

## Decree with Rank, Value and Force of Law of the Insurance Business



On December 30, 2015, the Decree with Rank, Value and Force of Law Insurance Business was published in the Official Gazette Nº 6.211 and **it is effective from the date of its publication.**

- 1) **Definitions:** The new Law incorporates twenty five (25) new definitions.
- 2) **Subjects of Insurance Business:** It includes expressly the trust law and the risk management companies, as subjects to which the Law would be applied when its activity is related with the insurance contract and risk management.
- 3) **Special Contribution:** The basis for the special contribution will be extended as follows:
  - a) The net prime charged by the insurance contracts, the compensation from bond issues, and the incomes obtained as remuneration for the trust law contracts in terms of insurances and insurance business contracts.
  - b) The net income from interests collected in the given financing to the insurance taker, contracting of health services, in the cases of financing companies of primes and fees.
  - c) The net primes charged by the insurance companies and reinsurance companies for foreign assignors accepted business.
- 4) **Nation Guarantees:** The contribution that must be done to the Central Bank of Venezuela increased as follows:
  - (a) Insurance companies and risk managers: (i) 54.000 Tax Units (hereafter T.U.) for those who aspire to operate in one of the insurances of the general branches or in the two related insurances of the general branches. (ii) 72.000 T.U. for those who aspire to operate in general branches or in life branches. (iii) 252.000 T.U. for those who aspire to operate simultaneously in general branches and life branches. (iv) The insurance companies authorized to act as fiduciary must built, additionally, a guarantee equivalent to 12.000 T.U.
  - (b) Reinsurance companies: 252.000 T.U. for the companies that aspire to operate simultaneously in general branches and life branches.
  - (c) Prepaid medicine company: 54.000 T.U. for the companies that aspire to operate in health plans.
  - (d) Cooperative associations: (i) 27.000 T.U. to operate in one of the insurances of general branches or prepaid medicine. (ii) 37.000 T.U. to operate in two or more branches. (iii) 60.000 T.U. to operate in one or more general branches and prepaid medicine simultaneously. When the cooperative association performs insurance business only with associated, the guarantee corresponding will be equivalent to 10% of the indicated amount.
- 5) **Superintendence attributions:** Two new faculties of the Superintendence were incorporated, being able now to order the payment from casualties, benefits and services, previous administrative procedure applying the monetary correction in case of delay in the compliance of the corresponding Compensation.
 

We emphasize that, in the previous legislation, the cooperative business was not forced to pay this contribution.

(e) Integration organisms: 125.000 T.U.

All the amounts might be adjusted by the Minister with jurisdiction on the area and will not be inferior to 10% of the minimum capital. Likewise, the promoters of representing the Guarantee of the Nation are excluded.

Additionally, the Superintendence will be able to authorize the insurance companies, the reinsurance companies, prepaid medicine companies and cooperative associations to make insurance business, the alienation and tax rate of the urban venues, properties, as the vehicles and whichever other assets or values product of the recoveries and casualties salvage.

**6) Minimum Capital increasing:** It incorporates as a mandatory request to obtain and maintain authorization to operate as insurance company and to have a minimum paid capital in cash, which has increased significantly, as it follows:

**(a)** 540.000 T.U. for the companies that operate in two related insurances to general branches.

**(b)** 720.000 T.U. for the companies that aspire to operate in two related insurances to general branches.

**(c)** 1.260.000 T.U. to the companies that aspire to operate in general branches or industry branches. Likewise, the minimum capital must be adjusted in cash and it must be registered in the system each two years, before March 31 of the year that corresponds, based on the current T.U. value to the closure year immediately previous to the adjustment.

On the other hand, the reinsurance companies must have as a necessary requirement a capital paid in cash on the amount of 1.740.000 T.U.

**7) Prohibitions:** Among the prohibitions stated in the Law, the next ones were added:

**(a)** The “password” request was eliminated previously by the insurance companies, in case of emergency attention.

**(b)** The emission of bail contracts or reinforcements is forbidden without relying on the counter-guarantee and the contracts of reinsurances or reinforcements.

**(c)** The alienation of any title, automotive parts and vehicles that had been qualified as useless or non-recoverable is forbidden in conformity with the law that regulates the road passenger field, without the authorization of the Superintendence of the insurance business according to the rules that are dictated to the effect.

**8) Reserve Investment:** The companies with insurance business must maintain the assets suitable for the representation of 100% of the mathematical reserves, to ongoing risks, compensations and pending payment casualties,

ongoing fees, provided services and to the favorable experience refund in the following percentages:

**(a)** No less than 50% in deposits in financial institutions that are domiciled in the country.

**(b)** No less than 30% in national or foreign currency securities, issued or guaranteed by the Republic, for other public law subjects or issued by institutions or companies in which these entities participate.

**(c)** No more than 20% in: built urban venue and in other investments.

The Superintendent of the Insurance Business will be able to adjust the percentages and the assets composition.

**9) Rate Fixing:** The parameters that must be taken into account for the rate fixing from the companies must be previously approved by the Superintendence of the Insurance Business, based on various issues exposed in the Law and for the rules that the Superintendence dictates.

**10) New contributions:** The new Law adds the creation of new contributions: **(a)** Social Development contribution, leaving its base and aliquot defined as follows **(i)** the contribution is annual; **(ii)** the aliquot is between 1% and 3%; and **(iii)** the base is the amount of the prime policies of health insurances, of health plans fees, of income obtained as remuneration for the administration risk contracts and other insurance policies. The application of the contribution is subject to the regulation dictated for the Ministry with expertise in finance, as a proposal of the Superintendent Insurance Business. This regulation includes the competition to set the aliquot inside the Law limits. **(b)** Contribution to the Investigation and development of the Insurance Business. The obligation to pay that contribution is conditioned to the fact that such subjects “introduce earnings to the closure of the financial period.” Likewise, the basis and aliquot of the contribution remains defined like this: **(i)** the contribution is annual; **(ii)** the percentage will not exceed of five (5%) percent and **(iii)** it is calculated on the utility of the financial period.

- 11) **Fines.** The administrative illicit has not suffered significant changes, except for the fines, which amount increased significantly from 2.000 T.U. to 48.000 T.U.
- 12) **User rights.** The right to monetary correction is added in case of delay, evasion or generic reject in the compensation payment.
- 13) **Transitory Provisions:**
- a) The clauses of the risk administration contract, insurance, health plans that establish an imbalance between the right, obligations of the parties, or impose disproportionate burden in prejudice of the contracting party, policyholder, administered, users, insured or beneficiary remain forceless. Furthermore, those clauses that limit the direct relation between the insurance company and its reinsurer or between the policyholder, the insured or the beneficiary and the reinsurer remain forceless.
  - b) The Superintendence of the Insurance Business has 180 continuous days, from the issued date of this Law – to June 27, 2016 -, **to dictate the standards related to the insurance contract and other contracts related to the insurance business.**
  - c) **The Legal people that finance primes or fees, commercialize with insurance policies, risk management and health plans,** must request an authorization through the Superintendence of Insurance Business in the 180 continuous days from the date this rule was issued – to June 27, 2016.
  - d) **The liable subjects have 60 working days** – March 25, 2016 – to present to the Superintendence of Insurance Business a plan that adjusts to the new arrangements.
  - e) All the liable subjects that are part of and insurance, economic or financial group, must perform all the necessary operations to implement the principle of legal accountant, administrative and financial separation, in due time of 180 continuous days – to June 27 2016-.
  - f) For the purposes of the established in the previous transitory provision, the companies regulated this way, which shareholders or associated are subjects regulated by the Organic Law of the National Financial System, **must legally separate its accounting, its administrative management and its treasury management,** with the purpose of preventing monopolistic operations and opposing to the solvency and stability of the financing system. By virtue of this principle of separation, the insurance companies will not be able to include their account, administrative and financial management in other companies, maintaining a vertical legal separation structure.
  - g) In three years from the effective date of this Decree with Rank, Value and Force of Law, the entities and authorities of the National, State and Municipal Public Administration will promote, plan, schedule and execute the migration process from the people who would have hired private insurance to the public insurance companies or to the National Public Health System.
14. **Derogation:** both Law of Insurance Business issued in Official Gazette N° 39.481 on August 5, 2016 and Law of the Insurance Contract issued in Extraordinary Official Gazette N°5.553 on November 12, 2002 are abrogated.

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