

(Pub. L. 114-187, title II, §212, June 30, 2016, 130 Stat. 577.)

SUBCHAPTER III—ADJUSTMENTS OF
DEBTS

§ 2161. Applicability of other laws; definitions

(a) Sections applicable to cases under this subchapter

Sections 101 (except as otherwise provided in this section), 102, 104, 105, 106, 107, 108, 112, 333, 344, 347(b), 349, 350(b), 351, 361, 362, 364(c), 364(d), 364(e), 364(f), 365, 366, 501, 502, 503, 504, 506, 507(a)(2), 509, 510, 524(a)(1), 524(a)(2), 544, 545, 546, 547, 548, 549(a), 549(c), 549(d), 550, 551, 552, 553, 555, 556, 557, 559, 560, 561, 562, 902 (except as otherwise provided in this section), 922, 923, 924, 925, 926, 927, 928, 942, 944, 945, 946, 1102, 1103, 1109, 1111(b), 1122, 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(b), 1123(d), 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f), 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3), 1129(a)(6), 1129(a)(8), 1129(a)(10), 1129(b)(1), 1129(b)(2)(A), 1129(b)(2)(B), 1142(b), 1143, 1144, 1145, and 1146(a) of title 11 apply in a case under this subchapter and section 930 of title 11 applies in a case under this subchapter; however, section 930 shall not apply in any case during the first 120 days after the date on which such case is commenced under this subchapter.

(b) Meanings of terms

A term used in a section of title 11, made applicable in a case under this subchapter by subsection (a), has the meaning given to the term for the purpose of the applicable section, unless the term is otherwise defined in this subchapter.

(c) Definitions

In this subchapter:

(1) Affiliate

The term “affiliate” means, in addition to the definition made applicable in a case under this subchapter by subsection (a)—

(A) for a territory, any territorial instrumentality; and

(B) for a territorial instrumentality, the governing territory and any of the other territorial instrumentalities of the territory.

(2) Debtor

The term “debtor” means the territory or covered territorial instrumentality concerning which a case under this subchapter has been commenced.

(3) Holder of a claim or interest

The term “holder of a claim or interest”, when used in section 1126 of title 11, made applicable in a case under this subchapter by subsection (a)—

(A) shall exclude any Issuer or Authorized Instrumentality of the Territory Government Issuer (as defined under subchapter VI of this chapter) or a corporation, trust or other legal entity that is controlled by the Issuer or an Authorized Territorial Instrumentality of the Territory Government Issuer, provided that the beneficiaries of such claims, to the extent they are not referenced in this subparagraph, shall not be

excluded, and that, for each excluded trust or other legal entity, the court shall, upon the request of any participant or beneficiary of such trust or entity, at any time after the commencement of the case, order the appointment of a separate committee of creditors pursuant to section 1102(a)(2) of title 11; and

(B) with reference to Insured Bonds, shall mean the monoline insurer insuring such Insured Bond to the extent such insurer is granted the right to vote Insured Bonds for purposes of directing remedies or consenting to proposed amendments or modifications as provided in the applicable documents pursuant to which such Insured Bond was issued and insured.

(4) Insured Bond

The term “Insured Bond” means a bond subject to a financial guarantee or similar insurance contract, policy and/or surety issued by a monoline insurer.

(5) Property of the estate

The term “property of the estate”, when used in a section of title 11 made applicable in a case under this subchapter by subsection (a), means property of the debtor.

(6) State

The term “State”¹ when used in a section of title 11 made applicable in a case under this subchapter by subsection (a)¹ means State or territory when used in reference to the relationship of a State to the municipality of the State or the territorial instrumentality of a territory, as applicable.

(7) Trustee

The term “trustee”, when used in a section of title 11 made applicable in a case under this subchapter by subsection (a), means the Oversight Board, except as provided in section 926 of title 11. The term “trustee” as described in this paragraph does not mean the U.S. Trustee, an official of the United States Trustee Program, which is a component of the United States Department of Justice.

(d) Reference to subchapter

Solely for purposes of this subchapter, a reference to “this title”, “this chapter”, or words of similar import in a section of title 11 made applicable in a case under this subchapter by subsection (a) or to “this title”, “title 11”, “Chapter 9”, “Chapter 11”, “the Code”, or words of similar import in the Federal Rules of Bankruptcy Procedure made applicable in a case under this subchapter shall be deemed to be a reference to this subchapter.

(e) Substantially similar

In determining whether claims are “substantially similar” for the purpose of section 1122 of title 11, made applicable in a case under this subchapter by subsection (a), the Oversight Board shall consider whether such claims are secured and whether such claims have priority over other claims.

¹ So in original. Probably should be followed by a comma.

(f) Operative clauses

A section made applicable in a case under this subchapter by subsection (a) that is operative if the business of the debtor is authorized to be operated is operative in a case under this subchapter.

(Pub. L. 114-187, title III, §301, June 30, 2016, 130 Stat. 577.)

§ 2162. Who may be a debtor

An entity may be a debtor under this subchapter if—

(1) the entity is—

(A) a territory that has requested the establishment of an Oversight Board or has had an Oversight Board established for it by the United States Congress in accordance with section 2121 of this title; or

(B) a covered territorial instrumentality of a territory described in paragraph (1)(A);

(2) the Oversight Board has issued a certification under section 2146(b) of this title for such entity; and

(3) the entity desires to effect a plan to adjust its debts.

(Pub. L. 114-187, title III, §302, June 30, 2016, 130 Stat. 579.)

§ 2163. Reservation of territorial power to control territory and territorial instrumentalities

Subject to the limitations set forth in subchapters I and II of this chapter, this subchapter does not limit or impair the power of a covered territory to control, by legislation or otherwise, the territory or any territorial instrumentality thereof in the exercise of the political or governmental powers of the territory or territorial instrumentality, including expenditures for such exercise, but whether or not a case has been or can be commenced under this subchapter—

(1) a territory law prescribing a method of composition of indebtedness or a moratorium law, but solely to the extent that it prohibits the payment of principal or interest by an entity not described in section 109(b)(2) of title 11, may not bind any creditor of a covered territory or any covered territorial instrumentality thereof that does not consent to the composition or moratorium;

(2) a judgment entered under a law described in paragraph (1) may not bind a creditor that does not consent to the composition; and

(3) unlawful executive orders that alter, amend, or modify rights of holders of any debt of the territory or territorial instrumentality, or that divert funds from one territorial instrumentality to another or to the territory, shall be preempted by this chapter.

(Pub. L. 114-187, title III, §303, June 30, 2016, 130 Stat. 579.)

REFERENCES IN TEXT

This chapter, referred to in par. (3), 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.

§ 2164. Petition and proceedings relating to petition**(a) Commencement of case**

A voluntary case under this subchapter is commenced by the filing with the district court of a petition by the Oversight Board pursuant to the determination under section 2146 of this title.

(b) Objection to petition

After any objection to the petition, the court, after notice and a hearing, may dismiss the petition if the petition does not meet the requirements of this subchapter; however, this subsection shall not apply in any case during the first 120 days after the date on which such case is commenced under this subchapter.

(c) Order for relief

The commencement of a case under this subchapter constitutes an order for relief.

(d) Appeal

The court may not, on account of an appeal from an order for relief, delay any proceeding under this subchapter in the case in which the appeal is being taken, nor shall any court order a stay of such proceeding pending such appeal.

(e) Validity of debt

The reversal on appeal of a finding of jurisdiction shall not affect the validity of any debt incurred that is authorized by the court under section 364(c) or 364(d) of title 11.

(f) Joint filing of petitions and plans permitted

The Oversight Board, on behalf of debtors under this subchapter, may file petitions or submit or modify plans of adjustment jointly if the debtors are affiliates; provided, however, that nothing in this subchapter shall be construed as authorizing substantive consolidation of the cases of affiliated debtors.

(g) Joint administration of affiliated cases

If the Oversight Board, on behalf of a debtor and one or more affiliates, has filed separate cases and the Oversight Board, on behalf of the debtor or one of the affiliates, files a motion to administer the cases jointly, the court may order a joint administration of the cases.

(h) Public safety

This chapter may not be construed to permit the discharge of obligations arising under Federal police or regulatory laws, including laws relating to the environment, public health or safety, or territorial laws implementing such Federal legal provisions. This includes compliance obligations, requirements under consent decrees or judicial orders, and obligations to pay associated administrative, civil, or other penalties.

(i) Voting on debt adjustment plans not stayed

Notwithstanding any provision in this subchapter to the contrary, including sections of title 11 incorporated by reference, nothing in this section shall prevent the holder of a claim from voting on or consenting to a proposed modification of such claim under subchapter VI of this chapter.

(Pub. L. 114-187, title III, §304, June 30, 2016, 130 Stat. 579.)