

NINTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE

SENATE BILL
NO. 9-110, H.D.1

NINTH SPECIAL SESSION

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AN ACT

To provide for the reorganization of the Saipan Credit Union as the Commonwealth Credit Union; to give a sound administrative and financial basis for the Credit Union's recovery; and for other purposes.

BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Title. This Act shall be known as the Commonwealth Government Employees Credit Union Act of 1994.

Section 2. Findings. The Legislature finds that it is desirable that the Commonwealth have a Credit Union. The Legislature further finds that there already exists a Credit Union in the Commonwealth, namely, the Saipan Credit Union. The Saipan Credit Union operated safely and under sound fiscal management for many years, providing convenient loans and deposit services for the residents of the Commonwealth. However, due to a period of gross mismanagement, the Saipan Credit Union is presently in severe financial difficulties.

The Legislature finds that it is desirable to restructure the existing Saipan Credit Union as a new Credit Union, with proven and prudent management operating temporarily under the umbrella of the Commonwealth Government. It is the Legislature's intent that membership in the new Credit Union should be limited only to government employees and their immediate family members. Furthermore, it is the Legislature's intent that the new Credit Union should eventually be spun off as an independent private organization once it has sufficiently established a basis of sound financial management and has secured Federal Credit Union Deposit Insurance.

The Legislature finds that the Northern Marianas Retirement Board, with its proven record of prudence and sound management, is the most appropriate government entity to be charged with oversight of the Credit Union during its recovery. However, the Legislature intends that the connection be purely administrative, and that no liability should ever attach to the Fund for any liability or obligation of the Credit Union.

Finally, the Legislature finds that the Credit Union needs additional financing for its recovery. Such financing is provided in the form of a loan from the Retirement Fund, secured by the full faith and credit of the Commonwealth Government.

Section 3. Commonwealth Government Employees' Credit Union. There is established in the Commonwealth a non-profit government corporation, to be known as the Commonwealth Government Employees' Credit Union (hereafter the Credit Union), which shall take on all the assets and liabilities of the entity known as the Saipan Credit Union.

Section 4. Membership restricted. Membership in the Commonwealth Government Employees' Credit Union shall be restricted to employees of the Commonwealth government and their spouses and minor children.

The Board may provide for the administration of membership by issuing appropriate regulations.

Section 5. Administration of the Commonwealth Credit Union.

(a) Temporarily under Retirement Fund Board of Directors. The Credit Union shall be under the administration of the Northern Marianas Retirement Fund Board of Directors (hereafter "the Board") for not more than three years after the effective date of this Act. The Credit Union shall remain under the administration of the Board until the Commonwealth Public Auditor certifies that the Credit Union is fiscally sound and is being managed prudently and competently.

(b) Privatization. After certification by the Public Auditor pursuant to subsection (a), the Board shall make provisions for the transfer of the Credit Union to wholly private ownership and control by means of regulations issued in the appropriate manner.

(c) Administration: Board immunity; no liability to the Fund. Notwithstanding any law to the contrary, no member of the Board of Directors of the Northern Marianas Retirement Fund shall be liable in any civil action founded upon a statute or the case law of this Commonwealth for damage, injury or loss caused by or resulting from the member's performing or failing to perform any duty which is required or authorized to be performed by a person holding the position to which the member was appointed, unless the member acted with a malicious or improper purpose, except when the plaintiff in a civil action is the Commonwealth.

No liability shall attach to the Northern Marianas Retirement Fund, under any circumstances, for any liability of, or arising out of any action or obligation of, the Commonwealth Government Employees' Credit Union.

No tax liability shall attach to the Northern Marianas Retirement Fund for any profit, loss, accrual, transfer of funds, or other action of the Credit Union.

All books and accounts of the Credit Union shall be kept wholly separate from all books and accounts of the Northern Marianas Retirement Fund, and there shall be no commingling of funds between the two entities, excepting only the loan approved in Section 8 of this Act.

(d) Administration: General Manager. While under the administration of the Board, the Credit Union shall be managed by a General Manager, who shall be appointed by the Board and shall serve at the Board's pleasure. The General Manager shall have authority over the day-to-day operations of the Credit Union subject to the supervision of the Board. He shall have the authority to hire and dismiss employees. The General Manager may not approve loans, loan guarantees, or other extensions of credit to any person in excess of ten thousand dollars (\$10,000) without first receiving the approval of the Board. No loan may

ever be made to a minor, an incompetent person, a member of the Board, or the spouse of a Board member.

(e) Administration: Employees of the Credit Union. While the Credit Union is under the administration of the Board, employees of the Credit Union shall be considered government employees, and shall be entitled and required to make medical insurance and retirement fund payments in the same manner as government employees. The General Manager shall be an excepted service employee, and all others shall be civil service employees, until the Credit Union leaves the administration of the Board.

(f) Regulations. For the duration of the Board's administration of the Credit Union, the Board shall have the authority to promulgate regulations affecting and relating to the Credit Union.

Section 6. No BGRT liability. While under the administration of the Board, the Credit Union shall not be liable for any Business Gross Revenue Tax.

Section 7. Paycheck allotments authorized. The General Manager of the Credit Union shall have the authority to institute procedures for the repayment of loans and other accounts receivable through allotments to be deducted from Commonwealth government paychecks.

Section 8. Loan from Retirement Fund Authorized, and Backed by Full Faith and Credit of the Commonwealth.

(a) Authorization. The Legislature, by a vote of at least two-thirds of the members of each house, hereby approves and authorizes the borrowing of up to but not more than TWO MILLION DOLLARS (\$2,000,000) from the NMI Retirement Fund, by the Commonwealth Government Employees' Credit Union, for the Credit Union to pay off its obligations and establish itself on a financially sound basis again. The loan shall be for a reasonable period of time, not to exceed thirty years, and shall be at an interest rate of either Seven and One Half Percent (7.5%), or the actuarial assumption rate adopted by the Retirement Fund, whichever is greater.

(b) General obligation, backed by full faith and credit. This loan shall be accepted as a general obligation of the Commonwealth Government and shall be backed by the full faith and credit of the Commonwealth Government. The Commonwealth Government shall be liable in the event of any failure to make the payments agreed upon.

The Director of Finance is authorized and directed to pay when due, out of the General Fund, all obligations of the Commonwealth Government incurred pursuant to the borrowing authorized by this Act, to the extent that such obligations have not been duly paid under the terms of the loan agreement. Any such payments may be made without appropriation or fiscal year limitation.

(c) Other security may be required if deemed necessary. The Retirement Fund may, as a condition of the loan, require the Commonwealth government to pledge assets sufficient to secure the loan in full.

(d) CDA deemed satisfied. The requirements of 4 CMC, Division 10, Chapter 2 with regard to the Commonwealth Development Authority are deemed satisfied insofar as they may apply to the loan described in this Section.

(e) CNMI back taxes to be paid first. The loan proceeds shall first be applied to

pay all back taxes accrued and owing to the Commonwealth Government and the United States Internal Revenue Service before being used for any other purpose.

(f) Fund administrator to attend all meetings. Until such time as the loan described in this Section shall be paid and discharged in full, the Northern Marianas Retirement Fund Administrator shall be given reasonable notice of any and all meetings of the Board at which matters that touch or concern the Credit Union may be discussed, and shall be permitted to attend all such meetings.

Section 9. Audits. For the duration of the Board's administration of the Credit Union,

(a) The Board shall have free access to all account books and other financial records of the Credit Union;

(b) The Board shall have the authority to audit the Credit Union, or any portion or subdivision of the Credit Union, or to request or require a third party or parties to perform such an audit or audits. Any and all such audits shall be at the expense of the Credit Union; and,

(c) The Public Auditor shall have the authority to audit the Commonwealth Credit Union at will while the Credit Union is under the authority of the Retirement Fund. The Public Auditor shall audit the Credit Union at least once every two years while the Credit Union is under the administrative authority of the Retirement Fund.

Section 10. Amendment. Public Law 8-30, Section 3, is hereby amended by the addition of a subsection (f), to read as follows:

"(f) Hired by the Commonwealth Government Employees' Credit Union".

Section 11. Certification for purpose of assuming full faith and credit. Upon passage of this Bill by both houses of the Legislature, the Speaker of the House of Representatives and the President of the Senate shall certify and the House Clerk and the Senate Legislative Secretary shall attest whether this bill was passed by a vote of at least two-thirds of the members of each house in accord with Article X, Section 3. Such certification and attestation shall be attached to the Bill for transmission to the Governor or Acting Governor.

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.

Section 14. Effective Date. This Act shall take effect upon its approval by the Governor or

upon its becoming law without such approval.

PASSED BY THE HOUSE OF REPRESENTATIVES ON DECEMBER 1, 1994 AND BY THE SENATE ON JANUARY 26, 1995, BY THE AFFIRMATIVE VOTES OF AT LEAST TWO-THIRDS (2/3) OF THE MEMBERSHIP OF EACH HOUSE.

CERTIFIED BY:

 /s/ Ricardo S. Atalig
RICARDO S. ATALIG
ACTING PRESIDENT OF THE SENATE

 /s/ Diego T. Benavente
DIEGO T. BENAVENTE
SPEAKER
HOUSE OF REPRESENTATIVES

ATTESTED TO BY:

 /s/ David M. Cing
DAVID M. CING
SENATE LEGISLATIVE SECRETARY

 /s/ Joan P. Kaipat
For EVELYN C. FLEMING
HOUSE CLERK

 Approved this 13th day of February , 1995.

 /s/ Froilan C. Tenorio
FROILAN C. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS