

Gov. Msg. No. 17-401



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lieutenant Governor

JUN 16 2011

Honorable Eliceo "Eli" D. Cabrera
Speaker, House of Representatives
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Honorable Paul A. Manglona
President, The Senate
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

*6/17/11
10:32am
Plutaceo*

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 17-174, entitled, "To amend Section 8374 of Title 1 of the Commonwealth Code to modernize the NMI Retirement Fund investment law; and for other purposes." The bill was passed by the Seventeenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 17-46**. Copies bearing my signature are forwarded for your reference.

Sincerely,

Benigno R. Fitial
BENIGNO R. FITIAL

- cc: Lt. Governor
- Attorney General
- NMI Retirement Fund
- Department of Finance
- Commonwealth's Law Revision Commission
- Special Assistant for Programs and Legislative Review

6/17/11 Don 10:21



*Seventeenth Legislature
of the
Commonwealth of the Northern Mariana Islands*

IN THE HOUSE OF REPRESENTATIVES

Third Regular Session

March 28, 2011

Representative George N. Camacho, of Saipan, Precinct 4 (*for himself*), in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. 17-174

AN ACT

**TO AMEND SECTION 8374 OF TITLE 1 OF THE
COMMONWEALTH CODE TO MODERNIZE THE NMI
RETIREMENT FUND INVESTMENT LAW; AND FOR OTHER
PURPOSES.**

The Bill was referred to the House Committee on Judiciary and Governmental Operations.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL, APRIL 27, 2011;**
without amendments and transmitted to the
THE SENATE.

The Bill was not referred to a Senate Committee.
THE BILL WAS PASSED BY THE SENATE ON, JUNE 13, 2011;
without amendments.

H. B. 17-174 WAS RETURNED TO THE HOUSE OF REPRESENTATIVES ON JUNE 14, 2011.

A handwritten signature in black ink, appearing to read "Linda B. Muña".

Linda B. Muña, House Clerk



*Seventeenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

1ST DAY, SECOND SPECIAL SESSION

APRIL 27, 2011

H. B. 17-174

AN ACT

**TO AMEND SECTION 8374 OF TITLE 1 OF THE
COMMONWEALTH CODE TO MODERNIZE THE NMI
RETIREMENT FUND INVESTMENT LAW; AND FOR
OTHER PURPOSES.**

**Be it enacted by the Seventeenth Northern Marianas
Commonwealth Legislature:**

1 **Section 1. Findings and Purposes.** The Legislature finds that the
2 statutory provisions relating to investments of the Northern Mariana Island
3 Retirement Fund ("Fund") have not been updated since the Fund's inception, and
4 current provisions do not reflect modern portfolio theory and recommended asset
5 allocations utilized by, and considered by experts as prudent, for many public
6 pension funds. The merits of a pension fund investment must be assessed in the
7 context of the needs of the plan sponsor (the government) and the plan's
8 beneficiaries (current and future retirees, disabled members, and survivors).

HOUSE BILL 17-174

1 Investments decisions must ensure diversification, liquidity and the avoidance of
2 large amounts of permanent capital loss. Towards this goal, the Legislature
3 recommends amending several current provisions.

4 For example, currently the Fund's is only permitted to invest in stocks of
5 corporations that were created or exist under the laws of the Commonwealth or
6 the United States. There is no requirement that these stocks be publicly traded. It
7 would be prudent to restrict the Fund from investing in non-publicly traded stocks
8 (except to the extent that they come within the "other securities" category, which
9 is limited to a certain percentage of the entire portfolio). At the same time the
10 Fund should be allowed more diversity in its investments in stock by removal of
11 the restriction to only U.S. stocks. Stocks traded on U.S. exchanges comprise
12 only approximately 40% of all publicly traded stocks available to investors, and
13 the restriction to U.S. traded stocks only is no longer necessary or prudent, and
14 actually results in a less diversified portfolio. Increased diversification reduces the
15 risk of loss.

16 Additionally the current definition of bonds is overly restrictive, as is the
17 limitation for "other securities" to only 15 percent of the total value of
18 investments of the Fund.

19 The Legislature agrees that the Board of Trustees of the Fund should be
20 allowed slightly more latitude in choosing investment allocations consistent with
21 their fiduciary duty to the members of the Fund. The Legislature further declares
22 that this amendment is necessary and is a proper use of the legislative authority

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1 conferred by Article II of the Constitution of the Commonwealth of the Northern
2 Mariana Islands.

3 **Section 2. Amendment.** Section 8374(b)-(d) of Title 1 of the
4 Commonwealth Code are hereby repealed and re-enacted as follows:

5 “(b) *Fixed Income Obligations.* Global fixed income securities,
6 hybrid securities and interest rate linked securities issued by countries and
7 entities included in the prevailing global bond indices.

8 (c) *Equity.* Global publicly traded equity securities or equity
9 linked securities issued by entities in countries included in the prevailing
10 global equities indices.

11 (d) *Fixed Income or Equity Investment Vehicles.* Investment
12 vehicles including comingled funds, trust funds, collective funds, mutual
13 funds, partnerships or other types of organizations whose sole purpose is
14 to provide investors access to securities defined in subsection (b) or (c).”

15 **Section 3. Amendment.** Section 8374(i) of Title 1 of the Commonwealth
16 Code is hereby amended as follows:

17 “(i) *Other Securities.* Securities and stock in which in the
18 informed opinion of the Board of Trustees it is prudent to invest funds of
19 the system, whether or not the securities or stock are expressly authorized
20 by or qualify under the foregoing subsections, and notwithstanding any
21 limitations of any of the foregoing subsections (including subsection (d));
22 provided that the total book value of investments under this subsection

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1 shall at no time exceed 25 percent of the total book value of all
2 investments of the system.”


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

8 **Section 5. Savings Clause.** This Act and any repealer contained herein
9 shall not be construed as affecting any existing right acquired under contract or
10 acquired under statutes repealed or under any rule, regulation or order adopted
11 under the statutes. Repealers contained in this Act shall not affect any proceeding
12 instituted under or pursuant to prior law. The enactment of the Act shall not have
13 the effect of terminating, or in any way modifying, any liability, civil or criminal,
14 which shall already be in existence on the date this Act becomes effective.

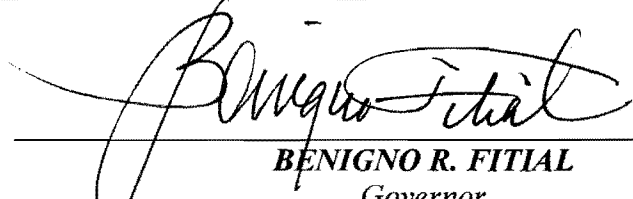
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1 **Section 6. Effective Date.** This Act shall take effect upon approval by
2 the Governor or upon becoming law without such approval.

Attested to by: 
Linda B. Muña, House Clerk

Certified by: 
SPEAKER ELICEO "ELI" D. CABRERA
House of Representatives
17th Northern Marianas Commonwealth Legislature

APPROVED this 16th day of JUNE, 2011


BENIGNO R. FITIAL
Governor
Commonwealth of the Northern Mariana Islands