

Washington Update



MUNICIPAL BANKRUPTCY BILL LANGUAGE RELEASED

On January 6, Rep. John Conyers (D-MI) introduced H.R. 95, the Protecting Employees and Retirees in Municipal Bankruptcies Act of 2015. The bill would amend Chapter 9 of Title 11 of the United States Code to improve protections for employees and retirees in municipal bankruptcies; the bill has been referred to the House Judiciary Committee with three cosponsors. The bill reads as follows:

- Amends federal bankruptcy law with respect to the requirement for a municipality to be a debtor under Chapter 9 (Adjustment of Debts of a Municipality) that the municipality has negotiated in good faith with creditors and failed to obtain the agreement of those
- holding at least a majority in amount of the claims of each class that the municipality intends to impair under a plan.
- Requires that, with respect to creditors who are the municipality's employees or retirees, "good faith" has the same meaning as it does in the National Labor Relations Act.
- Requires the municipality also to establish by clear and convincing evidence that it satisfies all eligibility criteria.
- Repeals the limitation placed upon on court authority to issue a stay pending an appeal of an order for relief.
- Amends the Judicial Code to confer upon the appropriate court of appeals jurisdiction of any appeal of a bankruptcy court determination that an entity is eligible to be a municipal debtor. Requires the appellate court to consider and determine such appeal on an expedited basis as a direct appeal, which shall be reviewed and heard de novo on the merits.
- Requires the court to confirm the bankruptcy plan of a municipality which modifies a collective bargaining agreement or a retiree benefit in any manner otherwise prohibited by nonbankruptcy law if the plan is agreed to by the authorized representative of either the employees covered by collective bargaining or the individuals receiving the retiree benefits.
- Designates the labor organization signatory to a collective bargaining agreement as the authorized representative of individuals receiving retiree benefits covered by that agreement.



- Sets forth procedures for court appointment of an authorized representative if a labor organization elects not to serve as one, or if the retired employees are not covered by a collective bargaining agreement.

The Protecting Employees and Retirees in Municipal Bankruptcies Act of 2015 does not have a hearing scheduled for consideration at this time.

COFAR UNIFORM GUIDANCE INPUT REQUESTED

The Council on Financial Assistance Reform has posted a new survey on its webpage for non-federal stakeholders to provide feedback regarding the Uniform Guidance's overall impact on burden and waste, fraud and abuse. Responses will be reviewed by the COFAR and the U.S. Office of Management and Budget to help evaluate the extent to which the Uniform Guidance achieves the COFAR's goals. The survey will be available through March 17 and can be found at <https://survey.max.gov/index.php/661947/lang-en>.

COFAR details on the Uniform Guidance can be found at <https://cfo.gov/cofar/>.

HOUSE EXAMINES PUERTO RICO BANKRUPTCY OPTIONS

Last Thursday, the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law held a hearing to examine the possibility of allowing Puerto Rico to declare bankruptcy. H.R. 870, the Puerto Rico Chapter 9 Uniformity Act of 2015, would amend Title 11 of the United States Code to treat Puerto Rico as a state for purposes of Chapter 9 relating to the adjustment of debts of municipalities.

Testimony was heard from Mr. John Pottow Esq., professor of law at the University of Michigan Law School; Ms. Melba Acosta Esq., president of the Government Development Bank for Puerto Rico; Mr. Robert Donahue, managing director at Municipal Market Analytics; and Mr. Thomas Moers Mayer Esq., partner and co-chair, Corporate Restructuring and Bankruptcy Group, Kramer Levin Naftalis & Frankel LLP.

Hearing details and a copy of H.R. 870 can be found at <http://judiciary.house.gov/index.cfm/hearings?ID=809AB2A9-78F5-4FCE-8E6D-955F5B6039DE>.

WASHINGTON STAFF

CORNELIA CHEBINOU
Washington Director
cchebinou@nasact.org

NEAL HUTCHKO
Policy Analyst
nhutchko@nasact.org

TANYA GRAYSON
Administrative Assistant
tgrayson@nasact.org

National Association of State
Auditors, Comptrollers and Treasurers

HEADQUARTERS OFFICE

449 Lewis Hargett Circle, Suite 290
Lexington, KY 40503-3590
P (859) 276-1147, F (859) 278-0507

WASHINGTON OFFICE

444 N. Capitol Street, NW, Suite 234
Washington, DC 20001
P (202) 624-5451, F (202) 624-5473

www.nasact.org

For more information on this newsletter's content, contact Cornelia Chebinou at cchebinou@nasact.org or (202) 624-5451.

Washington Update