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§ 2101. Effective date

(a) In general

Except as provided in subsection (b), this chapter shall take effect on June 30, 2016.

(b) Subchapter III and Subchapter VI

(1) Subchapter III shall apply with respect to cases commenced under subchapter III on or after June 30, 2016.

(2) Subchapters III and VI shall apply with respect to debts, claims, and liens (as such terms are defined in section 101 of title 11) created before, on, or after such date.

(Pub. L. 114-187, § 2, June 30, 2016, 130 Stat. 550.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 114-187, §1(a), June 30, 2016, 130 Stat. 549, provided that: “This Act [enacting this chapter, amending sections 1469e and 1492a of this title, sections 632 and 644 of Title 15, Commerce and Trade, and section 206 of Title 29, Labor, and enacting provisions set out as a note under section 632 of Title 15] may be cited as the

‘Puerto Rico Oversight, Management, and Economic Stability Act’ or ‘PROMESA’.”

§ 2102. Severability

(a) In general

Except as provided in subsection (b), if any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby, provided that subchapter III is not severable from subchapters I and II, and subchapters I and II are not severable from subchapter III.

(b) Uniformity

If a court holds invalid any provision of this chapter or the application thereof on the ground that the provision fails to treat similarly situated territories uniformly, then the court shall, in granting a remedy, order that the provision of this chapter or the application thereof be extended to any other similarly situated territory, provided that the legislature of that territory adopts a resolution signed by the territory’s governor requesting the establishment and organization of a Financial Oversight and Management Board pursuant to section 2121 of this title.

(Pub. L. 114-187, § 3, June 30, 2016, 130 Stat. 550.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

§ 2103. Supremacy

The provisions of this chapter shall prevail over any general or specific provisions of territory law, State law, or regulation that is inconsistent with this chapter.

(Pub. L. 114-187, § 4, June 30, 2016, 130 Stat. 551.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

§ 2104. Definitions

In this chapter—

(1) Agreed accounting standards

The term “agreed accounting standards” means modified accrual accounting standards or, for any period during which the Oversight Board determines in its sole discretion that a territorial government is not reasonably capable of comprehensive reporting that complies with modified accrual accounting standards, such other accounting standards as proposed by the Oversight Board.

(2) Bond

The term “Bond” means a bond, loan, letter of credit, other borrowing title, obligation of insurance, or other financial indebtedness for borrowed money, including rights, entitlements, or obligations whether such rights, entitlements, or obligations arise from contract, statute, or any other source of law, in any case, related to such a bond, loan, letter of credit, other borrowing title, obligation of insurance, or other financial indebtedness in physical or dematerialized form of which the issuer, obligor, or guarantor is the territorial government.

(3) Bond Claim

The term “Bond Claim” means, as it relates to a Bond—

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

(4) Budget

The term “Budget” means the Territory Budget or an Instrumentality Budget, as applicable.

(5) Puerto Rico

The term “Puerto Rico” means the Commonwealth of Puerto Rico.

(6) Compliant budget

The term “compliant budget” means a budget that is prepared in accordance with—

- (A) agreed accounting standards; and
- (B) the applicable Fiscal Plan.

(7) Covered territorial instrumentality

The term “covered territorial instrumentality” means a territorial instrumentality designated by the Oversight Board pursuant to section 2121 of this title to be subject to the requirements of this chapter.

(8) Covered territory

The term “covered territory” means a territory for which an Oversight Board has been established under section 2121 of this title.

(9) Executive Director

The term “Executive Director” means an Executive Director appointed under section 2123(a) of this title.

(10) Fiscal Plan

The term “Fiscal Plan” means a Territory Fiscal Plan or an Instrumentality Fiscal Plan, as applicable.

(11) Government of Puerto Rico

The term “Government of Puerto Rico” means the Commonwealth of Puerto Rico, including all its territorial instrumentalities.

(12) Governor

The term “Governor” means the chief executive of a covered territory.

(13) Instrumentality Budget

The term “Instrumentality Budget” means a budget for a covered territorial instrumentality, designated by the Oversight Board in accordance with section 2121 of this title, submitted, approved, and certified in accordance with section 2142 of this title.

(14) Instrumentality Fiscal Plan

The term “Instrumentality Fiscal Plan” means a fiscal plan for a covered territorial instrumentality, designated by the Oversight Board in accordance with section 2121 of this title, submitted, approved, and certified in accordance with section 2141 of this title.

(15) Legislature

The term “Legislature” means the legislative body responsible for enacting the laws of a covered territory.

(16) Modified accrual accounting standards

The term “modified accrual accounting standards” means recognizing revenues as they become available and measurable and recognizing expenditures when liabilities are incurred, in each case as defined by the Governmental Accounting Standards Board, in accordance with generally accepted accounting principles.

(17) Oversight Board

The term “Oversight Board” means a Financial Oversight and Management Board established in accordance with section 2121 of this title.

(18) Territorial government

The term “territorial government” means the government of a covered territory, including all covered territorial instrumentalities.

(19) Territorial instrumentality**(A) In general**

The term “territorial instrumentality” means any political subdivision, public agency, instrumentality—including any instrumentality that is also a bank—or public corporation of a territory, and this term should be broadly construed to effectuate the purposes of this chapter.

(B) Exclusion

The term “territorial instrumentality” does not include an Oversight Board.

(20) Territory

The term “territory” means—

- (A) Puerto Rico;
- (B) Guam;
- (C) American Samoa;
- (D) the Commonwealth of the Northern Mariana Islands; or
- (E) the United States Virgin Islands.

(21) Territory Budget

The term “Territory Budget” means a budget for a territorial government submitted, approved, and certified in accordance with section 2142 of this title.

(22) Territory Fiscal Plan

The term “Territory Fiscal Plan” means a fiscal plan for a territorial government sub-

mitted, approved, and certified in accordance with section 2141 of this title.

(Pub. L. 114-187, § 5, June 30, 2016, 130 Stat. 551.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

§ 2105. Placement

The Law Revision Counsel is directed to place this Act as chapter 20 of title 48.

(Pub. L. 114-187, § 6, June 30, 2016, 130 Stat. 553.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

§ 2106. Compliance with Federal laws

Except as otherwise provided in this chapter, nothing in this chapter shall be construed as impairing or in any manner relieving a territorial government, or any territorial instrumentality thereof, from compliance with Federal laws or requirements or territorial laws and requirements implementing a federally authorized or federally delegated program protecting the health, safety, and environment of persons in such territory.

(Pub. L. 114-187, § 7, June 30, 2016, 130 Stat. 553.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

SUBCHAPTER I—ESTABLISHMENT AND ORGANIZATION OF OVERSIGHT BOARD

§ 2121. Financial Oversight and Management Board

(a) Purpose

The purpose of the Oversight Board is to provide a method for a covered territory to achieve fiscal responsibility and access to the capital markets.

(b) Establishment

(1) Puerto Rico

A Financial Oversight and Management Board is hereby established for Puerto Rico.

(2) Constitutional basis

The Congress enacts this chapter pursuant to article IV, section 3 of the Constitution of the United States, which provides Congress

the power to dispose of and make all needful rules and regulations for territories.

(c) Treatment

An Oversight Board established under this section—

(1) shall be created as an entity within the territorial government for which it is established in accordance with this subchapter; and

(2) shall not be considered to be a department, agency, establishment, or instrumentality of the Federal Government.

(d) Oversight of territorial instrumentalities

(1) Designation

(A) In general

An Oversight Board, in its sole discretion at such time as the Oversight Board determines to be appropriate, may designate any territorial instrumentality as a covered territorial instrumentality that is subject to the requirements of this chapter.

(B) Budgets and reports

The Oversight Board may require, in its sole discretion, the Governor to submit to the Oversight Board such budgets and monthly or quarterly reports regarding a covered territorial instrumentality as the Oversight Board determines to be necessary and may designate any covered territorial instrumentality to be included in the Territory Budget; except that the Oversight Board may not designate a covered territorial instrumentality to be included in the Territory Budget if applicable territory law does not require legislative approval of such covered territorial instrumentality’s budget.

(C) Separate Instrumentality Budgets and reports

The Oversight Board in its sole discretion may or, if it requires a budget from a covered territorial instrumentality whose budget does not require legislative approval under applicable territory law, shall designate a covered territorial instrumentality to be the subject of an Instrumentality Budget separate from the applicable Territory Budget and require that the Governor develop such an Instrumentality Budget.

(D) Inclusion in Territory Fiscal Plan

The Oversight Board may require, in its sole discretion, the Governor to include a covered territorial instrumentality in the applicable Territory Fiscal Plan. Any covered territorial instrumentality submitting a separate Instrumentality Fiscal Plan must also submit a separate Instrumentality Budget.

(E) Separate Instrumentality Fiscal Plans

The Oversight Board may designate, in its sole discretion, a covered territorial instrumentality to be the subject of an Instrumentality Fiscal Plan separate from the applicable Territory Fiscal Plan and require that the Governor develop such an Instrumentality Fiscal Plan. Any covered territorial instrumentality submitting a separate Instrumentality Fiscal Plan shall also submit a separate Instrumentality Budget.