

SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND SPECIAL SESSION, 2008

H. B. NO. 16-86

A BILL FOR AN ACT

TO AMEND THE COMMONWEALTH ENTRY AND DEPORTATION ACT (3 CMC §4301 ET SEQ.) TO CREATE THE IMMIGRATION CATEGORY OF “RESIDENT FOREIGN NATIONAL,” AND FOR OTHER PURPOSES.

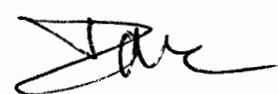
**BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Short title.** This Act may be cited as the “Resident Foreign National
2 Status Act of 2008.”

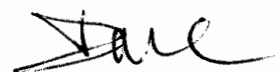
3 **Section 2. Findings and purpose.** The Commonwealth Legislature finds that
4 the presence of reliable, long-term foreign national workers in the Commonwealth and
5 the need for stability in the local labor market present an opportunity for constructive
6 labor reform. The Legislature further finds that under the current immigration
7 regulations there are various categories of entry for foreign nationals, none of which
8 adequately consider the value of long-term and law abiding non-citizen employees.
9 Among these categories are: Regular term business entry permit [§5-40.1-625(a)], CNMI
10 employee entry permit [§5-40.1-625(b)], Diplomat or consular entry permit [§5-40.1-
11 625(f)], Foreign investor visa [§5-40.1-625(g)], Distinguished merit entry permit [§5-
12 40.1-625(j)], and the Foreign national worker entry permit [§5-40.1-625(k)]. In
13 particular, the largest of these categories, the Foreign national worker entry permit,
14 allows for entry for a maximum of two years (pursuant to P.L. 15-108), and does not
15 consider the past presence or performance of the foreign national in the Commonwealth.
16 The Legislature finds that this period is too brief for the purposes of establishing a stable
17 and reliable non-citizen workforce.

18 The Legislature further finds that:

19 1. Resident foreign nationals are more familiar with CNMI law and employment



- 1 requirements than many other non-citizens due to their long term presence in
2 the Commonwealth. Thus, they do not require as much oversight as foreign
3 national workers and can be employed productively and at will in the private
4 economy.
- 5 2. Resident foreign nationals have demonstrated that they are capable both of
6 maintaining productive, stable employment arrangements, and of obeying
7 Commonwealth laws and regulations, which adds to the collective prosperity
8 of the Commonwealth, and benefits the local economy and society as a whole.
- 9 3. Resident foreign nationals have a vested interest in the local community and
10 are likely to spend more of their earnings on-island, rather than send money
11 out of the Commonwealth in remittances. Thus, a stable resident foreign
12 national workforce will provide a much-needed boost to CNMI businesses and
13 an increase in government revenue collections, thereby nurturing the economy
14 through the “multiplier effect.”
- 15 4. Resident foreign national status and the prospect of at will employment will
16 greatly relieve the administrative, processing, and enforcement burdens on the
17 Department of Labor, and will stabilize a segment of the labor force that is
18 critical to the economic recovery of the Commonwealth.
- 19 5. Resident foreign national status will benefit local businesses which will not be
20 required to pay annual permit and processing fees and await the issuance of
21 entry permits, or comply with extensive regulatory burdens.
- 22 6. Resident foreign national status will benefit workers who will freely contract
23 their services and change employers if their employment arrangements are
24 unsatisfactory.
- 25 7. Resident foreign national status will benefit all citizen and non-citizen
26 workers in the Commonwealth by promoting a higher wage structure,
27 improved working environments, and increased productivity. The
28 implementation of this immigration status will encourage employers to



1 compete vigorously to attract and retain a high-quality, productive, and
2 reliable workforce through the enhancement of wages and benefits.

3 The Legislature further finds that under its immigration authority it may create a new
4 immigration status of "Resident Foreign National." Resident foreign nationals shall be
5 defined as aliens who have been legally present in the Commonwealth for a minimum of
6 five (5) years prior to their application for status and who also meet the additional
7 requirements specified in this Act.

8 The Legislature further finds that although resident foreign nationals shall be
9 entitled to live in the Commonwealth without restrictions on their employment, resident
10 foreign nationals shall be deportable as any other alien for violating conditions of entry.
11 *See, e.g., AGO v. Phillip*, 2008 MP 1. Resident foreign nationals shall not be considered
12 non-aliens for any purpose, including but not limited to the application of Article II,
13 section 5(d) of the Constitution of the Northern Mariana Islands.

14 The Legislature finally finds that the family is the basic unit of all societies, and is
15 traditionally respected and revered in the culture of the Northern Mariana Islands. It is
16 the intent of this Act to honor that fundamental value and to contribute to the stability of
17 all families in the Commonwealth whose members include citizens, resident foreign
18 nationals, and others.

19 **Section 3. Amendments.**

20 (a) A new subsection (u) is added to Section 4303 of Article 1 of Chapter 1 of
21 Part 2 of Division 4 of Title 3 of the Commonwealth Code (as re-codified by P.L. 15-
22 108), with subsequent subsections re-lettered accordingly, to read as follows:

23 "(u) "Resident foreign national" means an alien admitted to the Commonwealth
24 under the immigration classification of the same name and defined in Article 9
25 of this chapter. The immigration classification of "resident foreign national"
26 means an alien class established under the Commonwealth immigration
27 authority for entry and employment purposes only.

28 (b) A new Section 4324 is added to Article 3 of Chapter 1 of Part 2 of Division 4



1 of Title 3 of the Commonwealth Code (as re-codified by P.L. 15-108) to read as follows:

2 **“§4324. Resident foreign nationals: entry.**

3 (a) Persons holding a resident foreign national entry permit granted pursuant to
4 Article 9 of this chapter may enter and exit the Commonwealth freely for the
5 duration of their entry permit, subject to subsections (a)-(h) of Section 4322
6 and subsections (a)-(d), (g) and (i) of Section 4340 of this division.

7 (b) Nothing in this provision shall act as a grant of permanent residency, resident
8 status, citizenship, or nationality to a resident foreign national entry permit
9 holder, nor shall it entitle resident foreign national entry permit holders to the
10 privileges and immunities of citizenship.”

11 **Section 4. New article.** A new Article 9 is added to Chapter 1 of Part 2 of
12 Division 4 of Title 3 of the Commonwealth Code (as re-codified by P.L. 15-108) to read
13 as follows:

14 **“Article 9. Resident foreign nationals.**

15 **§4391. Resident foreign national status**

16 **§4392. Conditions of entry**

17 **§4393. Employment status**

18 **§4394. Immediate family of resident foreign nationals**

19 **§4395. Deportation**

20 **§4396. Numerical cap**

21 **§4397. Fees**

22 **§4398. Reserved**

23 **§4399. Regulations**

24

25 **§4391. Resident foreign national status.**

26 (a) An alien, who at the time of application has resided in the Commonwealth of
27 the Northern Mariana Islands for the prior five (5) consecutive years with only
28 brief absences, may seek to adjust entry status to “Resident Foreign National”

1 subject to the terms of this article.

2 (b) Nothing in this article shall act as a grant of permanent residency, resident
3 status, citizenship, or nationality to a resident foreign national entry permit
4 holder, nor shall it entitle resident foreign national entry permit holders to the
5 privileges and immunities of citizenship.

6 (c) Resident foreign national entry permits shall be issued for a period of five (5)
7 years, and shall be renewable.

8 (d) No status adjustment under this article shall be effective until the expiration of
9 all current contracts of the foreign national; provided that the foreign national,
10 the employer of record, and the Department of Labor may agree to waive the
11 application of this subsection.

12 **§4392. Conditions of entry.** A person seeking to adjust status under this article
13 shall provide sufficient evidence that he or she:

14 (a) Has maintained legal status in the Commonwealth for the five (5) consecutive
15 years preceding the date of application, with only brief absences;

16 (b) Has maintained legal status while present in the Commonwealth;

17 (c) Has not been convicted in the Commonwealth of a felony, of more than one
18 misdemeanor, of a crime of moral turpitude, or any firearms control offense;

19 (d) Has not been convicted outside of the Commonwealth of an offense
20 punishable in the jurisdiction of occurrence by a year or more imprisonment;

21 (e) Has not at any time been a public charge to the Commonwealth;

22 (f) Has sufficient potential for employment and necessary employment skills; and

23 (g) Is not otherwise a deportable alien.

24 The Division of Immigration, in consultation with the Department of Labor, shall
25 determine whether an applicant alien has met the requirements of this section. Issuance
26 of a permit under this article is subject to numerical caps, if any, established under
27 Section 4396 of this article. Decisions of the Division shall be reviewable under the
28 Administrative Procedure Act (1 CMC §9101 et seq.).



1 **§4393. Employment status.**

- 2 (a) Resident foreign nationals may be employed at will in the Commonwealth in
3 the same manner as a permanent resident, as defined in 3 CMC §4511(j).
4 (b) Resident foreign nationals shall receive an employment preference pursuant to
5 3 CMC §4521.
6 (c) Except as provided in this article, resident foreign nationals shall not be
7 subject to Chapters 5 and 6 of Part 3 of Division 4 of Title 3 of the
8 Commonwealth Code (“Employment of Foreign Nationals”).
9 (d) Resident foreign nationals may operate a business, be self-employed, and
10 employ other resident foreign nationals and foreign national workers in
11 accordance with law.
12 (e) All other labor laws of the Commonwealth and applicable labor laws of the
13 United States shall apply to resident foreign nationals.

14 **§4394. Immediate family of resident foreign nationals.**

- 15 (a) Sections 4911(h) and 4926(a)-(c) and (e) of this division shall apply to
16 resident foreign nationals in the same manner as to foreign national workers.
17 (b) Members of the immediate family of resident foreign nationals may enter the
18 Commonwealth pursuant to 3 CMC §4926.
19 (c) Entry permits of immediate family members of a resident foreign national
20 shall be valid for the period of the permit of the resident foreign national and
21 upon termination of the same shall terminate.
22 (d) This section shall not prohibit the entry of immediate family members of a
23 resident foreign national under other provisions of law.

24 **§4395. Deportation.** Resident foreign nationals and any immediate family
25 members admitted pursuant to §4395 of this article may be deported pursuant to Article 5
26 of this chapter. An order of deportation shall terminate the entry permit of a resident
27 foreign national by operation of law.

28 **§4396. Numerical cap.** The Division of Immigration may establish by

1 regulation a numerical cap on the number of resident foreign national permits to be
2 issued.

3 **§4397. Fees.** The Division of Immigration shall assess a fee of not less than one
4 thousand three hundred seventy-five dollars (\$1,375.00) for permits under this article.
5 Fees may be assessed according to a payment schedule not to exceed the duration of the
6 permit period.

7 **§4398. Reserved.**

8 **§4399. Regulations.** The Division of Immigration shall, within ninety (90) days
9 of the effective date of this article, promulgate necessary rules and regulations for the
10 effective implementation of this article.”

11 **Section 5. Transition.** Aliens who, upon the effective date of this Act, have
12 been legally present in the Commonwealth for five (5) consecutive years or longer and
13 can otherwise comply with Section 4392 of Article 9 of this Act shall be permitted to
14 remain in the Commonwealth until regulations are implemented pursuant to Section 4399
15 of Article 9 of Section 4 of this Act. This section shall expire upon the implementation of
16 regulations pursuant to Article 9, Section 4399.

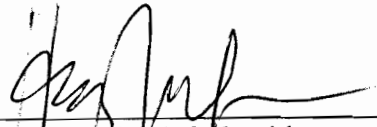
17 **Section 6. Severability.** If any provision of this Act or the application of any
18 such provision to any person or circumstance should be held invalid by a court of
19 competent jurisdiction, the remainder of this Act or the application of its provisions to
20 persons or circumstances other than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

22 **Section 7. Savings clause.** This Act and any repealer contained herein shall not
23 be construed as affecting any existing right acquired under contract or acquired under
24 statutes repealed or under any rule, regulation or order adopted under the statutes.
25 Repealers contained in this Act shall not affect any proceeding instituted under or
26 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
27 or in any way modifying, any liability, civil or criminal, which shall already be in
28 existence on the date this Act becomes effective.

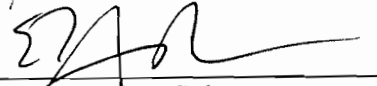
- 1 **Section 8. Effective date.** This Act shall take effect upon its approval by the
- 2 Governor or becoming law without such approval.

Prefiled:

Date: 4-24-08



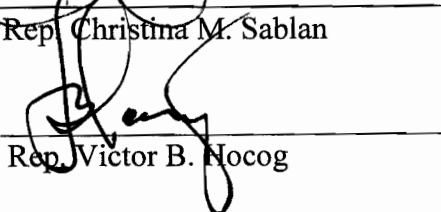
Rep/ Heinz S. Hofschneider



Rep. Edward T. Salas

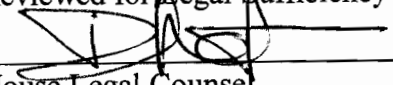
Introduced By: 

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