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DIVISION 5: BUSINESS REGULATION

§ 5701. Definitions [Repealed].

Source: PL 10-9, § 3 (§ 5601); amended by PL 11-73, § 8, modified; subsection (d) repealed and subsection (f) amended by PL 11-76, § 6 and 9(a) respectively; repealed by PL 17-1 § 6(C) (March 22, 2010)*.

Commission Comment: PL 10-9, the “Garment Industry Moratorium Act of 1996,” took effect May 28, 1996. According to PL 10-9, § 5: “Unless specifically made applicable by local law, this Act shall only apply to the Third Senatorial District.” The Third Senatorial District comprises Saipan and the islands north of Saipan. According to PL 10-9, § 2:

Section 2. Findings and Purpose. The garment manufacturing industry has been in existence in the CNMI since 1983. The industry was established as the result of an intensive campaign by the CNMI government to attract foreign investors. These investors would have the opportunity to take advantage of the Headnote 3A provision of the Harmonized Tariff Schedule of the United States which allows garments manufactured in the CNMI to enter the United States duty free.

The garment industry has had a very significant impact on the CNMI economy. It is responsible for over \$13 million in annual direct revenues to the government. However, according to an OTIA funded study, “The Impact of Aliens on the Fiscal Conditions of the Commonwealth of the Northern Mariana Islands,” the net impact in 1992 of the garment industry on the CNMI was a negative \$1.3 million. This figure was arrived at by deducting the per capita cost of government services from the per capita revenues generated. It therefore appears that even the financial contribution of the garment industry to the economy of the CNMI is open to question.

The industry also provides approximately 7,500 jobs which create additional economic stimulation to local sales and services. However, ninety percent of those 7,500 jobs are held by non indigenous workers: non-resident aliens and citizens of the former Trust Territory of the Pacific Islands.

The use of nonresident garment workers is pervasive in the industry. Currently an estimated average of 400 nonresidents are employed per garment manufacturer. Thus, if ten new garment factories are licensed, an additional 4,000 nonresident garment workers may be needed to operate them. The influx of so many additional nonresident workers would place a tremendous burden on all government services. Labor/immigration enforcement and health services would be particularly affected. Sewer and solid waste disposal would be stressed beyond capacity by the introduction of additional garment manufacturing facilities and workers. The Legislature finds that neither the social structure of the CNMI nor the mechanisms of government which provides public services could sustain the burdens that would be created by the entry of such large numbers of additional alien workers into the Commonwealth.

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The Legislature has considered the fiscal impact of an expanded garment industry together with the social costs of sustaining an additional large transient alien population and the adverse effects of the industry on the natural environment and infrastructures. The Legislature thereupon finds that the health, welfare, and safety of the community dictates that there be an immediate moratorium on any expansion of the garment industry.

It is therefore the purpose of this legislation to prohibit the issuance of new business licenses for garment manufacturing and to limit the number of nonresident workers employed by the industry. These purposes were formerly implemented by regulation. The former regulations accomplished the following: placed a moratorium on the issuance of business licenses for garment manufacturing; placed restrictions on the issuance of nonresident worker certificates for garment workers; established a garment worker pool and quotas per manufacturer for garment workers; established reporting requirements for garment manufacturers. These regulations were administratively repealed in 1995. It is the intent of this legislation to statutorily and administratively re-impose the moratorium and restrictions on the garment industry that has served the Commonwealth well since 1987.

PL 11-73, which amended this section took effect on March 19, 1999. PL 11-73 contained short title, findings and purpose, transfer of full-time equivalents, severability and savings clauses as follows:

Section 1. Short Title. This Act shall be referred to as the “Business Licensing Processing Act of 1998”.

Section 2. Findings and Purpose. Tax compliance has long been a challenge in the CNMI, due to a lack of central control and sharing of data between various entities. A great deal of inconsistencies will be resolved by centralizing the issuance of business licenses with the agency which issues CNMI Tax Identification Numbers. Such issues that will be resolved include, but are not limited to the following: detecting non-filers of tax returns; ascertaining whether taxes have been paid prior to the issuance of a renewal of business license; allowing the Department of Finance to close down a business if taxes are not paid, or using the same as a deterrent for avoiding payment of taxes; allowing the Department of Finance to verify that a business is engaged in the activity stated on the license by comparing it to the activity stated on the tax return; and assuring that a business which imports goods for sale has an active business license and all taxes have been paid before allowing importation of goods into the CNMI.

By allowing the Department of Finance, Division of Revenue and Taxation to issue a business license and at the same time issue the CNMI Taxpayer Identification Number, there will be a tracking mechanism established that will not only serve the Division of Revenue and Taxation,

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as the point of control, but the Division of Customs and the Department of Commerce as well. The integration of issuing business licenses into the Division of Revenue and Taxation is expected to result in collection of a significant amount of additional taxes that are not collected due to the lack of a single control point. This should provide the CNMI with much needed revenue without the need to raise taxes at this point in time.

If it is therefore the purpose of this legislation to transfer the function of issuing business licenses from the Department of Commerce to the Department of Finance in order to strengthen the Department of Finance's efforts to enforce tax compliance. The day-to-day function of issuing licenses within the Department of Finance shall be handled by the Division of Revenue and Taxation.

. . .

Section 11. Transfer of Full-time Equivalents. The Department of Commerce shall transfer two full-time equivalents (FTE) and the associated personnel funding as authorized by P.L. 11-41 to the Department of Finance for the purposes of administering the issuance of business licenses as agreed by the respective Secretaries.

Section 12. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 13. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

PL 11-76 which repealed subsection (d) of this section and amended subsection (f) of this section took effect on March 26, 1999. PL 11-76 contained findings and purpose, repealer, severability, and savings clauses as follows:

Section 1. Findings and Purpose.

The Legislature finds that to control the expansion of the garment industry and to reduce the number of alien workers in that industry, it is necessary to impose a cap on the number of non-resident alien workers in the garment manufacturing industry and to establish a quota for each licensed garment manufacturer for the employment of alien workers. The Legislature's previous effort in this regard, specifically the enactment of Public Law 10-9, succeeded in limiting the number of licenses for garment manufacturing but failed to sufficiently control or reduce the number of alien workers employed in the industry. The Legislature finds that the imposition of an absolute cap of 15,727 non-resident alien workers in the industry distributed among the licensed garment manufacturers is necessary to permanently control the number of nonresident workers in

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the garment industry. The cap includes the number of nonresident workers legally employed in the garment industry in the Commonwealth as of June 1, 1998, application for the employment of non-resident alien workers in the garment industry pending with the Department of Labor and Immigration on the effective date of Public Law 10-9, May 28, 1996, work permits issued though the non-resident alien has not yet entered the Commonwealth, expired and/or valid permits within the quota established in Schedule A, and manpower transfers granted pursuant to Section 5 of this Act. This cap shall be allocated among licensee garment manufacturers in accordance with Schedule A, as incorporated to this Act.

(b) To achieve consistency and facilitate administration, certain provisions of P.L. 10-9, with respect to quotas, which are inconsistent with this Act are amended or repealed.

(c) Despite the absolute quota imposed by this Act, the legislature recognizes the many positive contributions of the garment industry to the Commonwealth economy. In particular, the industry contributes user fees and taxes to the Commonwealth government, and provides revenues to the shipping, and consumer sectors of the private economy. Also, many resident workers are employed in the garment industry. All of which have a beneficial effect to our citizens. However, the legislature finds it necessary to control the balance between non-resident workers and the citizen population.

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Section 9. Repealer. The following are repealed:

(a) 4 CMC § 5701(d) relative to the definition of “garment worker”.

(b) 4 CMC § 5705 relative to the definition of “garment worker pool”.

Section 10. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

* PL 17-1 contained the following section regarding the effective date of the law:

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Section 12. Effective date. This Act shall take effect upon its approval by the Governor or becoming law without such approval and shall be retroactive to November 28, 2009 except as otherwise specifically provided herein.