

**AN ACT**

To extend the privilege of having non-resident workers with special skills and qualifications fill hard-to-fill vacant positions within the CNMI government by repealing and reenacting 3 CMC, §4434 (i); and for other purposes.

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

Section 1. Findings and Purpose. The Legislature finds that current law exempts particular departments, agencies and other entities from the blanket prohibition on the hiring of nonresident workers by the Commonwealth Government and allows these entities to hire nonresident workers with limited restrictions. The Legislature also finds that sound social policy mandates that the Commonwealth Government reduce and eventually phase out its reliance on nonresident labor.

The Legislature further finds that, in accordance with Public Law 10-4, the exemptions for some of the entities expired on September 30, 2000. The Legislature is also cognizant that there is yet an insufficient locally available labor pool to supply the professional and technical needs for some of these Commonwealth government departments/agencies. For example, the local labor pool is presently incapable of supplying sufficient numbers of doctors, dentists, midwives, nurses, allied health providers (lab techs, x-ray techs, respiratory techs, pharmacy specialists) research scientists and auditors. To accommodate both the social policy of phasing out nonresident labor and the economic reality of continued need, it is the purpose of this legislation to provide a mechanism whereby the number of nonresident workers employed by the Commonwealth government will be gradually reduced through time. This legislation will extend the sunset provision imposed by Public Law 10-4 to either September 30, 2002 or September 30, 2005 depending on the government entity involved. While we would like to have all government reliance on non-resident labor terminate sooner rather than later, we recognize that this may not be logistically possible.

Furthermore, it is the purpose of this legislation to insure that all exempted government entities are actively working towards the goal of phasing out the reliance on nonresident workers. Therefore, this legislation requires each of the exempt government entities to develop a comprehensive manpower training and education plan in coordination with the Northern Marianas College, Office of Personnel Management, Public School System and the Scholarship Office. This plan must include a management intern program for employees to receive the necessary job-skills training and/or education to eventually fill the positions currently occupied by non-resident workers. Furthermore, each government entity authorized under this Act to hire nonresident workers shall report annually, in writing, to the presiding officers of each house of the Legislature on the progress and status of this plan. We note that in the past these exemptions have been extended by new legislation beyond their intended expiration date. This should not happen again. It is the specific intent of the legislature that no further extensions of these exemptions occur for any reason.

Section 2. Repealer and Reenactment. 3 CMC §4434 (i) is hereby repealed and reenacted to read as follows:

"(i) The director shall not approve, issue or renew nonresident worker certificates for any position for direct or indirect employment within the Commonwealth government except for employment within the following government entities, positions, and conditions, for a contract period not to exceed one year, renewable pursuant to the restrictions of this subsection, and contingent upon the Office of Personnel Management (OPM) certifying that no resident professional is available to fill the position:

(1) (A) Department of Public Health. Physicians, midwives, and dentists licensed to practice in the CNMI. Applicants for nursing positions shall be graduates of recognized colleges or universities with a degree in nursing science and shall satisfy the professional licensing requirements in his/her country of origin as well as satisfying the licensing requirements established by the CNMI Board of Nursing for a Licensed Practical Nurse (LPN) or Registered Nurse (RN). Applicants for engineering tech and allied health positions such as lab tech, x-ray tech, respiratory tech, physical therapist and pharmacy specialist shall be graduates of recognized colleges or universities with a degree in their area of specialty in his/her country of origin and shall have satisfied all of their country's professional licensing and

certification requirements in addition to satisfying, if applicable, the licensure requirements established by the CNMI Medical Professional Licensure Board. This subsection shall expire on September 30, 2005, and no non-resident workers may be employed in the covered positions after this date. No contract entered into pursuant to this subsection shall be valid or have any legal effect on or after September 30, 2005.

(B) Department of Public Works. Technical and professional positions such as engineers and architects in the Technical Services Division, provided, that such nonresident professionals meet the licensing requirements of their country of origin in addition to satisfying the professional qualification and experience standards established by the Secretary of the Department of Public Works and Office of Personnel Management. This subsection shall expire on September 30, 2002, and no non-resident workers may be employed in the covered positions after this date. No contract may be entered into pursuant to this subsection that provides for a termination of the contract after September 30, 2002.

(C) Northern Marianas College. For instructors, research scientists and other technical and professional employees at the Northern Marianas College; provided, however, that such nonresident workers must be graduates of colleges or universities in the United States, or colleges or universities which are accredited by United States accrediting associations, or, alternatively, that such nonresident workers shall have earned degree(s) from colleges, universities, or institutions abroad that are recognized by the Board of Regents and shall meet all other professional requirements set by the Board of Regents. This subsection shall expire on September 30, 2005, and no non-resident workers may be employed in the covered positions after this date. No contract may be entered into pursuant to this subsection that provides for the termination of the contract after September 30, 2005.

(D) Commonwealth Utilities Corporation. For technical and professional employees. This subsection shall expire on September 30, 2005, and no non-resident workers may be employed in the covered positions after

this date. No contract may be entered into pursuant to this subsection that provides for the termination of the contract after September 30, 2005.

(2) In coordination with the Office of Personnel Management, the Northern Marianas College, Public School System and the Scholarship Office, as the case may be, each Commonwealth government entity authorized to hire nonresident workers pursuant to this chapter shall develop a one (1) and five (5) year comprehensive manpower training and education plan to include but not limited to measurable goals and objectives, timelines, completion dates, budget requirement and responsible person or persons to carry out the plan. This plan must include a management intern program for employees to receive the necessary job-skills training and/or education to eventually fill the positions currently occupied by nonresident workers. At least 60 days prior to the beginning of each fiscal year, the hiring government entity shall report annually, in writing, to the presiding officers of each house of the legislature on the progress and status of this plan together with a funding request necessary to implement the plan. Failure of the government hiring authority to comply with this provision shall be grounds to suspend the privilege of hiring nonresident workers by the non-complying entity, and this provision shall be strictly enforced. However, ninety (90) days after the enactment of this Act, each government agency allowed to hire nonresident workers shall submit to the presiding officers of each house the five (5) year comprehensive manpower training and education plan. Failure of the government agency in meeting this mandate shall result in the non-complying government agency's privilege to employ nonresident workers being automatically suspended until such time that the agency satisfies the legislative mandate. The presiding officer of the House shall inform the director of such non-compliance.

(3) A government entity authorized to employ non-resident workers under this act may hire such workers through a direct employment contract with the non-resident worker or via a contract for such services with a licensed manpower agency.

(4) The exceptions authorized herein shall expire on September 30, 2005, or September 30, 2002, as set forth in this act."

Section 3. 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 4. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 5. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED TO BY:**

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

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

Approved this 5<sup>th</sup> day of December, 2000

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