Nos. 15-233 & 15-255

IN THE

Supreme Court of the United States

COMMONWEALTH OF PUERTO RICO, ET AL.,

Petitioners,

v.

FRANKLIN CALIFORNIA TAX-FREE TRUST, ET AL.,

Respondents.

MELBA ACOSTA-FEBO, ET AL.,

Petitioners,

v.

FRANKLIN CALIFORNIA TAX-FREE TRUST, ET AL.,

Respondents.

On Writ Of Certiorari
To The United States Court Of Appeals
For The First Circuit

BRIEF FOR RESPONDENT BLUEMOUNTAIN CAPITAL MANAGEMENT, LLC

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QUESTION PRESENTED

Chapter 9 of the Bankruptcy Code creates a comprehensive federal framework governing municipal bankruptcy, and for 70 years, the Code has expressly prohibited "State law[s]" that prescribe methods for restructuring a municipality's debts that bind non-consenting creditors. 11 U.S.C. § 903(1). In 2014, Puerto Rico—which is a "State" for purposes of that express-preemption provision, *id.* § 101(52)—enacted the Public Corporation Debt Enforcement and Recovery Act, which creates a Puerto Rico-specific municipal-bankruptcy regime that binds creditors of Puerto Rico's municipalities to debt-restructuring plans without the creditors' consent. Is the Recovery Act preempted by federal law?

RULE 29.6 STATEMENT

The corporate-disclosure statement included in the brief in opposition filed by respondent BlueMountain Capital Management, LLC remains accurate.

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INTRODUCTION

The Framers vested Congress with plenary power to establish bankruptcy laws, explicitly charging Congress with making the Nation's law "uniform." U.S. Const. art. I, § 8, cl. 4. They simultaneously cabined States' authority to discharge debts, barring States from "impairing the Obligations of Contracts." *Id.* art. I, § 10, cl. 1. In the 1930s, Congress enacted the Nation's first municipal-bankruptcy law, a field the States had never occupied. And seven decades ago, Congress expressly forbade States and Territories from entering that field, making clear that the comprehensive federal regime is exclusive.

It should be—and is—undisputed that, when Congress first preempted state and territorial municipal-bankruptcy laws in 1946 and for decades thereafter, neither the States nor Territories could enact their own competing regimes. The preemption provision Congress enacted 70 years ago remains in force. 11 U.S.C. § 903(1). The question petitioners present—whether federal law preempts a municipal-bankruptcy statute that petitioner Commonwealth of Puerto Rico enacted in the teeth of that federal prohibition—thus should answer itself. As both courts below correctly held, whether one focuses on Section 903(1) alone, or on the broader statutory scheme, the conclusion is the same: Congress left no room for laws like the Commonwealth's parochial regime.

The Commonwealth and its co-petitioners (officers of its Government Development Bank, collectively the "GDB") nevertheless defend its municipal-bankruptcy law. On their view, decades after categorically barring States and Territories from enacting municipal-bankruptcy laws, Congress abruptly changed its mind and freed two federal Territories—

Puerto Rico and the District of Columbia—to create their own idiosyncratic frameworks. Petitioners glean that conclusion from amendments, not to Section 903(1), but to other, definitional provisions adopted decades later without fanfare or even (so far as the history shows) a fight. Petitioners' interpretation, they contend, would free Puerto Rico and the District of Columbia to enact municipal-bankruptcy laws but would still leave States categorically barred from doing so. Both petitioners' interpretation and their account of its implications are incorrect.

As the Commonwealth underscores (at 2), it is unwise to assume that Congress worked drastic changes in a complex, long-established statutory scheme through minor amendments of ancillary provisions. Yet that is exactly what petitioners advocate here. They ask the Court to infer that, when Congress in 1984 withdrew authorization for Puerto Rico's and the District of Columbia's municipalities to seek federal bankruptcy relief, Congress also implicitly released those Territories from preemption that binds every State. Petitioners tender no authority or credible explanation for that inference.

The best the Commonwealth offers is the oft-repeated refrain that debtors denied the federal bankruptcy regime's "benefits" should not bear its "burdens." That mantra is mistaken. *Many* municipalities cannot seek bankruptcy relief under federal *or* state law. States can choose not to make federal relief available to their municipalities, and nearly *half* have done so. But, under Section 903(1), those States cannot enact their own municipal-bankruptcy laws either; their municipalities thus have no avenue to force non-consensual restructuring upon their creditors. The Commonwealth's municipalities are in the same boat. The choice Congress made for those federal Territories' municipalities is the same choice twenty-plus States have made for their own.

The GDB's backup argument (abandoned by the Commonwealth) that Puerto Rico's creditors are not "creditors" under the Code similarly rests on a flimsy string of inferences drawn from trifling, technical changes to definitional provisions decades after Congress occupied the field. No massive change in federal bankruptcy law can be found in those minutiae.

Petitioners are also wrong about the implications of accepting their position. Every theory petitioners advance, if adopted, leads to the result that *every State* could enact its *own* municipal-bankruptcy laws. Petitioners insist that the Court could carve out Puerto Rico and the District of Columbia and leave the States unaffected. But they offer no principled reason why their arguments would not extend to the States. Indeed, petitioners themselves insist on reading the Bankruptcy Code the same way as to States and Territories. The only plausible across-the-board interpretation of the Code is that *neither* States nor Territories may enact their own municipal-bankruptcy regimes.

What petitioners really seek is to *change* the Code for policy reasons to allow the Commonwealth and the District to do what States cannot. Their pleas for special dispensation are misdirected. What if any accommodation to make for the Commonwealth is a choice for *Congress*, not federal courts. Because the court of appeals so held, its judgment should be affirmed.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Pertinent constitutional provisions, statutes, and rules are reprinted in the Appendix, *infra*, at 1a.

STATEMENT

1. The Framers were well-acquainted with the dangers of a diverse "patchwork" of varying state "insolvency and bankruptcy laws." *Cent. Va. Cmty. Coll.* v. *Katz*, 546 U.S. 356, 366 (2006). Unlike "[i]n England, where there was only one sovereign," and "a single discharge could protect the debtor from his jailer and his creditors," the multiplicity of sovereigns within the new Nation created the "peculiar" problem of multiple overlapping, conflicting state bankruptcy laws. *Ibid.* "Uniformity among state debtor insolvency laws was an impossibility," yielding thorny questions of what effect a discharge in one State had in another. *Ry. Labor Execs. Ass'n* v. *Gibbons*, 455 U.S. 457, 472 (1982). The Framers had witnessed "intractable problems" posed by "uncoordinated actions of multiple sovereigns, each laying claim to the debtor's body and effects according to different rules," and their "primary goal" regarding bankruptcy "was to prevent competing sovereigns' interference" through inconsistent regimes. *Katz*, 546 U.S. at 363, 366, 373.

The Framers' solution was twofold. First, they "provide[d] Congress with the power to enact uniform laws on the subject enforceable among the States" (*Gibbons*, 455 U.S. at 472) by adopting the Bankruptcy Clause, which authorizes Congress "[t]o establish … uniform Laws on the subject of Bankruptcies throughout the United States," U.S. Const. art. I, § 8, cl. 4—"Laws" which, under the Supremacy

Clause, trump state law, *id.* art. VI, cl. 2. Second, the Framers limited States' authority to adopt their own laws discharging debts through the Contract Clause's prohibition on state "Law[s] impairing the Obligation of Contracts." *Id.* art. I, § 10, cl. 1.

The combined effect of these provisions, as this Court has long recognized, is that Congress's authority over bankruptcy differs starkly from the States'. Congress's "power" over bankruptcy is "unlimited and supreme," *Sturges* v. *Crowninshield*, 17 U.S. (4 Wheat.) 122, 192 (1819), and includes authority to adopt rules that impair private and public contracts, *see Cont'l Ill. Nat'l Bank & Trust Co.* v. *Chi., Rock Island & Pac. Ry.*, 294 U.S. 648, 680-81 (1935); *see also Int'l Shoe Co.* v. *Pinkus*, 278 U.S. 261, 265 (1929) (Congress's authority "is unrestricted and paramount"). Congress exercised that authority as early as 1800, *see Hanover Nat'l Bank* v. *Moyses*, 186 U.S. 181, 184 (1902), and has enacted a series of statutes since culminating in the modern Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*

States' power, in contrast, is narrowly circumscribed. "[T]he Contract Clause prohibits the States from enacting debtor relief laws which discharge the debtor from his obligations unless the law operates prospectively." *Gibbons*, 455 U.S. at 472 n.14 (citation omitted); *see also Sturges*, 17 U.S. (4 Wheat.) at 200; *U.S. Trust Co. of N.Y.* v. *New Jersey*, 431 U.S. 1, 25 (1977) (state laws impairing contracts invalid unless "reasonable and necessary to serve an important public purpose"). And state law must *further* yield to limits Congress imposes by statute; States may neither "pass or enforce laws to interfere with or complement the" federal scheme nor "provide additional or auxiliary regulations." *Pinkus*, 278 U.S. at 265.

2. "Prior to 1933, there was neither state nor federal municipal bankruptcy legislation." Michael W. McConnell & Randal C. Picker, *When Cities Go Broke: A Conceptual Introduction to Municipal Bankruptcy*, 60 U. Chi. L. Rev. 425, 427 (1993). Until the 1940s, "it was assumed that states were incompetent to provide relief for municipal debtors because any plan of involuntary composition of the debts would impair the obligation of the creditor's contract, in violation of the Contracts Clause." *Id.* at 453-54. And Congress chose not to authorize municipalities to seek federal bankruptcy relief until the 1930s. *See id.* at 427-28, 450-51.

The Great Depression prompted Congress to step in by enacting the first federal municipal-bankruptcy law in 1934. Act of May 24, 1934, ch. 345, 48 Stat. 798 ("1934 Act"). That law allowed municipalities to restructure their debts with the consent of a certain percentage of creditors, to provide "emergency temporary aid" for "insolvent public debtors and to preserve the assets thereof." *Ibid.* (capitalization omitted). The 1934 Act further provided that "[n]othing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any political subdivision thereof in the exercise of its political or governmental powers, including expenditures therefor." *Id.* § 80(k), 48 Stat. at 802.

In 1936, in a sharply divided decision, this Court held the 1934 Act invalid on the ground that, by enabling a State's political subdivisions to discharge their debts in bankruptcy, it interfered with the State's control over them. *See Ashton* v. *Cameron Cty. Water Improvement Dist. No. One*, 298 U.S. 513, 530-32 (1936). Congress promptly responded to address the Court's concerns by enacting a slightly modified version of the law in 1937. Act of Aug. 16, 1937, ch. 657, §§ 81-84, 50 Stat. 653 ("1937 Act") (J.A.547-50). This Court upheld the revised law the following year. *See United States* v. *Bekins*, 304 U.S. 27, 49-51 (1938).

3. The law *Bekins* upheld has remained in force since—now codified (as amended) in Chapter 9 of the Bankruptcy Code, 11 U.S.C. §§ 901 *et seq.*

a. Chapter 9 provides that an eligible "municipality"—including "public agenc[ies] or instrumentalit[ies] of a State," 11 U.S.C. § 101(40)—may seek to adjust its debts by filing a restructuring plan in federal court. *Id.* § 941. The court may confirm the plan—which binds non-consenting creditors—if (*inter alia*) each impaired class of creditors accepts it. *See id.* §§ 901, 944(a), 1129(a)(8). In a so-called "cramdown," a plan also may bind non-consenting classes if it meets certain fairness standards and at least one impaired class of creditors accepts it. *See id.* §§ 901, 943, 944(a), 1129(b)(1), (b)(2)(A)-(B).

Congress carefully limited this avenue for municipal-bankruptcy relief. Among other things, a municipality "may be a debtor under chapter 9" *only* if it is "*specifically* authorized … to be a debtor under [Chapter 9] by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter." 11 U.S.C. § 109(c)(2) (emphasis added). Almost half of the States currently withhold that authorization, barring their municipalities from invoking Chapter 9. Commonwealth-Pet. App. 104a & n.16.

In addition, since 1946, Congress has expressly barred States from enacting or enforcing their *own* municipal-bankruptcy laws, forbidding any "State law prescribing a method of composition of indebtedness" of municipalities from "binding … any creditor who does not consent." Act of July 1, 1946, ch. 532, sec. 1, § 83(i), 60 Stat. 409, 415 ("1946 Act") (J.A.571). Congress enacted that provision in response to this Court's decision in *Faitoute Iron & Steel Co.* v. *City of Asbury Park*, 316 U.S. 502 (1942), holding that neither the then-extant federal framework nor the Contract Clause precluded States from affording limited municipal-insolvency relief, *id.* at 508-16. In Congress's judgment, "[o]nly under a Federal law should a creditor be forced to accept such an adjustment without his consent," H.R. Rep. No. 79-2246, at 4 (1946) (J.A.411), and so it enacted Section 83(i)'s preemption clause "to overturn the holding in *Faitoute*," McConnell & Picker, *supra*, at 462.

When Congress amended and recodified the federal bankruptcy laws in the 1970s, it twice reenacted that preemption clause without substantive change. *See* Act of Apr. 8, 1976, Pub. L. No. 94-260, sec. 1, § 83, 90 Stat. 315, 316 ("1976 Act") (J.A.581); Act of Nov. 6, 1978, Pub. L. No. 95-598, § 903, 92 Stat. 2549, 2622 ("1978 Act") (J.A.598). Each time, it made clear that it was "retain[ing]" the existing preemption provision. H.R. Rep. No. 94-686, at 19 (1975) (J.A.468-69); S. Rep. No. 95-989, at 110 (1978) (J.A.508-09). That preemption clause remains in force today. 11 U.S.C. § 903(1).

b. What is now Chapter 9 has governed municipalities of U.S. Territories, including the Commonwealth and the District of Columbia, since its inception. The 1937 Act made restructuring available to any "city, town, village, … or other municipality," subject to the control of the parent "Stat[e]," 1937 Act §§ 81-82, 83(a), (i) (J.A.547-50), defined under then-existing law to include "the Territories" and "the District of Columbia," Act of July 1, 1898, ch. 541, § 1(24), 30 Stat. 544, 545 (J.A.544); *see also* Act of June 22, 1938, ch. 575, sec. 1, § 1(29), 52 Stat. 840, 842 ("1938 Act") (J.A.554) (same).

That statutory definition of "State" remained unchanged for decades. Because it encompassed the Commonwealth (a Territory) and the District of Columbia, their municipalities could seek restructuring under Chapter 9. By the same token, because those Territories were deemed "State[s]," neither (from at least 1946 forward) could enact or enforce its own municipal-bankruptcy laws.

In 1984, Congress adopted a new definition of "State" that "includes the District of Columbia and Puerto Rico, *except* for the purpose of *defining who may be a debtor under chapter 9* of this title." Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353, sec. 421(j)(6), § 101(44), 98 Stat. 333, 369 ("1984 Act") (J.A.604) (emphases added), *recodified at* 11 U.S.C. § 101(52). Puerto Rico and the District of Columbia thus both remain "State[s]" for all purposes *other* than authorizing their municipalities to invoke Chapter 9. Because Congress has not otherwise authorized their municipalities to invoke Chapter 9, those municipalities—like those of nearly half the States—currently may not do so.

4. The Commonwealth's public electric utility, the Puerto Rico Electric Power Authority ("PREPA"), has incurred billions of dollars in debt by issuing

bonds, which it now seeks to restructure. Respondents Franklin California Tax-Free Trust and others (the "Franklin respondents") and BlueMountain Capital Management, LLC, collectively hold nearly $2 billion of bonds PREPA issued under a trust agreement, secured by a pledge of its net revenues from its electricity-generation and electricity-distribution system. Commonwealth-Pet. App. 3a; J.A.613-15.

Both PREPA's authorizing statute and the trust agreement assured investors that PREPA would honor its obligations in full. In the authorizing statute, the Commonwealth "pledge[d]" and "agree[d]" "that it w[ould] not limit or alter the rights or powers hereby vested in [PREPA] until all such bonds at any time issued, together with the interest thereon, are fully met and discharged." 22 L.P.R.A. § 215. The Commonwealth also promised bondholders remedies in the event of default, including the right to request a Commonwealth court to appoint a receiver to manage PREPA subject to the court's supervision. *Id.* §§ 207, 208. In light of PREPA's public-utility status, however, the receiver cannot sell or otherwise dispose of PREPA's assets. *Id.* § 207(e).

In the trust agreement, PREPA itself promised to manage and collect rates to meet its bond obligations, and that, as long as the PREPA bonds remain outstanding, "no contract or contracts will be entered into or any action taken by which the rights of the Trustee or of the bondholders might be impaired or diminished." J.A.608, 615. The trust agreement further provides that the issuance of an order for the "composition" or "adjust[ment]" of PREPA's obligations would constitute a "default"—entitling bondholders to various remedies, including acceleration and judicial enforcement. J.A.621-26. Those remedies do *not* permit bondholders to seize PREPA's assets; they allow bondholders instead to sue to enforce the agreement or seek appointment of a receiver. *See ibid.*

Despite these pledges, the Commonwealth enacted a law permitting its political subdivisions to restructure their debts and to bind non-consenting creditors to the restructured terms. *See* Puerto Rico Public Corporation Debt Enforcement and Recovery Act, P.R. Law No. 71-2014 ("Recovery Act") (Commonwealth-Pet. App. 138a-271a). The Act was enacted primarily to target $9 billion in debt PREPA has amassed. *Id.*, Statement of Motives § A (Commonwealth-Pet. App. 145a).

The Recovery Act was explicitly "designed in many respects to mirror certain key provisions of [the Bankruptcy Code]," Recovery Act, Statement of Motives § E (Commonwealth-Pet. App. 155a), though it differs from the Code in several ways. Chapter 2 provides a debt-restructuring mechanism similar to the Code's procedure for confirming a pre-negotiated restructuring plan with a threshold level of creditor consent. *Cf.* 11 U.S.C. §§ 944(a), 1129(a)(8). The court may approve a plan—binding on all creditors in a class—if (1) holders of at least 50% of debt in a class vote, and (2) creditors of at least 75% of the participating debt approve it. Recovery Act §§ 115(b), 202(d), 204 (Commonwealth-Pet. App. 187a-88a, 212a-16a). Holders of just 37.5% of the debt in a class thus can force all other creditors in that class to accept a restructuring.

Chapter 3 creates a restructuring process expressly "model[ed]" on the federal Code's "cramdown" provisions. Recovery Act, Statement of Motives § E (Commonwealth-Pet. App. 160a-61a). Under the Recovery Act, a court may confirm a proposed plan—binding all classes of affected creditors—if (*inter alia*) two-thirds of one class votes on the plan and "a majority of all votes cast" in that class approve it. *Id.* § 315(e) (Commonwealth-Pet. App. 238a); *see id.* §§ 115(c), 312, 315 (Commonwealth-Pet. App. 188a-89a, 235a-36a, 237a-41a).

Chapters 2 and 3 both bar creditors from exercising contractual remedies against municipalities who invoke the Act, and from bringing actions against the Commonwealth or the GDB—including actions for appointment of a receiver or "custodian." Recovery Act §§ 102(32), 201(d), 205, 304 (Commonwealth-Pet. App. 173a, 211a, 216a-19a, 224a-27a). Violating this automatic stay subjects creditors to punitive damages. *Id.* § 305 (Commonwealth-Pet. App. 227a-28a).

5. After the Recovery Act's enactment, the Franklin respondents filed suit against petitioners, seeking a declaration that (*inter alia*) the Act is preempted by the Bankruptcy Code and violates the Contract Clause. Commonwealth-Pet. App. 74a-76a. BlueMountain also sued, seeking declaratory relief and a permanent injunction against the Act's enforcement, and the cases were consolidated. *Id.* at 76a-77a; C.A. App. 329-30.

Petitioners moved to dismiss the suits, and the Franklin respondents sought summary judgment. The district court denied petitioners' motions to dismiss in relevant part. It then granted summary judgment against petitioners—holding that the Recovery Act is preempted by the Bankruptcy Code—and permanently enjoined the Act's enforcement. Commonwealth-Pet. App. 76a-137a.

"[B]y enacting section 903(1)," the district court held, "Congress expressly preempted state laws"—including the Act—"that prescribe a method of composition of indebtedness that binds nonconsenting creditors." Commonwealth-Pet. App. 97a. "Puerto Rico municipalities," the court noted, "are not unique in their inability to restructure their debts," as "many states have not enacted authorizing legislation" for their municipalities to participate in Chapter 9. *Id.* at 104a. Even if the Act were not expressly preempted, the court held, it still would be preempted because it is "in 'irreconcilable conflict'" with the Code and "stands as an obstacle to achieving [Congress's] purpose." *Id.* at 108a-09a (citation omitted).

6. The First Circuit unanimously affirmed. It agreed with the district court that the Recovery Act is preempted by both Section 903(1) and principles of conflict preemption. Commonwealth-Pet. App. 21a-45a. Section 903(1)'s precursor was enacted to "expressly prohibi[t] state municipal bankruptcy laws adjusting creditors' debts without their consent" nationwide, including in Puerto Rico. *Id.* at 24a. The court rejected petitioners' argument that the 1984 amendment of the definition of "State" to exclude Puerto Rico for purposes of authorizing its municipalities to seek Chapter 9 relief changed the outcome, explaining that the 1984 amendment "does not, by its text or its history, change the applicability of § 903(1) to Puerto Rico." *Id.* at 27a.

The panel also rejected petitioners' contention that Section 903(1) no longer applied to Puerto Rico due to minor changes in the Code's definition of "creditor" in the 1970s. Commonwealth-Pet. App. 32a-36a. Giving "creditor" the "narro[w]" reading petitioners urged, the court held, "ignores congressional language choices, as well as context, and proves too much." *Id.* at 32a-33a. Indeed, it "would undermine the stated purpose of the provision in prohibiting states from 'enact[ing] their own versions of Chapter [9],'" and "create mischief for other portions" of the Bankruptcy Code where the definition of "creditor" petitioners advocated would make no sense. *Id.* at 33a-35a & n.28 (citation omitted).

The panel further agreed with the district court that the Recovery Act is independently preempted under conflict-preemption principles because it "frustrates Congress's undeniable purpose in enacting" Section 903(1): "Congress quite plainly wanted a single federal law to be the sole source of authority if municipal bondholders were to have their rights altered without their consent," a purpose petitioners' reading would defeat. Commonwealth-Pet. App. 42a.

"Congress," the court concluded, "has retained for itself the authority to decide" whether to afford bankruptcy relief to Puerto Rico's municipalities, and it remains free to adjust their access to Chapter 9 or to develop other solutions to Puerto Rico's debt problem. Commonwealth-Pet. App. 45a. That policy choice is for Congress, and courts "must respect Congress's decision to retain this authority." *Ibid.*[1]

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[1] In light of their holdings that the Recovery Act is preempted by Section 903(1) and conflict-preemption principles, both the district court and the court of appeals found it unnecessary to reach BlueMountain's additional argument that Congress has preempted the field of municipal bankruptcy. Commonwealth-Pet. App. 20a, 109a.

Judge Torruella concurred in the judgment, agreeing that the "Recovery Act contravenes § 903(1)—which applies uniformly to Puerto Rico, together with the rest of Chapter 9—and thus is invalid." Commonwealth-Pet. App. 47a. He wrote separately to opine that the 1984 amendment barring Puerto Rico's municipalities from accessing Chapter 9 relief is unconstitutional, *ibid.*—an argument never raised by any party below. GDB-Pet. 11 ("the constitutionality of § 101(52) is not at issue in this litigation").

7. In September 2015, weeks after petitioners sought certiorari, PREPA and its creditors reached a voluntary agreement to restructure the PREPA debt that gave rise to the Recovery Act.[2] The Commonwealth's legislature recently enacted implementing legislation.[3] The agreement remains contingent on conditions set forth in that legislation and the agreement.

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[2] Mike Cherney, *Puerto Rico's Power Authority Reaches Deal with Bondholders*, Wall St. J., Sept. 2, 2015, http://tinyurl.com/hs845nx.

[3] *Puerto Rico Senate Approves Bill to Overhaul Debt of Utility PREPA*, Reuters, Feb. 16, 2016, http://tinyurl.com/j8gnwb8; Eva Lloréns Vélez, *Governor Signs Prepa Revitalization Bill Into Law*, Caribbean Business, Feb. 17, 2016, http://tinyurl.com/z7yt4py.

SUMMARY OF ARGUMENT

I. Section 903(1) expressly preempts the Recovery Act.

A. The Recovery Act falls squarely within Section 903(1)'s text. It is a "State law" prescribing a method for binding creditors without their consent. 11 U.S.C. § 903(1).

The history of Section 903(1) and its precursors confirms that the Recovery Act is precisely the type of law Congress intended to displace. Congress enacted the preemption clause to overturn *Faitoute*, 316 U.S. 502, which held that States could enact limited municipal-bankruptcy laws. It has repeatedly reenacted the clause since, making clear its intention to preserve the provision's original broad scope.

B. Petitioners do not dispute that, when Section 903(1)'s predecessor was enacted in 1946, and for decades thereafter, it precluded Puerto Rico from enacting laws like the Recovery Act. They contend that amendments to definitions in other provisions, adopted many years later, took the Commonwealth outside Section 903(1)'s scope. They are incorrect.

Petitioners argue that Congress's decision to withdraw authorization for municipalities of Puerto Rico (and the District of Columbia) to seek Chapter 9 relief implicitly excused them from Section 903(1)'s preemptive scope. That inference is baseless. If accepted, moreover, it would mean that Section 903(1) permits (indeed, has always permitted) *every State* to exempt itself from federal preemption and enact its own municipal-bankruptcy laws—precisely the result Congress enacted Section 903(1) to prevent.

The GDB's alternative argument—that technical amendments to the definition of "creditor" worked a drastic change—is equally meritless. Those amendments made no substantive change in the Code, and adopting the GDB's reading would similarly thwart Congress's purpose by enabling States to enact their own municipal-bankruptcy laws. The GDB's reading also creates incongruities throughout the Code, which a common-sense interpretation avoids.

C. Petitioners' reliance on the constitutional-avoidance canon and the presumption against preemption is misplaced.

Petitioners identify no grave constitutional doubt that a straightforward reading of Section 903(1) raises. Nor do they offer any plausible alternative reading that avoids the purported constitutional issue.

The presumption against preemption is equally inapplicable. Section 903(1) is an express-preemption provision in an area that implicates unique and significant federal interests, and in which Congress has long regulated pursuant to an express constitutional imperative to legislate uniformly. Nor does Section 903(1) place Puerto Rico in a "no man's land" by precluding its municipalities from seeking bankruptcy relief. Municipalities of numerous States are identically situated. In any event, the presumption cannot overcome the clear import of Section 903(1)'s text and purpose.

II. The Court need not resolve whether Section 903(1) alone expressly preempts the Recovery Act, because the Act is independently invalid under settled field-preemption and conflict-preemption principles. The Act encroaches on a field Congress occupied 70 years ago, which the States have not tried to enter since. And it irreconcilably conflicts with the federal scheme and frustrates Congress's purposes.

ARGUMENT

I. SECTION 903(1) OF THE BANKRUPTCY CODE EXPRESSLY PREEMPTS THE RECOVERY ACT.

The Supremacy Clause (U.S. Const. art. VI, cl. 2) makes any valid federal statute "supreme" over the law of any State. *Hillsborough Cty.* v. *Automated Med. Labs., Inc.*, 471 U.S. 707, 712-13 (1985). "[T]he test for federal preemption of the law of Puerto Rico … is the same as the test under the Supremacy Clause for preemption of the law of a State." *P.R. Dep't of Consumer Affairs* v. *Isla Petrol. Corp.*, 485 U.S. 495, 499 (1988) (citation omitted). Congress made unmistakably clear in Section 903(1) that it intended Chapter 9's federal municipal-bankruptcy framework to be exclusive. The Recovery Act falls squarely within that provision's preemptive scope.

A. The Recovery Act Is A "State Law" That Provides For Non-Consensual Restructuring Of Municipal Debt And Is Therefore Expressly Preempted.

Section 903(1)'s text unambiguously encompasses the Recovery Act. And as Section 903(1)'s history and purpose confirm, the Recovery Act exemplifies the type of law Congress intended to preclude.

1. Section 903(1)'s Plain Text Readily Encompasses The Recovery Act.

The preemption analysis begins and ends with Section 903(1)'s text. It provides that "a State law prescribing a method of composition of indebtedness of such municipality may not bind any creditor that does not consent to such composition." 11 U.S.C. § 903(1). The Recovery Act meets each of those criteria. It is plainly a "law." And Puerto Rico is a "State" for purposes of Section 903(1). *Id.* § 101(52)

("'State' includes … Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title"); *infra* pp. 25-33.

The Recovery Act also indisputably "prescrib[es] a method of composition of indebtedness" for municipalities without their creditors' consent. When the preemption provision was enacted, a "composition" meant "[a]n agreement … between an insolvent or embarrassed debtor and his creditors, whereby" the creditors "accept a dividend less than the whole amount of their claims … in discharge and satisfaction of the whole." *See Black's Law Dictionary* 381 (3d ed. 1933) ("*Black's*"). Petitioners concede that the Act "creates a mechanism for Puerto Rico's public corporations to restructure their debts," and "all affected creditors," even those who do not consent, "are bound by the plan" once approved by a court. Commonwealth Br. 8-9; GDB Br. 11-14.

As both courts below correctly held, the Recovery Act thus falls comfortably within Section 903(1)'s plain terms. Commonwealth-Pet. App. 22a-23a, 98a-102a. It is therefore expressly preempted.

2. Section 903(1)'s History And Purpose Confirm That It Preempts The Recovery Act.

The history and purpose of Section 903(1) and its precursor—Section 83(i) of the 1946 Act—powerfully confirm that Congress intended to preempt parochial laws just like the Recovery Act that create additional, different pathways for municipal bankruptcy. Congress enacted the preemption clause to overturn a decision of this Court that carved out a role for state municipal-restructuring laws. Congress specifically retained that preemption clause in the modern

Code to cement the exclusivity of the federal municipal-bankruptcy regime. There is no dispute, in fact, that from the time the preemption clause was added in 1946 and for decades thereafter, it barred Puerto Rico and the District of Columbia from enacting laws like the Recovery Act. Neither Section 903(1)'s scope nor Congress's purpose has changed since.

a. Congress enacted Section 903(1)'s precursor in response to this Court's 1942 decision in *Faitoute*, 316 U.S. 502. Until *Faitoute*, "it was assumed that states were incompetent" to enact their own municipal-bankruptcy laws. McConnell & Picker, *supra*, at 453-54. Just four years before *Faitoute*, this Court explained that "composition" of municipal debts "was not available under state law by reason of" the Contract Clause. *Bekins*, 304 U.S. at 54. The federal municipal-bankruptcy regime, which *Bekins* upheld, *see id.* at 49-54, was therefore necessarily exclusive.

Faitoute challenged that settled understanding. *Faitoute* concluded that a state law that allowed limited debt restructuring by municipalities did not violate the Contract Clause, *see* 316 U.S. at 509-16, and that the federal bankruptcy statute as it then stood did not displace state authority altogether, *id.* at 508-09. The then-existing federal statute that provided a path for municipalities to restructure their debt did not "completely" preempt States' authority to enforce limited municipal-bankruptcy regimes that complied with the Contract Clause. *Ibid.*

Congress disagreed, and it enacted Section 83(i)'s preemption clause "to overturn the holding in *Faitoute*," and thus to restore the exclusivity of the federal municipal-bankruptcy framework. McConnell & Picker, *supra*, at 462; *accord* Juliet M. Moringiello, *Goals and Governance in Municipal Bankruptcy*, 71 Wash. & Lee L. Rev. 403, 412 n.33 (2014) (Congress "added this limitation to overrule … *Faitoute*"). In Congress's view, "[o]nly under a Federal law should a creditor be forced to accept such an adjustment without his consent." H.R. Rep. No. 79-2246, at 4 (J.A.411). As Congress recognized, nationwide "uniform[ity]" is essential in the municipal-debt context because "the bonds of almost every municipality are widely held." *Ibid.*; *see also Amending Municipal Bankruptcy Act: Hearings on H.R. 4307 Before the Special Subcomm. on Bankr. & Reorganization of the H. Comm. on the Judiciary*, 79th Cong. 16 (1946) (statement of Millard Parkhurst) ("Parkhurst Statement") (J.A.445) ("Bonds in my State, I know, are held from coast to coast; every State in the Union."). Without a uniform, exclusive federal framework, each State could "have [its] bankruptcy laws running right along at the same time as our Federal bankruptcy law." Parkhurst Statement p. 16 (J.A.445).

The preemption clause Congress added to Section 83(i) restored that single, exclusive federal regime by nullifying state and territorial municipal-bankruptcy laws. While leaving intact Section 83(i)'s statement that "[n]othing contained in this chapter shall be construed to limit or impair the power of any State to control" its "municipalit[ies]" and "political subdivision[s]," Congress added a clause forbidding any "State law prescribing a method of composition of indebtedness" of the State's municipalities from "binding … any creditor who does not consent to such composition." 1946 Act, § 83(i) (J.A.571).

Congress has twice reenacted Section 83(i)'s preemption clause since without substantive change, each time reaffirming its purpose of preserving an exclusive, uniform federal framework governing municipal bankruptcy. In 1976, it readopted Section 83(i) essentially unchanged, renumbered as Section 83. 1976 Act, § 83 (J.A.581). Congress explained that it "copied" the clause "from present section 83(i)"—which had been "enacted in response to, and overruled the holding of the Supreme Court in, *Faitoute*," and was being "retained for the same reason." H.R. Rep. No. 94-686, at 19 (J.A.468-69). In 1978, Congress incorporated the preemption clause into the Bankruptcy Code "with stylistic changes" only, recodified as Section 903(1). S. Rep. No. 95-989, at 110 (J.A.508); *see* 1978 Act, § 903 (J.A.598). Congress again explicitly "retained" the preemption clause, explaining that "[d]eleti[ng]" it "would permit all States to enact their own versions of Chapter IX, which would frustrate the constitutional mandate of uniform bankruptcy laws." S. Rep. No. 95-989, at 110 (J.A.509) (internal quotation marks omitted).

b. The history of Section 903(1) and its forebears also makes clear that it has always applied to Puerto Rico (and the District of Columbia). When the preemption clause was added in 1946, the federal statute defined "State" to include "Territories and possessions … and the District of Columbia." 1938 Act, § 1(29) (J.A.554). That broad scope fit perfectly with Congress's purposes in enacting Section 83(i): Allowing Territories or the District to create their own municipal-bankruptcy laws would present the same difficulties as State-specific regimes, destroying the uniformity Congress sought to preserve.

Neither the 1976 nor 1978 amendments altered the preemption provision's scope. Both took the existing definition of "State" as they found it—which, like the current Code, includes Puerto Rico and the District of Columbia for purposes of Section 903(1).

11 U.S.C. § 101(52). Indeed, it is undisputed that, in 1946 and for decades thereafter, what is now Section 903(1) forbade Puerto Rico from enacting laws like the Recovery Act. Nothing about Congress's purpose has changed since 1946, and local municipal-restructuring laws like the Recovery Act are still irreconcilable with that aim.

c. Permitting the Recovery Act to bind non-consenting creditors would thwart Congress's aim of ensuring that "[o]nly under a Federal law should a creditor," particularly a holder of widely dispersed municipal debt, "be forced to accept … an adjustment without his consent." H.R. Rep. No. 79-2246, at 4 (J.A.411). The Recovery Act presents the precise risk that prompted Congress to enact Section 903(1)'s precursor: the prospect of States and Territories "hav[ing] bankruptcy laws running right along at the same time as [Chapter 9]," Parkhurst Statement p. 16 (J.A.445), yielding a hodgepodge of overlapping, idiosyncratic regimes that would foment needless uncertainty and confusion.

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The Recovery Act falls squarely within Section 903(1)'s plain terms. And it is precisely the type of legislation that Congress sought to foreclose. Straightforward application of Section 903(1)'s text in light of its history and purpose demonstrates that the Recovery Act is preempted.

B. Petitioners' Contrary Interpretations Contravene The Bankruptcy Code's Text, Context, History, And Purpose.

Petitioners do not deny that, in 1946 and for decades thereafter, what is now Section 903(1) barred Puerto Rico from adopting municipal-bankruptcy laws. Petitioners contend, however, that Section 903(1)'s preemptive scope was narrowed, long after its adoption, by changes in *other*, definitional provisions. That contention is insupportable.

None of the definitional changes petitioners cite altered Section 903(1)'s reach. "Congress … does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes." *Whitman* v. *Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001). This Court, accordingly, "'will not read the Bankruptcy Code to erode past bankruptcy practice absent a clear indication that Congress intended such a departure.'" *Cohen* v. *de la Cruz*, 523 U.S. 213, 221 (1998) (citation omitted). None of the definitional amendments petitioners offer provides a "clear indication" of a marked change in Section 903(1)'s preemptive scope. As the Commonwealth stresses (at 2), "it is anomalous in the extreme to think that Congress—*sub silentio* and through an amendment to a statutory definition"—achieved a drastic departure from long-settled understandings. But that is precisely what petitioners are peddling.

All of petitioners' arguments, moreover, require reading Section 903(1) to defeat Congress's clear purpose in enacting it. Their position would free not only Puerto Rico and the District of Columbia, but *all fifty States*, to adopt their own municipal-bankruptcy laws. That result is at war with the Code.

1. The 1984 Amendment Of "State" Did Not Exempt Puerto Rico From Section 903(1)'s Preemptive Scope.

Petitioners' primary submission is that, when Congress defined "State" in 1984 in Section 101(52) to bar municipalities of Puerto Rico and the District of Columbia from invoking Chapter 9, it also silently "removed" those Territories from Section 903(1). Commonwealth Br. 22-27, 44; GDB Br. 27-31. That argument misconceives the 1984 amendment. Nothing in its text says anything about preemption or Section 903(1). The 1984 amendment excluded those Territories from the definition of "State" *solely* "for the purpose of defining *who may be a debtor* under Chapter 9." 1984 Act, § 101(44) (J.A.604) (emphasis added). For all *other* purposes—*including* in Section 903(1)—"'State'" still "includes the District of Columbia and Puerto Rico." 11 U.S.C. § 101(52).

Shut out by the Code's plain language, petitioners seek refuge in its structure. They find none. As the First Circuit held, petitioners' contentions, while "[c]reative," are "[u]nsound." Commonwealth-Pet. App. 31a. None of their claims can be squared with the Code. And their conclusion that the 1984 amendment rendered Section 903(1) inapplicable to the Commonwealth (and the District of Columbia) would mean that *States* have always been free to enact their own municipal-bankruptcy laws as well—exactly what Congress enacted Section 903(1) to foreclose.

a. Petitioners broadly assert that Section 903(1) cannot apply here at all because it appears in Chapter 9 and that "chapter 9 as a whole does not apply to Puerto Rico." GDB Br. 17; *see* Commonwealth Br. 24-27. Their premise that Chapter 9 is categorically *inapplicable* to the Commonwealth is unfounded.

Petitioners cite no provision of the Code that renders all of Chapter 9 categorically inapplicable to Puerto Rico's municipalities. Significantly, Section 103 explicitly addresses the "[a]pplicability" of various chapters to cases under those chapters, but says nothing similarly limiting the application of Chapter 9. *See*, *e.g.*, 11 U.S.C. § 103(b)-(e), (g)-(k) (various parts of Chapters 7, 11, 12, 13, and 15 apply "only in a case under" those chapters).

Petitioners instead *assume* that, because Puerto Rico's municipalities are not authorized to invoke Chapter 9's restructuring procedure, Chapter 9 must be inapplicable to them. That assumption confuses whether Chapter 9 *governs* the Commonwealth's municipalities with the separate question whether Chapter 9 affords them *relief*. Puerto Rico's and the District of Columbia's inability to grant their municipalities permission to invoke Chapter 9 simply means those municipalities cannot meet one of the statutory prerequisites to obtain Chapter 9 remedies: state authorization. *See* 11 U.S.C. § 109(c)(2). Those municipalities are no more "outside the scope of Chapter 9" (Commonwealth Br. 1) than are would-be debtors who fail to meet the Code's other prerequisites—for example, that a putative Chapter 9 debtor has negotiated with its creditors (or that such negotiation is "impracticable"), 11 U.S.C. § 109(c)(5). That a debtor does not *qualify* for bankruptcy remedies does not place the debtor beyond the federal bankruptcy statutes' reach. It simply reflects Congress's judgment that the debtor should not receive relief. *See Pinkus*, 278 U.S. at 264-65 (federal bankruptcy statute preempted state insolvency law even with respect to debtor who "could not have obtained discharge under the Bankruptcy Act").

Petitioners' broken-record response that debtors deprived of the "*benefits* of Chapter 9" cannot be subject to any "*burdens* of that chapter" is tendered (without authority) as a truism. Commonwealth Br. 2, 14, 22, 43, 48. That putative truism, however, is not true. Section 109(c)(2) prohibits any municipality from invoking Chapter 9 unless its State grants authorization. 11 U.S.C. § 109(c)(2). Nearly *half* of the States have not granted authorization; more than twenty either bar municipalities from invoking Chapter 9 or have not clearly authorized it. Commonwealth-Pet. App. 104a & n.16. That is unsurprising. The first municipal-bankruptcy statute was not enacted until the 1930s; for well over a century after the Founding, municipal bankruptcy was not an option. *Supra* p. 6. Since Chapter 9's enactment, many States have determined that the public interest (including the public credit) is best served by keeping that drastic option off the table.

Whatever those States' reasons for withholding authorization, their municipalities are ineligible to seek Chapter 9 relief. Yet Section 903(1) by its terms still bars their municipalities from forcing a restructuring on non-consenting creditors under *state* law. Municipalities in nearly half the States thus face "burdens" of Chapter 9 but not its "benefits."

For the same reason, Congress's decision in 1984 to bar Puerto Rico's and the District of Columbia's municipalities from invoking Chapter 9 did not take them outside Chapter 9's reach. Congress merely did for those Territories' municipalities what many States have done for their own. As this Court has long recognized, given Congress's broad power over them, U.S. Const. art. IV, § 3, cl. 2, "[t]he Territories are but political subdivisions of the outlying dominion of the United States," and "[t]heir relation to the general government is much the same as that which counties bear to the respective States, and Congress may legislate for them as a State does for its municipal organizations." *Nat'l Bank* v. *County of Yankton*, 101 U.S. 129, 133 (1880). Thus, "the apt analogy to the relationship between municipal and state governments is to be found in the relationship between the government of a Territory and the Government of the United States." *Waller* v. *Florida*, 397 U.S. 387, 393 (1970).

Whatever the precise relationship is between the federal government and Puerto Rico for other purposes, *cf.* Act of July 3, 1952, ch. 567, 66 Stat. 327, Congress's identical treatment of the Commonwealth *and* the District of Columbia shows it was regulating *both* as political subdivisions here. And just as States' decisions to place Chapter 9 relief off-limits does not excuse those States from Chapter 9's preemption provision, Congress's decision to bar

Chapter 9 relief for its Territories' municipalities did not free those Territories from preemption either.[4]

b. Petitioners further contend that Section 903(1) is inapplicable to the Commonwealth's municipalities because it is (they say) merely a "proviso" to Section 903's opening clause, which provides that nothing in Chapter 9 "limit[s] or impair[s] the power of a State to control" its municipalities. 11 U.S.C. § 903; *see* Commonwealth Br. 25-26; GDB Br. 27-28. Since Chapter 9 itself is purportedly inapplicable to Puerto Rico's municipalities, petitioners contend, Section 903's opening clause is irrelevant to them, and so Section 903(1)'s "proviso" is inapplicable also. Petitioners' argument fails at each step.

[4] Petitioners do not argue, as did the concurrence below, that Section 101(52) violates the Bankruptcy Clause's uniformity requirement. Commonwealth-Pet. App. 48a-50a (Torruella, J., concurring in the judgment); *see* GDB Pet. 11 ("the constitutionality of § 101(52) is not at issue in this litigation"). That argument, moreover, is incorrect. By barring Puerto Rico's and the District's municipalities from invoking Chapter 9, Congress did not create a different regime; it simply exercised its separate "power over the Territories," which is "as full as that which a state legislature has over its municipal corporations," *Utter* v. *Franklin*, 172 U.S. 416, 423 (1899), to deny Chapter 9 authorization just as many States have done. Moreover, "[t]he uniformity requirement is not a straightjacket that forbids Congress to distinguish among classes of debtors," but allows Congress to treat different circumstances differently. *Gibbons*, 455 U.S. at 469.

Petitioners' premise that Chapter 9 is inapplicable is groundless as explained above. *Supra* pp. 25-29. And because Chapter 9 applies to Puerto Rico's municipalities, Section 903's first clause applies, too.[5]

Even if Section 903's first clause were inapplicable, however, that would not render Section 903(1)'s preemption clause irrelevant. Petitioners insist that Section 903(1) is merely a "proviso" to the opening clause (Commonwealth Br. 25-27; GDB Br. 27), but nothing turns on that label. A proviso does *not* necessarily carve out an exception to the preceding clause; indeed, provisos are frequently used to "'state a general, independent rule.'" *Republic of Iraq* v. *Beaty*, 556 U.S. 848, 858 (2009) (citations omitted). It has long been "common practice" to use "the term 'provided'" to introduce an independently applicable "amendmen[t]" to existing text "so as to declare that, notwithstanding existing provisions, *the one thus expressed is to prevail*, thus" giving the word "provided" "no greater signification than would be attached to the conjunction 'but' or 'and' in the same place." *Ga. R.R. & Banking Co.* v. *Smith*, 128 U.S. 174, 181 (1888) (emphasis added). This is especially true where, as here, courts confront "an addition made in new circumstances to a form of words adopted many years before." *United States* v. *Whitridge*, 197 U.S. 135, 143 (1905). In such circumstances, the meaning of the "proviso" is to be derived from the "general purpose of th[e] proviso" itself as reflected in its text and the "history of the statut[e]." *Id.* at 142-43.

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[5] Although Congress certainly *could* (given its broad power over Territories) "limit or impair" (11 U.S.C. § 903) Territories' control over their municipalities, Section 903's opening clause makes clear that *Chapter 9* does not do so.

Section 903(1)'s text and structure demonstrate that it operates as an independent rule of law. Section 903's first clause prevents bankruptcy courts from interfering with States' control over their municipalities—by, for example, ordering a municipality to raise taxes. Section 903(1), by contrast, is an exercise of federal power to displace States from the field of municipal *bankruptcy*. Section 903(1) thus does not create an exception to the rule that States may control their municipalities; it makes a federal regime Congress enacted pursuant to its bankruptcy power exclusive. If the reservation of sovereignty in Section 903's opening clause were repealed tomorrow, Section 903(1)'s effect would be unchanged.

Section 903(1)'s history confirms that it was designed to operate independently, not merely as a carve-out to Section 903's opening clause. Section 903(1)'s preemption language was added years *after* the opening clause's enactment to abrogate *Faitoute*'s holding that States could establish limited municipal-bankruptcy regimes. *Supra* pp. 20-22. This "addition made in new circumstances to a form of words adopted many years before" (*Whitridge*, 197 U.S. at 143) made clear "that, notwithstanding existing provisions," the rule of preemption now codified in Section 903(1) "is to prevail." *Ga. R.R. & Banking*, 128 U.S. at 181.

c. The direct consequence of petitioners' reading of the 1984 amendment demonstrates conclusively that their reading does not wash. The *whole point* of Section 903(1) was to prevent States and Territories from enacting their own municipal-bankruptcy codes, which would destroy the uniformity vital to the nationwide municipal-debt market. It is implausible that Congress thwarted that aim in 1984 by "remov[ing] Puerto Rico" and the District of Columbia from Section 903(1)'s preemptive scope (Commonwealth Br. 44) by amending a different, definitional provision—least of all without a word of recorded debate, and only a few years after Congress twice *reaffirmed* Section 903(1)'s broad reach.

Petitioners' view, moreover, would invite not only Puerto Rico and the District of Columbia, but *every State*, to enact its own municipal-bankruptcy laws. If the Commonwealth's municipalities' *ineligibility* to invoke Chapter 9 exempted them (as petitioners claim) from Section 903(1), the same would be true of municipalities in every State that has taken Chapter 9 off the table. Because those States' municipalities cannot seek Chapter 9 relief, Section 903(1) (on petitioners' theory) would not govern them, either. Those twenty-plus States, consequently, would be free to enact their *own alternative* municipal-bankruptcy laws. And if opting out of Chapter 9 entitled States to fashion their own ersatz versions of Chapter 9, other States surely would follow suit. Section 903(1) would be a dead letter.

Indeed, since neither the preemption clause now codified in Section 903(1) nor its placement in the statutory structure has materially changed since its enactment, petitioners' reading would mean that States that do not authorize Chapter 9 relief have *always* been free since 1946 to enact their own municipal-bankruptcy laws. That would have astonished the 94th and 95th Congresses, which reenacted Section 903(1) to *prevent* the States from "enact[ing] their own versions of Chapter IX, which would frustrate the constitutional mandate of uniform bankruptcy laws." S. Rep. No. 95-989, at 110 (J.A.509) (internal quotation marks omitted). And it would be news to the States that have not authorized Chapter 9—none of which has attempted to enact its own alternative version.[6]

Petitioners resist this unavoidable implication of their position, protesting that the Court could somehow "draw a line" between the States and Puerto Rico. Commonwealth Br. 46. But they proffer no principled *basis* to draw such a distinction. They observe that States "have the *option*" to opt in to Chapter 9, while the Commonwealth does not. *Id.* at 43. What matters, however—under petitioners' own logic—is simply whether a municipality is *eligible* for Chapter 9, not which non-municipal entity (the State or Congress) can flip the switch. A municipality whose State has not authorized Chapter 9 and a Puerto Rican municipality are identically situated: Neither can seek Chapter 9 relief because neither has state "authoriz[ation]." 11 U.S.C. § 109(c)(2). If Section 903(1) did not apply to the Commonwealth, it would be optional *everywhere*.

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[6] The GDB's contention (at 36-41) that Congress actually intended this result and meant to "codify" a supposedly preexisting rule—allowing States to enact their own laws for any debtor denied relief by federal law—is meritless. It is implausible that the Congress that enacted Section 903(1)'s precursor to ensure that "[o]nly under a Federal law should a creditor be forced to accept" a non-consensual restructuring (H.R. Rep. No. 79-2246, at 4 (J.A.411)) secretly meant to create a gaping exception codifying a purported background rule not mentioned in the statute's text or (so far as the GDB shows) in the debates. As the Franklin respondents show, moreover, the GDB's reading of the history fails on its own terms. Franklin Br. § II.B.iii.

2. Technical Changes To Definitions Of "Creditor" And "Debtor" Do Not Render Section 903(1) Irrelevant.

The GDB floats an "alternate" basis for excluding Puerto Rico from Section 903(1)—which the Commonwealth embraced below, but now abandons. Section 903(1) bars state laws from "bind[ing] any *creditor*." 11 U.S.C. § 903(1) (emphasis added). But, according to the GDB, due to a handful of technical amendments in the 1970s to the Code's definition of "creditor," those to whom the Commonwealth's municipalities are indebted are not "creditors"—and so Section 903(1) does not bar Puerto Rico from binding them to a restructuring. GDB Br. 31-33.

The Commonwealth's abandonment of this too-clever-by-half interpretation was well-counseled. The GDB's own authority derides this reading as "mindless strict constructionism." Stephen J. Lubben, *Puerto Rico and the Bankruptcy Clause*, 88 Am. Bankr. L.J. 553, 576 (2014). Rightly so: The GDB's argument contradicts the statutory context, history, and purpose, and would make an indecipherable hash of the Code more broadly.

Moreover, the GDB's "creditor" theory would similarly free every State to enact its own municipal-bankruptcy law. It is implausible enough to read definitional amendments enacted decades after Section 903(1)'s precursor as abruptly granting Puerto Rico and the District of Columbia carte blanche. It is inconceivable that Congress intended such amendments—enacted without a whisper of protest, at the same time that Congress *retained* Section 903(1) to *prevent* States from adopting municipal-bankruptcy laws—to gut that provision by granting that authority to every State.

a. The GDB does not dispute that Section 903(1)'s precursor (Section 83(i)) originally applied to Puerto Rico. When Congress enacted Section 83(i)'s preemption clause in 1946, barring state laws from "binding … any creditor who does not consent," 1946 Act, § 83(i) (J.A.571), it simultaneously defined "creditor" as a "holder of a security or securities," which included "bonds, notes, judgments, claims, and demands, liquidated or unliquidated, and other evidences of indebtedness, either secured or unsecured, and certificates of beneficial interest in property." *Id.*, sec. 1, § 82 (J.A.558). That simple, broad definition aligned with the word's ordinary meaning. *See Webster's New International Dictionary* 621 (2d ed. 1941) ("*Webster's 2d*") ("one to whom money is due"); *Black's* p. 476 ("[a] person to whom a debt is owing by another person"). From its inception, the preemption clause explicitly barred the Commonwealth from restructuring its obligations to holders of its bonds.

The GDB contends, however, that changes in the Code's definition of "creditor" (and "debtor") made decades later radically altered Section 903(1)'s scope. Section 101 of the current Code defines a "creditor" (as relevant) as an "entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor." 11 U.S.C. § 101(10)(A). A Puerto Rican municipality, the GDB argues, cannot be a "debtor"—*i.e.*, a "person or municipality concerning which a case under this title has been commenced," *id.* § 101(13)—because it cannot "commence" a Chapter 9 case. GDB Br. 32. Because the municipality cannot be a debtor, the GDB contends, no one to whom it owes money is a "creditor" protected by Section 903(1), and "[s]ince the Recovery Act binds no 'creditors,'" "it falls outside § 903(1)'s preemptive sweep." *Ibid.* The trifling, technical amendments on which the GDB seizes do not support its strained construction.

The Court is loath to infer drastic changes in a statutory framework from minor changes to ancillary provisions, *see Am. Trucking*, 531 U.S. at 468, and instead looks for "language that made [an] important modification clear to litigants and courts." *Kellogg Brown & Root Servs., Inc.* v. *United States*, 135 S. Ct. 1970, 1977 (2015) (deletion of modifier while "leaving the operative term … unchanged" was too "subtle a move" to support a "[f]undamental chang[e]" in statute's historic meaning). The prospect that Congress made a "major change" absent clear textual indication is especially "improbable" if there is not "even any mention in the legislative history" of the purported transformation. *United Sav. Ass'n of Tex.* v. *Timbers of Inwood Forest Assocs.*, 484 U.S. 365, 380 (1988); *see also Chisom* v. *Roemer*, 501 U.S. 380, 396 n.23 (1991) ("'where the construction of legislative language … makes so sweeping and so relatively unorthodox a change as that made here, … judges as well as detectives may take into consideration the fact that a watchdog did not bark in the night'" (quoting *Harrison* v. *PPG Indus., Inc.*, 446 U.S. 578, 602 (1980) (Rehnquist, J., dissenting))).

The GDB points to no "language" in the statute that made the "important modification" to Section 903(1)'s scope the GDB alleges "clear." *Kellogg Brown & Root*, 135 S. Ct. at 1977. Indeed, in relevant respects, Section 903(1)'s text has not changed in the seven decades since its enactment.

The statutory history further refutes the GDB's account. The changes that yielded the current definitions of "creditor" and "debtor" were conforming amendments reflecting new trends in terminology.

In 1976—as part of a broader transition from referring to "securities" to using "claims"—Congress updated the definition of "creditor" from "holder of a security" to "holder … of a claim against the petitioner." 1976 Act, sec. 1, § 81(1), (3) (J.A.578-79). "Petitioner" meant simply the entity "which has filed a petition under this chapter." *Id.* § 81(8) (J.A.579). Then, in 1978, Congress swapped "petitioner" for "debtor," and again made conforming changes to the definition of "creditor" to mean (as relevant) an "entity that has a claim against the debtor," 1978 Act, § 101(9)(A) (J.A.588)—the definition (as relevant) in effect today, *see* 11 U.S.C. § 101(10)(A).

Nothing in these technical modifications remotely suggests that Congress intended to transmogrify Section 903(1)'s scope. Indeed, the GDB's argument hinges on changes to the definition of "debtor," which neither Section 903(1) nor its precursors ever contained. And "debtor" simply replaced a term ("petitioner") that Congress had previously added "for convenience only," clarifying that "[n]o substantive or limiting result [wa]s intended." H.R. Rep. No. 94-686, at 16 (J.A.462). When it adopted *each* of these changes in 1976 and 1978, moreover, Congress explained that it was "retain[ing]" the existing preemption clause and intended the clause to continue operating as it had always done. *Id.* at 19 (J.A.468-69); S. Rep. No. 95-989, at 110 (J.A.508-09).

The GDB offers no evidence that Congress intended these semantic, definitional changes to reshape Section 903(1)'s preemptive scope. The GDB asserts (at 32) that Congress "intended to tie" Section 903(1) "closely to the existence of an actual bankruptcy case." But it cites nothing in the statute's text or history to support that conjecture. And it cannot explain why, if Congress meant to alter the clause's scope so drastically, Congress would have (twice) simultaneously "retained" the existing clause.

Minor changes in the syntax of definitions of "creditor" and "debtor," in short, are the smallest of mouseholes. And the massive transformation of Section 903(1)'s scope the GDB imputes to them will not fit.

b. Even viewed in historical isolation, the GDB's reading of Section 903(1) is untenable. Courts do not apply statutory definitions "in a mechanical fashion" if doing so would "destroy one of the major purposes" of the statute *or* "create obvious incongruities." *Lawson* v. *Suwannee Fruit & S.S. Co.*, 336 U.S. 198, 201 (1949); *see also Philko Aviation, Inc.* v. *Shacket*, 462 U.S. 406, 412 (1983) ("A statutory definition should not be applied" to "defeat the purpose of the legislation."); *Nw. Austin Mun. Util. Dist. No. One* v. *Holder*, 557 U.S. 193, 206-07 (2009) (collecting cases); Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 228 (2012) (if statutory definition "would cause a provision to contradict another provision, whereas the normal meaning of the word would harmonize the two, the normal meaning should be applied"). The GDB's reading does both.

Jamming Section 101's definition of "creditor" into Section 903(1) defeats Section 903(1)'s universally acknowledged purpose. It would mean that no municipality could *ever* be a "debtor," and Section 903(1) would *never* apply, unless and until a federal municipal-bankruptcy case is "commenced." 11 U.S.C. § 101(13). That would thwart Congress's aim of creating an exclusive, uniform federal scheme.

Under the GDB's interpretation, States *could* prescribe their own municipal-bankruptcy laws, available to any municipality that had not already commenced a federal Chapter 9 case. States that enact such laws might also authorize their municipalities to invoke Chapter 9, giving them a choice between the two. The state-law regime would operate unimpeded *unless* a municipality previously brought a federal proceeding; the GDB never explains how a state-law proceeding could be commenced (or why it would) *after* a federal Chapter 9 case is filed. And States that *withhold* authorization for Chapter 9 would *completely* displace the federal scheme: Since their municipalities could never bring a Chapter 9 case, Section 903(1) would never apply, making the *state*-law regime *exclusive*. *That* would turn the statute "on its head." GDB Br. 31.

The GDB's mechanical, find-and-replace approach also would make nonsense of other Code provisions. For example, Section 109(c)(5) requires, as a prerequisite to be a "debtor" eligible to *bring* a Chapter 9 case, that a municipality have *already* negotiated (or attempted to negotiate) with its "creditors," unless doing so is "impracticable" (with a minor, immaterial exception). 11 U.S.C. § 109(c)(5). But there can be no "creditor" under Section 101's definition unless there is a "debtor." *Id.* § 101(10)(A). And there can be no "debtor" under Section 101 unless a federal bankruptcy case *already* "has been commenced." *Id.* § 101(13). Transplanting Section 101's definition of creditor into Section 109(c)(5) thus would either read that provision out of the statute, or else render Chapter 9 relief *impossible* by making the pendency of a Chapter 9 case a prerequisite to its own commencement. A municipality could argue that "negotiation" with its "creditors" is "impracticable" because no such creditors exist; under that reasoning, every municipality would automatically satisfy Section 109(c)(5), rendering that provision meaningless. A court that rejected that reasoning, in contrast—and construed "impracticable" to mean that negotiations had been *tried*, but failed—would be forced to conclude that no municipality could *ever* seek Chapter 9 relief: A municipality cannot even attempt to negotiate with creditors it does not have. Either way, importing Section 101's definition into Section 109(c)(5) cannot be squared with the statute.

Section 109(c)(5) only scratches the surface. The First Circuit cited other examples of Code provisions where applying Section 101's definition of "creditor" makes no sense. Commonwealth-Pet. App. 34a-35a n.28 (citing 11 U.S.C. §§ 101(12A)(C), 502(a)). Other instances abound. Franklin Br. § II.C. That Section 101's definition of "creditor" cannot sensibly be applied to numerous Code provisions refutes the GDB's claim that it must be force-fitted into Section 903(1).

The Court need not and should not embrace the GDB's artificial interpretation of Section 903(1) to frustrate all its words but one. By far the better (and certainly a fair) reading of Section 903(1)'s text, context, history, and purpose is that Congress intended "creditor" to mean what it did when the clause was first enacted: a holder of a security, 1946 Act, § 82 (J.A.558)—or even more simply, "one to whom money is due," *Webster's 2d* p. 621; *see also Black's* p. 476 (same); *Webster's Third New International Dictionary* 533 (1976) (same); *Black's Law Dictionary* 441 (rev. 4th ed. 1968) (same); *cf.* Scalia & Garner, *supra*, at 63 (a "textually permissible interpretation that furthers rather than obstructs the document's purpose should be favored").

That simple, straightforward definition makes perfect sense of the statute's words and context. And it advances rather than thwarts Congress's purpose—by broadly precluding States laws from circumventing the exclusive federal framework—while avoiding the intractable difficulties the GDB's reading invites. The GDB's effort to blunt the preemptive force of Section 903(1) based on insignificant amendments to other provisions amounts to nothing.

C. Neither The Constitutional-Avoidance Canon Nor The Presumption Against Preemption Can Rescue Petitioners' Interpretations.

Petitioners try to bolster their strained interpretations of Section 903(1) with two dice-loading principles: The Commonwealth invokes the constitutional-avoidance canon, and both petitioners lean on the presumption against preemption. Commonwealth Br. 27-42; GDB Br. 19-25. Neither principle, however, has any application here, and neither would support petitioners' readings in any event. Petitioners cannot help themselves to a discounted burden of persuasion. Their interpretations must pay full freight. Commonwealth-Pet. App. 36a-37a, 43a-45a.

1. Petitioners' Strained Readings Of Section 903(1) Do Not Avoid Any Grave Constitutional Doubt.

The constitutional-avoidance canon is inapposite because neither of its prerequisites is present. "That doctrine enters in only 'where a statute is susceptible of two constructions'" that are both plausible readings of the statute—one of which raises "'grave and doubtful constitutional questions'" that the other construction "avoid[s]." *Pa. Dep't of Corr.* v. *Yeskey*, 524 U.S. 206, 212 (1998) (citation omitted). The canon does not help the Commonwealth, which has neither identified any "grave" doubt about Section 903(1)'s constitutionality, nor offered a plausible interpretation that avoids the purported problem.

a. The Commonwealth urges the Court (at 38) to bend Section 903(1) to avoid a "lurking" question whether it violates the Tenth Amendment. But the supposed specter of infirmity is a fiction; there is no grave doubt lurking anywhere to avoid. *See United States* v. *First City Nat'l Bank of Hous.*, 386 U.S. 361, 369 (1967) (avoidance canon irrelevant because statute "d[id] not raise serious constitutional questions").

The Tenth Amendment "reserve[s]" powers to "*the States*." U.S. Const. amend. X (emphasis added). It reserves nothing to Puerto Rico, which "is not a State." Commonwealth Br. 28, 41. The Commonwealth accordingly seeks to ride the States' coattails, contending that Section 903(1) must be given one interpretation that avoids any constitutional problem for anyone. *Id.* at 41 (citing *Clark* v. *Martinez*, 543 U.S. 371, 380-81 (2005)). But even as to States, Section 903(1) presents no constitutional problem: The Tenth Amendment "reserve[s] to the States" only "[t]he powers *not* delegated to the United States by the Constitution." U.S. Const. amend. X (emphasis added). Section 903(1) is an exercise of a "power" the Constitution *does* delegate to Congress—"[t]o establish … uniform Laws on the subject of Bankruptcies throughout the United States." *Id.* art. I, § 8, cl. 4.

The Commonwealth notes (at 38) that *Ashton*, 298 U.S. 513, invalidated a predecessor of Chapter 9 (the 1934 Act) on Tenth Amendment grounds. But *Ashton* held that Congress went too far in *authorizing* municipal-bankruptcy cases to be brought, which the Court concluded could interfere with States' governance of their own subdivisions—based largely on slippery-slope concerns that "involuntary" cases or even federal bankruptcy laws for *States* could be next, and that bankruptcy courts might intrude on States' "fiscal affairs," such as whom to tax and how much. *Id.* at 530. After Congress enacted a slightly modified version to assuage these concerns, the Court upheld it, underscoring that the revised law, by its terms and by design, "exercised" Congress's "bankruptcy power … in relation to a matter normally within its province," and by doing so had not trenched on States' "control of [their] fiscal affairs," including with respect to taxation. *Bekins*, 304 U.S. at 51.

Section 903(1), in all events, is far afield of the concerns *Ashton* and *Bekins* addressed. It creates no risk that bankruptcy proceedings will frustrate States' control over municipalities' affairs. To the contrary, it *confines* municipal bankruptcies to the federal regime, which municipalities may invoke only with their States' consent. 11 U.S.C. § 109(c)(2).

The Commonwealth cites no precedent holding that the Tenth Amendment bars Congress from *limiting* bankruptcy relief for municipalities. That is unsurprising. Preemption aside, States' authority to enact bankruptcy laws is dubious at best in light of the Contract Clause, which "prohibits the States from enacting debtor relief laws which discharge the debtor from his obligations unless the law operates prospectively." *Gibbons*, 455 U.S. at 472 n.14 (citation omitted); *see also Bekins*, 304 U.S. at 53-54; *Sturges*, 17 U.S. (4 Wheat.) at 200; *UAW* v. *Fortuño*, 633 F.3d 37, 41 n.3 (1st Cir. 2011) (applying Contract Clause to Puerto Rico); *cf. Faitoute*, 316 U.S. at

504-05, 516 (upholding state law that extended maturity of unsecured debt but did not reduce principal). It would be remarkable if the Constitution *required* what it barely (if at all) *permits*. Any Tenth Amendment challenge to Section 903(1), in short, is a nonstarter. There is thus no grave constitutional doubt to avoid.[7]

b. Even assuming (*dubitante*) that Section 903(1)'s preemption of state municipal-bankruptcy law presented a serious constitutional question, the Commonwealth offers no plausible interpretation that *avoids* it. The avoidance canon "is an interpretive tool" for choosing between plausible readings of "ambiguous statutory language." *FCC* v. *Fox Television Stations, Inc.*, 556 U.S. 502, 516 (2009). It "'does not give [courts] the prerogative to ignore the legislative will'" by distorting the statute. *Stern* v. *Marshall*, 131 S. Ct. 2594, 2605 (2011) (citation omitted).

The only way to avoid the putative constitutional question the Commonwealth raises would be to construe Section 903(1) as not preempting state municipal-bankruptcy law *at all*. That conclusion would require not interpreting, but *rewriting*, Section 903(1)'s text. On its face the statute bars a wide ar-

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[7] The Commonwealth's contention (at 38) that, if the Court adopts the First Circuit's reading of the statute, "th[e] Court would have to confront" the constitutionality of Section 903(1) is false. The Commonwealth forfeited any Tenth Amendment challenge by failing to raise it below. *See OBB Personenverkehr AG* v. *Sachs*, 136 S. Ct. 390, 397-98 (2015); BlueMountain C.A. Br. 47 n.10. Indeed, the Commonwealth's certiorari briefing never *cited* that Amendment. If the Court agrees with the First Circuit on the statute, it should affirm.

ray of state municipal-bankruptcy laws. It cannot fairly be read as giving the States free rein.

Moreover, precisely because the Court must give Section 903(1) a single interpretation governing *all* cases, *see Martinez*, 543 U.S. at 380, Section 903(1) must mean the same thing for States and Territories alike. And applying petitioners' readings of Section 903(1) to both would mean that *every State* could adopt its own municipal-bankruptcy law. *Supra* pp. 32-33, 38-39. That is irreconcilable with the statutory text and would be unrecognizable to the Congresses that enacted (and reenacted) the preemption clause.

The Commonwealth tries to confine its interpretation to Puerto Rico (and the District of Columbia), but its attempts are unavailing. *Supra* p. 33. Even if the Commonwealth could belatedly devise an interpretation that would exempt *only* those Territories from Section 903(1), moreover, that would only undermine its avoidance argument. If the Court faced a choice between (A) a reading of Section 903(1) that applies *only* to the States, and (B) one that applies to *both* the States *and* the Territories, the avoidance canon would be irrelevant. Under *either* reading, the result for the only entities the Tenth Amendment concerns (States) would be the same.

2. The Presumption Against Preemption Does Not Apply And Cannot Trump Congress's Clear Intent.

Petitioners' reliance on the presumption against preemption (Commonwealth Br. 28-38; GDB Br. 19-25) is misplaced for similar reasons. While "the *test* for federal preemption of the law of Puerto Rico … is the same as the test" for States, *Isla Petrol.*, 485 U.S. at 499 (emphasis added) (citation omitted), proper application of that "test" shows that the presumption is inapplicable here. The presumption is merely a starting "assum[ption]" that, "[i]n areas of traditional state regulation," state law is not preempted "unless Congress made such intention clear and manifest." *Bates* v. *Dow Agrosciences LLC*, 544 U.S. 431, 449 (2005) (internal quotation marks omitted). As the court of appeals correctly held, the presumption is "weak" here, "if present at all," and is readily overcome by Section 903(1). Commonwealth-Pet. App. 36a.

a. Because the presumption applies only when "'Congress legislate[s] in a field which the States have traditionally occupied,'" it "is not triggered" at all "when the State regulates in an area where there has been a history of significant federal presence," *United States* v. *Locke*, 529 U.S. 89, 108 (2000) (citation omitted), or where the "interests at stake are 'uniquely federal,'" *Buckman Co.* v. *Plaintiffs' Legal Comm.*, 531 U.S. 341, 347 (2001) (citation omitted); *see also Boyle* v. *United Techs. Corp.*, 487 U.S. 500, 504 (1988). These principles foreclose application of any presumption here.

i. The federal government has a unique and powerful interest in uniform bankruptcy laws. The Constitution's explicit authorization to adopt bankruptcy laws that are "uniform … throughout the United States" (U.S. Const. art. I, § 8, cl. 4) gives Congress not merely an interest in uniformity, but an imperative to maintain it. Preventing States from enacting their own divergent regimes is part and parcel to that mission. Given this "federal interest" in uniform bankruptcy laws that has been "manifest since the beginning of our Republic" and that "is now well established," *Locke*, 529 U.S. at 99, there is no reason to assume that, when Congress legislates regarding bankruptcy, it walks on tiptoes.

Congress has played the dominant role in the specific area of *municipal* bankruptcy for more than seven decades, and for nearly all of that period, federal law has been *exclusive*. When Congress enacted the first federal municipal-bankruptcy law, it was widely understood that the Contract Clause barred States from the field. McConnell & Picker, *supra*, at 426-28; *accord* A.M. Hillhouse, *Municipal Bonds: A Century of Experience* 351-52 (1936); Moringiello, *supra*, at 443-46. And when this Court challenged that understanding in *Faitoute* in 1942, Congress responded by expressly preempting state municipal-bankruptcy laws. *See* 1946 Act, § 83(i) (J.A.571). An area long thought to be constitutionally beyond States' power altogether, and statutorily off-limits for seventy years, is hardly "'a field which the States have traditionally occupied.'" *Buckman*, 531 U.S. at 347 (citation omitted).

Petitioners rejoin that States and Territories historically "enacted their own bankruptcy legislation." Commonwealth Br. 16; GDB Br. 21-22. They offer no evidence, however, that States traditionally (indeed, *ever* before the 1930s) provided for non-consensual composition of *municipal* debts—the field Section 903(1) addresses.

The GDB rejoins (at 22-24) that States' involvement in bankruptcy *generally* triggers the presumption. But preemption "fundamentally is a question of *congressional* intent," *English* v. *Gen. Elec. Co.*, 496 U.S. 72, 79 (1990) (emphasis added), so in determining whether to presume that Congress did not intend to displace state law in a field, it is the field in which *Congress* legislates—not the topics *state* laws address—that counts. In *Buckman*, for instance, even though the plaintiffs' "'Fraud-on-the-FDA'" claims were brought under general "state tort law," the Court held that "'federalism concerns and the historic primacy of state regulation of matters of health and safety'" were *not* implicated—and thus "no presumption against pre-emption obtain[ed]"—because the *federal* statute concerned a federal agency's relationships with entities it regulated, a field implicating quintessentially federal interests. 531 U.S. at 343, 347-48 (citation omitted).

In any event, there is a "history of significant federal presence" (*Locke*, 529 U.S. at 108) in the field of bankruptcy generally, dating back two centuries. Congress enacted the first bankruptcy statute in 1800, *Hanover Nat'l Bank*, 186 U.S. at 184, and a permanent bankruptcy regime in 1898.

Whether States enacted some laws affecting particular debtors is immaterial. The key question is not whether States have ever set foot in a field, but whether Congress's interests in and history of regulating the area signal that Congress meant to tread lightly. *See Locke*, 529 U.S. at 108. Congress's constitutional *obligation* to maintain uniformity and its comprehensive exercise of its authority in municipal bankruptcy for most of the century dispel any such assumption. Petitioners' meager evidence regarding non-municipal debtors hardly overcomes that strong federal interest and history. Indeed, many of the laws they cite (Commonwealth Br. 18-19; GDB Br. 21-22 & n.11) do not even purport to *discharge* debts; they merely specify the conditions under which debtors may avoid imprisonment, frequently allowing later-obtained property to be attached in satisfaction of debts. *See*, *e.g.*, Laws of Alabama 1821 tit. 24, ch. 19; Rev. Stat. of Indiana 1831 ch. 27; 1 Statutes of Ohio of a General Nature, ch. 57, at 456 (1854).

Section 903(1) concerns an area of significant federal interests and involvement, not a traditional state domain. There is no basis to adopt an artificially narrow reading of it to avoid encroaching on a field federal law has dominated for decades.[8]

ii. The Commonwealth alternatively urges the Court (at 28) to assume "that Congress does not intend to create a 'no man's land' immune from regulation under *either* federal *or* state law." On its view, a presumption against preemption should still apply—even in areas like municipal bankruptcy where Congress has emphatically displaced state law—*unless* Congress also enacted a federal regime of positive law to fill the void. This fallback theory is equally meritless.

There is no established rule, and no reason, that the scope of federal preemption should be read narrowly unless Congress has supplied standards of its own. Neither state nor federal law governed nonconsensual municipal-debt composition until the 1930s. The Commonwealth admits that Congress *can* displace state law while enacting no federal rules to replace it. *See* Commonwealth Br. 32-33 ("Con-

[8] The Commonwealth's invocation (at 35-38) of a supposedly distinct presumption against federal interference with States' "internal affairs" adds nothing. Whatever that purported internal-affairs category includes, it does *not* encompass municipal *bankruptcy*—in which States have *never* played a noteworthy role, and from which Congress emphatically *excluded* them.

gress certainly has the *power* to create a no man's land"). This Court has not hesitated to hold State laws preempted where Congress has decided to *deregulate* a field, *see Morales* v. *Trans World Airlines, Inc.*, 504 U.S. 374, 383-91 (1992)—and even where the federal agency tasked with regulating the field declined to exercise its jurisdiction, such that "deny[ing] the State jurisdiction" would "create a vast no-man's-land, subject to regulation by no agency or court," *Guss* v. *Utah Labor Rel. Bd.*, 353 U.S. 1, 10 (1957). Where, as here, Congress acts pursuant to its "plenary" power over a field and "has expressed its judgment in favor of uniformity," *even if* the result is the "creat[ion] of a no-man's-land," Congress's "judgment must be respected whatever policy objections there may be." *Id.* at 10-11.

The Commonwealth cobbles together its purported presumption from a grab-bag of decisions on far-flung subjects, but none supports its theory. In *United States* v. *Idaho ex. rel. Director, Idaho Department of Water Resources*, 508 U.S. 1 (1993), the Court declined to read a sovereign-immunity waiver so expansively that the federal government (as a litigant) could use it to ignore state-court rules; no broad preemption question was at issue. *Id.* at 7. *Federal Power Commission* v. *Louisiana Power & Light Co.*, 406 U.S. 621 (1972), parsed a statute that specifically contemplated "*dual* state and federal authority," which made it entirely implausible that Congress intended to create a "no man's land." *Id.* at 631 (emphasis added) (internal quotation marks omitted). *Sears, Roebuck & Co.* v. *San Diego County District Council of Carpenters*, 436 U.S. 180 (1978), preserved state jurisdiction over conduct where it was unclear whether federal law would govern, and where an avenue for litigants remained open to litigate the preemption issue on a case-by-case basis if litigants chose to appear before the relevant federal agency. *Id.* at 207. And *Head* v. *New Mexico Board of Examiners in Optometry*, 374 U.S. 424 (1963), relied on ordinary statutory and contextual cues—*e.g.*, the federal agency's weak enforcement powers, compared to the States' pattern of extensive regulation—to find that Congress did not intend to "ous[t] the States from an area of … fundamentally local concern." *Id.* at 432. None of these supports the Commonwealth's made-to-order rule.

In any event, reading Section 903(1) to preempt the Recovery Act does *not* create a "no man's land." Congress did not leave a legal vacuum; it established in Chapter 9 a comprehensive municipal-bankruptcy framework. That a particular municipality does not *qualify* for restructuring does not mean there are no *rules*. Puerto Rico's municipalities' ineligibility for Chapter 9 relief simply means their debts are governed by the rules they wrote into their own debt contracts. Debt contracts can and often do provide (if creditors agree up front) for restructuring debt with the consent of fewer than all creditors. And nothing prevents municipalities from renegotiating with their creditors voluntarily. In fact, that is *exactly what PREPA has done*: Days after the Commonwealth filed its petition for certiorari, PREPA reached a voluntary restructuring agreement on the debt at the center of this case. *Supra* p. 15.

The Commonwealth's real complaint is not that its municipalities are stranded in a rule-free zone, but that its municipalities cannot *change* the rules unilaterally to serve their own interests without their creditors' assent. That is not a "no man's land." Indeed, it is crowded with others, including municipalities of the twenty-plus States that have chosen not to authorize Chapter 9—not to mention the States themselves, the federal government, and foreign states. There is no reason to assume Congress intended Section 903(1) to be read narrowly to avoid that same result for a federal Territory.

b. The presumption against preemption is especially unwarranted in construing Section 903(1)'s *express*-preemption clause. Preemption "is a question of congressional intent, and when Congress has made its intent known through explicit statutory language, the courts' task is an easy one." *English*, 496 U.S. at 79 (citation omitted); *see also Chamber of Commerce of U.S.* v. *Whiting*, 131 S. Ct. 1968, 1977 (2011) (when statute "contains an express preemption clause," the "plain wording … necessarily contains the best evidence of Congress's preemptive intent" (internal quotation marks omitted)).

The Court in recent years thus often has not applied any thumb on the scale when construing express-preemption clauses. *See*, *e.g.*, *Sprietsma* v. *Mercury Marine*, 537 U.S. 51, 62-63 (2002); *see also Altria Grp., Inc.* v. *Good*, 555 U.S. 70, 99 (2008) (Thomas, J., joined by Roberts, C.J., and Scalia and Alito, JJ., dissenting) ("[m]ost" of the Court's recent decisions "have refrained from invoking the presumption in the context of express pre-emption"). And several Justices have explained that the presumption should *never* trump "ordinary principles of statutory construction" in construing express-preemption provisions. *CTS Corp.* v. *Waldburger*, 134 S. Ct. 2175, 2189 (2014) (Scalia, J., joined by Roberts, C.J., and Thomas and Alito, JJ., concurring in part and concurring in the judgment).

Whatever the merits of applying the presumption to express-preemption provisions in other contexts, Section 903(1) is a poor candidate to extend its reach. Section 903(1) concerns an area the Constitution expressly delegates to Congress with directions to make the laws uniform. Congress made its intention to preempt state law manifest in the statute's text, and its purpose of preventing a diverse array of state regimes could not be clearer. The Court should therefore "presume that [the] legislature sa[id] in [the] statute what it mean[t] and mean[t] in [the] statute what it sa[id] there." *Conn. Nat'l Bank* v. *Germain*, 503 U.S. 249, 253-54 (1992).

c. If any presumption against preemption did apply, it would at best be exceedingly "weak." Commonwealth-Pet. App. 36a. But even at full force, the presumption is merely a tie-breaking tool that cannot overcome Congress's clear preemptive intent here. "'[A]ny state law, however clearly within a State's acknowledged power, which interferes with or is contrary to federal law, must yield'" under the Supremacy Clause. *Gade* v. *Nat'l Solid Wastes Mgmt. Ass'n*, 505 U.S. 88, 108 (1992) (citation omitted). Even "state laws 'governing'" issues of paradigmatic state concern such as "family law" "'must give way to clearly conflicting federal enactments.'" *Hillman* v. *Maretta*, 133 S. Ct. 1943, 1950 (2013) (citation omitted). Section 903(1)'s text and purpose are pellucid. The presumption thus has no role to play.

Petitioners, moreover, offer no plausible reading of Section 903(1) that would *avoid* preempting state law. And no fair reading would carve out Puerto Rico without enabling States to opt out of Chapter 9. *Supra* pp. 32-33, 38-39. The presumption does not give courts license to rewrite statutes from scratch.

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Every indicator of Congress's intent points to the same conclusion: Section 903(1)'s text, context, history, and purpose all demonstrate that Congress intended to preempt state and territorial municipal-bankruptcy laws. The Recovery Act falls squarely within Section 903(1)'s compass and would thwart Congress's primary aim. It therefore cannot stand.

II. THE RECOVERY ACT IS INDEPENDENTLY PREEMPTED BECAUSE IT TRESPASSES IN A FIELD CONGRESS HAS OCCUPIED AND FRUSTRATES CONGRESS'S OBJECTIVES.

The Court can affirm the decision below without resolving whether Section 903(1) standing alone displaces the Recovery Act because traditional field-preemption and conflict-preemption principles invalidate it in any event. Congress's creation of a comprehensive federal municipal-bankruptcy regime *combined* with its enactment of Section 903(1) ousting States from the field—which the States have not attempted to enter since—demonstrates Congress's intent to occupy that field exclusively. Even if the Code left any room for state laws in that field, the Recovery Act is not one of them: As both courts below held, it contradicts key features of the federal scheme and thwarts Congress's objectives.

A. Congress Has Occupied The Field Of Municipal-Debt Restructuring.

Preemption "can be inferred from a framework of regulation 'so pervasive … that Congress left no room for the States to supplement it,'" especially "where there is a 'federal interest … so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.'"

Arizona v. *United States*, 132 S. Ct. 2492, 2501 (2012) (alterations in original) (citation omitted). Congress did just that in the Bankruptcy Code. And this Court made clear long ago that, where Congress has spoken in the Code, "States may not pass or enforce laws to interfere with *or* complement the Bankruptcy Act or to provide *additional or auxiliary regulations*." *Pinkus*, 278 U.S. at 265 (emphases added).

Chapter 9 creates a comprehensive scheme governing municipal bankruptcy. And Section 903(1) makes clear that Congress intended that federal scheme to be exclusive. Even if Section 903(1) did not specifically address preemption of territorial municipal-bankruptcy laws, at a minimum its enactment together with the rest of Chapter 9 shows Congress's intent to occupy the field.

Tellingly, the Commonwealth offers *no* post-1946 example of a State or Territory attempting to enter that field. If there were any uncertainty in 1946 whether Congress intended federal law governing municipal bankruptcy to be exclusive, that 70-year history puts it to rest.[9]

The Recovery Act brazenly invades that same field. The Commonwealth made no effort to hide its

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[9] The Commonwealth notes (at 18-19) that state laws regulate liquidation proceedings for insurance companies and banks. But those laws simply reflect that, since 1910, *see* Act of June 25, 1910, ch. 412, sec. 3-4, § 4(a)-(b), 36 Stat. 838, 839, Congress has expressly excluded insurers and banks from federal bankruptcy proceedings—"not because Congress was *bound* to yield in such cases," but because Congress "*meant* to" do so, *In re Union Guarantee & Mortg. Co.*, 75 F.2d 984, 984-85 (2d Cir. 1935) (per curiam) (emphases added). In Chapter 9, Congress adopted a different policy for municipalities.

intentions; indeed, the Act is expressly "designed" "to mirror certain key provisions of" the federal Code, Recovery Act, Statement of Motives § E (Commonwealth-Pet. App. 155a), while diverging from Chapter 9 in key respects. The Act's whole purpose is to provide "additional or auxiliary regulations" (*Pinkus*, 278 U.S. at 265) on the same subject as the Code.

The Commonwealth responds by shadowboxing with strawmen, arguing (at 17) that the Bankruptcy Clause *itself* does not implicitly "preclud[e] States or Territories from enacting restructuring legislation." BlueMountain has never disputed that.[10] But the Clause empowers *Congress* to occupy the field. Since 1946, Congress has done just that.

The Commonwealth's remaining responses are makeweights. It points (at 20-21) to *Faitoute*'s holding in 1942 that the then-nascent federal municipal-bankruptcy regime did not exclude States from the field completely. But the Commonwealth fails to mention that *four years later*, Congress responded by enacting what is now Section 903(1), demonstrating its desire to restore the exclusivity of the federal regime. 1946 Act, § 83(i) (J.A.571).

The Commonwealth also contends (at 20) that "Section 903 underscores that Chapter 9 does *not* preempt th[e] entire field"—apparently referring to Section 903's opening clause. But that clause simply clarifies that Congress did not intend, by establishing an exclusive bankruptcy regime, to wrest away

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[10] The passages in BlueMountain's prior filings the Commonwealth cites (at 14-15) asserted that *Congress* occupied the field by legislation. BlueMountain Cert. Opp. 31-33; BlueMountain C.A. Br. 23-24, 53-57; BlueMountain Am. Compl. ¶¶ 42-46.

from state governments control of *other* aspects of their municipalities' affairs. *See Bekins*, 304 U.S. at 50-51. Moreover, precisely because *Faitoute* had relied in part on that reservation of state sovereignty to infer that Congress meant to permit state municipal-insolvency laws, Congress subsequently *added* the preemption clause to negate that inference.[11]

However one parses Section 903(1), Congress's intent in enacting that provision together with Chapter 9's comprehensive framework is clear: Municipal-bankruptcy laws are Congress's domain; States and Territories cannot make up their own.

B. The Recovery Act Irreconcilably Conflicts With Congress's Purposes.

As both courts below correctly concluded, the Recovery Act is independently preempted because it "stands as an obstacle to the accomplishment and execution of the full objectives of Congress." *La. Pub. Serv. Comm'n* v. *FCC*, 476 U.S. 355, 368-69 (1986); *see* Commonwealth-Pet. App. 41a-43a, 108a-09a. The Court can affirm the judgment below on that basis without resolving broader issues of Section

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[11] The Commonwealth's reliance (at 21) on the trust agreement's provision that an order for the "composition" or "adjust[ment]" of PREPA's debts under any "federal or Commonwealth statute" would constitute a "*default*" (J.A.621-22 (emphasis added)) is mystifying. By declaring any non-consensual restructuring a default, *i.e.*, a *breach*, of PREPA's obligations, the agreement makes clear the parties' understanding that PREPA *cannot* lawfully attempt to force a restructuring on its creditors, *even under* a later-enacted Commonwealth law. PREPA elsewhere foreswore "any action taken by which the rights of the Trustee or of the bondholders might be impaired or diminished." J.A.615.

903(1)'s reach. *See Hillman*, 133 S. Ct. at 1949 (holding state law preempted on conflict-preemption grounds, reserving judgment on express preemption).

Congress indisputably enacted Section 903(1)—consistent with the Bankruptcy Clause's command—to ensure that the "bankruptcy law under which bondholders of a municipality are required to surrender or cancel their obligations" remains "uniform throughout" the Nation. H.R. Rep. No. 79-2246, at 4 (J.A.411). The Recovery Act's establishment of a materially *different* municipal-bankruptcy framework applicable *only* to Puerto Rico—with different parameters and prerequisites—erects a roadblock to achieving that congressional objective.

The Recovery Act diverges from the Code not only with respect to *whether* Commonwealth municipalities may seek restructuring, but also regarding key aspects of how restructuring works. For example, under the Code, a restructuring plan generally cannot bind a class of creditors unless it is approved by creditors holding at least two-thirds of the "amount" of participating debt in that class. 11 U.S.C. § 1126(c). Under Chapter 2 of the Recovery Act, in contrast, a plan can bind an entire class with the consent of creditors who hold *less than half* (37.5%) of the debt in that class. *See* Recovery Act §§ 202(d)(2), 204(a) (Commonwealth-Pet. App. 212a-16a). The Code additionally requires that holders of at least one-half of the *number* of claims in the class approve the plan. 11 U.S.C. § 1126(c). The Recovery Act has no counterpart, and consequently enables those who hold a handful of high-value claims to force other creditors to accept a restructuring deal.

The Recovery Act, in fact—unlike the Code—does not even require that non-consenting creditors receive *notice* before the debts owed to them are compromised. While under the Code a debtor "is not discharged" from debts owed to an entity that "had neither notice nor actual knowledge of the case," 11 U.S.C. § 944(c)(2), the Recovery Act binds creditors regardless of whether they have notice, *see* Recovery Act § 115(b)-(c) (Commonwealth-Pet. App. 187a-89a).

The Recovery Act's *sui generis* municipal-bankruptcy protocol for Puerto Rican municipalities is irreconcilable with the framework Congress established. This divergent regime not only frustrates Congress's goal of nationally uniform rules, but contradicts the specific policy choices Congress made in setting the terms on which municipal bankruptcy relief is available. Even if Congress had left room for *some* state and territorial municipal-bankruptcy laws—and it did not—the Recovery Act could not be one of them. It is a direct affront to Congress's choices and objectives and cannot stand.

CONCLUSION

The judgment of the court of appeals should be affirmed.

Respectfully submitted.

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APPENDIX

APPENDIX

U.S. Const. art. I, § 8, cl. 4:

Section 8. The Congress shall have power . . .

* * *

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

* * *

U.S. Const. art. I, § 10, cl. 1:

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

U.S. Const. art. IV, § 3, cl. 2:

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

U.S. Const. art. VI, cl. 2:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Const. amend. X:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Act of June 25, 1910, ch. 412, 36 Stat. 838 *(excerpts)*:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause five of section two of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July first, eighteen hundred and ninety-eight, as amended by an Act approved February fifth, nineteen hundred and three, and as further amended by an Act approved June fifteenth, nineteen hundred and six, be, and the same hereby is, amended so as to read-as follows:

* * *

SEC. 3. That section four, clause a, of said Act, as so amended, be, and the same hereby is, amended so as to read as follows:

> "SEC. 4. WHO MAY BECOME BANKRUPTS.—a. Any person, except a municipal, railroad, insurance, or banking corporation, shall be entitled to the benefits of this Act as a voluntary bankrupt."

SEC. 4. That section four, clause b, of said Act, as so amended, be, and the same hereby is, amended so as to read as follows:

> "Any natural person, except a wage-earner or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company, and any moneyed, business, or commercial corporation, except a municipal, railroad, insurance, or banking corporation, owing debts to the amount of one thousand dollars or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this Act."

* * *

Act of May 24, 1934, § 80(k), ch. 345, 48 Stat. 798, 802:

SEC. 80. MUNICIPAL-DEBT READJUSTMENTS.—

* * *

(k) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any political subdivision thereof in the exercise of its political or governmental powers, including expenditures therefor, and including the power to require the approval by any governmental agency of the State of the filing of any petition hereunder and of any plan of readjustment, and whenever there shall exist or shall hereafter be created under the law of any State any agency of such State authorized to exercise supervision or control over the fiscal affairs of all or any political subdivisions thereof, and whenever such agency has assumed such supervision or control over any political subdivision, then no petition of such political subdivision may be received hereunder unless accompanied by the written approval of such agency, and no plan of readjustment shall be put into temporary effect or finally confirmed with the written approval of such agency of such plans.

* * *

11 U.S.C. § 101. Definitions *(excerpts)*:

In this title the following definitions shall apply:

* * *

(10) The term "creditor" means—

(A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

(B) entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h) or 502(i) of this title; or

(C) entity that has a community claim.

* * *

(12A) The term "debt relief agency" means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.

(13) The term "debtor" means person or municipality concerning which a case under this title has been commenced.

* * *

(40) The term "municipality" means political subdivision or public agency or instrumentality of a State.

* * *

(52) The term "State" includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title.

* * *

11 U.S.C. § 103. Applicability of chapters:

(a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, 12, or 13 of this title, and this chapter, sections 307, 362(o), 555 through 557, and 559 through 562 apply in a case under chapter 15.

(b) Subchapters I and II of chapter 7 of this title apply only in a case under such chapter.

(c) Subchapter III of chapter 7 of this title applies only in a case under such chapter concerning a stockbroker.

(d) Subchapter IV of chapter 7 of this title applies only in a case under such chapter concerning a commodity broker.

(e) SCOPE OF APPLICATION.—Subchapter V of chapter 7 of this title shall apply only in a case under such chapter concerning the liquidation of an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(f) Except as provided in section 901 of this title, only chapters 1 and 9 of this title apply in a case under such chapter 9.

(g) Except as provided in section 901 of this title, subchapters I, II, and III of chapter 11 of this title apply only in a case under such chapter.

(h) Subchapter IV of chapter 11 of this title applies only in a case under such chapter concerning a railroad.

(i) Chapter 13 of this title applies only in a case under such chapter.

(j) Chapter 12 of this title applies only in a case under such chapter.

(k) Chapter 15 applies only in a case under such chapter, except that—

(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

(2) section 1509 applies whether or not a case under this title is pending.

11 U.S.C. § 109. Who may be a debtor:

(a) Notwithstanding any other provision of this section, only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not—

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, home-

stead association, a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958, a small business investment company licensed by the Small Business Administration under section 301 of the Small Business Investment Act of 1958, credit union, or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act, except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or

(3) (A) a foreign insurance company, engaged in such business in the United States; or

(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978) in the United States.

(c) An entity may be a debtor under chapter 9 of this title if and only if such entity—

(1) is a municipality;

(2) is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by

State law to authorize such entity to be a debtor under such chapter;

(3) is insolvent;

(4) desires to effect a plan to adjust such debts; and

(5) (A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(C) is unable to negotiate with creditors because such negotiation is impracticable; or

(D) reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

(d) Only a railroad, a person that may be a debtor under chapter 7 of this title (except a stockbroker or a commodity broker), and an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor under chapter 11 of this title.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than

$250,000 and noncontingent, liquidated, secured debts of less than $750,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than $250,000 and noncontingent, liquidated, secured debts of less than $750,000 may be a debtor under chapter 13 of this title.

(f) Only a family farmer or family fisherman with regular annual income may be a debtor under chapter 12 of this title.

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

(h) (1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section other than paragraph (4) of this subsection, an individual may not be a debtor under this title unless such individual has, during the 180-day period ending on the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

(2) (A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

(3) (A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 7-day period beginning on the date on which the debtor made that request; and

(iii) is satisfactory to the court.

(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.

(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

11 U.S.C. § 502. Allowance of claims or interests *(excerpt)*:

(a) A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor of a general partner in a partnership that is a debtor in a case under chapter 7 of this title, objects.

* * *

11 U.S.C. § 901. Applicability of other sections of this title:

(a) Sections 301, 333, 344, 347(b), 349, 350(b) 351,,[1] 361, 362, 364(c), 364(d), 364(e), 364(f), 365, 366, 501, 502, 503, 504, 506, 507(a)(2), 509, 510, 524(a)(1), 524(a)(2), 544, 545, 546, 547, 548, 549(a), 549(c), 549(d), 550, 551, 552, 553, 555, 556, 557, 559, 560, 561, 562, 1102, 1103, 1109, 1111(b), 1122, 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(b), 1123(d), 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f), 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3), 1129(a)(6), 1129(a)(8), 1129(a)(10), 1129(b)(1), 1129(b)(2)(A), 1129(b)(2)(B), 1142(b), 1143, 1144, and 1145 of this title apply in a case under this chapter.

(b) A term used in a section of this title made applicable in a case under this chapter by subsection (a) of this section or section 103(e)[2] of this title has the meaning defined for such term for the purpose of

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[1] So in original. The second comma probably should follow "350(b)".

[2] See References in Text note below.

such applicable section, unless such term is otherwise defined in section 902 of this title.

(c) A section made applicable in a case under this chapter by subsection (a) of this section that is operative if the business of the debtor is authorized to be operated is operative in a case under this chapter.

11 U.S.C. § 903. Reservation of State power to control municipalities:

This chapter does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of such municipality, including expenditures for such exercise, but—

(1) a State law prescribing a method of composition of indebtedness of such municipality may not bind any creditor that does not consent to such composition; and

(2) a judgment entered under such a law may not bind a creditor that does not consent to such composition.

11 U.S.C. § 941. Filing of plan:

The debtor shall file a plan for the adjustment of the debtor's debts. If such a plan is not filed with the petition, the debtor shall file such a plan at such later time as the court fixes.

11 U.S.C. § 943. Confirmation:

(a) A special tax payer may object to confirmation of a plan.

(b) The court shall confirm the plan if—

(1) the plan complies with the provisions of this title made applicable by sections 103(e)[1] and 901 of this title;

(2) the plan complies with the provisions of this chapter;

(3) all amounts to be paid by the debtor or by any person for services or expenses in the case or incident to the plan have been fully disclosed and are reasonable;

(4) the debtor is not prohibited by law from taking any action necessary to carry out the plan;

(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(2) of this title will receive on account of such claim cash equal to the allowed amount of such claim;

(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and

(7) the plan is in the best interests of creditors and is feasible.

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[1] See References in Text note below.

11 U.S.C. § 944. Effect of confirmation:

(a) The provisions of a confirmed plan bind the debtor and any creditor, whether or not—

(1) a proof of such creditor's claim is filed or deemed filed under section 501 of this title;

(2) such claim is allowed under section 502 of this title; or

(3) such creditor has accepted the plan.

(b) Except as provided in subsection (c) of this section, the debtor is discharged from all debts as of the time when—

(1) the plan is confirmed;

(2) the debtor deposits any consideration to be distributed under the plan with a disbursing agent appointed by the court; and

(3) the court has determined—

(A) that any security so deposited will constitute, after distribution, a valid legal obligation of the debtor; and

(B) that any provision made to pay or secure payment of such obligation is valid.

(c) The debtor is not discharged under subsection (b) of this section from any debt—

(1) excepted from discharge by the plan or order confirming the plan; or

(2) owed to an entity that, before confirmation of the plan, had neither notice nor actual knowledge of the case.

11 U.S.C. § 1126. Acceptance of plan:

(a) The holder of a claim or interest allowed under section 502 of this title may accept or reject a plan. If the United States is a creditor or equity security holder, the Secretary of the Treasury may accept or reject the plan on behalf of the United States.

(b) For the purposes of subsections (c) and (d) of this section, a holder of a claim or interest that has accepted or rejected the plan before the commencement of the case under this title is deemed to have accepted or rejected such plan, as the case may be, if—

(1) the solicitation of such acceptance or rejection was in compliance with any applicable nonbankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation; or

(2) if there is not any such law, rule, or regulation, such acceptance or rejection was solicited after disclosure to such holder of adequate information, as defined in section 1125(a) of this title.

(c) A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

(d) A class of interests has accepted a plan if such plan has been accepted by holders of such interests, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

(e) On request of a party in interest, and after notice and a hearing, the court may designate any entity whose acceptance or rejection of such plan was not in good faith, or was not solicited or procured in good faith or in accordance with the provisions of this title.

(f) Notwithstanding any other provision of this section, a class that is not impaired under a plan, and each holder of a claim or interest of such class, are conclusively presumed to have accepted the plan, and solicitation of acceptances with respect to such class from the holders of claims or interests of such class is not required.

(g) Notwithstanding any other provision of this section, a class is deemed not to have accepted a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to receive or retain any property under the plan on account of such claims or interests.

11 U.S.C. § 1129. Confirmation of plan:

(a) The court shall confirm a plan only if all of the following requirements are met:

(1) The plan complies with the applicable provisions of this title.

(2) The proponent of the plan complies with the applicable provisions of this title.

(3) The plan has been proposed in good faith and not by any means forbidden by law.

(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable.

(5) (A) (i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and

(B) the proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

(6) Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

(7) With respect to each impaired class of claims or interests—

(A) each holder of a claim or interest of such class—

(i) has accepted the plan; or

(ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date; or

(B) if section 1111(b)(2) of this title applies to the claims of such class, each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.

(8) With respect to each class of claims or interests—

(A) such class has accepted the plan; or

(B) such class is not impaired under the plan.

(9) Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that—

(A) with respect to a claim of a kind specified in section 507(a)(2) or 507(a)(3) of this title, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

(B) with respect to a class of claims of a kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of this title, each holder of a claim of such class will receive—

(i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim;

(C) with respect to a claim of a kind specified in section 507(a)(8) of this title, the holder of such claim will receive on account of such claim regular installment payments in cash—

(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and

(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).

(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.

(11) Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

(12) All fees payable under section 1930 of title 28, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan.

(13) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.

(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.

(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.

(16) All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.

(b) (1) Notwithstanding section 510(a) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

(2) For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

(A) With respect to a class of secured claims, the plan provides—

(i) (I) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and

(II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;

(ii) for the sale, subject to section 363(k) of this title, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (i) or (iii) of this subparagraph; or

(iii) for the realization by such holders of the indubitable equivalent of such claims.

(B) With respect to a class of unsecured claims—

(i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section.

(C) With respect to a class of interests—

(i) the plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or

(ii) the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

(c) Notwithstanding subsections (a) and (b) of this section and except as provided in section 1127(b) of this title, the court may confirm only one plan, unless the order of confirmation in the case has been revoked under section 1144 of this title. If the requirements of subsections (a) and (b) of this section are met with respect to more than one plan, the court shall consider the preferences of creditors and equity security holders in determining which plan to confirm.

(d) Notwithstanding any other provision of this section, on request of a party in interest that is a governmental unit, the court may not confirm a plan if the principal purpose of the plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933. In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.

(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).

Puerto Rico Electric Power Authority Act, P.R. Law No. 83-1941 *(excerpts)*:

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22 L.P.R.A. § 207. Right to receivership upon default:

(a) In the event that the Authority shall default in the payment of the principal of, or interest on, any of its bonds after the same shall become due, whether it be a default in the payment of principal and interest or in the payment of interest only at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the Authority or the Board, officers, agents, or employees thereof shall default in any agreement made with the holders of the bonds, any holder or holders of the bonds (subject to any contractual limitation as to a specific percentage of such holders), or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to any court of competent jurisdiction in Puerto Rico for the appointment of a receiver of the undertakings, or parts thereof, the income or revenues of which are pledged to the payment of the bonds so in default, whether or not all the bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right or to exercise any remedy in connection with such bonds. Upon such application the court may appoint, and if the application is made by the holders of twenty-five (25%) per centum in principal amount of such bonds then outstanding, or by any trustee for holders of bonds in such principal amount, shall appoint a receiver of such undertakings.

(b) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of such undertakings and each and every part thereof, and may exclude the Authority, its Board, officers, agents, and employees and all persons claiming under them, wholly therefrom and shall have, hold, use, operate, manage, and control the same and each and every part thereof, and, in the name of the Authority or otherwise, as the receiver may deem best, shall exercise all the rights and powers of the Authority with respect to such undertakings as the Authority itself might do. Such receiver shall maintain, restore, insure, and keep insured, such undertakings and from time to time shall make all such necessary or proper repairs as such receiver may deem expedient, shall establish, levy, maintain, and collect such rates, fees, rentals, and other charges in connection with such undertakings as such receiver may deem necessary, proper and reasonable, and shall collect and receive all income and revenues and deposit the same in a separate account and apply the income and revenues so collected and received in such manner as the court shall direct.

(c) Whenever all that is due upon the bonds, and interest thereon, and upon any notes, bonds, or other obligations, and interest thereon, having a charge, lien, or encumbrance on the revenues of such undertakings and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited as provided therein, and all defaults in consequence of which a receiver may be appointed shall have been cured and made good, the court may, in its discretion and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of such undertakings to the

Authority, the same right of the holders of the bonds to obtain the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

(d) Such receiver shall act, in the performance of the powers hereinabove conferred upon him, under the direction and supervision of the court and shall at all times be subject to the orders and decrees of the court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of the court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth in §§ 191-217 of this title.

(e) Notwithstanding anything in this section to the contrary, such receiver shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the Authority and useful for such undertakings, but the powers of any such receiver shall be limited to the operation and maintenance of such undertakings, and the collection and application of the income and revenues therefrom, and the tribunal shall not have jurisdiction to enter any order or decree requiring or permitting said receiver to sell, mortgage, or otherwise dispose of any such assets.

22 L.P.R.A. § 208. Remedies of bondholders:

(a) Subject to any contractual limitations binding upon the holders of any issue of bonds, or trustees therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of bonds similarly situated:

(1) By mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the Authority and its Board, officers, agents, or employees to perform and carry out its and their duties and obligations under §§ 191-217 of this title and its and their covenants and agreements with bondholders;

(2) by action or suit in equity to require the Authority and the Board thereof to account as if they were the trustee of an express trust;

(3) by action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders, and

(4) to bring suit upon the bonds.

(b) No remedy conferred by §§ 191-217 of this title upon any holder of the bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy, and may be exercised without exhausting and without regard to any other remedy conferred by §§ 191-217 of this title or by any other law. No waiver of any default or breach of duty or contract, whether by any holder of the bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of the bonds, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action, or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the holder of the bonds, or any trustee therefor, then and in every case the Authority and such holder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action, or proceeding had been brought or taken.

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22 L.P.R.A. § 215. Agreement of Commonwealth Government:

The Commonwealth Government does hereby pledge to, and agree with, any person, firm or corporation, or any federal, Commonwealth or state agency, subscribing to or acquiring bonds of the Authority to finance in whole or in part any undertaking or any part thereof, that it will not limit or alter the rights or powers hereby vested in the Authority until all such bonds at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth Government does further pledge to, and agree with, the United States and any other federal agency that in the event that any federal agency shall construct, extend, improve, or enlarge, or contribute any funds for the construction, extension, improvement, or enlargement of, any project for the development of the water resources in Puerto Rico or any portion thereof, the Commonwealth Government will not alter or limit the rights or powers of the Authority in any manner which would be inconsistent with the continued maintenance and operation of the water resources development or the extensions, improvement, or enlargement thereof, or which would be inconsistent with the due performance of any agreements between the Authority and any such federal agency; and the Authority shall continue to have and may exercise all rights and powers herein granted so long as the same shall be necessary or desirable for the carrying out of the purposes of §§ 191-217 of this title and the purpose of the United States or any other federal agency in constructing, extending, improving or enlarging, or contributing funds for the construction, extension, improvement or enlargement of, any water resources development or any portion thereof.