

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

PROMESA  
Title III

as representative of

No. 17-BK-3283-LTS  
(Jointly Administered)

THE COMMONWEALTH OF PUERTO RICO  
et al.,

Debtors.<sup>1</sup>

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THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

Plaintiff,

Adv. Proc. No. 21-00072-LTS

-v-

HON. PEDRO R. PIERLUISI URRUTIA in his official capacity as Governor of Puerto Rico; THE PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY; HON. JOSÉ LUIS DALMAU SANTIAGO, in his official capacity as a representative of the Puerto Rico Senate; and HON. RAFAEL HERNÁNDEZ MONTAÑEZ, in his official capacity as a representative of the Puerto Rico

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Court need go no further for purposes of this decision in light of its determination as to the remainder of the statute under PROMESA section 204(a). The Oversight Board is therefore entitled to summary judgment on Counts I and III with respect to section 1.02, section 5.02, Chapter 2, Chapter 3, Chapter 4, and the last sentence of section 5.01. Nullification of these provisions of the statute is appropriate, especially in light of Act 7's directive that if any provision of Act 7 is deemed to be invalid, that part of the Act will be considered only "temporarily suspended." Act 7 art. 5.01; see Vázquez Garced III, 511 F. Supp. 3d at 138 (recognizing nullification is "drastic relief.").<sup>13</sup>

### CONCLUSION

For the foregoing reasons, the Oversight Board's Motion for Summary Judgment is granted with respect to Counts I, II, and III of the Complaint, is denied with respect to Counts IV and V, and the Court declines to reach Count VI. Pursuant to sections 204(a)(5) and 104(k) of PROMESA, Act 7 in its entirety and all actions taken pursuant to it are hereby declared nullified, unenforceable and of no effect. Defendants are, furthermore, enjoined from implementing and enforcing Act 7. Pursuant to PROMESA sections 108(a)(2) and 104(k), the following provisions of Act 7 and all actions taken pursuant to them are declared nullified, unenforceable, and of no effect: section 1.02, section 5.02, Chapter 2, Chapter 3, Chapter 4, and the last sentence of section 5.01. Defendants are enjoined from implementing and enforcing such provisions.

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<sup>13</sup> In light of the foregoing conclusions, the Court declines to address the Oversight Board's Motion for Summary Judgment insofar as it seeks summary judgment on Count VI of the Complaint. The Oversight Board requests in Count VI that this Court enjoin the implementation of Act 7 for violation of the Supremacy Clause of the United States Constitution and section 4 of PROMESA. The Court has already nullified all of Act 7 pursuant to PROMESA section 204(a), and nullified specific provisions of Act 7 that impair or defeat the purposes of PROMESA, and prohibits their implementation and enforcement.