

Recent Developments Regarding H.R. 4667

ATTORNEYS

- Samuel T. Céspedes Jr.
- Francisco J. Pavía
- Ernesto N. Mayoral
- Rubén Méndez-Benabe
- Antonio J. Ramírez-Aponte
- Marcos Rodríguez-Ema
- Ricardo J. García-Negrón
- Melba I. Acosta-Febo
- Magda M. Boyles
- Sila M. González-Calderón
- Lizzie M. Portela-Fernández
- María Cristina Salas-Díaz
- María Teresa Szendrey-Ramos

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An McV Corporate Alert

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On December 18, 2017, H.R. 4667 (“Making further supplemental appropriations for the fiscal year ending September 30, 2018 for disaster assistance or disaster assistance for Hurricanes Harvey, Irma, and Maria, and calendar year 2017 wildfires, and for other purposes) was introduced into Congress. The new \$81 billion aid package to assist states and territories affected by hurricanes and wildfires is nearly double the \$44 billion package originally requested by the White House.

The bill appropriates funds for various federal agencies, to cover their own operations as well as for their disaster relief efforts. Notable among the funds assigned are:

- **FEMA** - \$58.8 million to be appropriated for an additional amount for FEMA’s operations and support to remain available until September 30, 2019, and \$27,500 million for an additional amount for the “Disaster Relief Fund” for major disasters declared pursuant to the Stafford Act (42 U.S.C. 5121 et seq.), to remain available until expended. Of this amount, \$4,000 million is allocated to the Community Disaster Loan Program (CDL), as authorized under section 417 of the Stafford Act, to be used to assist local governments in providing essential services. This amount is in addition to the \$4,400 million already appropriated for CDL. Of this amount, \$150 million can be loaned to a territory or possession to cover the portion of assistance for which the territory or possession is responsible under the cost-sharing provisions of the major disaster declarations. In the case of Maria, that will be the 10% of the 90%-10% cost share of FEMA’s Permanent Work program. H.R. 4667 would allow the funds allocated for disaster recovery to be used not only for repairs but also to build new infrastructure.
- **Department of the Army Corps of Engineers** - \$10,480 million to be appropriated for repairs of ongoing construction projects, and to expedite construction projects that will help mitigate future disaster damage.
- **Federal Highway Authority** – \$1,374 million to be appropriated to the Emergency Relief Program of the Federal Highway Administration. In the case of Puerto Rico, the bill allows the use of toll-credits toward the non-federal share requirement for emergency relief funds.

Recent Developments Regarding H.R. 4667

- **Federal Transit Authority** – \$269 million to be appropriated for transit systems affected by the hurricanes.
- **Department of Housing and Urban Development** - \$26,060 million to be appropriated for the Community Development Fund for disaster relief, long term recovery, restoration of infrastructure and housing, economic revitalization and mitigation in the most impacted and distressed areas resulting from major disaster declared in 2017 (CDBG-DR). From this amount, up to \$13,560 million shall be allocated to meet unmet needs for grantees that have received or will receive allocations for major disasters declared in 2017, and such allocations will include the States and units of local governments (municipalities) affected by Hurricane Maria. In addition, no less than \$12,500 million shall be allocated for mitigation activities to all grantees of funding. Under CDBG-DR, projects can be developed to rebuild homes and infrastructure damaged by the disaster and to provide assistance to affected business owners, among others. As part of the housing opportunities that CDBG-DR allows are activities that lead to restoring and improving the housing stock, such as new construction, rehabilitation/reconstruction, single family or multifamily housing and owner or rental housing opportunities.

Certain General Provisions included in H.R. 4667 requires that, not later than 180 days after the date of enactment of the Act and in coordination with FEMA, the US Treasury Department, the Department of Energy and other federal agencies, the Government of Puerto Rico submits to Congress a report describing the Commonwealth's 12- and 24-month economic and disaster recovery plan that:

- Defines the priorities, goals, and expected outcomes of the recovery effort for the Commonwealth based on damage assessments prepared, priorities that should include housing, economic issues, health and social services, natural and cultural resources, governance and civic institutions, electric power systems and grid restoration, environmental issues and other infrastructure systems;
- Is consistent with the Commonwealth's fiscal capacity, with the alternative procedures adopted by FEMA, and with actions necessary to mitigate vulnerabilities to future disasters;
- Promotes transparency and accountability;
- Identifies performance metrics for assessing and reporting on the progress;
- Is developed in coordination with the Oversight Board established under PROMESA;

Recent Developments Regarding H.R. 4667

- Is certified by the Oversight Board to be consistent with PROMESA. Certain interim status reports are required after the submission of the report. The Oversight Board will have the authority to review amounts made available to the Commonwealth in an aggregate amount greater than \$10 million.

H.R. 4667 also introduces several amendments to the Stafford Act and amends Section 1400Z-1(b) of the Internal Revenue Code of 1986 (as added by the Tax Cuts and Jobs Act) to treat Puerto Rico's Low-Income Communities as Qualified Opportunity Zones.

The bill was passed in the House on December 21, 2017. The Senate will likely consider the bill in January. There is a possibility that the bill may be amended.

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