



HOUSE OF REPRESENTATIVES  
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
THIRD REGULAR SESSION, 2005

Public Law No. 14-70

**H. B. No. 14-314, HS1**

AN ACT

To amend the Commonwealth Insurance Act, the Commonwealth Consumer Protection Act; and for other purposes.

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

1           **Section 1. Findings.** The Legislature generally retains broad control and regulatory  
2 power over the insurance industry in the CNMI and has within its control and power the ability  
3 to determine the extent to which causes of action may be asserted against insurers by third  
4 party claimants, as long as its action is rationally related to a legitimate Commonwealth  
5 interest. It is recognized that there is presently in the CNMI no case or statute setting forth  
6 whether a third party claimant may assert a cause of action for "bad faith" against an insurer, or  
7 whether a third party claimant has any right to assert a claim pursuant to 4 CMC §7505(h) or  
8 4 CMC §5112. This has resulted in uncertainty within the area of civil liability, a lack of  
9 predictability amongst insurers, a lack of protection against unfounded claims against insurers,  
10 allegations, threats and claims of bad faith by third party claimants, unwarranted claims under  
11 the Insurance Act and the Consumer Protection Act, and costly litigation.

12           It is in the best interest of the CNMI economy to encourage private investment in the  
13 CNMI. This amendment is in part designed to dissuade insurers from discontinuing the  
14 provision of liability insurance in the Commonwealth, to reduce the significant rise in  
15 premiums, and to increase the types and amounts of coverage available for CNMI risks. The  
16 absence of a legal provision precluding third party claimants from asserting causes of action  
17 against insurers for bad faith has a chilling impact on the operation of private insurance  
18 companies in the CNMI. There has been a decrease in the types of coverage being made  
19 available in relation to certain CNMI risks and premiums for some types of coverage have

1 risen so high that there are some types of coverage that are no longer available or affordable by  
2 individuals and businesses in the CNMI. Several insurers have commenced the process of  
3 completely ceasing to provide liability insurance and others have expressed an intention to do  
4 the same. The legislature finds that, without passage of this amendment, Commonwealth  
5 commerce would be in jeopardy of significant decline and there would be a significant risk of  
6 substantial negative impact on the people and infrastructure of the CNMI. The Legislature,  
7 therefore, finds that it is in the best interest of the people of the CNMI to preclude such claims.

8 The Legislature further finds that it is in the best interest of the CNMI to maintain the  
9 availability of liability insurance, to foster competition in the insurance market, to prevent  
10 drastic increases in premiums and reduce premiums for liability coverage, to encourage the  
11 widespread acquisition of liability insurance by individuals and businesses, to increase sources  
12 of compensation for victims of personal injuries, to preserve commercial and economic  
13 stability in the Commonwealth, and to preserve a legal environment of fairness to plaintiffs,  
14 defendants, and insurers.

15 It is, therefore, the intent of this bill to make appropriate amendments to the  
16 Commonwealth Insurance Act and Commonwealth Consumer Protection Act to implement the  
17 findings of this bill.

18 **Section 2. Amendment.** 4 CMC § 5112 is hereby amended to add a subsection (d) as  
19 follows:

20 **“§ 5112. Private and Class Actions.**

21 (d) In the context of third party liability claims, the term “third party” or “third  
22 party claimant” ordinarily refers to a claimant who is making a claim for damages  
23 against an insured who is, or claims to be, covered by a policy of insurance issued by  
24 an insurer. A third party claimant is not a “consumer” for purposes of this article. This  
25 article does not confer upon any such third party claimant any right, cause of action or  
26 remedy against any such insurer. A third party claimant who has asserted a claim  
27 against an insured does not have any right, cause of action or remedy against the  
28 insured’s insurer in relation to such claim based upon this article and does not have  
29 standing to assert any such right, cause of action or remedy against the insured’s

1 insurer. No right, cause of action or remedy against an insurer pursuant to this Article  
2 shall be assignable to any such third party claimant.”

3 **Section 3. Amendment.** 4 CMC § 7502 is hereby amended to add subsection (j) as  
4 follows:

5 **“§ 7502. The Policy.**

6 (j) *Implied Covenant of Good Faith and Fair Dealing.* It is recognized that, in  
7 every policy of insurance, there is an implied covenant of good faith and fair dealing  
8 that exists between the insurer and the insured, the breach of which can give rise to a  
9 cause of action for damages legally caused by such breach. However, the implied  
10 covenant of good faith and fair dealing does not, and shall not, exist between an insurer  
11 and any third party who is not an insured under the insurance agreement and there shall  
12 be no cause of action for breach of the insurance agreement, breach of the covenant of  
13 good faith and fair dealing or bad faith by any person or entity that is not an insured  
14 under the insurance agreement. A person who asserts a claim for damages against a  
15 person who is insured, or claims to be insured, under a policy of insurance is not, and  
16 shall not be considered, a third party beneficiary of such insurance policy. It is  
17 intended by this provision that there shall be no cause of action for third party bad  
18 faith.”

19 **Section 4. Amendment.** 4 CMC § 7505(h) is hereby amended to add subsection (1) as  
20 follows:

21 **“§ 7505. Loss.**

22 (h)(1) This section pertains to rights and remedies between insurers and their  
23 insureds and does not pertain to persons or entities who are not an insured under the  
24 policy of insurance that provides coverage for the loss. This section does not, and shall  
25 not, grant any right, claim or remedy to any person or entity that is not an insured under  
26 the policy that provides coverage for the loss. A person or entity who has asserted a  
27 claim against an insured but is not an insured under the policy of insurance that  
28 provides coverage for the loss does not, and shall not, have any right, claim or remedy  
29 based upon this section and does not have standing to assert any right, claim or remedy

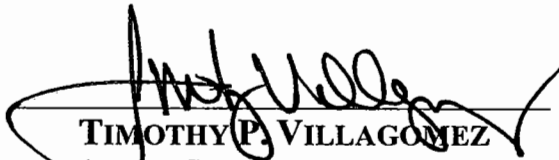
1 under this section. No right, claim or remedy pursuant to this section shall be  
2 assignable to any person or entity that is not an insured under the policy of insurance  
3 that provides coverage for the loss.”

4 **Section 5. Severability.** If any provision of this Act or the application of any such  
5 provision to any person or circumstance should be held invalid by a court of competent  
6 jurisdiction, the remainder of this Act or the application of its provisions to persons or  
7 circumstances other than those to which it is held invalid shall not be affected thereby.

8 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not be  
9 construed as affecting any existing right acquired under contract or acquired under statutes  
10 repealed or under any rule, regulation, or order adopted under the statutes. Repealers  
11 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.  
12 The enactment of the Act shall not have the effect of terminating, or in any way modifying,  
13 any liability, civil or criminal, which shall already be in existence on the date this Act becomes  
14 effective.

15 **Section 7. Effective Date.** This Act shall take effect upon its approval by the  
16 Governor or becoming law without such approval.

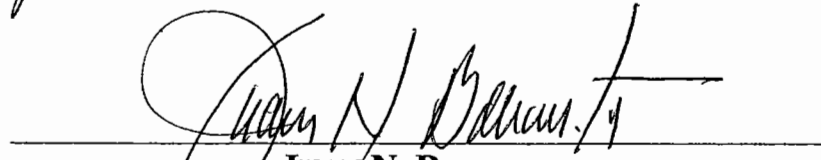
CERTIFIED BY:

  
TIMOTHY P. VILLAGOMEZ  
ACTING SPEAKER OF THE HOUSE

ATTESTED TO BY:

  
CECILIA TAITANO-CELES  
ASSISTANT HOUSE CLERK

Approved on this 10<sup>th</sup> day of June, 2005

  
JUAN N. BABAUTA  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS