

THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST SPECIAL SESSION, 2002

Public Law 13-49
H. B. NO. 13-104, HS1

AN ACT

To amend the immigration fraud statute.

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

Section 1. Findings. The Legislature finds that there are increasing numbers of persons entering into fraudulent marriages for the purpose of becoming permanent residents of the Commonwealth. Reports indicate that aliens seeking to become permanent residents by entering into fraudulent marriages are paying up to \$20,000 to those willing to enter into a sham marriage. There is presently no CNMI law specifically prohibiting this conduct. The Legislature finds that it is in the best interest of the people of the Commonwealth to deter such conduct, to prevent unqualified persons from becoming permanent residents by subverting the institution of marriage within the Commonwealth.

Section 2. The Immigration Fraud statute, 3 CMC § 4363, is amended as follows:

“§ 4363. Immigration Fraud.

(a) Every person who shall manufacture, traffic in, import, export, sell, receive, possess without authorization or use any false, forged, counterfeit, altered or tampered-with official Commonwealth immigration or labor document, permit or identification card or any other official immigration document, including an official entry permit stamp, and who knows or clearly should have known that the document was false, forged, counterfeit, altered or tampered-with, shall be guilty of official document fraud, and upon conviction thereof, shall be imprisoned for not more than five years, or fined not more than \$2,000, or both.

(b) Every person who shall manufacture, traffic in, import, export sell, receive, possess without authorization or use any false, forged, counterfeit, altered or tampered-with document, passport, identification card, visa, visa or entry stamp, license, permit, entry permit, birth or health certificate or other document used or required to secure or support an application for any Commonwealth immigration or labor benefit, and who knows or clearly should have known that the document was false, forged, counterfeit, altered, or tampered-with, shall be guilty of document fraud, and upon conviction thereof, be imprisoned for not more than five years, or fined not more than \$2,000, or both.

(c) Any alien found to be in the unauthorized possession of any false, counterfeit, forged, altered, or tampered-with document covered by subsections (a) or (b) of this section shall be excludable or deportable as an undesirable alien, as the case may be, in addition to or in lieu of prosecution, in the discretion of the Attorney General.

(d) Whoever, upon entry or when applying for an entry permit to enter the Commonwealth, deliberately impersonates another, falsely states, uses or gives the name of a deceased individual or falsely states, uses or gives an untrue date of birth, or falsely states, uses or gives an assumed or fictitious name without disclosing his or her true identity, or knowingly subscribes as true any untrue statement in any application, affidavit or other document required by the immigration laws or regulations, or knowingly presents any such application, affidavit, or other document containing any such false statement upon entry or otherwise, is guilty of immigration fraud, and, upon conviction thereof, shall be imprisoned for not more than five years, and may be fined not more than \$2,000, or both.

(e) Any person who enters into marriage with another for the purpose of procuring an alien's entry as an immigrant, or for the purpose of procuring or attempting to procure the naturalization of any persons, or for the purpose of procuring or attempting to procure permanent residency in the Commonwealth or in

the United States as provided by law, is guilty of immigration fraud, and upon conviction thereof, shall be imprisoned for a period of not more than five years, or fined not more than \$2,000, or both. In a criminal prosecution under this section, a presumption that the person entered into marriage for any of the prohibited purposes above is created by admissible evidence that:

(1) a substantial fee or other consideration was given in exchange for entering into the marriage;

(2) the marriage has been judicially annulled or terminated within two years, other than through death of a spouse;

(3) the spouses have lived in separate residences for some or all of the time since the marriage, and

(4) the spouse have not held themselves out as a husband and wife during the first two years of marriage.

The absence of a legal presumption is not a bar to prosecution if the government can prove beyond a reasonable doubt that the person entered into marriage for any of the prohibited purposes above. Such proof may include, but is not limited to, evidence of one or more of subsections (e) (1)—(4) above.

(f) Upon conviction under this section of a person who has fraudulently obtained an entry permit, the court in which such conviction is had shall revoke the person's entry permit and order the deportation of the person. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of an offense to make such adjudication.

(g) Upon conviction of a person under this section, the Attorney General shall notify the United States Department of Immigration and Naturalization of the person's conviction, for further action consistent with federal immigration law.”

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 on the date this Act becomes effective.

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

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____
HEINZ S. HOFSCHEIDER
SPEAKER OF THE HOUSE

/s/ _____
EVELYN C. FLEMING
HOUSE CLERK

Approved this 21st day of April, 2003

/s/ _____
JUAN N. BABAUTA
GOVERNOR

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS