

GOVERNMENT OF PUERTO RICO

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Session

SENATE OF PUERTO RICO

S. R. 2641

March 7, 2012

Presented by *Mrs. Soto Villanueva*

RESOLUTION

To request the United States Congress and the Board of Governors of the Federal Reserve to review and amend the discriminatory dispositions of the Expedited Funds Availability Act, 12 USC sections 4001, *et. seq.*, and of Regulation CC of the Board, 12 CFR 229, in order to end the discrimination on the People of Puerto Rico related to the availability of the funds for the checks deposited in their financial institutions.

STATEMENT OF MOTIVES

The Board of Governors of the Federal Reserve is the agency charged with the responsibility to approve, amend, implement and supervise the regulations dealing with the funds that are made available to the customers of the banks doing business in the United States of America and its territories or jurisdictions. In essence the Board of Governors of the Federal Reserve, hereinafter the Board, is in charge of administering and supervising banks in relation to their compliance with the Expedited Funds Availability Act, 12 USC sections 4001, *et. seq.*, with Regulation CC of the Board, 12 CFR 229, and other related statutes and regulations.

These statutes state that all checks deposited in a banking entity or any of its branches in Puerto Rico, their funds will be available to the depositor or consumer one additional day after the date that the funds of any check drawn and deposited in a branch of a bank in the contiguous states would be available. This delay in the funds availability on checks deposited in Puerto Rico adversely affect the opportunity cost of the funds for the Puerto Rican customers, while the banks are investing and taking advantage of said funds.

The above mentioned statutes state as follows:

1. Section 4001, 12 USC sec. 4002(d)(2), as amended, states as follows:

“(2) Extension for certain deposits in noncontiguous states or territories. Notwithstanding any other provision of law, any time period established under subsection (b), (c), or (e) shall be extended by 1 business day in the case of any deposit which is both –

(A) deposited in an account at a depository institution which is located in Alaska, Hawaii, Puerto Rico or the Virgin Islands; and

(B) deposited by a check drawn on an originating depository institution which is not located in the same State, commonwealth, or territory as the receiving depository institution.”

2. Regulation CC as drafted and published in Title 12, Part 229, subpart B, 12 CFR 229.12, as amended, states as follows:

(e) *Extension of schedule for certain deposits in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.* The depository bank may extend the time periods set forth in this section by one business day in the case of any deposit, other than a deposit described in §229.10, that is—

(1) Deposited in an account at a branch of a depository bank if the branch is located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands; and

(2) Deposited by a check drawn on or payable at or through a paying bank not located in the same state as the depository bank.

A simple review and analysis of these statutes clearly show that an adverse discrimination against the People of Puerto Rico has been established. This discrimination has been the rule for many years and nothing has been done by Congress or the Board to correct it.

It could be argued and maybe understood that several years ago, when the Expedited Funds Availability Act was approved in 1987, the technology being used by the banking institutions was not as advanced as it is today. However, in view of the advanced technology in use today, the funds deposited in a bank or any of its branches can or may be collected by said bank overnight or not later than two business days. The time span between the date when the bank has the funds available and the date when the funds are made available to the depositors or clients varies between four to six days. As stated before, this difference allows the banks to benefit from the income that it receives from having those funds available without making those funds

available to the clients, but has an opportunity cost on the consumer or depositor. On a monthly or yearly basis this difference adversely affects the depositor or customer.

In conclusion, the dispositions included in the Expedited Funds Availability Act, *supra*, and in Regulation CC, *supra*, adversely affect the People of Puerto Rico and the same are discriminatory with no reason whatsoever. In view of the above, these statutes should be amended in order to consider the funds of the checks and other financial or negotiable instruments deposited in banks in Puerto Rico or in branches of banks doing business in Puerto Rico on the same basis as the funds of checks deposited in banks doing business in the different states or to be more precise the “continental” or “contiguous” states.

In view of the above the Senate of Puerto Rico has determined that it is of utmost importance that the United States Congress and the Board of Governors of the Federal Reserve review and amend the discriminatory dispositions of the Expedited Funds Availability Act, *supra*, and of Regulation CC, *supra*, in order to end the discrimination on the People of Puerto Rico related to the availability of the funds for the checks deposited in their financial institutions.

RESOLVED BY THE SENATE OF PUERTO RICO:

1 Article 1.- To request the the United States Congress and the Board of Governors of
2 the Federal Reserve to review and amend the discriminatory dispositions of the Expedited
3 Funds Availability Act, 12 USC sections 4001, *et. seq.*, and of Regulation CC of the Board,
4 12 CFR 229, in order to end the discrimination on the People of Puerto Rico related to the
5 availability of the funds for the checks deposited in their financial institutions.

6 Article 2.- Copy of this Senate Resolution will be sent to the Board of Governors of
7 the Federal Reserve and to all members of the United States Congress.

8 Article 3.- This Senate Resolution shall take effect immediately upon its approval.