

114TH CONGRESS
1ST SESSION

H. R. 4199

To provide the Government of Puerto Rico the choice to restructure its municipal debt in conjunction with enhanced financial oversight, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2015

Mr. DUFFY introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide the Government of Puerto Rico the choice to restructure its municipal debt in conjunction with enhanced financial oversight, and for other purposes.

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 “Puerto Rico Financial Stability and Debt Restructuring
6 Choice Act”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Findings.

TITLE I—ESTABLISHMENT AND ORGANIZATION OF FINANCIAL
 STABILITY COUNCIL

- Sec. 101. Puerto Rico Financial Stability Council.
 Sec. 102. Executive director and staff of Council.
 Sec. 103. Powers of Council.
 Sec. 104. Exemption from liability for claims.
 Sec. 105. Treatment of actions arising from Act.
 Sec. 106. Funding for operation of Council.
 Sec. 107. Termination of activities.
 Sec. 108. Application of laws of Puerto Rico to Council.
 Sec. 109. Rules of construction.

TITLE II—RESPONSIBILITIES OF FINANCIAL STABILITY COUNCIL

- Sec. 201. Development of financial plan and budget for Puerto Rico.
 Sec. 202. Process for submission and approval of financial plan and annual
 Puerto Rico budget.
 Sec. 203. Restrictions on borrowing by Puerto Rico.
 Sec. 204. Effect of finding of noncompliance with financial plan and budget.
 Sec. 205. Recommendations on financial stability and management responsi-
 bility.

TITLE III—DEBT RESTRUCTURING

- Sec. 301. Amendment.
 Sec. 302. Effective date; application of amendment.
 Sec. 303. Severability.

1 SEC. 2. FINDINGS.

2 Congress finds the following:

3 (1) A combination of structural problems,
 4 mounting debt, and weak public finances has left
 5 Puerto Rico in a financial debt crisis and resulted in
 6 continued outmigration of residents and business
 7 from Puerto Rico further stifling growth.

8 (2) A comprehensive, long-term approach must
 9 be established to initiate significant reforms to re-
 10 store to Puerto Rico access to short-term and long-

1 term lending, eliminate annual deficits, and reduce
2 its debt.

3 (3) The current crisis requires congressional ac-
4 tion that supports Puerto Rico by providing the ap-
5 appropriate tools needed to restore financial stability
6 while respecting and strengthening its authority to
7 operate and grow independently.

8 **TITLE I—ESTABLISHMENT AND**
9 **ORGANIZATION OF FINAN-**
10 **CIAL STABILITY COUNCIL**

11 **SEC. 101. PUERTO RICO FINANCIAL STABILITY COUNCIL.**

12 (a) ESTABLISHMENT.—Upon the enactment of a law
13 or resolution adopted by the Legislative Assembly of Puer-
14 to Rico and signed by the Governor of Puerto Rico, and
15 pursuant to article IV, section 3, clause 2 of the Constitu-
16 tion of the United States, there shall be established the
17 Puerto Rico Financial Stability Council (here and after
18 referred to in this Act as the “Council”), consisting of
19 members appointed in accordance with subsection (b).

20 (b) MEMBERSHIP.—

21 (1) IN GENERAL.—The Council shall consist of
22 5 members appointed by the President who meet the
23 qualifications described in subsection (c).

24 (2) CONSULTATION WITH CONGRESS.—The
25 President shall consult with the Speaker of the

1 House of Representatives, the Minority Leader of
2 the House of Representatives, the Majority Leader
3 of the Senate, the Minority Leader of the Senate,
4 and the Resident Commissioner from Puerto Rico
5 with respect to who should be appointed to the
6 Council.

7 (3) CHAIR.—The President shall designate one
8 of the members of the Council as the chair of the
9 Council.

10 (4) SENSE OF CONGRESS REGARDING DEAD-
11 LINE FOR APPOINTMENT.—It is the sense of Con-
12 gress that the President should appoint the members
13 of the Council as soon as practicable after the estab-
14 lishment of the Council, but in no event later than
15 25 days after the date of the establishment of the
16 Council.

17 (5) TERM OF SERVICE.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), each member of the Council
20 shall be appointed for a term of 3 years.

21 (B) APPOINTMENT FOR TERM FOLLOWING
22 INITIAL TERM.—For the term immediately fol-
23 lowing the initial term, members shall be ap-
24 pointed by the President as follows:

25 (i) 1 member for a term of 1 year.

1 (ii) 2 members each for a term of 2
2 years.

3 (iii) 2 members each for a term of 3
4 years.

5 (C) REMOVAL.—The President may re-
6 move any member of the Council only for cause.

7 (c) QUALIFICATIONS FOR MEMBERSHIP.—An indi-
8 vidual meets the qualifications for membership on the
9 Council if the individual—

10 (1) has knowledge and expertise in finance,
11 management, and the organization or operation of
12 business or government;

13 (2) does not provide goods or services to the
14 Government of Puerto Rico (and is not the spouse,
15 parent, child, or sibling of an individual who pro-
16 vides goods and services to the Government of Puer-
17 to Rico);

18 (3) is not an officer or employee of the Govern-
19 ment of Puerto Rico;

20 (4) maintains a primary residence in Puerto
21 Rico or has a primary place of business in Puerto
22 Rico; and

23 (5) complies with Federal conflict of interest re-
24 quirements as mandated by section 208 of title 18,
25 United States Code.

1 (d) NO COMPENSATION FOR SERVICE.—Members of
2 the Council shall serve without pay, but may receive reim-
3 bursement for any reasonable and necessary expenses in-
4 curred by reason of service on the Council.

5 (e) ADOPTION OF BY-LAWS FOR CONDUCTING BUSI-
6 NESS OF AUTHORITY.—

7 (1) IN GENERAL.—As soon as practicable after
8 the appointment of its members, but not later than
9 30 days, the Council shall adopt by-laws, rules, and
10 procedures governing its activities under this Act, in-
11 cluding procedures for hiring experts and consult-
12 ants. Such by-laws, rules, and procedures shall be
13 public documents, and shall be submitted by the
14 Council upon adoption to the Governor, the Legisla-
15 tive Assembly, the President, and Congress.

16 (2) CERTAIN ACTIVITIES REQUIRING APPROVAL
17 OF MAJORITY OF MEMBERS.—Under the by-laws
18 adopted pursuant to paragraph (1), the Council may
19 conduct its operations under such procedures as it
20 considers appropriate, except that an affirmative
21 vote of a majority of the members of the Council
22 shall be required in order for the Council to—

23 (A) approve or disapprove a financial plan
24 and budget under title II; and

1 (B) implement recommendations on finan-
2 cial stability and management responsibility
3 under section 107.

4 (3) ADOPTION OF RULES AND REGULATIONS OF
5 PUERTO RICO.—The Council may incorporate in its
6 by-laws, rules, and procedures under this subsection
7 such rules and regulations of the Government of
8 Puerto Rico as it considers appropriate to enable it
9 to carry out its activities under this Act with the
10 greatest degree of independence practicable.

11 **SEC. 102. EXECUTIVE DIRECTOR AND STAFF OF COUNCIL.**

12 (a) EXECUTIVE DIRECTOR.—The Council shall have
13 an executive director who shall be appointed by the chair
14 with the consent of the Council. The executive director
15 shall be paid at a rate determined by the Council, except
16 that such rate may not exceed the rate of basic pay pay-
17 able for level IV of the Executive Schedule.

18 (b) STAFF.—With the approval of the chair, the exec-
19 utive director may appoint and fix the pay of additional
20 personnel as the executive director considers appropriate,
21 except that no individual appointed by the executive direc-
22 tor may be paid at a rate greater than the rate of pay
23 for the executive director.

24 (c) INAPPLICABILITY OF CERTAIN EMPLOYMENT
25 AND PROCUREMENT LAWS.—

1 (1) CIVIL SERVICE LAWS.—The executive direc-
2 tor and staff of the Council may be appointed with-
3 out regard to the provisions of title 5, United States
4 Code, governing appointments in the competitive
5 service, and paid without regard to the provisions of
6 chapter 51 and subchapter III of chapter 53 of that
7 title relating to classification and General Schedule
8 pay rates.

9 (2) PUERTO RICO EMPLOYMENT AND PROCURE-
10 MENT LAWS.—The executive director and staff of
11 the Council may be appointed and paid without re-
12 gard to the provisions of the laws of Puerto Rico
13 governing appointments and salaries. The provisions
14 of the laws of Puerto Rico governing procurement
15 shall not apply to the Council.

16 (d) STAFF OF FEDERAL AGENCIES.—Upon request
17 of the chair, the head of any Federal department or agen-
18 cy may detail, on a reimbursable or nonreimbursable basis,
19 any of the personnel of that department or agency to the
20 Council to assist it in carrying out its duties under this
21 Act.

22 (e) PRESERVATION OF RETIREMENT AND CERTAIN
23 OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME
24 EMPLOYED BY THE COUNCIL.—

1 (1) IN GENERAL.—A Federal employee who,
2 within 2 months after separating from the Federal
3 Government, becomes employed by the Council—

4 (A) may elect, for purposes of the retire-
5 ment system in which that individual last par-
6 ticipated before so separating, to have such in-
7 dividual’s period of service with the Council
8 treated in the same way as if performed in the
9 position within the Federal Government from
10 which separated, subject to the requisite em-
11 ployee deductions and agency contributions
12 being currently deposited in the appropriate
13 fund; and

14 (B) if, after serving with the Council, such
15 employee becomes reemployed by the Federal
16 Government, shall be entitled to credit for the
17 full period of such individual’s service with the
18 Council for purposes of determining the appli-
19 cable leave accrual rate.

20 (2) RETIREMENT.—

21 (A) CONTRIBUTIONS.—For purposes of
22 subparagraph (A) of paragraph (1)—

23 (i) the employee deductions referred
24 to in such paragraph shall be made from
25 basic pay for service with the Council, and

1 shall be computed using the same percent-
2 age as would then apply if the individual
3 were instead serving in the position within
4 the Federal Government from which sepa-
5 rated; and

6 (ii) the agency contributions referred
7 to in such paragraph shall be made by the
8 Council.

9 (B) DOUBLE COVERAGE NOT PER-
10 MITTED.—An individual who makes an election
11 under paragraph (1)(A) shall be ineligible, while
12 such election remains in effect, to participate in
13 any retirement system for employees of the
14 Government of Puerto Rico.

15 (3) REGULATIONS.—The Office of Personnel
16 Management shall prescribe such regulations as may
17 be necessary to carry out this subsection. Regula-
18 tions to carry out paragraph (1)(A) shall be pre-
19 scribed in consultation with the office or agency of
20 the Government of Puerto Rico having jurisdiction
21 over any retirement system referred to in paragraph
22 (2)(B).

23 **SEC. 103. POWERS OF COUNCIL.**

24 (a) HEARINGS AND SESSIONS.—The Council may, for
25 the purpose of carrying out this Act, hold hearings, sit

1 and act at times and places, take testimony, and receive
2 evidence as the Council considers appropriate. The Council
3 may administer oaths or affirmations to witnesses appear-
4 ing before it.

5 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
6 ber or agent of the Council may, if authorized by the
7 Council, take any action which the Council is authorized
8 to take by this section.

9 (c) OBTAINING OFFICIAL DATA.—

10 (1) FROM FEDERAL GOVERNMENT.—Notwith-
11 standing sections 552 (commonly known as the
12 Freedom of Information Act) and 552b (the Privacy
13 Act) of title 5, United States Code, the Council may
14 secure directly from any department or agency of
15 the United States information necessary to enable it
16 to carry out this Act, with the approval of the head
17 of that department or agency.

18 (2) FROM GOVERNMENT OF PUERTO RICO.—
19 Notwithstanding any other provision of law, the
20 Council shall have the right to secure copies of such
21 records, documents, information, or data from any
22 entity of the Government of Puerto Rico necessary
23 to enable the Council to carry out its responsibilities
24 under this Act. At the request of the Council, the
25 Council shall be granted direct access to such infor-

1 mation systems, records, documents, information, or
2 data as will enable the Council to carry out its re-
3 sponsibilities under this Act. The head of the entity
4 of the Government of Puerto Rico responsible shall
5 timely provide the Council with such information
6 and assistance (including granting the Council direct
7 access to automated or other information systems)
8 as the Council requires under this paragraph.

9 (d) GIFTS, BEQUESTS, AND DEVISES.—The Council
10 may accept, use, and dispose of gifts, bequests, or devises
11 of services or property, both real and personal, for the pur-
12 pose of aiding or facilitating the work of the Council.
13 Gifts, bequests, or devises of money and proceeds from
14 sales of other property received as gifts, bequests, or de-
15 vises shall be deposited in such account as the Council may
16 establish and shall be available for disbursement upon
17 order of the chair.

18 (e) SUBPOENA POWER.—

19 (1) IN GENERAL.—The Council may issue sub-
20 poenas requiring the attendance and testimony of
21 witnesses and the production of any evidence relat-
22 ing to any matter under investigation by the Coun-
23 cil. The attendance of witnesses and the production
24 of evidence may be required from any place within

1 the United States at any designated place of hearing
2 within the United States.

3 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
4 son refuses to obey a subpoena issued under para-
5 graph (1), the Council may apply to a United States
6 district court for an order requiring that person to
7 appear before the Council to give testimony, produce
8 evidence, or both, relating to the matter under inves-
9 tigation. The application may be made within the ju-
10 dicial district where the hearing is conducted or
11 where that person is found, resides, or transacts
12 business. Any failure to obey the order of the court
13 may be punished by the court as civil contempt.

14 (3) SERVICE OF SUBPOENAS.—The subpoenas
15 of the Council shall be served in the manner pro-
16 vided for subpoenas issued by a United States dis-
17 trict court under the Federal Rules of Civil Proce-
18 dure for the United States district courts.

19 (4) SERVICE OF PROCESS.—All process of any
20 court to which application is made under paragraph
21 (2) may be served in the judicial district in which
22 the person required to be served resides or may be
23 found.

24 (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the
25 request of the Council, the Administrator of General Serv-

1 ices may provide to the Council, on a reimbursable basis,
2 the administrative support services necessary for the
3 Council to carry out its responsibilities under this Act.

4 (g) **AUTHORITY TO ENTER INTO CONTRACTS.**—The
5 executive director may enter into such contracts as the ex-
6 ecutive director considers appropriate (subject to the ap-
7 proval of the chair) to carry out the Council’s responsibil-
8 ities under this Act.

9 (h) **CIVIL ACTIONS TO ENFORCE POWERS.**—The
10 Council may seek judicial enforcement of its authority to
11 carry out its responsibilities under this Act.

12 (i) **PENALTIES.**—

13 (1) **ACTS PROHIBITED.**—Any officer or em-
14 ployee of the Government of Puerto Rico who—

15 (A) takes any action in violation of any
16 valid order of the Council or fails or refuses to
17 take any action required by any such order; or

18 (B) prepares, presents, or certifies any in-
19 formation (including any projections or esti-
20 mates) or report for the Council or any of its
21 agents that is false or misleading, or, upon
22 learning that any such information is false or
23 misleading, fails to immediately advise the
24 Council or its agents thereof in writing, shall be
25 guilty of a misdemeanor.

1 (2) ADMINISTRATIVE DISCIPLINE.—In addition
2 to any other applicable penalty, any officer or em-
3 ployee of the Government of Puerto Rico who know-
4 ingly and willfully violates paragraph (1) shall be
5 subject to appropriate administrative discipline, in-
6 cluding (when appropriate) suspension from duty
7 without pay or removal from office by order of either
8 the Governor or Council.

9 (3) REPORT BY GOVERNOR ON DISCIPLINARY
10 ACTIONS TAKEN.—In the case of a violation of para-
11 graph (1) by an officer or employee of the Govern-
12 ment of Puerto Rico, the Governor shall immediately
13 report to the Council all pertinent facts together
14 with a statement of the action taken thereon.

15 **SEC. 104. EXEMPTION FROM LIABILITY FOR CLAIMS.**

16 The Council and its members may not be liable for
17 any obligation of or claim against Puerto Rico resulting
18 from actions taken to carry out this Act.

19 **SEC. 105. TREATMENT OF ACTIONS ARISING FROM ACT.**

20 (a) JURISDICTION ESTABLISHED IN DISTRICT
21 COURT FOR PUERTO RICO.—Except as provided in section
22 103(e)(2) (relating to the issuance of an order enforcing
23 a subpoena), any action against the Council or any action
24 otherwise arising out of this Act, in whole or in part, shall

1 be brought in the United States District Court for the Dis-
2 trict of Puerto Rico.

3 (b) PROMPT APPEAL.—

4 (1) COURT OF APPEALS.—Notwithstanding any
5 other provision of law, any order of the United
6 States District Court for the District of Puerto Rico
7 which is issued pursuant to an action brought under
8 subsection (a) shall be reviewable only pursuant to
9 a notice of appeal to the United States Court of Ap-
10 peals for the First Circuit.

11 (2) SUPREME COURT.—Notwithstanding any
12 other provision of law, review by the Supreme Court
13 of the United States of a decision of the Court of
14 Appeals which is issued pursuant to paragraph (1)
15 may be had only if the petition for such review is
16 filed within 10 days after the entry of such decision.

17 (c) TIMING OF RELIEF.—No order of any court
18 granting declaratory or injunctive relief against the Coun-
19 cil, including relief permitting or requiring the obligation,
20 borrowing, or expenditure of funds, shall take effect dur-
21 ing the pendency of the action before such court, during
22 the time appeal may be taken, or (if appeal is taken) dur-
23 ing the period before the court has entered its final order
24 disposing of such action.

1 (d) EXPEDITED CONSIDERATION.—It shall be the
2 duty of the United States District Court for the District
3 of Puerto Rico, the United States Court of Appeals for
4 the First Circuit, and the Supreme Court of the United
5 States to advance on the docket and to expedite to the
6 greatest possible extent the disposition of any matter
7 brought under subsection (a).

8 **SEC. 106. FUNDING FOR OPERATION OF COUNCIL.**

9 (a) SUBMISSION OF BUDGET.—The Council shall
10 submit a proposed budget for each fiscal year to the Presi-
11 dent for the inclusion in the annual budget of the United
12 States.

