

(d) Implementation of Federal programs

In taking actions under this chapter, the Oversight Board shall not exercise applicable authorities to impede territorial actions taken to—

- (1) comply with a court-issued consent decree or injunction, or an administrative order or settlement with a Federal agency, with respect to Federal programs;
- (2) implement a federally authorized or federally delegated program;
- (3) implement territorial laws, which are consistent with a certified Fiscal Plan, that execute Federal requirements and standards; or
- (4) preserve and maintain federally funded mass transportation assets.

(Pub. L. 114-187, title II, §204, June 30, 2016, 130 Stat. 570.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5) and (d), 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.

This subtitle, referred to in subsec. (a)(6), probably should be a reference to “this title”, meaning title II of Pub. L. 114-187, June 30, 2016, 130 Stat. 563, which is classified generally to this subchapter. Pub. L. 114-187 does not contain subtitles.

§ 2145. Recommendations on financial stability and management responsibility**(a) In general**

The Oversight Board may at any time submit recommendations to the Governor or the Legislature on actions the territorial government may take to ensure compliance with the Fiscal Plan, or to otherwise promote the financial stability, economic growth, management responsibility, and service delivery efficiency of the territorial government, including recommendations relating to—

- (1) the management of the territorial government’s financial affairs, including economic forecasting and multiyear fiscal forecasting capabilities, information technology, placing controls on expenditures for personnel, reducing benefit costs, reforming procurement practices, and placing other controls on expenditures;
- (2) the structural relationship of departments, agencies, and independent agencies within the territorial government;
- (3) the modification of existing revenue structures, or the establishment of additional revenue structures;
- (4) the establishment of alternatives for meeting obligations to pay for the pensions of territorial government employees;
- (5) modifications or transfers of the types of services that are the responsibility of, and are delivered by the territorial government;
- (6) modifications of the types of services that are delivered by entities other than the

territorial government under alternative service delivery mechanisms;

(7) the effects of the territory’s laws and court orders on the operations of the territorial government;

(8) the establishment of a personnel system for employees of the territorial government that is based upon employee performance standards;

(9) the improvement of personnel training and proficiency, the adjustment of staffing levels, and the improvement of training and performance of management and supervisory personnel; and

(10) the privatization and commercialization of entities within the territorial government.

(b) Response to recommendations by the territorial government**(1) In general**

In the case of any recommendations submitted under subsection (a) that are within the authority of the territorial government to adopt, not later than 90 days after receiving the recommendations, the Governor or the Legislature (whichever has the authority to adopt the recommendation) shall submit a statement to the Oversight Board that provides notice as to whether the territorial government will adopt the recommendations.

(2) Implementation plan required for adopted recommendations

If the Governor or the Legislature (whichever is applicable) notifies the Oversight Board under paragraph (1) that the territorial government will adopt any of the recommendations submitted under subsection (a), the Governor or the Legislature (whichever is applicable) shall include in the statement a written plan to implement the recommendation that includes—

(A) specific performance measures to determine the extent to which the territorial government has adopted the recommendation; and

(B) a clear and specific timetable pursuant to which the territorial government will implement the recommendation.

(3) Explanations required for recommendations not adopted

If the Governor or the Legislature (whichever is applicable) notifies the Oversight Board under paragraph (1) that the territorial government will not adopt any recommendation submitted under subsection (a) that the territorial government has authority to adopt, the Governor or the Legislature shall include in the statement explanations for the rejection of the recommendations, and the Governor or the Legislature shall submit such statement of explanations to the President and Congress.

(Pub. L. 114-187, title II, §205, June 30, 2016, 130 Stat. 573.)

§ 2146. Oversight Board duties related to restructuring**(a) Requirements for restructuring certification**

The Oversight Board, prior to issuing a restructuring certification regarding an entity (as

such term is defined in section 101 of title 11), shall determine, in its sole discretion, that—

(1) the entity has made good-faith efforts to reach a consensual restructuring with creditors;

(2) the entity has—

(A) adopted procedures necessary to deliver timely audited financial statements; and

(B) made public draft financial statements and other information sufficient for any interested person to make an informed decision with respect to a possible restructuring;

(3) the entity is either a covered territory that has adopted a Fiscal Plan certified by the Oversight Board, a covered territorial instrumentality that is subject to a Territory Fiscal Plan certified by the Oversight Board, or a covered territorial instrumentality that has adopted an Instrumentality Fiscal Plan certified by the Oversight Board; and

(4)(A) no order approving a Qualifying Modification under section 2231 of this title has been entered with respect to such entity; or

(B) if an order approving a Qualifying Modification has been entered with respect to such entity, the entity is unable to make its debt payments notwithstanding the approved Qualifying Modification, in which case, all claims affected by the Qualifying Modification shall be subject to a subchapter III case.

(b) Issuance of restructuring certification

The issuance of a restructuring certification under this section requires a vote of no fewer than 5 members of the Oversight Board in the affirmative, which shall satisfy the requirement set forth in section 2162(2) of this title.

(Pub. L. 114-187, title II, § 206, June 30, 2016, 130 Stat. 574.)

§ 2147. Oversight Board authority related to debt issuance

For so long as the Oversight Board remains in operation, no territorial government may, without the prior approval of the Oversight Board, issue debt or guarantee, exchange, modify, repurchase, redeem, or enter into similar transactions with respect to its debt.

(Pub. L. 114-187, title II, § 207, June 30, 2016, 130 Stat. 575.)

§ 2148. Required reports

(a) Annual report

Not later than 30 days after the last day of each fiscal year, the Oversight Board shall submit a report to the President, Congress, the Governor and the Legislature, describing—

(1) the progress made by the territorial government in meeting the objectives of this chapter during the fiscal year;

(2) the assistance provided by the Oversight Board to the territorial government in meeting the purposes of this chapter during the fiscal year;

(3) recommendations to the President and Congress on changes to this chapter or other Federal laws, or other actions of the Federal Government, that would assist the territorial

government in complying with any certified Fiscal Plan;

(4) the precise manner in which funds allocated to the Oversight Board under section 2127 of this title and, as applicable, section 2124(e) of this title have been spent by the Oversight Board during the fiscal year; and

(5) any other activities of the Oversight Board during the fiscal year.

(b) Report on discretionary tax abatement agreements

Within six months of the establishment of the Oversight Board, the Governor shall submit a report to the Oversight Board documenting all existing discretionary tax abatement or similar tax relief agreements to which the territorial government, or any territorial instrumentality, is a party, provided that—

(1) nothing in this chapter shall be interpreted to limit the power of the territorial government or any territorial instrumentality to execute or modify discretionary tax abatement or similar tax relief agreements, or to enforce compliance with the terms and conditions of any discretionary tax abatement or similar tax relief agreement, to which the territorial government or any territorial instrumentality is a party; and

(2) the members and staff of the Oversight Board shall not disclose the contents of the report described in this subsection, and shall otherwise comply with all applicable territorial and Federal laws and regulations regarding the handling of confidential taxpayer information.

(c) Quarterly reports of cash flow

The Oversight Board, when feasible, shall report on the amount of cash flow available for the payment of debt service on all notes, bonds, debentures, credit agreements, or other instruments for money borrowed whose enforcement is subject to a stay or moratorium hereunder, together with any variance from the amount set forth in the debt sustainability analysis of the Fiscal Plan under section 2141(b)(1)(I) of this title.

(Pub. L. 114-187, title II, § 208, June 30, 2016, 130 Stat. 575.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) to (3) and (b)(1), 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.

§ 2149. Termination of Oversight Board

An Oversight Board shall terminate upon certification by the Oversight Board that—

(1) the applicable territorial government has adequate access to short-term and long-term credit markets at reasonable interest rates to meet the borrowing needs of the territorial government; and

(2) for at least 4 consecutive fiscal years—