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## LABOR & EMPLOYMENT LAW ALERT

### ***Proposed Amendments to Act 100 Extend Protection Against Employment Discrimination to Employees with Criminal Convictions***

Senate Bill 1730 ("SB 1730"), which would amend Puerto Rico Act No. 100 of June 30, 1959 ("Act 100") to extend protection against employment discrimination by reason of social condition to individuals with criminal records, was sent to Governor Fortuño for his signature on June 30, 2011. The amendments provide that when employers make any employment determination regarding individuals with criminal convictions, they must take into account the following factors:

- The relationship between the crime committed and the nature of the job;
- The rehabilitation of the employee or applicant. The employer must consider any relevant information provided by the applicant or a third party regarding his or her rehabilitation. This information may include:
  - The nature and seriousness of the offense,
  - The age of the applicant at the time the crime was committed, and
  - The time that has elapsed since the conviction.
- The legitimate interest of the employer in protecting its property and providing security to itself, third parties, or the public in general.

SB 1730 does not specifically create a "per se" or unconditional protected class for criminal convicts. SB 1730 does, however, extend the protections of the protected class of "social condition" afforded by Act 100 to ex-convicts, by requiring employers to use the factors discussed above when making employment decisions.

Employers may need to evaluate their hiring and employment practices to ensure that these do not violate Act 100 as amended by SB 1730, as it would become effective immediately upon the Governor's signature.

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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