13 (b) CONTENTS OF BUDGET.—The budget shall de-
14 scribe—

15 (1) expenditures of the Council by each object
16 class, including expenditures for staff of the Council;

17 (2) services of personnel and other services pro-
18 vided by or on behalf of the Council for which the
19 Council made no reimbursement; and

20 (3) any gifts or bequests made to the Council
21 during the previous fiscal year.

22 (c) APPROPRIATIONS.—No amount may be obligated
23 or expended by the Council for a fiscal year unless such
24 amount has been approved by an Act of Congress, and
25 then only according to such Act.

1 **SEC. 107. TERMINATION OF ACTIVITIES.**

2 The Council may not terminate its activities earlier
3 than 3 fiscal years after its establishment and until—

4 (1) it has certified to the President that the
5 Government of Puerto Rico has made meaningful
6 progress in its budgeting practices, tax collection,
7 and its fiscal condition, including access to the cap-
8 ital markets at a reasonable interest rate; and

9 (2) the President has approved the Council's
10 certification in paragraph (1).

11 **SEC. 108. APPLICATION OF LAWS OF PUERTO RICO TO**
12 **COUNCIL.**

13 (a) IN GENERAL.—The following laws of Puerto Rico
14 (as in effect on the date of the enactment of this Act)
15 shall apply to the members and activities of the Council:

16 (1) Open Meeting Law.

17 (2) FOIA Requirement.

18 (3) Conflicts of Interest.

19 (b) NO CONTROL, SUPERVISION, OVERSIGHT, OR RE-
20 VIEW BY GOVERNOR OR LEGISLATIVE ASSEMBLY.—

21 (1) IN GENERAL.—Neither the Governor nor
22 the Legislative Assembly may exercise any control,
23 supervision, oversight, or review over the Council or
24 its activities.

25 (2) PROHIBITION AGAINST LEGISLATION AF-
26 FECTING AUTHORITY.—The Legislative Assembly

1 shall have no authority to enact any act, resolution,
2 or rule with respect to the Council established under
3 section 101(a) of this Act.

4 (c) **AUTHORITY NOT SUBJECT TO REPRESENTATION**
5 **BY PUERTO RICO ATTORNEY GENERAL.**—In any action
6 brought by or on behalf of the Council, and in any action
7 brought against the Council, the Council shall be rep-
8 resented by such counsel as it may select, but in no in-
9 stance may the Council be represented by the Attorney
10 General of Puerto Rico.

11 **SEC. 109. RULES OF CONSTRUCTION.**

12 Nothing in this Act may be construed—

13 (1) to limit the authority of Congress to exer-
14 cise ultimate legislative authority over Puerto Rico
15 pursuant to article IV, section 3, clause 2 of the
16 Constitution of the United States; or

17 (2) to interfere with the right of the United
18 States citizens of Puerto Rico to determine whether
19 to remain a territory, become a State of the United
20 States of America, or become a sovereign nation.

1 **TITLE II—RESPONSIBILITIES OF**
2 **FINANCIAL STABILITY COUNCIL**

3 **SEC. 201. DEVELOPMENT OF FINANCIAL PLAN AND BUDG-**
4 **ET FOR PUERTO RICO.**

5 (a) DEVELOPMENT OF FINANCIAL PLAN AND BUDG-
6 ET.—For each fiscal year, the Governor shall develop and
7 submit to the Council a financial plan and budget for
8 Puerto Rico in accordance with this section.

9 (b) CONTENTS OF FINANCIAL PLAN AND BUDGET.—
10 A financial plan and budget for the Government of Puerto
11 Rico for a fiscal year and the next 3 fiscal years (including
12 the projected revenues and expenditures of each fund of
13 the Government of Puerto Rico for such years), shall sat-
14 isfy the following requirements:

15 (1) The financial plan and budget shall meet
16 the standards described in subsection (c) to promote
17 the financial stability of the Government of Puerto
18 Rico.

19 (2) The financial plan and budget shall provide
20 for estimates of revenues and expenditures on a
21 modified accrual basis.

22 (3) The financial plan and budget shall—

23 (A) describe lump-sum expenditures by de-
24 partment by object class;

1 (B) describe capital expenditures (together
2 with a schedule of projected capital commit-
3 ments of the Government of Puerto Rico and
4 proposed sources of funding);

5 (C) contain estimates of short-term and
6 long-term debt (both outstanding and antici-
7 pated to be issued); and

8 (D) contain cash flow forecasts for each
9 fund of the Government of Puerto Rico at such
10 intervals as the Council may require.

11 (4) The financial plan and budget shall include
12 a statement describing methods of estimations and
13 significant assumptions.

14 (5) The financial plan and budget shall include
15 any proposal to specifically authorize an entity to be
16 a debtor under 11 U.S.C. 109.

17 (6) The financial plan and budget shall include
18 any other provisions and shall meet such other cri-
19 teria as the Council considers appropriate to meet
20 the purposes of this Act, including management ini-
21 tiatives to promote productivity, improvement in the
22 delivery of services, or cost savings.

23 (c) STANDARDS TO PROMOTE FINANCIAL STABILITY
24 DESCRIBED.—

1 (1) IN GENERAL.—The standards to promote
2 the financial stability of the Government of Puerto
3 Rico applicable to the financial plan and budget for
4 a fiscal year are as follows:

5 (A) The Council shall contract with an
6 independent auditor to conduct a full scale
7 audit of the financial practices and accounting
8 methodologies employed by the Government of
9 Puerto Rico, and based on this report make
10 recommendations for changes and improve-
11 ments to be considered to be employed by the
12 Council.

13 (B) During the first three years of the
14 plan, the Government of Puerto Rico shall
15 make continuous, substantial progress toward
16 equalizing the expenditures and revenues of the
17 Government of Puerto Rico for such fiscal years
18 (in equal annual installments to the greatest ex-
19 tent possible).

20 (C) The financial plan and budget shall as-
21 sure the continuing long-term financial stability
22 of the Government of Puerto Rico, as indicated
23 by factors including access to short-term and
24 long-term capital markets, the efficient manage-
25 ment of the Government of Puerto Rico's work-

1 force, and the effective provision of services by
2 the Government of Puerto Rico.

3 (2) APPLICATION OF SOUND BUDGETARY PRAC-
4 TICES.—In meeting the standards described in para-
5 graph (1) with respect to a financial plan and budg-
6 et for a fiscal year, the Government of Puerto Rico
7 shall apply sound budgetary practices, including re-
8 ducing costs and other expenditures, improving pro-
9 ductivity, improving tax collection, or combinations
10 of such practices.

11 **SEC. 202. PROCESS FOR SUBMISSION AND APPROVAL OF FI-**
12 **NANCIAL PLAN AND ANNUAL PUERTO RICO**
13 **BUDGET.**

14 (a) SUBMISSION OF PRELIMINARY FINANCIAL PLAN
15 AND BUDGET BY GOVERNOR.—After consultation with the
16 Governor and Legislative Assembly of Puerto Rico, the
17 Council shall set a date for the Governor to submit to the
18 Council and the Legislative Assembly a financial plan and
19 budget for the fiscal year which meets the requirement of
20 section 201.

21 (b) REVIEW BY COUNCIL.—Upon receipt of the fi-
22 nancial plan and budget for a fiscal year from the Gov-
23 ernor under subsection (a), the Council shall promptly re-
24 view the financial plan and budget. In conducting the re-
25 view, the Council may request any additional information

1 it considers necessary and appropriate to carry out its du-
2 ties under this title.

3 (c) ACTION UPON APPROVAL OF GOVERNOR'S PRE-
4 LIMINARY FINANCIAL PLAN AND BUDGET.—

5 (1) CERTIFICATION TO GOVERNOR.—

6 (A) IN GENERAL.—If the Council deter-
7 mines that the financial plan and budget for the
8 fiscal year submitted by the Governor under
9 subsection (a) meets the requirements applica-
10 ble under section 201—

11 (i) the Council shall approve the fi-
12 nancial plan and budget and shall provide
13 the Governor, the Legislative Assembly,
14 the President, and Congress with a notice
15 certifying its approval; and

16 (ii) the Governor shall promptly sub-
17 mit the financial plan and budget to the
18 Legislative Assembly.

19 (B) DEEMED APPROVAL AFTER 30 DAYS.—

20 (i) IN GENERAL.—If the Council has
21 not provided the Governor, the Legislative
22 Assembly, the President, and Congress
23 with a notice certifying approval under
24 subparagraph (A)(i) or a statement of dis-
25 approval under subsection (d)(1) upon the

1 expiration of the 30-day period which be-
2 gins on the date the Council receives the
3 financial plan and budget from the Gov-
4 ernor under subsection (a), the Council
5 shall be deemed to have approved the fi-
6 nancial plan and budget and to have pro-
7 vided the Governor, the Legislative Assem-
8 bly, the President, and Congress with the
9 notice certifying approval described in sub-
10 paragraph (A)(i).

11 (ii) EXPLANATION OF FAILURE TO
12 RESPOND.—If clause (i) applies with re-
13 spect to a financial plan and budget, the
14 Council shall provide the Governor, the
15 Legislative Assembly, the President, and
16 Congress with an explanation for its failure
17 to provide the notice certifying approval or
18 the statement of disapproval during the
19 30-day period described in such clause.

20 (2) ADOPTION OF BUDGET BY ASSEMBLY
21 AFTER RECEIPT OF APPROVED BUDGET.—Not later
22 than the date set by the Council in subsection (a)
23 after receiving the budget for the fiscal year from
24 the Governor under paragraph (1)(A)(ii), the Legis-
25 lative Assembly shall by Act adopt a budget for the

1 fiscal year which shall serve as the adoption of the
2 budget of the Government of Puerto Rico for the fis-
3 cal year under such section, and shall submit such
4 budget to the Governor and the Council.

5 (3) REVIEW OF LEGISLATIVE ASSEMBLY BUDG-
6 ET BY AUTHORITY.—Upon receipt of the budget for
7 a fiscal year from the Legislative Assembly under
8 paragraph (2) (taking into account any items or pro-
9 visions disapproved by the Governor or disapproved
10 by the Governor and reenacted by the Legislative
11 Assembly) the Council shall promptly review the
12 budget. In conducting the review, the Council may
13 request any additional information it considers nec-
14 essary and appropriate to carry out its duties under
15 this subtitle.

16 (4) RESULTS OF AUTHORITY REVIEW OF LEGIS-
17 LATIVE ASSEMBLY'S INITIAL BUDGET.—

18 (A) APPROVAL OF LEGISLATIVE ASSEM-
19 BLY'S INITIAL BUDGET.—If the Council deter-
20 mines that the budget for the fiscal year sub-
21 mitted by the Legislative Assembly under para-
22 graph (2) meets the requirements applicable
23 under section 201—

24 (i) the Council shall approve the budg-
25 et and shall provide the Governor, the Leg-

1 islative Assembly, the President, and Con-
2 gress with a notice certifying its approval;
3 and

4 (ii) the Legislative Assembly shall
5 promptly submit the budget to the Gov-
6 ernor for transmission to the President
7 and Congress.

8 (B) DISAPPROVAL OF LEGISLATIVE ASSEM-
9 BLY'S INITIAL BUDGET.—If the Council deter-
10 mines that the budget for the fiscal year sub-
11 mitted by the Legislative Assembly under para-
12 graph (2) does not meet the requirements appli-
13 cable under section 201, the Council shall dis-
14 approve the budget, and shall provide the Gov-
15 ernor, the Legislative Assembly, the President,
16 and Congress with a statement containing—

17 (i) the reasons for such disapproval;

18 and

19 (ii) any recommendations for revisions
20 to the budget the Council considers appro-
21 priate to ensure that the budget is con-
22 sistent with section 201(b) and (c).

23 (C) DEEMED APPROVAL AFTER 15 DAYS.—

24 (i) IN GENERAL.—If the Council has
25 not provided the Governor, the Legislative

1 Assembly, the President, and Congress
2 with a notice certifying approval under
3 subparagraph (A)(i) or a statement of dis-
4 approval under subparagraph (B) upon the
5 expiration of the 15-day period which be-
6 gins on the date the Council receives the
7 budget from the Legislative Assembly
8 under paragraph (2), the Council shall be
9 deemed to have approved the budget and
10 to have provided the Governor, the Legisla-
11 tive Assembly, the President, and Congress
12 with the notice certifying approval de-
13 scribed in subparagraph (A)(i).

14 (ii) EXPLANATION OF FAILURE TO
15 RESPOND.—If clause (i) applies with re-
16 spect to a budget, the Council shall provide
17 the Governor, the Legislative Assembly,
18 the President, and Congress with an expla-
19 nation for its failure to provide the notice
20 certifying approval or the statement of dis-
21 approval during the 15-day period de-
22 scribed in such clause.

23 (5) AUTHORITY REVIEW OF LEGISLATIVE AS-
24 SEMBLY’S REVISED BUDGET.—

1 (A) SUBMISSION OF LEGISLATIVE ASSEM-
2 BLY'S REVISED BUDGET.—Not later than 15
3 days after receiving the statement from the
4 Council under paragraph (4)(B), the Legislative
5 Assembly shall promptly by Act adopt a revised
6 budget for the fiscal year which addresses the
7 reasons for the Council's disapproval cited in
8 the statement, and shall submit such budget to
9 the Governor and the Council.

10 (B) APPROVAL OF LEGISLATIVE ASSEM-
11 BLY'S REVISED BUDGET.—If, after reviewing
12 the revised budget for a fiscal year submitted
13 by the Legislative Assembly under subpara-
14 graph (A) in accordance with the procedures
15 described in this subsection, the Council deter-
16 mines that the revised budget meets the re-
17 quirements applicable under section 201, the
18 Council shall approve the budget and shall pro-
19 vide the Governor, the Legislative Assembly, the
20 President, and Congress with a notice certifying
21 its approval.

22 (C) DISAPPROVAL OF LEGISLATIVE ASSEM-
23 BLY'S REVISED BUDGET.—

24 (i) IN GENERAL.—If, after reviewing
25 the revised budget for a fiscal year sub-

1 mitted by the Legislative Assembly under
2 subparagraph (A) in accordance with the
3 procedures described in this subsection, the
4 Council determines that the revised budget
5 does not meet the applicable requirements
6 under section 201, the Council shall—

7 (I) disapprove the budget;

8 (II) provide the Governor, the
9 Legislative Assembly, the President,
10 and Congress with a statement con-
11 taining the reasons for such dis-
12 approval; and

13 (III) approve and recommend a
14 budget for the Government of Puerto
15 Rico which meets the applicable re-
16 quirements under section 201, and
17 submit such budget to the Governor,
18 the Legislative Assembly, the Presi-
19 dent, and Congress.

20 (ii) TRANSMISSION OF REJECTED
21 BUDGET.—The Legislative Assembly shall
22 promptly submit the revised budget dis-
23 approved by the Council under this sub-
24 paragraph to the Governor for trans-
25 mission to the President and Congress.

1 (D) DEEMED APPROVAL AFTER 15 DAYS.—

2 (i) IN GENERAL.—If the Council has
3 not provided the Governor, the Legislative
4 Assembly, the President, and Congress
5 with a notice certifying approval under
6 subparagraph (B)(i) or a statement of dis-
7 approval under subparagraph (C) upon the
8 expiration of the 15-day period which be-
9 gins on the date the Council receives the
10 revised budget submitted by the Legislative
11 Assembly under subparagraph (A), the
12 Council shall be deemed to have approved
13 the revised budget and to have provided
14 the Governor, the Legislative Assembly,
15 the President, and Congress with the no-
16 tice certifying approval described in sub-
17 paragraph (B)(i).

18 (ii) EXPLANATION OF FAILURE TO
19 RESPOND.—If clause (i) applies with re-
20 spect to a budget, the Council shall provide
21 the Governor, the Legislative Assembly,
22 the President, and Congress with an expla-
23 nation for its failure to provide the notice
24 certifying approval or the statement of dis-

1 approval during the 15-day period de-
2 scribed in such clause.

3 (6) DEADLINE FOR TRANSMISSION OF A BUDG-
4 ET BY AUTHORITY.—Notwithstanding any other pro-
5 vision of this section each fiscal year the Council
6 shall—

7 (A) provide Congress with a notice certi-
8 fying its approval of the Legislative Assembly’s
9 initial budget for the fiscal year under para-
10 graph (4)(A);

11 (B) provide Congress with a notice certi-
12 fying its approval of the Legislative Assembly’s
13 revised budget for the fiscal year under para-
14 graph (5)(B); or

15 (C) submit to Congress an approved and
16 recommended budget of the Council for the
17 Government of Puerto Rico for the fiscal year
18 under paragraph (5)(C).

19 (d) ACTION UPON DISAPPROVAL OF GOVERNOR’S
20 PRELIMINARY BUDGET.—

21 (1) STATEMENT OF DISAPPROVAL.—If the
22 Council determines that the budget for the fiscal
23 year submitted by the Governor under subsection (a)
24 does not meet the requirements applicable under sec-
25 tion 201, the Council shall disapprove the budget,

1 and shall provide the Governor and the Legislative
2 Assembly with a statement containing—

3 (A) the reasons for such disapproval; and

4 (B) any recommendations for revisions to
5 the budget the Council considers appropriate to
6 ensure that the budget meets the requirements
7 applicable under section 201.

8 (2) AUTHORITY REVIEW OF GOVERNOR'S RE-
9 VISED FINANCIAL PLAN AND BUDGET.—

10 (A) SUBMISSION OF GOVERNOR'S REVISED
11 FINANCIAL PLAN AND BUDGET.—Not later than
12 15 days after receiving the statement from the
13 Council under paragraph (1), the Governor
14 shall promptly submit to the Council and the
15 Legislative Assembly a revised financial plan
16 and budget for the fiscal year which addresses
17 the reasons for the Council's disapproval cited
18 in the statement.

19 (B) APPROVAL OF GOVERNOR'S REVISED
20 FINANCIAL PLAN AND BUDGET.—If the Council
21 determines that the revised financial plan and
22 budget for the fiscal year submitted by the Gov-
23 ernor under subparagraph (A) meets the re-
24 quirements applicable under section 201—

1 (i) the Council shall approve the fi-
2 nancial plan and budget and shall provide
3 the Governor, the Legislative Assembly,
4 the President, and Congress with a notice
5 certifying its approval; and

6 (ii) the Governor shall promptly sub-
7 mit the financial plan and budget to the
8 Legislative Assembly.

9 (C) DISAPPROVAL OF GOVERNOR'S RE-
10 VISED FINANCIAL PLAN AND BUDGET.—

11 (i) IN GENERAL.—If the Council de-
12 termines that the revised financial plan
13 and budget for the fiscal year submitted by
14 the Governor under subparagraph (A) does
15 not meet the requirements applicable under
16 section 201, the Council shall—

17 (I) disapprove the financial plan
18 and budget;

19 (II) shall provide the Governor,
20 the Legislative Assembly, the Presi-
21 dent, and Congress with a statement
22 containing the reasons for such dis-
23 approval; and

24 (III) recommend a financial plan
25 and budget for the Government of

1 Puerto Rico which meets the require-
2 ments applicable under section 201
3 and submit such financial plan and
4 budget to the Governor and the Legis-
5 lative Assembly.

6 (ii) SUBMISSION OF REJECTED FINAN-
7 CIAL PLAN AND BUDGET.—The Governor
8 shall promptly submit the revised financial
9 plan and budget disapproved by the Coun-
10 cil under this subparagraph to the Legisla-
11 tive Assembly.

12 (D) DEEMED APPROVAL AFTER 15 DAYS.—

13 (i) IN GENERAL.—If the Council has
14 not provided the Governor, the Legislative
15 Assembly, the President, and Congress
16 with a notice certifying approval under
17 subparagraph (B)(i) or a statement of dis-
18 approval under subparagraph (C) upon the
19 expiration of the 15-day period which be-
20 gins on the date the Council receives the
21 revised financial plan and budget sub-
22 mitted by the Governor under subpara-
23 graph (A), the Council shall be deemed to
24 have approved the revised financial plan
25 and budget and to have provided the Gov-

1 ernor, the Legislative Assembly, the Presi-
2 dent, and Congress with the notice certi-
3 fying approval described in subparagraph
4 (B)(i).

5 (ii) EXPLANATION OF FAILURE TO
6 RESPOND.—If clause (i) applies with re-
7 spect to a financial plan and budget, the
8 Council shall provide the Governor, the
9 Legislative Assembly, the President, and
10 Congress with an explanation for its failure
11 to provide the notice certifying approval or
12 the statement of disapproval during the
13 15-day period described in such clause.

14 (3) ACTION BY LEGISLATIVE ASSEMBLY.—

15 (A) ADOPTION OF FINANCIAL PLAN AND
16 BUDGET.—Not later than 30 days after receiv-
17 ing the Governor’s approved revised financial
18 plan and budget for the fiscal year under para-
19 graph (2)(B) or (in the case of a financial plan
20 and budget disapproved by the Council) the fi-
21 nancial plan and budget recommended by the
22 Council under paragraph (2)(C)(i)(III), the
23 Legislative Assembly shall by Act adopt a fi-
24 nancial plan and budget for the fiscal year
25 which shall serve as the adoption of the budgets

1 of the Government of Puerto Rico for the fiscal
2 year under such section, and shall submit the
3 financial plan and budget to the Governor and
4 the Council.

5 (B) REVIEW BY AUTHORITY.—The finan-
6 cial plan and budget submitted by the Legisla-
7 tive Assembly under subparagraph (A) shall be
8 subject to review by the Council and revision by
9 the Legislative Assembly in the same manner as
10 the financial plan and budget submitted by the
11 Legislative Assembly after an approved prelimi-
12 nary financial plan and budget of the Governor
13 under paragraphs (3), (4), (5), and (6) of sub-
14 section (c).

15 (e) REVISIONS TO FINANCIAL PLAN AND BUDGET.—

16 (1) PERMITTING GOVERNOR TO SUBMIT REVI-
17 SIONS.—The Governor may submit proposed revi-
18 sions to the financial plan and budget to the Council
19 at any time during the year.

20 (2) PROCESS FOR REVIEW, APPROVAL, DIS-
21 APPROVAL, AND LEGISLATIVE ASSEMBLY ACTION.—
22 Except as provided in paragraph (3), the procedures
23 described in subsections (b), (c), and (d) shall apply
24 with respect to a proposed revision to a financial
25 plan and budget in the same manner as such proce-

1 dures apply with respect to the original financial
2 plan and budget, except that subparagraph (B) of
3 subsection (c)(1) (relating to deemed approval by
4 the Council of a preliminary financial plan and
5 budget of the Governor) shall be applied as if the
6 reference to the term “30-day period” were a ref-
7 erence to “20-day period”.

8 (3) EXCEPTION FOR REVISIONS NOT AFFECT-
9 ING APPROPRIATIONS.—To the extent that a pro-
10 posed revision to a financial plan and budget adopt-
11 ed by the Legislative Assembly pursuant to this sub-
12 section does not increase the amount of spending
13 with respect to any account of the Government of
14 Puerto Rico, the revision shall become effective upon
15 the Council’s approval of such revision.

16 **SEC. 203. RESTRICTIONS ON BORROWING BY PUERTO RICO.**

17 (a) IN GENERAL.—The Government of Puerto Rico
18 may not borrow money unless the Council provides prior
19 certification that both the receipt of funds through such
20 borrowing and the repayment of obligations incurred
21 through such borrowing are consistent with the financial
22 plan and budget for the year.

23 (b) REVISIONS TO FINANCIAL PLAN AND BUDGET
24 PERMITTED.—If the Council determines that the bor-
25 rowing proposed to be undertaken by the Government of

1 Puerto Rico is not consistent with the financial plan and
2 budget, the Governor may submit to the Council a pro-
3 posed revision to the financial plan and budget in accord-
4 ance with section 202(e) so that the borrowing will be con-
5 sistent with the financial plan and budget as so revised.

6 (c) BORROWING DESCRIBED.—This section shall
7 apply with respect to any borrowing undertaken by the
8 Government of Puerto Rico.

9 **SEC. 204. EFFECT OF FINDING OF NONCOMPLIANCE WITH**
10 **FINANCIAL PLAN AND BUDGET.**

11 (a) SUBMISSION OF REPORTS.—Not later than 30
12 days after the expiration of each quarter of each fiscal
13 year, the Governor shall submit reports to the Council de-
14 scribing the actual revenues obtained and expenditures
15 made by the Government of Puerto Rico during the quar-
16 ter with its cash flows during the quarter, and comparing
17 such actual revenues, expenditures, and cash flows with
18 the most recent projections for these items.

19 (b) DEMAND FOR ADDITIONAL INFORMATION.—If
20 the Council determines, based on reports submitted by the
21 Governor under subsection (a), independent audits, or
22 such other information as the Council may obtain, that
23 the revenues or expenditures of the Government of Puerto
24 Rico are not consistent with the financial plan and budget
25 for the year, the Council shall require the Governor to pro-

1 vide such additional information as the Council determines
2 to be necessary to explain the inconsistency.

3 (c) CERTIFICATION OF VARIANCE.—After requiring
4 the Governor to provide additional information under sub-
5 section (b), the Council shall certify to the Legislative As-
6 sembly, the President, and Congress that the Government
7 of Puerto Rico is at variance with the financial plan and
8 budget unless—

9 (1)(A) the additional information provides an
10 explanation for the inconsistency which the Council
11 finds reasonable and appropriate; or

12 (B) the Government of Puerto Rico adopts or
13 implements remedial action (including revising the
14 financial plan and budget pursuant to section
15 202(e)) to correct the inconsistency which the Coun-
16 cil finds reasonable and appropriate, taking into ac-
17 count the terms of the financial plan and budget;
18 and

19 (2) the Governor agrees to submit the reports
20 described in subsection (a) on a monthly basis for
21 such period as the Council may require.

22 (d) EFFECT OF CERTIFICATION.—If the Council cer-
23 tifies to the Secretary of the Treasury that a variance ex-
24 ists, the Secretary shall withhold funds otherwise payable
25 to Puerto Rico under such Federal programs as the Coun-

1 cil may specify (other than funds dedicated to making en-
2 titlement or benefit payments to individuals), in such
3 amounts and under such other conditions as the Council
4 may specify.

5 **SEC. 205. RECOMMENDATIONS ON FINANCIAL STABILITY**
6 **AND MANAGEMENT RESPONSIBILITY.**

7 (a) IN GENERAL.—The Council may at any time sub-
8 mit recommendations to the Governor, the Legislative As-
9 sembly, the President, and Congress on actions the Gov-
10 ernment of Puerto Rico or the Federal Government may
11 take to ensure compliance by the Government of Puerto
12 Rico with a financial plan and budget or to otherwise pro-
13 mote the financial stability, management responsibility,
14 and service delivery efficiency of the Government of Puer-
15 to Rico.

16 (b) RESPONSE TO RECOMMENDATIONS FOR ACTIONS
17 WITHIN AUTHORITY OF GOVERNMENT OF PUERTO
18 RICO.—

19 (1) IN GENERAL.—In the case of any rec-
20 ommendations submitted under subsection (a) which
21 are within the authority of the Government of Puer-
22 to Rico to adopt, not later than 90 days after receiv-
23 ing the recommendations, the Governor or the Legis-
24 lative Assembly (whichever has the authority to
25 adopt the recommendation) shall submit a statement

1 to the Council, the President, and Congress which
2 provides notice as to whether the Government of
3 Puerto Rico will adopt the recommendations.

4 (2) IMPLEMENTATION PLAN REQUIRED FOR
5 ADOPTED RECOMMENDATIONS.—If the Governor or
6 the Legislative Assembly (whichever is applicable)
7 notifies the Council and Congress under paragraph
8 (1) that the Government of Puerto Rico will adopt
9 any of the recommendations submitted under sub-
10 section (a), the Governor or the Legislative Assem-
11 bly (whichever is applicable) shall include in the
12 statement a written plan to implement the rec-
13 ommendation which includes—

14 (A) specific performance measures to de-
15 termine the extent to which the Government of
16 Puerto Rico has adopted the recommendation;
17 and

18 (B) a schedule for auditing the Govern-
19 ment of Puerto Rico’s compliance with the plan.

20 (3) EXPLANATIONS REQUIRED FOR REC-
21 OMMENDATIONS NOT ADOPTED.—If the Governor or
22 the Legislative Assembly (whichever is applicable)
23 notifies the Council, the President, and Congress
24 under paragraph (1) that the Government of Puerto
25 Rico will not adopt any recommendation submitted

1 under subsection (a) which the Government of Puer-
2 to Rico has authority to adopt, the Governor or the
3 Legislative Assembly shall include in the statement
4 explanations for the rejection of the recommenda-
5 tions.

6 **TITLE III—DEBT** 7 **RESTRUCTURING**

8 **SEC. 301. AMENDMENT.**

9 Section 101(52) of title 11, United States Code, is
10 amended to read as follows:

11 “(52) The term ‘State’ includes Puerto Rico
12 and, except for the purpose of defining who may be
13 a debtor under chapter 9 of this title, includes the
14 District of Columbia.”.

15 **SEC. 302. EFFECTIVE DATE; APPLICATION OF AMENDMENT.**

16 (a) EFFECTIVE DATE.—Except as provided in sub-
17 section (b), this title and the amendment made by this
18 title shall take effect on the date of the establishment of
19 the Puerto Rico Financial Stability Council under section
20 101(a) of this Act.

21 (b) APPLICATION OF AMENDMENT.—The amendment
22 made by this title shall apply with respect to—

23 (1) cases commenced under title 11 of the
24 United States Code on or after the date of the es-

1 tablishment of the Puerto Rico Financial Stability
2 Council under section 101(a) of this Act, and

3 (2) debts, claims, and liens created before, on,
4 or after such date.

5 **SEC. 303. SEVERABILITY.**

6 If any provision of this title or the application of such
7 provision to any person or circumstance, is found to be
8 unconstitutional, the remainder of this title, or the appli-
9 cation of that provision to other persons or circumstances,
10 shall not be affected.

○