

(S. B. 428)

(No. 22-2017)

(Approved April 19, 2017)

AN ACT

To repeal Section 2 of Act No. 97-2015, which creates the “Puerto Rico Commission for the Comprehensive Audit of the Public Credit,” in order to reallocate permanently the surplus funds allocated to such Commission to the University of Puerto Rico to provide it with additional assistance to address the fiscal crisis of our First Teaching Center; and for other related purposes.

STATEMENT OF MOTIVES

The main purpose of Act No. 97-2015 was creating the Puerto Rico Commission for the Comprehensive Audit of the Public Credit as part of the measures adopted to work on the economic and fiscal environment of Puerto Rico. The Commission’s functions are: to define the methodology to conduct a comprehensive audit of the credits, renegotiations, and other forms of restructuring; the amounts paid on capital and interests; the impact of contracting and renegotiating of the public debt; the source and destination of the resources; and the implementation of programs and projects funded with internal and external debt; as well as apply this method to every collective bargaining agreement in effect; among other functions.

Puerto Rico’s precarious fiscal situation led to the approval of Public Law 114-187, known as the “Puerto Rico Oversight, Management and Economic Stability Act,” or PROMESA, on June 30, 2016, which creates a board with broader powers and jurisdiction than those conferred to the Puerto Rico Commission for the Comprehensive Audit of the Public Credit under Act No. 97-2015. In view of this juridical reality, we believe that the functions of the Commission are redundant and

shall constitute an additional and unnecessary public expenditure. Moreover, Section 3 of Act No. 97-2015 clearly establishes the dissolution of the Commission upon complying with the task entrusted thereto under such Act. Therefore, the Commission's juridical life is limited to its compliance with the functions established by law, which to date, has yet to fulfill. For such reason, we reassert that the approval of PROMESA made evident a duplication of the Commission's functions as well as of the use public funds. It is worth noting that the state and federal courts are the forums with jurisdiction to pass judgment on the constitutionality of any matter, including public debt.

The Financial Oversight Board has the authority and full discretion to require both to the Governor of Puerto Rico and the territory's instrumentalities any information deemed pertinent relating to the budget. Furthermore, Section 411 of Public Law 114-187, *supra*, provides that not later than one year after the date of the enactment of said Act, the Comptroller General of the United States shall submit to Congress a report on the public debt of each territory, including Puerto Rico. The Government of Puerto Rico shall make available to the Comptroller General of the United States all information and materials necessary pertaining to the public debt. It is precisely because of this encompassing authority of the Financial Oversight Board to request information that the functions of the Puerto Rico Commission for the Comprehensive Audit of the Public Credit shall result in a duplication of efforts made with the instrumentalities of the Government of Puerto Rico.

It should be noted that Section 413 of Public Law 114-187, *supra*, establishes that the Financial Oversight Board shall not restrict the ability of the Puerto Rico Commission for the Comprehensive Audit of the Public Credit to file its reports and findings. The Legislative Assembly, however, understands that based on the principles of, and the broad powers and duties delegated to the Financial Oversight Board under PROMESA, in what pertains to the request of information, reports, and

audits from every government agency, this shall be redundant and constitute an additional excessive public expenditure, for there are other methods whereby the information to be included in the reports may be obtained.

For all of the foregoing, and to ensure a sound administration of the public funds of Puerto Rico, in view of the fiscal crisis we are undergoing as a People, this Legislative Assembly deems it essential to repeal Act No. 97-2015, together with all that pertains to the functions and existence of the Puerto Rico Commission for the Comprehensive Audit of the Public Credit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 2 of Act No. 97-2015, which creates the Puerto Rico Commission for the Comprehensive Audit of the Public Credit is hereby repealed.

Section 2.- All legal and juridical actions taken by the Puerto Rico Commission for the Comprehensive Audit of the Public Credit, including collective bargaining agreements, and contracts executed by the Commission, if any, to achieve the purposes of Act No. 97-2015, shall be rendered ineffective and null.

Section 3.- The remaining funds allocated to the Puerto Rico Commission for the Comprehensive Audit of the Public Credit shall be reallocated to the University of Puerto Rico in order to provide it with additional assistance to address the fiscal crisis of our First Teaching Center.

Section 4.- If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence,

word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, invalidates, or holds to be unconstitutional any part thereof, or even if it renders ineffective, nullifies, invalidates, impairs, or holds to be unconstitutional the application thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 5.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 22-2017 (S. B. 428)** of the **1st Regular Session** of the **18th Legislative Assembly of Puerto Rico**:

AN ACT to repeal Section 2 of Act No. 97-2015, which creates the “Puerto Rico Commission for the Comprehensive Audit of the Public Credit,” in order to reallocate permanently the surplus funds allocated to such Commission to the University of Puerto Rico to provide it with additional assistance to address the fiscal crisis of our First Teaching Center; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 12th day of February, 2018.

Orlando Pagán-Ramírez
Acting Director