

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

**PUBLIC LAW NO. 10-9
H. B. NO. 10-152, H.D.1**

FIRST REGULAR SESSION, 1996

AN ACT

To enact a moratorium on any expansion of the garment manufacturing industry in the CNMI, including a prohibition on the issuance of new business licenses for garment manufacturing and a limitation on the importation of alien labor to work in the garment industry.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Title. This Act shall be referred to as "Garment Industry Moratorium Act of 1996."

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: nonresident 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.

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.

Section 2. Amendment. 1 CMC section 2453 (d) is hereby amended to read as follows:

"(d) To license and regulate businesses engaged in the construction trade and to license businesses which are not otherwise licensed or regulated by any other department, agency, instrumentality, or law of the Commonwealth. Except as otherwise provided by law, the Department of Commerce shall not issue or cause to be issued any business license for the purpose of garment manufacturing."

Section 3. Amendment. Title 4, Division 5 of the Commonwealth Code is hereby amended to add a new Chapter 6 to read as follows:

"CHAPTER 6.
Restrictions on Garment Manufacturing

Section 5601. Definitions. For purposes of this Chapter:

(a) "Business License" means that license required to engage in or conduct business under 4 CMC section 1503.

(b) "Engaged in Substantial Construction or Manufacturing" means:

(1) that manufacturing of textiles or textile products has begun or will begin on or before the end of the fourth month following the effective date of this Act; and

(2) the applicant provides evidence of the required working capital (cash) in an amount of not less than one million dollars (1,000,000) and proof of its deposit in a CNMI banking institution; and

(3) one of the following requirements:

(i) the applicant has executed a lease or leasehold agreement or otherwise acquired an interest evidenced in writing in real property within the Commonwealth for the purpose of erecting thereon a facility for the

manufacture of textiles or textile products; or

(ii) the applicant has entered into a written contract(s) for the construction (including prefabrication) of a facility to be utilized for the manufacture of textiles or textile products on real property in the Commonwealth acquired for such purpose; or

(iii) the applicant has purchased or executed contract(s) for the purchase of necessary capital equipment designed for and typically employed in the manufacture of textiles or textile products; or

(iv) the applicant has recruited or caused by binding agreement to be recruited on its behalf at least eighty percent of non-immigrant alien workers skilled in the manufacture of textiles or textile products; or

(v) the applicant has made timely application to permitting authorities of the Commonwealth government (e.g. DEQ, CUC, CRM) for any permits required by law to be issued as a condition for the operation of a garment factory evidenced by a Department of Finance receipt of payment of the applicable fees.

(c) "Garment Manufacturer" means any sole proprietorship, partnership, corporation, firm, association, or other group or combination engaged in the creation, production, or assembly of textiles or textile products for purposes of export.

(d) "Garment Worker" means any person whose job title is listed under the definition of garment industry in the Dictionary of Occupational Titles published by the U.S. Secretary of Labor.

(e) "Qualified Garment Manufacturer" means a garment manufacturer engaged in manufacturing textiles or textile products.

(f) "Quota of a Manufacturer" means the number of non-immigrant alien garment workers allowed per garment manufacturer pursuant to regulations in effect prior to October 15, 1995.

(g) "Textiles or Textile Products" includes all manmade fibers, tops, yarn, piece goods, made-up articles, garments, and other textile manufactured products which is made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under Part 6 of Schedule 3, Parts 1, 4, 5, 7, or 13 of Schedule 7, Part 1 of Schedule 8, or Part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C 1202).

Section 5602. Prohibition on Issuance of New Licenses. Except as otherwise provided in this Act, the Department of Commerce shall not issue or cause to be issued to any applicant a business license for the purpose of garment manufacturing.

Section 5603. Restriction on Renewal of License. Notwithstanding any other provision of law, the Department of Commerce shall not renew or cause to be renewed to any applicant a business license for the purpose of garment manufacturing unless the applicant is a qualified garment manufacturer and can show one of the following:

(a) that the applicant held a valid business license for the purpose of garment manufacturing and was engaged in the manufacturing of textiles or textile products

prior to January 1, 1995; or

(b) that the applicant was issued a valid business license for the purpose of garment manufacturing between January 1, 1995 and the effective date of this Act and that the applicant is engaged in substantial construction or manufacturing on the effective date of this Act.

Section 5604. Restriction on Issuance of Labor Certificates and Entry Permits.

(a) The Department of Labor and Immigration shall not issue or cause to be issued or renewed any Nonresident Worker Entry Permit or Nonresident Worker Certificate to or on behalf of any non-immigrant alien to be employed as a garment worker except upon a written finding by the Secretary of Labor and Immigration that the applicant is:

- (1) renewing an existing employment contract; or
- (2) recruited to replace a non-immigrant alien garment worker whose contract of employment with a qualified garment manufacturer has terminated or will terminate within ninety (90) days; or
- (3) recruited to fill an alien garment labor employment quota authorized by the Secretary of Labor and Immigration prior to October 15, 1995.

Section 5605. Garment Worker Pool. There is hereby established a garment labor pool which shall consist of all unused or unfilled non-immigrant alien garment worker positions within the quota of a manufacturer. The criteria and procedures for defining and allocating these unused or unfilled positions among licensed qualified garment manufacturers shall be as set forth by regulation prior to October 15, 1995.

Section 5606. Reporting Requirements and Penalties. Reporting requirements and penalties shall be as set forth by regulation prior to October 15, 1995.

Section 5607. Authority to Implement by Rules and Regulations. The Secretary of Labor and Immigration, the Secretary of Commerce, and the Secretary of Finance shall jointly promulgate regulations to implement the purposes of this Act. To the extent that they do not conflict with the provisions of this Act, these regulations shall include re-promulgating regulations originally published in Volume 9, No. 9 (October 15, 1987) of the Commonwealth Register as Emergency Regulations, republished as Final Regulations in Vol. 10, No. 1, of the Commonwealth Register (January 19, 1989), subsequently amended and in effect prior to their repeal effective May 15, 1995 and October 15, 1995."

Section 4. Ratification. Any procedural or legal defect in the promulgation of those former regulations referenced in 4 CMC section 5607, as enacted by this Act, is hereby ratified.

Section 5. Limitation on Applicability. Unless specifically made applicable by local law, this Act shall apply only to the Third Senatorial District.

Section 6. 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 7. 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 8. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:

/s/ Jesus T. Attao
JESUS T. ATTAO
Acting Speaker
House of Representatives

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Vetoed this 4th day of April, 1996

/s/ Froilan C. Tenorio
FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands

Overridden by the Senate on : 4/10/96
Overridden by the House of Representatives on : 5/28/96
Became Public Law No. 10-9 on : 5/28/96

Overridden by the House of Representatives on May 28, 1996 and the Senate on April 10, 1996 with the affirmative vote of two-thirds of the members in each house.

CERTIFIED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

/s/ Jesus R. Sablan
JESUS R. SABLAN
President of the Senate