

SECOND REGULAR SESSION, 1988

AN ACT

To establish a Commonwealth Appeals Court to be known as the Supreme Court, Commonwealth of the Northern Mariana Islands; to reestablish and rename the trial court as the Superior Court, Commonwealth of the Northern Mariana Islands; to repeal and reenact Title 1, CMC, Division 3, Chapters 1, 2, 3 and 4; and for other purposes.

BE IT ENACTED BY THE SIXTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the
2 "Commonwealth Judicial Reorganization Act of 1989."

3 Section 2. Statement of Purpose and Policy. The Legislature
4 recognizes that pursuant to Section 402 of the Covenant the Commonwealth
5 reserved to itself all rights to control the appellate jurisdiction of
6 its courts, and to invest such appellate jurisdiction in such court or
7 courts as in its discretion it deemed appropriate. The Legislature also
8 recognizes that pursuant to the Covenant it chose to invest that
9 jurisdiction, by means of Public Law 1-5, in the District Court of the
10 Northern Mariana Islands, and that in the exercise by the District Court
11 of the jurisdiction so invested, the District Court has at all times in
12 this capacity acted as a Court of the Northern Mariana Islands as that
13 term is used in Covenant Section 403. It is the policy of the
14 Legislature to retain full sovereignty over the investiture of
15 jurisdiction in the courts which construe the laws of the Commonwealth.
16 It is the purpose of this Act to withdraw the appellate jurisdiction
17 previously invested in the District Court, and to transfer that

1 jurisdiction to the Supreme Court of the Commonwealth which is created
2 in this Act. It is the intent of the Legislature to recognize that
3 until the expiration of fifteen years after the enactment of Public Law
4 1-5 final decisions of the Commonwealth Supreme Court will be appealable
5 to the United States Court of Appeals for the Ninth Circuit, as is
6 provided by Section 403(a) of the Covenant, and that upon the expiration
7 of that period all final decisions of the Supreme Court will be
8 appealable thereafter only to the United States Supreme Court.

9 Section 3. Repealer and Reenactment. Title 1, CMC, Division 3,
10 Chapters 1, 2, 3 and 4 are repealed and reenacted as follows:

11 "Chapter 1

12 Commonwealth Supreme Court

13 Section 3101. Establishment of Supreme Court. There
14 is hereby established, in the judicial branch of the
15 Commonwealth Government, the Supreme Court of the Common-
16 wealth of the Northern Mariana Islands. Admissions to the
17 Bar are to be governed by the Supreme Court.

18 Section 3102. Jurisdiction.

19 (a) The Supreme Court has appellate jurisdiction
20 over judgments and orders of the Superior Court of the
21 Commonwealth.

22 (b) The Supreme Court has original but not exclusive
23 jurisdiction to issue writs of mandamus, certiorari,
24 prohibition, habeas corpus, and all other writs or orders
25 necessary and appropriate to the full exercise of its

1 appellate and supervisory jurisdiction.

2 (c) The Supreme Court shall have appellate
3 jurisdiction over attorney disciplinary matters.

4 **Section 3103. Appeals: Powers of the Supreme Court.**

5 On appeal, the Supreme Court may affirm, modify, vacate,
6 set aside or reverse the judgment, order or decree appealed
7 from, and remand the cause and direct the entry of such
8 appropriate judgment, order or decree as may be just under
9 the circumstances, but the Supreme Court may not take new
10 or additional evidence, consider issues of fact de novo,
11 or set aside findings of fact unless they are clearly
12 erroneous, and due regard shall be given to the opportunity
13 of the trier of fact to judge the credibility of witnesses.
14 The decision of the Supreme Court is final and may not be
15 appealed to any other court, except as provided in Section
16 403(a) of the Covenant.

17 **Section 3104. Supervisory Jurisdiction.** The Supreme
18 Court has supervisory jurisdiction over the Superior Court
19 of the Commonwealth and its judges.

20 **Section 3105. Appeals: Procedure and Rules.** The
21 time within which an appeal may be taken and the manner
22 and procedure of an appeal shall be prescribed by rules
23 adopted by the Supreme Court in accordance with Section
24 3403.

1 Section 3106. Justices of the Supreme Court. The
2 Supreme Court shall consist of the Chief Justice of the
3 Commonwealth and two Associate Justices.

4 Section 3107. Appeals Determined by Three Justices.
5 Appeals to the Supreme Court shall be heard and determined
6 by a panel consisting of the Chief Justice and two
7 Associate Justices. If the Chief Justice is disqualified,
8 he or she shall appoint a temporary Chief Justice to act
9 in his or her stead. The concurrence of two justices shall
10 be necessary to any decision of the Supreme Court on the
11 merits of an appeal. However, the Supreme Court may
12 provide by rule for hearing and disposition of matters
13 involving an appeal, other than the merits of the case, by
14 a single justice.

15 Section 3108. Interim Budget Provision. Upon this
16 Act's approval by the Governor or upon its becoming law
17 without such approval, the Governor shall transmit revenue
18 resources for appropriation to the Legislature in the
19 amount of Two Hundred Seventy-Five Thousand Dollars. This
20 amount shall be automatically appropriated for the interim
21 operation of the Supreme Court. Upon certification by the
22 Chief Justice that the Supreme Court is ready for business,
23 an annual appropriation shall provide for the expenses of
24 the Supreme Court.

25

1 Section 3109. Supreme Court Jurisdiction; Pending
2 Cases.

3 (a) Commonwealth Trial Court Cases. The Supreme
4 Court has appellate jurisdiction over all decisions,
5 orders, judgements, or other appealable actions of the
6 Commonwealth Trial Court which are taken on or after the
7 effective date of this section.

8 (b) Pending Appeals. The Supreme Court has appellate
9 jurisdiction over all appeals which have been taken from a
10 judgement, order or decision of the Commonwealth Trial
11 Court, and which are pending before the Appellate Division
12 of the District Court of the Northern Mariana Islands, or
13 before the United States Court of Appeals for the Ninth
14 circuit, or before the Supreme Court of the United States.

15 (c) Pending Appeal: Definition. For purposes of
16 this section, an appeal is pending if the final controlling
17 mandate of the appellate tribunal having jurisdiction of
18 the appeal has not been received by the Commonwealth Trial
19 Court.

20 (d) Effective Date. This section shall take effect
21 at the time and on the date that this Act is approved by
22 the Governor, or at 12:01 a.m., Commonwealth time, on the
23 date this Act becomes law without such approval.

24 Chapter 2
25 Commonwealth Superior Court

1 Section 3201. Commonwealth Superior Court. The
2 Commonwealth Trial Court which was originally established
3 by Public Law 1-5 is reestablished and renamed the
4 "Superior Court of the Commonwealth of the Northern Mariana
5 Islands." All incumbent judges of the Commonwealth Trial
6 Court shall henceforth be judges of the Superior Court.
7 The Superior Court shall consist of such divisions as the
8 judges of the Superior Court may establish by rule.

9 Section 3202. Jurisdiction. The Superior Court has
10 original jurisdiction over all civil actions, in law and in
11 equity, and over all criminal actions, and has the power to
12 issue writs of mandamus, certiorari, prohibition, habeas
13 corpus, and all other writs and orders necessary and
14 appropriate to the full exercise of its jurisdiction.

15 Section 3203. Judges of the Superior Court. The
16 Commonwealth Superior Court shall consist of a full-time
17 Presiding Judge and at least two full-time Associate Judges.
18 At least one full-time judge shall be assigned to the
19 hearing of civil and criminal actions filed in the Superior
20 Court on the islands of Rota and Tinian. The Presiding
21 Judge may require the temporary transfer of the judge or
22 judges sitting in Rota or Tinian to perform judicial duties
23 elsewhere as warranted by the workload of the Superior Court.

24 Section 3204. Presiding Judge.

25 (a) The Presiding Judge of the Superior Court shall

1 be appointed by the Governor with the advice and consent of
2 the Senate.

3 (b) The Presiding Judge shall distribute the business
4 of the Superior Court among the judges of the Superior
5 Court and prescribe the order of business.

6 (c) During any absence, disability or vacancy in the
7 office of the Presiding Judge, the duties of the Presiding
8 Judge shall be performed by the judge who is senior in
9 commission among the other judges of the Superior Court.

10 Chapter 3

11 The Judiciary

12 Section 3301. Commonwealth Judiciary. The judiciary
13 of the Commonwealth of the Northern Mariana Islands shall
14 consist of all of the judges and justices of the Common-
15 wealth courts in active service.

16 Section 3302.

17 (a) Appointment and Term of Office. The Governor
18 shall appoint the Commonwealth judiciary, with the advice
19 consent of the Senate. The term of office of judges and
20 justices of the Commonwealth Courts shall be six years.
21 However, any Commonwealth judge or justice who has served
22 a full term of six years in any court of the Commonwealth
23 and is thereafter reappointed as a Commonwealth judge or
24 justice shall serve for a term of twelve years.

25 (b) Vacancies. Any judge or justice appointed to

1 fill a vacancy in a Commonwealth court shall be appointed
2 for a full term as provided in subsection (a) of this
3 Section.

4 **Section 3303. Qualifications of Judges and Justices.**

5 At the time of appointment, a judge or justice of the
6 Commonwealth shall be a citizen or national of the United
7 States and shall possess the following additional
8 qualifications:

9 (a) Shall have been graduated from an English
10 speaking accredited law school and have been admitted
11 to practice in the Commonwealth or in the highest
12 appellate court of a state, territory or possession
13 of the United States;

14 (b) Shall have practiced law for a minimum of
15 five years or served as a judge of a court of record
16 which has jurisdiction comparable to or greater than
17 the civil or criminal jurisdiction of the Commonwealth
18 Superior Court for a minimum of 3 years;

19 (c) Shall not have been convicted of a felony in
20 the Commonwealth, or in any other area under the
21 jurisdiction of the United States; and

22 (d) Shall have attained the age of thirty-five
23 years.

24 **Section 3304. Compensation of Judges.**

25 (a) The salary of the Chief Justice of the Supreme

1 Court shall be \$75,000.00 per annum.

2 (b) The salary of each full-time Associate
3 Justice of the Supreme Court shall be \$72,000.00 per
4 annum.

5 (c) The salary of the Presiding Judge of the
6 Superior Court shall be \$69,000.00 per annum.

7 (d) The salary of each Associate Judge of the
8 Superior Court shall be \$66,000.00 per annum.

9 (e) The salary of any part-time judge or
10 justice of the Commonwealth shall be paid on a pro-
11 rata basis, based upon the time actually served in
12 the performance of the official duties of that
13 judge or justice.

14 (f) The salary of a judge or justice of the
15 Commonwealth may not be reduced during a term of
16 office of that judge or justice.

17 Section 3305. Appointment of Special Judges.

18 (a) Whenever the prompt and efficient dispatch
19 of the business of any court of the Commonwealth
20 requires the services of one or more judges in
21 addition to those regularly appointed and serving in
22 the Supreme Court or the Superior Court of the
23 Commonwealth, special judges shall be designated and
24 assigned in accordance with the provisions of this
25 section.

1 (b) The Governor shall appoint, with the advice and
2 consent of the Senate one or more special Commonwealth
3 judges to be available to serve temporarily in the Superior
4 Court or the Supreme Court. The Governor shall, in his
5 discretion, determine the number of special judges to be
6 appointed, after consultation with the Chief Justice of the
7 Commonwealth.

8 (c) A special Commonwealth judge may be designated and
9 assigned to sit or hold court as provided in this section.

10 (d) The Chief Justice of the Commonwealth shall
11 maintain a roster of special Commonwealth judges, which
12 roster shall be known as the roster of special judges.

13 (e) The name of every special Commonwealth judge
14 shall be included in the roster of special judges.

15 (f) When in the discretion of the Chief Justice the
16 prompt and efficient dispatch of the business of the Supreme
17 Court requires the service of a special Commonwealth judge,
18 the Chief Justice may designate and assign a special
19 Commonwealth judge to a particular case or proceeding or to
20 serve for a special period of time.

21 (g) When in the discretion of the Presiding Judge of
22 the Superior Court the prompt and efficient dispatch of
23 the business of the Superior Court requires the service of
24 a special Commonwealth judge, the Presiding Judge of the
25 Superior Court shall present the Chief Justice of the

1 Commonwealth with a certificate of necessity and the Chief
2 Justice shall thereupon designate and assign one or more
3 special Commonwealth judges to sit and hold court in the
4 Superior Court of the Commonwealth.

5 (h) All designations and assignments of a special
6 Commonwealth judge shall be in writing and shall specify
7 the judicial duties assigned and duration of the
8 designation and assignment.

9 (i) The salary of special Commonwealth judges shall
10 be paid on a pro rata basis, at the rate set by law for
11 the judicial office which the special judge is designated
12 and assigned to perform.

13 **Section 3306. Residence of Judges and Justices.** Each
14 judge and justice of the Commonwealth shall reside within
15 the Commonwealth, except that in the case of the appointment
16 of a justice or judge to serve on a less than full-time
17 basis that justice or judge may reside elsewhere.

18 **Section 3307. Limitations on Political Activities.** A
19 judge or justice of the Commonwealth may not:

20 (a) Make a direct or indirect financial
21 contribution to a political organization or candidate;

22 (b) Hold an executive office in a political
23 organization;

24 (c) Participate in a political campaign; or

25 (d) Become a candidate for elective public

1 office without resigning judicial office at least six
2 months before becoming a candidate.

3 **Section 3308. Disqualification of Judges.**

4 (a) A justice or judge of the Commonwealth shall
5 disqualify himself or herself in any proceeding in which
6 his or her impartiality might reasonably be questioned.

7 (b) A justice or judge shall also disqualify himself
8 or herself in the following circumstances:

9 (1) Where he or she has a personal bias or
10 prejudice concerning a party, or personal knowledge of
11 disputed evidentiary facts concerning the proceeding;

12 (2) Where in private practice he or she served
13 as a lawyer in the matter in controversy, or a lawyer
14 with whom he or she previously practiced law served
15 during that association as a lawyer concerning the
16 matter, or the judge or such lawyer was or is a
17 material witness concerning that matter;

18 (3) Where he or she has served in governmental
19 employment and in that capacity participated as
20 counsel, adviser or material witness concerning the
21 proceeding or expressed an opinion regarding the
22 merits of the particular case in controversy;

23 (4) He or she, individually or as a fiduciary,
24 or his or her spouse or minor child residing in the
25 household, has a financial interest in the subject

1 matter in controversy or in a party to the proceeding,
2 or any other interest that could be substantially
3 affected by the outcome of the proceeding;

4 (5) He or she, or his or her spouse, or a person
5 within the second degree of relationship to either of
6 them, or the spouse of such person:

7 (i) Is a party to the proceeding, or an
8 officer, director, or trustee of a party;

9 (ii) Is acting as a lawyer in the
10 proceeding;

11 (iii) Is known by the judge or justice to
12 have an interest that could be substantially
13 affected by the outcome of the proceeding; or

14 (iv) To the knowledge of the judge or
15 justice is likely to be a material witness in
16 the proceeding.

17 (c) A judge or justice should inform himself or
18 herself about his or her personal and fiduciary financial
19 interests, and make a reasonable effort to inform himself
20 or herself about the personal financial interests of his
21 or her spouse and minor children residing in the household.

22 (d) For the purposes of this Section the following
23 words or phrases shall have the meaning indicated:

24 (1) "proceeding" includes pretrial, trial,
25 appellate review, or other stages of litigation;

1 (2) the degree of relationship is calculated
2 according to the civil law system;

3 (3) "fiduciary" includes such relationships as
4 executor, administrator, trustee, and guardian;

5 (4) "financial interest" means ownership of a
6 legal or equitable interest, however small, or a
7 relationship as director, advisor, or other active
8 participant in the affairs of a party, except that:

9 (i) Ownership in a mutual or common
10 investment fund that holds securities is not a
11 "financial interest" in such securities unless
12 the judge or justice participates in the
13 management of the fund;

14 (ii) An office in an educational,
15 religious, charitable, fraternal, or civic
16 organization is not a "financial interest" in
17 securities held by the organization;

18 (iii) The proprietary interest of a
19 policyholder in a mutual insurance company, of
20 a depositor in mutual savings association, or a
21 similar proprietary interest, is a "financial
22 interest" in the organization only if the
23 outcome of the proceeding could substantially
24 affect the value of the interest;

25 (iv) Ownership of government securities

1 is a "financial interest" in the issuer only if
2 the outcome of the proceeding could substantially
3 affect the value of the securities.

4 (e) No justice or judge shall accept from the
5 parties to the proceeding a waiver of any ground for
6 disqualification enumerated in subsection (b) of this
7 Section. Where the ground for disqualification arises only
8 under subsection (a), waiver may be accepted provided it is
9 preceded by a full disclosure on the record of the basis
10 for disqualification.

11 Section 3309. Disqualification Procedure.

12 (a) Whenever a justice or judge of the Commonwealth
13 believes that there are grounds for his or her disqualifi-
14 cation, he or she shall, on his or her own initiative,
15 recuse himself or herself and enter a written order of
16 recusal in the record of the proceeding. If the parties
17 are not present in court when the order is entered, the
18 clerk shall immediately transmit a copy of the order to
19 each party or attorney who has appeared in the action or
20 proceeding.

21 (b) Whenever a party to any proceeding in a court of
22 the Commonwealth believes that there are grounds for
23 disqualification of the justice or judge before whom the
24 matter is pending, that party may move for disqualification
25 of the justice or judge, stating specifically the grounds

1 for such disqualification.

2 Chapter 4

3 Judicial Administration

4 Section 3401. Court Administration.

5 (a) Administrative responsibility for the Commonwealth
6 judiciary is vested in the Supreme Court of the Commonwealth,
7 under the direction of the Chief Justice of the Supreme Court.

8 (b) All employees of the Supreme Court shall be
9 appointed by and serve under the supervision and direction of
10 the Chief Justice. All employees of the Superior Court shall
11 be appointed by and serve under the supervision and direction
12 of the Presiding Judge.

13 Section 3402. Budget Responsibilities.

14 (a) The Chief Justice, in consultation with the
15 Commonwealth judiciary, shall be responsible for preparing
16 estimates of the budget requirements of the Commonwealth
17 judiciary and presenting those estimates to the Legislature
18 annually.

19 (b) Within ninety days of his or her confirmation by
20 the Senate, the Chief Justice shall present a budget
21 estimate to the Legislature setting forth the financial
22 requirements of the Commonwealth judiciary for fiscal year
23 1989, utilizing to the maximum extent feasible existing
24 facilities and personnel of the Commonwealth judiciary or
25 other available resources of the Commonwealth.

1 (c) The expenditure authority for funds appropriated
2 for the Supreme Court shall be vested in the Chief Justice.
3 The expenditure authority for funds appropriated for the
4 Superior Court shall be vested in the Presiding Judge.

5 Section 3403. Rule-Making Authority.

6 (a) The Chief Justice may propose rules governing
7 appeals from the Superior Court, judicial ethics, admission
8 to practice before the Commonwealth judiciary and governance
9 of the members of the Bar of the Commonwealth, fees, and
10 other proper matters of judicial administration of the
11 Commonwealth courts.

12 (b) The Presiding Judge may propose rules governing
13 civil and criminal procedures and other proper matters of
14 judicial administration of the Superior Court. The
15 Presiding Judge may also propose rules regarding fees to be
16 charged, including jury trial fees, juror service fees,
17 fees for service of process, witness fees and subsistence
18 and travel expenses for witnesses, filing fees, and other
19 similar fees.

20 (c) All proposed rules shall be submitted promptly
21 by the Chief Justice to the President of the Senate and the
22 Speaker of the House of Representatives, and shall become
23 effective sixty days following submission unless disapproved
24 by a majority of the members of either House of the
25 Legislature. However, nothing in this Section shall limit

1 the authority of the Legislature to enact laws regarding
2 the subjects referred to in this Section, and any rule may
3 be annulled or amended by a duly enacted law.

4 (d) To the extent not expressly contrary to the
5 provisions of this Act, the existing rules of the
6 Commonwealth Trial Court shall remain in effect until
7 modified or repealed in accordance with this Section.

8 **Section 3404. Written Opinions.** Decisions of the Supreme
9 Court and of the Superior Court which determine a case and
10 decisions which determine a substantial question of procedure or
11 substantive law shall be set forth in written opinions, with the
12 reasons for the decision stated, within one year of submission of
13 the case for decision, and shall be published in consultation with
14 the Law Revision Commission."

15 **Section 4. Amendment.** Sections 3601, 3602, and 3603 of Title 1 of
16 the Commonwealth Code are amended by replacing the words "Commonwealth
17 Trial Court" with the words "Supreme Court of the Commonwealth" wherever
18 the words "Commonwealth Trial Court" appear. Section 3701 of Title 1 of
19 the Commonwealth Code is amended by replacing the words "Commonwealth
20 Trial Court" with the words "Commonwealth Superior Court" wherever the
21 words "Commonwealth Trial Court" appear. Wherever the term "Common-
22 wealth Trial Court" appears in the Commonwealth Code, it is henceforth
23 to be interpreted and understood to refer to the Commonwealth Superior
24 Court.

25 **Section 5. Amendment.** Section 3206 of Title 7 of the Commonwealth

1 Code is amended by replacing the words "Chief Judge" with the words
2 "Chief Justice" wherever the words "Chief Judge" appear.

3 **Section 6. Amendment.** Sections 1603(b)(3) and 3709 of Title 1 and
4 Section 3106 of Title 7 of the Commonwealth Code are amended by
5 replacing the words "Chief Judge" with the words "Presiding Judge"
6 wherever the words "Chief Judge" appear.

7 **Section 7. Repealer and Reenactment.** Section 8250(b) of Title 1
8 is repealed and reenacted as follows:

9 "(b) The Commonwealth judiciary are exempt from this Section."

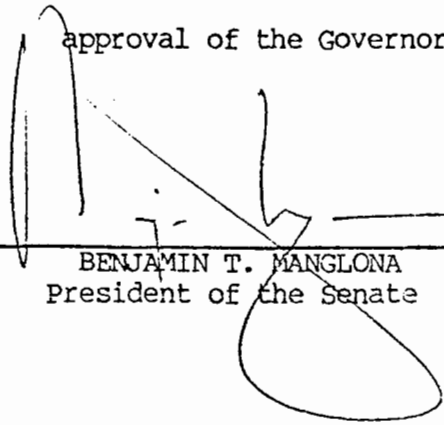
10 **Section 8. Repealer and Reenactment.** Section 8250(e) of Title 1
11 is repealed and reenacted as follows:

12 "If the Chief Justice of the Supreme Court or the Presiding
13 Judge of the Superior Court certifies to the presiding officers of
14 the Legislature and to the Chairman of the Civil Service Commission
15 that after a diligent effort the respective court is unable to
16 recruit a professionally or technically qualified person to take a
17 position of employment with the Commonwealth judiciary, the justice
18 or judge may waive the salary ceiling established by law for that
19 position."


20 **Section 9. Severability.** If any provision, section, or subsection
21 of this Act or the application thereof is held invalid by a court of
22 competent jurisdiction, the invalidity of such shall not affect any
23 other provision, section, or subsection of this Act or the application
24 thereof.

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1 Section 10. Effective Date. This Act shall take effect upon the
2 approval of the Governor or upon its becoming law without such approval.

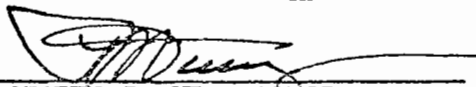


BENJAMIN T. MANGLONA
President of the Senate

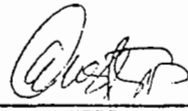


PEDRO R. GUERRERO
Speaker of the House

ATTEST:




MANUEL P. VILLAGOMEZ
Senate Legislative Secretary



EVELYN T. CASTRO
House Clerk

May 2, 1989



PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands

Time of Day: _____