



Commonwealth of the Northern Mariana Islands  
Office of the Governor

Saipan, Mariana Islands 96950

Phone: 6407/6408/6581  
Telex: 783-622 Gov. NMI

MAY 31 1985

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The Honorable Vicente M. Sablan  
Speaker, House of Representatives  
Fourth Northern Marianas  
Commonwealth Legislature  
Saipan, CM 96950

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and

The Honorable Ponciano C. Rasa  
President of the Senate  
Fourth Northern Marianas  
Commonwealth Legislature  
Saipan, CM 96950

Dear Mr. Speaker and *Mr.* President:

Please be advised that I have signed into law House Bill Number 136, H.D.1, S.D.2 entitled "To establish the Commonwealth Development Authority; providing for its purposes, powers and duties, providing for its capitalization and operation; imposing an obligation of regular reporting by the Authority; and for other purposes." This bill becomes Public Law 4-49.

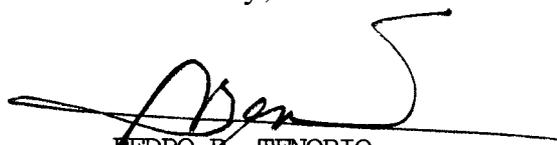
In the process of reviewing this measure, several concerns were raised which should be addressed by the Legislature as soon as possible. They include, but are not limited to the following: 1) Representation on the Board should be reconsidered so that all of our islands are adequately and fairly represented; 2) the provisions requiring bonding of members of the Board and certain officers of the Commonwealth Economic Development Authority could prove very costly to the Commonwealth. It has been estimated that the annual premium could well exceed two hundred thousand dollars; 3) no provision is made for transferring current employees of the Economic Development Loan Fund to the new entity. The law should be amended to guarantee continuous employment to these individuals who desire to provide their services; 4) the constitutionality of Section 13(c) has been questioned by various commentators and this issue should be thoroughly reviewed.

5/31/85  
CM Diaz 2:05 PM.

In spite of these reservations, I have signed the measure into law, as I feel that this measure will *enhance* the developst of our islands' infrastructure, promote economic developst, and provide employment opportunities to local people. I would, however, respectfully request that the leadership of the Legislature review the concerns raised and amend the **Act** accordingly.

Copies of Public Law 4-49 are enclosed for your ready reference.

Sincerely,



PEDRO P. TENORIO  
Governor

CC: Special Assistant for Programs and Legislative Review

## FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SIXTH REGULAR SESSION, 1985

## AN ACT

To establish the Commonwealth Development Authority; providing for its purposes, powers and duties, providing for its capitalization and operation; imposing an obligation of regular reporting by the Authority; and for other purposes.

Offered by Representatives Juan T. Guerrero, Gregorio C. Sablan,  
Victor B. Hocog, Pedro R. Guerrero, Juan S. Torres, Jose R. Lifoifoi,  
Jose C. Cabrera, Vicente M. Sablan, Benigno M. Sablan, Juan B. Tudela,  
Pedro T. Nakatsukasa, Francisco T. Cabrera, and Benigno R. Fitial

Date: July 10, 1984

## House Action

Referred to: Committee on Resources and Development

Standing Committee Report No. 4-38

First and Second Reading: October 11, 1984

Final Reading: April 23, 1985

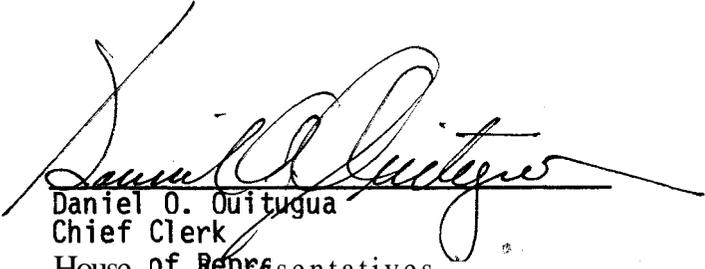
## Senate Action

Referred to: Committee on Resources, Economic Development and Programs

Standing Committee Report No. 4-128

First Reading: February 6, 1985

Second Reading: April 17, 1985

  
Daniel O. Ouitugua  
Chief Clerk  
House of Representatives

AN ACT

To establish the Commonwealth Development Authority; providing for its purposes, powers and duties, providing for its capitalization and operation; imposing an obligation of regular reporting by the Authority; and for other purposes.

BE IT ENACTED BY THE FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE :

1           Section 1. Short Title. This Act may be cited as the Commonwealth  
2 Development Authority Act of 1984.

3           Section 2. Development Authority: Banking and Corporation  
4 Divisions. The functions of the Authority shall be carried out through  
5 a Development Banking Division and a Development Corporation Division.  
6 Subject to the provisions of this Act, the Banking Division generally  
7 shall be engaged in government and public sector activities and the  
8 Corporation generally shall be engaged in private sector activities.

9           Section 3. Purpose. The purposes of the Authority is to stimulate  
10 the economic development of the Northern Mariana Islands.

11                   (a) The purposes of the Development Banking Division  
12 of the Authority shall be:

13                           (1) To receive and hold economic United  
14 States assistance for economic development loan  
15 provided by Section 702(c) of the Covenant;

16                           (2) To aid in the financing of capital  
17 improvement projects and other projects  
18 undertaken by the Commonwealth and its  
19 autonomous public agencies;

20                           (3) To achieve the greatest possible  
21 return, in terms of economic development, on the

1 funds made available to the Commonwealth by the  
2 United States in accordance with the Covenant;  
3 and on such other funds as may be made available  
4 to the Authority as capital contributions;

5 (4) To disseminate modern practices and  
6 techniques of financing, management, and business  
7 administration in order to raise the levels of  
8 efficiency and productivity in all sectors.

9 (5) To serve as the Northern Marianas  
10 development bank identified in Article IX,  
11 Section 6(c) of the Constitution.

12 (b) The purposes of the Development Corporation Division  
13 of the Authority shall be:

14 (1) To identify, formulate, initiate,  
15 stimulate and facilitate business and commercial  
16 enterprises, with special emphasis on agricultural  
17 and marine resources, manufacturing and processing  
18 activities, import substitution, export development,  
19 and responsible use of indigenous raw materials;

20 (2) to identify, formulate, initiate,  
21 stimulate, and facilitate business and commercial  
22 enterprises where a service necessary and vital  
23 to economic development is required, or where  
24 profit incentives are not sufficient to attract  
25 private sector investor; and

1 (2) To serve as the economic development  
2 loan fund agency for qualified private sector  
3 enterprises.

