



THE SENATE
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND SPECIAL SESSION, 2005

PUBLIC LAW NO. 14-84
SENATE BILL NO. 14-89

AN ACT

TO AMEND SECTIONS 4381 AND 4442 OF TITLE 3 OF THE COMMONWEALTH CODE; AND FOR OTHER PURPOSES.

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

1 **Section 1. Findings.** The Legislature finds that the statutory provisions enacted for
2 the purposes of identifying and detecting illegal aliens and illegal alien employment activity
3 are, in part, presently irreconcilable with the Constitutions of the Commonwealth of the
4 Northern Mariana Islands and United States and are in need of revision. The United States
5 District Court for the Northern Mariana Islands declared unconstitutional portions of the
6 present sections 4381 and 4442 of Title 3 of the Commonwealth Code. *See* Order Denying
7 Defendants' Motion for Judgment on the Pleadings or, in the alternative, Defendants' Motion
8 for Summary Judgment and Declaring 3 N.Mar.I Code §§ 4381(a), 4381(d), and 4442
9 Unconstitutional dated February 2, 2000 in *Gorromeo v. Zachares*, Civil Action No. 99-0018
10 (D. N. Mar. I).

11 The Legislature further finds that the presence of a neutral magistrate is desirable and,
12 in fact, proper when the government powers of search and arrest are exercised, except in
13 limited cases when labor and immigration authorities are presented with exigencies that make
14 obtaining a magistrate's warrant difficult or impossible.

1 The Legislature accordingly finds that sections 4381 and 4442 of Title 3 of the
2 Commonwealth Code should be revised, and that such revisions are a necessary and proper
3 use of the Legislative power.

4 **Section 2. Amendment.** Section 4381 of Title 3 of the Commonwealth Code is
5 repealed and reenacted as follows:

6 “§ 4381. Detection of Illegal Aliens.

7 (a) Interrogation Power. Any officer of the immigration office may, upon developing
8 a reasonable suspicion based on articulable facts, interrogate any alien or person present in
9 the Commonwealth and believed to be an alien as to his or her right to be or to remain in the
10 Commonwealth. An interrogation conducted pursuant to this section shall be brief, shall be
11 restricted to the subject of the person’s right to be or to remain in the Commonwealth, and
12 shall not constitute an arrest. The person interrogated may refuse to answer. Although a
13 refusal to answer shall not alone constitute grounds for arrest, the officer may weigh such
14 refusal in determining whether to make an arrest pursuant to 3 CMC § 4382(b), and the
15 officer may offer such refusal as evidence in obtaining an arrest warrant pursuant to 3 CMC
16 §4382(a).

17 (b) Search Without Warrant at Entry. Any officer of the immigration office shall
18 have the power to conduct a warrantless search at the immigration inspection counter of a
19 Commonwealth port of entry of any person seeking admission to the Commonwealth,
20 provided that such officer must have probable cause to suspect that such a search might find
21 documents or other items related to immigration matters which would lead to the exclusion of
22 that person.

23 (c) Arrest Without Warrant at Entry. An immigration officer may arrest without
24 warrant any alien who, in the officer’s presence or view, is entering or attempting to enter the
25 Commonwealth in violation of any law or regulation, or arrest without warrant any alien in
26 the Commonwealth upon developing a reasonable suspicion based on articulable facts that
27 the alien is in violation of this Act and likely to escape before a warrant can be issued.

1 (d) Search Warrants. Upon application to a judge of the Commonwealth Superior
2 Court, any officer of the immigration office may request the issuance of a search warrant to
3 enter any premises or building for the purpose of:

4 (1) Locating or detecting a person or persons reasonably believed to be aliens
5 present in the Commonwealth without lawful authority; or

6 (2) Locating or seizing documents, files, records, instruments, proceeds
7 including currency, or any other items reasonably believed to be used in securing any
8 labor or immigration benefits in violation of any applicable Commonwealth or federal
9 law or regulation; or

10 (3) Evidence of commission of any criminal violation of the immigration
11 statutes.

12 Any such application to the Superior Court shall be supported by a sworn affidavit or
13 testimony establishing probable cause.

14 (e) Searches of Places Where Nonresident Workers are Employed. Any officer of the
15 immigration office shall have the same powers of search and entry granted to the Chief of
16 Labor or his designee under 3 CMC § 4442, except that such powers shall be exercised solely
17 to enforce the immigration laws of the Commonwealth.

18 (f) Entry and Search Without Warrant- Borders. An immigration officer may, within
19 a reasonable distance from any external boundary of the Commonwealth, board and search
20 for aliens any vessel within the territorial waters of the Commonwealth and any aircraft,
21 conveyance, or vehicle, and within a reasonable distance from any border area or its
22 functional equivalent, to have access to private lands, but not dwellings, for the purpose of
23 patrolling the border to prevent the illegal entry of aliens into the Commonwealth.”

24 **Section 3. Amendment.** Section 4442 of Title 3 of the Commonwealth Code is
25 repealed and reenacted as follows:

26 “§ 4442. Enforcement: Authority to Enter.

27 (a) In order to enforce the labor laws of the Commonwealth, the chief or his
28 designee may, upon obtaining a search warrant from the Superior Court, enter and search any
29 worksite where nonresident workers are employed, or any nonresident worker employer-

1 provided facility; provided only, that if the search is of a residential facility, only those rooms
2 or portions of the facility where nonresident workers are actually residing may be searched.
3 Such entry and search may be at any time work is in progress, or any other reasonable time,
4 and must be in furtherance of a specific investigation. Refusal to permit such entry, or
5 refusal to allow a search, or deliberate obstruction of an entry or search, shall be in a
6 violation of this chapter, and may result in sanctions against the employer and/or the
7 revocation of the nonresident worker's work certificate, and shall constitute Contempt of
8 Court under 6 CMC §3307.

9 Officers may request the issuance of a search warrant for the purpose of searching the
10 worksite or employer-provided facility in question for persons reasonably believed to be in
11 the Commonwealth without lawful authority, or documents, files, records, instruments,
12 proceeds including currency, or any other items reasonably believed to be used in securing
13 any labor benefit in violation of any applicable Commonwealth or federal law or regulation.

14 Any such application to the Superior Court shall be supported by a sworn affidavit or
15 testimony establishing probable cause.

16 (b) An officer of the labor department may enter and search a worksite without a
17 search warrant if:

18 (1) there is probable cause to believe the worksite contains evidence of
19 activity in violation of this Act; and

20 (2) the immigration officer reasonably believes that a subject present at the
21 worksite may escape or that evidence may be destroyed prior to obtaining a search
22 warrant under subsection (a).

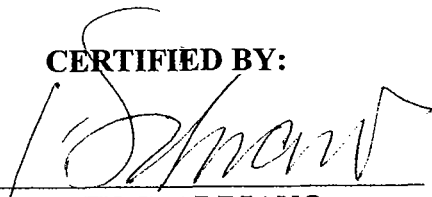
23 **Section 4. Severability.** If any provision of this Act or the application of any such
24 provision to any person or circumstance should be held invalid by a court of competent
25 jurisdiction, the remainder of this Act or the application of its provisions to persons or
26 circumstances other than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

27 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not be
28 construed as affecting any existing right acquired under contract or acquired under statutes

1 repealed or under any rule, regulation or order adopted under the statutes. Repealers
2 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
3 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
4 any liability, civil or criminal, which shall already be in existence on the date this Act
5 becomes effective.

6 **Section 6. Effective Date.** This Act shall take effect upon its approval by the
7 Governor or becoming law without such approval.

CERTIFIED BY:



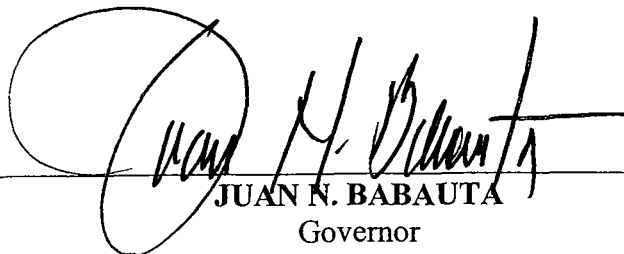
JOAQUIN G. ADRIANO
President of the Senate

ATTESTED BY:



JOSEPH M. MENDIOLA
Senate Legislative Secretary

Approved this *15th* day of *August*, 2005



JUAN N. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands

