

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 1996

PUBLIC LAW NO. 10-10  
H.B. 10-147, H.C.S.1, H.D.1

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AN ACT

To amend 8 CMC Section 2303 by adding a new subsection to require the Courts of the Commonwealth to give effect to all validly executed wills in accordance with the Probate Code and add new subsections 2702(e) and 2702(f) and Section 2927; and for other purposes.

**BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

Section 1. Amendment. 8 CMC Section 2303 is hereby amended to designate the current section as subsection (b) and add a new subsection (a), all to read as follows:

"(a) The Courts of the Commonwealth shall give effect to a written will duly executed. In the absence of a written will, heirship shall be determined in accordance with customary law and the probate of laws of the Commonwealth, as may be applicable under this Division.

(b) Except as provided for in customary wills, partidas, holographic wills and nuncupative wills, every will shall be in writing signed by the testator or in the testator's name by some other person in the testator's presence and by his direction, and shall be signed by at least two persons each of whom witnessed the signing or the testator's acknowledgment of the signature of the will."

Section 2. Amendment. 8 CMC Section 2702 is hereby amended by the addition of new subsections "(e)" and "(f)" which are to read as follows:

"(e) The provisions of Section 2702 shall not apply to pretermitted children who have failed to establish paternity by an adjudication prior to the death of the father unless:

(1) the natural parents participated in a marriage ceremony before or after the birth of the child; or

(2) it is established by clear and convincing evidence that the father openly and notoriously held the child out as his own during his lifetime.

(f) the provisions of this section shall apply to both the paternity and heirship actions heretofore or hereafter made, and shall govern in all proceedings in which a final judgment, not subject to further appeal, has not been entered prior to the effective date of this Act.

Section 3. Amendment. 8 CMC is hereby amended by the addition of a new Section 2927 which is to read as follows:

"Section 2927. Standing of Executor or Administrator.

(a) An executor or administrator shall have standing to defend the estate from any claim made by an alleged omitted spouse or pretermitted child under 8 CMC Section 2707 or 2702.

(b) In any situation noted above, the executor or administrator may retain counsel to represent the interests of the executor or administrator in defending the estate from the claims set forth above. Counsel shall be paid their reasonable attorneys' fees to be approved by the executor or administrator. Subject to court approval such fees shall be paid from the estate.

(c) The provisions of this section shall apply to both paternity and heirship actions heretofore or hereafter made, and shall govern in all proceedings in which a final judgment, not subject to further appeal, has not been entered prior to the effective date of this Act.

Section 4. Amendment. 4 CMC Division 1, Chapter 7 is hereby amended by the addition of a new Article 3 which is to read as follows:

"Article 3. Estate Tax

"§1731. Prohibition of Tax. Neither the Commonwealth of the Northern Marianas Islands nor any political subdivision of the Commonwealth shall impose any gift, inheritance, succession, legacy, income or estate tax, or any other tax, on gifts or on the estate or inheritance of any person or on or by reason of any transfer occurring by reason of a death other than as provided in §1732.

"§1732. Estate tax; imposition; amount. Whenever a federal estate tax is payable to the United States, there is hereby imposed a Commonwealth estate tax equal to the portion, if any, of the maximum allowable amount of the credit for state death taxes, allowable under the applicable federal estate tax law, which is attributable to property located in the Commonwealth. However, in no event shall the estate tax hereby imposed result in a total death tax liability to the Commonwealth and the United States in excess of the death tax liability to the United States which would result if this section were not in effect.

"§1733. Collection and administration. The Director of the Division of Revenue and Taxation shall provide for the collection and administration of the tax imposed by §1732 by rules and regulations promulgated for that purpose.

"§1734. State death tax credit allowable against federal estate tax; property with situs in The Commonwealth; determination. In a case where a decedent leaves property having a situs in the Commonwealth, and leaves other property having situs in another state, or other states of the United States of America, the portion of the maximum state death tax credit allowable against the federal estate tax on the total estate by the federal estate tax law which is attributable to the property of having a situs in the Commonwealth shall be determined in the following manner:

"a. For the purpose of apportioning the maximum state death tax credit, the gross value of the property shall be that value finally determined for federal estate tax purposes.

"b. The maximum state death tax credit allowable shall be multiplied by the

percentage which the gross value of property having a situs in the Commonwealth bears to the gross value of the entire estate subject to federal estate tax.

"c. The product determined pursuant to subdivision (b) shall be the portion of the maximum state death tax credit allowable which is attributable to property having a situs in the Commonwealth."

Section 5. 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 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. 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/ Diego T. Benavente  
DIEGO T. BENAVENTE  
Speaker  
House of Representatives

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

Approved this 4th day of June, 1996.

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