

(S. B. 427)

**(No. 23-2017)**

(Approved April 19, 2017)

## **AN ACT**

To amend Articles II, III, IV, V, VI, VII, IX, and X of Act No. 7-2017, known as the “Puerto Rico Immediate Decolonization Act,” in order to include the current territorial status that subjects Puerto Rico to the plenary powers of the Congress of the United States of America, among the status options available to voters in the ballot of the Plebiscite to be held on June 11, 2017; modify the plebiscite in order to fulfill the requests of the United States Department of Justice and ensure that the federal Government abides by the outcome of the Plebiscite; and for other related purposes.

### **STATEMENT OF MOTIVES**

Act No. 7-2017, better known as the “Puerto Rico Immediate Decolonization Act,” provided for a process to end Puerto Rico’s colonial relationship with the United States established in 1898, which relationship has led us to a bankruptcy; allowed the political, social, and financial discrimination by Congress regarding federal programs; and served as the legal basis to impose on us a Fiscal Oversight Board that was not elected by the U.S. citizens residing in Puerto Rico.

Said Act provided that, pursuant to Public Law 113-76 (2014) approved by the 113<sup>th</sup> U.S. Congress, the U.S. Attorney General shall review the “options that would resolve Puerto Rico’s future political status.” For such reason, the options set forth in Act No. 7-2017, *supra*, were limited to non-colonial and non-territorial status options that would resolve the democratic deficit of the current territorial and colonial status after 119 long years. Attempting to “resolve” an issue by proposing as an alternative the issue itself, which involves discrimination, inequality and injustice, is a clear contradiction.

Reports on the political status of Puerto Rico commissioned by the White House, extensive debates at the U.S. Congress, and the holding of the Supreme Court of the United States in *Sánchez-Valle* make the political inferiority of the U.S. citizens residing in Puerto Rico under the current territorial and colonial status of the Island absolutely clear.

The foregoing notwithstanding, on April 13, 2017, the U.S. Attorney General, through his Acting Deputy Attorney General, set forth in writing that the Plebiscite should undergo several changes to be deemed acceptable, funded and, thus, sanctioned by the Federal Government. First, the current territorial status shall be included in the plebiscite. Second, it is necessary to clarify that the Free Association option entails a “complete and unencumbered Independence,” and that the Enhanced Commonwealth is unconstitutional and thus unacceptable for the U.S. Congress. Lastly, the U.S. Department of Justice pointed out that mentioning the “negotiation” of the U.S. citizenship as described under the Free Association option on the ballot would be potentially misleading and unacceptable, since it does not recognize that the current territorial status entails the statutory right to birthright citizenship. The U.S. citizenship upheld under the current territorial status was granted by virtue of the Jones Act of 1917 and a Congress could eliminate it by repealing or amending said Act, while U.S. citizenship in the states is granted by virtue of the Constitution of the United States of America and may not be revoked by a mere Federal legislation.

The statements of concern in the U.S. Department of Justice’s letter are the following:

The ballot’s description of the “Statehood” option contains the following statement: “I am aware that Statehood is the only option that guarantees the American citizenship by birth in Puerto Rico.” This statement is inaccurate when considered in the context of all available

status options, as under current law, Puerto Ricans have an unconditional statutory right to birthright citizenship. The sentence therefore is potentially misleading and reinforces the ballot's flawed omission of an option for retaining Puerto Rico's current territorial status.

This interpretation of the U.S. Department of Justice is ambiguous and promotes confusion by giving Puerto Rico citizens the impression that the recognition of the U.S. citizenship at birth is permanently guaranteed, including to future generations of those born in Puerto Rico. The only political status that guarantees U.S. citizenship constitutionally, permanently, and equally for all citizens born therein is being a state of the Union.

The Department fails to mention that recognition of U.S. citizenship for the United States territories depends on the affirmative actions, the will, and discretion of the Congress. In territories such as Puerto Rico, Congress may or may not grant citizenship. Even if Congress grants citizenship to a colonial territory, it is a statutory citizenship and does not entail the full constitutional rights and guarantees upheld for U.S. citizens born in the states. In the specific case of Puerto Rico, Congress provided for U.S. citizenship in Section 302 of the Immigration and Nationality Act (8 U.S.C. 1402). In Puerto Rico, U.S. citizenship is evidently statutory, has no permanent guarantee, and is contingent upon the territorial status where the United States exercises its sovereignty under the "territory clause."

The Department also stated that:

The description of "Free Association" contains the following statement:

"With my vote, I make the initial request to the Federal Government to begin the process of the decolonization through: (1) Free Association: Puerto Rico should adopt a status outside of the Territory Clause of the Constitution of the United States that recognizes the sovereignty of the

People of Puerto Rico. This statement does not make clear that a vote for “Free Association” is a vote for complete and unencumbered independence. Describing Free Association in this manner may lead voters to think that this choice is an “enhanced Commonwealth” option. The Department and Task Force have rejected as unconstitutional the previous “enhanced Commonwealth” proposals that would have given Puerto Rico a status outside of the Territory Clause, but short of full independence, and would have further provided that the relationship between the United States and Puerto Rico could only be altered by mutual consent. *See* 2005 Task Force Report at 6; 2007 Task Force Report at 6; 2011 Task Force Report at 26; *see also* 2005 Task Force Report, App’x E (Letter from Ronald Raben, Assistant Attorney General, Office of Legislative Affairs, to Hon. Frank H. Morkowski, Chairman, Committee on Energy and Natural Resources, United States Senate (Jan. 18, 2001); *cf. Mutual Consent Provisions in the Guam Commonwealth Legislation*, 1994 WL 16793765 (O.L.C.) (July 28, 1994).

The description of the “Free Association” states that “under this option the American citizenship would be subject to negotiation with the United States Government,” but the description of “Independence” is silent as to citizenship. Voters may misperceive this difference to suggest that Free Association is an “enhanced Commonwealth” option, when the reality is that both choices would result in a complete and unencumbered independence and both would require and assessment of a variety of issues related to citizenship.

Notwithstanding our objection and rejection to the proposal of the current territorial status as a solution to the status issue of Puerto Rico, because we deem that finding a definite solution to the main cause of the social and economic problems of the U.S. citizens residing in Puerto Rico to be unavoidable, this Legislative Assembly and the Governor of Puerto Rico have decided to amend the Act in accordance with the recommendations of the U.S. Department of Justice. In doing so, we shall obtain the unwavering support of the Government of the United States of America to the plebiscite to be held on June 11, 2017.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

**Section 1.-** Article II of Act No. 7-2017, is hereby amended to read as follows:

“ARTICLE II: Definitions

For purposes of this Act, the term:

(a) ...

...

(t) ‘Plebiscite’- means ‘Statehood, ‘Free Association/Independence’ or ‘Current Territorial Status’ election event to be held on June 11, 2017.

(v) ...

**Section 2.-** Article III of Act No. 7-2017 is hereby amended to read as follows:

“ARTICLE III: Declaration of Public Policy

Section 1.- Public Policy

(a) ...

(b) ...

(c) ...

(d) ...

(e) After 119 years, the purpose of the plebiscite herein provided is the immediate decolonization of Puerto Rico, as expressed by a majority of voters in the 2012 Plebiscite. Any attempt to induce or propose changes to the current territorial

status through another modality or method of judicial interpretation that maintains Puerto Rico subject to the ‘territory clause’ of the U.S. Constitution, which continues to cause us so much harm as a People, would face the rejection of the United States citizens of Puerto Rico and this Legislative Assembly, which was democratically chosen to represent them. However, due to the position stated by the U.S. Department of Justice, we have acted, under protest, on its recommendation to include the current territorial status among the options, so that the Plebiscite may be fully supported by the Federal Government.

(f) ...

(g) ...

(h) Moreover, it is also exercised providing for the holding of a plebiscite with status options that:

i. Are final, permanent, non-territorial, and non-colonial, and outside of the scope of any modality or method of juridical interpretation of the ‘territory clause’ of the Constitution of the United States (Article IV, Section 3, Clause 2). However, due to the position stated by the U.S. Department of Justice, we have acted, under protest, on its recommendation to include the current territorial status among the options, so that the Plebiscite may be fully supported by the Federal Government.

ii. ...

iii. ...

iv. ...

(i) ...

(j) ...

(k) ...

(l) Therefore, should any of the non-territorial and non-colonial options be favored in the plebiscite to be held pursuant to this Act, upon certification of the

official results thereof by the State Election Commission (CEE), we shall urge the Federal Government to act immediately to begin a transition process that ends the imposition of any territorial-colonial condition on Puerto Rico, under any modality or method of juridical interpretation of Article IV, Section 3, Clause 2 of the Constitution of the United States of America, and to implement the status option favored by a majority of citizens, according to the Plebiscite or Referendum provided for herein, immediately and with certainty of a specific and swift timetable.”

**Section 3.-** Article IV of Act No. 7-2017 is hereby amended to read as follows:

“ARTICLE IV: ‘Plebiscite on Puerto Rico’s Status’

Section 1.- Call

(a) ...

(b) The State Election Commission shall announce the Plebiscite through a Proclamation to be published on April 24, 2017 in three (3) newspapers of general circulation in Puerto Rico, in both Spanish and English. In addition to the institutional logo and the name of the State Election Commission of Puerto Rico, the heading of the proclamation shall include the date and the title ‘Plebiscite on the Immediate Decolonization of Puerto Rico (2017).’

...

SECOND: The voting process shall be conducted in ‘open polling places’ from eight o’clock in the morning (8:00 am) to three o’clock in the afternoon (3:00 p.m.). There shall be a single ballot that includes ‘Statehood,’ ‘Free Association/Independence, and the ‘Current Territorial Status’ as status options. Said options for the political status are not incompatible with the Constitution, the laws, and the policies of the United States of America, according to the U.S. Department of Justice. This Plebiscite meets the conditions imposed by the Congress and the President of the United States of America upon the approval of Public Law

113-76, the ‘Consolidated Appropriations Act (2014),’ the corresponding congressional report on said Federal law; and the position of the U.S. Department of Justice as stated on April 13, 2017.

...

## Section 2.- Plebiscite: Status Options

(a) The three (3) status options pursuant to the provisions of Public Law 113-76 (2014), the requirements established in the ‘Report of the Committee on Appropriations (2014)’ concerning said Federal law, and the position of the U.S. Department of Justice as stated on April 13, 2017, shall be presented to voters on the ballot according to the texts below:

### i. Estadidad

Con mi voto, reitero mi petición al Gobierno federal para comenzar de inmediato el proceso para la descolonización de Puerto Rico con la admisión de Puerto Rico como estado de la unión de los Estados Unidos de América.

Soy consciente de que el resultado de esta petición de Estadidad, conllevaría iguales derechos y deberes con los demás estados; y la unión permanente de Puerto Rico con los Estados Unidos de América. Soy consciente, además, que mi voto en reclamo de la Estadidad significa mi apoyo a toda gestión dirigida a la admisión de Puerto Rico como un estado de la Unión y a toda legislación estatal o federal dirigida a establecer la igualdad de condiciones, la Representación Congressional y el Voto Presidencial para los ciudadanos americanos de Puerto Rico.

### Statehood

With my vote, I reiterate my request to the Federal Government to immediately begin the process for the decolonization of Puerto Rico with the admission of Puerto Rico as a state of the United States of America.

I am aware that the result of this request for Statehood would entail equal rights and duties with the other states, and the permanent union of Puerto

[sic]. I am also aware that my vote claiming Statehood means my support to all efforts towards the admission of Puerto Rico as a state of the Union, and to all state or federal legislation aimed at establishing equal conditions, Congressional Representation and the Presidential Vote for the American Citizens of Puerto Rico.

ii. Libre Asociación/Independencia

Con mi voto realizo la primera petición al Gobierno Federal para comenzar el proceso de descolonización a través de: (1) ‘Libre Asociación’: prefiero que Puerto Rico adopte un estatus fuera de la cláusula territorial de la Constitución de lo Estados Unidos, que reconozca la soberanía del pueblo de Puerto Rico como una completa y absoluta Independencia. La Libre Asociación se basaría en una asociación política libre y voluntaria, cuyos términos específicos se acordarían entre Estados Unidos y Puerto Rico como naciones soberanas. Dicho acuerdo dispondría el alcance de los poderes jurisdiccionales que el pueblo de Puerto Rico autorice dejar en manos de Estados Unidos y retendría los restantes poderes o autoridades jurisdiccionales; o (2) La Proclamación de la ‘Independencia’, demando al Gobierno de los Estados Unidos que, en el ejercicio de su poder para disponer del territorio, reconozca la soberanía nacional de Puerto Rico como una nación totalmente independiente y que el Congreso federal promulgue la legislación necesaria para iniciar la negociación y la transición hacia la nación independiente de Puerto Rico. Mi voto por la Independencia representa, además, mi reclamo de los derechos, deberes, poderes y prerrogativas de las repúblicas independientes y democráticas; mi apoyo a la ciudadanía puertorriqueña; y un ‘Tratado de Amistad y Cooperación’ entre Puerto Rico y los Estados Unidos con posterioridad al proceso de transición.

Free Association/Independence

With my vote, I make the initial request to the Federal Government to begin the process of the decolonization through: (1) Free Association: Puerto Rico should adopt a status outside of the Territory Clause of the

Constitution of the United States that recognizes the sovereignty of the People of Puerto Rico as a complete and unencumbered Independence. The Free Association would be based on a free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico as sovereign nations. Such agreement would provide the scope of the jurisdictional powers that the People of Puerto Rico agree to confer to the United States and retain all other jurisdictional powers and authorities; (2) Proclamation of Independence, I demand that the United States Government, in the exercise of its power to dispose of territory, recognize the national sovereignty of Puerto Rico as a completely independent nation and that the United States Congress enact the necessary legislation to initiate the negotiation and transition to the independent nation of Puerto Rico. My vote for Independence also represents my claim to the rights, duties, powers, and prerogatives of independent and democratic republics, my support of Puerto Rican citizenship, and a 'Treaty of Friendship and Cooperation' between Puerto Rico and the United States after the transition process.

ii. Actual Estatus Territorial

Con mi voto expreso que deseo que Puerto Rico se mantenga como está hoy, bajo los poderes plenarios del Congreso y sujeto a la cláusula territorial de la Constitución de Estados Unidos que en su Artículo 4, Sección 3 de la Constitución de Estados Unidos establece que: 'El Congreso tendrá facultad para ejecutar actos de disposición y para formular todos los reglamentos y reglas que sean precisos con respecto a los territorios y otros bienes que pertenezcan a los Estados Unidos, y nada de lo que esta Constitución contiene se interpretará en un sentido que cause perjuicio a los derechos aducidos por los Estados Unidos o por cualquier Estado particular'.

## Current Territorial Status

With my vote, I express my wish that Puerto Rico remains, as it is today, subject to the powers of the Congress and subject to the Territory Clause of the United States Constitution.-that in the Article 4, Section 3 of the United States Constitution states: ‘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.’

### Section 3.- Plebiscite: Implementation of Status Options

(a) ...

i. If the ‘Statehood’ option is favored by a majority vote and not later than fifteen (15) days after the official certification of a majority vote in favor of ‘Statehood,’ the Governor shall appoint a ‘Transition Commission’ composed of seven (7) members, to wit: three (3) officials of the Government of Puerto Rico, who shall be the Governor and the two Presiding Officers of the Legislative Assembly, the Resident Commissioner in Washington, D.C., and three (3) members to be certified by the State Election Commission as ‘main representatives’ of this option. This Transition Commission shall be the sole representative of Puerto Rico in all matters and negotiations pertaining to the ‘Transition Plan’ as proposed to the Federal Government. If there were no party, citizen group, or political action committee certified to represent the ‘Statehood,’ then the three (3) officials of the Government of Puerto Rico (the Governor, the two Presiding Officers of the Legislative Assembly) and the Resident Commissioner in Washington, D.C. shall constitute the ‘Transition Commission.’ Not later than thirty (30) days after the ‘Transition Commission’ is fully constituted, it shall draft and propose to the Governor a ‘Transition Plan’ with an appropriate timetable that asserts the democratic and majority expression for ‘self-determination.’ This Plan shall be

approved by the Governor who may, in turn, amend, approve, or reject it. Once the Governor approves the Plan, the same shall be submitted to Congress leaders of both national political parties and to the President of the United States for the purpose of implementing the transition process as promptly as the People of Puerto Rico warrant. If the Federal Government fails to act thereon, the Governor and the Legislative Assembly shall take any civil and legal actions as are necessary to enforce the self-determination of the U.S. citizens of Puerto Rico.

ii. If the ‘Free Association/Independence’ option is favored by a majority vote we shall wait for the results of a majority vote in the Referendum established herein. This Referendum shall be held on October 8, 2017, and the ballot shall only include options for sovereignty separate from the United States with a treaty of ‘Free Association’ or ‘Independence,’ as defined in Article VI, Section 2(a)(i)(ii).

#### Section 4.- Plebiscite Ballot Design

(a) ...

(b) ...

(c) The following instructions for voters shall be included under or below the aforementioned text:

#### INSTRUCCIONES AL ELECTOR

El elector sólo puede escoger y marcar una (1) alternativa de estatus político en esta papeleta. Debe hacer una marca válida dentro del rectángulo que aparece debajo de la figura geométrica de la alternativa de estatus político de su preferencia. En esta papeleta usted tiene derecho a seleccionar solo una alternativa de estatus. La papeleta marcada por más de una alternativa de estatus se considerará mal votada. Cualquier símbolo o escritura fuera de uno de los rectángulos será considerada inconsecuente. Toda papeleta votada en blanco, así como la mal votada, no será clasificada como papeleta adjudicada en los resultados oficiales que

certifique la Comisión Estatal de Elecciones, según la jurisprudencia del Tribunal Supremo de Puerto Rico.

#### INSTRUCTIONS FOR THE VOTER

The voter can only choose and mark one (1) alternative of political status on this ballot. You must make a valid mark inside the square that appears below the geometric figure of the alternative of political status of your preference. In this ballot you have the right to choose only one status alternative. The ballot marked with more than one status alternative will be considered wrongly voted. Any symbol or writing outside of the rectangles will be considered inconsequential. All ballots not voted and/or wrongly voted will not be accounted in the official results certified by the State Elections Commission, according to the jurisprudence of the Supreme Court of Puerto Rico.

(d) Below the aforementioned text, only three (3) columns shall appear side by side in bold type; one column for each one of the status options.

(e) The upper part of each column shall feature, in the largest possible size, the geometric shape (triangle, circle or square) which shall be assigned as follows: ‘Statehood’ shall be represented with a triangle, ‘Free Association/Independence’ shall be represented with a circle, and the ‘Current Territorial Status’ shall be represented with a square. In addition, the options shall appear in columns on the ballot in the following order: ‘Statehood’, ‘Free Association/Independence’ and the ‘Current Territorial Status.’

(f) ...

(g) Below each geometric shape, there shall appear a white rectangle where the voter shall make a mark. Likewise, the corresponding names of the status options, ‘Statehood,’ ‘Free Association/Independence,’ or ‘Current Territorial Status,’ shall appear below the white rectangle.

(h) The definition of each status option, as defined in Section 2(a) of this Article, shall appear under their corresponding names.

(i) ...

(j) ...”

**Section 4.-** Article V of Act No. 7-2017 is hereby amended to read as follows:

“ARTICLE V: Other Institutional Procedures Prior to the Plebiscite

Section 1.- Procedures of the State Election Commission

Not later than on the dates set forth below, the Office of the Chair of the Commission shall deliver to the Secretary of State of Puerto Rico, in English and Spanish, the following:

i. April 20, 2017: Printed and certified copies of the ballot drafts for the June 11, 2017 Plebiscite, and the October 8, 2017 Referendum, as defined in this Act, and according to the results of the public drawing; a copy of the ‘Puerto Rico Election Act,’ in effect, as amended.

ii. April 20, 2017: Conspicuously post on its webpage in a space entitled ‘Puerto Rico Immediate Decolonization Act,’ where it shall include the full text, both in English and Spanish, of: (1) this Act; (2) the proclamation announcing the Plebiscite; (3) the pertinent parts, as stated in this Act, of Public Law 113-76 (2014), and the requirements provided for in the ‘Report of the Committee on Appropriations (2014)’ related to said Federal law; (4) ‘Section 402. Right of Puerto Rico to determine its future political status,’ Public Law 114-187 (2016), ‘Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA)’; (5) the sample ballot for the Plebiscite and the Referendum; (6) the elections timetable; (7) the Regulations adopted for the Plebiscite and the Referendum once approved; and any other document or information relevant for the objective, nonpartisan education of voters. Should the holding of the October 8, 2017 Referendum be necessary, the

Commission shall update the contents of this space for the specific purposes of said referendum.

iii. April 20, 2017: A certified proposal with the design and the details of the massive voter education campaign on the plebiscite process, the sample ballot, and the status options of the Plebiscite, as defined in Article IV, Section 2 of this Act. This education campaign and any print, radio, television, or other material shall be strictly educational and objective, rather than political partisan, and provide both status options with equal exposure. The total budget for this campaign shall not exceed two million dollars (\$2,000,000) from the appropriations provided for in Public Law 113-76, 2014.

iv. April 20, 2017: The budget plan for all other total expenditures of the Plebiscite, of which five hundred thousand dollars (\$500,000) shall derive from the appropriations provided for in Public Law 113-76, 2014, to defray ballot printing costs; and [sic] million, five hundred thousand dollars (\$2,500,000) from appropriations made by the Legislative Assembly under this Act from any state fund available.

Section 2.- Procedures by the Secretary of State of Puerto Rico

...

a) Upon ascertaining that the documents are correct, in accordance with the provisions of Public Law 113-76 (2014), the requirements provided for in the ‘Report of the Committee on Appropriations (2014)’ of said Federal Law, and the provisions of this Act, the Secretary of State of Puerto Rico shall deliver to the United States Attorney General, in both English and Spanish and not later than on the dates set forth, the following:

i. April 21, 2017: Printed copies of the ballot drafts certified by the State Election Commission that shall be used in the June 11, 2017 Plebiscite, and in the October 8, 2017 Referendum; copies of the “Puerto Rico Election Act,” as

amended; and copies of this Act. The Secretary of State shall also furnish the U.S. Attorney General with the ‘Total Plebiscite Expenditures Budget’ and the ‘Proposal for the Voter Education Campaign on the Plebiscite,’ both of which shall be prepared by the State Election Commission.

ii. The Secretary of State of Puerto Rico shall request the U.S. Attorney General to begin the transfer of two million, five hundred thousand dollars (\$2,500,000) of federal funds appropriated for the plebiscite, in accordance with the provisions of Public Law 113-76 (2014), to the State Election Commission.

- b) ...
- c) ...
- d) ...
- e) ...”

**Section 5.-** Article VI of Act No. 7-2017 is hereby amended to read as follows:

“ARTICLE VI: ‘Referendum on Free Association or Independence’

Section 1.- Call

- (a) ...
- (b) ...
- (c) ...
- (d) ...

The text of the proclamation shall read as follows:

The ‘Puerto Rico Immediate Decolonization Act of 2017’ provides that, since the ‘Free Association/Independence’ option was favored by a majority vote in the Plebiscite held on June 11, 2017, it is appropriate to call for a ‘Referendum on Free Association or Independence,’ to be held on Sunday, October 8, 2017, whereby voters may only chose between the options provided for the proclamation of a voluntary treaty of ‘Free Association’ between Puerto Rico and the United States of America or the proclamation of ‘Independence.’ This Act provides that any citizen

who meets the requirements of this Act and the ‘Puerto Rico Election Act,’ shall be a qualified voter, that is, to be a citizen of the United States of America and of Puerto Rico; to have a legal residence in the jurisdiction of Puerto Rico; to be eighteen (18) years of age by the date of the Referendum; to be duly qualified as such before the holding of the referendum, and have not been declared mentally incompetent by a Court. Interested citizens, including new voters, shall have until August 21, 2017 to update their voting status or register to vote in this Referendum. Furthermore, if voters so need, the aforementioned date shall be the deadline for requesting the restoration of voter status, transfers, or relocations, as well as Absentee Ballot, Early Ballot, Accessible Polling Place at Home, or Accessible Polling Place at the Polling Center. Permanent Registration Boards (PRB) of the State Election Commission in each election precinct and/or municipality shall be open to the public during regular business hours. The State Election Commission, in the discharge of the duties conferred by the law:

HEREBY PROCLAIMS that:

...

Section 2.- Referendum: Status Options

(a) Two (2) status options shall be presented to voters, namely ‘Free Association or Independence,’ which are final, permanent, non-territorial, and non-colonial, and outside of the scope of any modality or method of judicial interpretation of the ‘Territory Clause’ of the Constitution of the United States (Article IV, Section 3, clause 2), and consistent with provisions of Public Law 113-76 (2014), and the requirements provided for in the ‘Report of the Committee on Appropriations (2014)’ related to said Federal Law:

i. Libre Asociación

Con mi voto, reitero la petición al Gobierno Federal para comenzar el proceso de descolonización a través de: (1) ‘Libre Asociación’: prefiero

que Puerto Rico adopte un estatus fuera de la cláusula territorial de la Constitución de los Estados Unidos, que reconozca la soberanía del pueblo de Puerto Rico como una completa y absoluta Independencia. La Libre Asociación se basaría en una asociación política libre y voluntaria, cuyos términos específicos se acordarían entre Estados Unidos y Puerto Rico como naciones soberanas. Dicho acuerdo dispondría el alcance de los poderes jurisdiccionales que el pueblo de Puerto Rico autorice dejar en manos de Estados Unidos y retendría los restantes poderes o autoridades jurisdiccionales.

#### Free Association

With my vote, I reiterate my request to the Federal Government to begin the process of the decolonization with: (1) 'Free Association': Puerto Rico should adopt a status outside of the Territory Clause of the Constitution of the United States that recognizes the sovereignty of the People of Puerto Rico as a complete and unencumbered Independence. The Free Association would be based on a free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico as sovereign nations. Such agreement would provide the scope of the jurisdictional powers that the People of Puerto Rico agree to confer to the United States and retain all other jurisdictional powers and authorities.

#### ii. Independencia

Con mi voto, reitero mi apoyo a la descolonización de Puerto Rico con la proclamación de la Independencia. Demando al Gobierno de los Estados Unidos que, en el ejercicio de su poder para disponer del territorio, reconozca la soberanía nacional de Puerto Rico como una nación totalmente independiente y que el Congreso Federal promulgue la legislación necesaria para iniciar la negociación y la transición hacia la nación independiente de Puerto Rico. Mi voto por la Independencia representa, además, mi reclamo de los derechos, deberes, poderes y

prerrogativas de las repúblicas independientes y democráticas; mi apoyo a la ciudadanía puertorriqueña; y a un ‘Tratado de Amistad y Cooperación’ entre Puerto Rico y los Estados Unidos con posterioridad al proceso de transición.

### Independence

With my vote, I reiterate my support for the decolonization of Puerto Rico with the proclamation of Independence. I demand that the US Government, in the exercise of its power to dispose the territory, recognize the national sovereignty of Puerto Rico as a completely independent nation and that the United States Congress enact the necessary legislation to initiate the negotiation and transition to the independent nation of Puerto Rico. My vote for Independence also represents my claim to the rights, duties, powers, and prerogatives of independent and democratic republics, my support of Puerto Rican citizenship, and a ‘Treaty of Friendship and Cooperation’ between Puerto Rico and the United States after the transition process.

### Section 3.- Referendum: Implementation of Status Options

...

### Section 4.- Design of the Referendum Ballot

(a) The State Election Commission shall design, in strict compliance with the provisions of this Act pertaining to the design of the ballot for the June 11, 2017 Plebiscite, a Referendum ballot by adjusting the same to the characteristics thereof and status options defined in Article VI, Section 2(a).

(b) ...

(c) ...”

**Section 6.-** Article VII of Act No. 7-2017 is hereby amended to read as follows:

“ARTICLE VII: Other Institutional Procedures Prior to the Referendum

Section 1.- Procedures of the State Election Commission

Not later than on the dates set forth below, the Commission shall submit to the Secretary of State of Puerto Rico in both English and Spanish, the following:

- a) ...
- b) On June 30, 2017: A certified proposal for the design and the details of the massive voter education campaign on the referendum process, the ballot, and the status options, as defined in Article VI, Section 2(a) of this Act. The education campaign as well as any printed, radio, television, and other materials shall be strictly educational, objective, and nonpartisan, and shall provide both status options with equal exposure.

Section 2.- ...”

**Section 7.-** Article IX of Act No. 7-2017 is hereby amended to read as follows:

“ARTICLE IX: Certification to Represent

Section 1.- Certification

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) Any political party that fails to meet the requirements to have priority as a status option representative as of April 25, 2017 shall not be entitled to be considered as ‘main representative.’ In this case, the citizen group or political action committee that, on the earliest date, has fulfilled in the State Election Commission all the requirements for representing one of the status options printed on the ballot of the plebiscite or the referendum, as the case may be, shall be considered ‘main representative.’ On the June 11, 2017 Plebiscite, if more than one citizen group or political action committee choose to represent the ‘Free Association/ Independence’ option, such citizen groups or political action committees shall specify their intention

to become the ‘main representatives’ of either the ‘Free Association’ or the ‘Independence’ option and the State Election Commission shall certify it.

(f) ...

(g) ...

(h) ...

(i) In the June 11, 2017 Plebiscite, the ‘Statehood’ option shall be entitled to three (3) election officials at each polling place, the ‘Free Association/Independence’ and the ‘Current Territorial Status’ options shall be entitled to the same number of election officials. There can never be more than nine (9) officials per polling place. The political party, citizen group or political action committee that has been certified by the State Election Commission as the ‘main representative’ of each one of the two status options (ballot columns) shall be called to coordinate the distribution of election officials among their respective alliances or coalitions, and notify so in writing to the State Election Commission not later than April 27, 2017. If more than one political party, citizen group or political action committee has been certified as ‘main representative’ of the ‘Sovereignty Separate from the United States’ option, that is, one (1) for the Free Association and one (1) for Independence, such political party, citizen group or political action committee shall coordinate between them their representation at such polling place up to a maximum of three (3) officials between the two options, and notify so in writing to the State Election Commission not later than April 27, 2017. The coordinators who shall direct the electoral unit boards shall be distributed among the representatives of each option equitably and sequentially, following the order of the options’ columns as provided in this Act. In the absence of the representative selected to direct a unit board, the chair, that is, the director of said board, shall be the coordinator representing the first column, as provided in this Act, if the latter is not available, then the representative of the second or the third option shall hold said

position as appropriate. In the case of polling place boards, the option in charge of directing the unit board shall designate the representatives who shall direct the polling place board. Likewise, the State Election Commission shall use this designation order to designate the chair of each political party balance board to be created to administer the voting process.

(j) ...

...

Section 2.- ...”

**Section 8.-** Article X of Act No. 7-2017 is hereby amended to read as follows:

“ARTICLE X: Powers and Duties of the State Election Commission

Section 1.- General.

(a) Shall have powers and responsibilities to organize, direct, implement, supervise, and issue certifications on the Plebiscite or the Referendum, as the case may be, provided for in this Act as well as any other duty expressly conferred thereto under this Act or necessary to attain the purposes thereof. With regard to processes related to this Act, the provisions of Section 11.009 of Act No. 78-2011, as amended shall not apply.

(b) ...

(c) Shall adopt the regulations that shall govern the Plebiscite or the Referendum, as the case may be, not later than April 21, 2017. The adoption of, and amendments to its regulations, if necessary, shall be made in accordance with the Election Act, but strictly following the changes set forth in this Act. The regulations already approved by the Commission shall only be amended as to those matters that have been addressed through the amendments introduced under this Act and not otherwise. However, it shall suffice that the regulations promulgated or amended in accordance with this Act be published only once in a newspaper of general circulation in order to be valid and effective.

(d) ...

...

(j) If no unanimity is reached by the members of the Commission regarding the design of the ballots and the execution of the voter education campaign, the adoption of regulations or any other matter that falls within its powers or duties under this Act and the 'Puerto Rico Election Act' in effect, the Chair of the Commission shall make such decisions in accordance with the provisions of this Act and the federal laws mentioned in this Act. The fourth paragraph of Section 10.009 or the entirety of Section 10.010 of the Election Act shall not apply. Provided, however, that a recount may be requested if the preliminary results of the Plebiscite show a difference, between the first and the second status options that polled the most votes, of one hundred (100) votes or less, or zero point five percent (0.5%) or less of the votes cast. Such fact shall be notified to the representatives of the status options. The Commission, upon the request of any of the representatives of the status options, shall conduct a manual recount of the votes cast in all polling places. Manual recount of votes of a specific polling place may also be conducted during canvassing if it is thus determined by unanimity by the table concerned. In addition, the tables shall be required to conduct a manual recount of votes if during the tally sheet review it is found that ballots cast were not canvassed by the electronic canvassing machine. Every manual recount of votes shall be conducted using the electronic canvassing machines.

...

(m) ...

Section 2.- Education Campaign.

(a) ...

(b) For such campaign, the State Election Commission shall employ all communications media and any available public broadcasting techniques, including

electronic media. The education campaign shall begin within not less than forty-eight (48) days before the date on which the plebiscite or referendum, as the case may be, is to be held. In addition, the training provided for in this Act shall begin on that same date.

(c) For this education campaign, sample ballots shall be printed and distributed, and the definitions of the status options corresponding to the Plebiscite or the Referendum, as the case may be, shall be disclosed throughout the mass media, verbatim, providing each of the options with equal exposure, and in the order in which they shall appear as determined in this Act; provided, that the Education Campaign of the June 11, 2017 Plebiscite shall include the content and the sample ballots of each voting event, that is, the aforementioned Plebiscite and the possible October 8, 2017 Referendum.

(d) ...

(e) On April 24, 2017: As part of the education campaign and for the purpose of helping voters understand the scope of their votes in June's Plebiscite, and in the possible October 8, 2017 Referendum, the Commission shall publish simultaneously, in three (3) newspapers of general circulation in Puerto Rico, the sample ballots to be used in the June 11, 2017 Plebiscite and in the October 8, 2017 Referendum; always stating prominently on the advertisement that: 'The October 8, 2017 Referendum shall only be held in the event that the 'Free Association/Independence' option is favored by a majority of the votes cast at the June 11, 2017 Plebiscite.

...

(i) ...

Section 3.- Certification of the Plebiscite or the Referendum Results.

(a) ...

(b) Said certifications and the disclosure of the results shall only be issued in accordance with this Act, and their definitions for the different types of ballots, and the applicable case law of the Supreme Court of Puerto Rico; provided, that the ballots defined under this Act as ‘Ballots with no Adjudication Value,’ may only be counted as a group on the tally sheets for ‘tallying’ purposes in all polling places and not as part of the certification of the results of the Plebiscite or the Referendum, as the case may be. Said ‘Ballots with no Adjudication Value,’ without a valid expression of the voter’s intent: ‘in no way may be counted for purposes of influencing or affecting the results of an election, referendum, or Plebiscite, among other voting events’ *Suárez-Cáceres v. Com. Estatal Elecciones*, 176 DPR 31, 73-74 (2009).

(c) ...

(d) The status option printed on the ballot that is favored by a majority of one hundred percent (100%) of the votes defined as ‘Adjudicated Ballots’ shall be certified by the Commission as the winning option. Upon issuing the final certification of the results of each voting event, in Spanish and English, including the number of votes, the percentage obtained, and the definitions of each one of the status options included in the ballot, the State Election Commission shall include the following preamble: ‘These results constitute the legitimate expression of self-determination of a majority of United States citizens of Puerto Rico. Furthermore, these results meet the conditions imposed by the U.S. Congress and the President of the United States upon the approval of Public Law 113-76, ‘Consolidated Appropriations Act, 2014’; the corresponding Congressional report on said Federal law, and the position of the U.S. Department of Justice as stated on April 13, 2017. Any other interpretation of these results would be contrary to the rights of a majority of United States citizens of Puerto Rico who cast a valid vote in accordance with the law, and the case law of the Supreme Court of Puerto Rico.’ If

the ‘Statehood’ option is favored in the June 11, 2017 Plebiscite, the following shall be added to the certification: ‘Therefore, it is the legitimate expression of a majority of United States citizens of Puerto Rico that a process of transition into, and proclamation of Statehood immediately begins.’ If the ‘Free Association/Independence’ option is favored in the June 11, 2017 Plebiscite, the following shall be added to the certification: ‘Therefore, these results constitute the first claim of the United States citizens of Puerto Rico to initiate a process toward the proclamation of Independence through a voluntary treaty of ‘Free Association’ between Puerto Rico and the United States of America or the proclamation of ‘Independence’ and the automatic call for a Referendum on October 8, 2017, the results of which shall define the preference between a voluntary treaty of Free Association between Puerto Rico and the United States, or the Independence.’ Should the holding of the October 8, 2017 Referendum be necessary, the certification of the results thereof shall follow the same format provided herein for Statehood in the June 11, 2017 Plebiscite.

- (e) ...
- (f) ...
- (g) ...”

**Section 9.-** This Act shall take effect immediately after its approval.