

**INSURANCE ALERT
7th LEGISLATIVE SESSION
January - June 30, 2008**

**Several Bills Approved and Signed into Law
Amending the Insurance Code of Puerto Rico**

Credit Insurance, S.B. 2036, Act No. 19 of February 25, 2008.

Act 19 amends Chapter 18 of the Insurance Code. The Act modifies the provisions pertaining to consumer credit insurance, specifying that regarding Credit Life Insurance, the insurer can underwrite, optionally, the insurance coverage in such way that, in addition to the net debt payable at the time of the death of the insured, up to three (3) months of open payments can be covered, including interest and fees exclusively corresponding to said open payments. The Act further provides that it is the debtor who chooses the type of coverage desired in those cases that the creditor offers more than one type of coverage. Act 19 also provides that all claims regarding consumer credit insurance are subject to Article 27.160, which establishes prohibitions on the handling of premiums.

The Act became effective on August 25, 2008, six months after the date of its approval.

Risk Based Capital Filing Requirements, H.B. 3638, Act No. 32 of March 18, 2008.

Act 32 incorporates a new Chapter 45 to the Insurance Code establishing the requirements for the filing of annual "Risk Based Capital" reports by domestic insurers and health service organizations. The Act provides that foreign insurers will need to comply with the filing requirement only if specifically requested, in writing, by the Commissioner of Insurance. The Act also establishes the corrective measures to be implemented to protect the insurers' capital and to reduce the potential of risks inherent to the insurance business.

The Act provides that it shall become effective one year after the date of its approval.

Assets and Liabilities, S.B. 2041, Act No. 34 of April 2, 2008.

Act 34 amends Chapter 5 of the Insurance Code to adjust and conform the accounting principles that govern insurers to those established by the National Association of Insurance Commissioners, including the obligation to file an actuarial opinion stating that the reserves required by the Commissioner of Insurance comply with Puerto Rico laws, among other requirements.

The Act became effective immediately upon its approval.

Fees Collected by the Office of the Commissioner of Insurance, S.B. 2033, Act No. 104 of June 30, 2008.

Act 104 amends the Insurance Code to adjust and increase the fees to be paid by insurers and other components of the insurance industry to the Commissioner of Insurance for licensing purposes, among others.

The Act provides that these fees will become effective on June 1, 2009.

Administration of Deposits and Unclaimed Funds, S.B. 2031, Act No. 155 of August 4, 2008.

Act 155 amends Chapter 8 and Chapter 26 of the Insurance Code of Puerto Rico. The purpose of the amendments to Chapter 8 is to provide for the use of new technologies, including the use of electronic transactions in the administration of deposits by insurers. The amendments to Chapter 26 impose new requirements regarding unclaimed funds' reports including the filing of a negative certification by insurers, general agents and authorized representatives that do not hold unclaimed funds.

The Act became effective immediately upon its approval.

Collective Bargaining between Insurers and Health Service Providers, S.B. 2190, Act No. 203 of August 8, 2008.

Act 203 adds a new Chapter 31 to the Puerto Rico Insurance Code to provide health service providers with the right and the mechanisms to collectively negotiate with insurers the terms and conditions of the contracts for services, including the fees and rates to be charged. The Act requires prior notification to the Antitrust Affairs' Office of the Justice Department before any negotiations are conducted, and provides that the Office of the Commissioner of Insurance will supervise said negotiations. Any impasse or conflict arising on the negotiations will be subject to arbitration before an "Arbitration Commission" to be appointed by the Department of Health. The Act also provides for review and approval by various agencies of any increase in premiums. The interplay and potential conflicts of this Act with federal antitrust laws should be further analyzed.

The Act provides that it shall become effective ninety days after the date of its approval.

Unfair Practices and Fraud, H.B. 4068, Act No. 230 of August 9, 2008

Act 230 amends Chapter 27 of the Insurance Code to adjust its provisions to new industry standards and practices. Among others, the Act: (1) prohibits the marketing or offering of unauthorized insurance products; (2) includes antitrust provisions; (3) establishes as a felony the intentional filing of false annual statements; (4) codifies provisions regarding the offering of insurance by financial institutions and their affiliates which were stated in Rule 74; (4) identifies the specific acts which constitute "resolution" of a claim; (5) imposes penalties for misappropriation of premiums; and (6) sets administrative fines for violations to Chapter 27 of up to \$10,000 for each violation.

The Act provides that it shall become effective ninety days after the date of its approval.

Exemption for Approval of Wireless Communication Equipment Policies, H.B. 4309, Act No. 232 of August 9, 2008.

Act 232 amends the Insurance Code to exempt master and group policies covering wireless communication equipment from approval by the Commissioner of Insurance, subject to compliance with established requirements. The Act defines “Policies of wireless communication equipment” as policies that provide insurance coverage for wireless communication equipment, issued to vendors of this type of equipment as master or group policies under which consumers may be designated as certificate holders or additional insured. The policies need only be filed before the Commissioner of Insurance for information purposes and should fulfill requirements which include, among others, an adequate rating plan, timely termination and cancellation notices and maintenance of company records.

The Act provides that it shall become effective ninety days after the date of its approval.

Limit of Liability of the Miscellaneous Insurance Guaranty Association, H.B. 4067, Act No. 262 of August 13, 2008.

Act 262 amends Section 38.080 of the Insurance Code to increase the limit of liability of the Miscellaneous Insurance Guaranty Association (the “Association”) for covered claims to \$300,000 per event, regardless of the number of claimants, and to \$1,000,000 as annual aggregate, regardless of the number of events covered under the policy. The Act also amends Article 38.130 of the Insurance Code to require the Board of Directors of the Association to participate in the prevention and detection of insolvent insurers by presenting recommendations to the Insurance Commissioner and reporting the history and cause of the insolvency of any insurer for which covered claims are paid.

This Act became effective immediately after its approval; however, its provisions will not be applicable to any liquidation procedure that commenced before the effective date of this Act.

Organizational Structure and Administrative Procedures before the Agency, H.B. 4069, Act No. 263 of August 13, 2008.

Act 263 vacated the former and adopted a new Chapter 2 of the Insurance Code. The Act redefines the organizational structure of the Office of the Insurance Commissioner, duties and responsibilities, and the authority granted to said office. The Act also establishes adjudicative procedures that are intended to be in harmony with those set forth in the Uniform Administrative Procedure Act. Among the provisions included in the new Chapter 2 are: the authority granted to the Commissioner of Insurance to issue cease and desist orders; the use of summary judgment for the resolution of cases pending administrative hearings; and the use of alternate dispute resolution procedures.

The Act provides that it shall be effective six months after the date of its approval.

* * *

If you have any questions or comments, or wish additional information regarding this matter, please contact any of the attorneys listed below, members of our Insurance Practice Area.

Ernesto N. Mayoral Megwinoff	787-250-2617	enm@mcvpr.com
Lizzie M. Portela	787-250-5674	lpf@mcvpr.com
Yadira Rivera Cintrón	787-250-2613	ycr@mcvpr.com

The content of this Insurance Alert has been prepared for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this Insurance Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC.