
AN ACT

To amend various sections of the Nonresident Workers Act (3 CMC Section 4411 et seq.), to amend the Entry and Deportation Act of 1983, and for other purposes.

BE IT ENACTED BY THE FIFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This act may be cited as the Alien Labor
2 Act of 1986.

3 Section 2. Purpose and Findings.

4 (a) It is the intent of this act to provide stricter
5 enforcement, control and regulation of nonresident workers. It
6 is further the intent of this act to require resident workers to
7 be at least 10% of every employer's management, supervisory and
8 non-supervisory work force, which is to be increased at least 2%
9 annually so that at the end of five years resident workers
10 comprise of at least 20% of every employers management,
11 supervisory and non-supervisory work force, to prohibit the
12 transfer of nonresident workers from one employer to another
13 except as provided by law, to control the issuance of temporary
14 work permits, to increase the job referral services provided to
15 resident workers and to establish a four year maximum time
16 period for non-resident worker to remain in the Commonwealth.
17 Nonresident workers and their nonresident dependents shall not
18 be eligible for permanent resident status.

19 (b) The legislature finds that an important responsibility
20 of the Northern Marianas College is to offer programs appropriate

1 to the needs of the CNMI such as apprenticeship, vocational and
2 trade training.

3 (c) The Commonwealth Government as an employer of
4 nonresident workers is exempted from paying the annual
5 application fee pursuant to Section 4424(a) of this Act.

6 Section 3. Amendment. 3 CMC Section 4412 is amended to read as
7 follows:

8 (a) The last sentence in subsection (i) is amended to
9 read:

10 "Nonresident worker shall not include any immediate
11 relative, spouse or children including legally adopted
12 children of a U.S. citizen or any foreign investor; and",

13 (b) The following new definitions are added to read:

14 "(j) 'Job Classification' means the job
15 classification described and listed as an occupational
16 group under the Dictionary of Occupational Titles.
17 Each time the words "job title" appear in 3 CMC,
18 Division 4, the words "job classification" shall be
19 substituted in its place.

20 (k) 'Occupational Category' means the nine
21 occupational categories listed under the Dictionary
22 of Occupational Titles issued by the US Department
23 of Labor, which includes the following:

24 (1) Professional, Technical, or
25 Management Occupation;

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- 1 (2) Clerical and Sales Occupation;
2 (3) Service Occupation;
3 (4) Agricultural, Fisheries, Forestry
4 and Relative Occupation;
5 (5) Processing Occupation;
6 (6) Machine Trade Occupation;
7 (7) Benchwork Occupation;
8 (8) Structural Work Occupation; and
9 (9) Miscellaneous Occupation.

10 (1) 'Management' job classification shall mean the
11 function of planning, organizing, coordinating, directing,
12 controlling, and supervising any industrial or business
13 project or activity with responsibility for results.

14 (m) 'Supervisory' job classification shall mean the
15 function to coordinate, direct, and inspect continuously
16 and at first hand the accomplishment of industrial or
17 business activity for ones employer."

18 (c) Subsection (j) "Resident Workers" is relettered to read
19 (n).

20 Section 4. A new Section 3 CMC 4414 is added to read as follows:

21 Section 4414. Conflict of Interest. No employee or official
22 of the Department of Commerce and Labor or Division of Immigration
23 and Naturalization, or his or her immediate relative as defined
24 in 3 CMC 4303(m), shall own or have an equity interest in an
25 employment agency or business engaged in recruiting or bringing

1 into the Commonwealth a nonresident worker. As a transition
2 period, this Section shall become effective 90 days after the
3 effective date of this Act.

4 Section 5. Repealer and Reenactment. 3 CMC Section 4421(b) is
5 repealed and reenacted to read as follows:

6 "(b) Establish or recommend methods for alleviating
7 shortages of resident workers and reducing the need for
8 nonresident workers through such means as advising
9 residents, and residents graduating from the Northern
10 Marianas College or other training institution and making
11 job referrals and job placements into the private sector.
12 The term "graduate" includes those residents who have
13 successfully completed a certified apprenticeship,
14 vocational, or trade training program established or
15 sponsored by the Northern Marianas College or other
16 organization recognized by the College or the Western
17 Association of Schools and Colleges or other accredited
18 organization."

19 Section 6. Repealer and Reenactment. 3 CMC Section 4422 is
20 repealed and reenacted to read as follows:

21 "Section 4422. Statistical Data. The Chief shall prepare
22 on an annual basis statistical data of all nonresident workers.
23 The data shall provide a breakdown by occupational categories,
24 job classifications, citizenship, and point of origin. Copies

1 of the data shall be transmitted to the Northern Marianas College
2 and the Legislature."

3 Section 7. Repealer and Reenactment. 3 CMC Section 4424 is
4 repealed and reenacted to read as follows:

5 "Section 4424. Rules and Regulations.

6 (a) The Director shall promulgate rules and
7 regulations to implement the intent of this Chapter
8 pursuant to the Administrative Procedure Act (commencing
9 at Section 9101 of Title 1 of this Code) including the
10 written delegation of the Director's duties as imposed
11 herein to employee(s) of the Division. The Director shall
12 by regulation establish an annual fee of \$75 for the
13 processing of the initial application and renewal of
14 nonresident workers certificates and a fee of \$25 for
15 Immigration Services for processing of the initial
16 application and annual renewal of Immigration Entry Permit
17 for every immediate relative of the nonresident worker
18 issued by the Department, except that no fee may be charged
19 for registration or referral of resident workers. All fees
20 for the initial application and annual renewals shall be
21 the responsibility of and shall be paid, without offset or
22 charge back to the nonresident worker, paid by the employer.
23 Calculation of periods for annual renewal of nonresident
24 worker or dependent certificates shall begin on the date
25 the nonresident worker or dependent arrives in the

1 Commonwealth. The Director may, by regulation, establish
2 renewal of certificates and immigration entry permits for
3 immediate relatives including letter renewal if no changes
4 in the information contained on the initial application of
5 the certificate or immigration entry permit has occurred as
6 sworn to by the applicant under penalty of perjury.

7 (b) All fees collected pursuant to Section 4424(a)
8 shall be deposited into a special fund to be known as the
9 "Commonwealth Nonresident Worker Fee Fund." The Director
10 of Finance shall collect and direct all funds received for
11 the Fund into four separate accounts as set forth in (1)
12 below:

13 (1) Except as provided in this subsection,
14 all of the fees collected shall be reserved and
15 placed into an account known as the Northern
16 Marianas College Apprenticeship, Vocational and
17 Trade Training Supplemental Account (the
18 "Apprenticeship Account"). An appropriation
19 from this account shall be used only to fund
20 apprenticeship, vocational, and trade training
21 programs conducted or sponsored by the Northern
22 Marianas College. Of the fees collected,
23 \$25,000 shall be reserved for Tinian and \$25,000
24 shall be reserved for Rota which shall be used
25 for youth employment training programs on those

1 islands. The Mayors of Tinian and Rota shall
2 have expenditure authority of these funds, and
3 who will, within 90 days after the end of each
4 fiscal year, report to the Governor and the
5 Legislature on the expenditure of such funds.
6 Additionally, of the fees collected, \$60,000
7 shall be reserved for the Department of
8 Commerce and Labor for use in enforcing the
9 provisions of this Act and to help meet the
10 financial requirements and added work load
11 created hereby. Funds reserved for Commerce and
12 Labor shall require Legislative appropriation
13 annually. Funds provided for in this Subsection
14 shall not be subject to reprogramming.

15 (2) The Northern Marianas College, prior
16 to expenditure of funds appropriated from the
17 Apprenticeship Account by the Legislature, shall
18 annually report to the Joint Senate and House
19 Fiscal Affairs and Appropriations Committees and
20 the Committee on Health, Education and Welfare
21 ("Joint Committees") on the details of the
22 apprenticeship, vocational, and trade training
23 programs funded by the funds from the
24 Apprenticeship Account. Further, prior to
25 expenditure of any funds from the Apprenticeship

1 Account, the Joint Committees by majority vote,
2 shall approve on the details of the
3 apprenticeship, vocational, and training
4 programs as reported by the Northern Marianas
5 College.

6 Further, a detailed management and fiscal report shall be
7 submitted to the Legislature no later than 30 days following the
8 end of each fiscal year."

9 Section 8. Amendment. 3 CMC Section 4434 is amended to read as
10 follows:

11 (a) 3 CMC Section 4434(a) is amended to read:

12 "(a) Prior to entry of the nonresident worker into
13 the Commonwealth for employment under this Chapter or, if
14 the worker is already within the Commonwealth, before
15 commencing employment, the employer shall present to the
16 Chief the affidavit described in subdivision (b), a fully
17 executed employment contract between the employer and the
18 nonresident worker which shall conform to the requirements
19 of subdivision (c) and shall be contingent on: (1)
20 approval by the Chief, (2) the payment of the required
21 fee, and (3) the disclosure of any other information or
22 document required pursuant to the employment agreement or
23 departmental regulations. Approval by the Chief, as
24 required by this Section, is a review of the contract for
25 compliance with the provisions of this act. Such review

1 shall not subject the Chief or the Commonwealth government
2 to liability on the employment contract, even if the Chief
3 approves a contract which does not comply with all the
4 provisions of this act."

5 (b) 3 CMC Section 4434(b) is amended to add a new clause
6 to read as follows:

7 "(5) If the affidavit of the nonresident
8 worker is not executed in the Commonwealth, it
9 shall be attested to under penalty of perjury
10 as true by the employee's employment recruitment
11 agency that shall be licensed to do business in
12 the Commonwealth."

13 (c) 3 CMC Section 4434(c) is relettered to read as (d).

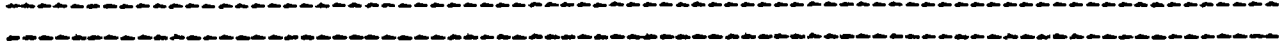
14 (d) A new subsection (c) is added to 3 CMC Section 4434,
15 to read as follows:

16 "(c) The contract between the employer and the
17 nonresident worker shall include specific itemization
18 of any deductions from the employee's salary. No
19 deductions may be levied against a nonresident worker
20 unless (1) the expenses are specifically included in
21 the employment contract entered between the employer
22 and the nonresident worker and executed at the time
23 of and place of recruitment of the nonresident worker;
24 (2) expenses incurred by the employer for room and
25 board are no more than the expenses actually incurred

1 by the employer in providing such benefits; and,
2 (3) deductions of such expenses from employees
3 compensation is not in violation of any applicable
4 Federal or Commonwealth law or regulation promulgated
5 by the Director."

6 (e) New subsections (e), (f), (g) and (h) are added to
7 read as follows:

8 "(e) The Chief shall not approve Nonresident
9 Worker Certificates for the following job
10 classifications: retail trade clerk or sales clerk,
11 clerk typist, data entry clerk, taxi cab driver,
12 secretary, retail trade cashier, bookkeeper,
13 accounting clerk, messenger, hotel front desk clerk,
14 janitor, security guard, receptionist, custodian,
15 surface tour boat operator, tour guide, bus driver,
16 including tour bus driver, telephone switchboard
17 operator, and any position for employment with the
18 Commonwealth Government except for the Department of
19 Education or the Department of Public Health and
20 Environmental Services and, as may be required, by
21 the Marianas Visitors Bureau for a language
22 interpreter. PROVIDED, that the certificate of any
23 nonresident worker already in the Commonwealth on
24 the effective date of this subsection may be renewed
25 or reissued for a period of not more than one year.



1 In addition to the foregoing job classifications
2 the Legislature may by law add additional job
3 classifications as it deems necessary. Further,
4 provided, that the Director, or his designated
5 representative, shall insure that job classifications
6 established by the employer, together with occupational
7 qualifications and experience are reasonable for the
8 position being applied for and in the event the Director
9 or his designated representative determines that such
10 job classification or occupational qualification or
11 experience is not reasonable for such position, the
12 Nonresident Worker Certificate shall not be approved.

13 (f) Notwithstanding 1 CMC Section 9112 no civil
14 action may be brought by a non-resident worker after
15 the effective date of this Act against an employer for
16 violation of the Minimum Wage and Hour Act (4 CMC 9211
17 et seq.) and/or the Non-resident Workers Act (3 CMC
18 4411 et seq.) unless the non-resident worker has
19 first filed a written complaint concerning those
20 violations with the Chief of Labor no later than
21 30 days after the violation is alleged to have
22 occurred. Said civil action, if any, shall be
23 commenced in any court only after the Director or
24 his designee, after a hearing, has issued a decision
25 on the complaint favorable to the non-resident worker

1 and the employer fails or refuses to pay any
2 assessment made by the Director within ten days
3 after receiving notification of the Director's
4 decision, the entire sum of money that the decision
5 says is owed by the employer to the employee. Such
6 payment shall be made through the Director.

7 A non-resident worker who has left his or her
8 employment whose contract of employment has expired,
9 or who is no longer employed by the employer approved
10 by the Chief, shall not be permitted to remain in the
11 Commonwealth. Except that, a nonresident worker
12 shall be allowed to remain in the Commonwealth for a
13 period not to exceed 20 days in order to pursue a
14 civil action against his or her employer for a
15 breach of their employment contract, other civil or
16 criminal claims, or to pursue violations of any
17 Commonwealth or Federal labor law. Provided, however,
18 for a claim made against an employer for failure to
19 pay the contract wages, a nonresident worker shall
20 only be allowed to remain in the Commonwealth for a
21 period of 30 days in order to pursue such action
22 where a timely claim is made for failure to pay the
23 contract wages and where the employer fails or
24 refuses to pay the full sum of money as ordered
25 by the Director within the ten day period provided

1 by this subsection. A non-resident worker who has
2 left the Commonwealth shall be allowed to return no
3 sooner than five days before their scheduled trial
4 date in the Commonwealth Trial Court or Federal
5 Court. Such person will be required to exit the
6 Commonwealth within three days after the termination
7 of the trial, or any continuances thereof.

8 (g) Issuance of Nonresident Workers Certificates
9 for waitresses, excluding restaurants or coffee shops,
10 shall be limited to 15 waitresses or hostess per
11 employer for the Islands of Rota and Tinian and 10
12 waitresses or hostess per employer for the Island of
13 Saipan. The number waitresses or hostess shall be
14 certified under penalty of perjury by the employer."

15 Section 9. Repealer. 3 CMC Sections 4436 and 4437(b)(1) and (2)
16 are hereby repealed.

17 Section 10. A new 3 CMC Section 4436 shall be enacted on January 1,
18 1987 to read as follows:

19 "Section 4436. Preconditions for Employment of Nonresident
20 Workers.

21 (a) No Nonresident Worker Certificates shall be
22 issued or renewed for an employer (other than a
23 construction company or agricultural employers), unless
24 the employer or one of the employer's officers swears
25 under penalty of perjury that at least 10 percent

1 ("minimum percentage") of the employer's fulltime work
2 force in the Commonwealth is comprised of resident
3 workers and that this minimum percentage has increased
4 at least at the rate of 2% per year until such time
5 that resident workers comprise of 20% of the employers
6 work force together with a sworn affidavit made under
7 penalty of perjury listing the names, addresses,
8 telephone numbers, (if any) and the position applied
9 for by citizens or permanent residents of the United
10 States. Employers employing less than five but more
11 than one employee shall employ at least one fulltime
12 resident worker.

13 (b) No employer shall employ a nonresident worker
14 in the Commonwealth, unless at all times the employer
15 pays its workers their full wages at least bi-weekly in
16 United States dollars in cash together with a receipt
17 with which to verify wages, hours and deductions or in
18 checks that can be cashed by the workers in the
19 Commonwealth."

20 Section 11. Amendment. 3 CMC Section 4437 is amended to add the
21 following new subsection (f) to read as follows:

22 (a) 3 CMC Section 4437(f) is amended to read:

23 "(f) A nonresident worker shall not be permitted
24 to remain in the Commonwealth for more than four years
25 without exiting and remaining outside the Commonwealth

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1 for a period of at least 36 months, nor to perform
2 services or labor within the Commonwealth for any
3 employer other than the employer for whom the Chief
4 has approved an employment contract with such worker,
5 nor may he perform any services or labor except as
6 classified at the time of the original employment
7 contract."

8 (b) 3 CMC Section 4437 is amended to add a new subsection
9 (i) to read:

10 "(i) No nonresident worker whose first entry
11 into the Commonwealth for purposes of employment occurs
12 after the effective date of this Act shall have a
13 financial interest in or operate or engage in any
14 business or become an employer."

15 (c) 3 CMC Section 4437 is amended to add a new subsection
16 (j) to read:

17 "(j) Immediate relatives of nonresident workers
18 shall not be issued immediate relative entry permits
19 unless the nonresident worker is paid an annual wage
20 or salary of more than \$20,000 and posts with the Chief
21 of Immigration a bond or other surety guaranteeing the
22 repatriation of the family members for whom the
23 nonresident worker seeks entry. PROVIDED, however, the
24 income requirement of this subsection shall not apply
25 for a period of not more than one year to nonresident

1 workers whose immediate relatives were already in
2 the Commonwealth on the effective date hereof."

3 (d) 3 CMC Section 4437 is amended to add a new subsection
4 (k) to read:

5 "(k) The Director shall require that no
6 application for renewal of a nonresident worker
7 certificate be issued, unless, the employer
8 submits evidence of payment of the monthly
9 Employees Withholding Taxes and Quarterly Gross
10 Revenue Taxes and attach a copy of the employee's
11 1040 tax form."

12 (e) 3 CMC Section 4437 is amended to add a new subsection
13 (l) to read:

14 "(l) The Director shall cancel the certificate
15 of a nonresident worker if the Director determines
16 that a job position was advertised at a lower
17 specified rate of pay but a nonresident worker is
18 actually being paid a higher rate of pay subsequent
19 to the nonresident worker certificate being issued."

20 (f) 3 CMC Section 4437 is amended to add a new subsection
21 (m) to read:

22 "(m) It shall be unlawful for an employer to
23 hire or employ a person who is not lawfully in the
24 Commonwealth or if such person is a nonresident worker

1 if such nonresident worker's contract has not been
2 approved by the Chief."

3 Section 12. Amendment. 3 CMC Section 4438 subsection (b) is
4 amended to add a provision at the end thereof to read as follows:

5 "Any non-resident worker or immediate family member who
6 fails to comply with this section shall be subject to immediate
7 deportation to the point of origin. All costs of repatriation
8 of the nonresident worker shall be the responsibility of the
9 employer."

10 Section 13. Amendment. 3 CMC Section 4444(e)(4) is amended to add
11 a new provision at the end thereof to read as follows:

12 "Provided, that if any employer has been found to be in
13 violation of this act by the Director after conducting an
14 administrative hearing on two or more occasions such employer
15 shall be subject to, in addition to any penalty pursuant to
16 3 CMC 4447(e), a fine not to exceed \$2,000 for every additional
17 violation."

18 Section 14. Repealer and Reenactment. 3 CMC Section 4447(b) is
19 repealed and reenacted to read as follows:

20 (a) 3 CMC Section 4447(b) is repealed and amended as
21 follows:

22 "(b) Any nonresident worker who is aggrieved by
23 the failure or refusal of his employer to comply with
24 the employment contract may make a complaint to the
25 Chief. The Chief or his designee shall conduct an

1 investigation under Section 4441, take any action
2 under Section 4444, and shall make a written
3 determination in writing within 30 days of the filing
4 of the complaint. Any appeal from the determination
5 shall be made under Section 4445; Provided, that the
6 Director or his designee shall not take longer than
7 15 working days to render a decision on any appeal
8 that is made to him. If the Director determines
9 that the employee is at fault and denies the relief
10 requested by the employee in his complaint, the
11 then present employer shall be liable for the health,
12 safety, and welfare of the employee in the
13 Commonwealth, pending the employee's repatriation as
14 the Director may order. Repatriation cost shall be
15 the responsibility of the last employer employing a
16 nonresident worker in the Commonwealth."

17 (b) A new subsection (f) is added to 3 CMC Section 4447
18 to read:

19 "(f) A nonresident worker shall not file suit
20 to terminate his or her employment contract unless
21 an unsuccessful good faith attempt has been made with
22 the Chief to settle the dispute the worker has with
23 the employer. Similarly, an employer shall not file
24 suit to terminate its employment contract with a
25 nonresident worker unless an unsuccessful good faith

1 attempt has been made to settle any dispute the
2 employer has with the nonresident worker."

3 (c) A new subsection (g) is added to 3 CMC Section 4447
4 to read:

5 "(g) It shall be unlawful and grounds for
6 immediate deportation for any non-resident worker
7 who after having filed a grievance as provided for
8 in 3 CMC Section 4447(b) to perform services or labor
9 for any employer other than that employer with whom
10 he or she has an approved contract of employment."

11 Section 15. Amendment. The second sentence of 3 CMC 4321(c) is
12 amended to read as follows:

13 "As provided in the Nonresident Workers Act, as amended,
14 immediate relatives of nonresident workers may enter and remain
15 in the Commonwealth for such duration as the nonresident worker
16 is legally employed in the Commonwealth, provided that such
17 immediate relative status existed prior to the entry of the
18 nonresident worker."

19 Section 16. Amendment. 3 CMC 4332 (b)(2), (3) and (4) is amended
20 to read as follows:

21 "(2) The Chief upon application of an alien may, pursuant
22 to regulation, extend or renew the length of stay of an alien
23 provided such extension is applied for at least 30 days prior
24 to the expiration of the current permit.

1 (3) An entry permit required to be based on the
2 certification of the Department of Commerce and Labor, or
3 other Commonwealth Agency, shall be issued only for the period
4 indicated in the required certification. Any extension or
5 renewal of such entry permit shall likewise be granted only
6 for such period as the Department of Commerce and Labor or
7 other Commonwealth Agency shall have certified.

8 (4) No entry permit shall be modified, nor shall a
9 nonresident worker certificate shall be issued, which would
10 permit a person who has entered the Commonwealth as a visitor
11 or tourist to be employed in the Commonwealth."

12 Section 17. Amendment. The following paragraph is added to 3 CMC
13 4346.

14 "(c) Notwithstanding the other provisions of this Act,
15 any alien who by the certification of the Director of Public
16 Health and Environmental Services is deemed to carry a
17 communicable disease or disease which may pose a health hazard
18 to any other person shall be subject to immediate deportation.
19 Upon receipt of such certification from the Director of Public
20 Health and Environmental Services, the Chief of Immigration
21 shall cause such alien to be deported to the country of his or
22 her origin."

23 Section 18. Valid Passport Required. Section 17 of Public Law
24 3-105 is amended to add new subsections (i) and (j) to read as follows:

1 "(i) The failure of any alien to maintain a current
2 passport during the times the alien is in the Commonwealth
3 shall be grounds for immediate deportation.

4 (j) The Chief of Immigration shall implement procedures
5 to insure compliance with this section."

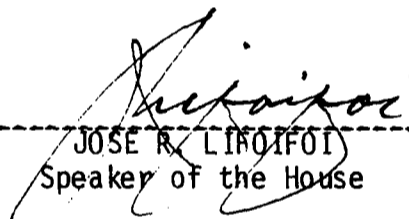
6 Section 19. Repealer and Reenactment. 3 CMC 4447(d) is repealed
7 and reenacted as follows:

8 "(d) In any action taken directly by, or on behalf of a
9 non-resident worker notwithstanding any other remedies that
10 may apply, the worker that prevails in such action shall
11 recover unpaid wages and overtime compensation, an additional
12 equal amount as liquidated damages and court costs. In all
13 cases the Court shall as part of the judgment render a finding
14 as to the merits of the action. The filing of an action which
15 is determined by the Court to be unfounded or without merit
16 shall be considered a material breach of contract and shall
17 prevent reentry into the Commonwealth by the nonresident
18 worker in the event the nonresident attempts reentry into
19 the Commonwealth within five years from the date of the
20 Court's decision. Any employer who violates the provisions
21 of this Act, or breaches an employment contract with a
22 nonresident worker, in addition to any other damages which
23 may be awarded the non-resident worker by the court, shall
24 be awarded reasonable attorney fees. However, attorney
25 fees shall not be recoverable against the Commonwealth."

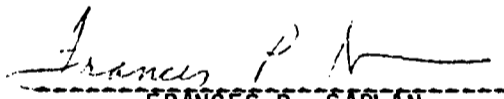
1 Section 21. Severability. If any provision of this act, or of any
2 regulation or order issued under this act, or the application of such
3 provision, regulation, or order to any person or circumstance, shall be
4 held invalid by a court of competent jurisdiction, the remainder of this
5 act, or of such regulation or order, or the application of such provision,
6 regulation, or order to persons or circumstances other than those to which
7 it is held invalid, shall not be affected thereby.

8 Section 22. Effective Date. The provisions of this Act shall take
9 effect 90 days after its approval by the Governor or after its becoming
10 law without such approval.

ATTEST:

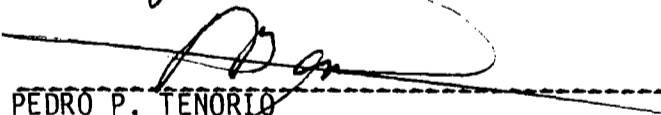


JOSE R. LIROIFOI
Speaker of the House



FRANCES P. SABLAN
House Clerk

April 29, 1987



PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands