SENADO DEL ESTADO LIBRE ASOCIADO DE PUERTO RICO
San Juan | Oficina de Comunicaciones y Prensa | Comunicado de Prensa

Bhatia urgirá ante el Senado Federal que actúe y no repita los errores del pasado

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Presidente del Senado del Estado Libre Asociado de Puerto Rico, Eduardo A. Bhatia.

SAN JUAN- El presidente del Senado, Eduardo A. Bhatia presentará hoy ante el Comité de Finanzas del Senado Federal una ponencia escrita donde exigirá acción de parte del gobierno federal para que se atiendan con urgencia y responsabilidad los reclamos del pueblo puertorriqueño para conseguir las herramientas que permitan a la Isla atender la situación económica y fiscal que enfrenta.

En su ponencia sometida ante la consideración de la Comisión de Finanzas del Senado federal que preside el senador Orrin Hatch, Bhatia hace un llamado a mirar y aprender de las lecciones que nos ha dado la historia en el tratamiento congresional hacia Puerto Rico. “El Congreso debe mirar de cerca y aprender de las lecciones de la eliminación de la Sección 936”, detalla Bhatia en su escrito.

El líder senatorial explica que las acciones tomadas por el Congreso en la década de 1990, contrario a lo que algunos pronosticaron entonces, contribuyó a la reducción de empresas manufactureras en la Isla, afectando así la base económica del país.

Bhatia subraya además que Puerto Rico no está solicitando un rescate federal. Por el contrario, la propuesta de Puerto Rico se resume en: (a) la solicitud de un mecanismo para la reestructuración ordenada de la deuda y (b) un tratamiento justo por parte del Congreso con respecto a varias políticas federales que afectan de forma particular a los residentes en la Isla.

“He apoyado firmemente la ampliación del Capítulo 9 del Código de Quiebras de Puerto Rico. No hay ninguna base racional para su exclusión. Si el Capítulo 9 se ve ahora como un régimen jurídico deficiente, tal vez el Congreso podría adaptar sus cláusulas de acción a los instrumentos de deuda de Puerto Rico”, manifiesta Bhatia en su ponencia.
En febrero pasado, Bhatia también compareció ante el Subcomité de Reformas Regulatorias, Derecho Comercial y Antimonopolio de la Comisión de lo Jurídico de la Cámara del Congreso de Estados Unidos. En ese entonces se evaluaba ante la Cámara el H.R. 870 de la autoría del comisionado residente, Pedro Pierluisi para incluir a Puerto Rico en el Capítulo 9 del Código de

Quiebras Federal a Puerto Rico y de esa manera, instrumentalidades públicas de Puerto Rico puedan acogerse al Capítulo 9.

En esta ocasión, ante la comisión senatorial, Bhatia explica que, bajo la situación actual, según lo declarado por el honorable Jacob J. Lew, una resolución de las obligaciones financieras de Puerto Rico "podría ser caótico, prolongado y costoso tanto para Puerto Rico, como de manera más amplia para los Estados Unidos".

Bhatia también hace un reclamo para que el Congreso actúe además, para garantizar justicia para los ciudadanos estadounidenses que viven en Puerto Rico. "Por ejemplo, Puerto Rico está experimentando una crisis de salud importante. Como esta comisión es consciente, los puertorriqueños son ciudadanos estadounidenses y pagan los mismos impuestos de Seguro Social y Medicare que los ciudadanos que viven en el continente, pero reciben menos fondos que los 50 estados. El momento de hacer lo correcto", detalla Bhatia.

"Negar a los ciudadanos estadounidenses en Puerto Rico y los demás territorios estadounidenses, igualdad de beneficios de salud en virtud de los programas de asistencia social, desafía los valores estadounidenses de justicia e igualdad y crea un régimen de dos categorías en torno a los cuidados de la salud que reciben los ciudadanos de Estados Unidos", afirma el presidente del Senado, a quien se le permitió someter la ponencia por escrito.

Por último, el líder senatorial recomienda al Congreso que estudie acciones específicas que puede tomar la Reserva Federal y el Tesoro de los Estados Unidos para ayudar a Puerto Rico en la resolución de sus problemas de liquidez a corto plazo.

El presidente del Senado estará atento a los desarrollos de la vista pública en la capital federal mientras se mantiene enfocado en la celebración de las vistas públicas que evalúan el Proyecto del Senado 1456 de su autoría, que propone una reforma educativa para las escuelas públicas de Puerto Rico. Durante el día de hoy, desde las 10:00 am, deponen portavoces de los gremios magisteriales.

XXX

Ponencia del Presidente del Senado, Eduardo A. Bhatia ante el Comité de Finanzas del Senado Federal:

September 28, 2015

Committee on Finance
United States Senate
Washington, DC 20510

Re: *Financial and Economic Challenges in Puerto Rico*

To the Committee:

As President of the Commonwealth of Puerto Rico's Senate, I appreciate the opportunity to provide written testimony to the United States Senate Committee on Finance (the "Committee") on the matter of *Financial and Economic Challenges in Puerto Rico*. The interest taken by the Committee on this matter, a step that recognizes that the fiscal and economic issues currently facing the Commonwealth of Puerto Rico ("Puerto Rico"), requires a degree of federal government involvement unique to the situation, although not unprecedented. Any solution for Puerto Rico will require transparency and achieving consensus, and I recognize the importance of public knowledge and understanding in the ability of a democratic government to formulate sound policies.

To be blunt, the present financial crisis requires that Puerto Rico at the very least be given the necessary tools to enter into an "adjustment facility" which provides a transition path from liquidity to adjustment to debt restructuring, depending on the circumstances as the financial crisis evolves and morphs. Such an approach would also provide a framework that allows Puerto Rico to presumably react appropriately and autonomously to adverse shocks, creating the necessary incentives to avoid frivolous default through a discriminatory selection of justified and unjustified restructuring. Ultimately, the proposed approach would promote a process that combines fiscal adjustment (including policy reform) and debt management in a way that serves the best interests of the people of Puerto Rico and the rest of stakeholders.

The federal government must look deep into the mirror, and examine its historic one-size-fits-all solutions as applied to Puerto Rico's economic and social problems. Since the days of the federalist papers, this great nation has recognized the need to counterbalance this bias. Our willingness to act over the last few years evidences our political will and our readiness to continue this path. But we cannot do it alone, and the time to act is now.

The Role of the Federal Government

In a recent letter by this Committee's Chairman, the Honorable Senator Orrin G. Hatch, to the Honorable Jacob J. Lew, Secretary of the United States Treasury, Senator Hatch argued that the federal government should adopt two principles in addressing the debt difficulties facing Puerto Rico: (1) that there shall not be a federal bailout and (2) orderly resolutions of debt defaults are preferred to chaotic resolutions.

Throughout the modern economic history of Puerto Rico, one of the central drivers of its economic growth has been the United States tax code. The federal government historically had granted various tax incentives to U.S. corporations operating in Puerto Rico, in order to achieve, *inter alia,* economic growth for the island, and regional national security for the United States.

The Federal government must pay serious attention to the current economic situation in Puerto Rico and offer real, effective and timely assistance. To a great extent the Island faces today difficult economic challenges that could have been avoided by sound federal policies in the 1990's and early 2000's. A toxic combination of local and federal policies in the 1990's poisoned the well of Puerto Rico's economy. Without any regard for decades of carefully crafting and building the private economy of the Island around high end

manufacturing assisted by sound federal tax policy, and at the bizarre urging of the then Governor of Puerto Rico, President Clinton and the US Congress repealed Section 936 of the U.S. Internal Revenue Code, over a 10 year phase-out period. The result: many companies left to go to Singapore, India and Ireland, directly causing Puerto Rico's current economic recession lasting already close to 120 months. In the process, the cornerstone of the manufacturing economy of Puerto Rico was shaken with a direct impact to the middle class. Tens of thousands of good paid industrial engineers, chemists, accountants and other professionals have since left the Island. This was the turning point creating a spiraling fall.

Congress must take a close look and learn from the lessons of eliminating Section 936. Contrary to those who had predicted an inflow of tax dollars to the US Treasury by this action, companies that left Puerto Rico moved outside of the United States. As a result neither Puerto Rico nor the people of the United States benefitted from this action. It would not only be wise policy but responsible acceptance of the lessons learned that Puerto Rico be afforded a similar mechanism as it had prior to 2006 under the repealed Section 936. This is a must.

It is important to underscore that the people of Puerto Rico want to work and are not requesting a federal bailout. On the contrary, Puerto Rico's proposals can be summarized as: (a) a request for a mechanism for the orderly resolution of possible debt defaults and (b) treatment by Congress with respect to several federal policies consistent with the law of the land.

I have strongly supported extending Chapter 9 of the Bankruptcy Code to Puerto Rico. There is no rational basis for its exclusion. If Chapter 9 is now seen as a flawed legal regime, perhaps Congress could sanction the retrofitting of collective action clauses for Puerto Rico's debt instruments. At the very least, Puerto Rico should be allowed to enter into binding agreements with its creditors if a majority agree on the best course of action to maximize the return on their investments. So-called "holdouts" not only pose a threat to Puerto Rico, but to a majority of its creditors. Under the status quo, as stated by the Honorable Jacob J. Lew, a resolution of Puerto Rico's financial obligations would "likely be chaotic, protracted, and costly both for Puerto Rico and more broadly for the United States."

There are other actions that can be taken by the federal government that do not rise to the level of a federal bailout, but rather are based on fundamental fairness to the U.S. citizens living in Puerto Rico. For example, Puerto Rico is currently experiencing a significant health crisis. As this Committee is surely aware, Puerto Ricans are U.S. citizens and pay the same Social Security and Medicare taxes as mainland citizens but get less healthcare funding than the other 50 states. The time is always ripe to do the right thing, and denying U.S. citizens in Puerto Rico and the other U.S. territories equal healthcare benefits under long-established social welfare programs defies American values of fairness and equality and creates a two-tier healthcare regime for US Citizens.

Finally, we suggest that Congress should explore specific actions that the Federal Reserve and the United States Treasury could take to assist Puerto Rico in resolving its *short-term* liquidity problems, while in no way resorting to a bailout. A recent study by Dr. Arturo Estrella, Professor of Economics, Rensselaer Polytechnic Institute, listed a menu of options available to the federal government that could assist Puerto Rico consistent with solutions

that have been applied in the past in similar cases, domestic and foreign. He noted that "history shows that when the will is there and the situation is deemed sufficiently important, effective solutions have been found either within the existing legal structure or by advancing that structure further to tackle new problems."[1]

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Once again, I sincerely appreciate the Committee's interest and the opportunity to be heard. I look forward to a constructive dialogue to identify ways we can work together to provide Puerto Rico with the necessary tools to manage these difficult times.

Sincerely,

Eduardo Bhatia
Senate President
Commonwealth of Puerto Rico

[1] Estrella, Arturo. (2014) "Puerto Rico Government Debt and the U.S. Federal Government: Potential Assistance Tools and Policy Practice", available at http://fundacioncarvajal.org/proyecto-fundacion-carvajal/.