

**AN ACT**

To reform the labor and business laws of the Commonwealth; and for other purposes.

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

Section 1. Title. This Act may be cited as the Omnibus Labor and Business Reform Act of 2000.

Section 2. Findings and Purpose. The Legislature finds that over the past several years, many laws have been enacted that unduly restrict the ability of people to do business. We do not believe that it is in the interests of the Commonwealth to stifle commerce by enacting restrictive laws, especially when our economy is in great need of revitalization. The Legislature further finds that although there is a need to protect jobs for our local residents, if there is no qualified local person to fill a business need, then the government should adopt policies to help business otherwise meet staffing needs. Finally, the Legislature recognizes the need to encourage new business development, and this should be done with as little government intrusion or regulation as necessary.

Section 3. Amendments with respect to the licensing of garment manufacturers.

a. Amendment. 4 CMC § 5702 is hereby amended as follows:

"Except as otherwise provided by law, the Department of Finance shall not issue or cause to be issued to any applicant any new business license in the Third Senatorial District for the purpose of garment manufacturing. No business license for the purpose of garment manufacturing shall be issued or renewed unless:

(a) the garment manufacturing company's operations in the Commonwealth employs, on a full time basis, at least 20% US citizens, who are also residents of the CNMI, in management and/or supervisory positions

(i) For purposes of this chapter, "management positions" shall mean full time employment with the function of planning, organizing, coordinating, directing, controlling, and supervising any project or activity with responsibility for results. This shall include, but not be limited to interviewing selecting and training employees, evaluating employees efficiency, disciplining employees, and providing for the safety of the employees of a factory and who are receiving a minimum base annual salary of \$24,000.

(ii) For purposes of this chapter, "supervisory positions" shall mean full time employment with the function to coordinate, direct, and inspect continuously and at first hand the accomplishment of the manufacturing process for ones employer, or management and shall include, but not be limited to the supervision of line production, the preparation of payroll and time records, inspection of production, and keeping production records. factory and who are receiving minimum base annual salary of \$18,000.

(b) Each garment manufacturer shall provide the necessary training to a U.S. citizen in the position for which he or she is employed.

(c) If an employer demonstrates to the Secretary of Labor and Immigration that he is unable to reach or maintain the requisite percentage of resident workers in management and/or supervisory positions, despite a good faith effort to do so, the Secretary may reduce

the percentage to one that is reasonably attainable under the circumstances. Provided, however, that in order to receive a reduction under this subsection, the employer must demonstrate that a training program for the development of resident supervisors/managers is in place and that resident workers are in fact being trained for management and supervisory positions. Eighteen months after the effective date of this Act, reduction under this subsection shall no longer be available.

(d) Failure to comply with this section shall be grounds for the Department of Commerce to initiate administrative proceedings to suspend or revoke the garment manufacturer's license, and shall subject the violator to a civil penalty not to exceed \$5000 per day of noncompliance. This section does not otherwise limit the grounds upon which such license may be suspended or revoked."

b. Amendment. 4 CMC § 5703 is hereby mended as follows:

"Notwithstanding any other provision of law, the Department of Finance 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 manufacturer and can show 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

(c) that the garment manufacturer's operations in the Commonwealth employs, on a full time basis, at least 20% US citizens, who are also residents of the CNMI, in management or supervisory positions, provided further that the garment manufacturer shall provide

the necessary training to ensure compliance with this section. Failure to comply with this provision will be grounds for the Department of Commerce to refuse to renew or cause to be renewed the garment manufacturer's license, subject to an administrative proceeding. A garment manufacturer found to be in violation of this subsection or any other provision of law applicable to the business license of a garment manufacturer is subject to a civil penalty not to exceed \$5,000 per day of noncompliance, the payment of which shall be a condition for license renewal.

c. Amendment. 4 CMC § 5704 is hereby amended by adding a new subsection (4), as follows:

"(4) and recruited by a garment manufacturer who employs, on a full time basis, not less than 20 percent U. S. citizens, who are also residents of the CNMI, in management and supervisory positions."

d. Date of Compliance. Garment manufacturers shall comply with the percentage requirements for resident workers in supervisory and/or management positions set forth under this section within 180 days after the effective date of this Act.

Section 4. Amendments to P.L. 10-44 with respect to foreign investment.

a. Amendment. Section 7(c) of P.L. 10-44 is hereby amended to read as follows:

1. A holder of a long term business certificate is entitled to lawfully engage in business in the Commonwealth for a period of two (2) years; provided, however, that the holder shall provide a one hundred thousand (\$100,000.00) dollar security deposit. The deposit shall be in either one of the following forms;

(a) a cash deposit in the sum of \$100,000 on deposit in a banking, trust, or finance institution approved by the Secretary of the Department of Commerce. The security deposit may be held in any

form of account, including a timed account, acceptable to the Secretary of the Department of Commerce. Any interest accrued on the timed account shall be paid to the alien investor. Exclusive authorized signature authority for the security deposit shall be the Secretary of the Department of Commerce.

(b) a bond in the sum of one hundred thousand \$100,000.00) dollars issued by a surety company licensed to transact business in the Commonwealth, and approved by the Commonwealth Insurance Commissioner, naming the Secretary of the Department of Commerce as the beneficiary. Such surety company shall be listed as acceptable for federal projects by the United States Department of the Treasury. The Secretary of the Department of Commerce may, by regulation, impose such other requirements as the Secretary may find reasonably necessary to ensure the reliability and capability of such surety. The bond must run for a minimum term of two years, must provide for a minimum of thirty (30) days notice to the Secretary prior to its being canceled, and must contain such other terms that the Secretary, by regulation, deems necessary and proper.

No matter the type of security used for the deposit, the security shall not be released until the alien investor provides the Secretary of the Department of Commerce with a statement from the Department of Finance that all applicable taxes are fully satisfied. The alien investor must also publish notice, in at least one daily newspaper distributed throughout the Commonwealth, once a week for four (4) consecutive weeks, that he has either ceased operation or has divested himself of his interest of his business in the Commonwealth and has applied to the Secretary of the Department of Commerce for release of his security deposit. Said notice must also contain any details as prescribed by the Secretary of the Department of Commerce by regulation, but, at a minimum,

will apprise any reader that the security deposit shall be released unless a claim is served upon the Secretary of the Department of Commerce within six (6) months of the last publication of the notice together with a copy of a complaint showing that a civil action has been filed in a court of competent jurisdiction in the Commonwealth during said six (6) month period. If no claim is filed, or if the claim is for less than the entire security deposit, then the excess shall be refunded to the alien investor. If a claim is filed, then the security deposit, or remaining balance thereof, shall be transferred to the Clerk of Court and shall be held by the same until the matter is finally resolved.

b. Amendment. Section 7(d) of P.L. 10-44, is hereby amended to read as follows:

1. A certificate of Foreign Investment is a certificate issued to an alien who has met all the standards and conditions enumerated in this Part as proof of the holder's participation as an alien investor in an approved investment in the Commonwealth. The holder shall have the right to lawfully engage in business in the Commonwealth as long as the Alien Investor complies with the terms upon which the certificate was issued; Provided, however, that the alien investor shall provide a one hundred thousand (\$100,000.00) dollar security deposit. The deposit shall be in any of the forms permitted for a security deposit to a holder of a long-term business certificate and subject to the same terms and conditions.

Section 5. Amendments to P.L. 11-6 with respect to the moratorium on the hiring of non-resident alien workers.

a. Amendment. Public Law 11-6, section 2 (c) is amended to read as follows:

(c) Exemption for Replacement Hire. The hiring of a nonresident worker to replace another nonresident worker in the same position shall not be affected by the moratorium imposed by this Act;

Provided, however, that this exemption shall only be available if the nonresident worker being replaced has been fully accounted for either by confirmed departure from the Commonwealth and surrender/cancellation of the entry permit of the worker being replaced, by an officially accomplished transfer or in any other lawful manner acceptable to the Secretary of Labor and Immigration. An entry permit once issued shall remain in effect for one year after the date of issue.

b. Amendment. Public Law 11-6, section 3 (b) is amended to read as follows:

"(b) Transfers after the initial contract period. When a nonresident worker's initial or renewal contract expires, he or she may cease to work for that employer and seek new employment with a new employer without the necessity of exiting the Commonwealth. In such a case, no reimbursement or indemnification is required of the former employer by the new employer. The Department of Labor and Immigration shall strictly enforce the requirement of 30 days notice by the employer to renew or not to renew the contract of a nonresident worker. Such notice shall be in writing and a copy filed with the Department of Labor and Immigration. If a notice not to renew is timely served upon the employee, the employee shall have 15 days after the end of the contract term to secure new employment. If the employer fails to serve timely notice not to renew upon the employee, then the employee shall have a total of 45 days after the end of the contract term to secure new employment. At the end of such period, if the nonresident worker has not secured new employment, he or she must depart the Commonwealth or be subject to deportation as provided by law.

c. Amendment. Public Law 11-6, section 3 is further amended by adding a new subsection (d). Subsequent subsections are redesignated accordingly:

(d) The Secretary of Labor and Immigration shall, by regulation, establish a mechanism for the temporary transfer of employees between employers within garment, hotel and construction industry, as needed. Such regulations shall require, at a minimum, that all transfers are for a limited duration and are within the same industry. All requests for transfer shall be made in writing, specifying the nature and duration of the transfer, and subject to approval by the Secretary of Labor and Immigration."

d. Amendment. Public Law 11-6, section 3 is further amended by adding a new subsection (e) to read as follows:

(e) Non-resident workers employed in the garment industry shall only be permitted to transfer to another employer in the same industry provided that the transfer is a consensual transfer during the contract period.

Section 6. Amendment of P.L. 11-76 with respect to Garment Industry Cap.

a. Amendment. Public Law 11-76, section 2 is hereby amended as follows:

"(a) There is imposed on the garment industry in the Commonwealth a cap of not more than 15,727 non-resident alien workers. The cap includes positions in all job categories, from management to line worker in the garment industry.

(b) Each licensed garment manufacturer shall be allocated to a quota of non-resident alien workers pursuant to Schedule A. Provided, however, that the Secretary of Labor and Immigration shall, by regulation, establish a mechanism for the reallocation of non-resident alien workers among manufacturers based on need. To offset the cost of increased administration, the Secretary may assess a reasonable reallocation fee.

(c) If a license for garment manufacturing is revoked, not renewed, or otherwise permitted to lapse, the quota allocated to that to that licensee shall be reallocated, at the discretion of the Secretary of Labor and Immigration, to another qualified manufacturer.

b. Repealer. Public Law 11-76, section 4 (f) (3) is repealed in its entirety.

c. Amendment. Public Law 11-76, section 5 is amended to read as follows:

Section 5. Prohibition on Manpower Hire. The hiring of nonresident workers through manpower agencies for the garment industry is hereby prohibited.

d. Amendment. Public Law 11-76 is amended by adding a new section 10 to read as follows:

"10. The Secretary of Labor and Immigration shall monitor the number of garment workers in the Commonwealth, and shall ensure that the cap as set forth herein is strictly maintained and monitored. At least once every six months, the Secretary shall submit report to the Legislature on the status of the garment industry in the Commonwealth. This report shall include, at a minimum, the number of nonresident workers in the Commonwealth, the number of nonresident workers in the garment industry, and compliance with provisions of this Act."

Section 8. 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 9. 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 10. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

/s/ Benigno R. Fitial  
**BENIGNO R. FITIAL**  
SPEAKER OF THE HOUSE

**ATTESTED TO BY:**

/s/ Evelyn C. Fleming  
**EVELYN C. FLEMING**  
HOUSE CLERK

Approved this 3<sup>rd</sup> day of August, 2000

/s/ Pedro P. Tenorio  
**PEDRO P. TENORIO**  
**GOVERNOR**  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS