

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 10-26

H. B. NO. 10-154, HCS1, SS1

FIRST REGULAR SESSION, 1996

AN ACT

To amend 1 CMC § § 3601-3603 to require that all attorneys comply with the requirements of the Rules of Admission of the Supreme Court as a condition to the private practice of law before the Courts of the Commonwealth; and for other purposes.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Purpose. The purpose of this Act is to maintain in the Supreme Court the responsibility for governing the admission of attorneys to practice law before the courts of the Commonwealth and to apply the Rules of Admission to all applicants fairly and equitably. It is further the purpose of this Act to preserve the constitutional balance between three co-equal branches of government and facilitate the ability of the executive and legislative branches to efficiently and effectively obtain counsel of their choosing.

Section 2. Findings. The Legislature recognizes that Article IV, Section 8 of the Commonwealth Constitution provides that the judiciary of the Commonwealth may impose rules governing the admission to and the governance of the Bar of the Commonwealth. Consistent with the Constitution, 1 CMC § 3101 provides that "Admissions to the Bar are governed by the Supreme Court." Therefore, admission to practice law in the Commonwealth should be in accordance with the Rules of Admission of the Supreme Court.

The Legislature further finds that the prescription of rules of admission and practice is primarily a legislative function delegated to the judiciary because of the special expertise of the courts in this area. See Supreme Court of Virginia v. Consumers Union, 446 U.S. 719 (1980). Regulation of conduct in and before the courts, however, falls within the inherent authority of the judiciary. Thus, regulation of admission to and conduct of the practice of law involves an overlap between legislative and judicial powers and should, for the most part, be left to the sound judgment of the supreme court.

Section 3. Amendment. 1 CMC § 3601 is hereby amended to read:

"§ 3601. Admission to Practice: Persons Previously Admitted to Practice.

Persons admitted to practice before the High Court of the Trust Territory of the Pacific Islands on or before January 9, 1978; and persons admitted to practice before the Commonwealth Trial Court prior to May 2, 1989, (effective date of Public Law 6-25); and persons admitted to practice before the Supreme Court of the Commonwealth pursuant to Chapter 6 of Division 3 of Title 1 of the Commonwealth Code as of the effective date of this

amendment, shall be entitled to practice before the Supreme Court of the Commonwealth according to the terms of admission then effective, until their terms of admission expire or are otherwise suspended or terminated pursuant to the applicable Rules of the Supreme Court, or the by-laws of the CNMI Bar Association."

Section 3. Repealer and Reenactment.

(a) 1 CMC § 3602 is hereby repealed and reenacted as follows:

"§ 3602. Admission to Practice: Other Persons.

Any other person may be certified for admission to practice before the Commonwealth Supreme Court upon full compliance with the Rules of Admission of the Supreme Court."

(b) The provisions of 1 CMC § 3602 and any rules, forms, or requirements of the Supreme Court with respect to the bar examination and admission to practice in effect immediately prior to the effective date of this Act shall remain in force and effect until superseded by new Rules of Admission duly promulgated by the Supreme Court pursuant to Article IV, Section 8 of the Commonwealth Constitution.

(c) 1 CMC § 3603 is hereby repealed and reenacted as follows:

"§ 3603. Admission to Practice: Government and Public Practice.

(a) Any attorney who:

(1) is licensed to practice in a state, territory, commonwealth, or possession of the United States;

(2) is in good standing;

(3) has graduated from a school accredited by the American Bar Association or the American Association of Law Schools or approved by the Supreme Court of the Commonwealth;

(4) has not been convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States;

and is a salaried employee of the Commonwealth Government or the Micronesian Legal Services Corporation (or a successor thereof) may practice law before the Supreme Court of the Commonwealth for a period of four years, so long as the attorney is acting within the scope of his or her employment. An attorney qualified to practice under this section shall submit evidence of his or her qualifications, in such form as the Supreme Court may prescribe, and such additional information as the Court may require (but not to exceed the information required of applicants under section 3602), in the Rules of Admission, to the Supreme Court within 60 days of commencing employment with the Commonwealth Government or the Micronesian Legal Services Corporation (or successor), and may not appear before any Commonwealth Court until sworn in pursuant to this section. Upon finding that the applicant meets the requirements of this section, the Supreme Court shall so notify the applicant and be given a date on which to appear before a Justice of the Supreme Court to be sworn in.

(b) Notwithstanding subsection (a), attorneys who are employees of the judicial branch of the Commonwealth Government may practice within the scope of their employment under such conditions, in such manner, and for such duration as the Supreme Court may determine."

(d) Any rules, forms, or requirements of the Supreme Court with respect to admission to practice under the former 1 CMC § 3603 as in effect immediately prior to the effective date of this Act and consistent with 1 CMC § 3603 as reenacted by this Act shall remain in force and effect until superseded by new Rules of Admission duly promulgated by the Supreme Court pursuant to Article IV, Section 8 of the Commonwealth Constitution.

Section 4. Certificates of Admission. The Supreme Court may impose a fee to cover the cost of printing and issuing certificates of admission to practice.

Section 5. 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 6. 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 7. Effective Date. This Act shall take effect upon its approval by the Governor or 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 14th day of September, 1996.

/s/ Jesus C. Borja
FROILAN C. TENORIO JESUS C. BORJA
Acting Governor
Commonwealth of the Northern Mariana Islands