

115TH CONGRESS
2D SESSION

S. 3262

To provide the option of discharging certain unsecured financial obligations of self-governing territories of the United States.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2018

Ms. WARREN (for herself, Mr. SANDERS, Mrs. GILLIBRAND, Mr. MARKEY, and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide the option of discharging certain unsecured financial obligations of self-governing territories of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “United States Territorial Relief Act of 2018”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Findings.

TITLE I—TERRITORIAL RELIEF

- Sec. 101. Relief through exercise of the power to regulate commerce, the bankruptcy power, and the territorial power.
- Sec. 102. Effect of discharge.
- Sec. 103. Actions relating to the status of financial obligations.
- Sec. 104. Notice of discharge.
- Sec. 105. Effective date.

TITLE II—PUERTO RICO DEBT RESTRUCTURING COMPENSATION FUND

- Sec. 201. Purpose.
- Sec. 202. Definitions.
- Sec. 203. Administration.
- Sec. 204. Determination of eligibility for compensation.
- Sec. 205. Puerto Rico Debt Restructuring Compensation Fund.
- Sec. 206. Regulations.
- Sec. 207. Sunset.

TITLE III—PUERTO RICO PUBLIC CREDIT COMPREHENSIVE AUDIT COMMISSION

- Sec. 301. Definitions.
- Sec. 302. Establishment; dissolution.
- Sec. 303. Reports.
- Sec. 304. Duties.
- Sec. 305. Authority of the Commission.
- Sec. 306. Membership.
- Sec. 307. Powers and responsibilities.
- Sec. 308. Provision of requested information.
- Sec. 309. Access to information.
- Sec. 310. Funding.

TITLE IV—SEVERABILITY

- Sec. 401. Severability.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ATTACHMENT.**—The term “attachment”
 4 means the time at which a security interest becomes
 5 enforceable against a debtor with respect to collat-
 6 eral.

7 (2) **COLLATERAL.**—The term “collateral”
 8 means property subject to a security interest.

1 (3) FINANCIAL GUARANTY INSURANCE.—The
2 term “financial guaranty insurance” means a surety
3 bond, an insurance policy, an indemnity contract, or
4 any similar guaranty, under which loss is payable on
5 proof of a financial loss to an insured claimant, an
6 obligee, or an indemnitee as a result of the failure
7 of any obligor on or issuer of any debt instrument
8 or other monetary obligation to pay, when due, prin-
9 cipal, interest, or any other amount due or payable
10 with respect to that instrument or obligation, if that
11 failure to pay is the result of a financial default, a
12 financial insolvency, or a discharge in bankruptcy.

13 (4) FINANCIAL GUARANTY INSURER.—The term
14 “financial guaranty insurer” means a party that is
15 obligated as a surety, insurer, or indemnitor under
16 a financial guaranty insurance contract.

17 (5) FINANCIAL OBLIGATION.—The term “finan-
18 cial obligation”—

19 (A) means an obligation validly owed as of
20 the effective date of this Act by a qualifying
21 territory or an instrumentality of a qualifying
22 territory thereof that arises from any—

23 (i) security issued by a qualifying ter-
24 ritory or instrumentality of a qualifying
25 territory;

1 (ii) loan taken out by a qualifying ter-
2 ritory or instrumentality of a qualifying
3 territory;

4 (iii) repurchase or swap or other de-
5 rivative contract entered into by a quali-
6 fying territory or instrumentality of a
7 qualifying territory; or

8 (iv) guaranty of any security or loan
9 or repurchase or swap or other derivative
10 contract by a qualifying territory or instru-
11 mentality of a qualifying territory; and
12 (B) does not include any—

13 (i) claim made by a vendor or service
14 provider that is owed payment by a quali-
15 fying territory or an instrumentality of a
16 qualifying territory for a good or service
17 rendered in the ordinary course of busi-
18 ness;

19 (ii) claim made by or on behalf of a
20 current or former employee of a qualifying
21 territory or an instrumentality of a quali-
22 fying territory that is owed payment for a
23 pension or other retirement benefit, or for
24 a health care benefit of any kind; or

1 (iii) claim against a qualifying terri-
2 tory or an instrumentality of a qualifying
3 territory for a pending tax refund or tax
4 credit.

5 (6) INSTRUMENTALITY.—The term “instrumen-
6 tality” includes—

7 (A) a political subdivision of a qualifying
8 territory;

9 (B) a public agency of a qualifying terri-
10 tory;

11 (C) a public corporation of a qualifying
12 territory; and

13 (D) a banking corporation of a qualifying
14 territory.

15 (7) PER CAPITA DEBT OF A TERRITORY.—The
16 term “per capita debt of a territory” means the
17 quotient obtained by dividing—

18 (A) the aggregate amount of the financial
19 obligations of a territory and the instrumentality-
20 ties of the territory, which shall not include—

21 (i) the Federal debt; or

22 (ii) the unfunded liabilities of a pen-
23 sion system of the government of the quali-
24 fying territory or its instrumentalities for
25 the payment of pension and other retire-

1 ment benefits, or health care benefits of
2 any kind, to current or former employees
3 of a qualifying territory or its instrumen-
4 talities of a qualifying territory that is
5 owed payment for a pension or other re-
6 tirement benefit, or for a health care ben-
7 efit of any kind; by

8 (B) the population of the territory (based
9 on the most recent data available from the Bu-
10 reau of the Census).

11 (8) PROCEEDS.—The term “proceeds” means—

12 (A) whatever is acquired upon the sale,
13 lease, license, exchange, or other disposition of
14 collateral; or

15 (B) whatever is collected on, or distributed
16 on account of, collateral.

17 (9) QUALIFYING TERRITORY.—The term “quali-
18 fying territory” means a territory that meets not
19 less than two of the following qualifications:

20 (A) The population of the territory, based
21 on the most recent data available from the Bu-
22 reau of the Census, has decreased by more than
23 5 percent during the 10-year period ending on
24 the date of a discharge under section 101.

1 (B) The territory has received major dis-
2 aster assistance under the Robert T. Stafford
3 Disaster Relief and Emergency Assistance Act
4 (42 U.S.C. 5121 et seq.) during the 5-year pe-
5 riod ending on the date of a discharge under
6 section 101.

7 (C) The per capita debt of the territory is
8 greater than \$15,000 (as adjusted annually to
9 reflect the percentage change in the Consumer
10 Price Index for All Urban Consumers published
11 by the Bureau of Labor Statistics of the De-
12 partment of Labor).

13 (10) SECURITY AGREEMENT.—The term “secu-
14 rity agreement” means an agreement or resolution
15 that creates or provides for a security interest.

16 (11) SECURED FINANCIAL OBLIGATION.—The
17 term “secured financial obligation” means any fi-
18 nancial obligation to the extent of the value of any
19 collateral pledged by a qualifying territory or an in-
20 strumentality of a qualifying territory to secure the
21 repayment of the financial obligation pursuant to a
22 valid and perfected security interest under applicable
23 territorial law, not including—

24 (A) any property acquired or anticipated to
25 be acquired by a qualifying territory or an in-

1 instrumentality of a qualifying territory after the
2 date of a discharge under section 101, even if
3 that property, when acquired, would have be-
4 come collateral subject to a security interest; or

5 (B) any proceeds, products, offspring, or
6 profits of the collateral not in existence on the
7 date of a discharge under section 101, unless
8 the property constitutes the proceeds of collat-
9 eral to which the security interest has attached
10 as of the date of the discharge.

11 (12) SECURITY INTEREST.—The term “security
12 interest”—

13 (A) means an interest in property, includ-
14 ing a lien or other pledge of property, that se-
15 cures a payment or the performance of an obli-
16 gation; and

17 (B) does not include a pledge of the full
18 faith and credit of a qualifying territory or its
19 instrumentality, even in the case that such
20 pledge includes a promise of all available re-
21 sources of the qualifying territory or its instru-
22 mentality.

23 (13) TERRITORY.—The term “territory”—

24 (A) means any self-governing Federal ter-
25 ritory; and

1 (B) includes—

2 (i) the Commonwealth of Puerto Rico;

3 (ii) Guam;

4 (iii) the Commonwealth of the North-
5 ern Mariana Islands;

6 (iv) the United States Virgin Islands;

7 and

8 (v) American Samoa.

9 (14) UNSECURED FINANCIAL OBLIGATION.—

10 The term “unsecured financial obligation” means
11 any financial obligation to the extent the financial
12 obligation is not a secured financial obligation.

13 **SEC. 3. FINDINGS.**

14 Congress finds that—

15 (1) millions of citizens of the United States re-
16 side in territories of the United States;

17 (2) the Federal Government owes a special duty
18 of care and stewardship to the citizens of territories
19 of the United States because—

20 (A) historically, Federal administration of
21 these territories was often wanting and many
22 residents of the territories faced discriminatory
23 treatment by the Federal Government;

24 (B) the economies of these territories face
25 special constraints, including diminishment of

1 property tax bases because of large, untaxed,
2 Federal land holdings; and

3 (C) these territories lack the benefits of
4 many Federal programs, such as Supplemental
5 Security Income, the Earned Income Tax Cred-
6 it, and full access to Medicaid;

7 (3) prolonged economic downturns, declines in
8 population, and natural disasters have resulted in
9 some territories of the United States and the instru-
10 mentalities of those territories having unsupportable
11 debt burdens on financial obligations, which cannot
12 realistically be repaid without imposing undue hard-
13 ship on the citizens and residents of those terri-
14 tories;

15 (4) disaster recovery funds that are provided by
16 the Federal Government should be used for disaster
17 recovery and not for direct or indirect debt pay-
18 ments;

19 (5) unsecured creditors of financially distressed
20 territories and instrumentalities of those territories
21 have little prospect of recovery upon default because
22 of—

23 (A) the severe indebtedness of those terri-
24 tories; and

1 (B) the lack of effective remedies for unse-
 2 cured creditors against those territories and the
 3 instrumentalities of those territories; and

4 (6) the people of the Commonwealth of Puerto
 5 Rico deserve to know about the social, political, and
 6 legal factors associated with the amount of the pub-
 7 lic debt of the Commonwealth of Puerto Rico ac-
 8 crued over the past 5 decades, and the Federal Gov-
 9 ernment has a responsibility to support efforts to ob-
 10 tain those answers, including public or private ef-
 11 forts to conduct a comprehensive audit of the public
 12 debt of the Commonwealth of Puerto Rico.

13 **TITLE I—TERRITORIAL RELIEF**

14 **SEC. 101. RELIEF THROUGH EXERCISE OF THE POWER TO** 15 **REGULATE COMMERCE, THE BANKRUPTCY** 16 **POWER, AND THE TERRITORIAL POWER.**

17 (a) IN GENERAL.—Pursuant to clauses 3 and 4 of
 18 section 8 of article I and clause 2, section 3 of article IV
 19 of the Constitution of the United States, any unsecured
 20 financial obligation of a qualifying territory or an instru-
 21 mentality of a qualifying territory that is outstanding is
 22 discharged on the date on which a resolution stating that
 23 the qualifying territory wishes to discharge the unsecured
 24 financial obligations of the qualifying territory and the in-
 25 strumentalities of the qualifying territory—

1 (1) is adopted by an affirmative vote of more
2 than $\frac{1}{2}$ of the members of each house of the legisla-
3 ture of that qualifying territory and is signed by the
4 chief executive of the qualifying territory; or

5 (2) is adopted by an affirmative vote of not less
6 than $\frac{2}{3}$ of the members of each house of the legisla-
7 ture of that qualifying territory.

8 (b) LIMITATION.—A qualifying territory may dis-
9 charge unsecured financial obligations of the qualifying
10 territory and the instrumentalities of the qualifying terri-
11 tory under this title not more frequently than once during
12 any 7-year period, and such discharge shall prohibit the
13 qualifying territory from discharging, adjusting, or im-
14 pairing, in any manner or degree including in a proceeding
15 under title III of PROMESA (48 U.S.C. 2161 et seq.),
16 a debt described in section 2(5)(B)(ii).

17 (c) NO STAY OF ACTIONS BY QUALIFYING TERRI-
18 TORY TO OBTAIN A DISCHARGE.—Notwithstanding any
19 other provision of Federal, State, or territorial law, the
20 ability of a qualifying territory to obtain a discharge under
21 this Act shall not be stayed, avoided, or otherwise limited
22 by operation of any provision of law or by order of a court,
23 oversight board, or administrative agency in any pro-
24 ceeding.

1 (d) SECURED FINANCIAL OBLIGATIONS UNAF-
2 FECTED.—

3 (1) IN GENERAL.—Except as provided in para-
4 graphs (3) and (4) of section 102, nothing in sub-
5 section (a) shall affect the validity and enforceability
6 of any financial obligation of a qualifying territory
7 or an instrumentality of a qualifying territory to the
8 extent that the obligation is a secured financial obli-
9 gation.

10 (2) VOIDABILITY.—Notwithstanding paragraph
11 (1), a secured financial obligation of a qualifying
12 territory or an instrumentality of a qualifying terri-
13 tory may be voidable or otherwise impaired under
14 any other applicable law.

15 (e) RULE OF CONSTRUCTION.—Nothing in this Act
16 shall be construed to operate as a stay of a pending case
17 brought under title III of PROMESA (48 U.S.C. 2161
18 et seq.), or of any act of an oversight board appointed
19 under that Act, or to reinstate financial obligations dis-
20 charged under this Act through any procedure under
21 PROMESA (48 U.S.C. 2101 et seq.).

22 **SEC. 102. EFFECT OF DISCHARGE.**

23 A discharge under section 101 shall—

24 (1) except in regard to actions brought under
25 section 103, operate as an permanent stay, applica-

1 ble to all entities and enforceable by the qualifying
2 territory or an instrumentality thereof in any court
3 with jurisdiction over an action described in section
4 103(a), against the commencement or continuation
5 of an action, the employment of process, or an act
6 to collect, recover or offset any outstanding financial
7 obligation to the extent that the financial obligation
8 is not a secured financial obligation as of the date
9 of the discharge, regardless of whether discharge of
10 that unsecured financial obligation is waived by the
11 qualifying territory;

12 (2) void any outstanding judgment entered on
13 an unsecured financial obligation of the qualifying
14 territory or instrumentality thereof to the extent
15 that such judgment is a determination of liability of
16 the qualifying territory or instrumentality;

17 (3) if prior to the date of the discharge under
18 section 101, the qualifying territory or an instru-
19 mentality of the qualifying territory entered into a
20 security agreement securing a financial obligation,
21 prevent the security interest created by the security
22 agreement from attaching to any property acquired
23 by the qualifying territory or an instrumentality
24 thereof after the date of the discharge under section
25 101, except to the extent that such property con-

1 stitutes the proceeds of collateral to which the secu-
2 rity interest had attached as of the date of the dis-
3 charge.

4 **SEC. 103. ACTIONS RELATING TO THE STATUS OF FINAN-**
5 **CIAL OBLIGATIONS.**

6 (a) IN GENERAL.—Any financial obligation is conclu-
7 sively deemed to be an unsecured financial obligation ex-
8 cept to the extent that the holder of that obligation proves
9 that the financial obligation is a secured financial obliga-
10 tion in an action for a declaratory judgment that is filed—

11 (1) in—

12 (A) an appropriate territorial court of the
13 qualifying territory; or

14 (B) a district court of the United States in
15 the qualifying territory; and

16 (2) not later than 180 days after the date of a
17 discharge under section 101.

18 (b) BURDEN OF PROOF.—In an action described in
19 subsection (a), the holder of an obligation shall be required
20 to prove by clear and convincing evidence that—

21 (1) the obligation is a secured financial obliga-
22 tion; and

23 (2) any revenues generated after a discharge
24 under section 101 are the proceeds of the collateral
25 securing the secured financial obligation.

1 (c) EXCLUSIVE JURISDICTION.—Notwithstanding
2 title 28, United States Code, a court described in sub-
3 section (a)(1) shall have exclusive jurisdiction over an ac-
4 tion involving, arising from, or related to the status of a
5 financial obligation as a secured or an unsecured financial
6 obligation under subsection (a), including—

7 (1) any action asserting a taking under the
8 Fifth Amendment of the Constitution of the United
9 States; and

10 (2) any action for declaratory judgment.

11 (d) APPEALS.—Any appeal from an action under this
12 section shall be heard solely in—

13 (1) for a case filed under subsection (a)(1)(A),
14 the appropriate territorial court of the qualifying
15 territory; or

16 (2) for a case filed under subsection (a)(1)(B),
17 the appropriate court of appeals of the United
18 States for the qualifying territory.

19 (e) COSTS.—All parties shall bear their own costs in
20 an action under this section.

21 (f) ESTOPPEL.—Any party to an action under this
22 section shall be estopped in other actions from claiming
23 that the party has been deprived of the property of that
24 party by virtue of—

25 (1) a discharge under section 101; or

1 (2) a final ruling in an action described in sub-
2 section (a) that a financial obligation of a party is
3 an unsecured financial obligation.

4 (g) BAR ON AVOIDANCE ACTIONS BY CREDITORS.—
5 Notwithstanding any other provision of law, a creditor of
6 a qualifying territory or an instrumentality of a qualifying
7 territory that has received a discharge under this title may
8 not avoid or bring an action to avoid, directly or deriva-
9 tively, any transfer of property made by the qualifying ter-
10 ritory or instrumentality.

11 (h) AVOIDANCE OF SECURITY INTERESTS BY QUALI-
12 FYING TERRITORIES AND INSTRUMENTALITIES OF QUALI-
13 FYING TERRITORIES.—

14 (1) IN GENERAL.—In addition to the relief pro-
15 vided elsewhere in this Act, a qualifying territory or
16 an instrumentality of a qualifying territory, in a civil
17 action described in paragraph (2), may avoid any se-
18 curity interest—

19 (A) securing a financial obligation that
20 would be avoidable by a trustee in a case under
21 chapter 7 of title 11, United States Code, filed
22 on the date of the discharge under section 101
23 if, notwithstanding sections 101(41) and 109(a)
24 of title 11, United States Code, or any statute
25 of limitations under that title, the qualifying

1 territory or the instrumentality of the qualifying
2 territory were deemed an eligible debtor under
3 chapter 7 of title 11, United States Code; or

4 (B) securing a financial obligation to the
5 extent that the amount owed on the financial
6 obligation exceeds the value of any collateral,
7 subject to restrictions under paragraph (3), se-
8 curing the financial obligation.

9 (2) CIVIL ACTIONS.—A civil action described in
10 this paragraph shall be—

11 (A) brought by a qualifying territory, an
12 instrumentality of a qualifying territory, or a
13 relator on behalf of a qualifying territory or in-
14 strumentality of a qualifying territory not later
15 than 2 years after the date of a discharge under
16 section 101; and

17 (B) filed in—

18 (i) an appropriate territorial court of
19 the qualifying territory; or

20 (ii) a district court of the United
21 States in the qualifying territory.

22 (3) VALUE OF COLLATERAL.—For the purpose
23 of determining the value of collateral under para-
24 graph (1)(B), the following shall not be included:

1 (A) Any proceeds, products, offspring, or
2 profits of the collateral not in existence on the
3 date of a discharge under section 101, regard-
4 less of whether those proceeds, products, off-
5 spring, or profits of the collateral would become
6 collateral subject to a security interest after the
7 date of a discharge under section 101.

8 (B) Any property acquired or anticipated
9 to be acquired by a qualifying territory or an
10 instrumentality of a qualifying territory after
11 the date of a discharge under section 101, re-
12 gardless of whether that property, when ac-
13 quired, would have become collateral subject to
14 a security interest.

15 (C) Any contract right to tax revenues that
16 arise after the date of a discharge under section
17 101.

18 **SEC. 104. NOTICE OF DISCHARGE.**

19 (a) IN GENERAL.—

20 (1) RESPONSIBILITIES OF A QUALIFYING TER-
21 RITORY OR INSTRUMENTALITY OF A QUALIFYING
22 TERRITORY.—After a discharge under section 101,
23 the qualifying territory shall promptly—

24 (A) notify the Secretary of the Treasury of
25 the discharge;

1 (B) provide actual notice of the discharge
2 and of the right to bring an action under sec-
3 tion 103 to—

4 (i) any known holder of a financial ob-
5 ligation as of the date of the discharge;

6 (ii) any known indenture trustee for a
7 financial obligation as of the date of the
8 discharge;

9 (iii) any known agent bank for the
10 loan, swap, repurchase agreement, or other
11 derivative of the holder of a financial obli-
12 gation as of the date of the discharge; and

13 (iv) any known financial guaranty in-
14 surer of a financial obligation as of the
15 date of the discharge;

16 (C) publish a general notice, in each of the
17 governmental languages of the qualifying terri-
18 tory, of the discharge and of the right to bring
19 an action under section 103 in—

20 (i) not less than 1 newspaper of gen-
21 eral circulation of each governmental lan-
22 guage published in the qualifying territory;
23 and

1 (ii) not less than 2 daily newspapers
2 that each have a national circulation and a
3 general audience; and

4 (D) publish the general notice described in
5 subparagraph (C) in the newspapers described
6 in subparagraph (C) not less than once each
7 week during the 3-week period beginning on the
8 date on which that general notice is first pub-
9 lished.

10 (2) NOTICE IN THE FEDERAL REGISTER.—On
11 the date on which the Secretary of the Treasury re-
12 ceives the notice described in paragraph (1)(A), the
13 Secretary of the Treasury shall promptly cause to be
14 published in the Federal Register a notice of that
15 discharge and of the right to bring an action under
16 section 103.

17 (b) ADEQUATE NOTICE.—

18 (1) HOLDERS OF FINANCIAL OBLIGATIONS.—

19 (A) IN GENERAL.—A holder of a financial
20 obligation shall be presumed to have received
21 adequate notice of a discharge under section
22 101 if, during the 180-day period beginning on
23 the date of a discharge under section 101, a
24 qualifying territory provides actual notice of the

1 discharge and of the right to bring an action
2 under section 103 to—

3 (i) the holder of the financial obliga-
4 tion as of the date of the discharge;

5 (ii) an indenture trustee for the secu-
6 rity of the holder as of the date of the dis-
7 charge; or

8 (iii) an agent bank for the loan, swap,
9 repurchase agreement, or other derivative
10 of the holder of a financial obligation as of
11 the date of the discharge.

12 (B) REBUTTABLE PRESUMPTION.—The
13 presumption described in subparagraph (A)
14 may be rebutted by clear and convincing evi-
15 dence that the holder of the financial obligation
16 did not receive adequate evidence.

17 (2) NOTICE TO A FINANCIAL GUARANTY IN-
18 SURER.—A financial guaranty insurer shall be con-
19 clusively deemed to have received adequate notice of
20 a discharge under section 101 if, during the 180-day
21 period beginning on the date of a discharge under
22 section 101, the financial guaranty insurer receives
23 actual notice of the discharge and of the right to
24 bring an action under section 103.

1 **SEC. 105. EFFECTIVE DATE.**

2 This title shall take effect on the date that is 60 days
3 after the date of enactment of this Act.

4 **TITLE II—PUERTO RICO DEBT**
5 **RESTRUCTURING COMPENSA-**
6 **TION FUND**

7 **SEC. 201. PURPOSE.**

8 Pursuant to clause 1, section 8 of article I and clause
9 2, section 3 of article IV of the Constitution of the United
10 States, the purpose of this title is to provide compensation
11 to certain entities and natural persons that suffer eco-
12 nomic losses due to a discharge under section 101 of fi-
13 nancial obligations owed to those entities and natural per-
14 sons by the Commonwealth of Puerto Rico or an instru-
15 mentality of the Commonwealth of Puerto Rico.

16 **SEC. 202. DEFINITIONS.**

17 In this title—

18 (1) the term “collateral source compensa-
19 tion”—

20 (A) means, on the date of a determination
21 under section 204(b)(2)(A), compensation that
22 a claimant has received or is entitled to receive,
23 from a source other than the Fund, as a result
24 of the discharge of the debt of the Common-
25 wealth of Puerto Rico and the instrumentalities

1 of the Commonwealth of Puerto Rico under sec-
2 tion 101; and

3 (B) includes financial guaranty insurance;

4 (2) the term “Fund” means the Puerto Rico
5 Debt Restructuring Compensation Fund established
6 under section 205(a);

7 (3) the term “ineligible investment company”
8 means an investment company, as defined in section
9 3 of the Investment Company Act of 1940 (15
10 U.S.C. 80a-3), that was not registered under section
11 8 of that Act (15 U.S.C. 80a-8) on the date on
12 which the investment company made an investment
13 in a financial obligation of the Commonwealth of
14 Puerto Rico or an instrumentality of the Common-
15 wealth of Puerto Rico;

16 (4) the term “Puerto Rico public pension plan”
17 means a pension system of the government of the
18 Commonwealth of Puerto Rico; and

19 (5) the term “Special Master” means the Spe-
20 cial Master appointed under section 203(a).

21 **SEC. 203. ADMINISTRATION.**

22 (a) SPECIAL MASTER.—

23 (1) APPOINTMENT.—

24 (A) IN GENERAL.—Not later than 60 days
25 after the date of a discharge of the debt of the

1 Commonwealth of Puerto Rico and the instru-
2 mentalities of the Commonwealth of Puerto
3 Rico under section 101, the Chief Justice of the
4 Supreme Court of the Commonwealth of Puerto
5 Rico shall appoint a Special Master to admin-
6 ister the compensation program established
7 under this title.

8 (B) DISQUALIFICATION.—A Special Mas-
9 ter may not have a relationship to a party, at-
10 torney, action, or court that would require the
11 disqualification of a judge under section 455 of
12 title 28, United States Code, unless, after the
13 date on which the Special Master discloses any
14 potential ground for disqualification, the party,
15 attorney, action, or court with which the Special
16 Master has a relationship, with the approval of
17 the Chief Justice of the Supreme Court of the
18 Commonwealth of Puerto Rico, consents to the
19 appointment of the Special Master.

20 (2) STATUS.—The Special Master shall be con-
21 sidered to be an official of the Commonwealth of
22 Puerto Rico.

23 (3) VACANCY.—

24 (A) IN GENERAL.—In the event of the
25 death, resignation, incapacity, or other vacancy

1 in the position of the Special Master, the posi-
2 tion shall be filled in the manner described in
3 paragraph (1).

4 (B) FEDERAL VACANCIES REFORM ACT.—
5 Sections 3345 through 3349d of title 5, United
6 States Code, (commonly known as the “Federal
7 Vacancies Reform Act of 1998”) shall not apply
8 to vacancies in the position of Special Master.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary to pay the administrative and support costs for
12 the Special Master in carrying out this title.

13 **SEC. 204. DETERMINATION OF ELIGIBILITY FOR COM-**
14 **PENSATION.**

15 (a) FILING OF CLAIM.—

16 (1) IN GENERAL.—A claimant may file a claim
17 for compensation under this title with the Special
18 Master. The claim shall—

19 (A) be on the form developed under para-
20 graph (2);

21 (B) state the factual basis, as certified by
22 the claimant, for eligibility for compensation
23 and the amount of compensation sought; and

1 (C) provide evidence that corroborates the
2 eligibility of the claimant for compensation and
3 the amount of compensation sought.

4 (2) CLAIM FORM.—

5 (A) IN GENERAL.—The Special Master
6 shall develop a claim form that claimants shall
7 use when submitting claims under paragraph
8 (1). The Special Master shall ensure that such
9 form can be filed electronically.

10 (B) CONTENTS.—The form developed
11 under subparagraph (A) shall request informa-
12 tion including information regarding—

13 (i) economic loss that the claimant
14 suffered as a result of the discharge of the
15 debt of the Commonwealth of Puerto Rico
16 and the instrumentalities of the Common-
17 wealth of Puerto Rico under section 101;

18 (ii) collateral source compensation the
19 claimant has received or is entitled to re-
20 ceive as a result of the discharge described
21 in clause (i); and

22 (iii) availability of financial guaranty
23 insurance coverage to indemnify the claim-
24 ant.

1 (C) PENALTY.—A claim submitted on the
2 form developed under subparagraph (A) shall—

3 (i) be submitted under penalty of per-
4 jury; and

5 (ii) include an attestation by the
6 claimant that the claimant has not willfully
7 attempted to evade or defeat the eligibility
8 restrictions described in subsection (c).

9 (b) REVIEW AND DETERMINATION.—

10 (1) REVIEW.—The Special Master shall review
11 a claim submitted under subsection (a) and deter-
12 mine—

13 (A) whether the claimant is an eligible per-
14 son under subsection (c); and

15 (B) with respect to a claimant determined
16 to be an eligible person under subsections
17 (c)(2)(A) and (c)(3)—

18 (i) the extent of the economic loss to
19 the claimant; and

20 (ii) the amount of compensation to
21 which the claimant is entitled based on the
22 economic losses to the claimant, the facts
23 of the claim, and the individual cir-
24 cumstances of the claimant, including—

1 (I) the strength of the ties to the
2 Commonwealth of Puerto Rico, as de-
3 fined in regulations promulgated
4 under section 206, of the claimant;

5 (II) the financial need, as defined
6 in regulations promulgated under sec-
7 tion 206, of the claimant;

8 (III) the price at which the
9 claimant obtained that claim against
10 the Commonwealth of Puerto Rico or
11 the instrumentality of the Common-
12 wealth of Puerto Rico; and

13 (IV) the date on which the claim-
14 ant obtained the claim against the
15 Commonwealth of Puerto Rico or the
16 instrumentality of the Commonwealth
17 of Puerto Rico; and

18 (C) with respect to a claimant determined
19 to be an eligible person under subsection
20 (c)(2)(B) and (c)(3)—

21 (i) the extent of the economic loss to
22 the claimant; and

23 (ii) the amount of compensation to
24 which the claimant is entitled based on the
25 economic loss to the claimant, the facts of

1 the claim, and the individual circumstances
2 of the claimant, including—

3 (I) the financial need, as defined
4 in regulations promulgated under sec-
5 tion 206, of the claimant;

6 (II) the price at which the claim-
7 ant obtained that claim against the
8 Commonwealth of Puerto Rico or the
9 instrumentality of the Commonwealth
10 of Puerto Rico; and

11 (III) the date on which the claim-
12 ant obtained the claim against the
13 Commonwealth of Puerto Rico or the
14 instrumentality of the Commonwealth
15 of Puerto Rico.

16 (2) DETERMINATION.—

17 (A) IN GENERAL.—Not later than 120
18 days after that date on which a claim is deter-
19 mined to be substantially complete by the Spe-
20 cial Master, the Special Master shall complete
21 a review, make a determination, and provide
22 written notice to the claimant, with respect to
23 the matters that were the subject of the claim
24 under review. Such a determination shall be
25 final and not subject to judicial review.

1 (B) RIGHTS OF CLAIMANTS.—

2 (i) HEARINGS.—Before the date on
3 which a determination described in sub-
4 paragraph (A) is made, a claimant in a re-
5 view under paragraph (1) shall have the
6 right to an in-person hearing conducted by
7 the Special Master.

8 (ii) WAIVER.—A claimant in a review
9 under paragraph (1) may waive the right
10 to a hearing described in clause (i).

11 (3) COLLATERAL SOURCE COMPENSATION.—
12 The Special Master shall reduce the amount of com-
13 pensation determined under paragraph (2) by the
14 amount of collateral source compensation.

15 (c) ELIGIBILITY.—

16 (1) IN GENERAL.—A claimant shall be deter-
17 mined to be an eligible person for purposes of this
18 subsection if the Special Master determines that
19 such claimant—

20 (A) is a person described in paragraph (2);

21 and

22 (B) meets the requirements of paragraph
23 (3).

24 (2) ELIGIBLE PERSONS.—

1 (A) ELIGIBLE PERSONS IN THE COMMON-
2 WEALTH OF PUERTO RICO.—

3 (i) IN GENERAL.—A claimant is a
4 person described in this subparagraph if
5 the claimant is—

6 (I) a natural person who—

7 (aa) was domiciled in the
8 Commonwealth of Puerto Rico
9 and was a citizen or lawful per-
10 manent resident of the United
11 States on September 20, 2017,
12 regardless of whether that nat-
13 ural person was physically
14 present in the Commonwealth of
15 Puerto Rico at that time;

16 (bb) is a beneficial owner of
17 a security issued by the Com-
18 monwealth of Puerto Rico or an
19 instrumentality of the Common-
20 wealth of Puerto Rico; and

21 (cc) became a beneficial
22 owner of the security described in
23 item (bb) not later than Sep-
24 tember 20, 2017;

1 (II) a bank or credit union that
2 did business solely in the Common-
3 wealth of Puerto Rico on September
4 20, 2017;

5 (III) a worker association or
6 workplace association in the Common-
7 wealth of Puerto Rico;

8 (IV) a Puerto Rico public pen-
9 sion plan;

10 (V) a business, of which the prin-
11 cipal place of business was in the
12 Commonwealth of Puerto Rico on
13 September 20, 2017; or

14 (VI) subject to clause (ii), any
15 other person that the Special Master
16 determines is an eligible person.

17 (ii) EXCLUSIONS.—A claimant is not
18 a person described in this subparagraph if
19 the claimant is—

20 (I) an ineligible investment com-
21 pany;

22 (II) a financial guaranty insurer;

23 (III) as defined in section 101 of
24 title 11, United States Code—

1 (aa) a party to a master net-
2 ting agreement;

3 (bb) a party to a repurchase
4 agreement; or

5 (cc) a party to a swap agree-
6 ment;

7 (IV) any other financial firm
8 with consolidated assets greater than
9 \$2,000,000,000;

10 (V) a person that owns a share
11 in an unregistered investment fund
12 that owns a security issued by the
13 Commonwealth of Puerto Rico or an
14 instrumentality of the Commonwealth
15 of Puerto Rico;

16 (VI) a person that acquired a
17 claim against the Commonwealth of
18 Puerto Rico or an instrumentality of
19 the Commonwealth of Puerto Rico
20 during the period beginning on the
21 date that is 180 days before the date
22 of a discharge under section 101, un-
23 less that claim was acquired through
24 devise, descent, or a divorce settle-
25 ment;

1 (VII) the Special Master; or

2 (VIII) any other person that the
3 Special Master determines is not an
4 eligible person.

5 (B) ELIGIBLE PERSONS NOT IN PUERTO
6 RICO.—

7 (i) IN GENERAL.—A claimant is a
8 person described in this subparagraph if
9 the claimant was not domiciled in the
10 Commonwealth of Puerto Rico on Sep-
11 tember 20, 2017, and the claimant is—

12 (I) a worker association or work-
13 place association;

14 (II) a pension plan;

15 (III) a natural person who—

16 (aa) is a beneficial owner of
17 a security issued by the Com-
18 monwealth of Puerto Rico or an
19 instrumentality of the Common-
20 wealth of Puerto Rico; and

21 (bb) became a beneficial
22 owner of that security not later
23 than September 20, 2017;

24 (IV) subject to clause (iii), an
25 open-end mutual fund; or

1 (V) subject to clause (ii), any
2 other person that the Special Master
3 determines is an eligible person.

4 (ii) EXCLUSIONS.—A claimant is not
5 a person described in this subparagraph if
6 the claimant was not domiciled in the
7 Commonwealth of Puerto Rico on Sep-
8 tember 20, 2017, and the claimant is—

9 (I) an ineligible investment com-
10 pany;

11 (II) a closed-end company, as de-
12 fined in section 5 of the Investment
13 Company Act of 1940 (15 U.S.C.
14 80a-5);

15 (III) a financial guaranty in-
16 surer;

17 (IV) as defined in section 101 of
18 title 11, United States Code—

19 (aa) a party to a master net-
20 ting agreement;

21 (bb) a party to a repurchase
22 agreement; or

23 (cc) a party to a swap agree-
24 ment;

1 (V) any other financial firm with
2 consolidated assets greater than
3 \$2,000,000,000;

4 (VI) a person that owns a share
5 in an unregistered investment fund
6 that owns a security issued by the
7 Commonwealth of Puerto Rico or an
8 instrumentality of the Commonwealth
9 of Puerto Rico;

10 (VII) a person that acquired a
11 claim against the Commonwealth of
12 Puerto Rico or an instrumentality of
13 the Commonwealth of Puerto Rico
14 during the period beginning on the
15 date that is 180 days before the date
16 of a discharge under section 101, un-
17 less that claim was acquired through
18 devise, descent, or a divorce settle-
19 ment;

20 (VIII) the Special Master; or

21 (IX) any other person that the
22 Special Master determines is not an
23 eligible person.

24 (iii) ELIGIBILITY OF OPEN-END MU-
25 TUAL FUNDS.—A claimant that is an open-

1 end mutual fund is not an eligible person
2 described in this subparagraph unless the
3 manager of that open-end mutual fund
4 pledges to waive the fee of that manager
5 for any compensation the open-end mutual
6 fund receives under this title.

7 (3) REQUIREMENTS FOR BENEFICIAL OWNERS
8 OF SECURITIES.—A person that is beneficial owner
9 of a security issued by the Commonwealth of Puerto
10 Rico or an instrumentality of the Commonwealth of
11 Puerto Rico may file a claim under subsection (a) if
12 the person, as of the date on which the claim is
13 filed—

14 (A) has continuously held that security
15 during the period beginning on September 19,
16 2017, and ending on the date on which the
17 claim is filed; and

18 (B) the claim is submitted not later than
19 180 days after the date of a discharge of the
20 debt of the Commonwealth of Puerto Rico and
21 the instrumentalities of the Commonwealth of
22 Puerto Rico under section 101.

23 (d) COMPENSATION.—

24 (1) IN GENERAL.—A claimant may not receive
25 compensation under this title if that claimant is not

1 determined to be an eligible person under this sub-
 2 section.

3 (2) LIMITATIONS.—

4 (A) IN GENERAL.—A claimant may not re-
 5 ceive compensation under this title that exceeds
 6 the amount of the claim filed by the claimant
 7 under subsection (a), or seek or receive com-
 8 pensation for a debt described in section
 9 2(5)(B)(ii), which—

10 (i) shall not be discharged; and

11 (ii) shall be repaid in full as provided
 12 by section 101(b).

13 (B) ASSIGNED CLAIMS.—In the case of a
 14 claim that was assigned to a claimant, the
 15 claimant may not receive compensation under
 16 this title for that claim that exceeds the amount
 17 paid by the claimant for the assignment of that
 18 claim.

19 **SEC. 205. PUERTO RICO DEBT RESTRUCTURING COM-**
 20 **PENSATION FUND.**

21 (a) IN GENERAL.—On the date of a discharge of the
 22 debt of the Commonwealth of Puerto Rico and the instru-
 23 mentalities of the Commonwealth of Puerto Rico under
 24 section 101, there is established in the Treasury of the
 25 United States a fund to be known as the “Puerto Rico

1 Debt Restructuring Compensation Fund”, consisting of
2 amounts appropriated into the Fund under subsection (b).

3 (b) APPROPRIATION.—

4 (1) IN GENERAL.—There is appropriated to the
5 Fund, out of any funds in the Treasury of the
6 United States not otherwise appropriated,
7 \$15,000,000,000, which shall be available without
8 further appropriation to the Special Master to pro-
9 vide compensation for claims of eligible persons
10 under this title.

11 (2) EMERGENCY DESIGNATION.—

12 (A) IN GENERAL.—The amount necessary
13 to carry out this Act is designated by Congress
14 as being for emergency requirements pursuant
15 to section 251(b)(2)(A)(i) of the Balanced
16 Budget and Emergency Deficit Control Act of
17 1985 (2 U.S.C. 901(b)(2)(A)(i)).

18 (B) PAYGO.—

19 (i) IN GENERAL.—This Act is des-
20 ignated as an emergency requirement pur-
21 suant to section 4(g) of the Statutory Pay-
22 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

23 (ii) DESIGNATION IN SENATE.—In the
24 Senate, this Act is designated as an emer-
25 gency requirement pursuant to section

1 403(a) of S. Con. Res. 13 (111th Con-
2 gress), the concurrent resolution on the
3 budget for fiscal year 2010.

4 (c) DISTRIBUTION.—

5 (1) IN GENERAL.—Of the amounts appro-
6 priated into the Fund under subsection (b)—

7 (A) 50 percent shall be made available to
8 pay claims of eligible persons described in sec-
9 tion 204(c)(2)(A); and

10 (B) 50 percent shall be made available to
11 pay claims of eligible persons described in sec-
12 tion 204(c)(2)(B).

13 (2) CLAIMS EXCEEDING APPROPRIATED
14 AMOUNTS.—If the claims of eligible persons de-
15 scribed in section 204(c)(2)(A) or of eligible persons
16 described in section 204(c)(2)(B) exceed the
17 amounts appropriated to pay those respective claims
18 under paragraph (1), any claim of an eligible person
19 within that respective category shall be reduced on
20 a pro rata basis.

21 (3) DATE OF DISTRIBUTION.—For the purpose
22 of reducing claims under paragraph (2), the Special
23 Master shall determine a date on which all claims of
24 eligible persons shall be paid.

1 (d) UNOBLIGATED FUNDS.—Any amounts made
2 available under subsection (b) that are not obligated by
3 the Special Master as of the date that is 36 months after
4 the date of enactment of this Act shall be returned to the
5 Treasury of the United States.

6 **SEC. 206. REGULATIONS.**

7 (a) IN GENERAL.—The Special Master shall promul-
8 gate regulations, through notice and comment rulemaking
9 in compliance with section 553 of title 5, United States
10 Code, to carry out this title.

11 (b) NOTICE OF PROPOSED RULEMAKING.—Not later
12 than 60 days after the date on which the Special Master
13 is appointed under section 203(a), the Special Master
14 shall publish a notice of proposed rulemaking in the Fed-
15 eral Register.

16 (c) FINAL RULE.—Not later than 60 days after the
17 date on which the notice of proposed rulemaking described
18 in subsection (b) is published, the Special Master shall
19 promulgate final regulations to carry out this title.

20 (d) VACANCY IN THE POSITION OF SPECIAL MAS-
21 TER.—If promulgation of regulations under this section
22 is completed before the date on which a Special Master
23 is appointed under section 203(a)(3)(A), that Special
24 Master is not required to promulgate new regulations
25 under this section.

1 **SEC. 207. SUNSET.**

2 The provisions of this title shall be effective for the
3 period beginning on the date of enactment of this Act and
4 ending on the date that is 36 months after the date of
5 enactment of this Act.

6 **TITLE III—PUERTO RICO PUBLIC**
7 **CREDIT COMPREHENSIVE**
8 **AUDIT COMMISSION**

9 **SEC. 301. DEFINITIONS.**

10 In this title—

11 (1) the term “comprehensive audit” means a
12 supervisory action taken to examine and evaluate the
13 public debt contracting, refinancing, or renegotiation
14 process, the source and intended use of resources,
15 and the implementation of programs and projects fi-
16 nanced with domestic or foreign debt, in order to de-
17 termine the legitimacy, lawfulness, transparency,
18 quality, efficacy, and efficiency thereof, considering
19 legal and financial aspects, and the economic, social,
20 gender, regional, ecological, national, and municipal
21 impact thereof;

22 (2) the term “Commission” means the Puerto
23 Rico Public Credit Comprehensive Audit Commission
24 established under section 302; and

25 (3) the term “credit request” means request or
26 application for credit by the Commonwealth of Puer-

1 to Rico, or any instrumentality of the Common-
2 wealth of Puerto Rico, to obtain credit from a gov-
3 ernment or a banking or multilateral financial sys-
4 tem in the domestic or foreign private sector, includ-
5 ing any agreement, contract, or other form or meth-
6 od relating to that request or application.

7 **SEC. 302. ESTABLISHMENT; DISSOLUTION.**

8 (a) ESTABLISHMENT.—There is established an inde-
9 pendent commission to be known as the Puerto Rico Pub-
10 lic Credit Comprehensive Audit Commission.

11 (b) DISSOLUTION.—The Commission shall only be
12 dissolved after the Commission completes or fulfills each
13 duty of the Commission under section 304 and issues the
14 final report of the Commission under section 303(b).

15 **SEC. 303. REPORTS.**

16 (a) IN GENERAL.—Not later than 1 year after the
17 date of enactment of this Act, and not later than every
18 180 days thereafter, the Commission shall make publicly
19 available a report describing the progress of the Commis-
20 sion in carrying out the duties of the Commission under
21 section 304 as of the date on which the report is released.

22 (b) FINAL REPORT.—Upon completing the duties of
23 the Commission under section 304, the Commission shall
24 make publicly available and submit to the Legislative As-
25 sembly of the Commonwealth of Puerto Rico and the Gov-

1 error of the Commonwealth of Puerto Rico the final report
2 of the Commission, which shall state in detail the findings,
3 conclusions, and recommendations of the Commission re-
4 lating to the duties of the Commission carried out under
5 section 304.

6 **SEC. 304. DUTIES.**

7 (a) IN GENERAL.—The Commission shall carry out
8 the duties described in subsections (b) and (c).

9 (b) COMPREHENSIVE AUDIT.—

10 (1) IN GENERAL.—The Commission shall con-
11 duct a comprehensive audit of all public debt of the
12 Commonwealth of Puerto Rico issued during the pe-
13 riod beginning on the first day of fiscal year 1972
14 and ending on the date of enactment of this Act,
15 which shall include an audit of agreements, con-
16 tracts, and other forms or methods employed by the
17 Commonwealth of Puerto Rico and any instrumen-
18 tality thereof to obtain credit from governments,
19 banking or multilateral financial system institutions,
20 and the domestic or foreign private sector.

21 (2) CRITERIA.—In order to conduct the com-
22 prehensive audit under paragraph (1), the Commis-
23 sion shall establish criteria to be used in evaluating
24 each credit request that shall include, with respect
25 to each credit request—

1 (A) any precedent, study, technical, eco-
2 nomic, financial, or social viability score, or
3 other supporting document that supported the
4 credit request at the time the credit request was
5 made;

6 (B) the amount of the credit requested in
7 the credit request;

8 (C) the currency unit in which the credit
9 was obtained through the credit request;

10 (D) the total amount of any subsequent in-
11 crease or extension of credit from the original
12 amount of credit obtained through the credit re-
13 quest;

14 (E) the economic, financial, and business
15 conditions agreed upon under the credit re-
16 quest;

17 (F) the economic, financial, and business
18 conditions effectively applied under the credit
19 request;

20 (G) any condition contained in the credit
21 request;

22 (H) the intended and actual use of any re-
23 sources funded by the credit request;

24 (I) the total impact of any project funded
25 by the credit request;

1 (J) the name of each individual who, on
2 behalf of any party to the credit request, trans-
3 acted or executed the credit request;

4 (K) each method or mechanism used to
5 meet any obligation agreed to under the credit
6 request; and

7 (L) any other circumstance or information
8 determined by the Commission to be pertinent
9 in determining the legitimacy, lawfulness, trans-
10 parency, quality, efficacy, and efficiency of each
11 credit request, considering—

12 (i) the legal and financial aspects of
13 the credit request; and

14 (ii) the economic, social, gender, re-
15 gional, ecological, national, and municipal
16 impact of the credit request.

17 (c) DATA TRANSPARENCY DATABASE.—The Com-
18 mission shall establish and maintain a publicly available
19 data transparency database that shall contain any infor-
20 mation relating to any public, private, domestic, or foreign
21 debt held by a public institution of the Commonwealth of
22 Puerto Rico collected through the comprehensive audit
23 under subsection (b).

1 **SEC. 305. AUTHORITY OF THE COMMISSION.**

2 In order to carry out the duties described in section
3 304, the Commission—

4 (1) may audit, and ensure the transparency of,
5 the indebtedness process of the Commonwealth of
6 Puerto Rico and each instrumentality of the Com-
7 monwealth of Puerto Rico; and

8 (2) shall have primary jurisdiction to intervene,
9 have knowledge of, and conduct, on the initiative of
10 the Commission, any investigation on any matter or
11 dispute relating to any indebtedness process de-
12 scribed in paragraph (1).

13 **SEC. 306. MEMBERSHIP.**

14 (a) IN GENERAL.—The Commission shall be com-
15 posed of—

16 (1) the Executive Director of the Puerto Rico
17 Institute of Statistics, or the designee of the Execu-
18 tive Director; and

19 (2) the following individuals, who shall be ap-
20 pointed not later than 180 days after the date of en-
21 actment of this Act by the Governor of the Common-
22 wealth of Puerto Rico to serve on the Commission:

23 (A) One representative of each parliamen-
24 tary majority in the Legislative Assembly.

25 (B) One representative of each parliamen-
26 tary minority in the Legislative Assembly.

1 (C) One professor of economics from any
2 public higher education institution located in
3 the Commonwealth of Puerto Rico.

4 (D) One professor of finance from any
5 public higher education institution located in
6 the Commonwealth of Puerto Rico.

7 (E) One professor of accounting from any
8 public higher education institution located in
9 the Commonwealth of Puerto Rico.

10 (F) One professor of statistics from any
11 public higher education institution located in
12 the Commonwealth of Puerto Rico.

13 (G) One professor of law from any public
14 higher education institution located in the Com-
15 monwealth of Puerto Rico.

16 (H) One representative of the labor union
17 sector in the Commonwealth of Puerto Rico.

18 (I) One representative of the business com-
19 munity in the Commonwealth of Puerto Rico,
20 with preference given to a representative from
21 a small- or medium-sized business located in
22 the Commonwealth of Puerto Rico.

23 (J) One representative of the cooperative
24 sector in the Commonwealth of Puerto Rico.

1 (K) One professor of sociology from any
2 public higher education institution who has
3 published work in one or more peer-reviewed
4 journals that indicates expertise in data relating
5 to Puerto Rico.

6 (L) One individual who is a translator or
7 interpreter of English and Spanish.

