

(S. B. 2041)

**(No. 34)**

(Approved April 2, 2008)

**AN ACT**

To amend Articles 5.030 and 5.080 of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” and to add Articles 5.090, 5.100, and 5.110, in order to adjust the accounting principles and standards that govern local insurers to the parameters established by the National Association of Insurance Commissioners.

**STATEMENT OF MOTIVES**

The Office of the Insurance Commissioner of Puerto Rico has the oversight function of enforcing compliance with the provisions of the Insurance Code of Puerto Rico and its regulations in order to protect the public interest in which the insurance business is vested. This responsibility should be fulfilled adequately and expeditiously, by means of provisions that are clear and transparent and which facilitate compliance therewith.

Through Act No. 90 of March 22, 2003, Chapter 5 of the Insurance Code of Puerto Rico, Act No. 77 of June 19, 1957, as amended, was repealed, and a new Chapter 5 was adopted in order to adjust the accounting principles and standards that govern local insurers to the parameters established by the National Association of Insurance Commissioners.

However, said 2003 amendment did not incorporate to the Insurance Code of Puerto Rico the requirement of filing an actuarial opinion on the reserves that should be maintained by local insurers. For such reason, in order to protect the public interest by establishing mechanisms that promote

the financial solvency and solidity of the insurance industry, it is necessary to adjust Chapter 5 to include the requirement of filing the actuarial opinion referred to above, pursuant to the model law promulgated by the National Association of Insurance Commissioners, so that the analysis of the reserves be expedited and for said analysis to be more effective. In addition, it is necessary to amend other provisions of Chapter 5, in order to clarify the Act.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- Article 5.030 of Act No. 77 of June 19, 1957, as amended, is hereby amended to read as follows:

“Article 5.030.- Assets not allowed, Definition

It shall be considered that an asset is not allowed if it is specifically identified as such by the accounting practices and procedures adopted by the National Association of Insurance Commissioners or if it is not specifically identified as an allowed asset by the accounting practices and procedures adopted by the National Association of Insurance Commissioners.”

Section 2.- Article 5.080 of Act No. 77 of June 19, 1957, as amended, entitled Valuation of Life Policies, is hereby amended to read as follows:

“Article 5.080.- Valuation of Life Policies

(1) Minimum Valuation Standards for Old Policies.- The minimum standards for the valuation of all policies and contracts, except group annuity contracts, issued prior to January 1 of the year this Code becomes operative, shall be that pursuant to the laws in effect immediately prior to the effective date of this Code. Reserves for all such policies and contracts may be calculated, at the option of the insurer, pursuant to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this Article.

- (2) Minimum valuation standards for policies issued on or after January 1 of the year this Code becomes operative but prior to January 1, 1978. This subsection shall apply only to policies and contracts, with the exception of group annuity contracts issued on or after January 1 of the year this Code becomes operative, but prior to January 1, 1978.

The minimum standard for the valuation of all such policies and contracts shall be the one-year-full-preliminary-term method, or such other method as may be required by the Commissioner consistent with the basis required for determination of nonforfeiture values and benefits pursuant to Article 13.280, three and one-half (3½) percent interest, and the following tables:

- (a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners' 1941 Standard Ordinary Mortality Table, or such other table as may be approved by the Commissioner.
- (b) For all industrial life insurance policies, excluding any disability and accidental death benefits in such policies, the 1941 Substandard Industrial Mortality Table, or such other recognized mortality table as may be approved by the Commissioner.
- (c) For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table.
- (d) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, Class Three

Disability Table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(e) For accidental death benefits in or supplementary to policies, the Inter-Company Double Indemnity Mortality Table, combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the Commissioner.

(3) Minimum valuation standard for policies issued on or after January 1, 1978, and for all group annuity contracts.- This subsection shall apply only to policies and contracts issued on or after January 1, 1978, except that it shall also apply to all group annuity contracts issued prior to that date. The minimum valuation standard for said policies and contracts shall be that fixed by the Commissioner through regulations, but such standards shall not be inconsistent with the minimum valuation standards formulated or approved by the National Association of Insurance Commissioners.”

Section 3.- Article 5.090 is hereby added to Act No. 77 of June 19, 1957, as amended, to read as follows:

“Article 5.090.- Minimum Reserves

(a) In no event shall an insurer’s aggregate reserves for said life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated pursuant to the method set forth in Article 5.080 (2) and (3)

and in the regulations promulgated by the Commissioner, the mortality table or tables, and the rate or rates of interest used in calculating nonforfeiture benefits for such policies.

- (b) In no event shall the aggregate reserves of all policies, contracts and benefits be less than the aggregate reserves determined by an actuary qualified to render actuarial opinion as required by Article 5.100.”

Section 4.- Article 5.100 is hereby added to Act No. 77 of June 19, 1957, as amended, to read as follows:

“Article 5.100.- Actuarial Opinion

- A. Every insurer shall file annually, together with its annual report, the opinion of a qualified actuary stating whether the reserves of the policies and contracts specified by the Commissioner have been calculated properly, are based on assumptions that comply with the provisions of said contracts, are consistent with the sums previously reported, and comply with the laws of Puerto Rico. The Commissioner shall provide the contents and manner in which the actuarial opinion shall be issued.
- B. Every life insurer shall also file annually, together with the opinion required by the previous Section, an opinion of the same qualified actuary on whether the reserves of the policies and contracts specified by the Commissioner, in light of the assets of the insurer with respect to such reserves, adequately provide for the obligations that arise from such policies and contracts. The Commissioner may grant a transitional period for establishing any higher

reserve deemed necessary by the qualified actuary to issue the opinion required by this Article.

- C. The actuarial opinions required above shall be supported by a memorandum, which shall be provided as required by the Commissioner. If such memorandum is not provided or if it does not comply with the requirements of the Commissioner, the Commissioner may contract a qualified actuary, to be paid by the insurer, in order to review the opinion and the bases for the opinion and to prepare the required memorandum of support.
- D. The insurer shall file the actuarial opinions together with the annual reports, and the same shall show the value of the reserves for each year ending on December 31. Said opinions shall be based on the standards adopted from time to time by the Actuarial Standards Board and on those additional standards adopted by the Commissioner.”

Section 5.- Article 5.080 of Act No. 77 of June 19, 1957, as amended, entitled Powers of the Commissioner, is hereby amended and renumbered to read as follows:

“Article 5.110.- Powers of the Commissioner

The Accounting Practices and Procedures adopted in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, as well as the amendments that from time to time shall be promulgated by said entity, are hereby adopted as the statutory accounting standards that govern local insurers.

The Commissioner, through regulations, may modify said standards regarding the determination of the assets and liabilities of a local insurer to

the extent that the same are contrary to the public interest, unreasonably impact the financial situation of local insurers, or are in conflict with any of the provisions of this Code.”

Section 6.- The provisions of this Act are independent and severable; if any of its provisions is found unconstitutional by a court with jurisdiction and competence, the remaining provisions of this Act shall not be affected, and the Act thus modified by the ruling of said court shall continue in full force and effect.

Section 7.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 34 (S.B. 2041) of the 7<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Articles 5.030 and 5.080 of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico,” and to add Articles 5.090, 5.100, and 5.110, in order to adjust the accounting principles and standards that govern local insurers to the parameters established by the National Association of Insurance Commissioners,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 16<sup>th</sup> of May of 2008.

Kevin Miguel Rivera-Medina  
Sub-Director