

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for certain assistance and reforms relating to the territories, and for other purposes.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

S. 2012

To provide for the modernization of the energy policy of the United States, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. WARREN (for herself, Mr. BLUMENTHAL, Mr. SCHUMER, Mr. MENENDEZ, Mr. NELSON, Mrs. GILLIBRAND, Mr. MURPHY, and Mr. REID) to the amendment (No. 2953) proposed by Ms. MURKOWSKI

Viz:

1 At the end, add the following:

2 **TITLE VI—PUERTO RICO EMER-**
3 **GENCY FINANCIAL STABILITY**

4 **SEC. 6001. SHORT TITLE.**

5 This title may be cited as the “Puerto Rico Emer-
6 gency Financial Stability Act of 2016”.

7 **SEC. 6002. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—Congress finds the following:

9 (1) The Commonwealth Government is con-
10 fronted with a dire fiscal emergency and liquidity

1 crisis that imminently threatens the welfare of the
2 people of the Commonwealth, affecting the provision
3 of essential public services including public safety,
4 health care, and education that are needed both to
5 sustain the welfare of the people and the economic
6 ability of the Commonwealth to address any future
7 resolution of debts and legal obligations.

8 (2) A temporary stay on litigation with respect
9 to debt holders for the Commonwealth is essential to
10 provide breathing space to the Commonwealth, credi-
11 tors, and the Congress to determine an orderly pro-
12 cess for the Commonwealth to address any future res-
13 olution of legal obligations and to provide the Com-
14 monwealth a path to sustainable growth; and there-
15 by, protect the lives of more than 3,500,000 citizens
16 of the United States living in the Commonwealth.

17 (3) The Commonwealth is in a state of fiscal
18 emergency brought on by, among other things, a
19 combination of accumulated operating deficits, cash
20 shortages, management inefficiencies, and excessive
21 borrowing.

22 (4) The Commonwealth Government's debt is
23 unusually complex, with 18 different but inter-re-
24 lated issuers.

1 (A) There is an even larger number of
2 creditor groups, each of which may have diver-
3 gent interests.

4 (B) The debt's unusual complexity will
5 substantially complicate any potential consen-
6 sual restructuring in the absence of Federal leg-
7 islation to facilitate the negotiations.

8 (5) This legislation, which includes a stay on
9 litigation by debt holders, can protect essential gov-
10 ernment services and help the Commonwealth ad-
11 dress its liabilities in an orderly fashion, benefitting
12 all stakeholders.

13 (A) A temporary stay on litigation is es-
14 sential to facilitate an orderly process for stabi-
15 lizing, evaluating, and comprehensively resolv-
16 ing the Commonwealth's fiscal crisis.

17 (B) Avoiding a disorderly race to the
18 courthouse will benefit creditors as well as other
19 stakeholders.

20 (C) Furthermore, the stay is only tem-
21 porary.

22 (b) PURPOSES.—The purposes of this title are to—

23 (1) provide a limited period of time to permit
24 Congress to enact comprehensive relief for the Com-

1 monwealth, providing it the necessary tools to ad-
2 dress its economic and fiscal crisis; and

3 (2) provide the Commonwealth Government
4 with a tool it needs to address an immediate and im-
5 minent crisis that is unprecedented in the history of
6 the United States.

7 **SEC. 6003. EFFECTIVE DATE.**

8 This title shall take effect as though enacted on De-
9 cember 18, 2015.

10 **SEC. 6004. SEVERABILITY.**

11 If any provision of this title or the application thereof
12 to any person or circumstance is held invalid, the remain-
13 der of this title, or the application of that provision to
14 persons or circumstances other than those as to which it
15 is held invalid, is not affected thereby.

16 **SEC. 6005. DEFINITIONS.**

17 In this title:

18 (1) BOND.—The term “Bond” means a bond,
19 loan, line of credit, note, or other borrowing title, in
20 physical or dematerialized form, of which—

21 (A) the issuer, borrower, or guarantor is
22 the Commonwealth Government; and

23 (B) the date of issuance or incurrence of
24 debt precedes the date of enactment of this Act.

1 (2) COMMONWEALTH.—The term “Common-
2 wealth” means the Commonwealth of Puerto Rico.

3 (3) COMMONWEALTH GOVERNMENT.—The term
4 “Commonwealth Government” means the govern-
5 ment of the Commonwealth, including all its political
6 subdivisions, public agencies, instrumentalities, and
7 public corporations.

8 (4) COURT.—The term “court” means the
9 United States District Court for the District of
10 Puerto Rico.

11 (5) OTHER TERMS.—Any other term that is
12 used in section 6006 and is defined in title 11,
13 United States Code, has the meaning given that
14 term under title 11, United States Code.

15 **SEC. 6006. AUTOMATIC STAY.**

16 (a) Except as otherwise provided in this section, the
17 enactment of this title operates with respect to any claim,
18 debt, or cause of action related to a Bond as a stay, appli-
19 cable to all entities (as such term is defined in section 101
20 of title 11, United States Code), of—

21 (1) the commencement or continuation, includ-
22 ing the issuance or employment of process, of a judi-
23 cial, administrative, or other action or proceeding
24 against the Commonwealth Government or to re-

1 cover a claim against the Commonwealth Govern-
2 ment;

3 (2) the enforcement, against the Commonwealth
4 Government or against property of the Common-
5 wealth Government, of a judgment;

6 (3) any act to obtain possession of property of
7 the Commonwealth Government or of property from
8 the Commonwealth Government or to exercise con-
9 trol over property of the Commonwealth Govern-
10 ment;

11 (4) any act to create, perfect, or enforce any
12 lien against property of the Commonwealth Govern-
13 ment;

14 (5) any act to create, perfect, or enforce against
15 property of the Commonwealth Government any lien
16 to the extent that such lien secures a claim;

17 (6) any act to collect, assess, or recover a claim
18 against the Commonwealth Government; and

19 (7) the setoff of any debt owing to the Com-
20 monwealth Government against any claim against
21 the Commonwealth Government.

22 (b) The enactment of this title does not operate as
23 a stay under subsection (a) of this section of the continu-
24 ation of, including the issuance or employment of process,
25 a judicial, administrative, or other action or proceeding

1 against the Commonwealth Government that was com-
2 menced on or before the date of enactment of this Act.

3 (c) Except as provided in subsection (d), (e), or (f),
4 a stay of an act under subsection (a) shall cease to have
5 effect as of April 1, 2016.

6 (d) On motion of a party in interest and after notice
7 and a hearing, the court may grant relief from a stay
8 under subsection (a)—

9 (1) for cause, including the lack of adequate
10 protection of a security interest in property of such
11 party in interest; or

12 (2) with respect to a stay of an act against
13 property under subsection (a), if—

14 (A) the debtor does not have an equity in
15 such property; and

16 (B) such property is not necessary for the
17 Commonwealth to provide essential services;

18 (e) Thirty days after a request under subsection (d)
19 of this section for relief from the stay of any act against
20 property of the Commonwealth Government under sub-
21 section (a) of this section, such stay is terminated with
22 respect to the party in interest making such request, un-
23 less the court, after notice and a hearing, orders such stay
24 continued in effect pending the conclusion of, or as a re-
25 sult of, a final hearing and determination under subsection

1 (d) of this section. A hearing under this subsection may
2 be a preliminary hearing, or may be consolidated with the
3 final hearing under subsection (d) of this section. The
4 court shall order such stay continued in effect pending the
5 conclusion of the final hearing under subsection (d) of this
6 section if there is a reasonable likelihood that the party
7 opposing relief from such stay will prevail at the conclu-
8 sion of such final hearing. If the hearing under this sub-
9 section is a preliminary hearing, then such final hearing
10 shall be concluded not later than 30 days after the conclu-
11 sion of such preliminary hearing, unless the 30-day period
12 is extended with the consent of the parties in interest or
13 for a specific time which the court finds is required by
14 compelling circumstances.

15 (f) Upon request of a party in interest, the court,
16 with or without a hearing, shall grant such relief from the
17 stay provided under subsection (a) of this section as is
18 necessary to prevent irreparable damage to the secured in-
19 terest of an entity in property, if such interest will suffer
20 such damage before there is an opportunity for notice and
21 a hearing under subsection (d) or (e) of this section.

22 (g) No order, judgment, or decree entered in violation
23 of this section shall have any force or effect.

24 (h) In any hearing under subsection (d) or (e) con-
25 cerning relief from a stay—

1 (1) the party requesting such relief has the bur-
2 den of proof on the issue of the debtor's equity in
3 property; and

4 (2) the party opposing such relief has the bur-
5 den of proof on all other issues.