

Douglas G. Baird
Harry A. Bigelow Distinguished Service Professor of Law

February 23, 2015

The Honorable Bob Goodlatte
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
House Committee on the Judiciary
B-351 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom Marino
Chairman
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Henry C. "Hank" Johnson
Ranking Member
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
House Committee on the Judiciary
B-351 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Goodlatte, Ranking Member Conyers, Chairman Marino, and Ranking Member Johnson:

I am writing to express my support for the enactment of H.R. 870 in my personal capacity as an academic whose work focuses on the administration of bankruptcy law. This letter expresses my own views, not those of any organization or third party.

I have taught at the University of Chicago Law School since 1980. I was Dean of the Law School between 1994 and 1999. I have also served as Vice Chair of the National Bankruptcy Conference and as Scholar in Residence of the American College of Bankruptcy. My one-volume monograph on bankruptcy, *Elements of Bankruptcy*, is now in its sixth edition. I have testified before your committee before, most recently in the wake of the automobile bailouts (again in my own capacity).

Under the existing law, a "state" has the power to authorized municipalities to seek relief under Chapter 9, but for these purposes Puerto Rico is excluded from the definition of "state." This is unfortunate. Congress might have the power to craft a separate insolvency regime for Puerto Rico (the jurisprudence here is complicated and contested), but it has not attempted to do so. As it is, Puerto Rico lacks access to any federal debt-restructuring mechanism. There is no obvious reason why federal restructuring tools available to municipalities throughout the United States should not also be available in Puerto Rico.

Uniformity is an important bankruptcy policy. It ensures a level playing field. The Constitution itself singles out the value of "uniform Laws on the subject of Bankruptcies." In the absence of some powerful, well-articulated reason, Puerto Rico should be treated the same as other jurisdictions.

Moreover, existing bankruptcy law is drafted in such a way that may limit the ability of Puerto Rico to craft its own municipal insolvency legislation. Puerto Rico may find itself currently in a statutory dead zone, without the ability to take advantage of federal municipal insolvency law and without the ability to craft its own. This unhappy state of affairs is not sensible.

I would be pleased to provide additional information or answer any questions you might have.

Sincerely,

Dan G. B. J.