



HOUSE OF REPRESENTATIVES
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FOURTH SPECIAL SESSION, 2004

PUBLIC LAW NO. 14-39
H. B. No. 14-191, HD1

AN ACT

To amend 4 CMC § 7502(e); and for other purposes.

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

1 **Section 1. Intent and Purpose.** It is in the best interest of the CNMI economy to
2 encourage private investment in the CNMI. The existence of direct action statute allowing
3 insurance companies to be sued directly in civil cases has a chilling impact on the operation
4 of private insurance companies in the CNMI. While the original intent of a direct action
5 statute was an attempt to make sure that injured persons were not left without a remedy if an
6 insured was unable to be served, the impact has direct negative consequences on insurance
7 companies operating in the CNMI. An amendment of direct action would not affect the
8 applicability of the insurance policy nor the issues of liability. Moreover, the Federal Rules
9 of Evidence which are generally applicable to the Commonwealth Superior Court, expressly
10 prohibit the introduction of evidence that a person was or was not insured against liability in a
11 civil action upon the issue whether the person acted negligently or otherwise wrongfully. In
12 fact, the mention of insurance coverage to a jury in a typical tort case would be cause for a
13 mistrial. The primary reason for this is that the knowledge of the presence or absence of
14 liability insurance would induce juries to decide cases on improper grounds. Juries should
15 rule only on the evidence of negligence or the wrongful act and not on whether there is an
16 insurance company which would pay the liability. An amendment allowing only direct action
17 against insurers only if and when the insured cannot be served would serve both the injured
18 party and the insurance provider.

1 **Section 2. Amendment.** 4 CMC § 7502(e) is amended to read as follows:

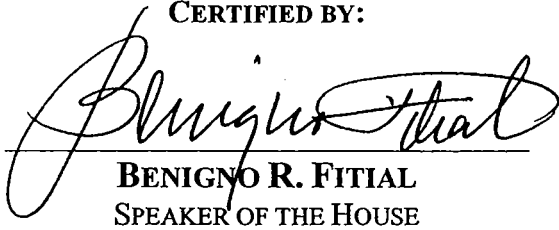
2 “(e) **Liability Policy: Direct Action.** On any policy of liability insurance the
3 injured person or his or her heirs or representatives shall have a right of direct action
4 against the insurer within the terms and limits of the policy, whether or not the policy
5 of insurance sued upon was written or delivered in the Commonwealth, and whether
6 or not the policy contains a provision forbidding the direct action; provided, that the
7 cause of action arose in the Commonwealth and it has been determined that the
8 insured cannot be personally served the summons and complaint and if by affidavit or
9 otherwise the court is satisfied that with reasonable diligence, the defendant cannot be
10 served. The action may be brought against the insurer alone, or against both the
11 insured and insurer only if it has been determined that the insured cannot be
12 personally served the summons and complaint and if by affidavit or otherwise the
13 court is satisfied that with reasonable diligence, the defendant cannot be served, and
14 that a cause of action arises against the party upon whom service is made, or he is a
15 necessary and proper party to the action, the court may order that the insurer may be
16 named in a direct action lawsuit.”

17 **Section 3. Severability.** If any provision of this Act or the application of any such
18 provision to any person or circumstance should be held invalid by a court of competent
19 jurisdiction, the remainder of this Act or the application of its provisions to persons or
20 circumstances other than those to which it is held invalid shall not be affected thereby.

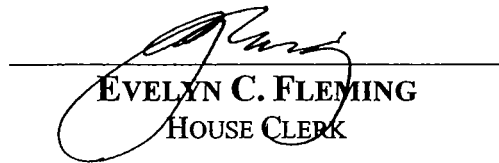
21 **Section 4. Savings Clause.** This Act and any repealer contained herein shall not be
22 construed as affecting any existing right acquired under contract or acquired under statutes
23 repealed or under any rule, regulation or order adopted under the statutes. Repealers
24 contained in this Act shall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

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

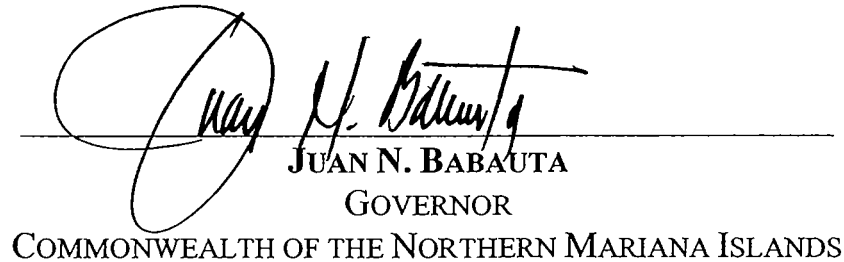
CERTIFIED BY:


BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

ATTESTED TO BY:


EVELYN C. FLEMING
HOUSE CLERK

Approved on this 26th day of October, 2004


JUAN N. BABAUTA
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS