

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 10-37

H. B. NO. 10-189, SS1

FIRST REGULAR SESSION, 1996

AN ACT

To amend the Commonwealth Government Employees' Credit Union Act of 1995 (P.L. 9-52) in order to allow government retirees to be members; to allow loans made by the Credit Union to be repaid by allotments from retirees' pensions checks in certain cases; to allow government agencies to make deposits and investments in the Credit Union backed by the full faith and credit of the Commonwealth Government; to create a ten year limitations period for actions by the Credit Union and former Saipan Credit Union to recover damages and delinquent loans; and for other purposes.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This Act may be cited as the Credit Union Amendments Act of 1996.

Section 2. Findings. the Legislature finds that P.L. 9-52, enacted in September of 1995, established the Commonwealth Government Employees' Credit Union. Since then, the Credit Union has begun a membership drive, and is now in the process of expanding operations with the additional resources of the loan authorized by Section 10 of Public Law 9-52. In its operation, the Credit Union has found that there is a demand for its services among Commonwealth Government retirees. However, under the existing law, retirees cannot become members, nor can retirement checks ever have allotments taken from them. To make it possible for retirees to participate in the Commonwealth Government Employees' Credit Union, the Legislature finds there is a need to amend the law to allow such allotments for Credit Union loans and deposits.

The Legislature also finds that there is an interest on the part of some government agencies in making deposits with or investments in the Credit Union, and further finds that such investments or deposits should be backed by the full faith and credit of the Commonwealth Government.

Finally, the Legislature notes that is desirable to extend the statute of limitations for actions

brought by or on behalf of the Credit Union or the former Saipan Credit Union or in connection with conduct related to the former Saipan Credit Union.

Section 3. Membership Extended. Section 6 of Public Law 9-52 is hereby amended to read:

"Section 6. Membership Restricted. Membership in the Commonwealth Government Employees' Credit Union shall be restricted to employees of the Commonwealth Government, persons who have retired from the Commonwealth Government, and their lawful spouses and minor children. The Board may provide for the administration of membership by issuing appropriate regulations."

Section 4. Amendment: Deposits; Investments; Allotments; Garnishment. Section 9 of Public Law 9-52 is hereby amended to read:

"Section 9. Restrictions on Loans and Deposit; Paycheck Allotments Authorized; Investments by Government Agencies; Garnishment.

(a) The Credit Union may take deposits from, and issue loans to, its members only; except that it may receive deposits and investments from the Commonwealth Government, or from agencies or entities of the Commonwealth Government.

(b) Notwithstanding any other provision of law, it may provide for the repayment of loans and other accounts receivable through allotments to be deducted from Commonwealth Government payroll checks, including NMI Retirement Fund checks.

(c) The Credit Union may garnish wages due from any employer in the Commonwealth, consistent with the requirements of law, for the repayment of loans issued by the former Saipan Credit Union or the satisfaction of judgments in favor of the former Saipan Credit Union, its members on account of their interest therein, individually or as a group or class, or any successor, receiver, or subrogee thereof. The judgment creditor may file a certified copy of the judgment and the judgment creditor's affidavit as to the amount due and unpaid on account of the judgment with the employer of the judgment debtor and the employer shall thereupon either file a disclosure within one week or shall withhold from the wages of the judgment debtor the amounts provided herein and pay the same to the judgment creditor. No employer shall be liable to anyone for deductions and payments to judgment creditors from wages of judgment debtor employees, as herein provided, when the employer in good faith believes, or has reason to believe, that service of the certified copy of the

judgment and affidavit of the judgment creditor as provided herein affects the same.

A "disclosure" under this subsection shall consist of a return under oath fully stating the judgment creditor's employment status, wages, salary, stipends, and commissions, and whether the employer garnishee is indebted to the judgment debtor in any amount. Either party to the action may, upon written notice served upon the garnishee, require the garnishee to appear in court and be examined under oath as to such disclosure or as to the garnishee's liability as garnishee.

The amount to be withheld and paid under this subsection is a portion of the judgment creditor's wages, salary, stipend, and commissions remaining after the deduction of any amounts required by law to be withheld, determined as follows: five percent of the first \$100 per month, ten percent of the next \$100 per month, and twenty percent of all sums in excess of \$200 per month, or any equivalent portion of the above amount per week, whether then or thereafter to become owing. Nothing in this subsection shall be construed as limiting any other remedy or process available for the collection of debts or the satisfaction of judgments, in whole or in part.

(d) Investments by a Commonwealth Government agency or entity in the Credit Union shall be accepted as a general obligation of the Commonwealth Government as to the principal thereof and shall be backed by the full faith and credit of the Commonwealth Government. The Commonwealth Government shall be fully, absolutely and unconditionally liable for performance and payments due by the Credit Union under the terms and conditions of any such deposit or investment. In the event of any failure of performance or payment by the Credit Union, the Secretary of the Department Finance is authorized and directed to pay out of the General Fund, all obligations of the Commonwealth Government incurred pursuant to the deposits and investments authorized by this section to the extent of such failure of performance or payment by the Credit Union. Any such payment shall be made without fiscal year limitation or need for further appropriation.

(e) Deposit Act not apply. The provisions of the Government Deposit Safety Act (1 CMC §§ 7801-7807, as amended by Public Law 9-13) shall not apply to deposits with or investments in the Credit Union by a Commonwealth government agency or entity.

(f) CDA deemed satisfied. The requirements of 4 CMC, Division 10, Chapter 2, with

regard to the Commonwealth Development Authority are deemed satisfied insofar as they apply to the deposits or investments in the Credit Union by any Commonwealth Government agency or entity."

Section 5. Former Saipan Credit Union. New subsections (g) and (h) are hereby added to Section 5 of Public Law 9-52, to read as follows:

"(g) The Credit Union may act as a receiver for the former Saipan Credit Union for the benefit of non-governmental creditors, depositors, and shareholders, with that priority, of the former Saipan Credit Union, and may collect debts, damages, and other obligations, sue in any court of competent jurisdiction, execute on judgments, and take all other actions reasonable and appropriate for that purpose.

(h) Statute of Limitations. Notwithstanding the limitations periods on actions sounding in contract or tort as set forth in Title 7, Division 2 of the Commonwealth Code, actions at law or equity brought by, or on behalf of, the Credit Union or the former Saipan Credit Union for the collection of any sum of money due shall be brought no later than ten (10) years from the date the loan or other obligation became in default, or ten (10) years from the date on which the last payment due under the loan or obligation was made by the borrower, whichever is longer.

Furthermore, actions brought by, or on behalf of, the Credit Union or the former Saipan Credit Union for any injury to the Saipan Credit Union or its members, depositors, investors, guarantors or shareholders by any of the Saipan Credit Union's former management, directors, officers, employees or persons with authority over the policy and/or day-to-day operations thereof, also shall be brought within ten years from the date that the injury was first discovered."

Section 6. Amendment: Additional Powers.

(a) A new subsection (i) is hereby added to Section 7 of Public Law 9-52 to read:

"(i) Loan Services Authorized. The Credit Union may enter into agreements with the Northern Marianas Retirement Fund or the Northern Marianas Housing Corporation (NMHC) to implement, administer, or service all or any part of any loan program operated by the Retirement Fund or NMHC."

(b) The final sentence of subsection (e) of Section 7 of Public Law 9-52 is amended

to read:

"All books and accounts of the Credit Union shall be kept wholly separate from all books and accounts of the Northern Marianas Retirement Fund, and there shall be no commingling of funds between the two entities, excepting only the loan approved in Section 10 of this Act or pursuant to subsection (i) of this section."

Section 7. Amendment: Legal Counsel. Section 12 of Public Law 9-52 is amended to read:

"Section 12. Legal Counsel. The Credit Union Board may retain or engage private legal counsel. In addition, until the Credit Union is wholly privatized, the Attorney General, unless prevented by conflict from doing so, shall serve as legal counsel to the Corporation upon request of the Board, providing representation of such scope as the Board may prescribe."

Section 8. Conforming Amendments.

(a) 1 CMC § 8383 is hereby amended to read:

"§ 8383. Rights to Annuity.

(a) The right to a retirement annuity, disability annuity, survivor's annuity or benefit, death benefit, or any other benefit under the provisions of this part, by whatever named called, or the right to refund, is personal with the recipient thereof, and the assignment or transfer of a benefit or any part thereof, shall be voided, except as herein provided; any such annuity, benefit or refund shall not answer for debts contracted by the person receiving the same, except as herein provided. It is the intention of this part that they shall not be attached or affected by any judicial proceedings, except as herein provided.

(b) Benefits specified in subsection (a), other than the right to refund, may be allotted for savings with the Commonwealth Government Employee's Credit Union, and may be assigned or transferred for the payment of, and may answer for, debts to the Commonwealth Government Employees' Credit Union, and may be attached, garnished, or otherwise affected by judicial proceedings for the collection of such debts."

In the event both this bill and House Bill 10-160 become law, the amendment to 1 CMC § 8383 in this Act shall be construed as including subsection (b) to 1 CMC § 8383 as amended

by House Bill 10-160, and subsection (b) of 1 CMC § 8383 as amended by this Act shall be designated as subsection (c) of 1 CMC § 8383 as amended by both acts.

(b) 7 CMC § 2503(d) is amended to read:

"(d) Actions for injury to or for the death of one caused by the wrongful act or neglect of another, or a depositor against a bank for the payment of a forged or raised check, or a check which bears a forged or unauthorized endorsement. This subsection shall not apply to actions for injury to the former Saipan Credit Union or its depositors, shareholders, investors, or guarantors on account of their interest therein; Provided, that such actions are brought within ten years of the date of discovery of the injury."

(c) 7 CMC § 2505 is amended to read:

"§2525. Limitation of Six Years.

All actions other than those covered in sections 2502, 2503, and 2504 of this chapter shall be commenced within six years after the cause of action accrues or, in the case of actions brought by or on behalf of the former Saipan Credit Union or its depositors, shareholders, investors, or guarantors on account of their interest therein, within ten years after the cause of action accrues."

(d) 7 CMC § 2512 is amended to read:

"§2512. Reckoning of Period.

Except as otherwise provided, periods prescribed in this chapter shall be reckoned from the date when the cause of action accrued; Provided, that in the case of causes of action accruing to the former Saipan Credit Union or its depositors, shareholders, investors, or guarantors on account of their interest therein, such periods shall be reckoned from the date of discovery of the cause of action."

(e) 1 CMC § 107(c)(2) is hereby amended to read:

"(2) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in the same public office or employment or within two years thereafter.

(f) A new paragraph (4) is hereby added to 1 CMC § 107(c), to read:

"(4) Any offense involving or against the former Saipan Credit Union, or its

depositors, shareholders, investors, or guarantors on account of or in connection with their interest therein, within ten years after it was committed."

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

Section 10. Certification for Purpose of Assuming Full Faith and Credit. Upon passage of this bill by both houses of the Legislature, by a vote of at least two-thirds of the members in each house, the Speaker of the House of Representatives and the President of the Senate shall certify and the House Clerk and the Senate Legislative Secretary shall attest to the passage of this bill by such two-thirds vote in accord with Article X, Section 3 of the Commonwealth Constitution. Such certification and attestation shall form a part of the engrossed bill for transmission to the governor.

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

**Passed by the House of Representatives on September 12, 1996
and by the Senate on August 28, 1996
with the affirmative vote of two-thirds (2/3) of the members in each house.**

CERTIFIED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker of the House

/s/ Jesus R. Sablan
JESUS R. SABLAN
President of the Senate

ATTESTED BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

/s/ Henry Dlg. San Nicolas
HENRY DLG. SAN NICOLAS
Senate Legislative Secretary

_____ this _____ day of _____, 1996

FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands

Became Public Law No. 10-37, on November 3, 1996 without the Governor's signature.