4 Section 4. Definitions. As used in this Act:

5 (a) "Administrative expenses" means the cost of  
6 reimbursements to Board members, officers and staff for  
7 wages, salaries and other compensation authorized in this  
8 Act, and also means rent, office expenses, professional  
9 fees and other necessary administrative costs of  
10 implementing this Act.

11 (b) "**Autonomous public agency**" means any **autonomous**  
12 agency or instrumentality of the Government of the  
13 Northern Mariana Islands including any government  
14 corporation as defined in 1 CMC Section 7103(n).

15 (c) "Authority" means the Commonwealth Development  
16 Authority established by Section 5 of this Act;

17 (d) "Board" means the Board of Directors of the  
18 Authority as established by Section 7 of this Act;

19 (e) "Commercial bank" means any banking institution  
20 including credit unions or branch of any foreign or  
21 domestic banking institution that now operates in the  
22 Northern Mariana Islands, or that **commences** such  
23 operations at some future time;

24 (f) "Consumer Loans" means loans for the acquisition  
25 or use of consumer products.

1 (g) "Constitution" means the Constitution of the  
2 Commonwealth of the Northern Mariana Islands;

3 (h) "Covenant" means the Covenant to Establish a  
4 Commonwealth of the Northern Mariana Islands in Political  
5 Union with the United States of America and all amendments  
6 thereto (U.S. Public Law No. 94-241);

7 (i) "EDLF" means Economic Development Loan Fund;

8 (j) "Executive Director" means the Executive  
9 Director of the Authority;

10 (k) "Marianas Public Land Trust" means the trust  
11 established in Article XI, Section 6 of the Constitution;

12 (l) "Obligations" includes bonds, notes, evidence of  
13 debt, guarantees, commercial paper, leases, lease-purchase  
14 agreements, and all other contractual obligations of the  
15 Authority;

16 (m) "Private Sector Account" means that portion  
17 of the Authority's transactions dealing with the funding  
18 and development of projects within the private sector,  
19 and funded from various sources, including Section 702(c)  
20 Covenant Funds;

21 (n) "Public Sector Account" means that portion of  
22 the Authority's transactions dealing with the financing  
23 of public projects and funded by various sources,  
24 including Section 702(b) Covenant Funds;

25 (o) "Short Term Financing" means loans for less  
26 than 24 months;

1 (p) "Technical assistance" includes direct grant  
 2 funding for services which contribute to the purposes  
 3 of this Act but are expenditures of the Authority and  
 4 are not reimbursable;

5 (q) "Total capital" means the funds available to  
 6 the Authority pursuant to subsection (a) of Section 9  
 7 of this Act;

8 (r) "Total funds" means total capital plus any  
 9 funds available to the Authority pursuant to subsection  
 10 (b) of Section 9 of this Act.

11 Section 5. Charter of the Authority.

12 (a) There is created as an autonomous public  
 13 agency of the Commonwealth of the Northern Mariana  
 14 Islands, a body corporate to be known as the  
 15 Commonwealth Development Authority to serve those  
 16 functions provided for in Article XI, Section 6(c) of  
 17 the Constitution and such other purposes as this Act  
 18 establishes.

19 (b) The existence of the Authority shall be  
 20 perpetual.

21 (c) The Authority shall maintain its principal  
 22 office in Saipan, and may establish such other offices  
 23 or branches elsewhere as the Board deems necessary.

24 (d) Subject to the provisions of this Act, the  
 25 Authority shall have **all** the rights and privileges of  
 26 a corporation.

1 Section 6. Powers and Restrictions.

2 (a) Subject to any limitation set forth in this  
3 Act, the Authority shall have those powers reasonably  
4 necessary and incidental to the fulfillment of its  
5 purposes, including but not limited to the powers:

6 (1) to design, adopt, alter, and use a  
7 corporate seal;

8 (2) to prescribe, adopt, amend, and  
9 repeal bylaws consistent with this Act  
10 governing the manner in which its business  
11 will be conducted and in which the obligations  
12 imposed on it by law will be performed;

13 (3) to receive and hold funds from the  
14 United States Government the Government of  
15 the Commonwealth, the Marianas Public Land  
16 Trust, the Economic Development Loan Fund and  
17 any other sources;

18 (4) to sue and be sued in its own  
19 corporate name;

20 (5) to acquire and hold any interest  
21 allowed by law in any real or personal property,  
22 tangible or intangible, in connection with the  
23 activities of the Authority and to sell, mortgage,  
24 or otherwise dispose of such interest;

1           (6) to borrow money from any private or  
2 public source, within the **Commonwealth** or the  
3 United States or in any other country; and to  
4 give security in connection with such borrowing;

5           (7) to make and issue bonds, notes or other  
6 obligations in furtherance of the purposes of this  
7 Act including, but not limited to, funding capital  
8 improvement projects of the **Commonwealth** for sewers,  
9 power, water, roads, health facilities, air and sea  
10 ports, and parks and recreation facilities;

11           (8) to make loans to any autonomous public  
12 agency for use in any project that in the judgment of  
13 the Authority will further the purposes of this Act;

14           (9) to guarantee the obligations of the  
15 Commonwealth or its autonomous public agencies,  
16 incurred to fund any project that in the judgment  
17 of the Authority furthers any purpose of this Act;

18           (10) to make loans to a subsidiary public  
19 development corporation, for its use in any way  
20 deemed by the Authority to be consistent with  
21 this Act;

22           (11) to underwrite, purchase, own, sell,  
23 mortgage, or otherwise dispose of stocks, bonds,  
24 debentures, securities, or other evidence of  
25 indebtedness in furtherance of the purpose of  
26 this Act;

1                   (12) to invest prudently pursuant to Section  
2                   11(d) the reserves and other funds of the Authority  
3                   not currently needed for development activities or  
4                   for liquidity;

5                   (13) to guarantee the obligations of private  
6                   individuals, corporations or cooperatives;

7                   (14) to make loans to private individuals,  
8                   corporations and cooperatives who are eligible for  
9                   loans under the special provisions reserving funds  
10                  for farmers, fishermen, agricultural and marine  
11                  cooperatives and housing for low income families,  
12                  in Section 702(c) of the Covenant;

13                  (15) to make loans to private individuals,  
14                  corporations and cooperatives other than pursuant  
15                  to subsection (a)(14) of this Section but only with  
16                  the proceeds of the sale of tax exempt Industrial  
17                  Revenue Bonds, which bonds shall be secured by the  
18                  project or investment financed or such other  
19                  guarantees and collateral as may be required by  
20                  the authority.

