

AN ACT

To amend Sections 61.020, 61.050, 61.080, 61.160, 61.190, 61.220, and 61.230 of Public Law No. 77, June 19, 1957, as amended, known as the "Puerto Rico Insurance Code," for the purpose of amending several of the definitions related to International Insurers and Reinsurers, to allow International Insurers with Class 1 Authority to cover risk of other non-affiliated entities, to clarify the provisions prohibiting International Insurers from assuming risk located in Puerto Rico, establishing a new authority for Class 6 International Insurers, clarifying which standards would be applicable and which not, among other purposes.

STATEMENT OF PURPOSE

Chapter 61 of the Puerto Rico Insurance Code, the "International Insurers and Reinsurers Act of Puerto Rico," established the principal legal basis for developing Puerto Rico as an International Insurance Center, directed at exporting insurance and reinsurance services in international markets. As part of the legislation several incentives were provided, including a favorable tax structure that would be applicable to international insurers in Puerto Rico including their holding companies that are organized under the Law.

Puerto Rico, due to its geographical location and its financial, administrative, and professional services infrastructure has the necessary attributes to attract that kind of economic activity. Those attributes include the fact that Puerto Rico has a sophisticated and experienced financial services industry with a highly-developed insurance sector. Puerto Rico also has a reliable legal and regulatory framework and a first-rate communications and transportation system.

Since the approval of the law in 2006, several companies have obtained certificates of authority to act as international insurers in Puerto Rico. Their initial experience has confirmed that Puerto Rico certainly has the capacity to compete in this economic arena. However, it has brought to light that the current legal framework needs to be amended in certain technical aspects, in order to facilitate the development of the International Insurance Center.

The amendments in this bill include certain provisions that modify the definitions that are applicable to Chapter 61 of the Insurance Code, the purpose of which is to bring up to date our legislation on the International Insurance Center so that it may continue to be an important tool for the development of the financial services sectors in Puerto Rico. It is necessary to clarify the criteria under which an international insurer or reinsurer may obtain authority to assume or accept as reinsurance risk of residents, or located or to be performed in Puerto Rico. In accordance with the purpose of the International Insurance Center, in order for an international insurer or reinsurer to have such authority,

the entity must maintain at least fifty-one percent (51%) of total premium before reinsurance in a business outside of Puerto Rico. Furthermore, this legislation seeks to enable all Class 1 Authority international insurers to comply with the criteria of other jurisdictions to assume risk not related to sole owners or affiliated owners, in a proportion that is not to exceed 51% of net written premium. Finally, a new class of international insurer is created to manage risk assessment programs and the applicable provisions of Chapter 61 are clarified.

This Legislative Assembly considers that the International Insurers and Reinsurers Act of Puerto Rico is of great benefit, since it provides the mechanism for promoting the expansion and growth of the Insurance Industry in Puerto Rico and the Puerto Rican economy, so that it may be in the forefront of the dominant trends in that market.

IT IS HEREBY DECREED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Paragraphs (4)(b) and (c) are amended, and a new paragraph (4)(d) is added, second paragraph (4) is amended as well as paragraphs (16) and (24); a new paragraph (10) is added to Section 61.020 of Public Law No. 77, June 19, 1957, as amended, known as the "Insurance Code of Puerto Rico", and the paragraphs from paragraphs (4) through paragraph (8), are renumbered as paragraphs (5) through (9), as a technical amendment and paragraphs (9) through (24) are renumbered as paragraphs (11) through (26) of Section 61.020, to read as follows.

"Section 61.020. - Definitions

(1)...

a

b

c

d

e

f

(2)...

(3)...

(4) International Insurer — Means an insurer:

(a) Organized:

(i) Under this chapter, or

(ii) Under the laws of any jurisdiction other than Puerto Rico and that operates a branch in Puerto Rico in compliance with the additional requirements for authorization of a branch as set forth in this chapter;

(b) that under this chapter, holds Class 1 Authority, Class 2 Authority, Class 3 Authority, Class 4 Authority, Class 5 Authority or Class 6 Authority, and

- (c) That does not provide direct coverage of risk to residents or entities located in or to be performed in Puerto Rico, unless the international insurer has the authorization to transact surplus lines insurance under the provisions of Chapter 10 of this Code.
 - (d) Any Class 3, 4 or 5 Authority international insurer or reinsurer may obtain the authority to assume or accept reinsurance for risk of residents or located or to be performed in Puerto Rico, according to the regulation promulgated to that effect by the Commissioner. The international insurer or reinsurer that assumes under reinsurance such risk of residents shall maintain a minimum of fifty-one percent (51%) of premium before reinsurance in risk outside of Puerto Rico to retain international insurer status.
- (5) Class 1 Authority. - Means the authority to transact insurance or reinsurance of all kinds, whether or not defined in Chapter 4 of this Code, except disability insurance, life insurance, high-limit accident insurance, and catastrophic property reinsurance with respect to the sole owner of the international insurer, any owner affiliated to another affiliate of the international insurer. Subject to approval by the Commissioner, a Class 1 Authority International Insurer may assume risk not related to the sole owner of the international insurer or affiliated owners, in a proportion not to exceed fifty-one percent (51%) of net written premium, for the purpose of complying with applicable laws, regulations or administrative rulings in the jurisdiction of the direct insurance or reinsurance.
 - (6) Class 2 Authority ...
 - (a)...
 - (b)...
 - (c)...
 - (7) Class 3 Authority ...
 - (8) Class 4 Authority...
 - (9) Class 5 Authority ...
 - (10) Class 6 Authority.-Means the authority to manage risk securitization programs.
 - (11) Control or Controlled...
 - (12) Holding Company of the International Insurer...
 - (13) Liquidity index...
 - (14) Premium index...
 - (15) Business that is incidental to the insurance business...
 - (16) Liabilities...
 - (i)...
 - (ii)

(iii)...

(iv)...

(17) Person...

(18) Segregated Assets Plan. — Means a group of assets that are identified and managed in a separate manner and constituted by an international insurer with Class 2, Class 3, Class 4, Class 5, and Class 6 Authority for the purpose of covering a group of obligations that are identified and managed under an operation plan previously approved by the Commissioner.

(19) Catastrophic property reinsurance...

(20) Representative principal...

(21) High-limit accident insurance...

(22) Disability insurance...

(23) Life insurance...

(24) Branch...

(25) Code...

(26) Securitization of risk. - Means a program to issue securities of an international insurer, the funds to be used to settle or liquidate a risk group defined in the operations plan of international insurer."

Section 2. - Paragraph (1) of Section 61.050 of Public Law No. 77, June 19, 1957, as amended, known as the "Puerto Rico Insurance," is amended to read as follows:

"Section 61.050. —Authorization Requirements for International Insurers.

(1) Subject to the provisions of this chapter, further to the filing of an application to this effect and payment of the appropriate fees, the Commissioner may authorize an International Insurer to transact insurance under Class 1 Authority, Class 2 Authority, Class 3 Authority, Class 4 Authority, Class 5 Authority, Class 6 Authority or a combination of classes."

Section 3.- Paragraph (6) of Section 61.080 of Public Law No. 77, June 19, 1957, as amended, known as "Insurance Code of Puerto Rico" is amended to read as follows:

"Section 61.080.- Minimum and Surplus Capital; Deposit

(1)

(a)...

(b)...

(d)...

(e)...

(2)...

(a)...

(3)...

(4)...

(5)...

(6) International Insurers; Class 6 Authority insurers, shall maintain at all times in Puerto Rico the lesser of the following:

(a)...

Section 4. – A new paragraph 10 is added to Section 61.160 of Public Law No. 77, June 19, 1957, as amended, known as "Insurance Code of Puerto Rico" is amended to read as follows:

"Section 61.160.- Segregated Assets Plan

(1)...

(2) ...

(a)...

(b)...

(c)...

(d)...

(e)...

(f)...

(3)...

(4)...

(5)

(6)...

(7)...

(8)...

(9) ...

(10) In the case of a Class 6 Authority insurer, the insurer shall submit along with the application for authority, a risk securitization program."

Section 5. – The first paragraph of Section 61.190 of Public Law No. 77, June 19, 1957, as amended, known as "Insurance Code of Puerto Rico" is amended to read as follows:

"Section 61.190.- Corporate Organization and Powers of International Insurers

This Section will only be applicable to International Insurers that are organized under

this Code; and it is further provided that the Commissioner may waive

the application of the provisions of one or more paragraphs of this Section to a Class 6 Authority International Insurer.

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Section 6.- Section 61.220 of Public Law No. 77, June 19, 1957, as amended, known as "Insurance Code of Puerto Rico" is amended to read as follows:

"Section 61.220.- Advertising

International Insurers, except Class 6 Authority Insurers, are subject to the provisions of Section 10.040 of this Code."

Section 7.- Paragraph (d) of Section 61.230 of Public Law No. 77, June 19, 1957, as amended, known as "Insurance Code of Puerto Rico" is amended to read as follows:

"Section 61.230.- Fees and Contributions

The Commissioner will collect the following fees and contributions:

(1)...

(a)...

(b)...

(d) Class 4 and Class 6 Authority: twenty-five thousand dollars
(\$25,000)

(e)...

(2)..."

Section 8. - Severability clause

If any clause, paragraph, sub-paragraph, section, provision, section or part of this Law is annulled or found to be unconstitutional, the judgment entered to such effect will not affect, prejudice, or invalidate the remaining part of this Law. The effect of such judgment, which must be final and unappealable, shall be limited to the clause, paragraph, sub-paragraph, section, provision, section or part of this Law that was annulled or found to be unconstitutional.

Section 9. - Repeal clause.

Any Law or part of any Law that may conflict with the provisions of this law is hereby repealed.

Section 10. - This law will enter into effect thirty (30) days after approval.