

(S.B. 533)

**(No. 82)**

(Approved August 26, 2005)

## **AN ACT**

To amend Article 4.100 of Act No. 77 of June 19, 1957, known as the “Insurance Code of Puerto Rico,” in order to establish that personal property may be object of insurance under the title insurance.

### **STATEMENT OF MOTIVES**

In 1995 the Legislature promulgated Act No. 208 of August 17, 1995, better known as the “Negotiable Instruments and Banking Transactions Act.” With this Act modern precepts were adopted that would serve to expedite commercial traffic and place Puerto Rico on a par with the fifty states of the American Union that had adopted the Uniform Commerce Code (UCC) and with other industrialized countries. This Act, as amended by Act No. 241 of September 19, 1996, provides for the creation of liens on personal property such as consumer goods, agricultural products, intangible goods and objects of inventory.

In order to impose such a lien on personal property, the Act provides that a Statement of Financing describing the particular personal property encumbered in relation to the financing granted by some creditor be registered with the Department of State. This register constitutes the personal property counterpart to the Property Registry.

The personal property lien as a source for guaranteeing commercial transactions is a resource used widely in commerce and industry. This type

of guaranteed financing makes it easy for persons and entrepreneurs to obtain the financing they need to initiate and develop their businesses.

Title insurance exists to guarantee the owner of some particular property the title thereto, or to indemnify said title holder in case he/she suffers a loss or impingement of his/her rights. In the case of property encumbered with a mortgage or another type of lien, a title insurance policy would respond should some defect in the property title arise, whose defect would affect the validity of the mortgage guarantee or that of any other kind.

Article 4.100 of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico” defines “title insurance” as “the insurance of owners of real property or others having an interest therein or liens or encumbrances thereon, against loss by encumbrance or defective titles or invalidity or claims adverse to title and services connected therewith” (Our underlining). Said definition does not include the issue of title insurance policies on personal property; for this reason in Puerto Rico it is impossible at present for the holder of a mortgage on personal property or other personal property lien to have the additional protection of a title insurance policy.

It therefore becomes necessary to adjust the provisions of the Insurance Code to the new commercial trends so as to expedite business transactions and the economic growth of the Island within a framework of participation of Puerto Rico in the interstate commercial system of the United States of America.

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

Section 1.-Article 4.100 of Act No. 77 of June 19, 1957, as amended, is hereby amended to read as follows:

“Article 4.100 – Title insurance.

Is the insurance of owners of real *or personal* property or others having an interest therein or liens or encumbrances thereon, against loss by encumbrance or defective titles or invalidity or claims adverse to title and services connected therewith.”

Section 2.-This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 82 (S.B. 533) of the 1<sup>st</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Article 4.100 of Act No. 77 of June 19, 1957, known as the “Insurance Code of Puerto Rico,” in order to establish that personal property may be object of insurance under the title insurance,

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

In San Juan, Puerto Rico, today 20<sup>th</sup> of January of 2006.

Francisco J. Domenech  
Director