

Puerto Rico Political Status Plebiscite Act of 1998

AN ACT

To discharge the right under the First Amendment of the Constitution of the United States of America to petition the Congress through the holding of a plebiscite on the scope of the sovereignty of the United States of America over Puerto Rico, and the political status of the citizens that reside on the Island, pursuant to Article IX of the Treaty of Paris of 1898, through the electoral mandate which arises from the options to petition the Congress submitted to the electors and presented as provided in the doctrines of the Supreme Court of the United States, Resolution 1541 (XV) of the United Nations Organization, and the existing interpretations in the Executive and Legislative Branches of the Federal Government regarding the territorial condition of Puerto Rico; establish the prohibitions regarding the publication of announcements; define certain crimes with regard to this plebiscite; appropriate funds; and repeal Act No. 2 of July 4, 1993, known as the "Plebiscite on the Political Status of Puerto Rico of 1993."

STATEMENT OF MOTIVES

One of the most valued rights guaranteed by the Constitution of the United States is the right to petition the Congress for the redress of grievances. This right, whose origin dates back to the Magna Carta of 1215, is an essential part of the collective rights on freedom of thought and expression protected in the First Amendment of our supreme fundamental law:

"The Congress shall not approve any act ... which limits ... the right of the people to peaceably assemble and petition the government for the redress of grievances."

This is, essentially, the right to petition the Representative Body of the People for the redress of grievances and therefore, it constitutes sublime evidence that in our system of government the power rests directly on the individual. This right, which during the 19th century was used by the abolitionist movement in the United States with dramatic effects, is an essential part of a "protection under which individual points of view are inviolable." This is Jefferson's philosophy, "that man's opinions are not subject to the civil government nor to its jurisdiction." Our translation. (Schneider v. Smith, 390 U.S. 17, 25 (1968)).

This precedent is now a source of inspiration for a claim of equal stature.

It is the feeling of the majority of Puerto Ricans and of this Legislature, that Puerto Rico's colonial status is a grievance that must be redressed. The lack of consensus among Puerto Ricans themselves as to the nature of this status inhibited that a clear statement be addressed to the Congress of the United States. As of 1993, the situation changed and as a result, the Government of the United States commenced a true decolonization process which to date has as a tentative result, the approval of H.R. 856 by the House of Representatives of the One Hundred and Fifth (105th) Congress. This process is continuing its course in the United States Senate, and President William J. Clinton has stated his interest and desire that it shall lead to a felicitous and speedy conclusion.

Nevertheless, this moment does not advise us to wait with folded arms. Rather, the moment requires greater commitment, stronger will and more action. This measure intends to formalize the procedure through which the People of Puerto Rico shall express its will on the reaches of United States sovereignty over Puerto Rico and its political status. Therefore, this measure is adopted in a free spirit of collaboration and in harmony with the efforts of those friends of democracy that have joined together in our decolonizing cause throughout the Nation.

Spain ceded the territory of Puerto Rico to the United States under the Treaty of Paris signed in Paris on December 10, 1898, which clearly stated in Article IX that henceforth, "the civil rights and political status of the native inhabitants of the territories thus ceded to the United States shall be determined by the Congress." The inclusion of this provision constituted a recognition of the plenary powers of the Congress to "dispose of, or promulgate all the rules and regulations needed in regard to the territory or any property belonging to the United States," pursuant to Article 4, Section 3, Clause 2 of the Constitution of the United States.

When the change of the sovereignty of Puerto Rico was perfected by virtue of the Treaty of Paris, Article IX established that the political condition of the inhabitants of Puerto Rico and all other territories ceded to the United States would be determined by the Congress. Thus, it was made clear that in the future, the Congress would exercise its plenary powers over Puerto Rico, pursuant to Article 4, Section 3, Clause 2 of the Constitution of the United States.

In the exercise of this plenary and sovereign power, the Congress approved two organic charters for Puerto Rico which established a continuous progressively greater degree of self government in the internal affairs of the territory. It also granted United States citizenship to Puerto Ricans in 1917. Finally, in 1948, it legislated so that Puerto Ricans could elect their own governor.

However, these acts, although beneficial for the development of Puerto Rico and its inhabitants, do not fully satisfy the hopes of the Puerto Rican People. The Island was still an unincorporated territory of the United States. To wit, although Puerto Rico is for International Law purposes a part of the United States, for internal law purposes it is not included as part of the term "United States" in the Federal Constitution. Thus, with the exception of the basic civil guarantees, the provisions of the Federal Constitution do not apply directly to Puerto Rico. Balzac v. Puerto Rico, 258 U.S.C. 298 (1922).

The autonomy of the People of Puerto Rico with regard to its internal affairs was still inferior to that of a State of the Union. Besides, in spite of their condition as United States citizens, Puerto Ricans did not enjoy then, nor do they now, the same rights of their fellow citizens in the States of the Union.

In view of the continued dissatisfaction with Puerto Rico's political status, the Congress approved legislation in 1950, for the People of Puerto Rico to organize a government based on a constitution adopted by themselves, but which required the consent of the President and the Congress of the United States (Act No. 600 of July 3, 1950). The legislation was established with the condition that the People of Puerto Rico would be in agreement with it. This,

however, did not cause the United States to resign its sovereignty over Puerto Rico under the Treaty of Paris.

Once the Puerto Ricans approved the above stated mechanism in a referendum, a Constitutional Convention was convoked which drafted a Constitution. This was ratified by the People of Puerto Rico in a referendum and approved, with amendments, by the Congress of the United States. The Constitution of the political body that was denominated as the *Estado Libre Asociado de Puerto Rico* ("Commonwealth" in English), became effective on July 25, 1952, and is still in effect.

However, it became clear in the debate on Law 600, and the subsequent approval of the Constitution by the Congress, that said process did not alter the political status of Puerto Rico as an unincorporated territory.

Undoubtedly, the delegation of full authority or sovereignty to the government of Puerto Rico on its internal affairs, created an arrangement, as stated by the United States Supreme Court, of a "unique" nature, being the first territory governed under an organic act or constitution drafted and approved by the inhabitants of the territory. The Commonwealth has autonomy over its internal affairs similar to that of a State, Puerto Rico v. Branstad, 483 U.S. 219 (1987); Rodríguez v. Popular Democratic Party, 457 U.S. 1 (1982), etc., but without Puerto Ricans having full and equitable representation in the Congress, and not being able to vote for the President and Vice President. Of greater importance, the authority of the Congress over Puerto Rico under Article 4, Section 3, Clause 2 of the Federal Constitution, still remains unaltered. Harris v. Rosario, 446 U.S. 651 (1980). On the basis of its plenary and

sovereign authority, the Congress can discriminate against Puerto Rico and its residents in ways that would not be permissible if it were a State of the Union.

Once the Constitution of the Commonwealth took effect, the Executive Power of the United States went to the United Nations Organization so that in recognition of the consent given by the People of Puerto Rico, and at the level of its own internal government, the government of the United States would be exempted from rendering reports on its obligation to direct the territory towards a greater degree of self government. Based on the Executive Power's representation, the General Assembly of the United Nations Organization agreed to exempt the United States government from that requirement, upon the approval of Resolution No. 748. That is the scope of said resolution, since, logically, the United Nations Organization cannot alter the territorial status of Puerto Rico, since that is a matter defined by the internal laws of the United States.

Years after the approval of Resolution 748, the United Nations Organization approved specific parameters to define the moment in which a colony has attained an acceptable degree of self government. Accepted at that time as valid decolonizing options were (1) full independence, (2) full integration, known as statehood in the United States constitutional law, and (3) free association, defined as a compact between independent and sovereign countries. Resolution 1741.

What was clearly found with the approval of the local Constitution of Puerto Rico of 1952, is that said process did not close the doors to a future change in the political status of the Island. 4 Diary of

Sessions of the Constitutional Convention 2361, 2364 (Words of delegate Luis Muñoz-Marín), 2556 (Report of the Committee on the Preamble, Ordinances and Procedures of Amendments to the Constitution, on the Preamble).

In harmony with the above, the Legislature of Puerto Rico approved Joint Resolution No. 1, of December 3, 1962, to request the Congress to establish a process to dispose the final political status of Puerto Rico. In response, the Congress approved Public Law 88-271, which created a Political Status Commission. It proposed that a plebiscite be held, which was put into effect on July 23, 1967. In this consultation, the People favored the Commonwealth formula, with 60.4% of the votes cast. Statehood obtained 39.0% and Independence 0.6%.

That plebiscite did not produce any change nor development in Puerto Rico's political status. Therefore, on November 14, 1993, another plebiscite was held. As a result, and for the first time since the present relationship was established in 1952, Commonwealth did not have the full endorsement of the majority of the votes cast. The formula prevailed with a plurality of 48.6% of the votes. Statehood obtained 46.3%, and Independence 4.4%.

In view of this result, the Legislature of Puerto Rico approved Concurrent Resolution No. 24 of November 30, 1993, whereby the Congress was asked to respond to the results of the 1993 Plebiscite, specifically whether the definition of Commonwealth that was submitted to the vote in the 1993 Plebiscite was viable. This was prepared by the Popular Democratic Party, which defended said formula in that plebiscite.

In answer, said definition was taken to the House Committee with jurisdiction, the Committee on Resources of the U.S. House of Representatives. The Committee considered it and defeated it by an overwhelming vote of 32 by 10, and in its place, that Committee, and later the House of Representatives, in full, passed H.R. 856. Said bill would enable the process for a status plebiscite among options defined by the Congress, to be held in 1998.

This is the process from which the parameters that frame this legislation arise.

The plebiscite constitute a claim or petition of the People of Puerto Rico to the Congress of the United States to act and answer the clamor of the voters, which is an obligation of the Congress assumed in the Treaty of Paris, and under the applicable postulates of international law and the resolutions of the United Nations Organization. Therefore, contrary to the previous plebiscites, and since the Congress refused the formula defined unilaterally by its defenders in the 1993 plebiscite, we cannot back up and repeat the same process. We now have a notion of what is viable and what is not so, based on the votes and the discussions in the congressional committees with jurisdiction, and in whole of the Federal House. Having rejected the definition which prevailed by plurality in 1993, it corresponds to Puerto Ricans to make a new claim, based, this time, on what we now know is viable, under constitutional and international law, as well as based on the will prevailing in the Congress and the White House.

On the basis of the above, the Legislature hereby approves this plebiscite process to make it viable for the People of Puerto Rico to petition the Congress to implement the political status that is

avored in the voting provided herein. It is not a matter of submitting unrealistic wishes or hopes to the voters, of making competition between political parties viable, and much less to vote exclusively on what they want. What this process seeks is that after one hundred years from the change of sovereignty and the obligation assumed by the Congress under the Treaty of Paris to determine the political status of the inhabitants of Puerto Rico, they are enabled to make a claim to or petition the Congress under the First Amendment of the Constitution of the United States to exert its powers and act in accordance with the will expressed by the People of Puerto Rico in the democratic exercise of their right to self-determination.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1. Statement of Public Policy

The Legislature, as the legitimate and constitutional representative of the People of Puerto Rico has the power and responsibility of making viable an electoral process that will see to the century-old controversy and dissatisfaction with regard to the scope of the sovereignty of the Congress of the United States over Puerto Rico.

This responsibility is exercised through options that are alien to partisan discourse and controversies, but which are founded within realistic and viable parameters which arise exclusively from Federal Constitutional Law, of Resolution 1541 (XV) of the United Nations Organization in its suppletory nature, and the interpretations in force in the Executive and Legislative Branches of the Federal Government on Puerto Rico's territorial status. Thus, any deviation that could cause local political partisanship and any other discordant criteria is excluded. In this way, this Legislature also

limits itself in its broad discretion when configuring the options for the petitions to the Congress.

- This Act is not adopted to conclusively define any political status formula, since this does not correspond to Puerto Rico unilaterally. Much less does it propose to include a list of wishes and aspirations by each party or ideological sector.
- This Act does not pretend to define the level of power that our People exert through a sovereignty limited to its local government. That is not Puerto Rico's status problem. Nor does this law promote an electoral exercise with mere local consequences.
- Nor does this Act intend to tamper with the accuracy and legal feasibility of the petitions made to Congress, including elements which are accessories to the consigned in each petition. To do so would vitiate the specified constitutional and legal foundations which uphold the validity and feasibility of each petition. Accessory elements, which would fall within the scope of that which would be "desirable" for each ideological sector participating in the process, may be subject to negotiation once the electoral mandate of the People is obtained. Therefore, the ambitions or desires that each ideological sector has are not excluded from this process, but rather assigned to the negotiation stage that follows the expression of the electoral mandate. In this manner, flexibility is guaranteed for each ideological sector to exercise its mandate once it is obtained, within a reasonable period, thus preventing the electoral petition process from being contaminated with desires contrary to law or unfeasible.
- This Act is adopted for the sole purpose of defining the sovereignty that the United States is to exercise over Puerto Rico, if any, and the political condition of the residents of Puerto Rico in relation to the United States.

By means of this plebiscite, a vehicle is provided for the exercise of the fundamental right of citizens to petition the Federal Government for the redress of grievances, recognized in the First Amendment of the Constitution of the United States. Likewise, this vehicle thus afforded is structured within the Federal jurisdiction provided for in Article IX of the Treaty of Paris of 1898, which clearly recognizes that the primary power to determine the political condition of the inhabitants of Puerto Rico rests on the Congress of the United States.

In the plebiscite of 1993 it was proven that the dissatisfaction of the majority of the population regarding the political status issue is not resolved by an electoral mandate based on partisan convenience or, even less so, on goals, desires, and ambitions that are unfeasible, which, when included in the definitions of political status formulas, countervail the bases of Constitutional Law of the United States, International Law, as suppletory applied, and the constructions in force of the Federal Government.

The more concise, realistic, and feasible the premises contained in the mandate, the greater the probability they will have to be negotiated and carried out in Congress by the victor in the consultation. This is the first plebiscite in which Puerto Ricans have the opportunity of voting specifically for options of realistic and feasible petitions in a ballot. Attune with the above, a process alternate to that which would be provided by a Federal act, in which the labels which lead to confusion as the result of the partisan debate and the usual effort of each sector to attempt to define the label of the others, are discarded, is hereby provided. Thus, we apply the very sage maxim: "a rose by any other name would smell as sweet." Our People would be enabled to cast a wiser vote when presented with alternatives of clear and realistic content.

The absence of labels also provides maximum prevention against the manipulation of concepts and names which could be used in different forms and could be likewise interpreted by Congress in a very discretionary manner.

If the scope of the sovereignty that the United States exercises over Puerto Rico or the political condition of Puerto Ricans were to be resolved with the unilateral action of Puerto Ricans, then this

centenary issue would have been resolved ages ago. If this were the case, it would have sufficed to consign a list of the desires and ambitions proposed by each partisan or ideological sector. But all of us are well aware that the legal reality is very different. The two parties must be inevitably involved: the People of Puerto Rico and the People of the United States, represented by its Congress. The bottom line is that any plebiscite process presented by the Legislature must recognize the legal reality referred to above.

The process provided for in this Act is a process to be conducted between petitioners and the petitioned. The contents of the petition must not thwart its feasibility from the start with the party to whom it is addressed. The petition must have legal and constitutional foundations, including the presence of practical precedents which, at the very least, establish the moral obligation of the party thus petitioned.

It is here that the reasonability of this process lies.

Section 2. It is hereby provided that a Plebiscite shall be held on December 13, 1998, in which the People of Puerto Rico shall express their preference from among the political status or petition options to the Federal Government as to the scope of the sovereignty of the United States over Puerto Rico and the political condition of the residents of the Island. Said Plebiscite shall be held in a free, unbiased and democratic manner so that qualified voters may vote in the same and choose from the status options established according to the following alternatives:

1. Should the Congress approve legislation and the President of the United States sign it into law, the definitions of the status options established in said Act shall be used; or
2. Should a Federal Law to enable a plebiscite process concerning the political status of Puerto Rico not be approved, the definitions of

the status options to be used in the Plebiscite shall be provided in Section 4 of this Act exclusively pursuant to the parameters established by the House of Representatives of the One Hundred and Fifth (105th) Congress of the United States in H.R 856, known as the "United States - Puerto Rico Political Status Act."

The petition options to be used in this Plebiscite according to the above stated subsection (b), shall be consonant with the Federal Constitution, the rulings of the Supreme Court of the United States on the political status of Puerto Rico and the power of the United States Congress over Puerto Rico, pursuant to Article IV, Section 3, Clause 2 of the Constitution of the United States of America, as well as Resolution 1541 (XV) of the United Nations Organization regarding the separate sovereignty options.

Section 3. The Commonwealth Election Commission is hereby directed to take final action on the political status or the petition options to the Federal Government to be used in the Plebiscite, pursuant to the provisions of Section 2 of this Act, immediately after the President of the United States signs into law a measure enabling a plebiscite process on the political status of Puerto Rico or the One Hundred and Fifth (105th) Congress of the United States adjourns sine die or on October 12, 1998, whichever occurs first.

Section 4. The Commonwealth Election Commission shall design and print a ballot to be used, which shall uniform in size, printed in black ink on heavy paper so that what is printed thereon does not show through to the back.

The ballot shall be designed according to one of the following alternatives:

1. Should the Congress approve legislation and the President of the United States sign it into law, the ballot shall be designed and printed pursuant to the provisions therein.

Should it not be provided otherwise, the ballot shall bear the following full-width heading at the top: "Plebiscite on the Political Status of Puerto Rico." The ballot shall contain a column for each of the status options stated in said Federal Act.

Likewise, the top of the column shall contain the number of each of the options, respectively. An additional column shall also be provided in the ballot, at the end of the latter, in which the phrase "None of the Above" shall appear. The rest shall remain blank for any voter who does not wish to choose any of the status options included in the ballot, to mark that space exclusively in his/her own handwriting, except in those special cases in which the Electoral Law of Puerto Rico, as amended, allows for a second person to assist the voter at the moment of casting his/her vote. This last column in the ballot, identified with the phrase "None of the Above," is a means provided to grant the individual the right to differ from the options included in the ballot.

1. If a Federal Law is not approved to enable the plebiscite process, the ballot shall be designed with a column for each of the four (4) petition options given within the parameters of the status formulas approved by the House of Representatives of the One Hundred and Fifth (105th) Congress of the United States in H.R. 856, known as the "United States - Puerto Rico Political Status Act." The top of the ballot shall bear the following full-width heading printed in bold: "PETITION TO THE GOVERNMENT OF THE UNITED STATES." Below, and printed full-width shall appear the following text printed in bold: "We, the People, in the exercise of the power vested upon us by the First Amendment of the Constitution of the United States, do hereby firmly petition the Congress of the United States, that with all deliberate haste, and

after one hundred years of political subordination, the political condition of the People of Puerto Rico and the scope of the sovereignty of the United States of America be defined in an unequivocal manner in order to resolve the present territorial problem of the Island under the following option:

The top of each column shall bear the number assigned by lot to each of the petitions, respectively. The petition options shall be placed within the column corresponding in logical order to the number obtained in the drawing. Furthermore, an additional column shall be provided, at the end of the aforementioned four (4) columns, in which the phrase "None of the Above" shall appear.

Immediately below the number assigned by lot to each of the petition options or the phrase "None of the Above," each of the five (5) columns shall have a space provided for the voter to make his mark, exclusively in his/her own handwriting, except in those special cases in which the Electoral Law of Puerto Rico, as amended, allows for a second person to assist the voter at the moment of casting his/her vote.

This last additional column in the ballot, identified as "None of the Above," is included so as to provide a means to allow each voter the opportunity to exercise his/her right to free expression. By virtue of the above, no political party or group, organization or entity may assume official representation of an option

which it identifies with the vote cast under said column for the purpose of availing itself of the provisions of this Act concerning electoral representation, the appropriation of funds or any other responsibility or power conferred by this Act.

Immediately below the space provided for the mark of the voter in each of the first four (4) columns there shall appear the text, in bold, of each of the petition options consigned below in the order to be determined by the aforementioned drawing:

1. "The admission of Puerto Rico into the Union of the United States of America as a sovereign state, with rights, responsibilities and benefits completely equal to those enjoyed by the rest of the states. Retaining, furthermore, the sovereignty of Puerto Rico in those matters which are not delegated by the Constitution of the United States to the Federal Government. The right to the presidential vote and equal representation in the Senate and proportional representation in the House of Representatives, without impairment to the representation of the rest of the states. Also maintaining the present Constitution of Puerto Rico and the same Commonwealth laws; and with permanent United States citizenship guaranteed by the Constitution of the United States of America. The provisions of the Federal law on the use of the English language in the agencies and courts of the Federal Government in the fifty states of the Union shall apply equally in the State of Puerto Rico, as at present."
2. "The application of the sovereignty of the Congress over Puerto Rico, which by virtue of Federal Act 600 of July 3, 1950, delegates upon the Island the establishment of a government limited to matters of a strict local order under its own Constitution. Said local government shall be subject to the authority of the Congress, the Constitution and the laws and treaties of the United States. By virtue of the Treaty of Paris and the Territorial Clause of the Federal

Constitution, the Congress may treat Puerto Rico differently from the states, provided a rational basis exists for doing so. The United States citizenship of the Puerto Rican people shall be statutory. English shall continue to be the official language of the agencies and the courts of the Federal Government which operate in Puerto Rico."

3. "A Treaty which recognizes the full sovereignty of Puerto Rico to develop its relationship with the United States in a noncolonial, nonterritorial association. The United States shall relinquish all of its powers over Puerto Rico upon entering into the Treaty. Puerto Rico shall retain all powers not expressly delegated to the United States. Puerto Rico shall provide over the Puerto Rican citizenship. Current United States citizens in Puerto Rico shall retain their United States citizenship if they so desire, and may pass it on to their descendants, subject to the provisions of United States laws or the Treaty. It should be construed that, as of the effectiveness of the Treaty, the mere fact of having been born in Puerto Rico shall not constitute the right to United States citizenship. The Treaty to be negotiated shall provide for in matters concerning the market, defense, the use of the dollar, economic assistance, and the protection of personal vested rights. The Treaty shall also recognize the sovereign capacity of Puerto Rico to enter into agreements and other international treaties."
4. "The recognition of the fact that Puerto Rico is a sovereign republic with full authority over its territory and its international relationships, with a Constitution that shall be the Supreme Law that provides for a republican government system and the protection of human rights. The residents of Puerto Rico shall owe allegiance to, and shall have the citizenship and nationality of, the Republic of Puerto Rico. Having been born in Puerto Rico or having relatives with statutory United States citizenship by birth, shall no longer be grounds for United States citizenship; except for those persons who had the United States citizenship, who shall have the statutory right to keep that citizenship for the rest of their lives, by right or by choice, as provided by the laws of the Congress of the United States. The benefits of the individuals residing in Puerto Rico, acquired because of services or contributions made to the United States, shall be honored by the United States. Puerto Rico and the United States shall develop cooperation treaties, including economic and programmatic assistance for a reasonable period, free commerce and transit, and military force status."

The additional column identified by the phrase "None of the Above" referred to in subsections (1) and (2) of this Section, is included with the purpose of providing a means to enable all voters to exercise their right of freedom of expression. By virtue of the above, no political party or group, organization, or entity may assume the official representation of an option which it identifies with the vote cast under said column so as to avail itself of the provisions of this Act concerning electoral representation, appropriation of funds, or any other responsibility or power conferred by this Act.

Section 5. The Commonwealth Election Commission shall have the responsibility, without excluding any other functions conferred thereto by virtue of this Act, of organizing, directing, implementing and supervising the Plebiscite process as provided in this Act.

Section 6. Act No. 4 of December 20, 1977, as amended, known as the "Electoral Law of Puerto Rico," and the regulations approved by virtue thereof, shall be considered supplemental to this Act and their provisions shall apply to all the procedures related to the holding of the Plebiscite, as may be necessary, pertinent and compatible with the purposes of this Act and for which no other regime has been adopted. The Commonwealth Election Commission shall be empowered to adopt the regulations or resolutions that may be necessary for this procedure to be carried out and so that the purposes of this Act are met in an effective and equitable manner. In the event there is no unanimous consensus among the Electoral Commissioners and the representatives of the groups, organizations, or entities certified pursuant to the provisions of Section 10 of this Act, concerning the adoption of norms, regulations or resolutions within the terms provided herein, the Chairman shall make the decision for or against according to the

provisions of subsection (e) of Section 1.006 of the Electoral Law of Puerto Rico.

The Local Election Commissions shall perform the functions proper to their responsibilities, adjusting them to the special characteristics of this Plebiscite. The leave that is granted to the Local Commissioners who are public employees by Section 1.021 of the Electoral Law of Puerto Rico shall be in effect for a term of seventy-five (75) days. For the purposes of this Plebiscite, the payment of per diems is authorized as provided in Section 1.029 of the Puerto Rico Electoral Law, as amended, up to a maximum of four (4) monthly meetings. Furthermore, the payment of per diems for representatives of the groups, organizations, and entities certified pursuant to Section 10 of this Act, who are acting as Local Election Commissioners, is hereby authorized, up to a maximum of four (4) monthly meetings.

Section 7. The Commonwealth Election Commission shall announce the Plebiscite through a Proclamation and, to such effect, it shall publish the announcement of the holding thereof in three (3) newspapers of general circulation in the Commonwealth of Puerto Rico within a term of not less than sixty (60) calendar days in advance thereof.

Section 8. All voters duly qualified as such pursuant to the Electoral Law of Puerto Rico shall be entitled to vote in the Plebiscite provided in this Act. The Commonwealth Election Commission shall include in the list of voters all electors with an active record who, as of the date of the Plebiscite, have reached the age of eighteen (18) and appear in the electoral registry, in accordance with Section 16 of this Act. The presentation of the Puerto Rico Electoral

Identification Card shall be required, which shall be perforated after the elector deposits his/her vote, and indelible inking in the voting process, shall be required, pursuant to the Electoral Law of Puerto Rico.

Section 9. The Commonwealth Election Commission shall organize a campaign to guide and inform the Puerto Rican electors on: the holding of a Plebiscite on Puerto Rico's Political Status, on December 13, 1998; exhorting the voters to register and participate in it; the manner in which the voter shall mark the ballot to consign his/her vote thereon; and the contents of the definitions of each of the status or petition options. The Commonwealth Election Commission shall use all communications media and broadcasting techniques available to it for said campaign, including the diffusion of the options contained in the ballot through the television media. The same shall begin fifty-five (55) days before the date on which the Plebiscite is to be held, except with regard to the guidance and information exhorting the voters to register and participate therein, which shall begin immediately after the effective date of this Act. As part of its information and guidance phase, this campaign shall reproduce verbatim in the communications media, the text of the definitions or petitions which shall be submitted to the vote. The Commission shall publish on the Internet and at least once in all the newspapers of general circulation, the text of the definitions or petitions and shall reproduce said text on flyers to be distributed massively.

Likewise, the Commission shall reproduce said texts on large posters, to be displayed in public places, bulletin boards in government offices, registration boards and polling places. The size of the flyers, posters and of the paper on which the ballot is to be

printed and of other publications shall be determined by the Commonwealth Election Commission through regulations.

Section 10. The mainstream, duly registered political parties may participate in official representation of one of the options in the Plebiscite. Their central directive bodies shall inform the Commonwealth Election Commission of said intention, in writing, no later than four (4) days following the date on which the Commonwealth Election Commission publishes the Proclamation referred to in Section 7 of this Act. Any group, organization or entity may request to be certified to officially represent any option that is not represented by a political party. The Commonwealth Election Commission shall proceed to issue a certification accrediting said petition, provided that the group, organization or entity meets the following requirements:

1. If on the date of its certification by the Commonwealth Election Commission said group, organization or entity had legal capacity at the time of the approval of this Act and had a public and recognized history of defending the option in question.
2. That said group, organization or entity wishes to participate actively in the proposed Plebiscite in support of the option of its preference, and that in effect, its central directive body has made the corresponding decision.
3. That the central directive body of said group, organization or entity that will represent the status or petition option of its preference before the government bodies, for all purposes of this Plebiscite, shall notify the Commonwealth Election Commission, in writing, the names and addresses of the members that constitute the directive body of said group, which shall appear on the certification issued by the Commonwealth Election Commission. In order to be certified, the group shall file a number of duly signed and sworn petitions for endorsement with the Commonwealth Election Commission as provided in Section 4.011 of the Electoral Law of Puerto Rico, as amended, equal to not less than three percent (3%) of the electors that voted in the Plebiscite of 1993 for the status option that obtained the least number of votes in said referendum. Said petitions shall only be signed by electors entitled to vote. The Commonwealth Election Commission shall adopt the

norms that shall govern the special form and procedures that shall be observed to implement this provision by a Resolution, no later than five (5) days following the date of approval of this Act. Once these Regulations have been approved, the Commonwealth Election Commission shall immediately make the endorsement petition forms available to the eligible groups. These petitions shall be sworn by officials authorized to do so by law and by those persons that the Commission authorizes.

Section 11. Any bona fide groups of citizens may participate as observers of the electoral process, provided they meet the requirements provided to such effect by the Commonwealth Election Commission through regulations. The Commonwealth Election Commission shall provide by regulations, not later than ten (10) days following the date of approval of this Act, the level of participation that these groups shall have in the Plebiscite process as observers, pursuant to the provisions of the Electoral Law of Puerto Rico, as amended. The citizen groups that wish to participate as observers in the electoral process shall inform the Commonwealth Election Commission of their intent within fifteen (15) days following the date of this Act. In all processes germane to the holding of the plebiscite provided herein, only those parties that have notified the Commonwealth Election Commission of their intention to participate in the Plebiscite and those groups, organizations or entities certified to officially represent one of the four (4) status or petition options, shall be entitled to enjoy all those benefits and powers provided in this Act and in the Electoral Law of Puerto Rico, as amended, including the right to be represented at the polling places and to appoint polling officials.

Likewise, any group of citizens that is certified to represent one of the status or petition options, shall be entitled to appoint a representative before the Commonwealth Election Commission with voice and vote. Likewise, it may appoint representatives with

voice and vote before the Local Commissions and the Unit Boards and polling places.

If a duly registered political party abstains from or fails to participate in the plebiscite provided by this Act in defense of one of the options, its Electoral Commissioner shall not be entitled to vote in the determinations to be made by the Commission regarding said plebiscite. This provision shall also apply to the representative of any organization that, after being certified by the Commission, fails to participate in the plebiscite. The participation of a party or organization that abstains or withdraws from the process, as the case may be, shall likewise be limited, and shall not participate in the local commissions nor be entitled to representation on the Unit Boards or polling places.

Section 12. The electors who are entitled to an absentee vote as provided in Section 5.035 of the Electoral Law of Puerto Rico, as amended, shall file their application under oath, at least thirty (30) days prior to the date of the holding of the Plebiscite. A term of not less than thirty (30) days shall be granted after the ballots have been remitted to the elector by the Commonwealth Election Commission, to adjudicate the absentee votes that are received.

Section 13. The Commonwealth Election Commission shall establish through a resolution, the maximum number of officials or employees of the agency, of the National Guard, professionals and employees who render emergency medical services, Custodial Officers of the Corrections Administration, members of the Firefighters Corps, the Municipal Police or the Police of Puerto Rico assigned to functions on the day the Plebiscite is held, who shall have the right to an early vote.

Section 14. On the day of the Plebiscite, the Police of Puerto Rico shall provide sufficient regular personnel to ensure that public law and order is maintained. In those municipalities in which there are Municipal Police Corps, they shall collaborate with the Police of Puerto Rico in their duties to maintain order and safety in the polling places.

Section 15. The Commonwealth Election Commission shall adopt the rules to carry out the Plebiscite at least forty-five (45) days in advance. The voting rules for this Plebiscite shall be as simple as possible. Since there shall be one single ballot and the elector shall vote for only one of the options, the holding of public hearings for the adoption of the voting rules provided in Section 1.030 of the Electoral Law of Puerto Rico, as amended, shall not apply. Every proposed amendment to said regulations must be filed with the Commonwealth Election Commission by one of the Electoral Commissioners or by a certified representative with voice and vote of said group, organization or entity certified to officially represent one of the status or petition options, and must be approved by unanimity of the votes of the Commissioners and the representatives of the certified groups, organizations, or entities present when the votes are cast. Any amendment submitted to the consideration of said Commission and of the certified representatives of the groups, organizations, or entities that fail to receive such unanimity of votes shall be decided, for or against, by the Chairman, whose decision shall be deemed as the decision of the Commonwealth Election Commission, and may be appealed as provided in the Electoral Law of Puerto Rico, as amended. Provided, that any amendment made during the last twenty (20) days before the voting and until the canvassing is completed, shall be made solely by a unanimity of votes of the Commissioners and

the representatives of the organizations certified pursuant to this Act.

Section 16. The Commonwealth Election Commission shall determine when the voting lists and the closing of the lists shall occur. The date of the last closing of the electoral register shall never be later than fifty (50) days prior to the holding of the Plebiscite. The Commission shall provide measures and remedies in order to guarantee the right to vote of any elector who, for reasons beyond his/her control, was unduly omitted from the electoral register.

Section 17. The Commonwealth Election Commission shall preserve all the ballots and the poll certificates corresponding to the Plebiscite for a term of ninety (90) days from the certification of the results, and they shall then be destroyed, unless a judicial proceeding is pending, in which case, they shall be conserved until there is a final and binding decision.

Section 18. For the purposes of this Act, the Chairman of the Commonwealth Election Commission is hereby authorized to contract the professional services and order the purchase or lease of materials and printing equipment and machines directly from suppliers without the intervention of the Procurement Service of the General Services Administration. Likewise, the Chairman of the Commission is authorized to contract the use of electronic or any other type of machines to carry out the purposes of this Act.

It shall be the obligation of the Government of the Commonwealth of Puerto Rico, its agencies, departments, bureaus, offices, dependencies, instrumentality's, public corporations or their subsidiaries, to transfer to the Commonwealth Election

Commission, free of charge, for its use during a reasonable term, and provided that this will not unduly hinder the public activities they perform, such office equipment and other mechanical, electronic, transportation equipment, personnel or other resources they have available, which are needed to adequately perform the duties imposed by this Act.

Section 19.

1. Without impairment to the provisions of Section 7.003 of Act No. 4 of December 20, 1977, as amended, better known as the "Electoral Law of Puerto Rico," commercial establishments may choose to open for business from three o'clock in the afternoon (3:00 p.m.) to twelve midnight (12:00) on December 13, 1998. This provision shall not be applicable to the operation of a racetrack.
2. The prohibition contained in Section 8.024 of the Electoral Law of Puerto Rico, as amended, regarding the opening or operation of commercial establishments that sell alcoholic beverages shall be applicable on December 13, 1998, during the period comprised from two in the morning (2:00 a.m.) to three in the afternoon (3:00 p.m.) of that day. This prohibition shall at no time be applicable to commercial establishments that operate in hotels, inns, condohotels and cruise ships, and which constitute part of the facilities offered to their guests or visitors, when the sale of alcoholic beverages is for consumption in that same place.

Every commercial establishment found to have violated the prohibition contained in subsection (b) of this Section, shall be sanctioned with a fine of five thousand (5,000) dollars for each violation, or the cancellation of its license or permit to sell alcoholic beverages, or both penalties at the discretion of the Court.

Section 20. Every employer shall have the obligation to grant the necessary time to his/her employees who serve as polling place officials in the Plebiscite and that may thus prove it, without pay and without being charged to any leave. The officials shall have the

obligation to present evidence of their participation in the process through the corresponding certification.

Section 21. No natural or juridical person shall contribute, directly or indirectly, to the plebiscite campaign of a mainstream political party, group, organization or entity that represents one of the status or petition options, or to independent groups supporting any status or petition option, in excess of the following amounts:

1. Natural or juridical persons may make voluntary contributions to a political party or group representing one of the political status options in the Plebiscite up to a total amount of twenty-five hundred dollars (\$2,500). Likewise, natural or juridical persons may make contributions to independent groups or committees supporting one of the options up to the amount of twenty-five hundred dollars (\$2,500). In no case shall the total contributions of one person exceed the amount of five thousand dollars (\$5,000).
2. Any direct or indirect contribution by a banking institution or any institution devoted to lending money; brokerage firms devoted to selling securities; and corporations whose stock is sold in stock markets or to the general public, or by affiliates or subsidiaries thereof, made for purposes of the Plebiscite campaign of any political party or group that represents one of the political status options in the Plebiscite, shall be unlawful.

Section 22. Any person or group of persons not affiliated to a political party or to any group, organization or entity certified or selected to defend one of the options, that receives contributions or incurs independent expenses in excess of twenty-five hundred (2,500) dollars to campaign for or against one of the options, shall register with the Commission within ten (10) days following the date on which they were organized as a group, or the date on which they received the contribution or incurred the expense in excess of the provided herein. The Commission shall provide the procedures for the registration of said groups or persons through regulations, not later than five (5) days after the date of approval of this Act.

Section 23. Any person or group of persons not attached to a political party or to any group, organization or entity certified or selected to defend one of the status options, that independently requests or accepts contributions, or incurs independent expenses for the benefit of one of the options, must publicly reveal and specify that said expense has not been approved by the party or group which represents a status option. Any oral or written communication through which contributions are requested or accepted, or through which independent expenses are incurred for the benefit of a party, group, organization or entity, except any that has been certified or selected, shall indicate clearly and straightforwardly that the activity or announcement published has been made without the authorization of the party or group, organization or entity certified or selected that is benefited.

In any publicized communication, be it oral or written, as provided in this Section, the name of the person, persons or independent group which sponsor(s) and defray(s) the same must always be identified, as well as the name of the treasurer or his/her authorized agent, should it be a political organization or committee.

Section 24.- Sixty (60) days before the date the Plebiscite is to be held and until one day after the date the same was held, the departments, bureaus, offices, dependencies, instrumentality's, public corporations or subsidiaries thereof, municipalities or political subdivisions of the Government of Puerto Rico, the Legislature of Puerto Rico and of the Judiciary Branch, are prohibited from incurring expenses for the purchase of time and space in the public information media to expound their programs, projects, achievements, accomplishments, projections or plans, or to otherwise exert influence, directly or indirectly, on the electors as to

their vote in the Plebiscite on the Political Status of Puerto Rico. Those press notices and announcements expressly required by law are excluded from this provision. Also excluded are those notices used to divulge information of public interest, urgency or emergency, which shall only be allowed by prior authorization of the Commonwealth Election Commission. This provision shall not apply to the Committee created through Joint Resolution No. 58 of June 1, 1997, as amended.

Section 25.- It is prohibited to keep public propaganda or persuasion premises for or against the status options proposed in the Plebiscite, open to the public on the day of the Plebiscite within a radius of one hundred (100) meters from any building or structure where a polling place has been established, which distance shall be measured from any point of the building or structure where the propaganda premise has been installed.

Section 26. No propaganda or persuasion premises for or against the status options proposed in the Plebiscite shall be installed at less than fifty (50) meters from another one or from a political propaganda premise or from the Permanent Registration Boards established previously. The implementation of this Section shall be carried out pursuant to the provisions of Section 8.002 of the Puerto Rico Electoral Act, as amended.

Section 27. In addition to the prohibitions mentioned above, the provisions on prohibitions and offenses established in Sections 8.003 to 8.027 of the Puerto Rico Electoral Act, as amended, shall govern in full force and effect.

Section 28. Any person who violates the provisions of this Act shall be sanctioned upon conviction with the penalty of imprisonment for

not more than six (6) months or a fine which shall not exceed five hundred (500) dollars, or both penalties at the discretion of the Court, except for the penalty established for every business establishment found in violation of the prohibition established in Section 19 of this Act.

Section 29. The Chairman of the Commonwealth Election Commission shall send a certification of the results of the Plebiscite to the Governor of Puerto Rico and to the Secretary of the Department of State not later than forty-eight (48) hours after the general canvassing is completed. The Governor, in turn, shall certify the results to the President and to the Congress of the United States and to the Legislature of Puerto Rico. The Secretary of the Department of State shall publish the results of the general canvassing in the communications media.

Section 30.

1. Should a Federal Law to enable a plebiscite process on the political status of Puerto Rico be approved, the funds appropriated therein shall be distributed in the following manner, unless the said Law provides otherwise:
 1. Fifty percent (50%) of the total amount, to the Commonwealth Election Commission, for the organization and holding of the Plebiscite.
 2. Fifty percent (50%) of the total amount shall be distributed by the Commonwealth Election Commission equitably to the political parties or the group, organization or entity qualified under Section 10 of this Act. This funds shall be available solely for purposes of voter information and guidance.

Should a Federal Law to enable a plebiscite process on the political status of Puerto Rico be approved after distribution of Commonwealth funds for said purpose, and should the appropriation of Federal

funds be equal to the funds appropriated to the Commission for the holding of the Plebiscite herein provided, the Commonwealth Government shall be reimbursed a sum equal to the total of funds used and the expenses shall continue to be drawn against the balance of funds appropriated herein. If the appropriation of Federal funds is less than the funds appropriated through this Act, the latter shall be reduced proportionately to the sum appropriated through the Federal law.

Furthermore, the sum of two million, three hundred thousand dollars (\$2,300,000) is hereby appropriated to the Commonwealth Election Commission from unencumbered funds in the Commonwealth Treasury, for expenses of the information and guidance campaign provided in Section 9 of this Act. The Chairman of the Commonwealth Election Commission is hereby authorized to promptly direct and execute the education and guidance campaign pursuant to the provisions in subsection (h) of Section 1.011 of the Puerto Rico Electoral Law, as amended.

1. Should the 105th Congress not approve a measure enabling a plebiscite process for Puerto Rico, the total sum of nine million (9,000,000) dollars shall be appropriated to the Commonwealth Election Commission from unencumbered funds in the Commonwealth Treasury, immediately after the approval of this Act, to be distributed as follows:
 1. Four million, seven hundred thousand dollars (\$4,700,000), for the organization and holding of the Plebiscite.
 2. Two million, three hundred thousand dollars (\$2,300,000), for the expenses of the information and guidance campaign provided in Section 9 of this Act.
 3. Two million (2,000,000) dollars, to be allotted equitably to the political parties or those groups, organizations or

entities certified pursuant to the provisions of Section 10 of this Act, so that they may use said funds to conduct a campaign of education and guidance on the benefits and advantages of the petition they were certified to defend by the Commonwealth Elections Commission. Seventy-five percent (75%) of the sum received by each political party group, organization or entity shall be directly, exclusively and totally used for the information and guidance campaign for voters, through massive communications media and broadcasting techniques, in favor of the status or petition option that each one represents. To such effects, every announcement, message, notice, promotion or other advertising medium sponsored by a political party, group, organization, or entity, paid for from the funds received pursuant to the provisions of this subsection, shall bear, in a conspicuous manner, the phrase "Vote for," and immediately after, the option that said political party, group, organization, or entity was certified to represent. Said funds shall not be available until October 12, 1998.

All the funds received by the party, group, organization, or entity certified to officially represent one of the status or petition options which have not been spent or encumbered as of December 13, 1998, for purposes consistent with this Act, shall be immediately reimbursed to the Commission.

Should a political party or group, organization, or entity certified to officially represent one of the status or petition options cease to sponsor or participate in this Plebiscite after having received funds pursuant to this subsection, it shall immediately reimburse any unspent remaining amount of money to the Commission. Furthermore, should there exist no major cause in determining not to participate, in the judgment of the Commission,

the total amount of money received under this subsection shall be reimbursed.

4. The Commission shall regulate all matters concerning the filing of the financial statements by the parties and groups, organizations or entities receiving funds under this Act.

Section 31. Act No. 22 of July 4, 1993, known as the "Puerto Rico Political Status Plebiscite Act of 1993," is hereby repealed.

Section 32. The provisions of this Act shall be considered to be related one to another and shall not be construed fragmentarily, but as a whole. In the exercise of its constitutional faculties under Article III of the Constitution, the intention of the Legislature shall be that the petitions to be voted on shall be solely and exclusively those provided in Section 4 of this Act, and that there shall be no others. Any change, alteration, modification, or substitution of the petitions or their contents, or if any part of this Act is declared null and void because of its unconstitutionality, total effectiveness of this Act shall cease immediately, and the body of laws shall return to the situation existing before its approval. It shall be understood that it is the intention of the Legislature that said determination of nullity shall affect the totality of this Act. Cease of effectiveness of this Act shall not affect the lawfulness of the situations carried out thereunder, prior to its declaration of nullity by unconstitutionality, but its effects shall terminate upon the ceasing of its effectiveness.

Section 33. This Act shall take effect immediately after its approval.

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