21                  (16) to employ foreclosure proceedings  
22                  authorized within Commonwealth law where required  
23                  to protect outstanding loans and investments of  
24                  the Authority;

- 1                   (17) to make contracts and execute all  
2 instruments necessary or **convenient** in the  
3 exercise of the powers of the Authority;
- 4                   (18) to pledge the full faith and credit of  
5 the Commonwealth;
- 6                   (19) to hire such employees as are necessary  
7 to the operation of the Authority as provided in  
8 Section 17 of this Act, and to engage the services  
9 of outside experts , advisors, and other contractors  
10 as necessary to the fulfillment of the purposes of  
11 the Authority;
- 12                   (20) to undertake such research as is necessary  
13 or desirable to further the purposes of this Act;
- 14                   (21) to provide technical assistance,  
15 supervision, or management counseling, and other  
16 services in connection with the financing of any  
17 project or undertaking;
- 18                   (22) to participate with any other provider  
19 of capital in the financing of any project or other  
20 undertaking which furthers the purpose of this Act;
- 21                   (23) to set rates of interest and fees, as  
22 provided in Section 12 of this Act, and to collect  
23 money due to the Authority ~~from~~ any **sources**;
- 24                   (24) to assist investment in the Commonwealth  
25 by any potential business interest or other provider  
26 of capital ;

1                   (25) to **engage** as its agent any commercial  
2 bank or **autonomous** public agency to **administer**  
3 any bank loan program involving loans to private  
4 persons, corporations or cooperatives eligible for  
5 loans **from** the funds reserved for fanners, fishermen  
6 agricultural and marine cooperatives and low income  
7 family housing in Section **702(c)** of the Covenant;  
8 Provided, that the total amount of such loans shall  
9 not exceed the amount **earmarked** for specific purposes  
10 in Section **702(c)** of the Covenant;

11                   (26) to engage as its agent any major financial  
12 institution to **implement** all or a part of this Act,  
13 major financial institution means a financial  
14 institution with assets in excess of fifty million  
15 dollars (\$50,000,000);

16                   (27) to act as financial advisor and  
17 coordinator with respect to any public borrowing  
18 by the **Commonwealth**, its departments , autonomous  
19 public agencies, municipalities and public  
20 corporations. Notwithstanding any other provision  
21 of **law**, no bonds or other debentures, may be issued  
22 or other public indebtedness incurred, by the  
23 **Commonwealth** or any or its departments , autonomous  
24 **public** agencies, municipal ities or corporations  
25 including the Mariana Islands Housing Authority

1 and the Commonwealth Port Authority without the  
2 approval of the Board of the Commonwealth  
3 Development Authority;

4 (28) to fund bonds, notes or other  
5 obligations of the United States or any state  
6 or political subdivision thereof, or any U.S.  
7 possession or territory, or any of the districts  
8 of the Trust Territory of the Pacific Islands or  
9 their successor governments, or any public  
10 corporation of any of these;

11 (29) to organize, establish, operate, or  
12 own interest in, subsidiary corporations or  
13 joint ventures chartered under the laws of the  
14 Commonwealth and doing business within the  
15 Commonwealth;

16 (30) to establish the Development  
17 Corporation Division as a subsidiary corporation  
18 of the Authority by appointing three members of  
19 the Authority Board as the Board of Directors of  
20 the Development Corporation and promulgating  
21 such related procedures and requirements as Will  
22 effectuate such establishment in accordance with  
23 the purposes of this Act;

24 (31) to make mortgage loans, issue mortgage  
25 insurance, enter into mortgage insurance agreements

1 with H.U.D., or other agencies of the United  
2 States or Camonwealth ~~Goverments~~, or any  
3 private entlty to facilitate mortgage finance  
4 for residential purposes; and  
5 (32) to take such action as is necessary  
6 and proper to operate the Authority, further its  
7 purposes, administer its loans, and oversee its  
8 other capital outlays .  
9 (b) The Authority shall not:  
10 (1) be a depository for private savings;  
11 (2) fund or loan funds for government  
12 operations, except for its ~~own~~ operations as  
13 provided in this Act;  
14 (3) make, issue, guarantee or otherwise  
15 participate in providing credit or lending money  
16 for consumer loans; and  
17 (4) authorize, make or issue any bond or  
18 debenture or other obligation involving its own  
19 funds, in excess of **\$3,000,000** (three million  
20 dollars) for any particular making or issue, without  
21 first obtaining the approval of the majority of the  
22 members of each house of the legislature by joint  
23 resolution. Such approval shall not be subject to  
24 Article X, Section 3 of the Constitution. This  
25 provision shall not apply to obligations to ~~be~~ paid  
26 directly by the United States or any of its agencies.

1 Section 7. Board of Directors.

2 (a) The affairs of the Authority shall be governed  
 3 and controlled by a Board of Directors, which shall  
 4 consist of seven members;

5 (b) Members of the Board shall be appointed by the  
 6 Governor of the Northern Marianas with-the advice and  
 7 consent of the Senate; the provision of 1 CMC Section  
 8 **2901(g)** shall not apply to the canposition of the Board.  
 9 Initial y, two members sha 1 serve a two year term,  
 10 three members shall serve a three year term and two  
 11 members shall serve a four year term the terms to be  
 12 selected by the drawing of lots. Each member replacing  
 13 a Board member after his original term, shall serve a  
 14 four year term. Any member may be reappointed to serve  
 15 successive **terms**;

16 (c) The Board membership shall consist of U.S.  
 17 citizens or U.S. nationals as defined in Section 8 of  
 18 the Schedule on Transitional Matters of the Constitution  
 19 who have at least one year continuous residency in the  
 20 Commonwealth and who are domiciles of the Commonwealth  
 21 as defined in Section **1005(e)** of the Covenant, with at  
 22 least two members representing Rota and at least two  
 23 members representing Tinian. Board members shall be  
 24 private individuals with knowledge and experience in  
 25 business, finance, banking, or other economic affairs;

1 (d) Members of the Board, constituting a quorum,  
2 shall elect a Chairman and Vice Chairman **immediately**  
3 upon their first meeting following Senate confirmation  
4 of all seven members. The **Chairman** and Vice Chairman  
5 shall serve for a **term** of two years. Bi-annually, the  
6 Board shall elect its Chairman and Vice **Chairman**. The  
7 Chairman shall preside over the meetings of the Board;

8 (e) Quorum. A quorum for meetings and transacting  
9 business **shall** be four voting members actually present.  
10 The Chairman shall be **counted** and deemed a voting member  
11 for purposes of establishing a meeting or business quorum  
12 but shall not vote except to break a tie;

13 (f) Unless otherwise provided for in this Act, all  
14 decisions of the Board shall be made by a majority of  
15 those members present and voting when a quorum is present.  
16 A member of the Board **who** is unable to attend a particular  
17 meeting may designate in writing another Board **member** as  
18 alternate to attend that particular meeting in his place  
19 and may authorize in writing the alternate to cast the  
20 absent member's vote upon any item of business **previously**  
21 noticed on the agenda for that meeting. A designation  
22 may not be used to establish a quorum.

23 (g) Meetings of the Board.

24 (1) Quarterly Meetings Required. The  
25 Board shall meet not less than once each quarter  
26 at a time and place designated at least 14 days  
27 in advance by the Chairman.

1                   (2) Other Meetings. The Board or the  
2 Chairman may convene other meetings on 72 hours  
3 notice.

4                   (3) Open and Closed Meetings. Meetings  
5 shall be open to the public during discussion  
6 of policies, procedures, and administrative and  
7 other non-confidential matters, and closed to  
8 the public during discussion of personnel, and  
9 other matters of a confidential nature as may be  
10 defined in the bylaws.

11                  (h) Compensation of Board Members. The members of  
12 the Board shall be compensated pursuant to Section 8 of  
13 Public Law 4-32 and may be reimbursed in accordance with  
14 the Commonwealth law for any reasonable and necessary  
15 expenses incurred in the performance of their duties under  
16 this Act. Rules and rates for travel and per diem rates  
17 shall be the same as those established for the Executive  
18 Branch.

19                  (i) Resignation, Removal and Vacancies of Board.  
20 An appointed member may at any time resign his office by  
21 notice in writing to the Governor. Upon resignation,  
22 removal or expiration of the term of appointment the  
23 member shall cease to sit on the Board, and shall not be  
24 included in a quorum count. Removal of a Board member  
25 before the expiration of his term shall occur only by the

1 Governor and on grounds of **gross** neglect or dereliction of  
2 duty, breach of fiduciary duty, **conviction** of a felony or  
3 mental or physical incapacity. In the event that a Board  
4 member is removed **fran** the Board or ceases to sit **on** the  
5 Board for any other reason, the Governor shall appoint a  
6 replacement, with the advice and consent of the Senate.  
7 Such a replacement member of the Board shall serve the  
8 remainder of the term of the member he replaces and must  
9 be confirmed by the Senate **pursuant** to Section **18(b)**.

10 In the event the Chairman or Vice Chairman are  
11 replaced, the Board will select a Chairman or Vice  
12 Chairman **from** among its members pursuant to subsection **(d)**.

13 **(j) Duties of the Board.** The Board shall have the  
14 following duties:

15 (1) to govern the operation of the  
16 Authority in a manner that further its  
17 purpose;

18 (2) to take action necessary to the  
19 exercise by the Authority of its powers under  
20 this Act;

21 (3) to adopt **bylaws**, and to adhere to  
22 operating policies that will assure the  
23 Authority's financial vitality and best  
24 promote its development purposes;

1                   (4) to reserve to itself the final  
2 decision on loan applications and other  
3 proposals for Authority funding of programs  
4 and projects;

5                   (5) to oversee administration of all  
6 Authority loans and other fund allocations,  
7 and assure compliance with provisions of loan  
8 agreements; and

9                   (6) to adopt a budget;

10                  (7) to approve a report at the end of each  
11 fiscal year of the Authority's activities during  
12 the year, and submit the report to the Governor  
13 and the Legislature.

14                  (k) Powers of the Board. The Board shall have the  
15 following powers:

16                  (1) to exercise on behalf of the Authority  
17 all powers enumerated in Section (6) and such  
18 additional powers as are reasonably necessary  
19 and incidental to the fulfillment of its duties  
20 under Section (7)(j) of this Act;

21                  (2) to employ officers and staff of the  
22 Authority and to define their duties and to  
23 dismiss them, subject to the limitations  
24 imposed by this Act;

1                   (3) to **determine**, subject to the  
2                   restriction of this Act, any use of Authority  
3                   funds, including the power to determine how  
4                   the Authority's capital shall be maintained  
5                   and managed;

6                   (4) to allocate and expend **funds** for  
7                   the repayment of obligations incurred by the  
8                   Authority in accordance with Section 6 of  
9                   this Act;

10                  (5) to protect the investment of the  
11                  Authority through the **development** of  
12                  foreclosure policies and procedures that  
13                  conform to law and are conducive to consistent  
14                  **administration**;

15                  (6) to review all loan applications and  
16                  other financial transactions of the Authority.  
17                  Except as specifically authorized in this Act,  
18                  only the Board shall be capable of authorizing  
19                  or approving the expenditure or loan of  
20                  authority funds;

21                  (7) subject to budgetary restraints to  
22                  contract and pay for economic studies, project  
23                  evaluations, feasibility studies as deemed  
24                  necessary and appropriate to further the  
25                  purposes of this Act;

1 (8) to appoint ~~from~~ time to time  
2 **committees** consisting of any three or more  
3 directors or officers of the Authority; and

4 (9) to delegate to any of its **committees**  
5 any of its powers, except the power of lending  
6 authority under this Act may only be delegated  
7 to the Development Corporation Division, if the  
8 Authority establish the Development Corporation  
9 Division as a subsidiary corporation of the  
10 Authority pursuant to Section (6)(a)(30), and to  
11 a commercial bank engaged to administer loans  
12 authorized by Section 6(a)(14). Any committee  
13 to which any powers are so delegated may  
14 exercise those powers in the same manner and  
15 with the same effect as if they had been  
16 conferred on it directly by this Act.

17 Section 8. Officers of the Authority.

18 (a) The officers of the Authority shall be an Executive  
19 Director, a Comptroller, and such other officers as the bylaws  
20 may require for the operation of the Authority.

21 (1) The Board shall appoint an Executive  
22 Director. The person so appointed shall be  
23 knowledgeable, and have a minimum of five years  
24 professional experience, in banking procedures  
25 and activities, or in economic development and

1 financial management, and shall possess graduate  
2 degree in business administration, economics,  
3 accounting or law from an accredited university  
4 or college.

5 (2) The Executive Director shall be the  
6 Chief Executive Officer of the Authority- and  
7 shall conduct and Oversee the Authority's  
8 general operations, including the administration  
9 of all loans and the enforcement of all  
10 provisions of loan agreements, investments and  
11 other transactions .

12 (3) The Executive Director shall prepare  
13 an operating manual to implement the general  
14 operation and management policies , and  
15 development objectives and strategies  
16 established by the Board, including all  
17 internal administrative procedures, specific  
18 loan procedures, and other matters relevant to  
19 the practical implementation of this Act, which  
20 shall be approved by the Board.

21 (4) The Executive Director shall refer to  
22 the Board for decision all loan applications  
23 from any eligible borrower under this Act, and  
24 all other matters involving allocation of  
25 Authority funds except for such authority over  
26 operations funds as the Board may delegate to him.

- 1 (5) The Executive Director shall—
- 2 (A) monitor the progress and
- 3 financial status of projects financed
- 4 in whole or in part by the Authority;
- 5 (B) report to the Board at each
- 6 Board meeting as to the activities of
- 7 the Authority;
- 8 (C) prepare an annual report of the
- 9 Authority's operations and activities for
- 10 each fiscal year within 3 months of the
- 11 close of fiscal year, including appropriate
- 12 financial statements, and submit a draft of
- 13 such report to the Board for approval;
- 14 (D) prepare the annual administrative
- 15 budget for review and approval by the Board
- 16 and for informational submission to the
- 17 Governor and the Legislature;
- 18 (E) hire such employees as the Board
- 19 may delegate power to do so;
- 20 (F) perform such other duties as the
- 21 Board may require.
- 22 (b) The Comptroller shall exercise the following
- 23 functions :
- 24 (1) keep the official books and accounts
- 25 of the Authority;

1                   (2) prepare an annual report of the  
2                   financial condition of the Authority for the  
3                   Board; and

4                   (3) ~~perform~~ such other functions as the  
5                   Executive Director or the Board may require.

6                   (c) The Comptroller shall hold at least a bachelor's  
7                   degree in accounting and 5 years experience in **governmental**  
8                   or financial accounting.

9                   (d) The Executive Director and **Comptroller** shall  
10                  be paid at salaries established pursuant to Section 7 of  
11                  Public Law 4-32.

12                  (e) The Executive Director, Comptroller and any other  
13                  officer of the Authority may be dismissed for cause by the  
14                  affirmative vote of five Board members.

15                  (f) The Directors and officers shall , at Authority  
16                  expense, post personal fiduciary bonds in an amount of not  
17                  less than 150% of the total assets of the Authority at the  
18                  **time** each assumes office; Provided, however, that in no  
19                  event shall the aggregate **amount** of the bonds be less than  
20                  thirty million dollars (**\$30,000,000**). The premium for such  
21                  bonds shall not be considered an **administra** ive expense for  
22                  the purpose of § 10(f).

23                  Section 9. Funds of the Authority.

24                  (a) The funds available to the Author ty as paid-in  
25                  capital shall consist of the following:

26                         (1) all United States economic assistance

1 for economic development loans provided by  
2 Article VII, Section 702(c), of the Covenant,  
3 received by the Commonwealth on or after the  
4 effective date of this Act;

5 (2) any amount provided to the Authority  
6 by the Marianas Public Land Trust pursuant to  
7 Article XI, Section 6(c) of the Constitution;  
8 Provided, that the amount will be repaid to  
9 the Trust when required by the Constitution  
10 pursuant to arrangements between the Trust  
11 and the Authority;

12 (3) all cash, deposits, certificates of  
13 deposit, treasury obligations and other cash  
14 assets transferred or accruing to the Authority  
15 pursuant to Section (15) of this Act, and any  
16 additional funds to which the Commonwealth is or  
17 becomes entitled as a result of the separation  
18 or termination of any Economic Development Loan  
19 Fund program administered prior to the effective  
20 date of the Covenant by the Government of the  
21 Trust Territory of the Pacific Islands, or by  
22 the Government of the Northern Mariana Islands;

23 (4) any amount as may be provided by the  
24 Legislature annually from funds made available'  
25 to the Commonwealth under Section 702(b) of the  
26 Covenant or from any other source; and

1                   (5) any amount which might be granted,  
2                   donated, or appropriated to the Authority by  
3                   the Federal Government or any other source.

4                   (b) Other funds available to the Authority shall  
5                   include the following :

6                   (1) any earned interest, surplus or net  
7                   profit from Authority operations and activities;

8                   (2) any amount the Authority may borrow  
9                   from any foreign or domestic public or private  
10                  sources;

11                  (3) any interest or fees due or received  
12                  from items transferred to the Authority by the  
13                  Economic Development Loan Fund;

14                  (4) all notes, accounts receivable, fixed  
15                  assets and other assets transferred from the  
16                  EDLF or any other governmental entity; and

17                  (5) any assets or amounts made available  
18                  for any use by the Authority.

19                  Section 10. General Management Guidelines.

20                  (a) The Board shall formulate operational plans,  
21                  policies, and procedures to implement the provisions of  
22                  this Act. Plans, policies or procedures, other statements  
23                  required by this section, the bylaw, the operating manual,  
24                  and any similar determinations of the Board shall be  
25                  subject to 1 CMC Sections 9102 and 9105.

1           (b) Subject to the approval of the Governor, and  
2           the Legislature the Board shall adopt and update as  
3           necessary, a statement of development objectives and  
4           priorities.

5           (c) The Board shall adopt and publish, and update  
6           as necessary, a statement of strategic plans to achieve  
7           the objectives stated pursuant to subsection (b) of  
8           this section which shall be designed in consideration  
9           of the long-term contribution of the Authority to such  
10          objectives rather than the **immediate** or maximum  
11          financial return to the Authority.

12          (d) Notwithstanding any other provision of law,  
13          the Authority and its divisions shall use the accrual  
14          method of accounting and the Generally Accepted  
15          Accounting Principles (**GAAP**). Separate accounting  
16          systems shall be used and maintained for the **functions**  
17          of the Development Corporation Division including  
18          economic development loan fund activities and the  
19          **Development Banking Division**.

20          (e) The Board shall establish and maintain  
21          effective **communications** with **a**ll appropriate  
22          governmental agencies in its aim to further the purposes  
23          of the Authority and to ensure that the effort of the  
24          Authority do not duplicate the efforts of other entities  
25          of the **Commonwealth** Government.

1           **(f)** The Authority shall pay its administrative  
2 expenses out of the **funds** available to the Authority  
3 pursuant to Section **9(b)(1)** and **(3)** and in conformity  
4 with a budget, prepared and submitted to the Governor  
5 and the Legislature as provided in **1 CMC** Division 7, for  
6 **informational** purposes. The budget for administration  
7 shall not exceed two percent of the Authority's assets  
8 including accounts receivable.

9           **(g)** The Authority shall fund technical assistance  
10 authorized pursuant to Section **6(a)(21)**, and economic  
11 studies, project evaluations and feasibility studies  
12 authorized pursuant to Section **7(k)(7)**, out of funds  
13 available to the Authority pursuant to Section **9(b)(1)**  
14 and **(3)** and in conformity with a budget prepared and  
15 submitted to the Governor and the Legislature for  
16 informational purposes as provided in **1 CMC** Division 7.  
17 The budget to fund this **part** shall not exceed one  
18 percent of the Authority's assets including **accounts**  
19 receivable .

20           **(h)** The Authority shall pay its non-administrative  
21 obligations out of the funds available to the Authority  
22 and shall report all such expenses in the annual report.

23           **(i)** The Authority shall not accept deposits, but  
24 may hold evidence of deposits, or otherwise accept  
25 control of deposits, in other financial institutions.

1           **(j)** The Authority shall not provide short-term  
 2 financing, except as necessary in **connection with**  
 3 medium or long-term assistance by the Authority,

4           **(k)** The Authority shall not otherwise **compete with**  
 5 the private financial institutions of the Commonwealth,  
 6 except that the Authority may provide ancillary services  
 7 to a client, in connection with a loan or other financing  
 8 activities by the Authority, when **it** would not be  
 9 practical for such services to be provided by another  
 10 financial institution.

11           **(l)** The Authority shall make, guarantee, or  
 12 participate in private sector loans or other financing  
 13 only **if** the Board is satisfied that under prevailing  
 14 market conditions the borrower being financed would be  
 15 unable to obtain **such** financing ~~from~~ a commercial bank  
 16 or other financial institutions under conditions which  
 17 in the **determination** of the Authority are reasonable  
 18 for the borrower.

19           **(m)** The Authority **may** defer the exercise of any  
 20 general power included in Section 6 of this Act until  
 21 such time as **it** is satisfied **it** has the management  
 22 capability, and understanding and experience of the  
 23 economy and its investment potential and climate, its  
 24 corporate and capital market structure, and other  
 25 aspects, of implementing this **Act** to effectively and  
 26 prudently execute such powers.

1 (n) The fiscal year of the Authority shall be  
2 identical with **the** fiscal year of the **Commonwealth**.

3 Section 11. Financial Prudence.

4 (a) The Authority shall engage in prudent **financial**  
5 management of all its assets.

6 (b) The Authority shall maintain such reserves of  
7 cash or other assets as are necessary and prudent to  
8 assure that the Authority will be able to meet its  
9 **obligations** in a timely manner, including consideration  
10 of loan or other guarantees issued by the Authority  
11 which could eventually result in an obligation of the  
12 Authority.

13 (c) The Authority shall maintain sufficient liquid  
14 assets to be able to meet normal operating expenses and  
15 **discharge** its short-term liabilities and current  
16 maturities of any **long-term** indebtedness of the Authority.

17 (d) Reserves and other funds of the Authority not  
18 currently needed for development activities or liquidity  
19 shall be reinvested by the Authority to the extent  
20 permitted by law, in **Investment** Securities which mature  
21 not later than the date on which the money on deposit in  
22 such funds will be needed for the purposes of such funds.  
23 Investment-Securities are defined to mean the following:

24 (1) direct general obligations of the  
25 United States of herica (including **obligations**

1 issued or held in book entry form on the books  
2 of the Department of the Treasury of the United  
3 States of America);

4 (2) obligations on which the payment of  
5 the principal and interest is unconditionally  
6 guaranteed by the United States of America;

7 (3) direct and general obligations of any  
8 state within the United States of America or any  
9 political subdivision thereof, provided that at  
10 the time of purchase such obligations are rated  
11 in either of the two highest rating categories  
12 by a nationally recognized bond rating agency;

13 (4) bonds, debentures, participation  
14 certificates, notes or other evidence of  
15 indebtedness payable in cash and issued by any  
16 one or a combination of any of the Federal  
17 Land Banks, Federal Home Loan Banks, Federal  
18 Intermediate Credit Banks, Export-Import Bank of  
19 the United States, Farmers Home Administration,  
20 or Government National Mortgage Association, or  
21 any other agency or corporation which has been  
22 or may hereafter be created by or pursuant to an  
23 Act of the Congress of the United States as an  
24 agency or instrumentality thereof;

1                   (5) deposits which are fully insured by  
2                   the Federal Deposit Insurance Corporation, the  
3                   Federal Savings and Loan Insurance Corporation;  
4                   the National Credit Union Share Insurance Fund  
5                   or any other federal deposit insurance program;

6                   (6) negotiable or non-negotiable  
7                   certificates of deposits or other similar banking  
8                   arrangements issued by any bank or trust company  
9                   whose negotiable or non-negotiable certificates  
10                  of deposit, time deposits or other similar  
11                  banking arrangements are rated at the time of  
12                  their issuance in either of the two highest  
13                  rating categories by a nationally recognized  
14                  rating agency; and

15                  (7) repurchase agreements with any  
16                  institution whose debt securities are rated at  
17                  least "A" (or equivalent rating of short term  
18                  obligations if the investment is for a period  
19                  not exceeding one year) by Standard & Poor's  
20                  Corporation or secured as to principal at 103%  
21                  of market value if the debt securities are rated  
22                  "A" and at market value if the debt securities  
23                  listed in subsection (1) of this Section.

24                  Section 12. Interest Rates. In setting interest rates for loans  
25                  for various types of projects and undertakings, the Authority shall

1 consider the cost and opportunity cost of capital , its own  
2 administrative expenses in relation to such loans, overall prevailing  
3 market rates, and the risk of inflation. The Authority may set  
4 concessional interest rates for projects and other undertakings which  
5 serve particular **socio-economic** needs as determined by the Authority,  
6 but with due regard for the overall need of the Authority to cover  
7 its costs,

8 Section 13. Borrowing by the Authority.

9 (a) (1) The Authority may **issue** bonds, debentures,  
10 securities, notes, collaterals, and other **obligations**, at  
11 such rates and with such maturities as may be stipulated  
12 therein, and upon security as **may** be appropriate to the  
13 type of obligation as determined by the Authority. Such  
14 obligations shall be redeemable at the option of the  
15 Authority at or before maturity in such manner as may **be**  
16 stipulated therein.

17 (2) The Authority may borrow funds fran any  
18 public or private lending institution or other  
19 source under such terms and conditions, and with  
20 such security, as may be acceptable to **both** parties.

21 (b) Except when the financing has a self-sufficient  
22 revenue base, the total debt of the Authority shall not  
23 exceed three times its total capital durlng any initial  
24 partial fiscal year and the first full fiscal year of its  
25 operation. In each succeeding fiscal year, the ratio of

1 debt to equity ~~may be~~ increased by one, until a ~~maximum~~  
2 ratio of five to one ~~has been reached~~. The debt-to-capital  
3 restrictions in this part shall not apply to obligations  
4 backed by the full faith and credit of the United States  
5 or to obligations paid directly or indirectly by the United  
6 States or any of its agencies.

7 (c) The Authority may borrow only up to one million  
8 dollars for periods of not ~~more~~ than sixty 60 days for  
9 operating purposes.

10 Section 14. Project Supervision.

11 (a) The Authority ~~may~~ at its discretion provide  
12 project guidance to any undertaking financed entirely or  
13 in part by the Authority through periodic visits by  
14 Authority staff and through regular flow of reports ~~fran~~  
15 the borrower ~~of~~ other persons receiving such assistance.

16 (b) ~~When~~ it appears that a project or undertaking  
17 financed by the Authority ~~may be~~ less than viable, the  
18 Authority shall attempt to help overcome such difficulties,  
19 if it ~~determines~~ that such help is likely to ~~be~~ effective.  
20 Such help ~~may~~ include rescheduling ~~ob~~ any obligation,  
21 additional financial assistance, strengthening ~~of~~  
22 management, revision of government constraints on the  
23 success of such project or undertaking, removal of  
24 technical deficiencies in any process, and marketing  
25 advice or assistance. The Authority ~~when~~ necessary and

1 appropriate to preserve the Authority's investment shall  
 2 take physical control of the **project or** undertaking, in  
 3 such manner **it** deems adequate.

4 (c) Fees **may** be charged or **waived** for any assistance  
 5 or help rendered under this section, as the Authority finds  
 6 appropriate under the **circumstances**.

7 Section 15. Economic Development Loan Fund.

8 (a) Northern Marianas economic development loan fund  
 9 shall be managed and administered by the Authority in  
 10 accordance with the provisions of this Act.

11 (b) The Northern Marianas Economic Development Loan  
 12 Fund Board shall be dissolved not later than 60 days  
 13 after the first meeting of the Board of Directors of the  
 14 Authority and the Fund will cease to exist as a separate  
 15 entity. All functions, powers, duties, funds, contracts,  
 16 **obligations**, assets, and liabilities of the Northern  
 17 Marianas Economic Development Loan Fund existing prior to  
 18 the effective date of this Act shall be transferred to the  
 19 Authority not later than 60 days after the first meeting  
 20 of the Board of Directors of the Authority.

21 (c) Loans, guarantees, liabilities, and **obligations**  
 22 transferred to the Authority pursuant to Subsection (b) of  
 23 this section shall be accounted for separately **from** other  
 24 transactions of the Authority until paid, liquidated, or  
 25 discharged. **Uncommitted** money so transferred and all

1 repayments of outstanding loans will ~~be~~ treated as paid  
2 in-capital of the Authority. All interest or fees due or  
3 received in connection with any item transferred pursuant  
4 to this section shall be available to the Authority  
5 pursuant to Section 9(b).

6 (d) ~~The~~ Authority shall ensure that the funds  
7 required to be reserved each year for loans to private  
8 individuals, corporations, and cooperatives for farmers,  
9 fishermen, agricultural and marine cooperatives and low  
10 interest housing under Section 702(c) of the Covenant are  
11 available for that purpose.

12 Section 16. Conflicts of Interest.

13 (a) ~~No member~~ of the Board, officer, counsel, agent,  
14 or employee of the Authority shall in any manner, directly  
15 or indirectly, participate in the deliberation or upon  
16 the determination of any question affecting his personal  
17 interest or the interests of any enterprise in which ~~he~~  
18 or his parent, spouse, son, daughter, brother, sister,  
19 mother-in-law, father-in-law, sister-in-law, brother-in-law  
20 or any ~~member~~ of his household is directly or indirectly  
21 interested .

22 (b) ~~No~~ loan or other financial assistance shall ~~be~~  
23 extended by the Authority to any enterprise in which any  
24 ~~member~~ of the Board, or the Executive Director, or any  
25 parent, spouse, son, daughter, brother, sister,

1        **mother-in-law**, father-in-law, sister-in-law,  
2        brother-in-law, or any member of his household has any  
3        direct pecuniary interest, as defined by the Board in  
4        the **bylaws**.

5            (c) The restrictions of subsection (a) and (b) of  
6        this section shall not apply to public sector assistance.

7            (d) No fee, commission, gift, or charge of any kind  
8        shall be exacted or demanded by or paid to any person  
9        mentioned in subsection (a) of this section, for obtaining  
10       a loan or other financial assistance.

11           (e) A willful failure to disclose a conflict of  
12       interest as defined in this Section, shall be a breach  
13       of fiduciary duty and cause for **immediate removal** by the  
14       appointing authority.

15       Section 17. Staff.

16           (a) Subject to the provisions of **this** section, the  
17       Executive Director may hire **no** more than 15 employees for  
18       those **positions** that the Board may specifically provide  
19       for; Provided, that where feasible and available, the  
20       Authority shall rely on agencies of the **Commonwealth**  
21       Government for staff and professional support to the  
22       extent that such reliance poses no threat of conflict  
23       of interest or appearance of impropriety.

24           (b) The staff of the Authority shall have the  
25       necessary expertise in the various aspects of development,

1 banking, particularly in the fields of **financial** analysis,  
2 engineering, economics, **marketing**, and **management**  
3 techniques.

4 (c)(1) Professional employees of the **Authority**  
5 shall not be subject to applicable Civil Service laws and  
6 regulations. All **non-professional** employees other than  
7 the Secretary of the Executive Director shall be within  
8 the civil service system.

9 (2) The Executive Director shall give  
10 first preference in employment to workers  
11 residing in the Camonwealth.

12 (3) ~~When~~ necessary to assure the  
13 recruitment of professional employees  
14 sufficiently knowledgeable and competent to  
15 effectively carry out the purpose of the  
16 Authority professional employees may be hired  
17 by contract without regard to the general  
18 schedule of pay levels set by law.

19 Section 18. Confirmation of Board: Transition.

20 (a) The initial Board of Directors shall be appointed  
21 by the Governor, pursuant to Section 7(b) of this Act,  
22 within 45 days of the effective date of this Act. The  
23 Senate shall exercise its confirmation authorlty over the  
24 Governor's appointees no later than 45 days after each  
25 is submitted for confinnation. If the Senate fails to

1 exercise its confirmation authority within the days, such  
2 time the appointee shall be deemed to have been rejected  
3 by the Senate. However, notwithstanding any provision  
4 of law to the contrary, the Governor may appoint new  
5 individuals to the initial Board, or may reappoint the  
6 same individuals originally appointed.

7 (b) Appointments and confirmations for vacancies  
8 after the initial Board has been established shall be in  
9 the manner provided by 1 CMC Div. 2, Part 2, except as  
10 otherwise provided by this Act; Provided, that after the 90  
11 day period for confirmation has expired and the appointee  
12 or appointees are deemed rejected, the Governor may appoint  
13 new individuals for confirmation, or re-appoint his earlier  
14 appointee or appointees.

15 Section 19. Privacy of Information. No member of the Board,  
16 officer, counsel, agent, or employee of the Authority who becomes privy  
17 to any proprietary information as a result of his official position  
18 with the Authority shall reveal such information to any person outside  
19 the course of his official duties, nor shall he use such information  
20 for his own personal gain.

21 Section 20. Civil and Criminal Penalties.

22 (a) Criminal Penalties. Any member of the Board, or  
23 any officer, employee, counsel, or agent of the Authority  
24 or any other person who embezzles, abstracts, or willfully  
25 misapplies any money, funds, credit, or securities of the

1 Authority, or who willfully makes any false entry in  
2 any book, report, or **statement** of the Authority, or who  
3 willfully **commits** any other act with intent to injure or  
4 defraud the Authority, or who violates Section 19 of this  
5 Act, or who accepts any consideration which relates to his  
6 duties under this Act, except as provided for, or any  
7 individual who, with like intent, conspires with, aids, or  
8 abets any person in any violation of this section, shall  
9 upon conviction be fined not more than \$2,000 or imprisoned  
10 for not more than 5 years, or both.

11 (b) Civil Penalties. Conviction of any action  
12 described in subsection (a) of this section, or any felony  
13 or any crime or offense involving personal dishonesty, or  
14 participating in any conduct that threatens the safety and  
15 soundness of the Authority, shall result in the prompt  
16 removal of such Board **members**, officers or employees and  
17 such person shall not **be** reinstated, or employed in any  
18 capacity and shall be civilly liable for any losses their  
19 **actions** caused the Authority.

20 Section 21. Legal Relationships.

21 (a) The Authority and all its property, transactions,  
22 and income shall be exempted **from** all taxes and other  
23 levies in the nature of taxes of the Commonwealth or any  
24 local **government** thereof. This exemption shall not apply  
25 to any private enterprise in which the Authority has an  
26 interest, except a wholly-owned subsidiary of the Authority.

1 (b) **Income** received by any person **from** bonds or other  
2 obligations of the Authority shall be **exempt from** taxation  
3 by the Commonwealth or any local government thereof, and by  
4 the United States, or by any State, Territory or possession  
5 of the United States or any political subdivision of any of  
6 them as provided by Section **607(a)** of the Covenant (U.S.  
7 Public Law **94-241**).

8 (c) The rights to funds allocated or **committed** to  
9 any borrower receiving financial assistance **fran** the  
10 Authority but not distributed to such borrower, shall be  
11 beyond claims of creditors of such borrower.

12 (d) Bonds or other obligations of the Authority  
13 shall be lawful investments, and may be accepted as  
14 security for any fiduciary, trust, or public fund, the  
15 investment or deposit of which is under the authority,  
16 control, or supervision of the Commonwealth or any agency  
17 or instrumentality thereof, including the Commonwealth  
18 Treasury.

19 Section 22. **Audits.** The Public Auditor shall audit the  
20 operations, books, and records of the Authority at least annually and  
21 in accordance with 1 CMC Section 7710(a) and Public Law 3-91. The  
22 report of the audit shall be transmitted to the Executive Director,  
23 the Board, the Governor, and the Legislature. If the Public Auditor  
24 does not complete an annual audit within 3 months of the close of the  
25 fiscal year, the Authority shall immediately engage a certified public  
26 accountant for that purpose.

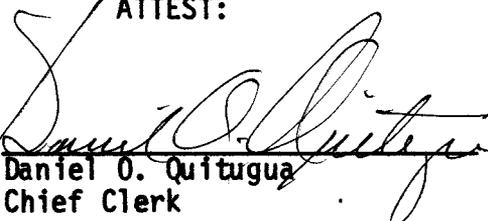
1 Section 23. Vacation of Executive Order. Trust Territory  
2 Administrative Directive Order ~~Nb.~~ 65-2 is vacated no later than 60  
3 days after the establishment of the Authority's Board of Directors.

4 Section 24. Severability. If any provision of this Act, or the  
5 application of any such provision to any person or circumstance, shall  
6 be held invalid by a court of competent jurisdiction, the remainder  
7 of this Act, or the application of such provision to persons or  
8 circumstances other than those to which it is held invalid, shall not  
9 be affected thereby.

10 Section 24. Effective Date. This Act shall take effect upon its  
11 approval by the Governor, or upon its becoming law without such approval.

  
Vicente M. Sablan  
Speaker of the House

ATTEST:

  
Daniel O. Quitugua  
Chief Clerk

May 31, 1985

  
Pedro P. Tenorio  
Governor  
Commonwealth of the Northern Mariana Islands