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Sexual Orientation or Gender Identity Discrimination: Now Prohibited and Domestic Violence Redefined

After a heated debate, Senate Bill 238 (“SB 238”), which prohibits employment discrimination based on sexual orientation or gender identity, was signed into Act 22-2013 by the Governor on May 29, 2013. Act No. 22 now joins a multiplicity of statutes and regulations that outlaw discriminatory practices in the workplace.

Act No. 22 amends Act No. 100 of June 30, 1959 (“Act No. 100”), which is Puerto Rico’s general employment discrimination statute. Act No. 100 bars discrimination on the basis of age, race, color, sex, national origin, social origin or condition, political or religious ideas, marriage, for being a victim or perceived victim of domestic violence, sexual aggression or stalking, and now, **for sexual orientation or gender identity**. This means that members of the LGBTT community now enjoy full statutory protection against discrimination in the workplace.

Act No. 100 also prohibits employers from taking adverse employment actions based on sexual orientation or gender identity such as the denial of employment opportunities or promotion, suspension, dismissal, or affecting compensation or other terms and conditions of employment, when the reason for

so doing is because the individual belongs to one of the categories or groups protected by the statute.

It is of utmost importance that internal anti-discrimination policies and procedures within the workplace be amended to reflect this change and that training be offered to managerial and human resources staff regarding this important change in the law.

Amendment to Act No. 54 (Domestic Violence)

House Bill 488 (“HB 488”) was also signed into Act 23-2013 on May 29, 2013. It amends Act No. 54 by extending domestic violence protections to all the parties involved in a consensual relationship, regardless of sexual orientation and gender identity. Since Act No. 217 was enacted in 2006, employers in Puerto Rico have been required to establish and implement protocols for the management of domestic violence. Pursuant to the amendments introduced by Act No. 23, every employer should now update its Domestic Violence Policy and Protocol in the workplace in order to include employees in same-sex relationships. The provisions of Act No. 217 have been aggressively enforced by PR-OSHA since its enactment. Therefore, we recommend that the changes mandated by Act No. 23 be implemented forthwith.

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We at Goldman remain committed in assisting you and your business to adjust to these changes in the Law. For further information you may contact Luis F. Antonetti, Esq. or any of the attorneys in the Labor & Employment Law Department.



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