, or part of this amendment is found to be null or void by court of competent jurisdiction, the order issued by such court shall not affect or invalidate the remaining provisions of this Rule and the effect of such order shall be limited to said word, sentence, paragraph, section, or part that shall have been so declared null and void.

SECTION 5. EFFECTIVE DATE

The provisions of this amendment will enter into effect thirty (30) days after the amendment is filed with the Puerto Rico Department of State, according to the provisions of Public Law No. 170, supra.

SIGNED

RAMÓN L. CRUZ-COLÓN
COMMISSIONER OF INSURANCE

Date of Approval: September 16, 2011

Date of filing at the Department of State: September 26, 2011

Date of filing at the Legislative Library