

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2000

PUBLIC LAW NO. 12-18

SENATE BILL

NO. 12-16, SD3

AN ACT

To repeal and reenact the Election Law of the Commonwealth of the Northern Mariana Islands (1 CMC, Division 6, Part 1); and for other purposes.

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

Section 1. Short Title. This Act may be cited as the "Northern Mariana Islands Election Reform Act of 2000."

Section 2. Repealer and Reenactment. 1 CMC, Division 6, Part 1 is hereby repealed and reenacted as follows.

"§ 6001. Short Title.

This part may be cited as the 'Northern Mariana Islands Election Law.'

§ 6002. Purpose.

The purpose of this part is to establish procedures and requirements for the registration of voters and the conduct of elections within the Commonwealth of the Northern Mariana Islands.

§ 6003. Definitions.

The following terms, whenever used or referred to in this part, shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(a) 'Absentee Voter' means any voter casting a ballot in any way other than at the polling place.

(b) 'Attorney General' means the Attorney General of the Commonwealth of the Northern Mariana Islands.

(c) 'Ballot' means any printed paper issued by the Commission containing the names of the persons to be voted for, the offices to be filled, the questions or issues to be voted on, and a seal of the Commission. A ballot may consist of one or more pieces of paper depending on the number of offices, candidates to be elected thereto, or questions or issues to be voted on.

(d) 'Commission' means the Commonwealth of the Northern Mariana Islands Election Commission.

(e) 'Candidate' means a person who is either seeking a nomination or is proposed for a nomination by sponsors in accordance with the provisions of this part.

(f) 'Commonwealth' means the Commonwealth of the Northern Mariana Islands.

(g) 'Constitution' means the Constitution of the Commonwealth of the Northern Mariana Islands.

(h) 'District' means an election district.

(i) 'Domicile' means that place in which a person maintains a residence with the intention of continuing that residence for an unlimited or indefinite period, and to which that person has the intention of returning whenever absent, even for an extended period.

(j) 'Elector' means any person who is entitled to register under the provisions of this part.

(k) 'General Election' means an election held throughout the Commonwealth every two years on the first Saturday in November.

(l) 'Local Election' means a municipal, senatorial district, or any election district election held in the Commonwealth.

(m) 'Nominee' means a candidate who has become entitled under the provisions of this part to a place on the ballot.

(n) 'Precinct' means the election district.

(o) 'Recognized Political Party' means any political party, group, or organization united for the purpose of promoting a common political end or carrying out a particular line of political policy and which:

(1) Has duly constituted leaders or officials, including a secretary; and

(2) Has filed with the Election Commission under such uniform regulations as the Commission may reasonably prescribe evidence of the lawful creation of the party and election of its chairman, secretary, and treasurer, including their addresses; and

(3) Has received, at the most recent general election, in the event it had a candidate for each of the offices to be filled, not less than ten percent (10%) of the total votes cast therein; or in the event it had a lesser number of candidates than there were offices to be filled, each such party candidate received not less than ten percent (10%) of

the total votes cast for the office to which the candidate sought election.

(p) 'Register' means the list of registered voters prepared and bound by the Commission.

(q) 'Registration Clerk' means any authorized staff of the Commission or any person authorized by the Commission to register electors, and other officers charged with the duty of registering electors.

(r) 'Residence' means that place in which a person's habitation is fixed, and to which, whenever the person is absent, the person has the intention to return; however, a person who is temporarily out of the Commonwealth or the election district for reasons of business, education, government representation, military service, medical referral, medical reasons, natural disaster or environmental conditions, or employment by the Commonwealth, even for an extended period, shall be considered a resident of the Commonwealth and the election district if during that period, he maintains a domicile in the Commonwealth and the election district.

(s) 'Voter' means a person duly registered to vote under the provisions of this part.

(t) 'Serving a Sentence for a Felony' includes persons imprisoned, on parole, probation, or under a suspended sentence.

§ 6004. Political Party: Rights.

In addition to any other rights accorded in this part to a political party, a recognized political party shall have the right to a place on the ballot, in any election, and to have the names of its candidates identified thereon with the party's name or

other official designations. Any recognized political party which shall fail to poll on any general election, the percentage of total votes cast as required by Section 6003(o)(3) shall lose its recognition as a recognized political party, and shall be denied a place upon the ballot unless it complies with the provisions of Section 6005.

§ 6005. Formation of New Political Parties.

Any number of voters may organize to form a political party, which may have a place on the ballot and have the names of its candidates identified thereon with the party's name by complying with Section 6003(o)(1) and (2).

§ 6006. Continuity of Democratic, Republican and CNMI Reform Parties.

The Democratic, Republican, and CNMI Reform parties shall be deemed to have complied and qualified under the provisions of this part on its effective date.

CHAPTER 1
Election Commission

§ 6101. Election Commission; Establishment.

There is hereby established an Independent Election Commission in the Commonwealth government to be known as the 'Commonwealth of the Northern Mariana Islands Election Commission'.

§ 6102. Election Commission: Composition.

The Commission shall have nine (9) members appointed by the Governor subject to the advice and consent of the Senate. Five members shall be residents of Saipan and the islands north of Saipan, two members shall be residents of Rota, and two members shall be residents of the islands of Tinian and Aguiguan. No person

may be appointed a commission member who is not a registered voter of the Commonwealth.

§ 6103. Election Commission: Term of Appointment.

(a) Members shall serve for a term of four years, except that of the members first appointed, two (2) shall serve for a term of one (1) year, two (2) shall serve for two (2) years, two (2) shall serve for three (3) years, and three (3) shall serve for four (4) years. No member may serve more than two (2) consecutive four-year terms, or in the case of members appointed for less than four years, for the period of term to which he is appointed plus one (1) four (4) year term. Upon the expiration of the term of a member of the Commission, such person shall cease to be a member unless reappointed in the manner prescribed by law. No appointee may act as a commission member until confirmed by the Senate.

(b) If a vacancy should occur on the Commission said vacancy shall be filled for the remainder of the term only by the method originally prescribed for the appointment.

§ 6104. Election Commission: Election of Chairperson.

The Commission shall annually elect one of its members as Chairperson by a majority vote.

§ 6105. Election Commission: Duties.

The Commission shall have the following powers and duties:

(a) To appoint an Executive Director to be its executive officer.

(b) To administer all general, primary, local, and special elections, including questions pertaining to initiatives, referenda and recalls in the Commonwealth.

(c) To designate and publicize polling places within electoral district not later than fifteen (15) calendar days before an election day. Such polling places may include public facilities, such as schools and other public building.

(d) To appoint poll supervisors for each election district and provide a complete list of registered voters in each election district. All poll supervisors so appointed shall be registered voters.

(e) To promulgate rules, regulations, and instructions necessary to conduct and administer elections, including questions pertaining to initiatives, referenda, recalls, and voter registration.

(f) To promulgate rules and regulations pertaining to registration by mail, nomination of candidates, voting procedures, and a system for absentee voting.

(g) To promulgate rules and regulations pertaining to procedures to be followed respecting the receipt and investigation of, and the actions taken on, complaints of election irregularities.

(h) To promulgate a manual of administrative procedures to be used in the conduct of elections. The manual shall include the regulations to be followed by all election officials as well as descriptions of the necessary equipment and forms to be used in any election.

(i) To summon and examine witnesses and to maintain order during any of its official duties.

(j) To promulgate all initiatives and referenda in Chamorro, Carolinian and English in at least two local newspapers, twice before an election, and make copies available to the general public at the Commission office. The Chamorro and Carolinian Language Commission shall make the translation in Chamorro and Carolinian versions.

§ 6106. Election Commission: Quorum.

Five (5) members of the Commission shall constitute a quorum to conduct official business; provided, however, that at least one member from each senatorial district is present. All decisions of the Commission shall be made by a three-fourths (3/4's) vote of the members present.

§ 6107. Election Commission: Compensation and Expenses.

Members of the Commission are to receive compensation in the amount prescribed by 1 CMC, Section 8247(a), (b) and (c).

§ 6108. Election Commission: Restriction on Activities.

No Commission member shall be a candidate for public office or hold an elected position or a position which is filled by appointment by the Governor. Commission members and employees shall not campaign during their tenure. A Commission member shall be removed only pursuant to Article III, Section § 21 of the Commonwealth Constitution.

§ 6109. Election Commission: Executive Director; Power and Duties.

(a) The executive director shall be responsible for the administration of this part and the rules and regulations promulgated thereunder. He shall

supervise all Commonwealth elections. He shall be in full charge and control of the employees, operation and activities of the Commission.

(b) The executive director shall be responsible to maximize the registration of eligible electors throughout the Commonwealth. In maximizing registration the executive director may conduct surveys, carry on house to house canvassing, and other activities necessary to ensure maximum registration.

(c) The executive director shall maintain data concerning registered voters, elections, apportionment, and districting.

(d) The executive director shall employ voter registration workers, poll workers, vote tabulators, and other persons on a full or part-time basis as necessary to conduct elections and administer the commission's other duties and responsibilities. Such employees shall be hired from lists of individuals recommended by the recognized political parties in such a manner as to ensure a fair representation of all recognized political parties in the total cohort. All such employees shall receive training and certification in procedures, ethics, tasks, and responsibilities prior to being assigned to any duties.

(e) The executive director shall prepare and provide printed ballots or voting machines, private voting booths, tally sheets, and other materials necessary to conduct an election in each polling place.

(f) The executive director shall serve as the ex-officio secretary for the Commission, but shall not be a voting member thereof. He shall keep the minutes of its proceedings, preserve all reports made to it, keep a record of all

examinations held under its directions, and perform such other duties as the Commission shall prescribe.

(g) The executive director shall exempt from civil service and shall receive an annual salary as determined by the Commission pursuant to 1 CMC, Section 8246. The executive director shall only be removed for cause after he is afforded a hearing and upon the concurrence of three-fourths (3/4) of the Commission members.

§ 6110. Election Commission: Administrative Staff.

The executive director is authorized to employ such staff as may be required to supervise Commonwealth elections; maximize registration of eligible voters throughout the Commonwealth; maintain data concerning registered voters, elections, apportionment, and districting; and to perform other duties as necessary to carry out the intent of this part pursuant to budgetary appropriation.

§ 6111. Exemption from Civil Service.

(a) Beginning 90 days after the effective date of this part, the CNMI Election Commission shall no longer be part of the Civil Service System and the employment of Commission staff shall no longer be subject to Civil Service Rules.

(b) The employees of the Commission shall be exempt from application of the Commonwealth Civil Service Act (1 CMC Section 8101 et seq.), except that the protections and prohibitions of Sections 8141, 8142, 8145, and 8151 through 8153 shall apply to the employees of the Commission to the same extent and in the same manner as if the employees of the Commission were members of the Civil Service.

(c) Within 90 days after the effective date of this part, the Commission shall develop, adopt and administer a merit based personnel system that rewards productivity and service, provides management flexibility, and includes procedures for addressing employee grievances. The Commission may, however, authorize the Office of Personnel Management, or its successor, to administer the provisions of the personnel system adopted for the Commission.

CHAPTER 2
Registration and Voting Procedures

§ 6201. Voting: Eligibility.

(a) Pursuant to Article VII, Section 1 of the Constitution of the Commonwealth of the Northern Mariana Islands, a person is eligible to vote who, on the date of the election, is 18 years of age or older, is domiciled in the Commonwealth, is a resident in the Commonwealth and has resided in the Commonwealth for a period of time provided by law, is not serving a sentence for a felony, has not been declared by a court to be of unsound mind, and is either a citizen or national of the United States.

(b) Pursuant to Article VII, Section 2 of the Commonwealth Constitution, a person shall not be denied the right to vote because that person is unable to read or write.

(c) Under authority of Article VII, Section 1 of the Commonwealth Constitution, no person shall be eligible to vote who has not resided in the Commonwealth at least 120 days prior to the election day.

(d) Consistent with Article VII, Section 1 of the Commonwealth Constitution, no person who is confined to a mental institution shall be eligible to vote.

(e) In accordance with Article VII, Section 1 of the Commonwealth Constitution, no person serving a sentence for a felony, as defined by Section 6003(t) of this part, shall be eligible to vote.

(f) No person shall register or vote in any other precinct than that in which the person resides.

§ 6202. Domicile: Determination.

A person's domicile shall be determined in accordance with the following:

(a) Each person has a domicile;

(b) Each person has only one domicile;

(c) A person's domicile is the place where the person resides when not called elsewhere to work or for other temporary purposes;

(d) A person cannot lose a domicile until he or she acquires a new domicile;
and

(e) A person's domicile may be changed by joinder of acts and intent.

§ 6203. Domicile: Criteria for Determination.

Criteria for determining a person's domicile includes but is not limited to the following:

(a) Whether the person maintains a permanent residence or permanent place of abode in a place outside the Commonwealth; or

(b) Whether the person's presence in the Commonwealth results from his own public or private employment or that of a person on whom he is economically dependent; or

(c) Whether he or the person on whom he is economically dependent receives housing or a pay differential for housing or a living allowance as a consequence of employment in the Commonwealth; or

(d) Whether the person maintains contact with a place outside the Commonwealth, such as supporting a spouse or family who resides in the place, maintaining a driver's license issued by the place, holding a postal address at the place, continuing affiliations with the professional, religious or fraternal life in the place or paying taxes in the place; or

(e) Whether the person has expressed an intention not to be domiciled in the Commonwealth; or

(f) Whether the person registered and voted in a place outside the Commonwealth during the preceding year; or

(g) Whether the person who immediately prior to becoming a member of the military service was not domiciled in the Commonwealth and who is in the military service residing in a military reservation or provided housing or a housing allowance; or

(h) Whether the person's presence or residency in the Commonwealth is based on a work order or contract with the Commonwealth Government, its subdivisions or its agencies; or

(i) Whether the person's presence or residency in the Commonwealth is based on a work order or contract in the private sector.

§ 6204. Residency: Determination.

For the purposes of this part, there can be only one residence for an individual, but in determining residency, a person may treat oneself separate from the person's spouse. The following rules shall determine residency for purposes of this part:

(a) The residence of a person is that place in which the person's habitation is fixed, and to which, whenever the person is absent, the person has the intention to return.

(b) A person does not gain residence in any precinct into which the person comes without the present intention of establishing the person's permanent dwelling place within such precinct.

(c) If a person resides with the person's family in one place, and does business in another, the former is the person's place of residence; but any person having a family, who established the person's dwelling place other than with the person's family, with the intention of remaining there, shall be considered a resident where the person has established such dwelling place.

(d) The mere intention to acquire a new residence without physical presence at such place, does not establish residency, neither does mere physical presence without the concurrent present intention to establish such place as the person's residence.

(e) A person does not gain or lose a residence solely by reason of the person's presence or absence while employed in the service of the United States or this Commonwealth, or while a student of an institution of learning.

(f) No member of the armed forces of the United States, the member's spouse or the member's dependent is a resident of this Commonwealth solely by reason of being stationed in the Commonwealth.

(g) A person loses his residence in this Commonwealth if the person registers to vote in another state or area under the United States or other jurisdiction.

§ 6205. Registration Procedures.

(a) Any person qualified to vote in a general, primary, local or special election may register to vote not less than fifty (50) days before the day of the election.

(b) When registering to vote, the person shall sign an affidavit of registration on a form prepared and furnished by the Commission stating that he meets the qualifications established by the Constitution and by this part for voting in the elections in the Commonwealth.

(1) Except as provided in Section 6214, no person may register to vote or vote in an election district other than that in which he is a resident. A person has a residence in, or is a resident of, the election district where that person is factually living and has an abode.

(2) No person may vote in any election or be listed in any general register who fails to register according to the requirements of this part.

(3) Persons who are domiciled in the Commonwealth as provided in Sections 6202-6204, but who are temporarily out of the Commonwealth for any reason such as business, employment, service

in the Armed Forces, or Merchant Marines of the United States, education, training, or medical treatment are considered residents for purposes of this part.

(c) Any person desiring to register to vote in an election may register with a registration clerk or other person authorized by the Commission or, if a person registers by mail, before a notary public or commissioned officer authorized to administer oath. The Commission shall authorize one or more registration clerks for Rota and for Tinian and Aguiguan, which may be the Clerk of Court on the respective islands or other persons, and who shall be available to register voters at all times at which the Commission's offices on Saipan are open for the registration of voters. The registrant shall be examined under oath as to his or her qualification and it may be attested to in the form of a mark. The affidavit shall contain the following information:

- (1) Full legal name;
- (2) Social security number;
- (3) Date and place of birth;
- (4) Residence, including mailing address;

(5) That the residence stated in the affidavit is not simply because of the person's presence in the Commonwealth but that the residence was acquired with the intent to make the Northern Mariana Islands the person's legal residence with all the accompanying obligations therein;

- (6) That the person is a citizen or of the United States;

(7) Any other information as may be required by the Commission;

(8) That the person meets the requirements of the Commonwealth Constitution and this part.

(d) If a registration clerk administering an oath has any question regarding the propriety of an affidavit of registration, the clerk shall forward the affidavit to the Commission for final decision as to its propriety. In case of a questionable affidavit, residency or any question regarding the qualifications of the voter, the Commission shall conduct a formal or informal hearing to determine the correct facts. The registrant has the right to present evidence to the Commission regarding his or her qualifications to vote and the registrant's proper election district.

(e) Any voter may change election districts by re-registering in the general, primary, or special election register in the manner prescribed by this section. The Commission shall cancel the existing registration and re-register the voter in the new election district. No registration may be allowed due to a change of residency within the fifty (50) days before an election. No change in residency during the fifty (50) days before an election shall affect the eligibility of the voter to vote in the precinct where registered.

(f) Notwithstanding any other registration requirements provided for in this part, a registered voter need not register again unless it is necessary due to a change of identification or residency or unless the voter has been removed from the register pursuant to Section 6206 of this part or disqualifications enumerated by this part have intervened. If voting records

have been destroyed or lost, the Commission nevertheless may require re-registration of voters.

(g) Registration of voters shall continue indefinitely, except during the fifty (50) days prior to any election day.

§ 6206. Removal of Names From Register; When; Re-Registration.

(a) The Commission shall remove the name of a registered voter from the register in the following cases:

(1) At the written request of the person registered.

(2) When the insanity of the person registered is legally established.

(3) Upon the receipt of certification from the Court that the person registered is serving a sentence for a felony. Within fifty (50) days of each general election the court shall transmit to the Commission a list of all persons convicted of a felony during the preceding two (2) year period. The Commission may request of the court, at any time, the identity of any person who has been convicted of a felony.

(4) Upon submission of a death certificate of the person registered. Not later than the fifteenth (15th) day of each month the Secretary of Public Health shall furnish the Commission an abstract of the register of deaths showing, for all decedents eighteen (18) years of age or over, as follows: the name; sex; age; place of residence; month, day and year of birth and death; and certificate of death number;

(5) Upon finding, after notice and opportunity to be heard, that the person registered in an Election or Senatorial District or Municipality where that person is not a resident.

(6) If the person is confined to a mental institution.

(7) If the person did not vote in the preceding general election.

(8) If the person registered to vote in another jurisdiction.

(b) Beginning six months prior to an election, the Commission shall also register electors at such times and places within the Commonwealth as the Commission shall deem advisable and convenient until fifty (50) days prior to an election and the Commission may deputize volunteers as registration clerks for such purposes. No person holding an elective office or who is a candidate for elective office shall be a deputized volunteer.

§ 6207. Transfers, Name Changes; Initiated by Executive Director.

(a) The executive director shall use all reliable and pertinent information to keep the general register up to date. The executive director may request information from, but is not limited to, the following sources:

(1) The Office of the Governor for marriages;

(2) The Superior Court of the Northern Mariana Islands for any changes of name, divorces, separations, deaths, or other changes affecting voter status;

(3) The Department of Public Health for death or other changes affecting voter status;

(4) The Commonwealth Utilities Corporation concerning commencement or changes of services;

(5) The Department of Lands and Natural Resources concerning land deeds and homesteading permits and issuance.

(6) Residential home, apartment and condominium owners as to changes of occupancy.

In requesting the information the executive director shall give reasonable notice and time for furnishing the information.

(b) If the executive director has evidence indicating that a voter should be transferred, or the registration otherwise changed, the executive director shall notify the person by first-class mail of the intent to transfer or change registration. The notification shall include:

(1) Any evidence that the executive director may have indicating why a transfer or change should be made;

(2) The residence and district of the voter according to current registration lists;

(3) Any alleged new address and district;

(4) A reply form which shall contain a space for the voter's agreement or objection to the transfer or change, the reasons for the objection and space for voter's signature; and

(5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing, the transfer or change shall be processed.

(c) A voter may contest the transfer or change up to fifty (50) days before election day by presenting evidence that the voter actually resides at the old address or that the transfer or change was otherwise erroneous or inappropriate, which, if found valid by the executive director or the Commission, shall entitle the voter to be returned to the old voting list or previous registration.

§ 6208. Voting Procedures.

(a) The Commission shall distribute to each polling place a list of the eligible voters for that polling place. Not less than 15 days before the day of election, a copy of the list shall be posted at the office of the Commission and Mayors for examination by the public. Only those voters whose names appear on the list may vote at that polling place. Any name which does not appear on the list due to an error may be inserted by the Commission any time prior to the closing of the polls.

(b) All elections held in accordance with this part shall be held by official ballot. The Commission shall print copies of each official ballot for each polling place. The Commission shall also print a specimen ballot to be posted conspicuously near the entrance to each polling place where it may be easily seen by the voters prior to voting and in the office of the Commission at least seven (7) days before the election for viewing by the general public. Further samples may be made available to the public.

(c) A ballot shall contain the names of candidates in an order identifying party affiliation or nonpartisanship for Board of Education and municipal council, as established by the Commission, and the office sought.

(d) If a voter indicates the choice of more candidates than there are offices to be filled or if for any reason it is impossible to determine the voter's choice for any office, the ballot shall not be counted for that office or offices. The rest of the ballot, if properly marked, shall be counted.

(e) The ballot may include questions concerning proposed Commonwealth constitutional amendments or proposed initiative or referendum issues. When such matters are to be printed on the ballot, the question shall be phrased as simply and as clearly as possible to address the issue and require a 'yes' or 'no' response by the voter, 'yes' to be in favor of the question and 'no' to be against.

(e) The Board shall establish a method of marking and identifying each person who has completed voting.

§ 6209. Absentee Voting.

Subject to the procedures set forth in this Chapter, any registered voter at any election may request and cast an absentee ballot with the Commission.

§ 6210. Absentee Voting: Sick or Disabled Voters.

If a registered voter at any election is confined to a home or hospital due to illness or physical disability and is unable to go to the polls, that voter may vote in accordance with this part and the rules and regulations promulgated by the Commission. The person or member of his or her immediate family or guardian may make a written request, on a form furnished by the Commission, for an absentee ballot by 12:00 o'clock noon on election day.

§ 6211. Absentee Voting: Absence From the Commonwealth.

(a) Any registered voter of the Commonwealth may, as provided in this part and subject to the conditions of this Section, may vote at any election by absentee ballot if he will be prevented from personally going to the polls and voting on election day because of:

- (1) The conduct of his business;
- (2) The necessity of travel;
- (3) Attendance at an institution of learning;
- (4) Serving in the United States Armed Forces or the Merchant Marine;
- (5) Employment;
- (6) Training;
- (7) Receiving treatment at a medical institution;
- (8) Government representation; or
- (9) Accompanying a member of the household who is engaged in an activity listed above.

(b) Any registered voter, under the circumstances specified in subsection (a)(1-9), inclusive, may make an application to the Commission for an official ballot to be voted at such election. Such application if made by mail or by facsimile or by other electronic means approved by the Commission shall be made not more than sixty (60) days nor less than ten (10) days before the election, or if the application is made in person, not later than during regular office hours of the day prior to the election. Any such application shall be made in writing on a form furnished by the Commission

and shall indicate the applicant's name, social security number, the applicant's election district, the reason for requesting an absentee voting and the address to which the applicant wishes the ballot forwarded if the applicant is not picking up the ballot in person.

(c) Beginning one week before the day of election, the board may establish special polling places within the Commonwealth at which a voter eligible to cast an absentee ballot may request an absent ballot, cast their ballot, and deliver it into the custody of the Board to be counted seven days after the election as provided by this Chapter.

§ 6212. Marking Absentee Ballot.

The Commission shall provide to any registered voter entitled to vote by absentee ballot and who applies for one, an official ballot, a ballot envelope, an affidavit prescribed by the Commission, and a reply envelope. The absentee voter shall mark the ballot in the usual manner provided by law and in a manner such that no other person can know how the ballot is marked. The absentee voter shall then deposit the ballot in the ballot envelope and securely seal it. The absentee voter shall then complete and execute the affidavit. The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and mailed or sent by commercial courier service to the Commission. Such ballots and affidavits will not be counted by the Commission unless mailed. For the purpose of this part, the word 'mailed' includes ballots and affidavits sent through the postal or courier services.

§ 6213. Absentee Voting: Counting Ballots.

(a) To be counted, an absentee ballot shall be postmarked not later than the date of election and be received by the Commission not later than

seven days after the date of election. If the Commission is using a post office box for the receipt of absentee ballots, it shall remove all absentee ballots contained in the box on and no later than seven days after the election date and such ballots shall be deemed to have been received within the deadline.

(1) Commencing with the date absentee ballots are first sent out until seven days after the election, no less than two persons shall go to the post office, one of whom shall be designated by the Commission chairperson and the other of whom shall be designated by the Executive Director, to collect absentee ballots.

(2) The reply envelopes shall not be opened but shall be marked as provided in subsection (b) and deposited in a locked ballot box until processed by the Commission pursuant to subsections (c) through (h) seven days after the election.

(b) The date and time of receipt shall be noted on each return envelope.

(c) The Commission shall compare the signature of the voter on the application for absentee ballot with that on the affidavit and the registration. If the signatures appear to be by the same person, if the affidavit is properly completed, and if the envelope is sealed and it does not appear to have been tampered with, the notation 'OK' shall be placed on the return envelope and shall be initialed by no less than five (5) members of the Commission.

(d) An absentee ballot may be rejected if:

(1) After comparing the signature of the voter on the application for absentee ballot with that on the affidavit and

registration, it appears the signatures were not made by the same person; or

- (2) The affidavit is not properly completed; or
- (3) The return envelope is not sealed; or
- (4) The seal appears to have been tampered with; or
- (5) The Commission has already received an absentee ballot from the person; or
- (6) The absentee voter has died or has otherwise become ineligible to vote on the election day; or
- (7) The ballot has been received after the deadline; or
- (8) The voter has not complied with Section 6212 of this part.

(e) If any of the conditions in subsection (d) apply, then the word 'rejected' shall be printed on the returned envelope along with a short statement of the reason for rejection. Five (5) signatures of the Commission members constitute a verification of the discrepancy noted as the cause for rejection. The rejected ballot may not be delivered to the accounting and tabulation committee, but shall be maintained in a secure place by the Commission for at least six (6) months after the election.

(f) The application for absentee ballot shall be attached to the corresponding ballot envelope and the envelope shall not be opened.

(g) A duplicate list shall be prepared in each election district of the names and addresses of the absentee voters as shown on return envelopes. The Commission shall maintain one (1) copy of the list for at least one (1) year from the election date.

(h) The returned envelopes marked 'OK', together with the application attached, shall be delivered by the Commission to the accounting and tabulation committee seven days after the day of the election, to be tabulated by the accounting and tabulation committee.

§ 6214. Voting In Another Polling Place.

(a) A voter from one mayoral island or islands may vote at a polling place in another mayoral island or islands other than the one in which the voter is legally registered if the following conditions are met:

(1) The voter is present within the Commonwealth on the day of election;

(2) The voter is lawfully registered to vote in his senatorial district or mayoral island or islands; and

(3) The voter submits a written request to the Commission at least thirty (30) days before the election requesting authority to vote in another senatorial district or municipality.

(b) Within fifteen (15) days from the receipt of the voter's request for a change in polling place, the Commission shall assign and notify the voter in writing as to the place the voter may vote.

(c) When notified by the Commission of the place to vote, the voter may vote only at that polling place; provided, however, that if the voter returns to his or her original polling place on election day he or she may cast his or her ballot there if it can be verified by the executive director that he or she has not cast his or her ballot in another polling place. The Commission shall provide the proper ballot for each voter who complies with the

provisions of this section and the Commission shall insure the ballot is tabulated correctly.

CHAPTER 3
Election to Public Office

Article 1. Eligibility for Public Office.

§ 6301. Governor and Lieutenant Governor.

A candidate for governor or lieutenant governor shall be qualified to vote in the Commonwealth, at least thirty-five (35) years of age, and a resident and a domiciliary of the Commonwealth for at least ten (10) years immediately preceding the date on which a governor would take office. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for these offices unless a full pardon has been granted.

§ 6302. Senators.

A candidate for senator shall be qualified to vote in the Commonwealth, at least twenty-five (25) years of age, and a resident and a domiciliary of the Commonwealth for at least five (5) years immediately preceding the date on which a senator would take office. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

§ 6303. Representatives.

A candidate for the House of Representatives shall be qualified to vote in the Commonwealth, at least twenty-one (21) years of age, a resident and a domiciliary of the Commonwealth for at least five (5) years immediately preceding the date on which a representative would take office. In addition, a candidate for the House of

Representatives shall also be a registered voter and a resident of the election precinct where he or she is a candidate for at least two (2) years immediately preceding the date of election. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

§ 6304. Resident Representative to the United States.

A candidate for resident representative to the United States shall be qualified to vote in the Commonwealth, a citizen of the United States, at least twenty-five (25) years of age, and a resident and a domiciliary of the Commonwealth for at least seven (7) years immediately preceding the date on which the resident representative takes office. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

§ 6305. Mayor.

A candidate for mayor shall be qualified to vote in the Commonwealth and on the island or islands served by the mayor, at least twenty-five (25) years of age, a resident and a domiciliary of the island or islands served by the mayor for at least three years immediately preceding the date on which the mayor takes office, and must reside in the island or islands served by the mayor after each election. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for these offices unless a full pardon has been granted.

§ 6306. Municipal Council.

A candidate for Municipal Council shall be qualified to vote in the Commonwealth and on the island or islands served by the Municipal Council, at least twenty-one (21) years of age, and a resident and a domiciliary of the island or islands served by the Council for at least three years immediately preceding the date on which the Municipal Council takes office and must reside in the island or islands served by the Council after each election. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

§ 6307. Board of Education.

A candidate for the Board of Education shall be qualified to vote in the Commonwealth, at least twenty-five years of age, and a resident and a domiciliary of the Commonwealth for at least five years immediately preceding the date on which the member takes office. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for this office unless a full pardon has been granted.

Article 2. Party Nominations: Governor and Lieutenant Governor.

§ 6321. Nominations: Governor and Lieutenant Governor.

Any political party may nominate candidates for governor and lieutenant governor by having its chairman and secretary certify to the Commission the names of the party's team of candidates not more than ninety (90) days and not less than sixty (60) days prior to the election. At the same time, the political party shall file a petition containing the signatures, printed names, residences and mailing addresses of not less than two-hundred (200) registered voters in support of the party's team of

candidates. No person may sign more than one petition for governor and lieutenant governor. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

§ 6322. Party Nominations: Failure to Comply with Act.

The Commission may refuse to accept for filing any petition that, on its face, fails to comply with the requirements of this part.

§ 6323. Party Nominations: Duty of Commission.

Upon receipt of the certificate of nomination and petition by any political party, the Commission shall:

(a) Determine whether all the requirements of this part have been complied with and that the signatures on the petition are the genuine signatures of the registered voters; and, if so,

(b) Certify the names of the party's nominees as candidates and cause to have the names of the candidates appear on the general election ballot.

§ 6324. Party Nominations: Failure of Commission to Act.

If the Commission does not affirmatively take action to deny certification to a political party's candidates within forty-five (45) days, prior to the election day, the party's nominees shall be deemed certified for the general election ballot.

§ 6325. Party Nominations: Filing Fee.

Each petition for a political party candidate for governor or lieutenant governor shall be accompanied by payment to the Commission of a five hundred dollar (\$500.00) filing fee.

Article 3. Independent Nominations: Governor and Lieutenant Governor.

§ 6331. Independent Nominations: Governor and Lieutenant Governor.

(a) The nomination of independent candidates is made by petition designating the persons seeking nomination for governor and lieutenant governor to be an independent ticket, and containing the signatures, printed names, residences, and mailing address of two hundred (200) registered voters in the Commonwealth. Each petition shall be accompanied by the signature of the persons nominated, which shall constitute the nominees' assent to be candidates.

(b) All independent nomination petitions for governor and lieutenant governor and the candidates' acceptances shall be filed with the Commission not more than ninety (90) days and not less than sixty (60) days prior to the general election.

§ 6332. Independent Nominations: Failure to Comply With Act.

The Commission may refuse to accept for filing any petition that, on its face, fails to comply with the requirements of the preceding sections.

§ 6333. Independent Nominations: Failure of Commission to Act.

If the Commission does not affirmatively take action to deny certification to an independent candidate within forty-five (45) days, prior to the election day, the candidate shall be deemed certified for the general election ballot.

§ 6334. Independent Nominations: Filing Fee. Each petition for an independent candidate for governor or lieutenant governor shall be accompanied by payment to the Commission of a five hundred dollar (\$500.00) filing fee.

Article 4. Nomination of Candidates to Other Offices.

§ 6341. Nominations: Resident Representative to the United States.

The nomination of candidates for resident representative to the United States is made by petition of any political party or any independent candidate. The procedures for political party nominations and for independent nominations for governor and lieutenant governor set forth in Articles 2 and 3 of this Chapter shall apply with respect to the nomination of candidates for resident representative to the United States, except that the filing fee shall be five hundred (\$500.00) dollars for each resident representative. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

§ 6342. Nomination: Senators and Representatives.

Political Parties shall nominate their candidates for senator or representative in the manner prescribed in their party rules and regulations and according to the provisions of this Chapter. The political party chairman and secretary shall certify to the Commission the names of the Party's nominees not more than ninety (90) days and not less than sixty (60) days before the general election. All certifications of candidates by political parties and independent candidates shall be accompanied by petitions containing the signatures, printed names, residences, and mailing addresses of not less than five percent (5%) or one hundred (100), whichever is less, in the case of a senator, and fifty (50) in the case of a representative, of the registered voters of the respective senatorial or electoral district, as the case may be. Each name certified as a nominee shall be accompanied by the signature of the person nominated, which signature constitutes the nominees assent to be a candidate of that political party.

The political party may not nominate more candidates than the number of vacancies in the Senate and the House of Representatives.

§ 6343. Nominations: Senators and Representatives: Procedures.

Procedures for political party nominations and for independent nominations for governor and lieutenant governor set forth in Articles 2 and 3 of this Chapter shall apply with respect to the nomination of candidates for senators and representatives, except that the filing fee shall be two hundred fifty dollars (\$250.00) for each senator and one hundred dollars (\$100.00) for each representative paid by the political party or independent candidate.

§ 6344. Nominations: Mayor.

(a) Candidates for mayor shall be nominated by petition designating the person seeking nomination and the office sought, containing the signatures, printed names, residences, and mailing addresses of a number of registered voters of that municipality equal to at least 5 percent or one hundred (100), whichever is less, of the registered voters within that municipality. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

(b) The procedures and requirements for political party nomination and for independent nomination for governor or lieutenant governor set forth in Articles 2 and 3 of this Chapter shall apply with respect to the nominations of candidates for mayorship, consistent with this section, except that the filing fee shall be two hundred fifty dollars (\$250.00) paid by the political party or independent candidate.

§ 6345. Nominations: Municipal Councils and Board of Education.

(a) Candidates for Municipal Council and Board of Education shall be nominated by petition designating the person seeking nomination and the office sought, containing the signatures, printed names, residences and mailing addresses of not less than five percent (5%) or 100, whichever is less, of the registered voters for each respective senatorial, election district or mayoral islands, as the case may be, for each nonpartisan candidate. Each petition shall be accompanied by the signature of the person nominated, which shall constitute the nominee's assent to be a candidate.

(b) The procedures and requirements for independent nomination for governor and lieutenant governor set forth in this chapter shall apply with respect to the nomination of nonpartisan candidates, as consistent with this section, except that the filing fee shall be one hundred dollars (\$100.00) for each municipal council and Board of Education candidate.

CHAPTER 4

Article 1. Election Campaigns and Campaign Offenses.

§ 6401. Receipt of Value: To Vote or Not Vote.

A person shall not, directly, by himself or through any other person, receive, agree or contract for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for either:

- (a) Voting or agreeing not to vote.
- (b) Coming or agreeing to come to the polls.
- (c) Refraining or agreeing to refrain from voting.

(d) Voting or agreeing to vote for or against any particular person or issue.

(e) Refraining or agreeing to refrain from voting for or against any particular person or issue.

(f) Inducing any other person to:

(1) Vote or refrain from voting.

(2) Vote or refrain from voting for or against any particular person or issue.

(3) Come to or remain away from the polls.

§ 6402. Payment of Value: To Vote or Aid in Securing Nomination for Another.

A person shall not, directly, by himself or through any other person, give or receive any money or other valuable thing, before, during or after election because he or any other person:

(a) Voted to secure the election or endorsement of any other person as the nominee or candidate of any convention, organized assemblage of electors or voters, or other body representing or claiming to represent a political party or principal or any clubs, society or association.

(b) Aided in securing the selection or endorsement of any other person as a nominee or candidate as provided in subsection (a).

§ 6403. Payment of Value: To Vote, Not Vote or Reward for Same.

A person shall not lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to:

(a) Induce a voter to:

- (1) Vote or refrain from voting at any election.
 - (2) Vote or refrain from voting at any election for or against any particular person or issue.
 - (3) Come to the polls at an election.
 - (4) Remain away from the polls at an election.
- (b) Reward a voter for having:
- (1) Voted.
 - (2) Refrained from voting.
 - (3) Voted for or against any particular person or issue.
 - (4) Refrained from voting for or against any particular person or issue.
 - (5) Come to the polls at an election.
 - (6) Remained away from the polls at an election.

§ 6404. Receipt of Value: To Procure Election or Vote.

A person shall not, directly or indirectly, by himself or through any other person procure, engage, promise or endeavor to procure, in consequence of any gift, loan, offer, promise, procurement or agreement, the election of any person, or the vote of any voter at an election.

§ 6405. Payment of Value to Induce Candidate to Withdraw.

A person shall not, directly or indirectly, by himself or through any other person advance or pay, or cause to be paid, any money or other thing of value to or for the use of any other person, in consideration of a person withdrawing as a candidate for a public office.

§ 6406. Penalty.

Any person who commits any of the offenses set forth in Sections 6401 - 6405, inclusive, is guilty of felony punishable by a fine not greater than \$50,000 or not more than five (5) years imprisonment, or both.

§ 6407. Promising Appointment to Office.

Every person is guilty of a misdemeanor who being a nominee or candidate at any election, offers or agrees to appoint or procure the appointment of any particular person to office, as an inducement or consideration for any person to vote for or to procure, or aid in procuring, the election of any nominee or candidate.

§ 6408. Communication of Promise.

Every person is guilty of a misdemeanor who communicates any offer made in violation of the preceding Section 6407 to any person with intent to induce him to vote for, or to procure or aid in procuring the election of, the nominee or candidate making the offer.

§ 6409. Publications Reflecting on Character of Candidate.

Every person is guilty of misdemeanor who intentionally writes, prints, posts or distributes, or causes to be written, printed, posted or distributed any circular, pamphlet, letter or poster which is designed or intended to injure or defeat any candidate for nomination or election to any public office by reflecting upon his personal character or political actions, unless there appears upon the circular, pamphlet, letter or poster, in a conspicuous place, either:

(a) The name of the chairman and secretary or the names of two (2) officers of the political party or other organization issuing it, or

(b) The name and residence of the person responsible therefor.

§ 6410. Penalty.

Any person who commits any of the offenses set forth in Sections 6407 - 6409, inclusive, is guilty of a misdemeanor punishable by a fine not greater than \$2,000 or not more than 60 days in prison, or both.

§ 6411. Disqualification.

Any candidate convicted under the provisions of Sections 6401 - 6405, inclusive, of this Chapter is disqualified from holding the office for which he was a candidate or nominee at the time of violating the provisions aforesaid.

§ 6412. Application.

The provisions of this Chapter shall apply to all elections.

§ 6413. Complaints.

Any person who believes a violation of any provision of this Chapter has occurred may file a complaint with the Commission. The Commission shall expeditiously investigate the matter in accordance with Section 6105. Whenever in the judgment of the majority of the Commission any person has engaged in any acts or practices which constitute a violation of this Chapter, the Commission shall refer the record of the said investigation to the Attorney General who may institute a criminal prosecution under Section 6406 or 6410 of this Chapter against the person, and, in the event the person is convicted of the violation prior to the election in question, the Commission shall strike his name from the ballot. In the event the person is convicted of the violation subsequent to the election in question and was elected to the office for which he was a candidate, the Attorney General shall take whatever civil action is necessary to effect his disqualification from office.

§ 6414. Winning Candidate Convicted of a Felony.

If the Commission finds that a winning candidate, who has not yet assumed his office, has been convicted of a felony under this chapter or under any other Commonwealth law, then the manner of determining his replacement shall be governed as follows:

(a) If a successful candidate for governor is convicted for the violation of any felony under this part, or under any other law of the Commonwealth or the United States of America, he shall relinquish his office, the successful lieutenant governor candidate shall become governor, and the new governor shall appoint a lieutenant governor.

(b) If a lieutenant governor is convicted for violation of any felony under this part, or under any other law of the Commonwealth or the United States of America, he shall relinquish his office and the governor shall appoint a lieutenant governor.

(c) If a successful candidate for representative to the United States is convicted for violation of any felony under this part, or under any other law of the Commonwealth or the United States of America, he shall relinquish his office and a reelection shall be conducted.

(d) If a successful candidate for mayor is convicted for violation of any felony under this part, he shall relinquish his office and a new election shall be conducted.

(e) If a successful candidate for the Senate or the House of Representatives is convicted for violation for any felony under this part, he

shall relinquish his office and the person having the next highest number of votes shall be declared to have been elected.

(f) If a successful candidate for the Municipal Council or Board of Education is convicted for violation for any felony under this part, he shall relinquish his office and the person having the next highest number of votes shall be declared to have been elected.

Article 2. Campaign Financial Disclosure.

§ 6421. Definition.

Unless the context otherwise clearly requires, the definitions set forth herein shall govern the construction of this Article.

(a) 'Campaign Statement of Account' means an itemized statement prepared by a candidate or potential candidate showing the specific source, names of contributors and amount of contributions and expenses, including the names of persons receiving such expense, except where the aggregate fair market value of an expense or contribution is less than one hundred dollars (\$100).

(b) 'Candidate' means an individual who filed nomination papers or whose nomination has been certified to the Commission by a political party or committee under the provision of Chapter 3 of this part.

(c) 'Potential candidate' means anyone who receives a contribution given or received in contemplation that he or she may become a candidate, whether or not that eventually occurs.

(d) 'Committee' means a group of individuals organized for the purpose of aiding the campaign of any candidate.

(e) 'Contribution' means a payment, gift, subscription, assessment, contract, payment for services, dues, advance, pledge or promise of any money or anything of value, whether or not legally enforceable, to a candidate, committee or holder of an elective office made for the purpose of influencing the nomination or election of any candidate, or for the qualification, passage, or defeat of any measure. The term 'contribution' includes the purchase of tickets for events; such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of its candidacy, the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidates or committee, or a person whose expenditures the candidates or committee must report under this chapter. The term 'contribution' further includes any transfer of anything of value received by a committee from another committee. The term 'contribution' shall not include loans, except forgiveness of loans or payment of loans, volunteer personal services provided without compensation, in payments made by an individual for his travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him, or the use of private property when utilized directly by the owner or lessee thereof in the course of rendering such services. The term 'contribution' does not include amounts received pursuant to a pledge or

promise to the extent those amounts have been previously reported as a contribution. The provisions of this subsection apply to all potential candidates as defined in subsection (c).

(f) 'Expenses' means funds promised or expended by a person in aid of the campaign of a candidate or individual prior to his becoming a candidate and services or property promised or furnished by a person in aid of the campaign of candidate or individual prior to his becoming a candidate. 'Expenses' shall not mean expenditures for the operation of a permanent political party headquarters or for general voter registration drives. Furthermore, expenses shall not mean editorial comments made in connection with the normal publication of a newspaper or other periodical or the normal programming of a broadcasting station.

(g) 'Election' means any primary, local, special, or general election.

(h) 'Person' means any individual, including a candidate, committee, association, political party, partnership, or other group. Person shall not mean domestic, foreign or alien corporation.

§ 6422. Duties of Candidates.

Upon becoming a candidate, an individual may designate one committee to serve as his campaign committee. The candidate shall appoint a treasurer who shall also be the treasurer of the campaign committee and in that capacity he shall keep a record of all contributions and expenses received and made thereby.

§ 6423. Cessation of Campaigning.

All campaigning for the purposes of election shall cease before the time that the polls open and shall remain inactive during the period that the polls are open.

For purposes of this section, the term 'campaigning' shall include but not be limited to any newspaper or broadcast advertisements appearing on election day, the distribution of campaign literature, and to the display of any campaign activities, material, signs, posters, or the like within 100 feet of any election polling place.

§ 6424. Campaign Statement of Account; Filing; Verification.

A candidate shall file a detailed financial statement of account prepared with the advice and co-signature of his treasurer or the election or re-election committee with the Office of the Public Auditor and a copy to the Commission within fifty (50) days after the election. Subject to the limitation of Section 6421 (a), the statement shall include the names and contributions of supporters contributing in cash or in-kind and a detailed statement of campaign spending. All statements of account shall be verified under oath by the candidate and his treasurer. Such verification shall state that the candidate has used all reasonable diligence in its preparation, and that it is true, full and explicit.

§ 6425. Publication.

The Election Commission shall make public all campaign statements of account within ten (10) days after their filing, by publishing them in a newspaper of general circulation in the Commonwealth or by posting the same in certain public places designated by the Commission.

§ 6426. Multi-Candidate: Apportionment.

Multi-candidate expenses are those spent by a person in aid of more than one candidate. Such expenses shall be treated as an expense by each candidate supported thereby and shall be apportioned equally among them; except that candidates may agree in advance of the contracting of any multi-candidate expenses as to the amount

attributable to each if such agreement is filed in advance of said contracting with the Commission. Each candidate participating in such agreement shall retain for a period of one (1) year after the election to which the expense relates, documents supporting the apportionment under such agreement.

§ 6427. Requirement of Authorization.

No person other than a candidate or his campaign committee shall incur or contract for any expense in aid of such candidate's campaign unless he applies in writing to the candidate's treasurer at least five (5) days prior thereto for authorization. The request for authorization shall state in detail the amount and nature of any specific expense listed thereon. No person shall incur or contract for any expense if such expense has been disapproved by the treasurer of such candidate in writing within three (3) days of receipt of the request or authorization.

§ 6428. Penalties.

Any person violating this Article shall upon conviction be fined not more than fifty thousand dollars (\$50,000) or imprisoned for not more than one year or both.

§ 6429. Extension of Deadline.

For good cause, the Commission may extend the deadline imposed on Section 6424 by not more than fifteen (15) days, upon written request by a candidate. A candidate shall be fined a non-waivable one hundred dollars (\$100.00) penalty for each day the financial report is late without a Commission approved extension period.

§ 6430. Non-Compliance.

The Public Auditor shall refer any candidate who fails to comply with this Article to the office of the Attorney General for prosecution.

CHAPTER 5
Elections

Article 1. General Election and Special Election.

§ 6501. General Election.

In conformance with Article VIII, Section 1 of the Constitution of the Commonwealth of the Northern Mariana Islands, general elections shall be held biennially in each odd-numbered year on the first Saturday in November in accordance with the provisions of this part. In the event of a natural disaster or other Act of God, the effect of which precludes holding the election on the foregoing day, the Governor, acting pursuant to his powers under Article III, Section 10 of the Constitution, may proclaim the general election be held not later than thirty (30) days thereafter in the Commonwealth, or in the affected senatorial or election district or districts.

§ 6502. Special Elections Subject to the Call of the Governor.

(a) If a vacancy occurs in the legislature, in the office of the governor or lieutenant governor, or in the office of a mayor, which under the Constitution requires an election to fill the vacancy or a recall petition is certified by the Attorney General, the Governor shall call a special election to fill such vacancy.

(b) If the Governor fails to call a special election within thirty (30) days of a constitutional vacancy or the certification of a recall petition, any

registered voter may petition the Election Commission to determine and certify that a vacancy requiring a special election exists or that a recall petition has been certified by the Attorney General. Within ten (10) calendar days of receipt of a petition, the Commission shall submit its determination to the Governor. The Governor shall issue a proclamation for a special election within five (5) calendar days of receipt of a Commission certification of vacancy or recall requiring a special election.

(c) If there are simultaneous vacancies in the offices of Governor and Lieutenant Governor and less than one year remains from the date of the first vacancy, the Senate President shall be Acting Governor and the Speaker of the House shall be Acting Lieutenant Governor and both shall serve out the remainder of the terms of their respective offices.

(d) If there is a vacancy in the legislature and less than one-half of the term remains, the governor shall fill the vacancy in accordance with Article II, section 9 of the Commonwealth Constitution within thirty (30) days of the date of the vacancy.

(e) If there is a vacancy in the office of mayor and less than one-half of the term remains from the date of the vacancy, or when the mayor is unable to discharge the duties of the office by reason or physical or mental disability, the presiding officer of the municipal council shall be acting mayor.

(f) In case of a vacancy on the Board of Education, the Governor shall appoint a replacement pursuant to 1 CMC section 2263 regardless of the time remaining in the term of office.

(g) All special elections required hereunder shall be held in accordance with the provisions of this part.

§ 6503. Time of Special Election.

Special Elections subject to the call of the Governor shall be held on a date set by the Governor which shall be no less than thirty (30) days nor more than sixty (60) days from the date of the proclamation provided for in Section 6502. The Governor shall also set the time limit within which polling places may be designated and declarations of candidates and nominating petitions may be filed.

§ 6504. Calling of Special Elections.

All special elections subject to the call of the governor shall be called by proclamation of the Governor of the Commonwealth. The Commission shall cause a copy of the proclamation to be published in a newspaper of general circulation in the Commonwealth and to be posted in each senatorial election district or mayoral island or islands where such election will take place.

§ 6505. Special Elections Subject to the Call of the Legislature.

Amendments to the Constitution of the Commonwealth of the Northern Mariana Islands, as proposed by popular or legislative initiative or by constitutional convention, and such other matters as may be provided by law, shall be placed before the Commonwealth voters for ratification or other action at special elections. Such special elections shall be held no more than sixty (60) days after notification by the legislature by joint resolution to the Election Commission or at such time and in such manner as provided by law or in the legislative initiative proposing the amendment. In accordance with its responsibilities and duties under this part, the Election Commission shall administer and supervise special elections. Voter

eligibility and voting procedures shall be in compliance with the provisions of this part.

§ 6506. Funding for General and Special Elections.

In the absence of an appropriation for a general or special election conducted pursuant to this part, or for voter education with respect to a proposed amendment to the Constitution, the Governor shall, notwithstanding any other provision of law, reprogram sufficient funds for the conduct of a general or a special election, or for voter education, as the case may be, from executive branch accounts to the Election Commission. The Commission is required to publish a Voter's Manual which shall contain arguments for and against each issue or proposed constitutional amendment submitted by proponents and opponents of each amendment or proposition. Such a manual would ensure voters to be more informed when they cast their ballots.

§ 6507. Postponement of Election.

If for serious cause resulting from any natural phenomena, act of God, or a public enemy, it becomes reasonably impossible to hold any election duly scheduled in the Commonwealth as a whole or in any senatorial or election district, or mayoral island or islands, the Governor may postpone any such election wherein for such time as it may deem necessary, but in no event shall postponement exceed thirty (30) days from the date when such election should have been held.

§ 6508. Election Day: Holiday.

If an election is held on a day other than a Saturday or Sunday, the election day shall be a legal holiday within the Commonwealth or in the senatorial or election district.

Article 2. Conduct of Elections.

§ 6521. Right to Cast Secret Ballot.

(a) Each qualified voter has the right to cast a secret ballot in private. The Commission shall set up voting booths and places to guarantee that each voter may vote in private. No person shall be allowed with a voter in a voting booth, except as provided by the Commission. Voting booths shall provide the voter with a fully enclosed space within which to vote.

(b) Except where voting machines are used, each election ballot shall remain sealed until issued to a registered voter. Issues for initiative, referendum and recall shall be listed separately and apart from the names of candidates.

§ 6522. Polling Places: Hours of Operation.

Polling places shall open at 7:00 a.m. on the day of the election and shall be kept open until 7:00 p.m. on the same day, except that any person who is already at the polling place at 7:00 p.m. shall be allowed to vote. The Commission may close any polling place earlier if all the voters of the election district have voted. Whenever possible, public schools and public buildings shall be utilized as polling places during elections. No rent shall be charged or paid for the use thereof.

§ 6523. Collection of Ballot Boxes.

(a) After all voting is completed, all ballot boxes and voting machines shall be collected by election officials and delivered to the Commission or its duly authorized representative by the safest and most expeditious means available and be certified to the Commission that the ballots so delivered were cast in accordance with the provisions of this part.

(b) Ballot boxes shall only be opened by the Commission or its designated election officials and only upon the order of the Commission.

§ 6524. Tabulation of Votes.

(a) The Commission shall establish an accounting and tabulation committee composed of not less than five (5) members of the Commission. The accounting and tabulation committee shall count and tally all votes cast and determine the acceptability thereof.

(1) The accounting of ballots shall begin after all the polls in each election district are closed and shall continue in any tabulating location specified by the Commission until all votes are counted. No person may be present in the vicinity of the counting and tabulation area, except that each political party may have not more than two observers in the area. When the ballots are in the counting and tabulation area, the area shall not be left unattended. There shall be a minimum of two (2) election officials at all times, in addition to the two observers from each political party.

(2) Upon the completion of the counting and tabulation of all votes cast for a Commonwealth or local elective office, an official public announcement shall be made by the Commission, except that no official announcement of the results may be made for those offices in which a proceeding affecting ballots or the election results has been initiated until the legality of such issues raised in such proceeding affecting ballots or election results have been determined. As soon as is practicable after the tabulation of ballots is completed, the

Commission shall issue certificates of election to the winning candidates for those Commonwealth or local elective offices in which no proceeding affecting ballots or election results has been initiated. The Commission may make periodic announcements of results during tabulating and counting.

(b) In any election where it is impossible to declare a winner because two or more persons receive an equal number of votes for any office, there shall be a run-off to determine the winning candidate or candidates.

(c) Any candidate for governor and lieutenant governor, resident representative to the United States, mayor, senator, representative, municipal council, or board of education, who receives the highest number of votes cast for that office in any election shall be declared the winning candidate. In the case of any office where more than one candidate is to be elected, the candidates receiving the highest number of votes, from greatest to least, shall be declared the winning candidates.

§ 6525. Ballot Irregularities.

(a) If a ballot being counted appears improper, the final decision as to the validity of the ballot shall be made by the Commission. The accounting and tabulation committee shall separate any ballot it believes to be improper and forward the ballot or ballots to the Commission for ultimate determination. All ballots declared invalid for any irregularity shall be sorted or separated and a notation placed upon them indicating that they are rejected ballots. Upon completion of the counting of the ballots, the rejected ballots

shall be placed in the ballot box and returned by the accounting and tabulation committee to the Commission with the cast ballots.

(b) At any election, any ballot which is not marked as provided by law shall be void, but the ballot shall be preserved and returned with the other ballots.

(c) Any voter who spoils a ballot shall return it to a poll worker and receive another ballot.

(d) At any election, a ballot may not be rejected if it is possible to determine the voter's choice even though the ballot has been severely soiled or defaced.

(e) If a voter indicates the choice of more candidates than there are offices to be filled or if for any reason it is impossible to determine the voter's choice for any office, the ballot may not be counted for that office. The rest of the ballot, if properly marked, shall be counted.

§ 6526. Marking the Ballot.

(a) In voting, the voter shall place the appropriate mark in the voting square adjacent to the name of any nominee for whom he intends to vote.

(b) Should the Commission adopt a ballot form using any mechanical, electromechanical, or electronic device to record the vote or aid in recording the vote, the information required by this section shall appear on the device in the place provided therefore, or otherwise prominently within the voting booth so as to be easily read by the voter.

§ 6527. Loss or Destruction of Ballots.

In case of the prevention of an election in any election district by the loss or the destruction of the ballots intended for that election district, the election official or other member of the Commission, shall make an affidavit setting forth the fact, and transmit it to the Governor. Upon receipt of the affidavit, the Governor may, and upon the application of any nominee for any office to be voted for by the electors of that election district, shall, order a new election in that election district.

CHAPTER 6
Election Contests

§ 6601. Election Contests; Recount.

(a) Any Commonwealth voter may contest an election for any of the following reasons:

(1) The person declared elected to an office will not be eligible for that office at the beginning of his term.

(2) The candidate has given to an election official anything of value to procure his election.

(3) Illegal votes were cast sufficient to change the result of the election of any person who has been declared elected. 'Illegal votes' means any vote cast by a person who is not qualified to vote because of failure to meet age, domiciliary or residency requirements or has cast more than one ballot in the same election.

(4) The Commission in the conduct of election or arithmetical tabulation of votes made errors sufficient to change the final result of the election of any person who has been declared elected.

(5) Actual fraud by any person in the voting process, in the conduct of the election or in the tabulation of the votes sufficient to have changed the outcome of the election.

(b) Recount. If less than five votes separate the person declared elected and the next highest vote getter, the next highest vote getter is entitled to a recount. Such recount shall be made in the presence of the parties and under the supervision of the Commonwealth Superior Court.

§ 6602. Election Contests: Actual Prejudice Required.

(a) No irregularity or improper conduct in the proceedings of the election may void an election result, unless the irregularity or misconduct resulted in a defendant being declared either elected or tied for election.

(b) An election may not be set aside on account of illegal votes cast, unless the number of votes given to the person enabled him to win or to tie the election and, if the illegal votes were taken from him, would reduce his legal votes so that he would have less votes than necessary to win or tie the election.

§ 6603. Election Contest: Written Complaint.

(a) When a voter contests any election he shall file with the Commonwealth Superior Court a written complaint setting forth specifically:

(1) The name of the contestant;

(2) That he is a voter of the election district in which the contested election was held;

(3) The name of the defendant;

(4) The office the defendant sought;

(5) The particular grounds for the contest; and

(6) Any other information which the Court may require pursuant to Court Rules.

(b) The contestant shall verify the complaint and shall file and serve it upon the defendant within seven days after the discovery of the facts supporting the contest, except that no complaint may be filed over fifteen (15) days after the declaration of the official results.

(c) Service of process shall be in accordance with the Rules of Civil Procedure governing personal service.

(d) When the counting of illegal votes is alleged as a cause of contest, it is sufficient to state generally that in one or more specific election districts illegal votes were given to the defendant which, if taken from him, would reduce the number of his legal votes below or equal to the number of legal votes received by another candidate for the same office.

§ 6604. Election Contest: Answer, Summons, Subpoena.

(a) Within the five days after personal receipt of the complaint by the defendant, an answer or any responsive pleading or motion shall be filed with the Court. The Court shall thereupon set a date for the election contest hearing not less than fifteen (15) days nor more than twenty (20) days from the date of the filing of the complaint.

(b) At the time the Court decides the date for the election contest hearing, the Court shall issue summons to the parties to appear at the time and place specified in the order. The summons shall be personally served by any authorized person upon the parties at least 5 days before the hearing.

(c) The Court shall issue subpoenas for witnesses at the request of any party. The Court may compel the attendance of witnesses who have been subpoenaed.

§ 6605. Election Contest: Court Hearing; Recount.

(a) At the hearing the ballots shall be recounted in the presence of all parties, where it appears from the complaint filed that a recount is necessary for the proper determination of the contest. If two or more statements of contest are filed requiring a recount, the Commission may join the action of the contestants for the purpose of recounting the votes.

(b) If the statements of the cause of the contest are insufficient, the Court may dismiss the proceedings for lack of evidence or for want of prosecution.

(c) The Court shall hear and determine all issues arising in contested elections. After hearing the evidence and within five (5) days of the submission thereof, the Court shall issue its finding of facts and conclusions of law, and immediately thereafter announce judgment in the case, either confirming or reversing the result of the election.

§ 6606. Election Contest: Judgment of the Court.

If it is adjudged that a person other than the defendant has the largest number of legal votes cast in any election contest, the Court shall declare that person elected.

§ 6607. Election Contest: Certificate of Election.

(a) Upon the expiration of the time for appeal, the person declared elected by the Court is entitled to a certificate of election. If a certificate has

not already been issued to him by the Commission, the Commission shall immediately make out and deliver to that person a certificate of election.

(b) If the Commission has issued any certificate for the same office to another person than the one declared elected by the Court, such certificate shall become void by the judgment of the Court.

§ 6608. Election Contests: Costs.

(a) If the proceedings under this section are dismissed for insufficient evidence or for want of prosecution, or the election is confirmed by the Court, judgment shall be rendered against the contestant, for costs and reasonable attorneys' fees, in favor of the defendant. If the election results are reversed, judgment for costs and reasonable attorneys' fees shall be rendered against the defendant, in favor of the contestant.

(b) Where two or more contests are joined for the purpose of recounting votes as provided in this Article, the costs may be apportioned among the parties in the discretion of the Court.

§ 6609. Election Contest: Appeal.

Any party aggrieved by the judgment of the Commonwealth Superior Court may appeal to the Supreme Court of the Northern Mariana Islands as in other cases, except that from the day of Judgment, the notice of appeal shall be filed within three (3) days, the applicant's brief within ten (10) days, the appellee's brief within fifteen (15) days, oral arguments shall be heard within twenty (20) days, and the appellate Judgment shall be issued within thirty (30) days. During the pendency of proceedings on appeal, and until final determination thereof, the person declared elected by the Commonwealth Superior Court shall be entitled to the office in like

manner as if no appeal had been taken. Any lawful action taken by the person in office is valid, even if that person is subsequently removed.

§ 6610. Election Contest: Failure to Appeal from Court Judgment.

Whenever an election is reversed by the Judgment of the Commonwealth Superior Court, and no appeal is taken within three (3) days thereafter, the certification, if any has been issued, is void and the office is filled by the person declared to be elected.

**CHAPTER 7
Criminal Penalties**

§ 6701. Counterfeit Ballots.

Any person who knowingly, willfully and unlawfully prints, copies, imitates, or distributes or causes to be printed, copied, imitated, or distributed any unofficial ballot or any document that is so substantially similar in style or content to the official ballot as to cause the likelihood of confusion with the official ballot shall upon conviction be fined \$5,000, imprisoned for a minimum of sixty (60) days, or both. There shall be no suspended sentences.

§ 6702. Unlawful Threats to Candidate or Family.

Any person who directly or indirectly threatens or intimidates any candidate or his immediate family by physical means, bribery, extortion, or any other means so as to attempt or cause the candidate to withdraw from the election shall upon conviction be fined \$5,000 or imprisoned for not less than sixty (60) days nor more than five years.

§ 6703. Unlawful Threats to Election Personnel.

Any person who directly or indirectly threatens or intimidates the Commission, its designees, its representatives or its election workers so as to attempt or cause those persons not to perform their duties and responsibilities lawfully and in a proper manner, shall upon conviction be fined not more than \$2,000 or imprisoned for not less than ninety (90) days and not more than five (5) years. There shall be no suspended sentences.

§ 6704. Unlawful Registration.

A person who signs an affidavit of registration knowing that he does not qualify to vote or who knowingly registers with the intent to vote more than once or who registers in an election district in which he does not reside shall, upon conviction, be fined not more than \$2,000 or imprisoned for not more than 2 years. A person who willfully causes, procures, or allows any person to be registered as a voter, knowing that person is not to be entitled to registration, shall upon conviction be fined not more than \$2,000 or imprisoned for not more than 2 years.

§ 6705. Unlawful Campaign Activities.

(a) No person shall campaign on election day within one hundred (100) feet of a polling place, including campaigning by aircraft. No candidate shall loiter or socialize within one hundred (100) feet of a polling place on election day.

(b) No person may post or transport names, pictures, or other campaign materials or set up any booth within one hundred (100) feet of the polling place; Provided, that nothing in this subsection shall require a person to remove any materials placed on private property prior to the election day.

(c) For purposes of this section, the term 'polling place' means any building in which polling is conducted, together with the means of access to or egress from such building, such that any gate in any fence surrounding the polling place shall be deemed a part of the polling place. In addition, any space between any fence on the perimeter of any property upon which a polling place is located shall be deemed to be within 100 feet of such polling place notwithstanding the actual distance between the fence and the polling place. All airspace above a polling place or other area designated by this section shall be deemed within the polling place or other area.

(d) No person may use the name of a government department or agency to campaign for or express support for a candidate running for public office; nor shall the buying or selling of fundraising materials in support of candidates for public office take place in any government building or facility.

(e) All campaign posters shall be removed from public places by the candidate no later than fifteen (15) days after the election date.

(f) No campaign materials, or hard board, used as a poster, may be attached to any telephone pole, fire hydrant or tree on public property.

Any person who knowingly and willfully violates any provision of this section shall, upon conviction, be fined \$500.

§ 6706. Unlawful Sale or Purchase of Alcohol on Election Day.

No person may sell, purchase, or dispense any alcoholic beverages or liquor while the polls are open on the day of an election. Any person who knowingly and willfully violates this section shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one hundred (100) days, or both."

Section 3. Transition Provisions.

(a) The incumbent chairman and members of the Commonwealth Board of Elections and the executive director thereof shall serve as interim chairman, members, and executive director of the Election Commission established by this Act until their successors have been duly appointed and qualified pursuant to this Act.

(b) No person registered to vote on the effective date of this Act shall be required to re-register on account of the enactment of this Act; rather such persons shall be deemed registered under the Election Law as reenacted by this Act, and the register of voters maintained by the Board of Elections on the effective day of this Act shall be the initial register of voters for the Election Commission.

Section 4. 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 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.

PUBLIC LAW NO. 12-18
SENATE BILL NO. 12-16, SD3

Section 6. 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/ Paul A. Manglona
PAUL A. MANGLONA
President of the Senate

/s/ Joaquin G. Adriano
JOAQUIN G. ADRIANO
Senate Legislative Secretary

Approved this 14th day of September, 2000

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands