

CORPORATE PRACTICE GROUP ALERT
December 29, 2009

New Puerto Rico Corporation Law

Senate Bill 124 was signed by the Governor on December 16, 2009 and became Act 164 of 2009, effective on January 1, 2010. The principal changes introduced by the new legislation were made to update the General Corporation Law of 1995 by incorporating in Act 164 substantially all the amendments made by the Delaware Legislature to the Delaware Corporations Law during the last thirteen years. The General Corporations Law of 1995 was patterned after the Delaware Corporation Law. Act 164 repeals the General Corporations Law of 1995.

Among the salient changes are the following:

-The transfer of shares is now governed by the provisions of the P.R. Commercial Transactions Act (based on applicable sections of the Uniform Commercial Code) rather by the now obsolete Uniform Stock Transfer Act.

-Meetings, voting, elections and calls for meeting may now be made by electronic means and the use of paper is minimized.

-The merger provisions were updated to permit mergers of corporations with partnerships, limited liability companies (LLC) and limited liabilities partnerships (LLP).

-Permitted conversions into other corporate entities are now expanded to include entities other than limited liability companies.

-Annual reports for both domestic and foreign corporations with volume of business of less than \$3 million do not require that the Balance Sheet be audited and certified by an independent Puerto Rico-licensed CPA. Instead, these entities must have the Balance Sheet accompanying the Annual Report compiled by a Puerto Rico-licensed CPA.

-Good Standing Certificates will be issued if the corporation has filed Annual Reports for the five years immediately preceding the petition for the certificate.

-Clarifies the purposes for which limited liability companies may be organized.

-Eliminates the special requirements imposed by the 1995 Act on not-for-profit corporations with regards to identification of services and information required to classify the activities to which the not-for-profit would be authorized to engage in.

-With the objective of allowing existing corporations to adjust to the provisions of Act 164, the Secretary of State is empowered, for a period not to exceed five months, as a transitory measure, to provide a window of opportunity to enable every not-for-profit corporation to achieve good standing by filing annual reports, even if they are pro forma, and payment of double the annual fees that would have had to be paid for said reports, without the imposition of any additional penalty. For-profit corporations will have the same right, but by payment of triple the amount of what it would have had to pay. The Secretary of State shall adopt regulations to implement this provision of Act 164.

If you have any questions or comments, or wish additional information regarding this matter, please contact any of the following attorneys:

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