

**NEW UPDATES
ABOUT THE
INSURANCE BILL
(PLC No. 29/2017)**

The Insurance Bill (PLC No. 29/2017), which provides for private insurance and revokes the Chapter of the Civil Code that covers insurance (articles 757 to 802), in addition to some articles referring to statute of limitation, had new developments in November.

NEW DEVELOPMENT: SUBSTITUTE AMENDMENT

On November 21, 2023, the report from Senator Rapporteur Japer Barbalho was received, with a vote in favor of the Bill, presenting a Substitute Amendment to the text initially approved by the House of Representatives.

The text presented, in large part, reproduces the one made available by the media in October this year, which would have been the result of a consensus between the National Confederation of Insurance Companies (CNseg) and the Federal Insurance Commissioner (SUSEP).

The report must be guided and voted on by the Constitution, Justice, and Citizenship Commission (CCJ), on a date not yet announced. Afterwards, it must be forwarded for analysis and voting by the Economic Affairs Committee (CAE) and may be subject to a vote on the floor.

The Bill will only be forwarded again to the House of Representatives if the Senate makes changes to the final text approved by the original house, that is, in our view, if the Substitute Amendment is accepted, the text should return to the House, with the next steps and comments mentioned in our previous newsletter remaining valid.

IMPROVEMENTS

Among the improvements, we highlight the following:

- the removal of articles related to general provisions, simplifying the wording;
- adjustments to articles regarding transfer of portfolio;
- removal of any reference to the approval of contractual conditions by SUSEP in a specific article;
- reduction from 3% to 2% of the amount of the fine established for the insurer in case of delay in paying the insurance amount;
- removal of the article about extension of insurance intended to guarantee constructions or other kind of large risks;
- inclusion of different deadlines for the loss adjustment of large claims.

NEED FOR IMPROVEMENT (PENDING REVIEW BY THE CONGRESS)

There are still concerns about the provisions of the text presented, especially regarding the need to avoid throwbacks and losses to the insured themselves, as, for example, in relation to the articles that:

- mention the existence of insurance contract templates and their layered structure (general, special and particular conditions);
- conceptualize the relevant worsening of risk;
- provide for joint liability between the loss adjuster and the insurer;
- present favorable wording and calculation criteria for the insured, in a way that may facilitate fraudulent situations and harm contractual mutualism;
- refer to the initial term of the annual deadline from the insured pleading the insurance amount (from the refusal to pay the insurance indemnity and not from the date of the accident);
- address reinsurance;
- provide that the arbitration must be carried out in Brazil and subject to the rules under the Brazilian law, in contradiction to the Arbitration Law;
- establish that the insured must make every effort to inform the harmed third parties about the existence and content of civil liability insurance; and
- strongly interfere with civil procedural law.

In this context, we hope that the text presented will still be analyzed, so that many of its provisions can be improved.