8 (b) CHAIRPERSON.—

9 (1) IN GENERAL.—After each of the members
10 of the Commission are appointed under subsection
11 (a), the members of the Commission shall elect from
12 among the members of the Commission 1 individual
13 to serve as the Chairperson of the Commission.

14 (2) DUTIES.—The Chairperson of the Commis-
15 sion shall—

16 (A) call and preside over meetings of the
17 Commission; and

18 (B) be the legal representative of the Com-
19 mission.

20 (3) TIE VOTE.—In the case of a tie vote among
21 the members of the Commission, the vote of the
22 Chairperson shall be determinative.

23 (c) PERIOD OF APPOINTMENT.—Members of the
24 Commission shall be appointed for the life of the Commis-
25 sion.

1 (d) VACANCIES.—Any vacancy in the Commission
2 shall not affect the powers of the Commission but shall
3 be filled in the same manner as the original appointment
4 or election.

5 (e) EXECUTIVE DIRECTOR OF THE PUERTO RICO IN-
6 STITUTE OF STATISTICS.—If, on the date of enactment
7 of this Act, the Puerto Rico Institute of Statistics has been
8 disbanded or reorganized to be a part of another govern-
9 ment department of the Commonwealth of Puerto Rico,
10 the individual who was the Executive Director of the Puer-
11 to Rico Institute of Statistics on the day before the date
12 of such disbanding or reorganization shall be named to
13 the Commission.

14 (f) FAILURE TO APPOINT COMMISSION MEMBERS.—
15 If the Governor of the Commonwealth of Puerto Rico fails
16 to appoint any member of the Commission described under
17 subsection (a)(2) during the period described in that sub-
18 section, not later than 180 days after the expiration of
19 that period, the President of the Senate of the Common-
20 wealth of Puerto Rico and the Speaker of the House of
21 Representatives of the Commonwealth of Puerto Rico shall
22 jointly appoint any member that has not been appointed.

23 **SEC. 307. POWERS AND RESPONSIBILITIES.**

24 To carry out the duties of the Commission under sec-
25 tion 304, the Commission shall—

1 (1) adopt internal bylaws as appropriate for the
2 proper operations and fulfillment of the objectives of
3 the Commission;

4 (2) define and propose to the Department of
5 the Treasury the hiring of staff to conduct audits in
6 accordance with the rules and administrative proce-
7 dures set forth by the laws of the Commonwealth of
8 Puerto Rico relating to technical audits;

9 (3) designate and hire a minimum number of
10 regular personnel required to carry out the duties
11 and fulfill the objectives of the Commission;

12 (4) read reports relating to the audit processes
13 and other studies that have been entrusted to com-
14 missions and technical units relating to audits of
15 public debt;

16 (5) review and approve the annual budget and
17 operational plan of the Commission based on those
18 devised by the Director of the Office of Management
19 and Budget;

20 (6) as appropriate, request technical support
21 from any public institution, including by, as nec-
22 essary, through the request for the transfer, on a
23 temporary assignment, of any technical personnel re-
24 quired to carry out a specific program of the Com-

1 mission after stating the length of the period for
2 which the transfer will be required;

3 (7) hold—

4 (A) a regular meeting not less than twice
5 each month; and

6 (B) a special meeting upon the request of
7 not less than three of the members of the Com-
8 mission;

9 (8) access the information necessary to dis-
10 charge the duties of the Commission;

11 (9) file with the Legislative Assembly of the
12 Commonwealth of Puerto Rico and the Governor of
13 the Commonwealth of Puerto Rico periodic reports
14 stating achievements of the Commission in carrying
15 out the duties of the Commission under section 304,
16 which shall include any recommendation or sugges-
17 tion that the Commission determines to be pertinent,
18 including any relevant recommendation of the Com-
19 mission relating to the commencement of any appro-
20 priate administrative, civil, or criminal action relat-
21 ing to the findings of the Commission; and

22 (10) propose rules and policies relating to
23 strengthening the procedures relating to audits of
24 public debt as a permanent duty of the Common-
25 wealth of Puerto Rico.

1 **SEC. 308. PROVISION OF REQUESTED INFORMATION.**

2 (a) IN GENERAL.—Each entity, official, or former of-
3 ficial of the Commonwealth of Puerto Rico shall provide
4 any information requested by the Commission in carrying
5 out the duties of the Commission under section 304 by
6 summons or as required by law.

7 (b) ORDER TO COMPLY.—Any entity, official, or
8 former official described in subsection (a) that does not
9 obey a summons or request of the Commission for infor-
10 mation required by the Commission to carry out the duties
11 of the Commission under section 304, the appropriate dis-
12 trict court of the Commonwealth of Puerto Rico shall, on
13 the request of the Commission, issue an order compelling
14 that entity, official, or former official to produce the re-
15 quested information, as appropriate.

16 (c) CONTEMPT.—Any entity, official, or former offi-
17 cial described in subsection (a) that does not comply with
18 an order of the court under subsection (b) shall be held
19 in contempt for failing to obey that order.

20 **SEC. 309. ACCESS TO INFORMATION.**

21 (a) PUBLIC DOCUMENTS.—

22 (1) IN GENERAL.—Any document, record, or in-
23 formation relating to the public debt of the Com-
24 monwealth of Puerto Rico, including any document
25 relating to any public offering, contract, agreement,
26 order, or report detailing how funds obtained are

1 spent, or contract or agreements with a creditor of
2 the Commonwealth of Puerto Rico, shall be—

3 (A) classified as a public document; and

4 (B) made accessible to any interested
5 party.

6 (2) CONFIDENTIALITY.—Any claim of confiden-
7 tiality relating to information described in paragraph
8 (1) by any person, including any entity, official, or
9 former official of the Commonwealth of Puerto Rico,
10 shall be construed narrowly and in favor of pro-
11 moting transparency and the right of the public to
12 that information.

13 (b) CONFIDENTIAL INFORMATION.—

14 (1) IN GENERAL.—The Commission shall have
15 the authority to obtain confidential information nec-
16 essary to carry out the duties of the Commission
17 under section 304.

18 (2) CONFIDENTIALITY.—The Commission shall
19 keep any information described under subsection (a)
20 confidential as required under the Constitution of
21 the Commonwealth of Puerto Rico.

22 (c) RULE OF CONSTRUCTION.—Nothing in this title
23 shall be construed to grant any special power to the Com-
24 mission to conceal information from the public based on
25 any rule relating to confidentiality. This title shall be in-

1 terpreted broadly to favor the right of the public to infor-
2 mation relating to the activities of the Commission.

3 **SEC. 310. FUNDING.**

4 The Legislative Assembly of the Commonwealth of
5 Puerto Rico shall provide the Commission with sufficient
6 funds to carry out the duties of the Commission under
7 section 304, including funds to pay fair compensation to
8 members and staff of the Commission, based on the an-
9 nual budget prepared for the Commission by the Office
10 of Management and Budget, which shall be included in
11 the general budget of the Commonwealth of Puerto Rico.

12 **TITLE IV—SEVERABILITY**

13 **SEC. 401. SEVERABILITY.**

14 If any provision of this Act or the application of such
15 provision to any person or circumstance is held to be in-
16 valid or unconstitutional, the remainder of this Act and
17 the application of the provisions of this Act to any person
18 or circumstance shall remain and shall not be affected
19 thereby.

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